

# LIBERTY AND LICENSE: THE AMERICAN FOUNDING AND THE WESTERN CONCEPTION OF FREEDOM

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Contrary to mythic beliefs widely held by the general public and even most scholars, Americans in the late-eighteenth century were not a people who had founded colonies and then a nation “around a pervasive, indeed, almost monolithic commitment to classic liberal ideas,” such as “individualism, freedom, equality,” and individual autonomy. Nor is it true that Americans wished to “pursue their individual goals and aspirations in a society dominated by the norm of ‘atomistic social freedom.’”<sup>1</sup> Instead, Americans, like their Christian forebears, were more interested in the well-being of their families and communities, local agricultural matters, and the acquisition of Christ’s freely given grace, than in securing individual autonomous freedom.<sup>2</sup> They were traditional in their social and political goals and, accordingly, committed to an understanding of freedom that sharply differentiated between liberty and license.

It is easy to forget that in the years 1765-1785, America was a nation of Protestant and communal backwater polities still marked at the beginning of the Revolution by widespread adherence to the principles of a balanced monarchical government and an abiding attachment to England. In this land of largely autonomous Protestant village communities, and townships or counties in the Middle and Southern colonies, the liberal individualism of Thomas Hobbes with its unconstrained understanding of liberty was, at least in speech and writing, thoroughly reviled. Indeed, amid overlapping Western traditions of ideas which can be teased out of American sermons, pamphlets, and newspapers, public-defined limitations on the individual's autonomy and liberty are found throughout. Although each tradition of thought did have a recognizable concern regarding the enduring "true" interests of the individual, not one can be described fairly as defending individual autonomy or liberty unconstrained by a higher moral order. Moreover, each one understood that individual flourishing is best accomplished through a life framed within close corporate boundaries. Thus, eighteenth-century Americans' understanding of liberty did not include autonomous individual freedom; but rather, in all but one of its various forms, it followed the traditional Western understanding of a voluntary submission to a life of righteousness that accorded with universal moral standards and the authoritative interpretive capacity of congrega-

tion and community—if you will, an ordered and communal sense of liberty.

One might challenge this view, for is it not widely believed that it was a novel, individualist understanding of liberty for which Americans were prepared to die in their revolutionary struggle with Britain? And is it not the case that when asked today what they are most proud of about America, more than two-thirds of Americans respond, "our freedom," or "liberty," or some variant? From this, the author of the poll concludes that "*individual freedom* is the most insistent claim of classical liberalism—and it is the proudest claim of Americans."<sup>3</sup> Such accounts help to create the sense that a powerful continuity exists between Revolutionary Americans and their twentieth-century descendants regarding their understanding and love of liberty. Perhaps, though, it was Abraham Lincoln who had it right when he remarked, "we all declare for liberty; but in using the same word we do not all mean the same thing."<sup>4</sup>

Thus, in what follows, I will attempt to show that when eighteenth-century Americans used the word "liberty," they meant something quite different from the dominant understanding of the term today. Put positively, eighteenth-century Americans continued to adhere to traditional Western patterns of viewing liberty as defensible only when it was constrained, communal deferring, and acting in accord with a higher moral order. Liberty was as much or more about making the right choices

as it was the freedom of choosing. And within this enveloping understanding, Americans viewed liberty as having four broad meanings, all of which appear in some way similar to those used today, and eight more specific ones. This means that eighteenth-century Americans understood liberty in at least twelve different ways. We must examine closely, then, how these varying concepts were understood if we are accurately to gauge how the liberty defended by the Founding generation was viewed. In the end, we will find that in viewing liberty as restrained by a defining moral purpose, they understood liberty in a most traditional Western way and refused to embrace a revolutionary new liberal understanding of liberty as a reflection of unconstrained autonomy.

#### FOUR BROAD MEANINGS OF LIBERTY

Let us begin by admitting that when examined in a cursory fashion, the broad meanings of liberty discoverable in eighteenth-century English dictionaries seem to be fully familiar. For instance, they offer as the most basic sense of liberty a definition that has not changed in nearly three centuries. Consider this first of several common definitions of liberty which held that liberty was "a being free from obligation, servitude, or constraint" or "liberty in *common Speech*, is freedom of doing anything that is agreeable to a person's disposition, without the controul of another."<sup>5</sup> Surely, this first meaning of liberty is one that has changed little in the intervening centuries.

Yet, all may not be as it seems.

As we look more closely at this first formal sense of liberty, we find in longer narrative descriptions that the actual substantive meaning then attached to liberty was traditional and is separated from modern ones by the radically different intellectual environments within which each century's meanings are embedded. This eighteenth-century understanding of liberty was framed by traditional Anglo-American presuppositions of a divinely ordered universe in which the twin antitheses to liberty were tyranny and licentiousness. As perceived by an anonymous New Englander, liberty was a rationally limited freedom that distinguished men "from the inferior creatures," for: "*Absolutely to follow their own will and pleasures*, what is it, in true sense, but to follow their own corrupt inclinations, to give the reins to their lusts.... Are they whose character this is at liberty? So far from it, that instead of being *free*, they are *very slaves*."<sup>6</sup> From this encompassing Anglo-American perspective, man may have been born free but he was bereft of deeply internalized self-control, which could only be gained through rebirth in Christ, communal life, or more likely both; freedom was license, not liberty, and freedom was not fit for a truly human life.

