

Taxation in British political and
economic thought

1733-1816

Shane William Horwell
UCL, PhD

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I, Shane William Horwell confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

Abstract

This thesis explores ideas of, and debates about, taxation by central government in Britain between the Excise Crisis of 1733 and the repeal of the income tax in 1816. It is about how the dramatic expansion of taxation in this era was understood to have happened and the effect that this was perceived to have had on politics and society. In short, it is a study of those thinkers and politicians who considered, wrote about, and debated the historical development of the modern system of taxation, its relationship with the emergence and nature of commercial society, and how a system of taxation could be made just, legitimate, and fair.

Through a close examination of debates about public finance in print, in parliament, and in government, this thesis details the intellectual framework within which taxation in general, and specific taxes in particular, were discussed. This provides a new context, and a richer understanding, of the period in which taxation increased seven-fold in real terms and where taxes as a proportion of gross domestic product nearly trebled. Furthermore, this thesis contributes to the historiography of eighteenth-century ideas about the nature and emergence of commercial society, the right to private property, and social and economic inequality. The transition from feudal to commercial society, and the effect that this had on politics and socio-economic relations, was a major feature of eighteenth-century political and economic thought; however, the extent of the role played by society's fiscal organization in this has been underappreciated. This thesis addresses this by detailing how the necessity of raising revenue through taxation impacted views of the relationship between governors and governed, the power of the state to infringe on the right to property, and socio-economic relations.

Impact Statement

In modern democratic capitalist societies taxation is an integral function of society. It is the principal means through which private individuals contribute to the public expense and fund the functions of the state, from social welfare to the administration of justice. The importance that paying taxes has to the relationship between governors and governed can be seen by the frequent use of ‘taxpayers’ to refer to members of the public; the government spends taxpayers’ money and it is accountable to taxpayers for it. In Britain, taxation is an essential part of the nation’s mythos. It was a feature of significant moments in its history, from Magna Carta, through the Peasant’s Revolt, the struggles with the Stuarts, and the loss of some of the North American colonies. As well as being an inescapable feature of modern life, taxation plays a prominent role in British history.

Unlike the certainty of the use of tired aphorisms in discussion of the subject, however, taxation has not always been as certain as death. Moreover, the contemporary British system of annual budgets and permanent taxes have their origins in the seventeenth and eighteenth centuries. Although we know a great deal about certain episodes, and the political and economic context of this period, we know comparatively little about the ideas that informed the formulation of tax policy and what contemporaries thought, wrote, and debated about the origins and development of their system of taxation. The first impact of this thesis is through providing a richer understanding of the intellectual context that informed the origin and development of the modern method of regularly taxing individuals for the purposes of public expense. Moreover, it adds to research that has demonstrated that for eighteenth-century thinkers and politicians, politics

and economic activity had a complex relationship, one which they were endeavouring to interpret and explain. This was an inquiry that taxation played a crucial role in.

The importance of undertaking such research, however, is not only to highlight the continuities and connections between the past and the present, but also the discontinuities. What arguments and ideas were expressed at the time that have fallen by the historical wayside as others have carried forth? In recent years there have been numerous issues for which the findings of this thesis can contribute answers; from questions of what should and should not be subject to VAT and the distinction between necessities, decencies, and luxuries; what is 'tax justice' and what are the proportions individuals should contribute to the public fund; how should different forms of wealth be treated by the tax system; and, how should the state deal with evasion and exercise its coercive power. In 2011, in his second Budget, then Chancellor George Osborne quoted Adam Smith's four maxims of taxation as still being a relevant guide to public finance. To understand fully the purpose these maxims were meant to serve, we need to understand the political, economic, and intellectual context within which they were formed.

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Abbreviations

BL	British Library, London
BM	British Museum, London
<i>BPP</i>	<i>British parliamentary papers</i>
<i>CJ</i>	<i>Journals of the House of Commons</i>
Davenant, <i>PCW</i>	C. Davenant, <i>The political and commercial works</i> , C. Whitworth, ed., (5 vols., London, 1771).
<i>EcHR</i>	<i>Economic History Review</i>
<i>EHR</i>	<i>English Historical Review</i>
<i>HJ</i>	<i>Historical Journal</i>
<i>HOPE</i>	<i>History of Political Economy</i>
Hume, <i>Essays</i>	D. Hume, <i>Essays: moral, political, and literary</i> , E. F. Miller, ed., (Indianapolis, 1985).
Hume, <i>History</i>	<i>History of England from the invasion of Julius Caesar to the revolution of 1688 [1754-61]</i> (6 vols., Indianapolis, 1983).
<i>JBS</i>	<i>Journal of British Studies</i>
Kames, <i>Sketches</i>	H. Home, Lord Kames, <i>Sketches of the History of Man</i> , J. A. Harris, ed., (3 vols., Indianapolis, 2007).
Montesquieu, <i>L'Esprit</i>	C-L. de Secondat, Baron de Montesquieu, <i>De l'Esprit des lois</i> , R. Derathé, ed., (Paris, 1973).
NLS	National Library of Scotland, Edinburgh
NRS	National Records of Scotland, Edinburgh
NUL	Nottingham University Library, Special Collections
<i>ODNB</i>	<i>Oxford Dictionary of National Biography</i> (oxforddnb.com)
<i>P&P</i>	<i>Past and Present</i>
Petty, <i>Economic writings</i>	W. Petty, <i>The economic writings of Sir William Petty</i> , C. H. Hull, ed., (2 vols., New York, 1963).

Smith, <i>WN</i>	A. Smith, <i>An inquiry into the nature and causes of the wealth of nations</i> , R. H. Campbell and A. S. Skinner, eds., (2 vols, Indianapolis, 1981)
Steuart, <i>Principles</i>	<i>An inquiry into the principles of political oeconomy</i> [1767], A. S. Skinner, ed., (2 vols., Edinburgh, 1966).
TNA	The National Archives, London
<i>TRHS</i>	<i>Transactions of the Royal Historical Society</i>

Notes

Pre-1816 works were published in London unless otherwise stated. Eighteenth-century spelling has been kept in quotations throughout as have inconsistencies in spelling. However, contractions in manuscripts have been expanded silently. Any emphasis, such as use of italics, has been retained and if added by the author it is noted in square brackets.

New style rather than old style has been employed with regards to dates, i.e. where necessary years have been adjusted to start on 1 January rather than on 25 March.

Figures

- Figure 1: *The free born Briton, or a perspective on taxation*, William Dent (1790), BM Satires 7624, p. 16.
- Figure 2: *Congress of Excise-Asses* (1733), BM Satires 1936, p. 155.
- Figure 3: *Catlap for ever, or a smuggler's downfal*, William Dent (1784), BM Satires 6634, p. 300.

Introduction

This thesis is about taxation in Britain between the Excise Crisis of 1733 and the repeal of the income tax in 1816. In short, it is a study of those thinkers and politicians who considered, wrote about, and debated the dramatic expansion of taxation in this era, its relationship with the emergence and nature of commercial society, and how a system of taxation could be made legitimate, just, and fair. This was the period in which taxation ballooned to an extent never before seen. In 1733, the total amount of taxes raised in the year was £5.5 million; by 1816 the annual amount was £79.1 million. In real terms this represented a seven-fold increase in the tax take as well as being a near trebling of taxes raised as a proportion of gross domestic product, from 8% to 22%. This was achieved through a huge variety of levies. A perception of the extent of this can be seen in Figure 1, William Dent's 'The free born Briton, or a perspective on taxation' (1790). Dent's John Bull is covered head to toe in taxes; he is carrying a great weight of goods and services that were subject to customs, excise, and stamp duties across his shoulders; the land he is standing on is taxed 'four shillings in the pound'; every aspect of the house on the left, from the tiles, bricks, windows, the insurance of it, to even the house itself, is taxed; and, to make matters worse, he is being attacked by a creature labelled 'new taxes' spewing fire of 'additional duties'. Asserting that he pays 'fourteen shillings in the pound', the inscription informs us that 'From top to toe all o'er stuck full, with Taxes grievous, poor John Bull'.

Public finance, that is, a national government taxing, borrowing, and spending, is a central feature of contemporary democratic capitalist societies. The citizens of such societies expect their governments to provide numerous services including, among other things, defence from external threats,

maintenance of law and order, provision of schooling for children, and support for those unable to do so for themselves. All of this is funded by contributions made by private individuals and organisations toward the public expense. These contributions are processed from private to public hands through a variety of exactions, predominantly assessed on income, capital transfer, and consumption. In addition to this, in order to assist with the provision of these services, governments also borrow capital sums using future tax revenues as collateral.

Unlike the certainty of the use of tired aphorisms in discussions of the subject, taxation has not always been as certain as death. In England, prior to the seventeenth-century, the only regularly collected levies were the customs duties - charges made on the importation of certain goods that were granted to the monarch for the upkeep of the Royal Navy. All other impositions on the people were extraordinary and enacted on an ad hoc basis. These took a variety of forms, including the Danegeld, Scutage, Poll Taxes, Fifteenths and Tenths, and Tudor Subsidy.¹

Defining a tax is not quite as simple as it seems. I have already used four synonyms for 'tax' so far in this introduction (exaction, levy, duty, and imposition), all of which have distinct etymological origins but now serve only to provide solace to those wishing to avoid constantly repeating the word 'tax'. In modern legal terms, a tax has four requirements, being: 'payable under legal compulsion'; 'exactd under legislative authority'; 'assessed and collected by government itself or by an institution carrying out functions of a public nature'; and, 'intended for a public purpose'.² There are a wide number

¹ For a narrative account of taxation from Roman Britain through the Norman Conquest to the seventeenth-century, see S. Dowell, *A history of taxation and taxes in England from the earliest times to the year 1885* (2 vols., London, 1888), i, 3-158.

² J. Snape 'The 'Sinews of the State' historical justifications for taxes and tax law', in M. Bhandari, ed., *Philosophical foundations of tax law* (Oxford, 2017), 9.

of public exactions which could be covered by this definition, including locally assessed duties such as the poor rates or Council Tax; non-governmental levies such as tithes or television licences; or single purpose charges like tolls.

This thesis considers both taxation generally, as in a method by which states fiscally organise themselves, and individual taxes in particular. Fiscal organisation is intrinsic to the nature of a society's political organisation. It defines the relationship between the governed and their governors. A state that regularly and systematically extracts taxes to fund public expenditure requires the co-operation of the governed and for governors to maintain trust in their governance. The significance of the relationship is frequently seen in the present-day. Whenever there are public questions about the performance of government, the people are more often than not referred to as 'taxpayers' rather than as citizens of the state or subjects of the Crown. The government spends 'taxpayers' money' and they are accountable to taxpayers for it.¹ By 'regularly' and 'systematically' I mean only to mark a distinction between the earlier period of irregular and extraordinary taxation and not to imply logical coherence to the entire method of taxation in the period under consideration here.² The difference is that between the time when parliament was called to discuss the imposition of taxes to the time when annual budget speeches were the norm. Indeed, the lack of 'rational design' has remained a defining feature of the British tax system to this day.³

¹ For a discussion of the relationship between the 'taxpayer' and the state in nineteenth-century British history, see C. Stebbings, *The Victorian taxpayers and the law; a study in constitutional conflict* (Cambridge, 2009).

² For discussion of the irregularity of taxation prior to the seventeenth century, see R. Schofield, 'Taxation and the political limits of the Tudor state', in C. Cross, D. Loades, and J. J. Scarisbrick, eds., *Law and government under the Tudors* (Cambridge, 1988), 227-255; P. K. O'Brien and P. A. Hunt, 'The rise of the fiscal state in England, 1485-1815', *Historical Research*, 66 (1993), 129-176; and, M. Braddick, *The nerves of state: taxation and the financing of the English state, 1558-1714* (Manchester, 1996), 68-94.

³ J. A. Kay and M. A. King, *The British tax system* (Oxford, 1990), 25. Understanding the origins of the twentieth century policy quagmire was the aim of Dauntton's two

The taxes this thesis focusses on are those imposed by central government for the purposes of national expenditure. The obvious exclusions from this are locally administered taxes for which their expenditure was specifically designated, such as poor rates, tithes, and turnpike tolls, and, the taxation of Britain's colonies. The debates over the latter, especially those framed around the American Crisis, have probably been the most studied aspect of British tax policy in this era.¹ In their exclamations of 'No Taxation without Representation', the American colonists were explicitly appealing to their rights as British subjects to not be taxed without their consent. The underlying premise of this was not questioned by the British state, instead they claimed that the Commons did represent their interests and thus also provided their consent as their representatives.² Despite the government's defeat in having to repeal the stamp duties, it immediately passed the American Colonies Act which reiterated the power of parliament in these matters.³ As shall be seen though, this is not an aspect of legitimacy that this thesis is concerned with. This is primarily because, for the British at least, it had already been secured. The question that occupied domestic concerns of taxation was how to maintain legitimacy and trust in taxation when consent through representation was already part of the legislative process. Indeed, the terminus dates of this thesis, marking the Excise Crisis and the repeal of the income tax, were chosen not only because the period covers a great deal

volume work on the politics of taxation: M. Daunton, *Trusting leviathan: the politics of taxation in Britain, 1799-1914* (Cambridge, 2001); and, *Just taxes: the politics of taxation in Britain, 1914-1979* (Cambridge, 2002).

¹ This continues to be a ripe area of research. Most recently, see J. P. Greene, *The constitutional origins of the American Revolution* (New York, 2011), 67-103; E. Nelson, *The Royalist Revolution: monarchy and the American founding* (Cambridge, MA, 2014), 29-107; and, J. du Rivage, *Revolution against empire: taxes, politics, and the origins of American independence* (New Haven, 2017).

² B. Bailyn, *The ideological origins of the American Revolution* (Cambridge, MA, 1992), 160-75.

³ The act is better known as the Declaratory Act, 6 Geo. 3, c. 12.

of writing and thinking about taxation, but because they also signify events that demonstrate the great fiscal challenges that the British state faced.

That Britons cannot be taxed without their consent is a longstanding part of the nation's mythos. The history of the House of Commons is the history of the people, through their representatives, restraining monarchical power from arbitrarily seizing private property through unjust taxes. The twelfth article of Magna Carta (1215), the calling of Simon de Montfort's parliament (1265), the opening clause of the Petition of Right (1628), and the Bill of Rights (1689) all declared that the Crown could not levy taxes without the assent of parliament as representatives of the people. Prior to the Bill of Rights, Resolutions of the Commons in 1671 and 1678 asserted that the parliamentary privilege of introducing money bills resided solely with the Commons and not with the Lords.¹ Indeed, during the eighteenth century it was against the Lords' interference in such bills that the principle was most often defended by the Commons.² It is a privilege that is jealously guarded by Members of Parliament to this day. In October 2015, the House of Lords rejected a statutory instrument amending the rates of tax credits, prompting cries of a 'constitutional crisis' from the Conservative government; the purview of the Lords, they argued, did not extend to matters of money.³

By the eighteenth century, parliamentary consent to taxation had been legislatively and procedurally enshrined in British political life. As well as

¹ 'Resolution against Lords altering Tax Bills', 13 April 1671, and 'Supply Bill; Land Tax', 3 July 1678, *CJ*, ix, 235 & 509. This was enshrined in legislation by the Parliament Acts of 1911 and 1949: 1 & 2 Geo. 5, c. 13; and 12, 13 & 14 Geo. 6, c. 103.

² From 1733, the Commons also refused to accept petitions from the public on money bills. Petitions would only be read after the bills had become law. P. D. G. Thomas, *The House of Commons in the eighteenth century* (Oxford, 1971), 66-71.

³ This was debated in the Commons on 27 & 28 October 2015, the latter debate about the Government's review of the financial privilege in the Commons: 'Tax credits', 27 October 2015; and 'Commons' financial privilege', 28 October 2015, *Hansard*, dci, 197-201 & 349-357.

restricting monarchical expenditure through the Civil List, the control of taxing and spending granted to parliament through the Revolution Settlement meant that never again could monarchs rule without convening parliament.¹ At the second attempt, the tyranny of the Stuarts had been extinguished. It was in the aftermath of this that came the explosion of national debt and the proliferation of taxes. Consent, however, was a necessary but insufficient means to legitimise taxation. It had been necessary to restrain the arbitrary power of monarchs from seizing the property of their subjects, but insufficient to protect property in a society that almost wholly relied on taxation for its revenue. The mechanism of consent through parliament was there to protect the liberty and property of the people, but the rapid growth of parliamentary taxes now threatened that same liberty and property. The development of the ‘tax state’ produced a number of conflicting ideas about the nature and purpose of governing society and economic activity. This was complicated by the intersection with concurrent historical processes and debates, such as the emergence of commercial society, the monetisation of the economy, the right to private property, the extent of the coercive power of the state, the governance of a composite state such as Britain, and social and economic inequality. There was further tension between principles of taxation and the practicalities of putting them into effect. This often saw taxes that were generally deemed to contravene accepted notions of equity and justice persist throughout this period, whereas others designed to accord with such principles failed to achieve legitimacy. It is these tensions that are the focus of this thesis. It looks beyond

¹ E. A. Reitan, ‘From revenue to Civil List, 1689-1702: the Revolution Settlement and the “Mixed and Balanced” constitution’, *HJ*, 13 (1970), 571-588.

consent as a means of legitimising taxation and analyses the myriad other factors that impinged on what made taxes acceptable.

This introduction will sketch out some of the historiographical strands with which this thesis is dealing. First, will be of the political and administrative institutions of taxation and how these formed the ‘fiscal-military state’; then conceptions of the ‘state’ in the history of political thought and fiscal sociology; and, finally, that of thinking and writing about public finance in the eighteenth century.

(i)

Britain as a ‘fiscal-military state’

The importance of taxation to the eighteenth-century British state has been well established. The huge fiscal and administrative expansion of the central government has become one of the great facts of eighteenth-century British history. Rising from the domestic turmoil of the seventeenth century, England, and after the Anglo-Scottish Union in 1707, Britain, established itself as an economic and military superpower that was able to wage war on a global scale. In the century and a quarter between the Glorious Revolution of 1688/9 and the final defeat of Napoleon in 1815, England, then Britain, spent just over half that time at war.¹ This island nation of shopkeepers on the periphery of Europe was able to sustain and support itself through these increasingly expensive and expansive wars because of its ability to mobilise

¹ 65 out of 127 years. These are periods of declared major wars and should not deflect from the fact that tensions between Britain and other major European powers, especially France and Spain, remained high. Indeed, most of the breaks of peace were also times of war-preparation. D. W. Jones, *War and economy in the age of William III and Marlborough* (Oxford, 1988); J. Brewer, *The sinews of power: war, money and the English state, 1688-1783* (London, 1989), 165-217; P. Langford, *A polite and commercial people; England 1727-1783* (Oxford, 1989), 617-47; L. Stone, ed., *An imperial state at war: Britain from 1689-1815* (Abingdon, 1994); and, H. V. Bowen, *War and British society, 1688-1815* (Cambridge, 1998).

resources efficiently and effectively. This was both logistical, in respect of mustering troops, ships, and supplies to where they were needed; and also fiscal, in respect of securing the means to pay for it. The combination of administrative skill and financial wherewithal produced what Brewer styled as the 'fiscal-military state'.¹ A crucial development of the fiscal-military state was the adoption of what was known as the funding system. The founding of the Bank of England in 1694 together with innovations in the use of fiscal instruments - in other words, the 'financial revolution' - provided the tools for the massive expansion of the public debt as the English, then British, state used future tax revenues as collateral for large-scale borrowing to finance short-term military spending. It was remarkably successful at this, as by the end of the war with Napoleonic France the level of national debt had reached £745 million, being almost double gross national product.²

Brewer's 'fiscal-military state' sought to challenge the notion that the British state of the eighteenth-century was light and unoppressive especially when compared to the absolutist regimes of France and Spain or the bureaucratically centralised German states.³ He further wanted to stress the importance of the administrative side of the state and its role in wider political, social, and economic developments with his principal focus being on the Excise service. Such was the complex and advanced nature of the organisation of excise assessment and collection, Brewer described the Excise department as being 'more closely approximated to Max Weber's idea of bureaucracy than any other government agency in eighteenth-century

¹ Introduced in Brewer, *Sinews*, pp. xiii-xxii.

² B .R. Mitchell, *British Historical Statistics*, (Cambridge, 1988), 600-3.

³ Brewer discusses the context of how he came to produce *Sinews* in J. Brewer 'Revisiting *The sinews of power*', in A. Graham and P. Walsh, eds., *The British fiscal-military states, 1660-c.1783* (Farnham, 2015), 29.

Europe'.¹ The title of his work, *Sinews of power*, left no doubt about the status that he gave to the state bureaucracies to the success of Britain as a military and imperial power.

There were several historiographical strands that Brewer was both bringing together and developing with his own work. Most notably was Dickson's work on the aforementioned financial revolution. Dickson had demonstrated the intricacies of the financial institutions and instruments that provided the fiscal foundation for the growth of Britain as a military and imperial power.² Another element was the work undertaken in relation to the procedures and management of different parts of the central government administration, especially those relating to the state revenue bureaucracies and the military and naval establishments. Most germane here are those which set out the organisational structure of the Customs service, the Salt office, the window and assessed taxes, and the Treasury, as well as their position within the wider governmental operation of revenue collection and the management of state spending.³ In addition to these, Ward explored the administration of the land tax, the assessment and collection of which was conducted by locally appointed officials and for which there was minimal centralised oversight.⁴ The tension between central policy and local practice, highlighted by Ward, is an area that has recently provided much fruitful

¹ Brewer, *Sinews*, 68.

² P. G. M. Dickson, *The financial revolution in England: a study in the development of public credit, 1688-1756*, (Gregg Revivals edition, Aldershot, 1993), 3-14.

³ S. Baxter, *The development of the treasury, 1660-1702* (Cambridge, MA, 1957); E. E. Hoon, *The organization of the English customs system, 1696-1786* (Newton Abbot, 1968); E. Hughes, *Studies in administration and finance, 1558-1825: with special reference to the history of salt taxation in England* (Manchester, 1934); W. R. Ward, 'The administration of the window and assessed taxes, 1696-1798', *EHR*, 67 (1952), 522-542; and, H. Roseveare, *The Treasury; the evolution of a British institution* (London, 1969).

⁴ W. R. Ward, *The English land tax in the eighteenth century* (London, 1953); and, 'The land tax in Scotland, 1707-98', *Bulletin of the John Rylands Library*, 37 (1955), 288-308.

analysis of Britain as a taxing state, as will be discussed below. Much of this earlier work, and that subsequent to it, particularly relating to the Customs and Excise, has been synthesised by Ashworth in a *longue durée* study of those revenue services and their operation in English and British politics and society.¹

The primacy that Brewer placed on the Excise service and thus on the British government's reliance on the use of consumption taxes in the domestic market was supported by the work of economic and social historians such as O'Brien, Mathias, Beckett, and Turner in the 1970s and 80s.² This work demonstrated the extent to which the use of indirect taxes, such as customs and excises, came to dominate the fiscal landscape of eighteenth-century Britain until the introduction of the income tax in 1799. In particular, the work of Mathias and O'Brien sought to explain the success of Britain's system of taxation by comparing it to its great rival France. They were especially interested in how the British state was able to raise so much more per capita than France. Together with complementary work undertaken by Beckett and Turner, the conclusion reached by Mathias and O'Brien was that it was not possible for this to have been the result of superior economic growth in Britain. Instead, they argued, it was because of France's continued use of traditional and locally administered direct taxes, such as the *capitation*

¹ W. Ashworth, *Customs and excise: trade, production, and consumption in England, 1640-1845* (Oxford, 2003).

