

THE SCOTTISH ENLIGHTENMENT AND THE AMERICAN FOUNDING

Writing to Thomas Jefferson from his modest residence in Quincy, Massachusetts, John Adams begins what will be an interesting philosophical colloquy with these lines:

Montezillo February 21st 1820

Dear Sir, Was you ever acquainted with Dugald Stuart? . . . I have a prejudice against what they call Metaphysicks because they pretend to fathom deeper than the human line extends. I know not very well what e'er the *to metaphusica* of Aristotle means, but I can form some idea of Investigations into the human mind, and I think Dugald in his Elements of the Philosophy of the human mind has searched deeper and reasoned more correctly than Aristotle, Des Cartes, Locke, Berkeley, Hume, Condillac and even Reid.¹

The year is 1820. Adams and Jefferson, no longer in the pitch of political battle, have turned their attention to a wide range of intellectual matters and have begun yet another reflection on the assumptions and implications associated with the American Revolution. Within this context, there is nothing unusual about the two greatest leaders of American political sensibilities citing Reid and Stewart and even giving Reid pride of place in a list that includes Descartes, Locke, and Hume. By 1820 the debt of the Founders to Scottish moral and mental philosophy was widely acknowledged and repaid chiefly in the currency of admiration and discipleship. No brief essay can reach the range and contours of the debt. Rather, some illustrations and an assortment of not very well integrated facts might serve as guide and reminder.

There is, of course, no decisive point of origin with inquiries of this sort. As early as 1560 the *First Book of Discipline* of the Church of Scotland had declared that miracles had run their course. Now put on notice, the Christian must make his own way and this chiefly through diligence and, yes, systematic education. The resulting model of Scottish

¹"The Scottish Enlightenment and the American Founding" by Daniel N. Robinson, *The Monist*, vol. 90, no. 2, pp. 170-181. Copyright © 2007, THE MONIST, Peru, Illinois 61354.

education, with its distinctively "humanistic Calvinism," was widely adopted in American colonies and then in the States of the Union. At the time of the American Civil War (1861), there were 207 colleges and universities, of which 49 had been founded by Presbyterians.² The influence of this educational mission was diffuse and powerful, all the more so given the relative absence of credible alternatives. It was common for American faculties to appoint Scottish tutors or those educated in Scotland. At William and Mary, for example, Jefferson was introduced to the works of his greatest heroes—Locke, Bacon, and Newton—by William Small, a graduate of Marichal College, Aberdeen. Small returned to England in 1764 and was a central figure in that *Lunar Society* whose members included James Watt, Josiah Wedgwood, Erasmus Darwin, and Joseph Priestley. It is difficult to exaggerate Small's influence on young Thomas Jefferson who would write this about his teacher:

Dr. Small was . . . to me as a father. To his enlightened and affectionate guidance of my studies while at college, I am indebted for everything. . . . He procured for me the patronage of Mr. Wythe, and both of them, the attention of Governor Faquier. . . . [A]t their frequent dinners with the governor. . . . I have heard more good sense, more rational and philosophical conversation than all my life besides.³

Perhaps it is worth noting also that Small's own education at Marichal College was chiefly in the hands of William Duncan who, as a student there himself, studied Classics from Reid's own tutor, Dr. Blackwell. Duncan became well known for his fine translations of Cicero and of Caesar's *Commentaries*. (I ignore here the question of whether Duncan's text in *Logic* had any influence on Jefferson's draft of the *Declaration of Independence*.)

To speak of the influence of the Scottish Enlightenment on education in America is at once to speak of Princeton whose legendary Scottish president, John Witherspoon (1723–1794), would become a signer of the *Declaration of Independence*. He not only presided over Princeton, he was an active and energetic teacher who personally instructed entire graduating classes. His students included the future President of the United States, James Madison, as well as nine cabinet officers, twenty-one senators, thirty-nine members of the House of Representatives, a dozen State governors, five of the fifty-five delegates to the 1787 Constitutional Convention, and three Justices of the U.S. Supreme Court.

