

Index

- Acheson, Dean, 187–88
 Adams, John Quincy, 66, 82–83
 Administrative Procedure Act, U.S. (1946), 182–83
The Administrative Process (Landis), 182
America in Ruins, 31, 200–201
American Notes on General Circulation
 (Dickens), 55
 Angell, Joseph, 89–90
 antebellum era. *See also* turnpikes; *specific topics*
 canal-building during, 111–12
 laissez-faire capitalism during, 18–19
 market revolution of, 18
 turnpikes during, 97–110
 Anti-Federalists, 73–74
 arguments over federal power, 64–65
 Applebaum, Binyamin, 208
 Appleton, John, 147–48
 Army Corps of Engineers, 83
- Balogh, Brian, 19
 Bank of England, 122–23
 banking systems. *See also* monetary systems;
 specific banks
 Bank of England and, 122–23
 Deposit and Distribution Act of 1836, 121–22
 Hamilton and
 First Bank of the United States, 70
 Republican opponents of, 70–71
 pet banks, 121–22
 Second Bank of the United States, 81–82
 soft currency in, 121–22
 state banks
 federal bailout of, 124
 growth of, 122
 barter economy, 50
 Bayard, James A., 76
- Bell, Alexander Graham, 161
 Bentham, Jeremy, 20–21, 30–31
 on agenda/non-agenda of the state, 37, 181
 Benton, Thomas Hart, 123–24
 Biddle, Andrew, 121–22
 Biden, Joe, 7, 207–208
 Build Back Better Act, 207
 Infrastructure Investments and Jobs Act, 32, 207
 Black, Jeremiah S. (Chief Justice), 129–30
 Blackstone, William, 22, 27, 38, 93
 Bonus Bill, U.S. (1817), 81–82
 Booth, Henry J., 30, 151–55
 Bowles, Chester Bliss, 195–96
 Brewer, John, 63–64
Build, Operate, Transfer (Levy), 203–204
 Build Back Better Act, U.S. (2021), 207
- C. Knight v. Carrollton Railroad Company*, 89
 Calhoun, John C., 81–82
 Calvo, Christopher, 36–37
 canals
 during antebellum era, 111–12
 Erie Canal, 41, 111–12, 118, 192, 201
 in Tenth Census, 134–36
 capital. *See* social overhead capital
 capitalism. *See* laissez-faire capitalism
 Carse, Ashley, 2
 CEA. *See* Council of Economic Advisers
Charles River Bridge v. Warren Bridge, 109, 117
 Chicago School, 20–21, 36–37
City of Clinton v. Cedar Rapids & M.R.R. Co.,
 153–54
 Civil War, conflict between federal and state
 governments during, 136
Clarksville & Hopkinsville Turnpike v. T.W.
Atkinson, 100

- classical liberalism
 corporations and, 52
 definition of, 33
 infrastructure and, 34–35, 52
 competitive, 53–54
 neoclassical fallacy, 37
 police and, 35–46
 in *Wealth of Nations*, 33–46, 54
- Clay, Henry, 78, 81
- Clinton, DeWitt, 96
- Cold War, expansion of infrastructure during,
 36–37, 173, 185–97
 government role in, 195
 international involvement in, 187–88
 Common Infrastructure Programme,
 187, 188
 as military aid, 189
 SUNFED, 192–94
 Marshall Plan, 31, 173, 186
 modernization theory and, 191–92
 during 1960s, 197
 during 1970s, 197–200
 during 1980s, 199–206
 privatization of infrastructure, 203–204
 under Reagan, 199, 202–204, 207
 public interest and, 197–98
 public utility reform during, 185–86
- collective social life, infrastructure as symbol of, 8
- Commentaries on the Laws of England*
 (Blackstone), 22, 27, 38, 93
- commerce, in *Wealth of Nations*, 40
- Commerce Clause, in Fourteenth Amendment,
 141, 155–60
 New Deal legislation and, 182
 railroad industry, 158–60
 telegraph industry, 156–57
 common good, 164–65. *See also* public good
- Common Infrastructure Programme (NATO),
 187, 188
- Commonwealth v. Alger*, 38–39
- Commonwealth v. George Wilkinson*, 105
- Commonwealth v. Worcester Turnpike*
 Corporation, 106
- competition, Smith, A., on, 35
- competitive infrastructure, 53–54
- Conklin v. Elting*, 104
- Constitution, U.S., infrastructure development
 under. *See also* Fourteenth Amendment
 arguments over, 56, 59
 Articles of Federation, 65
 Commerce Clause, 81–82
 Convention of 1787, 62
 Federalist readings of, 60–66
 Federalists and, 60–66
 General Welfare Clause, 81–82
 Necessary and Proper Clause, 72–73
 political battle over, 71–75
 for public works, 71, 73–74
 Postal Clause, 157
 Preamble, 65
 purpose of, 61–62
 small-state, 60
 Supremacy Clause, 65
 Takings Clause, 99–100
 under Tenth Amendment, 115