² P. Mathias and P. K. O'Brien, 'Taxation in Britain and France, 1715-1810', *Journal of European Economic History*, 5 (1976), 601-50; P. K. O'Brien, 'The political economy of British taxation, 1660-1815', *ECHR*, New Series, 41 (1988), 1-31; 'Fiscal exceptionalism: Great Britain and its European rivals from Civil War to triumph at Trafalgar and Waterloo', in D. N. Winch and P. K. O'Brien, eds., *The political economy of the British historical experience, 1688-1914* (Oxford, 2002), 245-65; 'Finance and taxation' in H. T. Dickinson, ed., *A companion to eighteenth-century Britain* (Oxford, 2002), 30-9; J. V. Beckett, 'Land tax or excise: the levying of taxation in seventeenth- and eighteenth-century England', *EHR*, 100 (1985), 285-308; and, J. V. Beckett and M. Turner, 'Taxation and economic growth in eighteenth-century England', *ECHR*, New Series, 43 (1990), 377-403.

and the *dixième* (renamed *vingtième* in 1749), whereas Britain had transitioned more easily to a centralised and professionalised system of taxing domestic consumption. Indeed, as O'Brien later asserted elsewhere, in the 1790s, prior to the introduction of the income tax, the direct taxation of property produced less than a quarter of total revenue.¹ Mathias and O'Brien's conclusions were supported by Daunton, who highlighted the stark differences in attitudes towards taxation in each country, in particular the perceived legitimacy of the British system and the resentment of the French to theirs. Two key features of Britain's revenue raising that achieved this, Daunton argued, were the parliamentary oversight and public accountability in the processes of formulation of tax policy, the collection of taxes, and the spending of those taxes.²

This was a fact which had not gone unnoticed in the eighteenth century. The Scottish moral philosopher and political economist Adam Smith remarked in his discussion of taxation in *An inquiry into the nature and causes of the wealth of nations* (1776) that the 'French system of taxation seems, in every respect, inferior to the British'.³ Smith believed this because, he claimed, Britain was able to raise more than double the amount of tax per person than France with fewer difficulties. This was similarly observed by the former French finance minister, Jacques Necker, in his famous commentary on the state of the administration of public finance in France, *De l'administration des finances de la France* (1784). Necker pondered how a

¹ O'Brien states that it is 21%: O'Brien, 'The political economy of British taxation', 9.

² M. Daunton, 'The politics of British taxation, from the Glorious Revolution to the Great War', in Yun-Casalilla, O'Brien, and Comin Comin, eds., *Rise of fiscal states: a global history*, 113-20. For a more detailed discussion of parliamentary and public oversight of the expenditure side of public finances see, J. Hoppit, 'Checking Leviathan, 1688-1832', in Winch and O'Brien, eds., *Political economy of British historical experience*, 267-294.

³ Smith, *WN*, V.ii.k.78.

country such as Britain, with less territory, fewer resources, and a lower population could match, and even exceed, France in revenue raising without the troubles that plagued the French administration.¹ Both highlighted the complexity and lack of uniformity of French taxes as the main causes of their lower productivity.² Necker went further when he contrasted public attitudes to taxation in Britain and France. Taxes in France, he stated, ‘were looked on as enemies that are sometimes hated and sometimes ridiculed’.³ In a comment that will be of particular relevance to the first chapter of this thesis, he identified one thing that the French could imitate from the British to improve the government’s legitimacy in levying taxes: ‘those guardian institutions, which secure their civil liberty in the highest degree’.⁴

The Brewer and O’Brien narrative of an expanding fiscal state framed around an efficient and effective Excise administration is one that has largely prevailed in the subsequent decades, albeit with some important revisions. Much of the work has been aimed at drawing focus away from London to local and regional issues and especially uncoupling the use of London as representative of England and of England as representative of Britain. Recent work by Hoppit has shown the significant differences in amounts of taxation raised in different parts of the country. This was both regionally within England and between the constituent elements of the composite state of Great Britain.⁵ Unsurprisingly, given its position as both the capital of the

¹ J. Necker, *De l’administration des finances de la France* (3 vols., Paris, 1784), i, 145-53. This was translated the following year by the English economic writer and private tutor Thomas Mortimer, J. Necker, *A treatise on the administration of the finances of France*, T. Mortimer, trans., (3 vols., London, 1785), i, 52-62.

² Smith, *WN*, V.ii.k.69-78; Necker, *De l’administration des finances*, i, 111-35.

³ Necker, *De l’administration des finances*, i, 146.

⁴ *Ibid.*, 151.

⁵ The Scottish and Irish contexts have also been more fully explored in the essays within A. Graham and P. Walsh, eds., *The British fiscal-military states, 1660-1783* (Farnham, 2015). See also P. Walsh, ‘The eighteenth-century fiscal-military state: a four nations perspective’, in N. Lloyd-Jones and M. M. Scull, eds., *Four nations*

nation and of an empire, London dominated the tables of revenue collection. Between 1685 and 1796 London maintained a third of gross excise receipts and when taken together with the wider south-east region about half of the total.¹ This had been noted by Brewer, although without the extensive statistical support, when he informed us that even though taxation enacted by Westminster was levied at national rates, there were inconsistencies with how this was applied across the nation.²

The economic disparity in the geography of taxation was not only due to metropolitan magnetism, but was also the result of the unequal exercise of authority. As Braddick emphasised in his study of seventeenth-century parliamentary taxation, the expansion of ordinary taxation, as opposed to extraordinary taxes levied on an ad hoc basis, was enabled through negotiations of power and authority between parliament at the centre and the local elites who performed the administrative functions on behalf of the national government.³ It was through local elites that central government organised the system of taxation: the 'relationship was interactive, as local elites secured status and prestige through the exercise of administrative functions, and national government was able to achieve administrative goals despite technological limitations. Together, centre and locality constitute the state, a state that depended on participation and co-operation'.⁴ Elsewhere it has been argued that even during the process of the central government exercising its authority, its separate administrative departments were not

approaches to modern 'British' history: a (dis)united kingdom? (London, 2018), 85-110.

¹ J. Hoppit, *Britain's political economies; parliament and economic life, 1660-1800* (Cambridge, 2017), 283-4.

² Brewer, *Sinews*, 129.

³ M. Braddick, *Parliamentary taxation in seventeenth-century England* (Woodbridge, 1994).

⁴ Braddick, *Parliamentary taxation*, 291.

unified in their aims or interests.¹ The unevenness of the application of national policy was evidenced in a wide variety of economic legislation.² Where Brewer had been seeking to revise the view of eighteenth-century Britain as a weak state, at least in terms of its domestic operation, his assertions of the strength of the British state have now been reined in with qualifications about the efficiency and effectiveness of its revenue raising capabilities. Price highlighted the extent of smuggling, a subject that will be discussed in greater detail in the final chapter of this thesis, as evidence of the limits of the state's ability to exercise its authority.³ A more general theme of this thesis, public opinion of taxation, was emphasised by Daunton as a significant constraint on what was and what was not possible to tax.⁴

Further developments of what was perceived to be a weakness in Brewer's analysis was taking it beyond 1783. Brewer's end-point was the close of the American War of Independence, thereby excluding the process of reforming Britain's fiscal strategy prompted by the extravagant expense of that war.⁵ The war with, and subsequent loss of, the Thirteen American colonies created a fervent atmosphere for reform, with corruption and waste in government high on the agenda for political reformers.⁶ Although

¹ A. Graham, *Corruption, party, and government in Britain, 1702-1713* (Oxford, 2015), 228-49.

² J. Hoppit, 'The nation, the state, and the first industrial revolution', *JBS*, 50 (2011), 307-31; and, 'Patterns of parliamentary legislation, 1660-1800', *HJ*, 39 (1996), 109-131. The use of 'economic' to refer to the policy here is of course anachronistic, but is following the terminology used by Hoppit, to refer to economic regulation relating to trade, public finance, and management of communication routes, J. Hoppit, ed., *Failed legislation, 1660-1800: extracted from the Commons and Lords journals* (London, 1997), 30-2.

³ R. Price, *British society, 1680-1880; dynamism, containment and change* (Cambridge, 1999), 124-6.

⁴ Daunton, *Trusting leviathan*, 36-42.

⁵ Reform of public finance and government bureaucracies from the start of the American Crisis to the onset of war with Revolutionary France had already been covered in J. E. D. Binney, *British public finance and administration, 1774-92* (Oxford, 1958).

⁶ See J. Norris, *Shelburne and reform* (London, 1963); P. Harling, *The waning of 'Old Corruption', the politics of economical reform in Britain, 1779-1846* (Oxford, 1996), 1-

significant progress was made in increasing the nation's revenue and reducing both the size of the national debt and governmental expenses, the start of the near quarter-century war with Revolutionary and Napoleonic France saw even greater pressure placed on the nation's finances.¹ The desire to increase state income and to get a better handle on the size of the public debt saw a number of innovations in revenue raising and debt management, culminating in the introduction of the income tax in 1799. Although short-lived and in essence an emergency war-time measure, the developments of this tax through the administrations of William Pitt the Younger, Henry Addington, and Henry Petty (Chancellor of the Exchequer during Lord Grenville's Ministry of All the Talents, 1806-7) had lasting effects on British tax policy and thinking.² This period of reform will be discussed in Chapter Two.

For the most part, this thesis does not seek to challenge these accounts of the political and administrative history of taxation in Britain in the eighteenth century. What it does seek to do is to explore in greater detail attitudes to taxation, how they were expressed, and how they contributed to contemporary perceptions of legitimacy. As well as general attitudes towards taxation, it analyses the nature of particular taxes, how they were conceived, how they were justified or challenged, the information and ideas used to support these arguments, and how they were claimed to accord or conflict

55; S. Conway, *The British Isles and the war of American independence* (Oxford, 2000), 203-38; J. Innes and A. Burns, 'Introduction', in A. Burns and J. Innes, eds., *Rethinking the age of reform, Britain 1780-1850* (Cambridge, 2003), 1-70; and, E. A. Reitan, *Politics, finance, and the people: economical reform in England in the age of American Revolution, 1770-1792* (Basingstoke, 2007).

¹ The significant improvements in the nation's finances in this period were set out by William Pitt the Younger's Treasury Secretary George Rose in G. Rose, *A brief examination into the increase of the revenue, commerce, and navigation, of Great Britain, since the conclusion of the peace in 1783* (1792).

² See A. Farnsworth, *Addington: author of the modern income tax* (London, 1951); B. E. V. Sabine, *A history of the income tax* (London, 1966); Dauntton, *Trusting leviathan*, 58-76.

with accepted notions of equity and justice. This is a neglected aspect of the formulation and interpretation of tax policy in eighteenth-century Britain. Public opinion has been rightly highlighted as a factor in this, but this thesis takes this further by explicating the language and assumptions used in the process. As such, this thesis provides greater clarification of how taxation in this era was viewed, understood, and legitimised. Taxes were rarely, if ever, validated solely on the basis that they were needed for a particular purpose. It would have made public finance a much simpler process if they could have been. How this thesis will go about this will be explained further below.

(ii)

Taxation and the state

A crucial context for this thesis is the relationship between the increase of revenue raising through taxation and changing conceptions of the nature and purpose of the state. The ‘state’ has long been an important unit of analysis in the history of political thought and understanding its emergence in European political philosophy has been central to interpretations of the foundations of modern politics.¹ The significance of there being a distinct entity capable of exercising power and authority within a jurisdictionally defined territory, known as the state, was established in European political thought by the seventeenth century. Both Pocock and Skinner have asserted that the emergence of the ‘impersonal territorial state’ was the beginning of what could be called modernity (whatever that means) and that this was derived from the response to the wars of religion in Europe in the sixteenth

¹ Most famously in Q. Skinner, *The foundations of modern political thought*, (2 vols, Cambridge, 1978). More recently see, Q. Skinner and B. Strath, eds., *States and citizens; history, theory, prospects* (Cambridge, 2003).

and seventeenth centuries.¹ In England, during its own religious and civil strife, it was the political and legal theorist Thomas Hobbes who was the first to speak ‘systematically and unapologetically in the abstract and unmodulated tones of the modern theorist of the sovereign state’.² Skinner, in his work that sought to trace the origin and development of the modern concept of the state, set out four pre-conditions underlying discussions of it: ‘that the sphere of politics should be envisaged as a distinct branch of moral philosophy, a branch concerned with the art of government’; ‘that the independence of each *regnum* or *civitas* from any external and superior power should be vindicated and assured’; ‘that the supreme authority within each independent *regnum* should be recognised as having no rivals within its own territories as a law-making power and an object of allegiance’; and, ‘that political society is held to exist solely for political purposes’.³ In English writings this form of intellectual inquiry and discussion began with Hobbes. By the mid-eighteenth century, the use of *state* and *état* in English and French were being consistently used as the principal noun for that body which exercised authority within a defined territory.⁴

In Skinner’s major forays into the history of the concept of the state, he had rarely wandered beyond the seventeenth century, territory into which Pocock had taken his analysis. This has contributed to the critique of Skinner’s vision of politics as lacking sufficient consideration of the economy, or at least the way in which economic concerns such as trade, industry, and

¹ Although they follow different intellectual routes up to this point. For a retrospective discussion of this discord, see J. G. A. Pocock, ‘Quentin Skinner: the history of politics and the politics of history’, *Common Knowledge*, 10 (2004), 540-1.

² Q. Skinner, *Visions of politics* (3 vols., Cambridge, 2002), ii, 413.

³ Skinner, *Foundations*, ii, 349-52.

⁴ Q. Skinner, ‘The state’, in T. Ball, J. Farr, and R. L. Hanson, eds., *Political innovation and conceptual change* (Cambridge, 1989), 123.

population, impacted political ideas.¹ On this basis, Hont challenged the position given to Hobbes as the first of the modern political theorists, claiming, in a very Humean fashion, that those who did not have a place for an economy in their politics could not be considered to be modern.² In this paradigm, therefore, Hobbes was not modern, but the last of the humanist thinkers.³ Skinner did address eighteenth-century conceptions of the state in the published version of his 2008 British Academy Lecture on the genealogy of the modern state in the Anglophone tradition. The subjects chosen by him were determined by the novelty of their contributions to understandings of the state, which saw him jump from the legal theorist William Blackstone to Richard Price and Thomas Paine.⁴ In the context of his analysis this was a perfectly legitimate transition to make. As Pocock has demonstrated, however, this was not the only political language of the period. In several works, Pocock has set out the emergence of a ‘commercial humanism’, as the expansion of commercial empire and the connected rise of standing armies and navies drew concerns of an economic nature, such as trade and public finance, into political discussions.⁵ It was this convergence of commerce and politics that attracted Hont to the eighteenth century, because this was the

¹ I. Hont, *Jealousy of trade; international competition and the nation-state in historical perspective* (Cambridge, MA, 2005), 1-5; and Pocock, ‘Skinner: the history of politics’, 543-6.

² Hont, *Jealousy of trade*, 1-5.

³ For a discussion of this disagreement see R. Whatmore, *What is intellectual history?* (Cambridge, 2016), 74-83.

⁴ Q. Skinner, ‘A genealogy of the modern state’, *Proceedings of the British Academy*, 162 (2009), 325-70.

⁵ This is a discourse that has been central in much of Pocock’s work. Most significantly, see J. G. A. Pocock, *Machiavellian moment: Florentine political thought and the Atlantic republican tradition* (Oxford, 1975), esp. Chs. 13 & 14; see also, J. G. A. Pocock, *Politics, language and Time: essays in political thought and history* (London, 1972), esp. Chs. 3 & 4; *Virtue, commerce, and history: essays on political thought and history, chiefly in the eighteenth century* (Cambridge, 1985), esp. Chs. 3 & 5.

era ‘in which the interdependence of politics and the economy first emerged as the central topic of political theory’.¹

The relationship between the state and economic activity in political discussions has received most attention in the numerous histories of the mercantilist literature of the seventeenth and eighteenth centuries.² This, however, is most concerned with the state’s control of economic activity and how it exercises that authority. One of the important dimensions of Pocock and Hont’s analyses is the limits that economic factors placed on politics; in the introduction to a volume that both contributed to, Dunn explained this as ‘the limits set to what is now politically possible by economic structures, processes, and activities’.³ The crucial context here is the emergence of commercial society and the effect that this was perceived to have had on the nature of politics. It is within this framework that this thesis is situated. It asks what were the limits placed on the state by its need to raise revenue through the process of taxing its citizens or subjects?⁴ How were these limits to be negotiated or mitigated and what effect was this perceived to have had on the operation of the governance of society? In this sense this thesis is guilty of the conflation of the concept of the ‘state’ with that of ‘government’. The nature of taxation has made that unavoidable. Indeed, the nature of the intervention of the thinkers and writers under consideration here was not to answer the question of ‘what is the state?’; but, the question of ‘what is the

¹ Hont, *Jealousy*, 4.

² This is a contested term, the debate of which has been well covered. For the most recent surveys of the literature see P. J. Stern and C. Wennerlind, ‘Introduction’, in Stern and Wennerlind, eds., *Mercantilism reimagined: political economy in early modern Britain and its empire* (Oxford, 2014), 3-8; and, L. Magnusson, *The political economy of mercantilism* (Abingdon, 2015), 15-53.

³ J. Dunn, ‘Introduction’, in J. Dunn, ed., *The economic limits to modern politics* (Cambridge, 1990), 1.

⁴ This was the question which guided Margaret Levi’s comparative and historical analysis of different states’ revenue raising techniques within the framework of rational choice theory and the theory of predatory rule; see M. Levi, *Of rule and revenue* (London, 1988), for the discussion of Britain see 95-144.

state there to do?'. What are the functions of the state and how should it pay for the performance of those functions?

These types of questions, about the relationship between fiscal organisation and the governance of society, were at the heart of early twentieth-century work in 'fiscal sociology'. This approach was introduced by the Austrian economist Rudolf Goldschied, as *Finanzsoziologie* in his 1917 work *Staatssozialismus oder Staatskapitalismus*, as a means of studying the state, society, and their coeval historical development.¹ Together with his compatriot economist Joseph Schumpeter, Goldschied believed that to understand the state one had to study its finances. Goldschied and Schumpeter were writing at the end of the First World War and were coming to terms with the fiscal crisis that was engulfing their country. The expense of that war, and the debts incurred during it, challenged the state's existing mechanisms of public finance. As the 'tax state' was simply a synonym for the modern capitalist state, any change in fiscal organisation, to meet the costs of the war, would entail reform of the social and political organisation of society. This was because the 'state apparatus' is 'so much formed by its financial tasks'.² As Schumpeter stated, 'Taxes not only helped to create the state. They helped to form it. The tax system was the organ the development of which entailed the other organs'.³ Regular taxation was not only a feature of capitalist societies, they were dependent on it.

Swedberg has claimed that the essence of fiscal sociology could be summed up by the opening line to the sixteenth-century French jurist and professor of law Jean Bodin's discussion of public finance in Book IV of his

¹ R. Musgrave, 'Theories of fiscal crises: an essay in fiscal sociology', in H. Arron and M. J. Boskin, eds., *The economics of taxation* (Washington, DC, 2011), 369-72.

² R. Swedberg, 'Introduction', in Swedberg, ed., *The economics and sociology of capitalism* (Princeton, 1991), 48.

³ J. Schumpeter, 'Crisis of the tax state', in *Economics and sociology*, 108.

Les Six livres de la Republique (1576): ‘finances are the nerves of the state (or commonwealth)’.¹ This iteration would reappear several times through the seventeenth and eighteenth-centuries discussions of public finance, especially in the German cameralist literature.² Towards the end of the eighteenth century, in Britain, it was reformulated slightly by Edmund Burke as ‘the Revenue of the state is the state’.³ Writing in his *Reflections on the revolution in France* (1790) about the negotiations on finances during the Estates General de 1789, Burke immediately added to this statement:

In effect all depends upon [revenue], whether for support or for reformation. ... As all great qualities of the mind which operate in public, and are not merely suffering and passive, require force for their display, I had almost said for their unequivocal existence, the revenue, which is the spring of all power, becomes in its administration the sphere of every active virtue.⁴

Although the anatomical analogy is not present in Burke, that revenue was ‘the spring of all power’ and that ‘all depends on it’, the spirit of the structural significance of public finance to the body of the state remained. While Bodin’s formulation of this idea has been chosen as the epitome of their subject by fiscal sociologists, Bodin himself was making an allusion to an older authority, Cicero. This was not the classic Ciceronian aphorism that is regularly invoked in discussions of public finance, including forming the title of Brewer’s aforementioned work, that money was the sinews of war. ‘Les finances sont les nerfs de la Republique’ was referring to Cicero’s oration in

¹ R. Swedberg, *Principles of economic sociology* (Princeton, 2003), 173-4.

² R. Braun, ‘Taxation, socio-political structure, and state-building: Great Britain and Brandenburg-Prussia’, in C. Tilly, ed., *The formation of national states in western Europe* (Princeton, 1975), 243.

³ E. Burke, ‘Reflections on the revolution in France’ [1790], *The works of the right honourable Edmund Burke* (12 vols., London, 1887), iii, 534.

⁴ Burke, ‘Reflections’, 534-5.

defence of the proposed Manilian Law, *Pro lege Manilia*, in which he declared that ‘we have always considered the revenues as the sinews of the republic’.¹

The message to take from these different iterations is that public finances, being how polities fund the functions that they perform, is the fibre which connects and supports the structure of the state. The type of fiscal organisation that is the concern of this thesis is that which is referred to as a ‘tax state’, that is the majority of state income coming from regular taxes laid on the people. There were other means of raising revenue in this era, some of which were modern innovations, whereas others were monarchical or feudal heirlooms that had not yet been disposed of. The latter, for example, crown lands and forests, sale of monopolies, sovereignty over mines, and the first fruits and tenths, declined in importance through the eighteenth-century but were never completely removed from the books.² Alongside public borrowing, the government also administered lotteries, tontines, and annuities to raise capital in the short-term. Although the funding system, of which these were a part, is often identified as the defining feature of public finance in this period, it was only possible because of the state’s ability to levy significant amounts of taxation.

According to Schumpeter, just as he feared a crisis in the tax state in his own time, it was a crisis in the ‘demesne economy’, in what we now refer to as the early modern period, which led to the creation of the ‘tax state’.³ As the cost of warfare grew, a result of the increase in the size of armies and the advancements in military technology, the sovereigns of Europe could no longer continue to fund wars at their own expense or by relying on feudal

¹ M. T. Cicero, *Pro lege Manilia*, J. Henderson, ed., H. Grose Hodge, trans., (Loeb Classics Edition, London, 1927), 28-9.

² Blackstone gives an account of their origins in W. Blackstone, *Commentaries on the laws of England* (4 vols., 1765-9), i, 271-97.

³ Schumpeter, ‘Crisis of the tax state’, 116-31.

obligations.¹ This saw them increase their use of taxing the property of private members of society, in order to continue to pursue their military ambitions, which in turn saw those subjects seek greater protection for their remaining assets. As the number and weight of taxes grew, taxpayers became more demanding of their governments and sought accountability for how revenue was raised and spent. Taxation presupposed distinct spheres of public and private property, with the expansion of regular taxation to provide a fund for the former leading to greater protection of the latter. Indeed, the state's need for revenue resulted in its becoming dependent on a healthy private economy and therefore inherently required to boost and protect the private sector. This in turn created problems of how and what to tax as the state acquired the purpose of not disrupting or destroying the productivity of private capital, the profit of which it wanted to skim for public purposes. Furthermore, the variety of duties that it imposed also fuelled the monetisation of the economy as cash became the state's preferred medium for receiving taxes.²

In England, Schumpeter saw this transition from demesne economy to the tax state as beginning in the turmoil of the English Revolution (or War of the Three Kingdoms) and interregnum and reaching fruition at the end of the seventeenth century.³ The end of the seventeenth century, framed around the

¹ On the effect of the 'military revolution' on the state and public finance, see C. Tilly, 'Reflections on the history of European state-making', in Tilly, ed., *Formation of national states in western Europe*, 3-83; W. McNeill, *The pursuit of power* (Chicago, 1982), 102-16; and P. Kennedy, *The rise and fall of great powers: economic change and military conflict from 1500 to 2000* (London, 1988), 70-115; and Dickson, *The financial revolution*, 3-14.

² Braun, 'Taxation, socio-political structure, and state-building', 248.