Witherspoon was a graduate of Edinburgh University, later awarded an honorary Doctorate from St Andrews in 1764. Within the Church of Scotland, he had already made a name for himself as a leader of the so-called "Popular Party," the party of conservative evangelicals. Thus, long before he would come to take so significant a part in the American cause, he had a clear conception of the need to protect religion from the reach of government, but not from the reach of reason. As a teacher and educational reformer, he broadened and deepened the traditional curriculum, introduced new and daring philosophical ideas, enlarged and diversified the library holdings, and acquired fine apparatus for scientific studies. Known to be a graceful and eloquent speaker, he was possessed of a useful sense of humour as well. An insomniac given to post-prandial dozing, he failed to have the legislature of New Jersey move its meetings to an earlier hour. Apologizing in advance for the naps he knew he would be taking, he informed the assembly thus:

There are two kinds of speaking that are very interesting . . . perfect sense and perfect nonsense. When there is speaking in either of these ways I shall engage to be all attention. But when there is speaking, as there often is, halfway between sense and nonsense, you must bear with me if I fall asleep.⁴

Witherspoon's pivotal role was not limited to his innovations and influence as an educator, but extended directly to the political arena at the very moment when independence was to be established. The day was July 4, the year 1776, and the venue what came to be called "Independence Hall," Philadelphia. On the table was the *Declaration of Independence*, adopted two days earlier but now in a chamber rather chilled and hushed by forebodings. Rising to the occasion, Witherspoon proclaimed that:

There is a tide in the affairs of men, a nick of time. We perceive it now before us. To hesitate is to consent to our own slavery. That noble instrument upon your table, which ensures immortality to its author, should be subscribed this very morning by every pen in this house. He that will not respond to its accents and strain every nerve to carry into effect its provisions is unworthy the name freeman. For my own part, of property I have some, of reputation more. That reputation is staked, that property pledged, on the issue of this context; and although these gray hairs must soon descend into the sepulchre, I would infinitely rather that they descend thither by the hand of the executioner than desert at this crisis the sacred cause of my country.⁵

Witherspoon's emigration from Scotland was initially postponed as a result of his wife's fear of travel and relocation, especially to a world she

judged to be barbarous. It may be said that her resistance was overcome in part by the insistent urging of a young American studying medicine at Edinburgh at the time, *viz.*, Benjamin Rush (1746–1813).

Rush had graduated from the then College of New Jersey in 1760 when a mere fifteen years old. After a medical apprenticeship in Philadelphia, he went on for formal medical education at Edinburgh in 1766, there studying with Joseph Black and John Gregory and becoming both a disciple and good friend of William Cullen. Cullen's friendships and collegial associations included Adam Smith, David Hume, and Cullen's own patron, Lord Kames. Rush was not the only American to be influenced by Cullen's empirical approach to medicine and science, for there was even a more famous disciple at a distance—Benjamin Franklin.

Rush's other teacher, John Gregory was Thomas Reid's cousin, a member of Reid's "Wise Club" and a bearer of that Scottish Common Sense philosophy for which Reid had recently and justly become famous. The question often asked is whether Thomas Paine's best-selling pamphlet, *Common Sense*, was at all indebted to Reid. It is sufficient to note that it was Benjamin Rush who actually gave the title to Paine, though Rush would not be entirely supportive of the contents.⁶ There is no doubt but that Rush's achievements as a reformer in medicine were deeply grounded in the studies and relationships at Edinburgh. He would come to be hailed as the "Father of American Psychiatry" by the American Psychiatric Association. His writing on psychological disorders, their medical and contextual determinants, closely track Cullen's celebrated *Nosology*. He was founder of Philadelphia's Dispensary for the Poor, the founder of Dickenson College, and the author of the first textbook in psychiatry written in the new world: *Medical Inquiries and Observations upon the Diseases of the Mind* (1812). His avid and relentless efforts in behalf of the abolition of slavery also were fortified during the Edinburgh years. Needless to say, opposition to slavery required no colonial importation of ideas, for the institution was judged repugnant by a number of home-grown luminaries. But Rush's scientific and philosophical cast of mind was well served by the Scottish systematic approach to moral issues. Influential within this *genre* was Francis Hutcheson's *A System of Moral Philosophy* (1755), which gave full expression to Grotius and Puffendorf as Natural Law theorists and which rendered logically and morally incoherent an institution of slavery within any context otherwise supportive of human rights.