The second of the two most common meanings of liberty offered by early eighteenth-century English dictionaries was legalistic. This meaning of liberty as historically gained exemp-

tions provided by authoritative political leadership is defined in a 1708 dictionary as "a Privilege by which Men enjoy some Benefit or Favour beyond the ordinary Subject." Thirty years later, another dictionary similarly defines liberty as "a privilege by grant or prescription to enjoy some extraordinary benefit."<sup>7</sup> And still later in the century, in the 1773 *Britannica*, liberty, "in a legal sense," continued to be "some privilege that is held by charter or prescription."<sup>8</sup> The widespread English acceptance of this understanding of liberty as a special historic dispensation, normally communal or corporate in character and granted by authoritative political leadership rather than as an innate individual right, should not be surprising. As C. S. Lewis has shown, this is one of the most hallowed Western understandings of liberty, and in this tradition, liberty below the level of the sovereign state almost always referred "to the guaranteed freedoms or immunities (from royal or baronial interference) of a corporate entity."<sup>9</sup>

Thus, in opposition to those who suggest that the American founding generation was committed to a liberal understanding of liberty, we discover that according to the two most common eighteenth-century general English definitions, liberty was understood in a clearly restrictive and communal rather than expansive and individualistic fashion. Liberty was either voluntary submission to rules of behavior tightly constrained by narrow boundaries framed by Holy Scripture and natural law, and

authoritatively mediated by congregation or local community, or it was a political gift to a designated group providing a provisional dispensation from normally authoritative central governmental controls. In both instances, it was an opportunity for the community to guide the individual toward self-regulation in the service of God, the public good, and family. Individual autonomy it was not.

A third broad English meaning of liberty that one might believe has remained largely unchanged in modern Western thought is the "liberty of religious conscience." We find a 1737 dictionary describing "liberty [of Conscience, as] a right or power of making profession of any religion a man sincerely believes."<sup>10</sup> Yet, here too the lack of true continuity in meaning between the founding and today is clear since the liberty of conscience no longer carries, as it did throughout the eighteenth century, the grave importance associated with the exercise of religious duties and the search after divinely informed moral precepts. To put the matter simply, freedom of conscience today is applied to a wide range of pursuits where no pretense of serving God or seeking divinely informed moral truth is necessary. No longer, then, does this understanding of liberty revolve around the most important concerns "of life, where whim and fancy have no place."<sup>11</sup> Thus, this particularly Protestant sense of freedom, freedom of religious conscience, is no longer valued in the same way by contemporary shapers of opinion.

Liberty of religious conscience in fact no longer even merits mention in modern dictionaries under the heading of liberty; nonetheless, it importantly continues to provide religious-like legitimacy to those freedoms normally described as civil liberties, those "inalienable liberties guaranteed to the individual by law and by custom; rights of thinking, speaking, and acting as one likes without interference or restraint."<sup>12</sup> Liberty or freedom of religious conscience, indeed, has proved a most valuable tool in the undermining of the very grounds upon which it traditionally stood—the centrality of religion to the lives of its most ardent defenders. Often forgotten today is the eighteenth-century reasoning that legitimated this unchallengeable right. No longer asked is "why should the reason, conscience, or faith of the individual be respected as inviolable?" Nor is the probable answer of eighteenth-century Americans heard, that is, that "the reason in man corresponds to and is part of the reason of the universe. To violate this principle in man is to transgress the universal law."<sup>13</sup> Unlike this earlier liberty of conscience, then, contemporary individual rights do not demand a divine and knowable moral end or *telos* to limit and legitimate it. Again, the apparent similarity between the eighteenth and twentieth centuries' meanings of liberty is delusive.

A fourth important broad Anglo-American understanding of liberty is freedom from enslavement. This is one of its most traditional Western meanings,<sup>14</sup> and the sense that may well

have shown the greatest continuity during the previous several centuries. Here again, however, definitions not read in a broader historical context can be deceiving, for slavery's meaning in the eighteenth century did not revolve solely around the experience of bondage in the sense of chattel enslavement. Rather, its meaning broadly reflected ethical thought wherein slavery was fundamentally a disordering of the soul in relation to God's greater moral structuring of a purposeful universe. If one were unable voluntarily to conform (through Christ) to the strictures of the divinely ordered Cosmos, a higher moral order, either because of bondage to another man or because of bondage to sin and Satan, one was a slave. The critical aspect here, then, is the pervasive sense of limitation and structure which liberty (as distinct from license) carried that is absent from the connotations associated with slavery and the contemporary sense of liberty as individual freedom and autonomy.

Accordingly, liberty was understood to be a sought-after voluntary submission to the Divine or rational moral ordering of the universe. In the contemporary world where confidence in such an ordered universe no longer widely exists, particularly among the best educated, neither liberty as freedom from slavery nor slavery itself can be understood in a fashion similar to how those terms were used in the eighteenth century. Today, slavery almost wholly describes the organized use of chattel human labor, and liberty is understood to be the individual

freedom to do what one wills unconstrained by a higher moral order. By eighteenth-century lights, what is today described as individual liberty would then have been described as license, and by their standards, contemporary meanings of liberty and slavery would surely seem stunted.