³ The recent volume on the rise of fiscal states argues that this was a European and a global phenomenon: B. Yun-Casalilla, P. K. O'Brien, and F. Comin Comin, eds., *The rise of fiscal states: a global history, 1500-1914* (Cambridge, 2012). This was the third instalment of a series on the 'Origins of the modern state in Europe' from the middle ages to the twentieth century: R. Bonney, ed., *Economic systems and state finance* (Oxford, 1995); and R. Bonney, ed., *The rise of the fiscal state in Europe, c. 1200-1815* (Oxford, 1999). The introductory chapter of the latter volume sets out the scheme of the work and the importance of understanding the rise of

Glorious Revolution of 1688/9, is of particular importance to English (and later British) fiscal history. It is in this period that Dickson demonstrated that there was a change in the methods of how the English government funded its extraordinary military expenses through a system of long-term borrowing that would come to be a significant feature of the eighteenth-century British state; the aforementioned 'financial revolution'.¹ The ability of nations to borrow and maintain large levels of public debt has been attributed to the stability and predictability produced by solid bureaucratic structures. In institutional economics this is known as 'credible commitment'.² The economists North and Weingast applied this thinking about institutions and the economy to understand how the British state of the eighteenth century was able to sustain such large levels of borrowing. They identified five key changes in the political landscape after the Glorious Revolution that 'significantly raised the predictability of the government'.³ Two of these changes were parliamentary control over taxation and the security of private property rights from arbitrary appropriation from the crown.

One related development that North and Weingast overlooked was the effect of the combined reaffirmation of the Commons' authority over taxation, restraint of royal expenses through the Civil List, and the limitation of fiscal

fiscal states in a transnational perspective: R. Bonney, 'The rise of the fiscal state in Europe, c. 1200-1815', *The rise of the fiscal state*, 1-14.

¹ Dickson covers many different aspects of public credit and creditors, but that which is related to government long-term borrowing is Dickson, *The financial revolution*, 39-245.

² D. North, *Structure and change in economic history* (New York, 1981).

³ D. C. North and B. R. Weingast, 'Constitutions and commitment: the evolution of institutions governing public choice in seventeenth-century England', *Journal of Economic History*, 49 (1989), 819. The limits of the North and Weingast thesis have been set out in J. Hoppit, 'Compulsion, compensation and property rights in Britain, 1688-1833', *P&P*, 210 (2011), 93-128. D'Maris Coffman has argued that there were a number of developments highlighted by North and Weingast as significant, such as the use of excise revenue to service short-term debt instruments, that had roots in the 1640s: D. Coffman, *Excise taxation and the origins of public debt* (Basingstoke, 2013), 7 and more generally, 55-78.

acts to a year. This greater authority over government income and expenditure compelled all post-revolution monarchs to convene parliament far more regularly than had ever been known.¹ The increased frequency of the meeting of parliament had had two significant consequences on the making of policy and the passing of laws: the legislative output of parliament escalated greatly, with economic policy being one area of such growth; and, the regularity of its convening ensured the availability of the body to anyone with a governmental gripe to bear. These were interrelated; the more the government took an active role in the economy, the more members of the public and interest groups petitioned parliament in response.² Petitioners were not only useful in putting forward the case for their own interest, they also became an important source of advice and information for the formulation of policy. The willingness to listen to non-governmental actors and to adapt government policy to the needs, concerns, and advice of such actors has led to the British state of the eighteenth century being described as 'reactive'.³

What is common across these analyses is that it was during the seventeenth century in England that there was significant change in the political and economic organisation of society. Amidst the turmoil of deposing two monarchs, civil wars, and continental wars against the Dutch and then the French, a new system of public finance emerged that used the stability and security of regular taxation backed by statutory authority to create a national debt. Whether it be called a tax state, a fiscal state, or a fiscal-

¹ Hoppit, 'Patterns of parliamentary legislation', 109-131. Hoppit has since expanded this in *Britain's political economies*, 38-65.

² Hoppit, *Britain's political economies*, 150-62.

³ L. Davison, T. Hitchcock, T. Keirn, and R. Shoemaker, 'The reactive state: English governance and society. 1689-1750', in Davison, Hitchcock, Keirn, and Shoemaker, eds., *Stilling the grumbling hive: the response to social and economic problems in England, 1689-1750* (Stroud, 1992), pp. xi-xli.

military state, the British state of the eighteenth century was able to sustain large levels of debt and taxation to secure commercial, imperial, and military dominance because of the political and institutional changes that occurred during the seventeenth century. In the history of political thought it has been the public debt side of this that has received the most attention, particularly in relation to the threat it posed to the security and stability of the state.¹ Comparatively little has been said about the concomitant issue of taxation.² This is similarly the case with the study of the emergence and politics of commercial society. There has been little acknowledgement of the role that had been granted to taxation in the process of the decline of feudalism.³ The change in socio-economic relations that this brought also came with changes in political relations and understanding the nature of this was at the heart of many eighteenth-century discussions of the subject. In Chapter One, this thesis addresses this by analysing the thought of some of the major figures of the Scottish Enlightenment, from David Hume to John Millar, and explicating the role that they asserted taxation played in this phenomenon.

¹ See Pocock, *Machiavellian moment*, 423-61; D. Winch, 'The Political Economy of Public Finance in the "Long" Eighteenth Century', in J. Maloney, ed., *Debt and Deficits* (Cheltenham, 1998), 8-26; and, Hont, *Jealousy of trade*, 325-53.

² Notable exceptions to this are largely from the early twentieth-century: E. Seligman, *Essays in taxation* (New York, 1895); *The shifting and incidence of taxation* (London, 1902); and, *Progressive taxation in theory and practice* (Princeton, 1908); W. Kennedy, *English taxation, 1640-1799; an essay on policy and opinion* (London, 1913). More recently, a number of participants of the Cambridge Centre for Tax Law History Conference have placed a greater emphasis on the history of taxation in political and economic thought in the eighteenth-century. See especially: J. F. Hughes, 'The concept of taxation in the age of Enlightenment', in J. Tiley, ed., *Studies in the history of tax law* (7 vols., Oxford, 2002-2014), ii, 253-286; C. Stebbings, 'Consent and constitutionality in nineteenth-century English taxation', in Tiley, ed., *Studies in the history of tax law*, iii, 305-334; J. Snape, 'Montesquieu – "The Lively President" and the English way of taxation', in Tiley, ed., *Studies in the history of tax law*, v, 73-90.

³ For example, see D. Winch, *Adam Smith's politics: an essay in historiographical revision*, (Cambridge, 1978); D. Winch, *Riches and poverty: an intellectual history of political economy in Britain, 1750-1834*, (Cambridge, 1996); C. J. Berry, *The idea of commercial society in the Scottish Enlightenment*, (Edinburgh, 2013); and, I. Hont, *Politics in commercial society; Jean-Jacques Rousseau and Adam Smith*, B. Kapossy and M. Sonenscher, eds., (Cambridge, MA, 2015).

(iii)

Ideas of taxation

Although the subject of this thesis is taxation in political and economic thought, it is not an exercise in pure intellectual history; that is, as in a study of a certain number of authors, the linguistic context within which they were writing, and determining the intentions of their writing. Similarly, this is not a study that ignores such 'high thinkers' to explore ideas of taxation in the broader culture of society. Instead, a number of areas of tax thinking and policy have been identified and investigated through a variety of sources. This has included the 'high thought' of theorists, but also other realms, from debates in parliament, correspondence within government administration, correspondence of non-governmental persons with the Treasury and politicians, pamphlets, periodicals, newspapers, broadsides, and political cartoons. This type of research has been labelled a 'new history of economic thought', being the study of how economic matters were viewed and understood.¹ As such, it also does not engage with the economics of taxation in this era. Indeed, for a thesis on taxation, there are surprisingly few numbers and no tables or graphs.

This thesis is not intended as a comprehensive study of perceptions of taxation through the eighteenth-century in Britain. In essence, the overarching theme is how the question of the legitimacy of taxation was viewed and understood and how it intersected with a variety of other issues and concerns. These were ideas about the distribution of the burden of taxation, who should pay and how much; the effect that taxes had on certain sections of society or areas of economic activity; the legitimate methods of

¹ See M. Daunton, 'The future direction of British history: thinking about economic cultures', *History Workshop Journal*, 72 (2011), 222-239.

assessing and collecting taxes, and the extent to which the state could intrude into private affairs in the process; and, the amount of coercive power that the state could use to enforce the collection of taxes and how it should deal with evasion. This will not necessarily show how legitimacy was achieved, but how ideas of legitimacy, equity, and justice informed the framing of policy and its subsequent interpretation and examination in the public sphere. Moreover, it explicates some of the widely held assumptions about taxation in this era, and the arguments and rhetorical devices used in the discussion of them.

The main subject matter of this thesis is taxation by central government. In Britain this means those taxes formed and implemented in Westminster and Whitehall as the seat of the union parliament and government. The unit of analysis, therefore, is the British state. Great Britain, however, was a composite state of England, Wales, and Scotland. It was also a state with a close, dependent, yet with its own parliament and institutions of governance, kingdom of Ireland, with which it formed a union in 1801.¹ In discussions of the nature of the polity of this composite state, Wales is frequently side-lined. In political and constitutional concerns this is perhaps justified.² Since the mid-sixteenth century, Wales had been part of the same legal, political, and administrative jurisdiction as England. The Welsh experienced the same expansion of the fiscal state in the seventeenth century as the English had, although through the eighteenth century Wales was a minimal contributor to central taxation.³ Scotland, on the other hand,

¹ On the relation of Ireland to Britain's fiscal-military state, see P. Walsh, 'The fiscal state in Ireland, 1691-1769', *HJ*, 56 (2013), 629-656.

² On the lack of relevance of Wales to the formation of Britain, see C. Kidd, 'Wales, the Enlightenment and the New British History', *Welsh History Review*, 25 (2010), 209-230.

³ Hoppit, 281-9.

although having shared a monarch with England and Wales since 1603, formed a union with a state that had already developed a centralised and extensive system of public finance. The national debt had been born; the collection of customs and excise duties was carried out by governmental bodies rather than private tax-farmers (as Scotland had up to 1707); there were a broad range of commodities that were subject to inland duties; and, there were two significant direct taxes on real estate in the form of the land and window taxes.¹ The process of incorporating Scotland into this fiscal regime after the Union of parliaments in 1707 was not smooth. Although ostensibly a political union, being a union of parliaments, it was largely economic in nature. The significance of fiscal matters to the union can be seen through the number of articles of union that related to public finance, being eleven out of twenty-five.² These articles predominantly provided for relief, reductions, or exemptions from English taxes. This was a continued source of friction through the eighteenth century. Attempts to raise the malt duty in Scotland nearly resulted in the dissolution of the union in 1713 and did cause riots in Glasgow in 1725.

The 'high thought' of the theorists studied in this thesis can rather loosely be categorised as belonging to either political economy or political arithmetic. The importance of taxation to these areas of inquiry has been well established. Political arithmetic was the application of quantitative analysis to the realm of politics; in the words of its progenitor, the natural philosopher, doctor, and founding member of the Royal Society, William Petty, it was the expression of political understanding in terms of 'Number, Weight, and

¹ The development of these duties are explained in Chapter Two.

² These were articles V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, & XV as stated in the 'Act for an Union of the two Kingdoms of England and Scotland', 6 Ann c. 11.

Measure'.¹ One of Petty's disciples, Charles Davenant, similarly described political arithmetic as 'the art of reasoning by figures, upon things related to government'.² There was a very close relationship between political arithmeticians and government. As Slack has stated, 'Taxes and political arithmetic go hand in hand'.³ Davenant had been an Excise Commissioner and Gregory King, most famous for his social table, 'A scheme of the income and expense of the several families of England calculated for the year 1688', also held a variety of governmental positions during his career.⁴ As will be discussed through the thesis, there were a number of areas the state employed political arithmetic to improve its policy making.⁵ The state was not only a consumer of such analysis, but also a producer of its raw data. Where earlier practitioners John Graunt and Petty used Bills of Mortality to conduct population analysis, Davenant and King would later use returns of tax collections, especially the hearth tax and the excise, for their work. Later in the eighteenth century, Richard Price used accounts of the surveyors of windows and house duties to work out demographic fluctuations.⁶

Taxation was also one of the central preoccupations of eighteenth-century political economy, although this is an aspect of it that often gets treated tangentially. For example, in Smith's oeuvre, as well as revenue being one of the 'four great objects of law', a large section of *Wealth of nations* is devoted to the emergence of the modern system of taxation with a discussion

¹ Petty, *Economic writings*, i, 244.

² Davenant, *PCW*, i, 131.

³ P. Slack, 'Measuring the national wealth in seventeenth-century England', *EcHR*, 57 (2004), 608.

⁴ J. Hoppit, 'Gregory King (1648-1712)', *ODNB*.

⁵ For example, see J. Hoppit, 'Political arithmetic in eighteenth-century England', *EcHR*, 49 (1996), 516-540; P. Loft, 'Political arithmetic and the English land tax in the reign of William III', *HJ*, 56 (2013), 321-343; and, P. Slack, 'Government and information in seventeenth-century England', *P&P*, 184 (2004), 33-68.

⁶ R. Price, *An essay on the population of England, from the Revolution to the present Time* (1780).

of how taxes could be made to be just and equitable.¹ The scant attention given to this is to be contrasted with that paid to the relatively small chapter on public debt.² Furthermore, it is from Book V, ‘Of the revenue of the sovereign or commonwealth’, that Smith’s ‘science of a legislator’ is derived, but those who have analysed this rarely address the accompanying discussion of how sovereigns or legislators ought to finance the functions they are required to perform.³ This can be similarly said about the writings of Sir James Steuart, the first author in English to explicitly declare his work to be a study of political economy, and Lord Kames, although neither author has been studied to the same extent as Smith. Aspects of ideas of taxation within political economy have not been wholly ignored. Much of this work, however, has often focussed on the economic side of taxation, and does not situate the analysis of it within the broader political sphere.⁴ In the words of a twenty-first century economist: ‘Taxation is not a technical matter. It is pre-eminently a political and philosophic issue, perhaps the most important of

¹ A. Smith, *Lectures on jurisprudence*, R. L. Meek, D. D. Raphael, and P. G. Stein, eds., (Indianapolis, 1982), LJ(A), i.1; LJ(B), 5. The referencing follows the standard of the Glasgow edition of Smith’s works: LJ(A) refers to the report of 1762-3 and LJ(B) to the report of 1766.

² See footnote 1 above p. 42.

³ K. Haakonssen, *The science of a legislator: the natural jurisprudence of David Hume and Adam Smith* (Cambridge, 1981); I. Hont and M. Ignatieff, ‘Needs and justice in the *Wealth of nations*: an introductory essay’, in I. Hont and M. Ignatieff, eds., *Wealth and virtue: the shaping of political economy in the Scottish Enlightenment* (Cambridge, 1983), 1-44; D. Winch, ‘Science and the legislator: Adam Smith and after’, *Economic Journal*, 93 (1983), 501-520.

⁴ A. Peacock, ‘The treatment of the principles of public finance in *The wealth of nations*’, in A. S. Skinner and T. Wilson, eds., *Essays on Adam Smith* (Oxford, 1975), 553-67; T. Hutchison, *Before Adam Smith: the emergence of political economy, 1662-1776* (Oxford, 1988); K. Watanabe, ‘Adam Smith’s politics of taxation: reconsideration of the image of “civilized society” in the *Wealth of nations*’, in T. Sakamoto and H. Tanaka, eds., *The rise of political economy in the Scottish Enlightenment* (London, 2003), 118-133; T. Dome, *The political economy of public finance in Britain, 1767-1873* (London, 2004); D. Rutherford, *In the shadow of Adam Smith; founders of Scottish economics 1700-1900* (New York, 2012), 102-50.

all political issues. Without taxes, society has no common destiny and collective action is impossible'.¹

(iv)

Thesis structure

This thesis is divided into four chapters each of which seek to explore different aspects of the question of the legitimacy of taxation. Chapter One considers taxation generally, in the sense of the means by which a state can fiscally organise itself. This is analysed in the context of eighteenth-century discussions of the emergence of commercial society, particularly that in Scottish philosophical history, natural jurisprudence, and political economy of the period. It especially focusses on the work of David Hume, Lord Kames, William Robertson, Adam Ferguson, Adam Smith, and John Millar, although not in equal measure. In this thought, commercial society is associated with the development of institutions of governance that secured and protected liberty and property. It is a narrative that sought to explain how the socio-economic organisation of feudalism was dismantled by the refinement of arts and industry and the growth of commerce. Although this has received a great deal of scholarly attention, the role of taxation in this has been underappreciated. The line of argument that is explicated in this chapter is that which asserted the obligation to pay taxes because of their utility to commercial societies. Such societies were claimed to be governed by laws and not men; individuals within them enjoyed the security of person and property through an independent system of administering justice; and, this allowed those individuals to pursue their own private profit. The institutions that

¹ T. Piketty, *Capital in the twenty-first century*, A. Goldhammer, trans., (Cambridge, MA, 2014), 493.

governed this, including a defence force to protect from external threats, required financing, which in a post-feudal world had to be provided by private contributions. In this line of argument taxation was legitimate, as a method of public finance, because it was necessary to fund these institutions. Taxation was the means of public finance that protected private property.

Chapter Two of this thesis takes this analysis forward by considering how taxation could be made equitable. There was a widely held assumption in the eighteenth century, as there was before and after, that the equity of taxation meant proportionality. This was usually expressed as being in proportion to the means or ability of the taxpayer, that is, in proportion to the estate or property protected by the government that the taxes were supporting. Although this principle appears to have been ubiquitous, how this was defined, measured, and put into practice was not. This was further complicated by the changing socio-economic relations of the eighteenth-century as new forms of wealth, as well as wider ways of acquiring the means to gain rank and status, created further divisions within society beyond that between landed and non-landed (although this distinction would remain important). The principle of proportionality also came into conflict with the sacred English tenets of liberty and property. To accurately, or at least adequately, tax in proportion to means required some ability to know those means, attempts at which were challenged and decried at every step. This chapter traces the development of tax policy through the prism of these tensions. It analyses how policymakers and thinkers conceived of these problems and how they sought to overcome them. Moreover, it explicates a new vision of the interpretive framework that structured discussions of taxation in eighteenth-century Britain; this comprised of a number of

assumptions of about the equity and justice of taxation, which came into conflict with other ideas about what and how it was legitimate to tax.

Chapter Three of this thesis is equally concerned with matters of equity and justice of taxation. It explores an assumption about taxation that was derived from the assertion that proportionality was equitable: that it should be universally applicable. The argument was that this was fair because it treated all taxpayers the same and thereby left them in equal conditions relative to each other. That is, they shared an equality of burden. Moreover, this was a preferable state of affairs for the government as the more taxpayers there were the greater amount of revenue that could be raised. Indeed, the most productive taxes in the eighteenth century were those on items of general consumption, in particular beer, malt, salt, and tea. The socio-economic make-up of Britain in this era, however, meant that such universal taxes were largely paid by the poor. As well as raising questions of distributive justice, there were other concerns about the wider ramifications of this. The poor formed the majority of the workforce, and increasing their cost of living could force their wages up, passing the burden on to their landlords or employers. This also risked making domestic manufactures more expensive and therefore uncompetitive in the international marketplace. This chapter seeks to analyse how these conflicting factors were considered and debated. In doing so it demonstrates the considerable complications that the state faced in achieving its goal of taxing equitably and fairly.

Chapter Four approaches the legitimacy of taxation from the perspective of its evasion. In particular it studies perceptions of the nature and causes of smuggling and how this informed attitudes towards the possible coercive powers available to the state. All governments are concerned with the evasion of taxes, especially those that satisfied accepted notions of

legitimacy, equity, and justice. The most smuggled commodities in the eighteenth-century were considered to be tea and tobacco. Because they were both foreign imports and widely believed to be items of luxury, tea and tobacco were ideal subjects of taxation. There was an equally extensive view that smuggling was caused by high duties tempting people to profit by evading them. After all, at its most basic smuggling was a business that would not have survived if it was not economically viable. The perceived cause of it, as being excessive taxation and regulation, limited the government's potential powers of coercion. The quandary for policy makers was that harsh punishments were deemed to be out of proportion to the severity of the crime and the suitable punishments, fines and seizures, were an insufficient deterrent. No matter how these taxes satisfied accepted notions of legitimacy and equity, the perceptions of smuggling as a crime and the suitability of these goods for smuggling placed a limit on the level of taxation that they could bear.

By exploring these different aspects of how the legitimacy of taxation was viewed and understood in eighteenth-century Britain, this thesis seeks to develop our understanding of the impact that public opinion had on the state's power to tax. We know a great deal about the political, economic, and administrative context of this period of significant expansion of the nation's system of public finance. There is also considerable appreciation of the importance of the emergence of commercial society in the political and economic thought of this era, and the effect that this was perceived to have had on the nature of politics. What is lacking from our current knowledge is a broader understanding of how these two converged. Those who wrote and thought about taxation in the eighteenth-century, whether in lengthy analyses or shorter missives, had to engage with the existing state of fiscal

affairs. Critiques of types of taxes or ways of taxing necessarily had to consider how those in place already worked in practice. Furthermore, those imposing taxes needed a certain amount of co-operation from the people paying them. That meant that they needed to be explained and justified, and doing so required appealing to various assumptions and arguments about who and what it was legitimate, just, and fair to tax.

Chapter One:

Liberty and property: the utility of taxation in commercial societies

In 1752, Scottish man of letters David Hume published a collection of essays which he titled *Political discourses*. This was not Hume's first foray into the popular eighteenth-century genre of polite essays, nor the first time that contemporary politics had been graced with his attention.¹ The *Political discourses* contained a number of essays on what would now be referred to as 'economic' matters and that, later in the eighteenth century, would become known as 'political economy'.² Hume uses neither of these terms. His interest in the topics of trade, money, luxury, population, public credit, and taxes was expressly in regard to the 'domestic government of the state'; how have these matters affected politics and society and what 'general principles' can be determined from those effects to better inform politicians of the 'public good'?³ Hume had already ventured in an earlier essay, 'Of liberty and despotism', that trade becoming an 'affair of state' in the seventeenth century had changed the nature of politics in contemporary Europe, causing 'mighty revolutions' in 'human affairs'.⁴ Relations between individuals within society changed, with the improvement of manners and increased living standards; relations between nations changed, as they competed with each other in the international marketplace and as empires on the world stage; and, relations

¹ *Essays, moral and political* (Edinburgh, 1741). This included the essays 'That politics may be reduced to a science', 'Of the first principles of government', 'Of the origin of government', 'Of the independence of parliament', and 'Of liberty and despotism'. On Hume's career as an essayist, see J. A. Harris, *Hume: an intellectual biography* (Cambridge, 2015), 143-97.

² On the concepts used to describe and refer to the 'economy' and 'economic activity' in the eighteenth-century, see K. Tribe, *The economy of the word: language, history, and economics* (Oxford, 2015), 21-65.

³ Hume, 'Of commerce', *Essays*, 253-4.

⁴ Hume, 'Of civil liberty', *Essays*, 88-9. Hume changed the title from 'Of liberty and despotism' to 'Of civil liberty' in all editions of his essays from 1758. D. Hume, *Essays and treatises on several subjects* (1758).

between governors and governed changed, as the former became more reliant on the wealth of the latter. Understanding the effects of these changes was the key to understanding contemporary politics and society. This was a subject that Hume would continue to engage with through the subsequent years of republishing his essays and writing his multi-volume history of England and Britain.