Less well known now than Hutcheson's writing but perhaps at least as influential in the second half of the eighteenth century was David Fordyce's *The Elements of Moral Philosophy*. The work was published posthumously in 1754. Fordyce (1711–1751) was yet another remarkable Aberdonian, having died at sea several years earlier. Thus, he did not live to take satisfaction in the importance that would be attached to this work in the Colonies. It was an immediate fixture in the Harvard curriculum and soon a preferred text throughout colonial higher education. In Book II, Chapter IV of that work the author calmly traces the relationship between master and servant to that "natural course of human affairs" which episodically finds opulence and poverty creating class distinctions. But reciprocity is the rule of reason in such affairs, such that persons of privilege require the labor of those who, owing to poverty, need such work. Speaking of the servant, Fordyce insists that,

By the voluntary Servitude to which he subjects himself, he forfeits no Rights but such as are necessarily included in that Servitude. . . . *The offspring of such Servants* have a Right to that liberty which neither they, nor their Parents, have forfeited [emphasis in original].⁷

Clearly, slavery as such is understood as the corruption of the natural relationship, the woeful vice of it made by its hereditary extension. Later in the work, Fordyce, considering the terms of civil society and political authority, offers a judgment that could not help but give principle to colonial enthusiasms:

As the People are the Fountain of Power and Authority, the original Seat of Majesty, and Authors of Laws, and the Creators of Officers to execute them; if they shall find the Power they have conferred abused by their Trustees, their Majesty violated by Tyranny, or by Usurpation, their Authority prostituted to support Violence, or screen Corruption, the Laws grown pernicious through Accidents unforeseen . . . then it is their Right, and what is their Right is their Duty, to resume that delegated Power, and call their Trustees to an Account.⁸

Turning now to matters of law, of delegated authority, and of rights, the name that summons perhaps the greatest attention is James Wilson (1742–1798), born near St Andrews where he was educated, as well as at Glasgow and Edinburgh. More than the customary space is reserved here for Wilson because in his writing and his thought one is able to locate the

rich amalgam of the discipline of law and that Scottish Common Sense philosophy committed to a naturalistic, no-nonsense empiricism resistant to linguistic sources of confusion and idle invention. The space devoted to Wilson, then, is earned by his pivotal role at the Founding, but also by his exemplification of the broader influences under consideration here. All this comes into focus in a truly pivotal case (*vide infra*) decided by the first U.S. Supreme Court with Wilson giving the most discerning of the opinions.

Ambitious and adventurous, Wilson emigrated to the Colonies in 1766 turning to the study of law under John Dickenson of Philadelphia. He thereafter established a successful law practice and readily entered into the revolutionary political climate of the time. A pamphlet of his composed in 1774 gave him international celebrity. Titled *Considerations on the Nature and Extent of the Legislative Authority of the British Parliament*, the work included the uncompromising claim that "all men are by nature equal and free." Though his life would prove to be a checkered one, Wilson was second only to James Madison himself in exercising control and rallying consensus in the Constitutional Convention of 1787. It is probably the case that his speech of October 6, 1787, urging the ratification of the Constitution, was more widely read and perhaps even more successful in its aims than *The Federalist* papers.⁹ Two years later, George Washington appointed James Wilson to the first U.S. Supreme Court where he served as Associate Justice.

In his capacity as Supreme Court justice, Wilson both shapes and sheds light on the emerging jurisprudence of the new nation. It is useful to consider one of the major cases settled by the Court in Wilson's time, and the grounds which Wilson himself took to be dispositive. It is a well known case in U.S. Constitutional history, for it addressed the significant question of the immunity of individual States to actions brought against them by citizens. The case is *Chisolm v. Georgia*, settled in 1793.¹⁰ In this action, the State of Georgia claimed sovereignty, and thus immunity to actions brought against it in a Federal court.