In short, the differences in the conceptions of liberty held by two populations of English speakers, separated by over two centuries, might be particularly well demonstrated by how eighteenth-century Americans would have responded to a query regarding the purpose of liberty. Such a question is surely a recurrent one in Western history and has generally been answered with liberty viewed as "something more formal, rational, and limited than freedom; it concerns rules, and exceptions within a system of rules." Most importantly, liberty has traditionally connoted "firm, rational control of those mysterious depths and of the dangerous passions found there."<sup>15</sup> And Revolutionary-era Americans were, at least in this instance, a people who continued to understand liberty in inherited Western ways. For them, freedom as liberty was only defensible when it was limited by divinely sanctioned transcendent truths in the ultimate service of Christian and corporate purposes. Anything else was simply license.

#### APPLEBY'S THREE SENSES OF LIBERTY

The four broad Anglo-American meanings of liberty discussed above are not the only ones discoverable in the thought of the

American Founders. And among additional understandings of liberty, are there not many that truly accord with contemporary individualist sensibilities? Indeed, there were many more meanings of liberty that were part of the political, social, and religious conceptual map used by the Founding generation. In fact, Americans understood liberty in as many as eight specific ways: political, philosophical, prescriptive (which overlaps considerably with the second sense discussed above), individualistic, spiritual, familial, natural, and civil. This fact has not gone unnoticed by other scholars.<sup>16</sup> Still what the historical record suggests is that, contrary to expectations and popular perceptions, eighteenth-century Americans continued to distinguish sharply between liberty and license in the restrictive Western tradition and to view and value liberty in ways which would today be viewed as non-individualistic. The historical record is so clear on this point that even mainstream liberal scholars acknowledge that individualistic concepts of liberty were not prevalent during the Founding era. One such scholar is Joyce Appleby, a former president of the American Historical Association and a highly regarded student of the American Founding. The weight of Appleby's scholarly insight here is amplified by her lack of a conservative agenda or an engagement on the morally intrusive side of America's ongoing culture wars.

Appleby, in keeping with a pattern established above, begins her remarks on liberty by drawing attention to the great

dissimilarity that exists between the widely accepted senses of liberty current then and today. In particular, she argues that autonomous individual liberty, largely disparaged then, has subsequently come to dominate contemporary thinking about liberty. According to her, the "least familiar concept of liberty used then was the most common to us—that is, liberty as personal freedom." With good reason she further finds that it was political liberty, the right of a corporate body to be autonomously governed by its citizens, that dominated the secular thought of Americans. In its traditional Western formulation, the meaning of political liberty as derived from classical republican sources and defined by Renaissance humanists was corporate "independence and self-government—liberty in the sense of being free from external interference as well as in the sense of being free to take an active part in the running of the commonwealth."<sup>17</sup> This understanding of liberty had a well established Western pedigree that established a people's "right to be free from any outside control of their political life—an assertion of sovereignty," as well as "their corresponding right to govern themselves as they thought fit."<sup>18</sup> A. J. Carlyle further portrayed it as having developed from deep roots in the Hellenistic Mediterranean basin with its principal instantiation having been in classical and Italian-Renaissance republics. He describes it as a political community that "lived by its own laws, and under the terms of the supremacy of the community itself, not only

in its law, but in its control over all matters which concerned its life."<sup>19</sup> Certainly, then, this traditional Western sense of liberty shares little in common with contemporary concerns with individual rather than corporate autonomy.

Indeed, Appleby finds that "before the Revolution liberty more often referred to a corporate body's right of self-determination. Within countless communities the ambit of [personal] freedom might well be circumscribed, yet men would speak of sacrificing their lives for liberty—the liberty of the group to have local control."<sup>20</sup> Or as described by an anonymous English pamphleteer, Americans "obey no laws but their own, or in other words they obey no will but their own, and this is the summit of political freedom." For them, he held, "freedom consists in not being subjected to the will and power of another [people]."<sup>21</sup> And it is political liberty that describes "the participation of men in the choice of their government...a sort of collective liberty." Yet, significantly, "a free people in this sense is not necessarily a people of free men."<sup>22</sup> And this is a critical distinction that has been conflated too often. At least, its full implications have gone unrecognized.

Thus, this most important American secular and corporate understanding of liberty, normally depicted as political, described the Western understanding of the citizen's right of political participation in the shaping of the community's destiny and that of this collective body to autonomy, significantly

though with no necessary concern with an individual's liberty within that corporate body. Remember that even if such a concern with an individual's freedom did exist, it was framed in terms of true liberty (as described in the first meaning above), which was "a freedom of acting and speaking what is right, a freedom founded in reason, happiness, and security. All licentious freedom, called by whatever specious name, is a savage principle of speaking and doing what a depraved individual thinks fit."<sup>23</sup> Liberty or freedom was bound by the objective standards which made it so valuable. Indeed, an anonymous author held in 1776 that:

To be free from coercion is a privilege which no man has a right to enjoy. The wild beasts for whom it is best calculated, may perhaps have some right to such liberty, but man can have none. The truest and most complete freedom that man can enjoy, and which best becomes rational creatures who are accountable for their actions, is the liberty to do all the good in his power.... If any citizen were at liberty to do what he pleased, this would be the extinction of liberty.<sup>24</sup>

Accordingly, to the degree individual liberty was countenanced within the gambit of Western political liberty, it placed the needs of the individual subservient to those of the public and delimited the individual's claim to liberty within the con-

straints of the first broad Anglo-American definition of liberty discussed above.