Hume was not alone in his interest in this subject. For Hume and his Scottish contemporaries, the defining feature of modern, civilised nations was that they were commercial. Furthermore, the people of such nations enjoyed prosperity, liberty, and security under the rule of law. Understanding the role of commerce in establishing and maintaining this was one of the central preoccupations of the Scottish Enlightenment. This chapter is concerned with the analysis of liberty and justice in commercial societies and its relation with matters of public finance. In particular, it will explore the ways in which public finance was seen as having a formative role in the development of the state in the political economy, natural jurisprudence, and philosophical history of the Scottish Enlightenment. It will argue that, in this thought, taxation was identified as a crucial mechanism in the functioning of commercial society; it was the means of funding government in a society in which the liberty and property of the people were protected by laws. This was an account that asserted the obligation to pay taxes because of its utility to commercial societies. It was identified as being the form of public finance that had helped secure liberty and justice. This is an aspect of the thought of the Scots and their discussion of commercial society that has been underappreciated, notwithstanding the amount of attention that the subject has received. In particular, those works that focus on the politics of

commercial society and the historical development of the state in this period rarely address the significance that public finance is given to it by the Scots.¹

There are three interconnected subjects at play here: liberty, justice, and property. These will be defined in more detail below, but it is worth reflecting on their relationship. The civil or political liberty that was associated with commercial societies was the negative conception, the absence of interference in one's person or property. Self-governance or civic participation were not deemed to be necessary to enjoy this form of liberty. Indeed, such liberty could be enjoyed under a variety of forms of government, notwithstanding that some governments tended to be more dangerous to liberty than others. All that was required was that the conditions of individual protection of person and property from the interference by others and the sovereign or state were met. Owning property in particular was seen as a symbol of liberty. To relate this to the central theme of this thesis, and to repeat what was stated in the introduction, Smith asserted that taxes everywhere were a badge of liberty to each person who paid it, because it 'denotes that he is subject to government' and that 'as he has some property, he cannot himself be the property of a master'.² The protection of person and property was achieved through having laws that treated all equally and having a system of administering justice that was independent from executive authority. At the heart of justice, for the Scots, was the right to own property.

¹ D. Winch, *Adam Smith's politics: an essay in historiographical revision*, (Cambridge, 1978); D. Winch, *Riches and poverty: an intellectual history of political economy in Britain, 1750-1834*, (Cambridge, 1996); C. J. Berry, *The idea of commercial society in the Scottish Enlightenment*, (Edinburgh, 2013); and, I. Hont, *Politics in commercial society; Jean-Jacques Rousseau and Adam Smith*, B. Kapossy and M. Sonenscher, eds., (Cambridge, MA, 2015). The issue is discussed in A. Peacock, 'The treatment of the principles of public finance in *The wealth of nations*', *Essays on Adam Smith*, A. S. Skinner and T. Wilson, eds., (Oxford, 1975), 553-67.

² Smith, *WN*, V.ii.g.11.

Indeed, it was the existence of property in society that meant that laws and judges were required to treat disputes between the people.

(i)

Commercial society in the Scottish Enlightenment

The nature and origins of commercial society was a common theme throughout the major works of the Scottish Enlightenment. This aspect of Scottish thought has been referred to as the science of man, the natural history of society, the history of commerce, and as expositions in philosophical or conjectural history.¹ It was the use of empiricist or experiential philosophy to understand the origins of society, justice, and the institutions of governance with history as the evidence. Hume had asserted the utility of using history in this way in his *Essay concerning human understanding* (1748). Hume claimed that man was ‘so much the same, in all times and places’, making the purpose of the study of history:

to discover the constant and universal principles of human nature, by showing men in all varieties of circumstances and situations, and furnishing us with materials from which we may form our observations and become acquainted with the regular springs of human action and behaviour.²

History was a science, and the accounts of ‘wars, intrigues, factions, and revolutions’ were the results of its experiments. Dugald Stewart, in his account of Smith’s contribution to Scottish intellectual life, described Hume’s

¹ For example, see G. Bryson, *Man and society: the Scottish inquiry of the eighteenth-century* (New York, 1945); R. L. Meek, *Social science and the ignoble savage* (Cambridge, 1976); and, Pocock, *Barbarism and religion*, iii, 372-416.

² D. Hume, *An enquiry concerning human understanding* [1748], P. H. Nidditch, ed., (Oxford, 1975), 83.

endeavour as '*Natural History*'.¹ Stewart claimed that this 'coincides pretty nearly in its meaning' with the '*Theoretical or Conjectural history*' that he asserted had been Smith's mode of reasoning. Stewart defined this as being 'when we cannot trace the process by which an event *has been* produced, it is often of importance to be able to show how it *may have been* produced by natural causes'.²

In his 'Account', Stewart named the others that he believed had been participating in this form of intellectual inquiry, Lord Kames, William Robertson, and John Millar.³ Although not explicitly named at this point, elsewhere Adam Ferguson is also considered to be a part of this illustrious company.⁴ Although sharing the view of the importance of history to explain the circumstances of the present, there was not uniformity in the mode of application. Hume's *History of England* and William Robertson's *History of Charles V* were narrative histories that used philosophical digressions to generalise about the development of the states of Europe from their discussions of particular national contexts. This was a cosmopolitan version of history that identified a common link between mankind that transcended national boundaries, based on the premise that the different courses that the European states took was due to the particular circumstances of their country, not because of any inherent differences in their people.⁵ In his separate, yet similarly titled, *Account of the life and writings of William Robertson* (1801), Stewart described the approach undertaken by Hume and

¹ D. Stewart, 'Account of the life and writings of Adam Smith, LL.D' [1793], in A. Smith, *Essays on philosophical subjects*, W. P. D. Wightman and J. C. Bryce, eds., (Indianapolis, 1982), 293.

² Stewart, *Life and writings of Smith*, 293.

³ *Ibid.*, 294-5

⁴ *Ibid.*, 297.

⁵ See K. O'Brien, *Narratives of Enlightenment; cosmopolitan history from Voltaire to Gibbon* (Cambridge, 1997).

Robertson as blending ‘the light of philosophy with the appropriate beauties of historical composition’.¹ Hume’s earlier essays, referenced above, have also been described as ‘contemporary history’.² That is, they were not providing a narrative account, but were describing the historical and philosophical context of the present political and institutional circumstances of Britain and its place within inter-European politics. This was the context of Walpoleon and Pelhamite periods of the Whig supremacy, renewed entry into European dynastic and commercial military conflicts, and of a society that was polite, civilised, and commercial.

Much of the early work of the lawyer, and later judge, Henry Home, who became Lord Kames in 1752, was on theories of jurisprudence and on the development of various institutions of the law. Home addressed the natural origins of property in *Essays upon several subjects of law* (1732), before expanding on the historical development of property in jurisprudence in England, Scotland, and Britain in *Essays upon several subjects concerning British antiquities* (1747) and, as Lord Kames, *Historical law tracts* (1759). Kames later applied his method of the study of the development of the law and legal institutions to a wider array of social institutions in *Sketches of the history of man* (1772). According to his biographer Alexander Tytler, *Sketches* represented Kames’ failed attempt to write a ‘natural history of man’, a task which proved too great for him having to instead offer a ‘few imperfect Sketches’.³

¹ D. Stewart, *Account of the life and writings of William Robertson* (Edinburgh, 1801), 139. This was delivered to the Royal Society of Edinburgh in 1795, two years after Stewart had read his life of Smith to the same audience.

² Pocock, *Barbarism and religion*, iii, 177-98.

³ A. F. Tytler, *Memoirs of the life and writings of the Honourable Henry Home of Kames* [1807] (2 vols., London, 1993), ii, 109. On the contemporary criticism of *Sketches* see I. S. Ross, *Lord Kames and the Scotland of his day* (Oxford, 1972), 344-5; W. C. Lehmann, *Henry Home, Lord Kames, and the Scottish Enlightenment* (The Hague, 1971), 186.

The study of the development of the structure and institutions of contemporary society was the subject of major works from Adam Ferguson and John Millar. Ferguson, in his *An essay on the history civil society* (1767), studied the progress of mankind and its various forms of social organisation from its primitive barbarous origins to the modern age of commerce and refinement.¹ Unlike many of his Scottish contemporaries, Ferguson was not especially positive of Britain's in particular, and Europe's in general, future prospects if their current trajectory continued.² As further discussed in his *History of the progress and termination of the Roman Republic* (1783), Ferguson was especially concerned with the loss of civic virtue and descent into military despotism that was the fate of 'prosperous nations' for which Rome provided the 'signal example'.³ Both Ferguson and Millar framed their analysis within the wider European intellectual culture of understanding the decline of feudalism and the establishment of the institutions and manners of contemporary civil society. Millar's social analysis in his first major work *Origin of the distinction of ranks* (1771) was indebted to Smith's theory of social development as well as to the history of institutions of justice of Montesquieu and Kames. Millar was the most politically active of those who have been discussed so far and he allied himself with the Rockingham Whigs and later to Charles James Fox.⁴ Although not as vulgar as those subject to Hume's attacks, Millar's Whiggism did lead to him challenge Hume's views on the absolutism of the English government prior to 1688 his own *Historical*

¹ A. Ferguson, *An essay on the history of civil society* [1767], F. Oz-Salzberger, ed., (Cambridge, 1995).

² I. McDaniel, *Adam Ferguson in the Scottish Enlightenment: the Roman past and Europe's future* (Cambridge, MA, 2013), 92-118.

³ A. Ferguson, *A history of the progress and termination of the Roman Republic* (3 vols., Edinburgh, 1783), i, 3.

⁴ W. C. Lehmann, *John Millar of Glasgow, 1735-1801* (Cambridge, 1960), 64-76.

view of the English government (1787).¹ The central theme of this work was the gradual emergence of civil government out of feudalism across Europe generally and in England in particular. In the posthumous third edition, Millar's nephew and biographer John Craig added two more volumes found in Millar's papers which took the analysis up to the Glorious Revolution and into the present day.²

The subject of this thesis is most often associated with political economy and the two significant works on this came from Sir James Steuart and Adam Smith. Steuart was the first to use the term 'political economy' in the title of a work in English and, like Smith's later treatise on the *Wealth of nations*, was an analysis of the creation and movement of wealth, the rules governing it, and how legislators ought to involve themselves, or not, in those processes. Steuart's work is usually relegated to the position of a Smithian predecessor who tried and failed where Smith succeeded. Smith's greatest insult was to not mention it in his own study, although Hume had apparently commended the material contained within it notwithstanding the weaknesses of its style and presentation.³ Commerce and the origins of civil society had been longstanding concerns for Smith, which can be seen in his first major published work *Theory of moral sentiments* as well as an earlier review of Rousseau's essay on the origins of inequality.⁴ Indeed, at the end of the second edition of *Moral sentiments*, Smith promised a work that would:

give an account of the general principles of law and government, and of the different revolutions they had undergone in the different ages and periods of

¹ J. Millar, *An historical view of the English government* (London, 1787), 552-5.

² J. Millar, *An historical view of the English government* [1803], M. S. Phillips and D. R. Smith, eds., (Indianapolis, 2006).

³ D. Hume, *The letters of David Hume*, J. Y. T. Grieg, ed., (2 vols., London, 1932), ii, 157-8.

⁴ A. Smith, 'A letter to the authors of the *Edinburgh Review*' in *Essays on philosophical subjects*, 242-56.

society, not only in what concerns justice, but in what concern police, revenue, and arms, and whatever else is the object of law.¹

Indeed, as Winch has pointed out, ‘the whole argument of [*Wealth of Nations*] presupposes, where it does not actually explain the emergence of, a system of administering justice’.² Although that work was not completed, elements of it are presented in Book V of the *Wealth of nations*. Together with this, we also have the notes from the lectures on jurisprudence that he gave as Professor of Moral Philosophy at Glasgow in which the origins of civil society, its commercial nature, and the institutions which govern it have a central role in his analysis. Steuart and Smith, together with Adam Ferguson’s later work *Moral and political science* (although Ferguson borrows heavily from Smith) are the works that treat taxation and public finance in the greatest detail. Indeed, although Smith’s Book V of the *Wealth of nations* has been a fruitful source for those studying his science of a legislator or his disquisition on public debt, that Smith explicitly framed it as a discussion of means of financing government is largely overlooked.

The related nature of the inquiry of these Scots can be unified around the influence on all of them of Montesquieu, especially his use of history in his *l’Esprit des lois* to analyse and critique the institutions of law, justice, and governance. The importance of Montesquieu on Scottish thought of this era has been well studied.³ It was also explicitly acknowledged at the time. In

¹ A. Smith, *The theory of moral sentiments* [1759], D. D. Raphael and A. L. Macfie, eds., (Indianapolis, 1982), VII.iv.37.

² Winch, *Smith’s Politics*, 12

³ D. Forbes, *Hume’s philosophical politics* (Cambridge, 1975); R. B. Sher, ‘From Troglodytes to Americans: Montesquieu and the Scottish Enlightenment on liberty, virtue, and commerce’, in D. Wooton, ed., *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), 368-402; M. M. Goldsmith, ‘Liberty, virtue, and the rule of law, 1689-1770’, in D. Wooton, ed., *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), 197-232; F. Oz-Salzberger, ‘The political theory of the Scottish Enlightenment’, in A. Broadie, ed., *The Cambridge companion to the Scottish Enlightenment* (Cambridge, 2003), 157-177.

describing the lectures delivered by Smith in Glasgow, Millar, as quoted in Stewart's 'Life' of Smith, stated how Smith followed Montesquieu's plan in 'endeavouring to trace the gradual progress of jurisprudence, both public and private, from the rudest to the most refined ages, and to point out the effects of those arts which contribute to subsistence, and to the accumulation of property, in producing correspondent improvements or alterations in law and government'.¹ Millar had already acknowledged the influence of both Montesquieu and Smith on his own work on the history of civil society, as presented in *Historical view of the English government*. It was in this work that he asserted that 'The great Montesquieu pointed out the road. He was the Lord Bacon in this branch of philosophy. Dr. Smith is the Newton'.² This was in a footnote at the beginning of a chapter on the effect of the Reformation on the influence and authority of the crown in England. The passage he quotes from Smith to which this footnote is appended, is from Book V of Smith's *Wealth of nations*, his study of systems of public finance. Smith's passage is of the decline of baronial and clerical authority, of which Millar makes greater use of the latter. In Smith's account, this is part of his wider discussion of the decline of feudalism as a viable model for economic and social organisation.

As well as there not being uniformity in approach to the subject, it was similarly so for how 'commercial society' was conceived of and referred to. It was a term that was most explicitly used by Smith, who defined it as being where everyone 'lives by exchanging, or becomes in some measure a merchant'.³ 'Polished', 'civilised', 'civil', 'advanced', 'refined', and 'modern' are all variously used to describe contemporary society, especially that of Britain

¹ Quoted in Stewart, 'Life and writings of Smith', 274-5.

² Millar, *Historical view*, 528.

³ Smith, *WN*, I.iv.1.

but also those of Europe more generally. Coherence of their thought came from the role played by improvements in arts, manufactures, and commerce on the development of society and its institutions of governance. Additionally, as shall be explored in a moment, there was uniformity in their interpretation of this emerging out of the decline of feudalism. Moreover, their thought was also connected through their positions within the civic humanist tradition that had emerged in England out of the turmoil of the 1640s and 50s. Pocock, who has done the most to explicate this, stated that civic humanism was a way of thinking ‘in which it is contended that the development of the individual towards self-fulfilment is possible only where the individual acts as a citizen, that is as a conscious and autonomous participant in an autonomous decision-taking political community, the polis or republic’.¹ Pocock added that this continued through the eighteenth century where there were continuing attempts, including from those Scots under consideration here, ‘to explain how the individual of an urban and commercial society could be a citizen, free, virtuous, and above all uncorrupt’.² For the Scots, this meant confronting the institutions of governance that had become established during the emergence of modern commercial society, understanding their role in its development, and investigating those features which secured the liberty and property of individuals within society. It is the contention of this chapter that the institution of the modern system of taxation was an important and underappreciated factor in this.

Smith’s use of the term commercial society was famously as the final stage of the ‘four-stages’ theory of societal development. The definition quoted above came from Smith’s *Wealth of nations* but the ‘four stages’ was an

¹ Pocock, *Politics, language, and time*, 85.

² *Ibid.*, 101.

intellectual tool that he utilised throughout his academic work. This theory sought to explain how man in society progressed through several phases of economic organisation: hunter-gatherer; pasturage or shepherding; agriculture; and, finally, commerce. The stages were defined by the predominant mode of subsistence of the societies in each respective stage. Although trade was a feature of the earlier stages of development, the last was one in which the people of such a society were dependent on each other for the satisfactions of their needs and wants; each exchanged their capital or the product of their labour for those things which they did not produce themselves. This was what Stewart had referred to as '*Theoretical or Conjectural history*'.

The centrality of the 'four stages' theory to the thought of the Scots, especially that of Smith, was given undue prominence by Ronad Meek and Andrew Skinner who sought to argue that it was a proto-Marxist form of economic determinism.¹ They both also claimed that the related discussion of the emergence of commercial society out of feudalism was the historical enactment of the transition between the third agricultural stage and fourth commercial one. The problems with this analysis have been highlighted by more recent work. Whilst admitting the compelling nature of the materialist interpretation of Smith's ideas, Haakonssen believed it to be 'untenable' because it disallowed the role of human motivation in Smith's theory of historical change.² Hont, Salter, and Winch challenged it on the grounds that it did not correlate with Smith's account of the actual development of the

¹ R. L. Meek, 'Smith, Turgot, and the "four stages" theory', *HOPE*, 3, (1971), 9-27; and, *Social science and the ignoble savage*; A. Skinner, 'Economics and history – the Scottish Enlightenment', *Scottish Journal of Political Economy*, 12 (1965), 1-22; and, 'Economics and the problem of method: an eighteenth century view', *Scottish Journal of Political Economy*, 12 (1965), 267-280.

² Haakonssen, *Science of a legislator*, 182.

nations of Europe. As Pocock had noted, it was not meant to be a literal account of the history of humankind; it was ‘a narrative of how the human mind might have organised itself into justice and civility, given certain simple assumptions about the material and animal environment in which it might find itself’.¹ Hont and Salter highlighted how the monarchs of Europe had disrupted the process by forcing their economies to become commercial before fully developing as agricultural economies, which Smith called the ‘unnatural and retrograde order’.² Winch argued that Meek’s position failed ‘to recognize Smith’s concern to demonstrate how actual practices or outcomes in modern commercial societies require the attention of the legislator’.³

Most recently, Berry has broadened the critique of the analysis of Meek and Skinner to the thought of the other Scots that Stewart had mentioned.⁴ The theory was not used by Hume at all and it was only Smith’s student Millar who utilised it in the same terms as Smith. Kames uses both three stages and four stages in separate works and Ferguson had his own version of the three stages, savage, barbarian, and polished/commercial societies.⁵ Berry also reassessed the intellectual origins of the theory, against Meek’s comparing it with that of Quesnay and Mirabeau and Hont tracing the ‘theoretical foundations’ to the German natural jurist Samuel Pufendorf.⁶ Berry stressed that the central theme that occupied the thought of the Scots

¹ Pocock, *Barbarism and Religion*, ii, 315.

² Smith, *WN*, III.i.9. J. Salter, ‘Adam Smith on feudalism, commerce and slavery’, *History of Political Thought*, 8, (1992), 229-31; and, Hont, *Jealousy*, 354-88.

³ D. Winch, ‘Adam Smith’s “enduring particular result”: a political and cosmopolitan perspective’, in Hont and Ignatieff, eds., *Wealth and Virtue*, 258-9.

⁴ Berry, *The idea of commercial society*, 50-60.

⁵ *Ibid.*, 39-40.

⁶ Hont traces Smith’s iteration to the ‘four-stages’, at least the ‘theoretical foundations’ of it, to Pufendorf, Hont *Jealousy*, 159-84; Meek makes the case that this conception was a Scottish and French phenomenon, bringing Quesnay and Mirabeau in, Meek, *Economics of physiocracy*, 43-71; cf. Berry disagrees with both Hont and Meek, Berry, *Idea of commercial society*, 38-50.

in these discussions was the transition from feudalism to commercial society. The theory of stadial progression was useful to conjecture about the stages of development of society, and its laws, manners, and institutions, but they were still conjectures. Of most importance, Berry argued, is how they sought to understand the distinctive features of modern commercial societies and how they came to be. Framing it in this way allows us to bring in Sir James Steuart, a neglected figure in the study of Scottish thought in this period.¹ Like Hume, Steuart does not use or refer to the stadial theory, but he is still concerned with the economic progress of society and of the institutions which govern it.

The context of the Scottish interest in this subject, and the Scottish Enlightenment more generally, has already been set out in the introduction to this thesis, but it is worth highlighting two aspects that are particularly relevant here. The first is the union of parliaments between Scotland and England. As was stated above, this was primarily an economic and fiscal union with Scotland's legal, religious, and educational systems remaining in place. The significance of this is that the two main areas of governance from London were commercial regulations and public finance. The Scots had joined a state which had established a fiscal system based on short-term borrowing serviced by regular taxes. The principal innovations of national debt, land tax, and excises had become permanent fixtures of the state. Moreover, the Boards of Excise and Customs modelled on the English system were set up in Scotland and reported directly to the Treasury in Whitehall.

The second aspect is the wider European context of the narrative of the emergence of commercial society out of feudalism. The relevance of this

¹ Except in the work of Skinner, that is. A. S. Skinner, 'Sir James Steuart: author of a system', *Scottish Journal of Political Economy*, 28 (1981), 20-42; A. S. Skinner, *A system of social science: papers relating to Adam Smith* (Oxford, 1996), 255-85.

to the Scots became particularly apparent when they compared their own country to England. Home wrote his own analysis of the feudal law in Scotland and Britain whilst he was in hiding during the Jacobite rebellion of 1745.¹ In this Home produced a stinging attack on hereditary jurisdictions and entails, which he considered to be feudal relics still present in modern Scottish law.² In the aftermath of the '45 in Scotland there was intense debate in Scotland over the system of entails, which had been banned in England in 1485 but had received legal sanction in Scotland as late as 1685. In *Historical law tracts*, Kames described entails as 'perpetual succession', with the ownership and rights over the disposal and alienation of the property being controlled by the original benefactor.³ This restricted the beneficiaries' ability to borrow against the property or even to sell it. These restrictions hindered the operation of commerce because the nation had a class of proprietors who did not have freedom over the use of their property. From 1685, Kames asserted, a 'great proportion of our land' was 'exempted from commerce'.⁴ This must necessarily prevent the economic development of the country. This position was challenged by Sir John Dalrymple and Sir John Sinclair. Dalrymple, who addressed his *An essay towards a general history of feudal property in Great Britain* (1757) directly to Kames, argued that entails were necessary to maintain a hereditary aristocracy that was a bastion against excessive monarchical power. This was especially important for Scotland

¹ H. Home, *Essays upon several subjects concerning British antiquities* (Edinburgh, 1747). On this episode see Tytler, *Life and writings of Kames*, i, 116-7.

² C. Kidd, *Subverting Scotland's past: Scottish whig historians and the creation of an Anglo-British identity, 1689-c. 1830* (Cambridge, 1993), 150-61; J. Hoppit, 'Compulsion, compensation and property rights in Britain, 1688-1833', *P&P*, 210 (2011), 93-128.

³ [Lord Kames], *Historical law-tracts* (2 vols., Edinburgh, 1758), i, 193.

⁴ *Ibid.*, 218-9.

which was a constituent part of a composite state.¹ Kames had highlighted the problems of having a part of the one kingdom being governed by a different law from the rest. Sinclair, in a much later work, *General report of the agricultural state, and political circumstances of Scotland* (1813), accorded with Dalrymple's position of the necessity of maintaining protections for Scotland's hereditary aristocracy. In particular Sinclair argued that entails secured the titles of the ancient Scottish families from being extinguished in pursuit of commercial gain.² This was essentially the crux of the matter. Kames' opposition to entails was because of their uncommercial nature and that they were a fetter to economic development, whereas the likes of Dalrymple and Sinclair saw them as necessary to stem the encroachment of the Anglo-political and economic power in Scotland.

(ii)

Justice and property in commercial societies

One of the key features of commercial societies was the protection of the individual right to private property. As such, there is a problem with how private property can be legitimately appropriated for public purposes. This question is usually overcome by providing the people with the right to consent to taxes, either by themselves or their representatives. As discussed in the introduction, this was especially relevant to the British context. In political thought, this idea is most often associated with the English philosopher and theorist of government, John Locke. In the second of his *Two treatises of government* (1689) Locke stated that 'if any one shall claim a *Power to lay* and

¹ J. Dalrymple, *An essay towards a general history of feudal property in Great Britain* (1757), 185-7.