- Constitutional Coup* (Michael), 11–12
- Continental Dollar, 56
- Cooley, Thomas, 131–32, 136, 144, 146–48
- core infrastructure, 1–2
- corporate welfare, infrastructure investment
 as, 5–6
- corporations
 classical liberalism and, 52
 infrastructure investment as corporate
 welfare, 5–6
 investment in turnpikes, 93–94
 Smith, A., on, 51–54
 in state infrastructures, 162–63
- Corwin, Edward Samuel, 175
- Council of Economic Advisers (CEA), 185–86
- Crash of 1929, 181
- credit clauses, 126
- critical infrastructure, 3–4
 sectors of, 4
- “crumbling” infrastructure, 7–8
- Curtis, Benjamin, 111, 125
- Curtis, Thomas, 196–97
- Dartmouth College v. Woodward*, 117
- Darwin, Charles, 18
- Dash v. Van Kleeck*, 116–17
- De Jure Maris* (Hale, M.), 90
- debt, sovereign
 Hamilton on
 debtor states, 69–71
 public finance and, 68–70
 Treasury bonds and, 70
 Smith, A., on, 46–51
 growth of debt, 49
 mercantile system and, 48–49
- debt repudiation, 117–25
 by state, 120–21

- debtor states, 69–71
- Declaration of Independence, 33
Wealth of Nations and, 57
- democracy. *See also* classical liberalism; liberalism
 infrastructure as symbol of, 9
 road-building authority and, 94–97
- Democracy in America* (Tocqueville), 55
- Deposit and Distribution Act of 1936, U.S., 121–22
- Dicey, A. V., 175–76
- Dickens, Charles, 55
- Dirksen, Everett McKinley, 189
- Donohue, Kathleen G., 19
- Douglas, William O., 185–86
- Dove, John A., 28, 118–19
- Due Process Clause, in Fourteenth Amendment,
 137, 140, 142–45, 150
- Durfee, Thomas, 89–90
- Easterly, William, 197
- economic-social infrastructure, 193
- Edison, Thomas, 161
- Edling, Max M., 19, 61–62
- Ely, Richard, 162–64, 172–73
- Embargo Act of 1807, U.S., 76
- eminent domain, Ohio Turnpike Statute of 1840
 and, 99–100
- Enabling Act, U.S. (1801), 76–77
- Equal Protection Clause, in Fourteenth
 Amendment, 137, 145
- Erie Canal, 41, 111–12, 118, 192, 201
- Fair, Ray C., 199–200
- Federalists
 Constitution and, 60–66
 on federal power, 64–65
 on road-building authority, 58, 59
- Ferguson, Homer S., 189–90
- Ferguson, Scott, 51
- Fine, Sidney, 17, 143
- First Bank of the United States, 70, 118
- First Report on Public Credit* (Hamilton), 67
- Folmsbee, Stanley J., 94–95
- Foucalt, Michel, 13
- Fourteenth Amendment, U.S. Constitution,
 infrastructural development and, 136–45
 Commerce Clause, 141, 155–60
 New Deal legislation and, 182
 railroad industry, 158–60
 telegraph industry, 156–57
 Due Process Clause, 137, 140, 142–45, 150
 Equal Protection Clause, 137, 145
- laissez-faire economics under, 142–45
- License Cases*, 140
- Munn v. Illinois*, 139–42
- police power under, 141
- Privileges and Immunities Clause, 137
- property rights under, 167
- Slaughterhouse Cases*, 137–39
- Fragile Foundations*, 31
- Frankfurter, Felix, 176
- Freedom through Law* (Hale, R. L.), 184–85
- Freund, Ernst, 136, 144, 176
- Frischmann, Brett, 205
- Gallatin, Albert, 26, 46, 78, 80–81, 92
- Gallatin Plan, for U.S. infrastructure
 components of, 79–80
 infrastructural nationalism as element of, 79
*Report of the Secretary of the Treasury on the
 Subject of Public Roads and Canals*, 78
 road-building authority under, 78–81
- General Survey Act, U.S. (1824), 83
- Gibbons v. Ogden*, 138
- Gilmore, Joshua, 106
- Goodrich, Carter, 183–84
- governance
 money as state project of, 50
 Smith, A., on, 46–51
 stakeholder theory of, 48
- Governing the American State* (Johnson, K.), 17
- The Government and the Economy* (Goodrich),
 184
- government debt. *See* debt
- A Government Out of Sight* (Balogh), 19
- Granger Laws, 139
- Green, Theodore Francis, 188
- Green New Deal, 6
- Gruenther, Alfred, 169, 188
- Guldi, Jo, 35
- Gunderson, Gerald, 87
- Hale, Matthew, 90
- Hale, Robert Lee, 179, 180, 184–85
- Hall, Aaron, 81
- Hamilton, Alexander, 25–26, 46, 49, 169, 189
 banking systems and
 First Bank of the United States, 70
 Republican opponents of, 70–71
 Bayard and, 76
First Report on Public Credit, 67
 on government/sovereign debt
 debtor states, 69–71

- Hamilton, Alexander (cont.)