During the imperial crisis with Britain, however, political liberty was only one of several kinds of liberty that Americans were fearful of losing. Another believed to be in jeopardy was Appleby's second sense of liberty, that of secure possession, also describable as English prescriptive liberties. This meaning of liberty is similar to the second broad meaning discussed above, but in this instance the focus is more on the prescriptive rights awarded to the individual than on those held solely by the community. Accordingly, Appleby characterizes this slowly accumulated collection of historic rights as "negative, private, and limited." Unlike political liberty, "when people talked about these [prescriptive] liberties, they referred to promises between the ruler and the ruled that carried no implications about the kind of rule that prevailed."<sup>25</sup> These established protections or exemptions from certain kinds of governmental activities, invariably historically established, then, had little or nothing to do, at least directly, with a people's ability to govern itself.

One should attend carefully to Appleby's demarcation of the liberties of secure possession as liberties in the plural rather than as liberty abstractly understood, and as promises between the ruler and the ruled. By depicting them in the plural, she captures a critical distinction in the West between them and liberty per se: prescriptive liberties resulted from an inherited



and contested contractual relation between a monarchical government and its subjects. Importantly, this collection of historic rights and exemptions were throughout the eighteenth century held to be an inheritance that Americans enjoyed not as men, but as British subjects.<sup>26</sup> As explained in 1765, "when the powers were conferred upon the colonies, they were conferred too as privileges and immunities...or, to speak more properly, the privileges belonging necessarily to them as British subjects, were solemnly declared and confirmed by their charters."<sup>27</sup> Before the 1770s these rights were rarely described in America as abstract, universal human rights. In fact, in keeping with the second of the broad definitions of liberty, "people of different sorts had freedoms of different sorts. They enjoyed their particular freedoms as members of particular communities, inheriting them through tradition, custom, usage, and prescription."<sup>28</sup> The necessity of defending the Revolution against Parliament's claims of sovereignty did, however, force Americans to abandon purely historical grounding of these rights and to "resort instead to the natural rights of man rather than those peculiar to Englishmen."<sup>29</sup> For many this was an unwelcomed transition fraught with great danger and, thus, strenuously opposed.<sup>30</sup>

Unlike liberty when spoken of in the singular, it is quite common to find this collection of liberties being defended because the "people held it in fee," or because "it had been bequeathed to them as an inheritance."<sup>31</sup> For instance, a Massachu-

setts Committee of Safety claimed that Americans were "incontestably entitled to all the rights and liberties of Englishmen; that, as we received them from our glorious ancestors without spot or blemish, we are determined to transmit them pure and unsullied to our posterity."<sup>32</sup> These liberties, in effect, were a product of a historical and contractual relationship between the monarch and the American people who had done nothing to abrogate these inherited constraints on the king.<sup>33</sup>

Prescriptive liberties, then, must be understood in their English, if not Western, historical context, which defined the relationship between the individual member of an often nearly autonomous local community and the normally distant but nevertheless sovereign central government. This sense of liberty, more than any other, described "not a right but a congeries of rights—liberties, not liberty—that were derived from civil society and ultimately from the sovereign." In fact, "in England, liberties had been granted by the Crown (usually under duress)."<sup>34</sup> Significantly, local communities, as distinct from the central and sovereign government, were not subject to this "civil rights" contract between the monarch and individuals, nor in England had they historically needed to be, for "when authority came from the king, government was palpably something other, a force against which representatives protected their constituents."<sup>35</sup> And importantly, the corporate power of the local community was historically, in England and in America, not

understood to be part of the "governmental other."

It was not until after the Revolution that a few forward-looking Americans, most particularly James Madison, began to consider how a truly free and democratic sovereign people, possessing the full power of the government, might well endanger these heretofore inviolate "civil rights" of securely possessing private property, personal security, and bodily liberty against arbitrary incarceration, that had been slowly negotiated, often in blood, between the Crown and the English nobility, gentry, and commons.<sup>36</sup> But even Hamilton, adhering to the traditional Anglo-American understanding of a declaration or (later) bill of rights, argued against the need for such a document on the traditional grounds that such legal barriers were only necessary to protect a people against the uncontrolled excesses of kings, not against their legitimate democratic representatives. He explained that civil rights "are in their origin, stipulations between kings and their subjects, abridgments of prerogative in favor of privilege," and therefore "they have no application to constitutions, professedly founded upon the power of the people," and that the people "have no need of particular reservations."<sup>37</sup> English "civil" rights, clearly, for many even at the end of the eighteenth century, were protections awarded to a people against an unjust crown, not to an individual against a legitimately constituted sovereign people—however intrusive it might prove to be.