² J. Sinclair, *General report of the agricultural state, and political circumstances, of Scotland* (2 vols., Edinburgh, 1814), 101-5.

levy *Taxes* on the People, by his own Authority, and without such consent of the People, he thereby invades the *Fundamental Law of Property*, and subverts the end of Government'.¹ This consent was 'the Consent of the Majority, giving it either by themselves, or their Representatives chosen by them'.² Indeed, it was to Locke that the American colonists appealed in their challenge against the British attempt to tax them.³ In the eighteenth century, this principle seemed to be ubiquitous. Steuart, in a discussion of the 'true origins of the modern plan of taxation', stated that 'I know of no Christian monarchy (except, perhaps, Russia) where either the consent of states, or the approbation or concurrence of some political body within the state, has not be requisite to make the imposition of taxes constitutional'.⁴ There is, however, an important point to note. The consent that is being referred to here is to particular taxes, not taxation in general. There was no option given to not pay any taxes at all. For, as Locke said in prefacing his statement on consent quoted above, 'Governments cannot be supported without great Charge, and 'tis fit every one who enjoys his share of the Protection, should pay out of his Estate his proportion for the maintenance of it'.⁵ A government could not exist without some source of revenue.

The purpose of consent is to be able to justify taxation in a society in which property is considered to be a natural right. Consent was a necessary means to overcome the problem of how sovereigns were to fund government

¹ J. Locke, *Two treatises of government* [1689], P. Laslett, ed., (Cambridge, 1988), 362.

² Ibid.

³ On the use of Locke in America see J. Dunn, *Political obligation in its historical context: essays in political theory* (Cambridge, 1980), 53-77; and K. Haakonssen, *Natural law and moral philosophy; from Grotius to the Scottish Enlightenment* (Cambridge, 1996), 310-42.

⁴ J. Steuart, *An inquiry into the principles of political oeconomy* [1767], A. S. Skinner, ed., (2 vols., Edinburgh, 1966), i, 290.

⁵ Locke, *Two treatises*, 362.

in a society in which the right to property is protected. Locke saw property as a right that existed prior to the existence of society, and therefore also government. Government was created, according to Locke, to protect property, which he stated as being the 'end of government' quoted above. It was therefore only possible to finance government through taxation via a mechanism of consent. Locke's writing intersected with two intellectual threads that are important for the argument of this chapter. The first was the particularly English context of the seventeenth-century battles between crown and parliament. In particular he was writing against the ideas of the staunch Royalist Sir Robert Filmer and his defence of the divine right of kings. This was part of a broader debate about crown prerogative and parliamentary privileges, whether the latter had been part of an ancient constitution or rather based on the establishment of feudalism in England following the Norman Conquest.¹ The consequence of the second of these positions was that all property rights were therefore subject to the grace of the sovereign. The other context relevant to Locke's *Two treatises* is the natural law theory of property. The first treatise was primarily an attack on Filmer's use of scripture to justify the divine right of kings, but the second was where Locke set out his own arguments for the legitimacy of government. To do this he utilised the language of natural jurisprudence to set out the natural rights of man and the origin of society and government. Locke challenged Filmer both on the grounds of the scriptural history of monarchical absolute authority and on the basis that men have natural rights to property that exist prior to society and government and therefore not subject to crown prerogative. It was from the assertion of the latter that it was necessary for Locke to provide for

¹ The classic account of this is J. G. A. Pocock, *The ancient constitution and the feudal law: a study of English historical thought in the seventeenth century* (Cambridge, 1987), esp. Ch. 8.

the people or their representatives to consent to their property being appropriated by government through taxes. This became a useful statement for Whigs to justify the parliamentary battles against the Stuarts in the seventeenth-century and the aforementioned narrative of the common law and ancient constitution. However, Locke was not making a historical argument about the English constitution and its ancient rights, rather drawing on the language of rights from the Protestant natural law tradition.¹

The Protestant natural law tradition is that which derives from the thought of the Dutch jurist Hugo Grotius and Samuel Pufendorf. Grotius' contributions to natural law theory were based upon establishing laws to govern what would now be called international relations. For Grotius, the natural law which guided states in their relation with each other was the same as that which man was subject to before society. His concern was to defend the right of the Dutch to trade with the East Indies and to question whether the Portuguese (or indeed anyone) had the right to claim exclusive dominion over this trade and, more broadly, over the sea. Grotius first set out his ideas of the law of nature and the origin of property in *Mare liberum*, or *The free sea* (1609).² This text was produced at the behest of the Dutch East India Company to attack the Portuguese who had been disrupting Dutch trade by claiming dominion over the sea and protecting it by force. This work contained early elaborations of the thought that would be contained in his major work *De jure belli ac pacis* or *The law of war and peace* which was published in 1625. Pufendorf was a German natural lawyer who sought to

¹ S. Buckle, *Natural law and the theory of property: Grotius to Hume* (Oxford, 1993), 125-6.

² *Mare liberum* was part of a much larger work that Grotius had been working on for the Dutch East India Company but which remained unpublished until it was found amongst his family's papers in 1864, being published as *De jure pradae*, or *The law of prize and booty*. *Mare liberum* was the twelfth chapter of this work.

develop natural law into a ‘science of morals’.¹ This was to be a deductive science that could produce demonstrable truths about the ‘justice and injustice of human actions’.² Pufendorf’s major contribution to natural law and moral philosophy was *De jure naturae et gentium* (1672), or *On the law of nature and of nations*. This larger work was condensed and abridged a year later to *De officio hominis et civis* (1673). This was translated into English in 1691 by Andrew Tooke and published as *The whole duty of man, according to the law of nature*.³ This latter work became a staple of university curricula for moral philosophy. Indeed, one of the sources of Pufendorf’s enduring influence was the extensive commentaries that were published on his work, in particular by Jean Barbeyrac who translated Pufendorf’s works into French in the first decade of the eighteenth century and Gottfried Wilhelm Leibniz who was a fierce critic of Pufendorf.⁴ Carmichael was another commentator and who introduced Pufendorf’s text into the curriculum at Glasgow.

There were many common elements to the theory of property of both Grotius and Pufendorf. Both agreed that justice was a negative virtue and that its purpose was to prevent harm of others and to give people the right to protect what was one’s own. They both saw the origin of private property as emerging out of an agreement between the people, whether it was explicit or implicit. All property, they argued, had been given to humankind in common and therefore to justify the division of this between individuals there needed

¹ Haakonssen, *Natural law and moral philosophy*, 37-43.

² S. Pufendorf, *The political writings of Samuel Pufendorf*, M. J. Sandler, trans., C. L. Carr, ed., (Oxford, 1994), 109.

³ I. Hunter and D. Saunders, ‘Introduction’, S. Pufendorf, *The whole duty of man according to the law of nature*, A. Tooke, trans., I. Hunter and D. Saunders, eds., (Indianapolis, 2003), p. ix.

⁴ J. Moore and M. Silverthorne, ‘Gershom Carmichael and the natural jurisprudence tradition in eighteenth-century Scotland’, in Hont and Ignatieff, eds., *Wealth and virtue*, 76-7.

to be some form of accord. Grotius set this position out by explaining that private property could not have been arrived at unilaterally, but by 'a certain Compact and Agreement, either expressly, as by a Division, or else tacitly, as by Seizure'.¹ Pufendorf developed this point by asserting that the original community of people was a negative one, where 'all things lay open to all men and belong no more to one than to another'.² God had 'left to the judgement of men, that they should dispose of the matter according as it seemed to work for peace'.³ As a result man used his reason and 'by a pact established separate dominions over things, not indeed all at once and for all time but successively, and as the state of things, or the nature and number of men, seemed to require'.⁴ The establishment of this pact and the development of institutions to govern it was the origin of 'positive community'. Where Grotius and Pufendorf differed here, was that Grotius saw no need to appeal to a divinely ordained instruction to deal with the property that had been given to all.⁵ He argued that the natural law would have some validity even without the existence of God. Pufendorf disagreed, stating that 'God allowed man to turn the earth, its products, and its creatures, to his own use and convenience, that is, he gave men an indefinite right to them'.⁶

The right to exercise dominion over property was connected to the right of self-preservation and that one was entitled to lay claim to the necessities one required to subsist. This was a natural right and stretched as far as to defend oneself against threats from others to protect one's own necessities and, in Grotius, the right to take other's superfluities if it was necessary for

¹ H. Grotius, *The rights of war and peace*, R. Tuck, ed., (3 vols., Indianapolis, 2005), ii, 426-7.

² Pufendorf, *Political writings*, 179-80.

³ *Ibid.*, 177.

⁴ Pufendorf, *Political writings*, 178-9.

⁵ Buckle, *Natural law and the theory of property*, 28-9.

⁶ Pufendorf, *Political writings*, 177.

one's own existence. Both Grotius and Pufendorf were hinting at sociability being inherent in human nature.¹ Society was needed to ensure one's self-preservation which was a natural inclination in all humans. Pufendorf took a Hobbesian tone when he asserted that, even though originally all people had a communal right to all property, 'the striving of many persons after the same thing, which did not suffice for all of them at the same time, would certainly have given rise to countless conflicts'.² That said, this was far from the all-out war that Hobbes had claimed. This was why God had left the disposal of property 'to the judgement of men' in accordance with what they felt 'seemed to work for peace'.³ Therefore agreeing to the division of property and securing the protection of it once acquired was both the product of human reason and God's will.

Although Locke used natural law to make his case for the origin of property, he did not entirely accept the arguments of Grotius and Pufendorf. Locke did agree with them, against Filmer, that there was an original position where there was no private property and that all people had a common right to use all property. Where he differed from Grotius and Pufendorf was that he did not believe that private property had been established by an agreement, whether that be implicit or explicit. This was an important stance from Locke because it allowed him to legitimate private property outside of society and therefore outside of government.⁴ This was important because it was a direct challenge to Filmer's assertion that the sovereign had the supreme dominion over property. Significantly, it also subverted Filmer's arguments against the unfeasibility of original consent, as for Locke this was

¹ See Hont, *Jealousy*, 159-84.

² Pufendorf, *Political writings*, 178.

³ *Ibid.*, 177.

⁴ Buckle, *Natural law*, 161-79.

not a necessary condition for private property. This would also form the basis for Locke's arguments for the need for property to be secured against the arbitrary will of monarchs.¹

For Locke private property was established by its occupation through labour. When God 'gave the World in common to all Mankind', he 'commanded Man also to labour, and the penury of his Condition required it of him. God and his Reason commanded him to subdue the Earth, *i.e.* improve it for the benefit of Life, and therein lay out something upon it that was his own, his labour.'² 'As *much Land* as a Man Tills, Plants, Improves, Cultivates and can use the product of, so much is his *Property*'.³ Locke believed that government had 'no other end but the preservation of Property'.⁴ This meant that property was logically prior to government. For Locke, the need for government arose because of the instability and security of the state. À la Hobbes and Pufendorf, Locke believed that the danger of this original situation, or state of nature, had encouraged men to 'enter into Society to make one People, one Body Politick, under one Supreme Government'.⁵ That said, Locke had asserted that man had a 'love, and want of, society' that also brought them together to form a government.⁶ This coming together to form a government did require consent, where the establishment of property did not. According to Locke, private property had already come into existence and it was the need to protect that property from the 'inconveniences of the State of Nature' that required governance. Consent was required because of the

¹ P. Garnsey, *Thinking about property: from antiquity to the age of revolution* (Cambridge, 2007), 113; and J. Tully, *An approach to political philosophy: Locke in contexts* (Cambridge, 1993), 120.

² Locke, *Two treatises*, 291.

³ *Ibid.*, 290.

⁴ *Ibid.*, 329.

⁵ *Ibid.*, 325.

⁶ *Ibid.*, 334.

need to submit and authorise ‘the Society, or which all is one, the Legislative thereof to make laws for him as the publick good of the society shall require; to the Execution whereof, his own assistance (as to his own Decrees) is due’.¹

There is an issue here with exactly how Locke is defining property. Throughout the work the term ‘property’ appears to be used in a variety of ways, and has equally been interpreted by scholars in numerous ways.² Sometimes it explicitly refers to land, others include all material possessions especially those necessary for subsistence. It has also been argued that, for Locke, property was a ‘common right to use’.³ Locke also referred to it as ‘Life, Liberty, and Estate’.⁴ It was also not restricted to material things as Locke stated that every man has property in his own person.⁵ It is not possible to point to a singular conception of property that Locke employs throughout. What is of importance here was the need to ground the right to property exclusive of government, and for the purpose of this argument this will be taken to mean material property capable of private ownership. This was necessary because it protected the property of individuals from arbitrary taxation. For Locke, although consent was not required to establish property, the consent of the majority was required for that property to be taxed by the state.

Locke’s motivation for entering into this debate was the Exclusion Crisis of 1679-1681 and to counter the ideas of the staunch Royalist Sir Robert Filmer. Filmer had long been dead when his manuscript treatise on

¹ Locke, *Two treatises*, 325.

² On this debate, see P. Laslett, ‘Introduction’, *Two treatises*, 102-8; J. Dunn, *The political thought of John Locke: an historical account of the argument of the ‘Two treatises of government’* (Cambridge, 1969), 51-7; J. Tully, *A discourse on property: John Locke and his adversaries* (Cambridge, 1980), 157-76; and, Buckle, *Natural law*, 169-79.

³ Tully, *Discourse on property*, 60-1.

⁴ Locke, *Two treatises*, 323-4.

⁵ *Ibid.*, 287-8.

the divine right of kings, written during the reign of Charles I, was published as part of the Tory attack on the attempt to exclude the Duke of York, future James II, from the throne.¹ Filmer's core argument was that sovereigns had absolute authority over their subjects and were only accountable to God. Their power was 'the only right and natural authority of a supreme father'.² Filmer's argument was a historical one that used scripture to argue that all monarchical power can be traced back to God's gift to Adam of sovereignty over the world. This was 'the only fountain of all regal authority, by the ordination of God himself'.³ This authority then passed through the generations through each monarch: 'For as Adam was the lord of his children, so his children under him had a command and power over their own children, but still with subordination to the first parent, who is lord paramount over his children's children to all generations'.⁴ This was the source of all monarchical power and the only form of legitimate authority. The effect of this was to establish absolute authority of the monarch under whom all rights and privileges were enjoyed. The existence of parliament as a council of advisors and all rights of property were enjoyed by the grace of the sovereign and therefore always subject to crown prerogative.⁵

Before turning focus to the Scots, it is worth considering a line of argument that is distinct from both the natural law tradition and the assertions of the ancient constitution. This comes from the English philosopher and political theorist Thomas Hobbes writing in the middle of the

¹ G. Burgess, 'Sir Robert Filmer (1588?-1653)', *ODNB*, (2004). See also J. P. Sommerville, 'The authorship and dating of some works attributed to Filmer', in R. Filmer, *Patriarcha and other writings*, J. P. Sommerville, ed., (Cambridge, 1991), pp. xxxii-xxxiv.

² Filmer *Patriarcha*, 11.

³ *Ibid.*, 7.

⁴ *Ibid.*, 6-7.

⁵ Pocock, *Ancient constitution*, 122.

seventeenth-century. Hobbes was writing during the same period of turmoil as Filmer, but came to some different conclusions about the origins of absolute sovereignty and the rights of sovereigns to tax their subjects. Hobbes was not concerned with providing a detailed account of how a system of public finance should be constructed, but it is a subject that he addresses in the context of his discussion of the rights and duties of citizens and sovereigns of a commonwealth. For citizens, in *De cive* (1642), he asserted that taxes were ‘nothing else but their reward who watch in Arms for us, that the labours and endeavours of single men may not be molested by the incursion of enemies’.¹ The duty of paying taxes was reiterated in *Leviathan* (1651), his larger work on the structure of society and the nature of legitimate government. To deny the sovereign the right to tax would mean that ‘he cannot performe the office they have put him into; which is, to defend them both from forraign enemies, and from the injuries of one another; and consequently there is no longer a Common-wealth’.² As well as protecting citizens from external threats, taxes paid for the internal peace that came from submitting to the authority of the sovereign. Hobbes did not allow for consenting to individual taxes, they naturally followed when one had consented, whether tacitly or explicitly, to give up the freedom of the state of nature to enjoy the protection of a sovereign authority.³ Indeed, ‘they that give to a man the Right of government in Sovereignty, are understood to give him the right of levying mony to maintain Souldiers; and of appointing Magistrates for the administration of Justice’.⁴ Furthermore, property was not a natural right; it was enjoyed by the grace of the sovereign and what was

¹ T. Hobbes, *De cive*, H. Warrender, ed., (Oxford, 1983), 152.

² T. Hobbes, *Leviathan*, N. Malcolm, ed., (3 vols., Oxford, 2012), ii, 504.

³ On Hobbes and consent see Skinner, *Foundations*, ii, 307; and, R. Douglass, *Rousseau and Hobbes: nature, free will, and the passions* (Oxford, 2015), 114.

⁴ Hobbes, *Leviathan*, ii, 210.

in the sovereign's power to grant was in their power to take away. It was not in the sovereign's interest, however, to levy taxes unfairly or arbitrarily. As citizens had a duty to pay taxes to help secure the public peace, it was the duty of the sovereign to maintain it. In both *De cive* and *Leviathan* Hobbes highlighted inequitable taxes as one of the main causes of the dissolution of a commonwealth.¹ This occurred when 'the burthens of the Realm are unequally imposed on the Subjects', adding that the people did not 'grieve [so much] at the burthen it self, as at the inequality'.² Such grievances were legitimate, Hobbes claimed, and that it was 'in the interest of the publique quiet' for sovereigns to ensure that 'the publique burthens are equally born'. Hobbes clarified that by equality he meant 'equality, not of Money, but of Burthen', that is, 'an equality of reason between the Burthens and the Benefits'.³ This aspect of Hobbes thought will be explored further in Chapter Two of this thesis.

Hobbes, writing after the problems the early Stuarts had with parliament in trying to raise revenue but before the Bill of Rights, saw no need to allow for popular consent to taxation. As it was the duty of citizens and subjects to contribute to the public purse it was the duty of sovereigns to raise revenue with equality and justice. How this equality and justice could be achieved through specific taxes is the subject of the second part of this thesis. For Hobbes property was not a natural right, so consent to taxation, as Grotius, Pufendorf, and Locke had allowed for, was not a necessary mechanism of governance.

The purpose of explicating these views is to set out some of the contexts within which the individual right to property and the state's

¹ Hobbes, *De cive*, 152; and, *Leviathan*, ii, 534-6.

² Hobbes, *De cive*, 161.

³ *Ibid.*, 162.

authority to tax were discussed. If a feature of the liberty and justice of modern commercial societies was that they protected the right to property, does this conflict with the necessity of taxes to finance the government of such societies? In other words, is there discord between individuals' right to property and the duty of those individuals to pay taxes? The germs of the Scottish response to this question are to be found in Grotius and Pufendorf, as transmitted to the Scottish intellectual tradition through Carmichael and Hutcheson. Carmichael and Hutcheson were crucial in making natural jurisprudence an essential feature of the curricula of moral philosophy at Scottish universities and thereby making Grotius and Pufendorf major figures to be studied.¹ It has already been set out how both perceived justice as a negative virtue. Furthermore, the purpose of justice was to prevent harm from others and the right to protect what was one's own. In Grotius and Pufendorf this was originally framed as a matter of self-preservation, the right to protect what one needed for one's own survival.

Grotius did not discuss taxes in any great length. That which he did say can be seen as a crude explication of the 'benefit theory' of taxation. That is, he argued that duties should be levied on imported goods in recompense for the protection afforded to the transportation of those goods and that those duties should be in proportion to the cost of that protection.² Where Grotius only broached the matter of the government's need for taxation to secure the protection of property, Pufendorf offers a more detailed analysis. Pufendorf asserted that, as 'the chief end of states is that men, by means of mutual co-operation and assistance, be safe against the harms and injuries they can

¹ J. Moore, 'Natural rights in the Scottish Enlightenment', in M. Goldie and R. Wokler, eds., *The Cambridge history of eighteenth-century political thought* (Cambridge, 2006), 295-6.

² Grotius, *Rights of war and peace*, ii, 445. Seligman identifies him as one of the earliest to propound this theory: Seligman, *Progressive taxation*, 160.

and commonly do inflict on one another', then it is necessary that such states provide a system of justice (and therefore judges or magistrates) and some form of military defence to protect the society.¹ This, of course, requires financing. For 'it is not possible in a time of peace or war to conduct the affairs of a state without incurring expenses'. Therefore 'it is required in it the authority to reserve for such uses a certain part of the goods or crops of the region inhabited by its people, or to force individual citizens to contribute so much of their own goods as the assumption of those expenses is deemed to require'.² The need for taxation was inherent in forming a society. Pufendorf's only protection against arbitrary taxation was to give the power to impose taxes 'to the council of the people', in a mixed government in which 'the authority of war and peace belong to the prince' and 'the right to pass laws and make judicial decisions to the senate'.³ In *Duty of man*, he places a duty on citizens to contribute to the public expense because of the security and protection that one is afforded by the institution of government: 'For he must be very impudent indeed, who will enjoy the Protection and Priviledges of a Place, and yet contribute nothing in Goods or Service towards its Preservation'.⁴ Earlier he had warned against excessive taxation, stating that 'it deserves to be the Care of Princes not to extort more, than either the *Necessities* or *signal Advantages* of the nation require'. Further, that they should only be levied 'so to alleviate and soften them in the Ways and Means of laying them upon the Subject, that every one may find their Weight as little offensive as it can possibly be'.⁵

¹ Pufendorf, *Political writings*, 220-1.

² *Ibid.*, 221.

³ *Ibid.*, 224.

⁴ Pufendorf, *Duty of man*, 237.

⁵ Pufendorf, *Duty of man*, 218-9.

Pufendorf seemed to allow for the people to be given the right to consent to taxes but, most importantly, expressed that it was a duty of citizens to finance the government. The institutions of justice and defence administered by government were there to protect the property of those citizens. It was Carmichael who introduced Pufendorf's *De officio*, the condensed version of *De jure naturae et gentium*, as required reading in his moral philosophy course at Glasgow.¹ Although he published his own works of moral philosophy and natural jurisprudence, Carmichael achieved notoriety from his commentary on Pufendorf's philosophy. In this commentary Carmichael disagreed with Pufendorf's assertion, and therefore also Grotius', that agreement was required before the original communal property could be appropriated for exclusive private use. Carmichael took the same position as 'the celebrate Locke' that property was acquired through its occupation by labour without the need for anyone's consent.² He took this stance because for 'things of this kind to be of service to men in the use for which they are granted, they need to be specially appropriated and adapted to the purposes of the appropriator or of others to whom he concedes them'. He added that this 'appropriation should be accompanied by a valid right against other men'.³ If others were able to prevent someone 'for using it for his own purposes' they 'would be stealing the fruit of his labour, and this would be a wrong'.⁴ Hutcheson, although not in complete agreement with Carmichael, also regularly appealed to Locke as an authority to critique Pufendorf's ideas.⁵

¹ Moore and Silverthorne, 'Gershom Carmichael', 74.

² G. Carmichael, *Natural rights on the threshold of the Scottish Enlightenment: the writings of Gershom Carmichael*, M. Silverthorne, trans., J. Moore and M. Silverthorne, eds., (Indianapolis, 2002), 93-4 & 96.

³ *Ibid.*, 94.

⁴ *Ibid.*, 94.

⁵ Buckle, *Natural law*, 194.

Hutcheson saw the purpose of moral philosophy as ‘to direct men to that course of action which tends most effectually to promote their greatest happiness and perfection’¹ This was to be discovered by appealing to the laws of nature ‘without any aids of supernatural revelation’. Hutcheson is a key source for the later development of Hume and Smith’s moral philosophy as it is from him that they base their own arguments of benevolence being a fundamental principle of human nature.² Of more importance to the theory of the origin of property, and where Hutcheson broke from Carmichael, was Hutcheson’s scepticism about an original state of nature. In his inaugural lecture at Glasgow in 1730, a year after he had replaced Carmichael as the Chair of Moral Philosophy, Hutcheson argued that ‘political writers should unlearn the use of these words (*natural state*)’.³ The pre-civil society stage was one of ‘liberty from human government’ and the idea that humans were in conflict with one another before government contradicted their natural sociability and the inherent benevolence to one another.⁴ Hutcheson did not agree that it was only because of self-interest in preserving what was one’s own that society arose. Man was sociable by his God-given nature:

God gave us mind and sense, by whose help we see something beautiful, fitting, and honorable in intentions, words, and actions, whether our own or those of others; hence we bestow praise and favor upon those who have deserved well of the human race, [...] there are few or no pleasures, even physical pleasures, which are not augmented by association with others.⁵

¹ F. Hutcheson, *A System of moral philosophy* (3 vols., London, 1755), i, 1.