 public finance and, 68–70
 Treasury bonds and, 70
 on infrastructural investment, 134
 on laissez-faire capitalism, 66
 on nation-building, 67–71
 on “necessary and proper” clause, 72–73
 on public finance, 57, 59–60
 government/sovereign debt, 68–70
 monetary systems, 50, 63–65, 68–69
 public borrowing, 68
 reforms on, 66–71
 Treasury bonds, 70
Report on a National Bank, 67
Report on the Subject of Manufactures, 67
- Harcourt, Bernard, 20–21
 hard infrastructure, 42–43
 Harrison, Benjamin, 60–61
 Hartz, Benjamin, 183
 Hartz, Louis, 56, 183
 von Hayek, Friedrich, 184
Helvering v. Davis, 169, 182
 Hepburn Act, U.S. (1906), 160
 highways
Law of Highways, 89–90
 road-building authority and, 89–90
 turnpikes as public highways, 96–97, 105
- Hillhouse, A. M., 135
History of Public Works in the United States, 8–9
 Hofstadter, Richard, 169
 Hohfeld, Wesley Newcomb, 178–80
 Holmes, Oliver Wendell, Jr., 177
 Holt, Amos, 106
 Hovenkamp, Herbert, 178
 Hume, David, 47–48, 59–60, 63–64
 Humphrey, Hubert, 192–93
- ICC. *See* Interstate Commerce Commission
The Illusion of Free Markets (Harcourt), 20–21
In re Kensington Dist. Division, 108–109
 infrastructural nationalism
 Gallatin Plan and, 79
 under Jackson, 85–86
 infrastructure. *See also* New Deal; private
 investment; public infrastructure; Smith,
 Adam; United States; *specific topics*
 classical liberalism and, 34–35, 52
 competitive infrastructure and, 53–54
 core, 1–2
 critical, 3–4
 sectors of, 4
 “crumbling,” 7–8
 definitions of, 1, 4, 34
 ambiguity in, 1–2
 scope of, 4–5
 traditional, 1
 as embodiment of state power, 16
 etymological origins of, 1–2
 fragility of, 7–8
 hard, 42–43
 human activity and, categories of, 3
 as metaphor, 3
 as national interest, 8–9
 origins of, 31
 physical, 2
 in policy discourse, 3–4
 in political contexts, 5–6, 32
 as corporate welfare, 5–6
 federal investment debates over, 5–6
 Green New Deal, 6
 for Progressives, 5–6
 public governance and, 5
 public capital and, 1–2
 public utilities and, 3
 public works, 3–5, 34
 regional, 2
 self-liquidating, 44, 35–46
 social overhead capital and, 8, 31
 soft, 42–43
 state role in, 17–22
 superstructure and, 2
 as symbol
 of collective social life, 8
 of democracy, 9
 of modernity, 15
- Infrastructure* (Frischmann), 205
Infrastructure for the 21st Century (National
 Research Council), 4
 Infrastructure Investments and Jobs Act, U.S.