The terms of the dispute were novel, raising the question of whether a State could be sued by the resident of another State. Alexander Chisolm was a citizen of South Carolina and executor of the estate of one Robert Farquahar. The latter had sold uniforms to Georgia for its Revolutionary War effort but had not been compensated. The Continental Congress, forerunner of the new U.S. Congress, had established each State as sovereign

and thus immune to actions arising in another jurisdiction. Even more than John Jay, Wilson understood the gravamen of the State's claim, noting that, stretched to the limit of its tether, the claim could be reduced to a question, "*no less radical than . . . do the people of the United States form a NATION?*" Wilson's analysis of the issues is sharp but truncated, erudite and somewhat digressive, but relentless in the logic of constitutionalism itself. Before considering the main points he establishes with clarity and authority, it is of interest to identify the principal source of his broad philosophical perspective. His own words leave no doubt:

I am, first, to examine this question by the principles of general jurisprudence. What I shall say upon this head, I introduce by the observation of an original and profound writer, who, in the philosophy of mind, and all the sciences attendant on this prime one, has formed an area not less remarkable, and far more illustrious, than that formed by the justly celebrated Bacon, in another science, not prosecuted with less ability, but less dignified as to its object; I mean the philosophy of matter. Dr. Reid, in his excellent enquiry into the human mind, on the principles of common sense, speaking of the skeptical and illiberal philosophy, which under bold, but false, pretensions . . . [prevailing] in many parts of Europe before he wrote, makes the following judicious remark: 'The language of philosophers, with regard to the original faculties of the mind, is so adapted to the prevailing system, that it cannot fit any other; like a coat that fits the man for whom it was made, and shews him to advantage, which yet will fit very awkward upon one of a different make, although as handsome and well proportioned. It is hardly possible to make any innovation in our philosophy concerning the mind and its operations, without using new words and phrases, or giving a different meaning to those that are received.'¹¹

As he dissects the argument advanced by the State of Georgia, Wilson pauses to make the utterly "Reidian" distinction between natural and artificial terms, the former referring to entities having real existence, the latter to abstract entities of uncertain ontology.¹² Thus, "To the Constitution of the United States the term SOVEREIGN, is totally unknown."

If issues such as that brought before the Court are to be settled, the terms on which they depend must be understood. In the extant case, the relevant terms are 'State' and 'Sovereign', and the nub of the issue is to be found at the point of origin of each. As for the State, says Wilson:

States and Governments were made for man; and, at the same time, how true it is, that his creatures and servants have first deceived, next vilised, and, at

last oppressed their master and maker. MAN, fearfully and wonderfully made, is the workmanship of his all perfect CREATOR: A State; useful and valuable as the contrivance is, is the inferior contrivance of man; and from his native dignity derives all its acquired importance.

As to the actual nature of the State, James Wilson's definition might well serve as a dictionary entry.

By a State I mean, a complete body of free persons united together for their common benefit, to enjoy peaceably what is their own, and to do justice to others. It is an artificial person. It has its affairs and its interests: It has its rules: It has its rights: And it has its obligations. It may acquire property distinct from that of its members: It may incur debts to be discharged out of the public stock, not out of the private fortunes of individuals. It may be bound by contracts; and for damages arising from the breach of those contracts. In all our contemplations, however, concerning this feigned and artificial person, we should never forget, that, in truth and nature, those, who think and speak, and act, are men.

One begins now to follow the arc of the argument. Georgia is an *artificial* person, but it exists in virtue of the *actual* persons constituting the State. If one citizen of Georgia can bring an action against another, then presumably one citizen of Georgia might bring an action against two citizens—or all citizens; that is, an action *against Georgia*. Next, Wilson addresses the more basic question of the grounds on which any citizen would resolve to settle disputes in such a way and concludes:

The only reason, I believe, why a free man is bound by human laws, is, that he binds himself. Upon the same principles, upon which he becomes bound by the laws, he becomes amenable to the Courts of Justice, which are formed and authorized by those laws. If one free man, an original sovereign, may do all this; why may not an aggregate of free men, a collection of original sovereigns, do this likewise? If the dignity of each singly is undiminished; the dignity of all jointly must be unimpaired.