² Buckle, *Natural law*, 199.

³ F. Hutcheson, *Logic, metaphysics, and the natural sociability of mankind*, M. Silverthorne, trans., J. Moore and M. Silverthorne, eds., (Indianapolis, 2006), 201.

⁴ *Ibid.*

⁵ *Ibid.*, 204.

This was what drove man to form society and, later, a civil government, not from 'external advantage and dread of external evils'.¹ The natural sociability of man and inherent benevolence, according to Hutcheson, was discovered by man's 'moral sense'. This sense was the guiding light of the morality of actions, not the basis of it, by recognising what is right and wrong regardless of any rules.²

In the posthumously published collection of his lectures on moral philosophy, *System of moral philosophy* (written in 1730s, published 1755), Hutcheson further addressed the origin of property. He took a similar position towards Pufendorf's and Locke's arguments about the origin of private property as Carmichael, arguing that what give man to own something exclusive of other men was what he 'occupies'.³ This was based on the natural right of self-preservation: 'Thus the first impulses of nature toward supporting ourselves, or those who are dear to us, point out the right of the first occupant to such things as are fit for present use.'⁴ It was 'morally evil' to deny from any man this right which was 'granted for this purpose by God and nature, while others can otherways support themselves'.⁵ For Hutcheson, the right to property was also essential to society because it encouraged industry. 'Universal industry' was 'plainly necessary for the support of mankind' and any measure or institution that promoted 'universal diligence and patience, and make labour agreeable or eligible to mankind, must also tend to the publick good'.⁶ Nothing achieved this more than the prospect of 'future wealth' and the security of satisfying the needs and wants

¹ Hutcheson, *Logic*, 203.

² See Moore, 'Natural rights in the Scottish Enlightenment', 299-300.

³ Hutcheson, *System*, i, 317.

⁴ *Ibid.*

⁵ *Ibid.*, 318.

⁶ *Ibid.*, 320-1.

of ‘themselves, their offspring, and all who are dear to them’.¹ Property was not a natural right for Hutcheson. He placed the right to property under ‘adventitious rights’, despite the use of natural law to justify property. Property as an adventitious right highlighted its artificial nature and that it was created in order to serve a purpose in society.²

This point is important because it was later in the same work that Hutcheson set out the right of states to tax and the duty of subjects to pay those taxes. These ideas followed many of the same lines as Pufendorf set out. In his discussion of the formation of body politics, Hutcheson argued that it was just that all those who ‘share the protection and other advantages’ that they ‘derived from the state at its expence’ should ‘make compensation’ for that protection. This compensation was ‘by their contributing annually’ to the ‘publick expence; as all men do, even minors, who pay taxes on lands or other goods’.³ Hutcheson went on to claim that the power ‘of appointing in what manner and what proportion each one shall contribute toward the publick expenses out of his private fortune by paying taxes’.⁴ These greater powers ‘must necessarily be committed to governors in every state, and they hold them in that extent which the original constitution of the fundamental laws have appointed’.⁵ In Chapter VII of Book III, ‘The rights of governors; how far they extend’, Hutcheson, as well as Bodin and Pufendorf before him, qualified the power of monarchs to ‘levy tributes’ without referral to ‘a council or popular assembly’.⁶ Nevertheless, taxes were necessary to fund the institutions of defence and justice that provided the protection of the people.

¹ Hutcheson, *System*, i, 321.

² P. Bowles, ‘The origin of property and the development of Scottish historical science’, *Journal of the History of Ideas*, 46 (1985), 199-202.

³ Hutcheson, *System*, ii, 230-1.

⁴ *Ibid.*, 235.

⁵ *Ibid.*, 236.

⁶ *Ibid.*, 267.

Moreover, when ‘the command of a governor is truly just and wise ... a subject is always bound to obey notwithstanding of any private inconveniences’; this ‘holds particularly in paying of taxes and in military service’.¹

From what has been discussed so far we can see the roots of the ideas that fed into the Scots’ analysis of the necessity of taxation in commercial societies in the eighteenth-century. Societies and governments were formed out of the need to protect property. Laws and systems of justice achieved this internally from others within society and national defence forces such as armies and navies from external threats. Justice and defence were necessary functions of governments in order to achieve their purpose of protecting property. As Hobbes, Petty, Pufendorf, and Hutcheson set out, the necessity of these functions was sufficient justification for the levying of taxes. To enjoy the rights afforded by society one had to comply with the duty to finance it. For Grotius, Hobbes, and Pufendorf, property was not a natural right, it came about by agreeing to enter into society, whether implicitly or explicitly, to secure each other in their property. The right to property was not possible without the institutions capable of enforcing it. This is the basis of the necessity and utility of taxation in modern commercial societies.

In the discussions of commercial society, justice played a crucial role. In his first major work, *The theory of moral sentiments* (1759), Smith placed justice at the centre of society; it was ‘the main pillar which upholds the edifice’. Society could continue to exist without other virtues, such as beneficence, but without justice ‘the immense fabric of human society,’ must ‘in a moment crumble into atoms’.² Justice was the backbone of society. It was a subject which he also addressed in his lectures on jurisprudence for

¹ Hutcheson, *System*, ii, 342.

² Smith, *TMS*, II.ii.3.4.

which we have two sets of notes from the 1760s. In both the *Lectures* and *The theory of moral sentiments*, Smith claimed that it was Grotius who ‘seems to have been the first who attempted to give the world anything like a regular system of natural jurisprudence’ and that Grotius’ work was ‘perhaps at this day the most compleat work on this subject’.¹ Smith does explicitly acknowledge the work of Hobbes and Pufendorf, but his thinking also owed a great deal to Hume, as well as the two previous occupants of his chair of moral philosophy in Glasgow, Carmichael and Hutcheson.²

In Hume and Smith, as well as in Hutcheson and Kames, protecting property became identified as an important factor in the development of commercial society. It was the security of keeping one’s own profit that drove innovation and industry and therefore improvements in arts and manufactures. This was similarly identified as being the case with husbandry and agriculture. Granting leases to farmers and having them pay rent in cash encouraged them to increase productivity as they were able to keep the profit of their industry rather than hand it over to their lord. Hume was the most strident in his interpretation of justice and property as being artificially contrived by the purposes of society. In his first published work, *Treatise of human nature* (1739), Hume approached the origins of justice and property together. He asserted that was only necessary as a result of the establishment of private property. For Hume, justice ‘wou’d never have been dream’d of among rude and savage men’.³ The idea of justice became advantageous after he had lived in society and realised that ‘the principal disturbance in society arises from those goods, which we call external, and from their looseness and

¹ Smith, *LJ(B)*, 1; *TMS*, VII.iv.37.

² Garnsey traces the origin of these ideas from antiquity through the medieval period: Garnsey, *Thinking about property*.

³ D. Hume, *A treatise of human nature* [1738], L. A. Selby-Bigge, ed., (Oxford, 1978), 488.

easy transition from one person to another'.¹ To secure peace and liberty in society it was necessary to reach a means by which those goods could be protected from them being forcefully removed by others. Hence the need for justice. Hume framed these as being developed out of a 'common interest': 'I observe that it will be in my interest to leave another in the possession of his goods, *provided* he will act in the same manner in regard to me'.² This was a public utility that arose not out of beneficence to others but out of self-interest. The rules of justice which governed all were useful to each individual because it protected their own situation. Indeed, if this was driven by natural consideration of others then there would be no need for the creation of these rules to govern people's actions.³

The important divergence that Hume takes from the Protestant tradition is in relation to the theory of property. As discussed above, Carmichael and Hutcheson had both accorded with Locke in their critiques of Pufendorf, that private property originated from its use by occupation and not by consent. Hume disagreed with both analyses. Like justice, rights to property were artificially contrived by conventions within society.⁴ But, Hume did not see that this could have taken place by agreement as there was no historical evidence for such an occurrence.⁵ Indeed, in his essays exploring the origin of political societies and the idea of an 'original contract', Hume asserted that if one looked to the historical record for the founding of government all were established through 'usurpation' and the exercise of force.⁶ Governments were accepted by the people because it was useful for

¹ Hume, *Treatise*, 489.

² *Ibid.*, 490.

³ See Haakonssen, *Natural law*, 104-6; and, Moore, 'Natural rights', 302-4.

⁴ Hume, *Treatise*, 501-13.

⁵ Moore, 'Natural rights', 303.

⁶ Hume, 'Of the original contract', in *Essays*, 32-41.

their own interests but this rested on the opinion of the people. This denial of some of the basic tenets of natural law theory was the reason why Hume was considered to be operating outside of this tradition.¹ But Hume was still presenting an argument for the justification of justice and property. This argument was that both were useful and necessary for civil society and that did not need justifying by divine ordination or by natural law.

Kames in particular took issue with Hume's analysis and wanted to reassert the natural right to property. This was first addressed in his 1751 work, *Essays on the principles of morality and natural religion*, although it was also discussed in his first work *Essays upon several subjects concerning British antiquities* (1747). In this latter work Kames' concern was how property had been rendered into an unnatural state by the feudal law with Scotland's entails and hereditaments his primary targets.² In the *Principles of morality*, Kames asserted that man was naturally social: 'Man is evidently intended to live in society; and because there can be no society among creatures who prey upon one another, it was necessary, in the first place, to provide against mutual injuries. Further; man is weakest of all creatures separately, and the very strongest in society. Therefore mutual assistance is the principal end of society'.³ He added in the *Historical law-tracts* (1758), that 'man by his nature, is fitted for society, and society is fitted for man by its manifold conveniences'.⁴ Kames further disagreed with Hume's conception of justice as being artificial. Indeed, Kames felt the need to address the issue because of the 'doctrine espoused by the author of a treatise on human nature, that justice, so far from being one of the primary virtues, is not even

¹ Cf. Forbes, *Hume's philosophical politics*, 3-90; Haakonssen, *Natural law*, 15-62.

² Home, *Essays concerning British antiquities*, 123-91.

³ H. Home, *Essays on the principles of morality and natural religion*, (Edinburgh, 1751), 67.

⁴ Kames, *Historical law-tracts*, i, 124.

a natural virtue, but established in society by a sort of tacit convention, founded upon a notion of public interest'.¹

For Kames justice was a natural obligation to man and man did not harm others or claim their property because of the duty owed to the law of nature. We know this because 'we have an idea of property, antecedent to any agreement or convention; that property is founded on a natural principle; and that violation of property is attended with remorse, and a sense of breach of duty'.² This was natural because our own inclination toward self-preservation was dependent upon it: 'when self-preservation, the most eminent of our principles of action, directs every individual to labour for himself in the first place; man without a sense or feeling of property, would be absurd'.³ Kames added to this in his *Sketches of the history of man* (1772). Kames asserted that among 'the senses inherent in man, the sense of property is eminent' and that there was no human being who was ignorant of this sense.⁴ Further to this, property was of great benefit to man: 'Without private property there would be no industry, and without industry, men would remain savages for ever'.⁵ Property was thus a natural right that did not require an agreement for it to be established. Further, society was not necessary for property to be formed, for society was there to protect property.

Smith overlooked much of Kames' contributions to this debate. Indeed, according to Salter, it is Grotius who is the principal source of Smith's theory of property rather than the interpretations of Pufendorf that came through Carmichael and Hutcheson.⁶ For Smith, the 'first and chief design of every

¹ Home, *Principles of morality*, 103.

² *Ibid.*, 105.

³ *Ibid.*, 106.

⁴ Kames, *Sketches*, i, 68.

⁵ *Ibid.*, 71.

⁶ J. Salter, 'Adam Smith and the Grotian theory of property', *British Journal of Politics and International Relations*, 12 (2010), 3-21.

system of government is to maintain justice', that is 'to prevent the members of a society from incroaching on one anothers property, or seizing what is not their own'.¹ The purpose of government was to 'give each one the secure and peaceable possession of his own property'.² For Smith, the idea of property did not 'commence till we have actually got possession of it'.³ To emphasise this point he largely appealed to the theoretical issue of the beginning of ownership in the hunter/gatherer stage of society.⁴ This was the impartial spectator entering historical circumstances to discern a moral response. This was a very simple idea of ownership, that possessing something was the key. This developed with the advancement of society and the eventual ownership of land. This was only possible, for Smith, by some sort of agreement. Private ownership of land 'never begins till a division be made from common agreement'.⁵ Moveable objects could 'be occupied in the first beginnings of society, but lands cannot be occupied without an actual division'.⁶ This makes sense because it was only with the emergence of agricultural communities when people stayed in one place and claimed dominion over the land. Hunters and shepherds were nomads making the ownership of land irrelevant.

Smith's account of justice was far broader than Hume's, who was mostly concerned with it in terms of its relation to property. For Smith, property was an 'adventitious right', and therefore accorded with Hutcheson and Hume that it was a right that was established for the benefit of society rather than something 'natural'.⁷ Along with Locke, Hutcheson, Hume, and

¹ Smith, *LJ(A)*, I.1.

² *Ibid.*

³ *Ibid.*, I.38.

⁴ Salter, 'Grotian theory', 12-14.

⁵ Smith, *LJ(B)*, 151.

⁶ *Ibid.*

⁷ Haakonssen, *Science*, 99-104.

Kames, the benefit that Smith saw was that property promoted industry. This is ultimately why private property was seen to be so important to commercial society, because it was only with the security of keeping one's own profit that drove innovation and industry. As we saw above, commercial society prospered because the people were freed from their feudal obligations and pursued their own self-interest. It was also for this reason that Smith argued in *Wealth of nations* that justice was only necessary after the establishment of private property. In 'nations of hunters, as there is scarce any property', there was 'seldom any established magistrate or any regular administration of justice'.¹ Where there is 'no property' then 'civil government is not necessary'.² The growth of private property was also the growth of 'great inequality'.³ This was why Smith had earlier argued that government did not come about by consent. It came about because of necessity 'from the natural progress that men make in society'.⁴ Smith went further than his predecessors in considering the practical implications of the need for a system of administering justice. In earlier forms of government, when 'the sovereign or chief exercised his judicial authority in his own person', this was sufficient when private property was limited.⁵ The problem with maintaining this system in more advanced stages of society was that 'there could seldom be any body powerful enough to call him to account'.⁶ This was a recipe for tyranny and needed to be averted. Smith followed the thought of Montesquieu and praised the English system for its separation of the judiciary and the executive. For, when 'the judicial is united to the executive power, it is scarce

¹ Smith, *WN*, V.i.b.2.

² *Ibid.*

³ *Ibid.*

⁴ Smith, *LJ(A)*, IV.19.

⁵ Smith, *WN*, V.i.b.15.

⁶ *Ibid.*

possible that justice should not frequently be sacrificed to what is vulgarly called politics.¹ Furthermore, in order to ensure that each member of society was secure in his individual liberty, 'it is not only necessary that the judicial should be separated from the executive power, but that it should be rendered as much as possible to be independent of that power'.² This meant that it needed to be funded in its own right, away from the caprice of the sovereign to withdraw that funding. This could be done by the implementation of court fees or a stamp duty on court documents. Where this was insufficient to meet the costs of administering justice, as well as in circumstances where those responsible did not have the means to rectify the injustice, then the cost should be met by the whole of society. Not only was justice there to protect property, the need for it to be independent meant that it had to be paid for collectively by the people, i.e. through taxation.

(iii)

Liberty in commercial societies

Earlier in this chapter, the influence of Montesquieu on the Scottish thought of the second half of the eighteenth-century was highlighted. As well as the method of historical and comparative analysis of the institutions of governance, of particular importance was the relation of liberty to commerce and the decline of feudalism in Europe. The liberty that Montesquieu stressed as being of most relevance to modern politics was 'political liberty'. This was not liberty in the sense of freedom to do as one chose, nor in the republican sense of self-governance and participation in the laws.³ 'Political liberty' was the security of individuals under the protection of the law. Where

¹ Smith, *WN*, V.i.b.22.

² *Ibid.*, V.i.b.22.

³ Montesquieu, *L'Esprit*, XI, 2 & 3; XII, 2.

Montesquieu was precise with his terminology, earlier, in his essay that would become 'Of civil liberty', Hume had been less so.¹ Nevertheless, there was a shared sentiment in the type of liberty that they were advocating. Hume argued that commerce had civilised the great monarchies of Europe by making them 'a government of Laws, not of Men': 'They are found susceptible of order, method, and constancy, to a surprizing degree. Property is there secure; industry encouraged; the arts flourish; and the prince lives secure among his subjects, like a father among his children'.² Even an absolute monarchy like France, Hume claimed, was capable of having some liberty.

The moderation that Hume ascribed to 'civilised monarchies' secured liberty because they protected property through a system of laws. At the end of his essay, Hume identified two potential threats to liberty, both relating to the nation's public finances. For 'free governments', such as Britain and the Dutch Republic, the degeneracy of liberty 'consists in the practice of contracting debt, and mortgaging the public revenues, by which taxes may, in time, become altogether intolerable, and all the property of the state be brought into the hands of the public'.³ It is this aspect of Hume's discussion that has received the greatest attention, especially in relation to his critique of British public borrowing and the future security and stability of the state.⁴ The other threat from public finance was to absolute monarchies, such as France, which he described as 'the most perfect model of pure monarchy'.⁵ The 'greatest abuses' in such states, Hume argued, 'proceed not from the number and weight of the taxes', but from the expensive, unequal, arbitrary,

¹ For a discussion of the complication nature of Hume's use of the terms 'civil', 'political', and 'personal' liberty see Forbes, *Hume's philosophical politics*, 142-3.

² Hume, 'Of civil liberty', *Essays*, 94.

³ *Ibid.*, 95.

⁴ Hont, *Jealousy of trade*, 325-53.

⁵ Hume, 'Of civil liberty', *Essays*, 95.

and intricate method of levying them'.¹ In a later essay, one of the last to be admitted to his published works, 'Of the origin of government', Hume further associated the power of taxation with the liberty in a society.² It was in this essay where Hume made his famous statement that in 'all governments, there is a perpetual intestine struggle, open, or secret, between AUTHORITY and LIBERTY; and neither of them can ever prevail in the contest'.³ He added that a 'great sacrifice of liberty must necessarily be made in every government', but that 'authority, which confines liberty, can never ... become quite entire and uncontrollable'.⁴ Again, the examples he uses to illustrate his point are of the nature of taxation: 'The sultan is master of the life and fortune of any individual; but will not be permitted to impose new taxes on his subjects: a French monarch can impose taxes at pleasure; but would find it dangerous to attempt the lives and fortunes of individuals'.⁵

The relation between liberty and taxation was a matter of great concern to Montesquieu. In his *l'Esprit*, immediately after the two books (XI & XII) on the laws as they relate to political liberty, within which he highlighted England as being the only 'nation in the world whose constitution has political liberty for its direct purpose', Montesquieu followed with a book on the laws of taxation and their impact on political liberty (XIII).⁶ He had already broached this subject in his discussion of the English constitution. The key factor that led Montesquieu to his assertion of liberty in England was the separation of the legislative, executive, and judicial powers. There was a balance and moderation within the structure of governance that did not allow

¹ Hume, 'Of civil liberty', *Essays*, 95.

² On this essay see Forbes, *Hume's philosophical politics*, 75-7 & 153f.; and Harris, *Hume*, 430-2.

³ Hume, 'Of the origin of government', *Essays*, 40.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ On the constitution of England: Montesquieu, *l'Esprit*, XI, 6.

any one branch excessive authority. Like Hume, the examples that he employed to demonstrate the threats to this balance related to the matter of taxation. If the crown, as the executive power, levied taxes without parliament's consent, as the legislature, 'there will no longer be liberty'. This was because, 'the executive power will become the legislator on the most important part of legislation'.¹ Furthermore, if parliament was capable of infringing upon liberty by levying permanent taxes rather than annual and time-limited taxes. As will be discussed in the following chapter, this argument was used in the 1730s against Walpole's famed Excise scheme.

In Book XIII, Montesquieu analysed various aspects of the capacity of state's to raise revenue, the management of the collection of those taxes, and their relationship with the political liberty of the people. Montesquieu defined taxes as the 'portion each citizen gives of his property in order to have the security' of the rest.² In Chapter 12 of this book, Montesquieu asserted that it was a 'general rule that taxes may be heavier in proportion to the liberty of the subject, and that it is a necessity to moderate them insofar as servitude increases'.³ The scale he used to exemplify this ranged from England and Holland, where liberty and taxes were great, down to Turkey where both were low. He added that the compensation for heavy taxes in moderate governments is liberty, whereas in despotic states moderate taxes make up for a lack of liberty. Monarchies that maintain respect for the law and the property of their subjects are equally capable of levying higher taxes. As Hume had also identified, Montesquieu warned that taxation posed a threat

¹ Hume, 'Of the origin of government', *Essays*, 40.

² Montesquieu, *l'Esprit*, XIII, 1.

³ *Ibid.*, XIII, 12.

to liberty as well: 'Liberty has produced excessive taxes, but the effect of excessive taxes is servitude, and servitude produces a decrease in taxes'.¹

The boldest assertion of the relationship between taxation and liberty came from Smith. In his discussion of taxation in Book V, Smith declared that every tax 'is to the person who pays it a badge, not of slavery, but of liberty'. This was because it 'denotes that he is subject to government, indeed, but that, as he has some property, he cannot himself be the property of a master'.² Here Smith was alluding to two of the central aspects of this chapter. First is that the liberty that is enjoyed under the protection of government, referred to as 'political liberty' by Montesquieu, is dependent on the payment of taxes. The second is that taxation presupposes a society in which the right to private property is protected. As was discussed in the previous section, taxation played a crucial role in the development of the institutions of justice that were designed to protect the property of individuals within society. This was something that Smith had earlier identified in his lectures on jurisprudence. In his discussion of the progress of society, he stated that 'We may observe that the government in a civilized country is much more expensive than in a barbarous one; and when we say that one government is more expensive than another, it is the same as if we said that one country is farther advanced in improvement than another'.³ This was because that when 'government is a little farther advanced, magazines must be provided, ships built, palaces and other public buildings erected and kept up, and consequently a public revenue levied'.⁴ In the earlier stages of society 'all public offices were performed by the magistrate without any reward'.⁵ But

¹ Montesquieu, *l'Esprit*, XIII, 15.

² Smith, *WN*, V.ii.g.11.

³ Smith, *LJ(B)*, 309.

⁴ *Ibid.*, 308.

⁵ *Ibid.*, 307.

this was no longer appropriate in larger and more advanced states where it was ‘necessary that the magistrate who bestows his time and labour in the business of the state should be compensated for it’. The financing of this, Smith stated, ‘must come from the people by taxes’; ‘Hence the origine of Revenue’.¹

The account of the development of society and its governance was explored in more detail in Smith’s *Wealth of nations*, especially Book V. As has already been stated, the contents of this part of Smith’s work have been well-mined for discussions of Smith’s history of government and the administration of justice, as well as his science of a legislator.² What is often lost, however, is that Smith explicitly framed this discussion as a matter of the revenue of the sovereign. The history of the development of the institutions of governance, in particular justice and defence, was the history of the different ways in which they were financed. Indeed, Smith had already declared revenue to be one of the ‘four great objects of law’, along with justice, police, and arms.³ It was in this account that the importance of taxation to commercial societies to secure liberty and protect property was asserted. The significance of the development of commerce and liberty in Smith’s work has been well-established. In his revisionist account of Smith’s politics, Winch stated that the ‘*Wealth of Nations* can be accurately, if not very fully, described as an extended treatise on the reciprocal relationship between commerce and liberty’.⁴ Winch, writing in the 1970s, was revising the interpretations of Smith as an economic liberal, one which did not fully

¹ Smith, *LJ(B)*, 5.