 (2021), 32, 207
 infrastructure studies, 12–17
 Foucauldian approaches to, 13
 Interstate Commerce Commission (ICC), 30, 160
- Jackson, Andrew, 18–19
 First Bank of the United States and, 118
 road-building authority and, 84–85
 Second Bank of the United States and, 121–22
 U.S. infrastructural development under, 83–86
 expansion of transportation networks, 84–85
 infrastructural nationalism and, 85–86
 laissez-faire capitalism and, 84

- James, Edmund J., 162
 Jefferson, Thomas, 69–70
 Madison and, 73–74
 on “necessary and proper” clause, 72–73
 on Postal Clause, 157
 on public finance, 77
 on U.S. infrastructure
 establishment of, 71–75
 federal retrenchment of, 75–78
 Jevons, William Stanley, 177
 Johnson, Kimberly S., 17
 Johnson, Lyndon, 208
 Jones, Christopher, 9
Joshua Gilmore v. Amos Holt, 106
 Judd, Walter Henry, 188
 Judiciary Act of 1801, U.S., 75
- Kelley, Oliver Hudson, 139
 Keynes, John Maynard, 174, 180–81
 Klein, Daniel B., 93, 94
 Krock, Arthur, 189
- Laissez Faire and the General Welfare State*
 (Fine), 143
 laissez-faire capitalism
 during antebellum period, 18–19
 decline of, 172–73
 under Fourteenth Amendment, 142–45
 Hamilton on, 66
 Jackson and, 84
 legal realism and, 178–79
 natural monopolies and, 162
 origins of, in U.S., 18
 during Progressive Era, 172–73
 property rights and, 179–80
 public utilities and, 162
 Smith, A., on, 36, 59–60, 66, 184
 Land Ordinance of 1785, U.S., 61
 Landis, James M., 182
 Larkin, Brian, 15
 Larson, John Lauritz, 18, 56, 58, 70–71
Law and Public Opinion in England (Dicey),
 175–76
Law of Highways (Angell and Durfee), 89–90
Lectures on Jurisprudence (Smith, A.), 23
Lectures on Justice, Police, Revenue and Arms
 (Smith, A.), 37–40, 45–46
 Lee, Timothy B., 87
 legal realism, laissez-faire capitalism and, 178–79
 Leigh, Susan, 14
 Leighninger, Robert D., 171–72
- Levy, Sidney M., 203–204
 Lew, Jacob, 49
The Liberal Tradition in America (Hartz, L.), 183
 liberalism. *See also* classical liberalism
 legal profession critiques of, 176
 during Progressive Era, 174–85
 road-building authority and, 89–91
 as tacit consent to government
 regulation, 89
License Cases, 140
Lochner v. New York, 139, 149
 Locke, John, 21, 26–27, 175
 on road-building authority, 89
Long-Range Public Investment (Leighninger),
 171–72
- Machiavelli, Niccolò, 47
 Macon, Nathaniel, 58–59
 Madison, James, 62, 69–70
 Bonus Bill, 81–82
 Jefferson and, 73–74
 Mandeville, Bernard, 35
 Mann, Michael, 13–14
 Mann-Elkins Act, U.S. (1910), 160
 marginalism, 177–78
The Market Revolution (Larson), 18
 Marshall, Alfred, 177
 Marshall, John (Chief Justice), 73, 117
 Marshall Plan, 31, 173, 186
 Marx, Karl, 3
 Mashaw, Jerry, 75–76
 McCloskey, Robert, 175–76
McCulloch v. Maryland, 73
McClenachan v. Curwen, 99
 McNamara, Peter, 67
 Melman, Seymour, 200–201
 Menger, Carl, 177
 mercantile system, debt and, 48–49
 Michael, Jon D., 11–12
 Mill, John Stuart, 53, 174, 179
 Minicucci, Stephen, 83, 86
 modernity, infrastructure as symbol of, 15
 modernization theory, 191–92
 monetary systems
 Continental Dollar, 56
 Hamilton on, 50, 63–65, 68–69
 origins of, as state governance project, 50
 Smith, A., on, 50–51
 in barter economy, 50
 origins of, 49–50
 soft currency, 121–22

- monopolies. *See also* natural monopolies
perpetual, 51–52
Monroe, James, 41
Munn v. Illinois, 29, 131, 139–42, 158–59
- National Research Council, 4
nationalism. *See* infrastructural nationalism
nation-building, 78–79
nation-states. *See* the state
NATO. *See* North Atlantic Treaty Organization
natural law constitution, 175
natural monopolies
laissez-faire capitalism and, 162
Smith, A., on, 24, 35, 51–54, 162
“necessary and proper” clause, 72–73
neoclassical fallacy, 37
New Deal, 169–72
Commerce Clause and, 182
historical coverage of, 169–70
historical legacy of, 171–72, 201–202
liberal response to, 169–70
New Left response to, 170–71
political success of, 170
regulatory capture theories, 171