Appleby's third and final sense of liberty is that of individual autonomy. The emergent individualist sense of liberty she notes was "instrumental, utilitarian, individualistic, egalitarian, abstract, and rational." It clearly was a sense of liberty antithetical to others in the eighteenth century and more generally, to the Western understanding of liberty as teleologically ordered and corporate. In fact, Appleby wonders how two understandings of liberty "so at odds" as the individualist and corporate political understandings "could have coexisted in the same political discourse."<sup>38</sup> The answer is that during most of the eighteenth century in America, unlike Britain to which she is surely referring, they did not. In fact, autonomous individual liberty in Revolutionary America was a bastard foundling which few men were willing publicly to claim as their own. Additionally, even though intellectual tides admittedly had begun to change by the last two decades of the century, individual liberty was still seen largely as a personally and socially dangerous form of corruption.

#### FIVE ADDITIONAL FORMS OF LIBERTY

As helpful as Appleby's innovative typology has shown itself to be in exploring and corroborating the generally illiberal nature of the late-eighteenth-century American understanding of liberty, it is evident that it can only serve as a point of departure, principally because her triad of political and individual liberty, and prescriptive liberties fails to capture adequately the full

range of meaning attached to liberty in Revolutionary America. Beyond the three senses of liberty she identifies, and the four described earlier in the chapter, five others must be considered if we are to begin to understand accurately such important seminal documents as the Declaration of Independence and the goals of the subsequent War of Independence. These five other meanings are spiritual or Christian liberty, philosophical liberty or freedom of the will, familial independence, natural liberty, and corporate civil liberty. It might be added that in spite of Appleby's oversight, most of these additional senses of liberty were of far greater importance in the history of the West and the writings of late eighteenth-century Americans than was her third understanding, autonomous individual liberty.

The first of the additional senses is spiritual or Christian liberty. This was the understanding of liberty that a Christian enjoyed through Christ and that freed him from sin and from the necessity of obeying the Mosaic law. As explained by St. Augustine in his *Confessions*, Christian liberty was such that "whenever God converts a sinner, and translates him into the state of grace, he freeth him from his natural bondage under sin, and by His grace alone inables him freely to will and to do that which is spiritually good."<sup>39</sup> Martin Luther had even claimed that the doctrine of Christian liberty "contains the whole of Christian life in a brief form, provided you grasp its meaning."<sup>40</sup>

This understanding of liberty continued to captivate American social and ethical discourse until well into the nineteenth century. Even then, "influential members of the American community stressed that the most valuable form of freedom was a freedom from sin and a freedom to do God's will."<sup>41</sup> This is the meaning that Henry Cumings, delivering a thanksgiving sermon in 1783, attributed to liberty in a manner equally at home in 1630 or in 1850 America. He informed his audience that: "we must exert ourselves to subdue each irregular appetite and passion, to disengage ourselves from the enslaving power of vicious habit, and to acquire the *glorious internal liberty of the son of God*, which will make us *free indeed*."<sup>42</sup>

Considering the importance of spiritual liberty, both in the first 150 years and the subsequent history of American thought, it is surprising that Appleby fails to mention it. Such an oversight, however, further shows that her understanding of American liberty is not to be faulted for a biased commitment to defending a Christian communalist understanding of liberty.

Appleby also ignores the philosophical sense of liberty—liberty of the will. This, though, is more understandable given that this sense of liberty was viewed as enjoying limited political connotations. The great Scottish philosopher David Hume thus argued that by liberty, "we can only mean *a power of acting or not acting, according to the determination of the will*." He added

that this understanding of liberty was so basic that it was never "the subject of dispute."<sup>43</sup> Yet, he surely exaggerated here, for by his own admission the relationship between sin, freedom of the will, and God's sovereignty is a mystery "which mere natural and unassisted reason is very unfit to handle."<sup>44</sup> Russell Kirk was right in holding that this issue lies at the heart of the theological terrain that divided Western Christendom. He reminds us that "both Martin Luther and John Calvin declared that the most profound difference between Papists and Protestants was the question of freedom of the will.... This controversy over freedom of the will, and over faith and works, was fundamental to the contest between Catholics and Protestants."<sup>45</sup> Nonetheless, by the mid-eighteenth century, Hume's sense that this is a question that was beyond dispute (or more likely, was of such a complex nature that few could address it with any competence) may explain why it rarely entered into the normative political discussions of the time. It was so widely ignored by all sides that it came to have little value in shaping popular moral and political considerations. Philosophical liberty thus was aptly named because it concerned questions that were best left to formal philosophers and theologians, of which America had at most one great representative, Jonathan Edwards; and, of course, it was on exactly this abstruse issue that he was to make his greatest mark in his *Freedom of the Will*.

More striking is the absence in Appleby's typology of an

important understanding of liberty that was possibly even older than spiritual or Christian liberty and certainly deserving of sustained attention. This third neglected sense of liberty was the then still dynamic idea of socially-defined familial independence, that is, the freedom of a householder to be uncontrolled economically, politically, or socially by other private individuals. It must be strongly emphasized, however, that this hallowed Western meaning of liberty had nothing in common with the twentieth-century's ideal of individual autonomy. Indeed, for eighteenth-century Americans, this sense of liberty as personal independence was not a universal human attribute. Rather, it was understood as it had been across Western history by Attic philosophers, republican Romans, and feudal English, as a socially-defined characteristic of self-supporting heads of households, normally males, who were the central ligaments of these largely farming communities.