² I. Hont, ‘Adam Smith’s history of law and government as political theory’, in R. Bourke and R. Geuss, eds., *Political judgement: essays for John Dunn* (Cambridge, 2009), 131-171.

³ Smith, *LJ(A)*, i.1; *LJ(B)*, 5

⁴ Winch, *Smith’s politics*, 70.

appreciate the extent to which he was examining the ‘effect of the emergence of commercial society in producing a regime of liberty and justice’.¹ The aim of this chapter has been to explain how taxation was deemed to be integral to this.

Despite Smith’s claims to the contrary, he and Hume had not been alone in highlighting the importance of this subject. Steuart’s association of commerce and liberty was made clear from outset of his *Inquiry*. Like Hume, Steuart believed that there had been a ‘great alteration in the affairs of Europe within these three centuries’. According to Steuart, ‘the discovery of America and the Indies, the springing up of industry and learning, the introduction of trade and the luxurious arts, the establishment of public credit, and a general system of taxation, have entirely altered the plan of government every where’.² This change in governance was from ‘feudal and military’ to ‘free and commercial’. The differences between these were stark:

I oppose freedom in government to the feudal system, to mark only that there is not found now that chain of subordination among the subjects, which made the essential part of the feudal form. The head there had little power, and the lower classes of the people little liberty. Now every industrious man, who lives with oeconomy, is free and independent under most forms of government. Formerly, the power of the barons swallowed up the independency of all inferiors classes. I oppose commercial to military; because the military governments now are made to subsist from the consequences and effects of commerce only: that is, from the revenue of the state, proceeding from taxes. Formerly, every thing was brought about by numbers; now, numbers of men cannot be kept together without money.³

Steuart would go on to define the liberty he was referring to here in much the same terms as Montesquieu’s ‘political liberty’, the people ‘being governed by

¹ Winch, *Smith’s politics*, 70.

² Steuart, *Principles*, i, 24.

³ *Ibid.*

general laws, well known, not depending upon the ambulatory will of any man, or any set of men, and established so as not to be changed, but in a regular and uniform way'.¹ In other words, a system of justice that was administered separately from a sovereign or ruler. Steuart believed that there would always be subordination in society, but under 'modern liberty' this was 'subordination of the laws': 'A people who depend upon nothing but their own industry for their subsistence, ought to be under no farther subordination than what is necessary for their protection'.²

There are a number of important claims pertinent to this chapter that Steuart was making in his opening gambit. The decline of feudalism and establishment of liberty under the rule of law was a consequence of the expansion and progress of commerce in the nations of Europe. Further, a distinctive feature of the political organisation of these commercial nations was that they were financed through a 'general system of taxation'. Taxes replaced the personal obligations owed to a lord or sovereign to fight for them. As shall be discussed in greater detail below, as well as being a mechanism to protect the individual right to private property, taxation provided the means of relief from the military bonds of feudalism. These were two key aspects of how taxation secured liberty in commercial society, and why Steuart asserted that they had 'entirely altered the plan of government every where'.

Steuart's analysis was based on this having been a European-wide phenomenon. This continental change was analysed by Robertson in his opening to the *History of Charles V* (1769). This lengthy prologue to his historical narrative was titled 'A view of the progress of society in Europe,

¹ Steuart, *Principles*, i, 206.

² *Ibid.*, 210.

from the subversion of the Roman Empire, to the beginning of the sixteenth century'. This was divided into three sections, covering domestic government, laws, and manners; the development of national armies; and, an account of the state of each polity of Europe at the accession of Charles V. This final section excluded an analysis of England, Scotland, and Ireland because 'the capital facts with regard to the progress of government and manners in their own country are known to most of my readers'.¹ Robertson chose to study the reign of the Holy Roman Emperor Charles V because it 'was during his administration that the powers of Europe were formed into one great political system, in which each took a station, wherein it has since remained'.² That is, this was the point of origin of the modern system of states in Europe, states that were commercial, civilised, governed by laws, and where property was protected. The 'View' that prefaced his narrative sought to explain how this came about. This was a story of the establishment of feudalism in a post-Roman Europe and its subsequent decline in the face of the progress of commerce. The key features identified by Robertson, which will be discussed in greater detail in the following, accorded with much of what was also written by his Scottish contemporaries, being the rise of towns and cities outside of traditional structures of authority; the refinement of arts and industry and the related expansion of commerce; the establishment of civil government, including imposing jurisdictionally defined territories within which the law was enforced; and, the use of national standing armies to defend said territories.

At the end of Volume II of Hume's six-volume *History of England*, which was the last to be written, Hume reflected on the work that he had produced

¹ Robertson, *Works*, i, 478.

² *Ibid.*, pp. x-xi.

on English history from the invasion of Julius Caesar to the Glorious Revolution. Hume particularly wanted to account for how England had ‘established the most perfect and most accurate system of liberty that was ever found compatible with government’.¹ Before political and civil liberty could be established, personal freedom was required first.² This personal freedom came in Europe when commerce and refinement in arts and industry eroded the feudal chains. The ‘ancient barons’ who oversaw a system villeinage, Hume argued, ‘employed not their villains as domestic servants, much less as manufacturers’. The baron’s villains ‘were entirely occupied in the cultivation of their master’s land, and paid their rents either in corn and cattle and other produce of the farm’, or in other services for the baron and his family. As the productivity and industry of the villains improved, together with the increased circulation of money in the economy, it was realised that ‘the produce of a large estate could be much more conveniently disposed of by the peasants themselves’. Rather than payments in kind, rents were paid with money from the profits of the produce and, as this developed, it led to farms being ‘better cultivated where the farmer enjoyed a security in his possession’. This in turn contributed to ‘the practice of granting leases to the peasant’ which ‘entirely broke the bonds of servitude’.³

In the particular context of England, Hume claimed that during the Restoration something remarkable happened ‘which had never been experienced in any former period of’ the English government: ‘The king was in continual want of supply from the parliament; and he seemed willing to accommodate himself to that dependent situation’.⁴ Charles II had become

¹ D. Hume, *History of England from the invasion of Julius Caesar to the revolution of 1688* [1754-61] (6 vols., Indianapolis, 1983), ii, 525.

² Forbes, *Hume’s philosophical politics*, 142-3.

³ Hume, *History*, ii, 523.

⁴ *Ibid.*, vi, 233.

entirely dependent on parliament to support his dignity and his policies. Unlike his relations the early Stuarts, there was no way he could rule without parliament because he would always need to call parliament for funds. As Hume explained in his account of the reigns of James I and Charles I, the problem that they had was that they were foreign kings without the necessary connections to influence parliament.¹ Moreover, the people were not accustomed to being taxed regularly. Elizabeth had been wary of levying too many taxes and therefore relied on selling monopolies and crown land for funds.² This of course challenges that narrative that states that this had been perpetual through English history that monarchs were restrained by the people through ancient English liberties. And Hume clearly stated that this occurrence ‘seemed the only one, that could fully ensure, at once, [England’s] tranquillity and liberty’.³ Unlike his forebears, Charles II ‘strictly confined himself within the limits of law, and had courted, by every art of popularity, the affections of his subjects.’⁴ He resisted ‘reviving those claims of prerogative’ that his predecessors had ‘so strenuously insisted on’.⁵ Hume went on: ‘The crown having lost almost all its ancient demesnes, relied entirely on voluntary grants of the people’.⁶ The decline started with Henry VIII who had gutted the monasteries and therefore managed to rule by not imposing too many taxes on the people. The people got used to this state of affairs and Elizabeth, wary not to upset the people, used other means to raise money including selling off crown lands. Hume’s use of voluntary is

¹ Hume, *History*, v, 135-7.

² *Ibid.*, 159.

³ *Ibid.*, vi, 233.

⁴ *Ibid.*, 234.

⁵ *Ibid.*, 233-4.

⁶ *Ibid.*, 234.

interesting here, because he is using it to refer to the commons consenting to taxation as being voluntary grants of the people.

Hume in particular, in his *History of England* challenged what he referred to as the vulgar Whig tradition of believing that the Glorious Revolution was the re-establishment of Anglo-Saxon liberty in England. Hume did not disagree that the Glorious Revolution was an important development, but did disagree with any idea that the English had enjoyed liberty prior to this event. More broadly across the thought of the Scots, in this regard, is their assertion that English and Scottish society had been feudal before the modern age. This discounted the possibility of their being an ancient English constitution that had been present through the Norman Yoke before its re-establishment in 1688/9. This also placed the history of the British Isles into a wider European story of feudalism across the continent being slowly eroded by similar but nationally distinct social and economic processes. Robertson had stated that, although ‘the barbarous nations which framed it, settled in their new territories at times, came from different countries, spoke various languages, and were under the command of separate leaders, the feudal policy and laws were established, with little variation, in every Kingdom of Europe’.¹ Robertson went on account for the differing developments of these Kingdoms to the establishment of civil government, except for that of England. This was the central concern of Hume and Millar, but they disagreed about the point in time in which absolute monarchy had subsided. Hume claimed that at the height of the Tudors reign, the English monarchy had been no different to the absolutism of France or the Ottoman Turks.² Millar countered this by arguing that during this period,

¹ Robertson, *Works*, iv, 15.

² Hume, *History*, iv, 358-60.

there were still limits to crown prerogative, most importantly the right of parliament to consent to taxes. Moreover, this had been a longstanding liberty and one that had been uniquely enjoyed by the English in the general course of European history.¹

This positioned Millar in line with that vulgar Whig tradition that had adopted the language of the ancient constitution from the seventeenth-century common lawyers, although his acknowledgement of the existence of feudalism in this period lessened his vulgarity. One of Hume's principal targets was the early eighteenth-century French historian Paul Rapin who encapsulated this vision of English history when he remarked that:

There are but two things, the *Saxons* did not think proper to trust their Kings with ... namely, The Power of changing the Laws enacted by consent of King and People; and the Power of raising Taxes at their pleasure. From these two Articles spring numberless branches concerning the Liberty and Property of the Subject, which the King cannot touch, without breaking the Constitution, and they are the distinguishing character of the English monarchy.²

This line of argument had emerged out of the parliamentary opposition to the early Stuarts and their exercise of crown prerogative. The main premise of the challenge to crown prerogative was that the English legal system was based on a common law and that law had existed since time immemorial. The consequence of this was that the English constitution was formed from ancient precedents and existed long before the Norman Conquest.³ Parliament as the guardian of the constitution was similarly ancient. The events of Runnymede in 1215 and Simon de Montfort's parliament in 1265 were moments of reassertion of these ancient rights against the overreach of

¹ Millar, *Historical view*, ii, 422-3.

² P. Rapin de Thoyras, *The history of England*, N. Tindal, trans., (10 vols., 1724-7), i, p. iv.

³ Pocock, *Ancient constitution*, 49.

crown authority. During the conflict between crown and parliament in the 1620s, parliamentarians positioned themselves in this same tradition of defending the rights of the people.¹

The growth of towns and cities across Europe was also identified as contributing to the development of arts and manufactures and the increase of trade as well as the establishment of liberty. Steuart argued that the early cities were occupied, and controlled, by bishops and lords and 'were very independent of the civil government'.² It was in only these places, according to Steuart, that 'the inferior classes of the people enjoyed liberty and ease'. Because of this, Steuart asserted, 'no wonder they increased'. He further added that the increase of luxury that flooded in from foreign trade encouraged the feudal lords to emulate the magnificence of their sovereigns and the wealthy occupants of the cities. This only increased trade further and as money flowed into the hands of the industrious the cities grew further as more people took up occupation in professions that could benefit from this increased consumption. Steuart also believed that the increased concentration of people additionally contributed to the development of trade and industry, as well as improving the use of agricultural land by providing larger markets for agricultural produce.³ This increased revenues and competition which spurred innovations in productivity and ultimately increased the rents due to the land-holders. Steuart argued that the 'true origin of the modern system of taxation' was when the princes of Europe adopted the fiscal practices of these 'little republics'.⁴

¹ Pocock, *Ancient constitution*, 44-5.

² Steuart, *Principles*, i, 60.

³ *Ibid.*, 65.

⁴ *Ibid.*, 289.

Smith and Millar similarly highlighted the role that the growth of towns and cities played in the development of commercial society. Smith believed that this had happened in three ways. First, that ‘by affording a great and ready market for the rude produce of the country, they gave encouragement to its cultivation and further improvement’.¹ Second, that ‘the wealth of the inhabitants of cities was frequently employed in purchasing such lands as were to be sold, of which a great part would frequently be uncultivated’.² This was the merchants and manufacturers utilising their profit from trade to develop land that had been underused by feudal lords. This was an example of the public benefit that could be achieved by someone pursuing their own self-interest. Third, ‘commerce and manufactures gradually introduced order and good government, and with them, the liberty and security of individuals, among the inhabitants of the country’.³ This spread of industry and liberty from the towns into the country was something that John Millar also stressed as a factor in the emergence of commercial society. In his *An historical view*, he asserted that the ‘freedom and independence’ enjoyed by merchants and manufacturers in the towns ‘was, in some measure, communicated to the peasantry; who, instead of remaining tenants at will, were secured for a limited time in the possession of their farms’.⁴

Taxation not only secured liberty by providing an independent system of administering justice. It also applied to that need to protect property from external threats through the maintenance of a defence force. In his 1752 essay ‘Of commerce’, Hume stated that ‘where manufactures and mechanic arts are not cultivated’, that is in societies where the majority are occupied

¹ Smith, *WN*, III.iv.1.

² *Ibid.*, III.iv.2.

³ *Ibid.*, III.iv.4.

⁴ Millar, *Historical view*, 382.

by agriculture, in times of 'public exigencies' there is a requirement 'that great numbers should be employed in the public service'.¹ If a sovereign wanted to raise an army or if the state was under attack, the contributions of the population towards this would predominantly be their body. But, when 'a nation abounds in manufactures and mechanic arts' this is no longer the case: 'when the sovereign raises an army, what is the consequence? He imposes a tax'. Hume added that 'this is the case in all civilised governments'.² As quoted above, this was the same point that Steuart made about the distinction between feudal and commercial societies. The former were capable of relying on feudal obligations to raise forces, where the latter could not hold together an army 'without money', that is, 'from the revenue of the state, proceeding from taxes'. In the *Wealth of nations*, Smith went further and highlighted the adoption of firearms as a significant development in this increased expense. 'A musquet is a more expensive machine than a javelin or a bow and arrows; a cannon or a mortar, than a ballista or a catapulta'.³ Using such instruments required training and it soon became apparent that an orderly and disciplined army of professional soldiers, as was to be expected from the specialisation of the division of labour, were 'superior to every militia'.⁴ The need for a standing army, Smith argued, was exacerbated by the trade and industry that was developed to help pay for it. Farmers and husbandmen who worked the fields were physically more capable of taking up arms to defend the realm. 'The hardiness of their ordinary life prepares them for the fatigues of war, to some of which their necessary occupations bear a great analogy'.⁵ The same could not be said of

¹ Hume, 'Of commerce', *Essays*, 260-1.

² *Ibid.*, 261-2.

³ Smith, *WN*, V.i.a.43.

⁴ *Ibid.*, V.i.a.39.

⁵ *Ibid.*, V.i.a.6.

merchants and manufacturers. Therefore in order to ensure a capable defence force, 'it is only by means of a well-regulated standing army that a civilised country can be defended'.¹

This was a similar sentiment that had been expressed by political arithmetician and former commissioner of the Excise Charles Davenant during the Nine Years War:

Whenever this war ceases, it will not be for the want of mutual hatred in the opposite parties, nor for want of men to fight the quarrel, but that side must first give out where money is first failing. ... For war is quite changed from what it was in the time of our forefathers; when in a hasty expedition, and a pitched field, the matter was decided by courage; but now the whole art of war is in a manner reduced to money; and now-a-days, that prince, who can best find money to feed, cloath, and pay his army, not he that has the most valiant troops, is surest of success and conquest.²

This was a tense subject for the Scots. Smith's position was seen by his fellow members of the pro-militia Poker club to be apostasy.³ This club was borne from the same group who formed the 'Select Society', with the focus being on arguing for the establishment of a Scottish militia. This issue became more pressing following the 1745 Jacobite Uprising and the ease with which the Highlanders were able to sweep across the civilised Lowlanders.⁴ The rebellion was only quelled when the English standing army arrived and brushed them aside. The Lowlanders, who had adapted quicker to the lifestyle of commercial civil society were wholly incapable of repelling the Highlanders with their martial spirit. There were fears of an invasion in 1759, after Thurot's landing, and the need for a militia in order for the Lowlanders

¹ Smith, *WN*, V.i.a.40.

² Davenant, *PCW*, i, 15-6.

³ For a discussion of Smith's problematic relationship with the debates over standing armies versus militias and his membership and apostasy towards the Scottish pro-militia Poker Club, see Winch, *Smith's politics*, 103-14.

⁴ Winch, *Smith's Politics*, 104

to be able to defend themselves became more urgent.¹ The opposition to a standing army had classical origins. Ever since Julius Caesar crossed the Rubicon, standing armies were seen as enemies to liberty.

In English political thought, the Neo-Machiavellian language of a virtuous citizen army was revived by James Harrington. Harrington was firmly against standing armies as they had proved to be the tools of tyrants.² This was because standing armies implied that they would always be present in the state. This was dangerous to the liberty of the people as they were constantly under the watchful eye of the force of the sovereign, who could use the standing army against his populace at his whim.³ This was different from his idea of a “marching army”, which was an army of citizen soldiers who were in the field fighting the enemy. As soon as the war ended, however, it was necessary for the citizens in the marching army to return to their daily lives. In Scotland, one of the earliest prominent proponents of a militia was Andrew Fletcher of Saltoun. Fletcher, in his *Discourse of Government with Relation to Militias* (1698), presented a historical explanation for why the monarchies of Europe had adopted standing armies.⁴ They had come as a result of the rise of commercial societies wherein the nobility had rejected their chivalrous duty to protect their sovereign in favour of paying taxes to pay others to do so.⁵ Taxes were part of the problem: taxes paid for armies, taxes were collected by armies, and then all liberties were lost.⁶ This was the English model that he did not want Scotland to be a part of. Fletcher advocated the establishment of militias across the country that were divided

¹ Winch, *Smith's Politics*, 104

² Pocock, *Machiavellian Moment*, 411

³ *Ibid.*

⁴ A. Fletcher, ‘Discourse of Government with Relation to Militias’ [1698] in *Andrew Fletcher: Political Works*, edited by J. Robertson, (Cambridge, 1997)

⁵ J. Robertson, ‘Introduction’ in *Andrew Fletcher*, p. xx

⁶ *Ibid.*, 13-5

into camps.¹ This would bring with it securer defence than relying on a profligate standing army, and would instil some ancient civic virtue in the populace through military training.

The arguments against standing armies and for militias followed the civic humanist tradition of the need for virtuous citizen soldiers. Sparta was the prime example of what a citizen army should be. But things had changed in the modern world. Hume argued in 'Of Civil Liberty' that it was no longer viable to resort to ancient examples for how a state should organise itself. In particular, he targeted Machiavelli and 'his followers' for their desire to return to virtuous barbarism.² He further added, in 'Of Commerce', that the art of war had changed in the modern world. It was no longer sufficient for soldiers to be virtuous. Fire-arms and well-disciplined armies were a far greater force than militias made up of virtuous citizen soldiers. The cost of war that had come with modern states meant that a state could not be successful at war unless it adopted commerce. The unsuitability of citizens in commercial society meant that they had no option but to resort to professionals to perform the function of defending the state. It was foolish, according to Hume, to rely on the guidance of the ancients in the modern world. Civilised commercial society had brought new forms of justice and liberty, and the ancients were no longer suitable referents for its political organisation.

(iv)

Conclusion

This chapter opened with Hume's assertion of the effect that commerce becoming an 'affair of state' in modern Europe had on politics and society.

¹ J. Robertson, 'Introduction' in *Andrew Fletcher*, p. xxi

² Hume, 'Of civil liberty', *Essays*, 51-7.

Domestic politics and international relations were now dependent on the fate of trade. This had been part of a process of the commercialisation of society and the nature and development of this was subject to a great deal of contemporary analysis. This chapter has focussed on an aspect of this that has been underappreciated in the existing scholarship. The study of the politics of commercial society has largely considered the matter of taxation as a technical issue subservient to grander philosophical arguments. Feudalism was not only replaced by commerce as a means of socio-economically organising society. Feudal obligations were a means of supporting monarchical dignity and waging wars; without these there needed to be another means of financing state activity. This was achieved through a system of regularly taxing private individuals.

One of the key components of commercial society was the protection afforded to private property. The encouragement of profit required security of gains made. Property was protected from others in society through an independent system of administering justice and from external threats through the maintenance of a defence force. These required financing and the more advanced a society became the more expensive its institutions of governance were to run. But property was also protected from the appropriation of monarchs. Concurrent with the development of large governments came the establishment of a method of legitimately appropriating private property for public purposes. In theoretical works of the seventeenth-century consent to taxation was identified as means of overcoming the quandary of the right to private property that was enjoyed exclusive of crown privilege. In England this was associated with the development of parliament and in particular the power of the Commons over fiscal matters. As was stated in the introduction, taxation was not new to this

era, but what was new was the reliance on taxes for wholly financing the functions of the government. By the eighteenth century in Britain, popular consent through representatives was procedurally and legislatively enshrined in political life. But the extent of taxation, and the necessity of it for the functioning of commercial society, rendered this consent insufficient to legitimise taxation. Indeed, there was no option of not consenting to any taxation; the state had functions to perform and it needed the funds to carry them out. This was what Smith meant when he stated that the consent to taxation was ‘a very figurative metaphoricall consent’.¹

The crucial role that taxation played in commercial society, by being the means of providing for public expenditure in a society in which the private property of individuals was protected, it also played a role in the transition out of feudalism. Commercial society emerged because of the erosion of feudal bonds that tied lords, vassals, and serfs. Across Europe, the military revolution and associated increase in cost of waging war meant that cash was of greater use to sovereigns than personal service. The growth of standing armies and the proliferation of firearms and other ordnance required a steady stream of revenue to support. The cost of warfare ballooned when public debt became established as a means of providing short term funds, but this still needed taxes to service the debt. In return for taxes monarchs relaxed feudal obligations. This was similarly the case for estates of land as lords received greater returns from being paid rent rather than in kind.

Liberty, justice, and property were three interrelated subjects that were identified as being crucial to the success of modern commercial societies. The people of such societies enjoyed liberty and prosperity because the person and property were secured through the justice of regular and

¹ Smith, *Lectures*, 324.

known laws. Taxation was seen as playing an important part in this process. Not only was taxation the mechanism that states could use to provide these services, it also played a role in the process of the relinquishment of feudal obligations. Allowing individuals to make their own profits and then to harvest them through taxation was seen as a preferable method to raising armies. It was also a crucial part in establishing a system for administering justice away from the executive or sovereign authority. Moreover, the continued existence of commercial society was contingent on a steady stream of revenue from taxation. This was the utility of taxation. That taxation was useful to society also led to the assertion that it was a duty to pay it.

Chapter Two:

Proportionality and the equity of taxation

The introduction of the income tax in Britain in 1799 is often seen as an anomaly in the narrative of eighteenth-century taxation. The general argument is that Britain was able to out-tax, out-borrow, and, most importantly, out-spend its eighteenth-century imperial rivals, especially France, because of its reliance on the indirect taxation of consumption rather than the direct taxation of wealth.¹ The income tax was an emergency war-time measure, confirmed by its peace-time repeals in 1802 and 1816 (not reappearing until 1842), and was only tenable because of the fiscal and political crises of the 1790s. The unsatisfactory land tax was the sole surviving remnant of the failed seventeenth-century attempts to directly tax the wealth of the people. This failure is seen as being intimately related to the contemporary rise of the duties on articles of consumption, especially those administered by the Excise service. Britain's fiscal-military strength was based on the wide array of levies that tapped into the growing spending habits of its population. The preference for such duties was bolstered by the efficiency and effectiveness of the professional and centralised Excise service that collected them. This narrative similarly accords with that of Britain becoming a trading nation and a consumer society. The merchant navy brought goods and raw materials to Britain from across the globe that fed a growing manufacturing industry and a hungry public.² The British fiscal-

¹ For example, Mathias and O'Brien, 'Taxation in Britain and France'; Beckett, 'Land tax or excise'; O'Brien 'The political economy of British taxation'; P. Langford, *Public life and the propertied Englishman, 1689-1798* (Oxford, 1994), 339-66; Daunton, *Trusting leviathan*, 1-31; and, Daunton, 'The politics of taxation'.