scope of, 171–72
social overhead capital and, 186–87
New Left, 170–71
North American Review, 125
North Atlantic Treaty Organization (NATO),
187, 188
Northwest Ordinance (1787), 89–90
Novak, William J., 19–20, 39, 57, 112–13
on *salus populi* tradition, 152
on state law reforms, 128
- O’Brian, John Lord, 176
Of Commerce (Hume), 48
“Of Public Credit” (Hume), 47–48
Ohio Turnpike Statute of 1840, 97–110
calculation of damages under, 100
eminent domain arguments, 99–100
freeholders and, 100–101
“shunpiking” under, 102–103
toll exemptions under, 101–103
On Socialism (Mill), 174
- Paine, Thomas, 27, 95–96
Panic of 1837
Bank of England and, 122–23
crisis of infrastructure investment
before, 121–23
federal bailouts after, 124
- origins of, 113–14
sovereign debt as factor in, 113–14
state law reforms after, 125–26, 128
Parker, Isaac, 106
Parkersburg v. Brown, 149, 150
Parsons, Talcott, 191
pecuniary compensation, 132
Penn, William, 99
Pennsylvania Coal v. Mahon, 109–110
*Pensacola Telegraph Company v. Western Union
Telegraph Company*, 30, 157
*People ex. rel. Detroit & Howell Railroad v.
Salem*, 131–32, 145–46
*The People v. Kingston and Middleton Turnpike
Company*, 107–108
The People’s Welfare (Novak), 112–13
physical infrastructure, 2
Pierce, Franklin, 85–86
Pierson, George Wilson, 55
Poinsett, Joel Roberts, 55–56
police power
Commonwealth v. Alger, 38–39
under Fourteenth Amendment, 141
Smith, A., on, 37–41
economy and, 38–40
evolution of, 45–46
regulatory history of, 38–40
turnpikes and, 106
*The Police Power, Public Power and
Constitutional Rights* (Freund), 144
Postal Clause, U.S. Constitution, 157
Postal Service Act, U.S. (1792), 71, 73–74
Pound, Ezra, 14–15
Pound, Roscoe, 175–76
Prettyman v. Supervisors of Tazewell County,
130–31
Principle of Political Economy (Mill), 53
private investment, in infrastructure, 2–3,
17–22
during Cold War, 203–204
criticism of, 11–12
during 1980s, 203–204
public debate over, 10–11
public–private partnership, 11, 34
Smith, A., on, 35
private property. *See also* property rights
turnpikes as, 96–97
Privileges and Immunities Clause, under
Fourteenth Amendment, 137
Progressive Era
infrastructural development during, 132–33
laissez-faire capitalism during, 172–73

- Progressive Party
 property rights and, 179–80
 on state infrastructure, arguments for, 5–6, 166–68
- property rights
 under Fourteenth Amendment, 167
 laissez-faire capitalism and, 179–80
 Mill on, 179
 police power and, 38–39
 Progressives and, 179–80
 Smith, A., on, 24, 139
- public benefit theory of government investment, 130
- public borrowing, 68
- public capital, infrastructure and, 1–2
- public choice theories, 44
- public economy, 37
- public finance, Hamilton on, 57, 59–60
- public finance mechanisms
 Hamilton on, 57, 59–60
 government/sovereign debt, 68–70
 monetary systems, 50, 63–65, 68–69
 public borrowing, 68
 reforms on public finance, 66–71
 Treasury bonds, 70
 Jefferson on, 77
- the public good, 133, 136
- public goods, 34
- public governance, infrastructure and, 5
- public infrastructure, 2–3, 17–22
 public–private partnership, 11, 34
 Smith, A., on, 35
- public interest, infrastructure as
 during Cold War, 197–98
 states' role in, 161–66
- public utilities
 infrastructure and, 3
 innovation of, 134–36
 laissez-faire capitalism and, 162
 public reaction to, 134–36
 reform approach to, 134–36
 reform of, during Cold War, 185–86
 Smith, A., on, 51–54
- public utilities theory, 133, 161–66
 common good argument, 164–65
 pricing guide for utilities, 165–66
- public works, 3–5, 34
 political battle over, 71, 73–74
 Smith, A., on, 40–41, 192, 193
- public-private partnership, in infrastructure, 11, 34
 Smith, A., on, 35, 192
 for turnpikes, 87
 private property rights and, 96–97
- railroad industry
 federal classification of, 142
 franchise rights for, 154
 under Granger Laws, 139
 Interstate Commerce Commission and, 160
Munn v. Illinois, 29, 131, 139–42, 158–59