In particular, one who was designated as independent in eighteenth-century America was deemed to have the economic, political and spiritual resources that enabled him to be his own master, that is, to be independent of another individual such that his will might never be owned or directed by this other private individual. It always was another person against whom one protected oneself in America, as legitimate corporate pressure was judged in an entirely different and salutary light. Familial independence, the liberty of the smallest of communities, for

those adhering to this enduring Western understanding of liberty,<sup>46</sup> thus, was not the freedom to do what one liked; neither was it the freedom to ignore God's will, nor the often conflated complement, that of ignoring the legitimate community and its representatives.

When Americans turned to classical sources, they discovered there too a comparable understanding of personal independence.<sup>47</sup> Classicist Richard Mulgan argues from the *Politics* and the *Metaphysics* that for Aristotle the common definition of personal independence was "not belonging to another or as being one's own person." He notes, moreover, that for Aristotle as well as for Plato, this kind of individual liberty was appropriately tempered by the legitimate obedience, even subservience, that they understood the free male (with the possible exception of the philosopher) owed to his community. Mulgan shows that "to Aristotle autonomy is not a pressing problem. Free men are men who have independent interests of their own but will readily and as a matter of course submit to laws and social norms.... Like Plato, Aristotle countenances widespread legal and social compulsion of individual behaviour without any suggestion that compulsion, the overriding of individual choice, involves moral loss or sacrifice, so long as it prevents people from doing wrong."<sup>48</sup> Quentin Skinner finds that the understanding of personal independence envisioned by classical Attic thought was shared by Livy and Cicero, two Roman

authors highly regarded by their eighteenth-century American readers.<sup>49</sup> Skinner notes that "Cicero had already laid it down in *De Officiis* (I.10.31) that individual and civic liberty can only be preserved if *communi utilitati serviatur*, if we act 'as slaves to the public interest.' And in Livy there are several echoes of the same astonishing use of the vocabulary of chattel slavery to describe the condition of political liberty."<sup>50</sup> For these authors, then, as for their eighteenth-century American admirers, there was no inconsistency in arguing for personal economic independence, reciprocal dependency, and the need to cede preeminence to the needs of the public.

Familial independence thus described the head of house's "absolute exemption from any degree of subordination, support, or control by any other person." As clarified by Thomas Tucker in 1784, "only in 'an uncivilized State'...did any man have an absolute 'right to consider himself or his family independent of all the world.'"<sup>51</sup> Regardless of his economic independence, the individual male head of house was to be enmeshed in the life of his family, congregation, and polity so that he could aid and be aided in living a life of moral righteousness. This is in keeping with the central moral teaching and understanding of liberty in the Christian and classical West. As a contemporary moral theorist, Alasdair MacIntyre, has written, to be a virtuous man in either of these ethical traditions was to be a bearer of limited rights who filled "a set of roles each of

which has its own point and purpose: member of a family, citizen, soldier, philosopher, servant of God."<sup>52</sup> Traditionally, familial independence neither compromised the interdependent relation that existed between the independent male and his family or that which existed between him and the encompassing local community.<sup>53</sup>

Not as yet introduced are natural and (communal) civil liberty, the last two meanings, which are in some sense also the most basic understandings of liberty. In the eighteenth century, they were effectively paired, for as Blackstone explained, "civil liberty...is no other than natural liberty so far restrained by human laws."<sup>54</sup> Natural liberty, accordingly, was that liberty which was legitimately the individual's in a pre-social sense, whereas civil liberty was that which remained of natural liberty after society's expansive needs were fully met. Civil liberty was communal in comparison with the individualist character of the pre-social natural liberty which was to be surrendered upon entering society. Leaving little doubt as to the legitimate limits of this discrimination between pre-social individual freedom and that which is appropriate within society, the polymath jurist, minister, Congressman and inventor, Nathaniel Niles, wrote that "civil Liberty consists, not in any inclinations of the members of a community; but in the being and due administration of such a system of laws, as effectually tends to the greatest felicity of a state."<sup>55</sup> We must above all avoid, then, conflating

pre-social "natural" liberty and communal "civil" liberty if we are to understand how late-eighteenth-century Americans understood the concept of liberty. Civil liberty described the residual liberty that belonged to the individual after the needs of society were fulfilled, for "to speak of restraints upon personal freedom and yet call the political condition that was restrained 'liberty' was to speak of what in the eighteenth century was known as 'civil liberty.'"<sup>56</sup>

It should be clear from the foregoing survey of liberty's four broad English meanings and eight more specific eighteenth-century American ones (with one sense overlapping) that in all but one of its various forms, liberty described a voluntary submission to a life of righteousness that accorded with universal moral standards mediated by divine revelation and the authoritative interpretive capacity of congregation and community. Liberty, in keeping with traditional Western perspectives, did not describe an opportunity for individual autonomy or self-expression, but rather one for corporate and individual self-regulation in the service of God, the public good, and family. Again, the most striking finding that follows from this brief introduction to the concept of liberty is that without confidence in a purposeful and ordered universe, and without a community to enforce self-imposed, objectively true ethical standards on citizens, modern-day Americans are incapable of employing meaningfully the late-eighteenth-century comprehensive understand-

ing of liberty. In short, the Western struggle to balance the needs of liberty with those of order,<sup>57</sup> so well captured in the Founders' varying understandings of liberty, has culminated in most contemporary Americans defending an understanding of liberty indistinguishable from license.