Thus understood, the State is an artificial party to agreements but bound in just the way the collective of actual persons are, for the State is just such a collective. And, in the event the State dishonestly violates the terms of an agreement, it scarcely has as a defense the arrogant claim that, in such matters, it is *sovereign*! The claim itself would call for authentication and close examination of the sources of the sovereignty. As Wilson notes, in other contexts the term has a correlative—that of *Subject*; the

Sovereign has sovereignty over subjects. But the U.S. Constitution reserves no such category. It refers to *citizens of the United States*. As Georgia can have no sovereignty over those comprising the State of Georgia, it can have no sovereignty over citizens of another state.

Reaching the heart of the matter, James Wilson goes on to sketch the medieval sources of regal prerogatives, this history having no place within the New World. He summarizes Blackstone's rather inventive argument for the superiority of the Crown to any jurisdiction beyond itself, an argument agreeable to what Wilson calls "systematic despotism." Then, with an acute and prescient comprehension, Wilson identifies two radically different conceptions of the rule of law. Blackstone is defender of one of these; that which decades later would be called the *command theory* of law and serve as the linchpin of Legal Positivism. Against this, Wilson cites,

... another principle, very different in its nature and operations [forming] in my judgment, the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they require. *The Sovereign, when traced to his source, must be found in the man* (emphasis added).

Traced to his source, the sovereign is found *in the man*.

From this point onward, Wilson has little difficulty conveying the grounds on which the claims of Georgia are simply based on a mistake at once historical and conceptual. It was actual persons who consented to be governed by those constitutional principles that required ratification. They had seen fit to form a union under these principles. It was, then, by way of their consent that Georgia itself would exist as a State. The Constitution introduces to readers the body to which it owes its authority. It *names* the body: "The PEOPLE of the United States." These citizens of the original thirteen, "in order to form a more perfect union," established the Constitution. Wilson concludes, "By that Constitution Legislative power is vested, Executive power is vested, Judicial power is vested."

Returning now to John Adams's question to Jefferson—whether Jefferson knows Dugald Stewart—Jefferson's answer on March 14, 1820 is revealing:

Dear Sir, A continuation of poor health makes me an irregular correspondent. . . . It was after you left Europe that Dugald Stuart . . . and L[o]rd Dare . . .

came to Paris . . . Stuart is a great man, and among the most honest living . . . I consider him and Tracy as the ablest Metaphysicians living; by which I mean Investigators of the thinking faculty of man. Stuart seems to have given it's natural history, from facts and observations; Tracy it's modes of action and education, which he calls Logic and Ideology; and Cabanis, in his *Physique et Morale de l'homme*, has investigated anatomically, and most ingeniously, the particular organs in the human structure which may most probably exercise that faculty.¹³

This reply is interesting in several different respects. First, it identifies the philosophers Jefferson judges to be the proper leaders of thought. Destutt Tracy and Maine de Biran were the leaders of the school of *Ideologie* which conferred ultimate epistemological authority on experience itself. Cabanis's *Essai* on the relationship between the physical and the mental was an uncompromisingly physicalistic theory of mind, embracing not only thought and feeling but creativity, the arts, and the civic dimensions of life. Cabanis would thus be in the same school of thought dominated in the English-speaking world by Joseph Priestley; the Priestley who had declared himself David Hartley's disciple. Hartley's landmark *Observations on Man* (1748) was a systematic application of Newtonian principles to a mental science now recast as an essentially physiological science. Predictably, Jefferson was won over to this perspective, as was Benjamin Rush. Adams, so admiring of Reid, knew enough to conclude that the excitement here was as doomed to be disappointed as was the project of human perfection itself.

In a fine recent study of Hartley, Richard Allen makes the suggestive claim that, in the years surrounding the American Revolution, the principle options available to the intellectual community were those presented by Reid and by Hartley.¹⁴ Priestley's thorough commitment to Hartley's psychology, combined with Priestley's own influential position within the intellectual life of the New World, fills out the Hartleian project. It is rigorously scientific, reductionistic, promissory. It moves the causal forces operating on human endeavors to the relatively inaccessible and even dark recesses of nerve and brain and biology. It would govern mental life with laws of association over which the thinker has no direct control.