 pecuniary compensation and, 132
 regulation of, 158–60
 subsidies for, 147
 in Tenth Census, 134–36
Treatise on the Law of Street Railways, 30
Wabash, St. Louis & Pacific Railway Company v. Illinois, 158
- Reagan, Ronald, 9, 199, 202–204, 207
- regional infrastructure, 2
- regulatory capture theories, 171
- Reinecke, David, 9
- The Relation of the Modern Municipality to the Gas Supply* (James), 162
- Report of the Secretary of the Treasury on the Subject of Public Roads and Canals* (Gallatin), 26, 78
- Report on a National Bank* (Hamilton), 67
- Report on the Subject of Manufactures* (Hamilton), 67
- republicanism, road-building authority and, 94–97
A Revolution in Favor of Government (Edling), 19
- road-building authority, 57–60, 76–77. *See also* turnpikes
 expansion of transportation networks, 84–85
 Federalists and, 58, 59
 under Gallatin plan, 78–81
 highways, 89–90
 Jackson and, 84–85
 liberal governance and, 89–91
 tacit consent to government regulation, 89
- local democracy and, 94–97
- Locke on, 89
- under Northwest Ordinance, 89–90
- pecuniary compensation and, 132
 during privatization craze, 87
- publicness of, 90–91
- republicanism and, 94–97
 Smith, A., on, 91–92
- Robbins, Bruce, 14–15
- Roberts, Alasdair, 123
- Roosevelt, Teddy, 206–207
- Rostow, Walt Whitman, 31, 173, 191–92
- salus populi* tradition, 152
- Sanders, Bernie, 7, 207

- Savings and Loan Association v. City of Topeka*, 132, 148–49
- Scheiber, Harry, 135, 183
- Schlesinger, Arthur, 169
- Schumacher, Ernst, 197
- Scott, James C., 13, 59
- Second Bank of the United States, 81–82, 121–22
- Second Treatise on Civil Government* (Locke), 89
- Sedgwick, Theodore, 130–31
- seignorage, 46–47
- self-liquidating infrastructure, 44, 35–46
 - tumpikes as, 93, 94
- Sen, Amartya, 36–37
- Sharpless v. Mayor of Philadelphia*, 128–29
- Shaw, Lemuel (Justice), 38–39
- “shunpiking,” 102–103
- Skinner v. Anderson*, 104
- Skousen, Mark, 33
- The Slaughterhouse Cases*, 29, 137–39
- Small Is Beautiful* (Schumacher), 197
- Smith, Adam, 5, 22–26. *See also* classical liberalism; *Wealth of Nations*
 - on competition, 35
 - on corporations, 51–54
 - on debt, 46–51
 - growth of, 49
 - mercantile system and, 48–49
 - on functions of state, 40–41
 - Gallatin and, 80–81
 - on governance, 46–51
 - stakeholder theory of, 48
 - on infrastructure
 - benefits of, 41–45
 - competitive infrastructure, 53–54
 - as condition of advanced society, 159
 - corporate involvement in, 162–63
 - government role in, 113, 134
 - hard infrastructure, 42–43
 - privatization of, 35
 - public-private partnerships over, 35
 - purpose of, 42–43, 205
 - seignorage and, 46–47
 - as self-liquidating, 35–46, 93, 94
 - soft infrastructure, 42–43
 - state financing of, 42–44
 - on laissez-faire capitalism, 36, 59–60, 66, 184
- Lectures on Jurisprudence*, 23
- Lectures on Justice, Police, Revenue and Arms*, 37–40, 45–46
- on money, 50–51
 - in barter economy, 50
 - origins of, 49–50
 - on nation-building, 78–79
 - on natural monopolies, 24, 35, 51–54, 162
 - on police power, 37–41
 - economy and, 38–40
 - evolution of, 45–46
 - regulatory history of, 38–40
 - on promotion of public interest, 36
 - on property rights, 24, 139
 - on public choice theories, 44
 - on public economy, 37
 - on public utilities, 51–54
 - on public works, 40–41, 192, 193
 - on road-building authority, 91–92
 - on statelessness, 36–37
 - truck and barter theory and, 179
- Smith, Jason Scott, 169
- social benefit theory, 149
- social Darwinism, 18
- social overhead capital, 8, 31, 186–87
- socialism
 - Mill on, 174
 - states’ role in infrastructure and, 166
- soft currency, in banking systems, 121–22
- soft infrastructure, 42–43
- sovereign debt. *See* debt
- Special United Nations Fund for Economic Development (SUNFED), 192–94
- Spencer, Herbert, 174
- The Spirit of the Common Law* (Pound, R.), 175
- Sprague, Frank, 161