## NOTES

1. E. C. Ladd, "205 and Going Strong," *Public Opinion* 4 (June-July 1981): 11; and J. David Greenstone, "Political Culture and American Political Development: Liberty, Union, and the Liberal Bipolarity," in *Studies in American Political Development*, ed. Steven Skowronek, vol. 1 (New Haven: Yale University Press, 1987), 2, 4, 17.
2. See James Lemon, *Best Poor Man's Country: A Geographical Study of Early Southeastern Pennsylvania* (Baltimore: Johns Hopkins University Press, 1972), 43-4. Although he argues to the contrary, his evidence persuasively demonstrates that even in the progressive colony/state of Pennsylvania, these factors shaped the lives of most citizens.
3. Ladd, "205 and Going Strong," 10.
4. Cited by William Linn Westerman, "Between Slavery and Freedom," *American Historical Review* 50 (January 1945): 213-7.
5. Nathan Bailey, ed., *Universal Etymological English Dictionary* (London: Thomas Cox, 1737); and Thomas Dyche and William Pardon, eds., *New General English Dictionary*, 7<sup>th</sup> ed. (London: Richard Ware, 1752). See also John Kersey, ed., *Dictionarium Anglo-Britannicum: Or, A General English Dictionary* (London: J. Wilde, 1708); and C. Coles, ed., *English Dictionary* (London: F. Collins, 1713).
6. [S. M.], "Letter to the Printer," *Boston Gazette & Country Journal*, 6 April 1778, 2.
7. Kersey, ed., *Dictionarium Anglo-Britannicum*; and Bailey, ed., *Universal Etymological English Dictionary*.
8. Edward and Charles Dilly, eds. *Encyclopedia Britannica, or a Dictionary of Arts and Sciences*, 3 vols. (London: Dilly, 1773), 2:973.
9. C. S. Lewis, *Studies in Words* (Cambridge: Cambridge University Press, 1960), 124.
10. Bailey, ed., *Universal Etymological English Dictionary*, li.
11. Francis Canavan, *Freedom of Expression: Purpose as Limit* (Durham: Carolina Academic Press and the Claremont Institute for the Study of Statesmanship and Political Philosophy, 1984), 68-9.
12. *Webster's New World Dictionary of the American Language*, 2<sup>nd</sup> College ed., s.v. "liberty."
13. Roland Bainton, "Appeal to Reason and the American Constitution," in *Constitution Reconsidered*, ed. Conyers Read (New York: Columbia University Press, 1938), 124-5.
14. See Hanna Fenichel Pitkin, "Are Freedom and Liberty Twins?" (paper delivered at the Yale Legal Theory Workshop), 20. Later published in *Political Theory* 16 (November 1988): 523-52.
15. *Ibid.*, 28; and see Marsilius of Padua, cited by Brian Tierney, *Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150-1625* (Atlanta: Scholars Press, 1997), 109.
16. See Joyce Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790s* (New York: New York University Press, 1984); David Hackett Fischer, *Albion's Seed: Four British Folkways in America*, vol. 1 (New York: Oxford University Press, 1989); and J. C. D. Clark, *Language of Liberty 1660-1832: Political Discourse and Social Dynamics in the Anglo-American World* (Cambridge: Cambridge University Press, 1994).
17. Quentin Skinner, *Foundations of Modern Political Thought*, 2 vols. (Cambridge: Cambridge University Press, 1978), 1:77; and Skinner, "Paradoxes of Political Liberty," in *Tanner Lectures on Human Values* (Cambridge: Cambridge University Press, 1986), 242. This paper was originally delivered at Harvard University, 24-25 October 1984. See also J. G. A. Pocock, *Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975), 226-7; and J. H. Hexter, "Review of *The Machiavellian Moment*, by J. Pocock," *History & Theory* 16 (1977): 330.
18. Skinner, *Foundations of Modern Political Thought*, 1:6-7, 155-7.
19. A. J. Carlyle, *Political Liberty: A History of the Conception in the Middle Ages and Modern Times* (Oxford: Clarendon Press, 1941), 21.
20. Appleby, *Capitalism and a New Social Order*, 16.
21. *Prospect of the Consequences of the Present Conduct of Great Britain Towards America* (London: J. Almon, 1776), 14-15.
22. Friedrich A. Hayek, *Constitution of Liberty* (Chicago: University of Chicago, 1960), 13.
23. [Ambrose Serle], *Americans Against Liberty: Or, An Essay on the Nature and Principle*