On the other side, the side which Adams and many other leaders of thought found sensible and practical, there was the Reidian philosophy, faithful to the science of Newton but judging that science to proceed not

from theory but from observation; a science not of causes but of laws and principles. It was by way of this influence, the diffuse influence of Scottish thought, including the useful if often irksome skepticism of Hume, that the Founders resisted metaphysical extremes and the extremes of action they often encourage. This same influence protected the colonial consumer from most of the products still minted in Europe's frippery shops. A balance was sought and even found between the speculative and the practical, between lofty and sincerely held principles and the dangerous business of genuine self-governance. No one figure among the Founders established a perfect balance within his own judgments, but as a collective, willingly or grudgingly accessible to the refinements and chastenings of close intellectual combat, the Founders produced something remarkable and original: A means by which a "fallen creature" might set about to achieve decent ends with the aid of a government designed intentionally to hold at bay its several powerful branches.

If the prevailing tensions could be reduced to personalities, and these further reduced to a few words, perhaps an encounter between Thomas Jefferson and Alexander Hamilton is sufficiently "textured" for the purpose. Recall the famous visit Hamilton paid to Jefferson, asking him to identify the subjects in the portraits adorning the walls. These were portraits of Newton, Locke, and Bacon, who were, in Jefferson's words, "my trinity of the three greatest men the world has ever produced." At this Hamilton paused, and then said "the greatest man that ever lived was Julius Caesar."¹⁵

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NOTES

1. *The Adams-Jefferson Letters*. Lester Cappon, ed. (Chapel Hill, NC: University of North Carolina Press, 1959), pp. 560-61.
2. An insightful discussion of this history is Douglas Sloan, *The Scottish Enlightenment and the American College Ideal*. (New York: Columbia University Teachers College, 1971).
3. Thomas Jefferson, "Autobiography," in *The Writings of Thomas Jefferson* (20 vols.). A. A. Lopscomb and E. E. Bergh, eds. (1904-1905). (Washington, DC: Thomas Jefferson Memorial Society), vol. 1, pp. 3-4.

4. John Witherspoon, *A Princeton Companion*. (Princeton, NJ: Princeton University Press, 1976).
5. Quoted in C. A. Briggs, *American Presbyterianism*. (New York: Charles Scribner's & Sons, 1885), p. 351.
6. In a letter to Adams dated August 14, 1809, Rush recalls a letter from J. Cheetham, then preparing a life of Paine and inquiring as to the circumstances surrounding the writing of *Common Sense*. Rush tells Adams that he replied, "that Mr. Paine wrote that pamphlet at my suggestion and that I gave it its name." *The Spur of Fame: Dialogues of John Adams and Benjamin Rush 1805-1813*. John Schutz and Douglass Adair, eds. (Indianapolis, IN: Liberty Fund, 1966), p. 164.
7. David Fordyce, *The Elements of Moral Philosophy* [1754]. David Kennedy, ed. (Indianapolis, IN: Liberty Fund, 2003), p. 89.
8. *Ibid.*, p. 106.
9. The full text of the Ratification Speech is available in HTML format on the website of the *Constitution Society*, located via "James Wilson ratification speech."
10. *Chisolm v. Georgia*, 2 U.S. Dallas 419.
11. *Ibid.* Numbers in its boldface refer to the pagination in the original.
12. Reid's distinction between natural and artificial language is developed in Sec. II, Ch. 4 of *An Inquiry into the Human Mind on the Principles of Common Sense* [1964]. Derek Brookes, ed. (University Park, PA: Pennsylvania State University Press, 1997).
13. *Adams-Jefferson* (cited in n. 1, above), pp. 561-62.
14. Richard Allen, *David Hartley on Human Nature*. (Albany, NY: SUNY Press, 1999), p. 1.
15. *The Spur of Fame* (cited in n. 6, above), p. 2. The account may be apocryphal.

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