- St. Louis & Pacific Railway Company v. Illinois*, 30
- The Stages of Economic Growth* (Rostow), 31, 191–92
- stakeholder theory, of governance, 48
- the state. *See also* debtor states; nation-building; states’ role in infrastructure
 - agenda of, 37, 181
 - financing of, 42–44
 - functions of, 40–41
 - infrastructure as embodiment of, 16
 - non-agenda of, 37, 181
 - statelessness, 36–37
 - state–market relations, 35
- state commissions, on state infrastructure, 165–66
- state courts
 - pro-development legal model and, 116
 - role in infrastructure, 114–16
- statelessness, 36–37
- states’ role in infrastructure
 - chartered corporate ventures, 162–63
 - under Commerce Clause, 155–60

- railroad industry, 158–60
- telegraph industry, 156–57
- crisis of infrastructure investment, 117–25
 - before Panic of 1837, 121–23
- Dash v. Van Kleeck*, 116–17
- debt repudiation and, 117–25
 - by state, 120–21
- debt-financed investment, 132–33
- expansion of infrastructure, 112–13
- franchise systems, 163
- law reforms for, 125–31
 - constitutional reforms, 127–29
 - credit clauses, 126
 - debt provisions, 126–27
 - after Panic of 1837, 125–26, 128
- municipal finances and, 128
- Panic of 1837 and
 - Bank of England and, 122–23
 - crisis of infrastructure investment before, 121–23
 - federal bailouts after, 124
 - origins of, 113–14
 - sovereign debt as factor in, 113–14
 - state law reforms after, 125–26, 128
- under Postal Clause, 157
- pro-development legal model, 115–17
 - private interests in, 117
 - role of state courts, 116
 - under Tenth Amendment, 115
- Progressive arguments about, 166–68
- public benefit theory of government investment, 130
- public good and, 133
- public interest and, 161–66
- public purpose and, 128–29
 - definition of, 114–15
 - limits on state investment, 125–31
 - state investment and, limits on, 125–31
 - taxation, limits on, 145–51
- public utilities theory and, 133, 161–66
 - common good argument, 164–65
 - pricing guides in, 165–66
- regulated industries and, 155–60
 - railroad industry, 158–60
 - telegraph industry, 156–57
- socialist arguments about, 166
- state commissions, 165–66
- state courts and, 114–16
 - in state’s agenda/non-agenda, 37, 181
 - through taxless financing, 117–25
 - vested rights theory and, 117
- Stone, Andrea, 201–202
- subsidies, for railroads, 147
- SUNFED. *See* Special United Nations Fund for Economic Development
- superstructure, infrastructure and, 2
- Takings Clause, U.S. Constitution, 99–100
- taxless financing, states’ role in infrastructure and, 117–25
- Taylor v. Ross County Commissioners*, 148
- telegraph industry
 - Pensacola Telegraph Company v. Western Union Telegraph Company*, 157
 - regulation of, 156–57
- Tenth Census, 134
- Thomas, David, 57
- Tiedemann, Christopher, 30, 136, 143
- Tocqueville, Alexis de, 55–56
- tolls, on turnpikes, 101–103
 - evasion of, 102–103
 - property damage against, 103–104
 - “shunpiking” and, 102–103
- Travels through the Western Country in the Summer of 1816* (Thomas), 57
- treasury bonds, 70
- Treatise on The Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union* (Cooley), 132, 144
- Treatise on the Law of Street Railways* (Booth), 30, 151–55
- A Treatise on the Limitations of Police Power in the United States* (Tiedeman), 30, 143
- truck and barter theory, 179
- Truman, Harry, 185–86
- turnpikes, 87–88
 - during antebellum era, 97–110
 - Charles River Bridge* case, 109
 - Commonwealth v. George Wilkinson*, 105
 - Commonwealth v. Worcester Turnpike Corporation*, 106
 - Conklin v. Elting*, 104
 - corporate investment in, 93–94
 - economics of, 91–94
 - Gallatin on, state construction of, 92
 - Joshua Gilmore v. Amos Holt*, 106
 - M’Clenachan v. Curwen*, 99
 - Ohio Turnpike Statute of 1840, 97–110
 - calculation of damages under, 100
 - eminent domain arguments, 99–100
 - freeholders and, 100–101
 - “shunpiking” under, 102–103
 - toll exemptions under, 101–103

- tunpikes (cont.)