- of *True Freedom*, 2<sup>nd</sup> ed. (London: James Mathews, 1776), 19; and see Alexis de Tocqueville, *Democracy in America*, ed. Phillip Bradley (Knopf, 1945; reprint, New York: Vintage Books, 1954), 1:338.
24. *Licentiousness Unmask'd; Or, Liberty Explained. [In Answer to Dr. Price's Pamphlet Upon the Nature of Civil Liberty]* (London: J. Bew, [1776]), 19.
  25. Appleby, *Capitalism and a New Social Order*, 16-8.
  26. See John Phillip Reid, *Constitutional History of the American Revolution: The Authority To Tax* (Madison: University of Wisconsin Press, 1987), 24.
  27. Daniel Dulany, "Considerations on the Propriety of Imposing Taxes in the British Colonies, For the Purpose of Raising a Revenue, by Act of Parliament [1765]," in *Tracts of the American Revolution: 1763-1776*, ed. Merrill Jensen (Indianapolis: Bobbs-Merrill, 1967), 103-4.
  28. Edward Countryman, *American Revolution* (New York: Hill and Wang, 1985), 17.
  29. Lawrence H. Leder, *Liberty and Authority: Early American Political Ideology, 1689-1763* (Chicago: Quadrangle Books, 1968), 145-6; and see Daniel T. Rodgers, *Contested Truths: Keywords in American Politics Since Independence* (New York: Basic Books, 1987), 52.
  30. See the revealing debate of September 8, 1774 in the first Continental Congress, recorded by J. Adams between Richard Henry Lee, John Jay, John Rutledge, William Livingston, Roger Sherman, James Duane, and Joseph Galloway, in *Works of John Adams, Second President of the United States*, ed. Charles Francis Adams (Boston: Little, Brown and Company, 1850-1856), 2:370-3.
  31. John Phillip Reid, *Concept of Liberty in the Age of the American Revolution* (Chicago: University of Chicago Press, 1988), 24; and see his *Constitutional History of the American Revolution: The Authority of Rights* (Madison: University of Wisconsin Press, 1986), 67-71.
  32. Peter Force, ed., "Resolutions of Worcester County (Maryland) Committee [7 June 1775]," *American Archives*, 5<sup>th</sup> ser., vol. 2 (Washington: M. St. Clair Clarke and Peter Force, 1839), 924.
  33. This understanding was most emphatically contested by William Blackstone who in his 1765 *Commentaries on the Laws of England*, 4 vols. (Chicago: University of Chicago Press, 1979), 1:105, claimed that America was a conquered territory and, thus, "the common law of England, as such, has no allowance or authority there.... They are subject however to the control of the parliament." This, however, did not go unchallenged. See for example, James Wilson, "Considerations on the Nature and Extent of the Legislative Authority of the British Parliament," in the *Works of James Wilson*, ed. Robert Green McCloskey, 2 vols. (Cambridge: Harvard University Press, 1967), 2:738-39.

34. Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (Lawrence: University Press of Kansas, 1985), 36-7.
35. Edmund S. Morgan, "Government by Fiction: The Idea of Representation," *Yale Review* 72 (Spring 1983): 334-35.
36. See Madison, "Letter to Jefferson, 17 October 1788," in *Essential Bill of Rights: Original Arguments and Fundamental Documents*, ed. Gordon Lloyd and Margie Lloyd (Lanham: University Press of America, 1998), 326; [S. Adams?], "State of the Rights of the Colonists," in *Tracts of the American Revolution 1763-1776*, 239; and J. L. De Lolme, *Constitution of England, Or An Account of the English Government* (London: T. Spilsbury, 1775), 112.
37. Alexander Hamilton, John Jay, and James Madison, "Essay #84," in the *Federalist: A Commentary on the Constitution of the United States*, ed. Edward Mead Earle (Indianapolis: Modern Library Edition, 1937), 558.
38. Appleby, *Capitalism and a New Social Order*, 19-21.
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42. Henry Cumings, *Thanksgiving Sermon Preached in Billerica* (Boston: T. and J. Fleet, 1784), 35-6.
43. David Hume, *Enquiry Concerning Human Understanding* [1748] (Indianapolis: Hackett Publishing Company, 1977), 63.
44. *Ibid.*, 69; and see H. Shelton Smith, *Changing Conceptions of Original Sin: A Study in American Theology since 1750* (New York: Charles Scribner's Sons, 1955), for his stimulating discussion of these matters.
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46. See William B. Scott, *In Pursuit of Happiness: American Conceptions of Property from the Seventeenth to the Twentieth Century* (Bloomington: Indiana University Press, 1977), 30.
47. See Giovanni Sartori, "Liberty and Law," in *Politicization of Society*, ed. Kenneth S. Templeton, Jr. (Indianapolis: Liberty Press, 1979), 289-90; and Paul A. Rahe, "Primacy of Politics in Classical Greece," *American Historical Review* 89



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  49. See Norman Hampson, *Enlightenment: An Evaluation of its Assumptions, Attitudes and Values* (1968; reprint ed., New York: Penguin Books, 1986), 148.
  50. Quentin Skinner, "Idea of Negative Liberty: Philosophical and Historical Perspectives," in *Philosophy in History: Essays on the Historiography of Philosophy*, ed. R. Rorty, J. B. Schneewind, and Q. Skinner (Cambridge: Cambridge University Press, 1984), 214.
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  53. See Gregory H. Nobles, "Breaking Into the Backcountry: New Approaches to the Early American Frontier," *William and Mary Quarterly* 46 (October 1989): 648; Rowland Berthoff, "Independence and Attachment, Virtue and Interest: From Republican Citizen to Free Enterpriser, 1787-1837," in *Uprooted Americans: Essays to Honor Oscar Handlin*, ed. R. Bushman et al. (Boston: Little, Brown and Company, 1979), 107; and Lacy K. Ford, Jr., "Ties That Bind," *Reviews in American History* 17 (March 1989): 66.
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  56. Reid, *Concept of Liberty in the Age of the American Revolution*, 32.
  57. See Kirk, *Roots of American Order*, 280.