 Paine on, 95–96
 pecuniary compensation and, 132
Pennsylvania Coal v. Mahon, 109–110
The People v. Kingston and Middleton Turnpike Company, 107–108
 police power and, 106
 political contexts for, 91–94
 private rights of, 105
 as public highways, 96–97, 105
 public regulation of, 106
 as public–private partnership, 87
 private property rights and, 96–97
In re Kensington Dist. Division, 108–109
 as self-liquidating infrastructure, 93
Skinner v. Anderson, 104
 state support for, 91–92, 97–110
 under Takings Clause, 99–100
 tolls on, 101–103
 evasion of, 102–103
 property damage against, 103–104
 “shunpiking” and, 102–103
 vested rights theory and, 109
Wales v. Stetson, 103–104
Two Treatises on Government (Locke), 26–27
 Tyler, John, 124
- United States (U.S.), infrastructural state in, 57–86. *See also* Constitution; Hamilton, Alexander; Jefferson, Thomas
 Administrative Procedure Act, 182–83
 Anti-Federalists and, 73–74
 arguments over federal power, 64–65
 Army Corps of Engineers’ role in, 83
 Bonus Bill, 81–82
 Build Back Better Act, 207
 constitutional battle over, 71–75
 for public works, 71, 73–74
 Deposit and Distribution Act of 1936, 121–22
 Embargo Act of 1807, 76
 Enabling Act, 76–77
 expansion of, 111–115
 role of state governments in, 112–113
 federal power over, 58
 Anti-Federalists on, 64–65
 Federalists on, 64–66
 Federalists and
 constitution and, 60–66
 on federal power, 64–65
 on road-building authority, 58, 59
 fiscal state and, 60–66
 political economy of, 66
 Gallatin Plan, 78–81
 components of, 79–80
 infrastructural nationalism as element of, 79
 Report of the Secretary of the Treasury on the Subject of Public Roads and Canals, 78
 General Survey Act, 83
 general welfare questions, 62
 Hepburn Act, 160
 infrastructural nationalism and
 Gallatin Plan and, 79
 under Jackson, 85–86
 Infrastructure Investments and Jobs Act, 32, 207
 internal improvements, 56
 Jackson role in, 83–86
 expansion of transportation networks, 84–85
 infrastructural nationalism and, 85–86
 laissez-faire capitalism and, 84
 Judiciary Act of 1801, 75
 laissez-faire theories of, 56–57
 Land Ordinance of 1785, 61
 Mann-Elkins Act, 160
 Northwest Ordinance, 89–90
 Postal Service Act, 71, 73–74
 public response to, 86
 regional divisions over, 58–59
 road-building authority and, 57–60, 76–77
 expansion of transportation networks, 84–85
 Federalists and, 58, 59
 under Gallatin plan, 78–81
 Jackson and, 84–85
 Tocqueville and, 55–56
 U.S. postal service, 112
 Valuation Act, 160
 War for Independence, 62–63, 67
 U.S. postal service, 112
- Valuation Act, U.S. (1910), 160
 Veblen, Thorstein, 172–73, 178
 vested rights theory, 109
 states’ role in infrastructure and, 117
- Wabash, St. Louis & Pacific Railway Company v. Illinois*, 158
 Waite, Morrison (Justice), 29
 Wald, Paul, 209
Wales v. Stetson, 103–104
 Walker, Pinkney A., 130
Walker v. Cincinnati, 148
 Walras, Léon, 177

- War for Independence, 62–63, 67
Waring, George E., Jr., 165
Washington, George, 58, 60–61
Wealth of Nations (Smith, A.), 22, 23, 33. *See also*
 classical liberalism
 classical liberalism in, 33–46, 54
 commerce in, 40
 on costs of infrastructural projects, 80
 Declaration of Independence and, 57
 financial systems in, 63–64
 police power in, 37–41
 economy and, 38–40
 evolution of, 45–46
 regulatory history of, 38–40
 public works in, 40–41
 state–market relations in, 35
Weber, Max, 191
Webster, Daniel, 123
West Coast Hotel v. Parrish, 182
Woolner, David B., 208