² N. McKendrick, 'Commercialisation and the economy', in N. McKendrick, J. Brewer, and J. H. Plumb, eds., *The birth of a consumer society: the commercialization of eighteenth-century England* (Bloomington, 1982), 9-29; Langford, *Polite and*

military state thrived from the work of its professional army of tax collectors who turned consumers into taxpayers.

On the face of it this analysis is largely unproblematic. That said, it is an incomplete picture of ideas of, and attitudes to, taxation in this era. As ever in politics, expediency and necessity often took precedence, but these were rarely the only justifications used to pass a tax. Through the seventeenth and eighteenth centuries there was a development of a set of arguments and rhetorical devices that could be deployed in debates about taxes. With these came several assumptions about the equity and justice of taxation, especially relating to what should and could be taxed. One of these assumptions was that for taxation to be equitable it had to be proportional, usually expressed as being in proportion to the means or ability of the taxpayer, that is, in proportion to the estate or property protected by the government that the taxes were supporting. How this property was defined, measured, and assessed for tax purposes was less certain and subject to much interpretation. Dugald Stewart, in his discussion of this principle of taxation in his *Lectures on political economy*, stated that it 'is curious, however, that while all writers agree in stating the maxim [of taxing in proportion to ability] as a self-evident truth, hardly any two agree in giving the same interpretation to the word *ability*'.¹ This was further complicated by the changing socio-economic relations of eighteenth-century Britain as new forms of wealth, as well as wider ways of acquiring the means to gain rank and status, created further divisions within society beyond that between landed and non-landed (although this distinction would remain important).

commercial people, 59-71; and, J. de Vries, *The industrious revolution: consumer behaviour and the household economy, 1640 to the present* (Cambridge, 2008), 1-39.

¹ D. Stewart, *Lectures on political economy*, W. Hamilton, ed., (2 vols., Edinburgh, 1855-6), ii, 222.

Moreover, that equity in taxation meant proportionality clashed with the sacred English tenets of liberty and property. To accurately, or at least adequately, tax in proportion to means required some ability to know those means, attempts at which were challenged and decried at every step. There were similarly other assumptions about the shifting of the burden of taxation. The majority of excise duties were collected from the producer of domestic items, such as beer, leather, candles, and soap, or from the first buyer or inland distributor from imported goods, such as tea, coffee, and chocolate. Very few writers and thinkers believed that these payers actually bore the cost of those taxes. Again, however, the theories and ideas developing from this assumption were numerous and varied. Understanding, or at least attempting to understand, the process of the shifting of the incidence of taxation was necessary to support assertions about the equitable distribution of taxation. To claim that a tax or set of taxes was distributed fairly across the nation and society required arguments that explained how that happened.

This is the subject of this chapter. It seeks to uncover the language that was used to countenance or condemn certain taxes and how they were assessed and collected. It examines the nature of the theory of proportionality and the variety of ways that this was interpreted within changing socio-economic conditions. It further explores ideas that came into conflict with this theory and sets out the political and practical limits that were placed on the fiscal apparatus of the state. In doing so it places the introduction of the income tax in the broader context of eighteenth-century tax debates. This will be structured in the following way. First, there are two sections on the intellectual and policy inheritance of the eighteenth century from the seventeenth, setting out the origins of the major taxes of the era and the

arguments used to support them. Furthermore, they analyse the objections and obstacles the state faced in achieving its desired aim of equity through proportionality. From this will be gleaned the interpretive framework that structured eighteenth-century tax discussions. The following section will explore the development from this, and within the context of increasing prosperity and the proliferation of consumer goods, of the idea that articles of luxury were the ideal subjects of taxation. The final section will address the theory that income or revenue ought to be the principal target of taxation, especially in relation achieving equity through proportionality. This includes placing the reforms of the 1790s into the broader context of theories of taxation in eighteenth-century Britain, in particular, competing ideas of the incidence of taxation. From this a new picture of the development of eighteenth-century ideas of taxation will emerge, one that comprised a number of assumptions about the equity and justice of taxation and competing ideas about how and what to tax; convenience, expediency, and necessity were undoubtedly factors that had to be negotiated, but as such they delineate the extent of what was or was not possible, even under extraordinary circumstances.

(i)

The inheritance from the seventeenth century:

direct taxes on property

The fiscal infrastructure of the eighteenth-century British state remained relatively stable throughout the period, with its principal pillars having been in place by the Hanoverian succession in 1714. These were: the funding system that used debt to finance short-term spending; the direct taxation of property through the land and window taxes; the duties on items of general

consumption, such as the excises on beer, malt, leather, candles, and soap, and the separately administered salt duty; and, the systems of administering these taxes, those on land and windows through local officials, and customs, excises, and salt through centralised Boards of Commissioners. There were variations of and attempts to reform these through the century, but the pillars remained standing throughout. As shall be demonstrated in this section and the next, the inheritance of existing tax policy was formed through tense debate and negotiation about how to construct an equitable mode of taxation, that is, how to proportionally distribute the burden of taxation.

There were many complicating factors here. Politically, the restored monarchy was all too aware of the consequences of overriding parliament in financial matters. If for Charles II and James II these were metaphorical constraints, they became legislatively so after the Revolution Settlement. Moreover, the diminished private wealth of the returning Stuarts, further strangled by the introduction of the civil list, meant that parliamentary taxes were integral not only for public expenses but also for maintaining monarchical dignity. These fiscal restraints were exacerbated by the wars that followed the accession of William and Mary. The immediate problems of raising sufficient revenue to wage war on the continent against France, and to support the military campaigns in Scotland and Ireland to suppress rebellions against the deposal of James II, were partially overcome by the introduction of the funding system and the foundation of the Bank of England. The nature of this solution, however, only served to create different problems in finding the means to service the debt. At the end of the first of these wars, William III sought to maintain a standing army, in readiness for future continental conflicts and to defend against potential Jacobite

rebellions. As well as being seen as a tool usually associated with tyrants, it would also tie England to permanently increased taxation.

Another significant consequence of the 'financial revolution' was the creation of a class of professional creditors whose wealth was not constituted in the traditional base of civic virtue, land. Seventeenth-century English republicanism, drawing on the classical and Italian Renaissance traditions, had been hostile to the trading class of international merchants for not having a physical stake in the country's fortune. After the Glorious and Financial Revolutions, the language used to critique this turned its attention from merchants to those whose wealth constituted debt that had been lent to the public.¹ Like merchants' wealth, that of the 'monied interest' was intangible and dangerously mobile, but more threatening still was the considerable power it gave to its possessors to wield influence over legislators. A state that was permanently beholden to its creditors was similarly bound to their will. It was in opposition to this new form of political and economic power that the 'landed interest' self-identified as such in order to defend and protect their position and authority within society, and, by virtue of which, the stability and security of the country.² This state of affairs exacerbated other factional interests already present in England, Court and Country, Whig and Tory, to forge a variety of conflicting and overlapping political ideologies and positions. Some claim that these divisions produced clear ideological stances, especially in relation to economic ideas, that were easily definable and that could be identified with particular individuals and the faction they belonged to.³

¹ This is a discourse that has been central in much of the work of Pocock. Most significantly, see Pocock, *Machiavellian moment*, esp. Chs. 13 & 14; see also, *Politics, language and Time*, esp. Chs. 3 & 4; *Virtue, commerce, and history*, esp. Chs. 3 & 5.

² Langford, *Public life and propertied Englishmen*, 305.

³ S. Pincus, 'Neither Machiavellian moment nor possessive individualism: commercial society and the defenders of the English Commonwealth', *American Historical*

Notwithstanding this view, Pocock's earlier assertion that there were 'no pure dogmas or simple antitheses, and few assumptions were not shared and employed to differing purposes, by the writers on either side', remains an accurate account of the state of the debate.¹ Coeval with this civic humanist discourse was a related form of intellectual inquiry that sought to understand the nature of modern politics through mathematical and statistical means, political arithmetic.²

The idea at the heart of this chapter is the association of the equity of taxation with proportionality. Some manifestations of this explicitly linked it to the benefit theory of taxation that was discussed in Chapter One. A prime example of this was that of Smith in the form of his first maxim of taxation, often referred to as his maxim of equity: 'The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities ... that is, in proportion to the revenue which they respectively enjoy under the protection of the state'.³ The benefit received was the protection of property and the expense of that protection ought to be proportioned to the property so protected. Smith expressed this in the form of 'revenue', but others used the terms 'property', 'estate', 'ability', or 'means'. Seligman described a tax as being proportional when 'the mathematical relation between the amount of the tax and that of the thing remains the same'.⁴ Seligman made a distinction between this and progressive taxation, which took the principle further by demanding that as the extent of individuals' property increases, so should the rate of taxation.

Review, 103 (1998), 705-736; and, *1688: the first modern revolution* (New Haven, 2009), esp. Ch. 12.

¹ Pocock, *Machiavellian moment*, 446.

² The context and origins of this were discussed in the introduction. See pp. 45-6 above.

³ Smith, *WN*, V.ii.b.3.

⁴ Seligman, *Progressive taxation*, 3.

The term 'progressive' to refer to taxes does not become prominent until the latter part of the eighteenth century, but, as shall be seen, the use of higher rates for greater amounts of property were used and were referred to as being proportional. Similarly, 'regressive' is not used to describe taxes, but the idea that a tax unfairly affected the budgets of the poor was regularly invoked. This is the subject of the following chapter. These were part of a general assumption that those with more should pay more, and that the poorest in society should be relieved, as much as possible, from the burden of taxation.

As a basic principle of taxation proportionality is uncontroversial, perhaps even banal. Examples have been identified in classical antiquity and even the tithe, being a tenth of the produce of land, provides scriptural support for it.¹ In England there had been numerous direct taxes stretching back to at least the fourteenth century, such as the fifteenth and tenth and the Tudor subsidy, that were intended to tax in accordance with the means of the taxpayer.² The former of these exacted a fifteenth from 'movables' of persons living in rural areas and a tenth from those living in towns.³ This was replaced by the Tudor subsidy, which charged two different pound rates on personalty and land, which were uniformly applied across the country. Personalty was charged at a higher rate than land because of the difficulty in assessing and collecting it.⁴ During the English Revolution, and then the War of the Three Kingdoms, this type of tax was adapted into the monthly assessment. As with its predecessors, the monthly assessment sought to tax all forms of wealth and property, not just land, but through a different method. A total desired yield was calculated on the basis of the presumed

¹ Seligman, *Progressive taxation*, 11-13.

² Kennedy, *English taxation*, 15-9.

³ Dowell, *History of taxation and taxes*, i, 85-90; and, R. Schofield, *Taxation under the early Tudors 1485-1547* (Oxford, 2004), 27-70.

⁴ C. D. Chandaman, *The English public revenue, 1660-1688* (Oxford, 1975), 140.

wealth of the country and this was divided into administrative districts, roughly along county lines. Local officials were appointed to assess and collect the tax and it was mostly left to them to fulfil their quota as they saw fit.¹ There were numerous iterations of this through the Commonwealth and Restoration until the 1690s when it established the settled form that would become known as the annual land tax.

In the mid-nineteenth century a parliamentary investigation into the extent and development of British tax policy described the land tax as having ‘superseded all the former methods of rating property or persons in respect of their property’.² It had become the only means through which individuals were directly taxed in proportion to their wealth. In judging the land tax, the report concluded that: ‘the assessment on personal estates appears to have been unaccountably small, considering it was evidently the intention of the Act to levy the tax on *personal property of all descriptions* but no record remains of the mode in which this contribution in personal property was originally laid’.³ Indeed, the property that was subject to this ‘aid and contribution’, as it was legislatively known, was as wide as its subsidy and assessment predecessors, being levied on ‘any Estate in ready Monies, or in any debts ... [or] any Estate in Goods, Wares, Merchandizes, or other Chattels or personal Estate whatsoever’ in addition to revenue from land.⁴ The annual value of personalty was charged at six percent of its capital value, being the maximum legal rate of interest. This tax suffered the same fate as the monthly assessment, being popularly referred to as a land tax, because of the widespread opinion that it was only revenue from land that it assessed.

¹ Braddick, *Parliamentary taxation*, 290.

² *British parliamentary papers*, 1868-9, xxxv, 901.

³ *Ibid.*

⁴ 4 Gul & Mar, c. 1.

The perceived inequality of taxing land, and not revenue from other sources, further entrenched the hostile division between the landed and monied interests. During the Nine Years War and War of Spanish Succession, the landed classes believed that they had carried the greatest weight of the cost. Although the burden of customs and excises was considered by most to be transferred to the consumer or to general consumption, that they were placed on items of domestic production and international trade led to assertions that those parts of economic activity were subject to taxation. The area that was deemed to be wholly exempt was usury, thereby making money lenders the ‘true drones of a commonwealth’.¹ In proposing a tax on interest of money, Thomas Culpeper asserted that it was ‘monstrous unequal’ for land to ‘constantly bear the Burthens of the whole’.² Others sought to unify the profits from usury with land into one ‘just and equal Tax, obliging all Ranks and Degrees of men to pay to support of the Government in proportion to their share in the Publick and the benefits they reap from it’.³ Another author, alluding to the method of the monthly assessments and the land tax, argued for a ‘mixed and comprehensive Quota, or tax upon all Abilities’, including that made from money lending.⁴ Daniel Defoe similarly called for a tax on profits from stock to be joined with the land tax. Writing in the late 1690s, Defoe complained that land had borne the cost and trade had suffered from disruption, whereas the ‘Man of Credit’ and ‘Stockjobber’ profited enormously and contributed nothing.⁵ As has been quoted, the act known as the land tax was already levying a duty on these sources of revenue, but local collectors did not have the capability of assessing personal wealth for the purposes of

¹ Davenant, *PCW*, i, 57.

² T. Culpeper, *The necessity of abating usury re-asserted* (1670), 52.

³ [J. Drake], *An essay concerning the necessity of equal taxes* (1702), 5.

⁴ H. J., *A letter from a gentleman in the country to his friend in the city* (1691), 15.

⁵ [D. Defoe], *An essay upon projects* (1697), 4-13.

taxation. The main obstacle was knowing who had what and how much. Land and buildings were difficult to hide, paper that detailed intangible property less so. Requiring people to open their private affairs to the state was a step towards tyranny and a threat to the liberty and property that had been secured by the Revolution. As we shall see, this was an inexorable impediment for policy makers through the eighteenth-century.

The land tax was further accused of being unequal in its geographic distribution. Like the monthly assessment, quotas of the amount due were devised for each administrative district. The Treasury was not concerned with how local commissioners achieved this until an area did not meet its quota. For every shilling in the pound levied, the total sum raised amounted to roughly £500,000, with the maximum rate (that was ever used) of four shillings bringing in £2 million. On the Union, the Scottish total for four shillings was the rather paltry £48,000, possibly to buy the support of Scottish landowners for the union.¹ The geographic inequality of this distribution was identified early on by Davenant. In his *Essay upon ways and means* (1695), Davenant criticised the recently passed land tax for its inequality. In particular, he believed that the northern and western counties had been underrated and therefore had ‘not born their due share and proportion of the common burthen’.² Davenant saw the roots of this in the aftermath of the English Revolution. Parliament, believing that some parts of the country had suffered more during the conflict than others, sought to redress this through the distribution of the burden. London and the surrounding areas were therefore rated higher for the 1647 monthly

¹ Article IX of the Treaty of Union. On the differences in the administration of the Scottish land tax, see Ward, ‘The land tax in Scotland’, 288-308.

² Davenant, *PCW*, i, 38.

assessment than the counties in the north and west.¹ The problem for policy makers in the 1690s was how to convince the landholders of those areas, and their intransigent representatives in parliament, to accept a reformulation that would remedy the inequality.² It was for this reason that Davenant believed that, as desirable as it was, an equal land tax would be very difficult to achieve.

The debates over the land tax have been characterised as the result of machinations of faction between Whig and Tory.³ Claims of political manoeuvring, however, belie the relationship of the 1692 act with earlier attempts to directly tax wealth, that the tax was not originally focussed only on land, and the extent to which policy makers were concerned with formulating a tax that was based on an equitable and just measure of people's wealth. Loft has demonstrated how the geographic inequality of the monthly assessments had been acknowledged when this method of taxation was revived in the 1690s to fund the war with France. There were numerous attempts between 1692 and 1698 to reformulate the quotas using a variety of political arithmetical calculations of the supposed wealth of the nation and how this was distributed between the administrative districts.⁴ The ending of the war and subsequent lowering of rates appeased immediate complaints about the inequality, but they were never completely removed. The final version from 1698 became the model on which the annual land tax was based until Pitt's reforms a century later.

These problems, of balancing the desire to tax equitably with the right to liberty and property, and achieving an equitable distribution between

¹ Davenant, *PCW*, i, 34.

² Beckett, 'Land tax or excise', 291-4; Ward, *English land tax*, 21.

³ Pincus, *1688*, 366-99.

⁴ P. Loft, 'Political arithmetic and the English land tax in the reign of William III', *HJ*, 56 (2013), 321-343.

sections of society and areas of the country, can also be seen in the formulation of the window tax. This duty, introduced in 1696, which survived throughout the eighteenth century, was intended to charge the owners or occupants of buildings in accordance with their value, the number of windows being presumed to be representative of it. The rate charged was progressive, with houses with less than ten windows charged two shillings, an additional four shillings for between ten and twenty windows, and those with more than twenty being charged a further eight shillings.¹ Although introduced to assist with the funding of the recoinage of clipped money, as a principle it was replacing the recently repealed hearth tax. The hearth tax had been introduced in 1662 as a form of property tax, which judged the property's value through the number of hearths. Petty claimed that this was an excise on houses; that is, it was indicative of people's expenditure on their property.² As a measure of its value, and therefore of its owners or occupiers, it was deemed to be reasonably equitable. However, it was deeply unpopular because it required the assessors to enter the property to count the hearths. The preamble of the act that repealed the tax stated that it was 'a badge of slavery upon the whole people: exposing every man's house to be entered into, and searched at pleasure, by persons unknown to him'.³ Although declared to be a 'badge of slavery', not all subjects of the British crown were relieved from it. It remained in place in Scotland until 1695 and well into the nineteenth-century in Ireland.

The benefit of the window tax was that it represented the same target of taxation as the hearth tax, the value of a building, but that the windows could be counted from the outside. That said, only until Pelham recast the

¹ 7 & 8 Gul. 3, c.18.

² Petty, *Economic writings*, i, 94.

³ 1 Gul & Mar c.10.

tax in 1747, giving powers to assessors to enter properties to be able to count windows fronting inner courtyards and to check the permanence of windows that had been blocked up to avoid the tax.¹ Taxing windows, however, was not an ideal replacement. Immediately, shopkeepers complained that it was a further means by which hawkers and pedlars could undercut their business. In response, the following year, those selling their wares on the street were required to buy a licence, the cost of which acting as a tax on the trade.² The window tax may have been devised to remove the intrusion of the hearth tax, but it came to be argued that it was a worse measure of the value of buildings than hearths. Smith described the window tax as ‘an inequality of the worst kind, as they must frequently fall much heavier upon the poor than upon the rich’.³ This was because a house in the country could quite easily have more windows than a property of greater value in London, thereby failing to assess the payer in accordance with their means.

As the eighteenth century inherited the land and window taxes, it inherited the complaints and problems surrounding them. The tension between the protection of the rights of individuals and the need of the state to assess property to tax it equitably formed the basis for many conflicts over taxes. That land bore the greatest part of the burden of the only direct tax on wealth made it that much more difficult to redress the internal inequalities of the levy. Viscount Bolingbroke continued the complaints about the disproportionate distribution of the public burden between the landed and monied interests. In his unfinished, and posthumously published, *Some reflections on the present state of the nation* (1753), Bolingbroke decried the

¹ 20 Geo. III. c. 3. See also, Ward, ‘The administration of the window and assessed taxes’, 529-30.

² 8 & 9 Gul. III. c. 25.

³ Smith, *WN*, V.ii.e.19. This point is also made in an earlier anonymous pamphlet, *An essay on the inequality of our present taxes, particularly the land-tax* (1746), 24.

heavy weight of land and malt taxes on landowners whilst money lenders profited from the nation being at war.¹ He asserted that 'landed men are the true owners of our political vessel: the moneyed men, as such, are no more than passengers in it'. It was incumbent on the landed to 'set the example' of their public spirit in paying their taxes, 'and when they do so, they have a right to expect, that the passengers should contribute their proportion to save the vessel'.²

Criticism of the geographic inequality of the land tax also continued in the eighteenth-century. The author of the 1748 pamphlet *English liberty worse than French slavery* added further accusations about the corruption of the locally appointed officials who were left to distribute the burden of the tax as they saw fit.³ As these officials were landholders themselves, they were their own judge and jury of how much tax they ought to pay. The disparity of local practices can be fully seen from Pitt's investigations into reforming the land tax in the 1790s. He wrote to the collectors of each district to ask whether any variation in the value of property in their area had affected how they had levied the tax.⁴ The majority of responses declared that there had been minimal, if any, changes to rates levied. One collector from Norwich informed that the rates were collected in the manner in which they always had been, but had no idea how that calculation had been arrived at.⁵ Moreover, he could not say whether the amount charged had any bearing on the rental value of the land. The Clerk to the collectors in Cumberland advised

¹ This was written around 1749. Lord Viscount Bolingbroke, *The works of the late right honourable Henry St. John, Lord Viscount Bolingbroke* (8 vols., 1809), iv, 379-82.

² *Ibid.*, 388.

³ Philalethes, *English liberty in some cases worse than French slavery* (1748), 5-11.

⁴ The responses are all contained in 'Papers relating to the sale of the land tax', TNA, PRO30/8/278, fos. 1-127.

⁵ *Ibid.*, fos. 31-2.

Pitt that they were still using an ancient mode of collecting taxes called the 'Purvey'.¹ When the rate is four shillings in the pound, 37.5 purveys are raised within each 'constablewick', which was not varied by any change in rental value. The variety of methods in assessing and collecting this tax was allowed to continue because each area maintained its contributions to the quota. Although this protected the localities from the interference of the state, it also led to disparities in the amount individuals paid in different regions. One example of this came from the brewer Samuel Whitbread, who complained to parliament in 1777 that for two of his estates in Lincolnshire and Leicestershire, being neighbouring counties, he paid completely different sums. Despite the estates being of similar value, that in the former paid £16 and in the latter £50.²

The certainty of the land tax was often identified as one of its positive features. Smith's second maxim of taxation, referred to as the maxim of certainty, stated that the 'tax which each individual is bound to pay, ought to be certain and not arbitrary'.³ Although Smith chose equity to be his first maxim, he added to this second that the certainty of taxation was 'a matter of so great importance, that a very considerable degree of inequality, it appears, I believe, from the experience of all nations, is not near so great an evil as a very small degree of uncertainty'. The inequality of the land tax was well known, but it was also known to the payer how much was due, when it was due, and how it was collected. Many preferred minimal intrusion into their affairs over absolute equality. A benefit of this to the state was that it was relatively cheap to collect, a factor that Kames highlighted when

¹ PRO30/8/278, fos. 25-8.

² Cited in Langford, *Propertied Englishman*, 341.

³ Smith, *WN*, V.ii.b.4.

expressing a preference for them.¹ An option available to rectifying the inequality was a variable land tax such as was found in Venice.² The Venetian model was administered through a registry of leases, with registration being mandatory, and the tax charged on the declared rent or value. Smith considered this example, but an obvious complaint against it was the exposure of private information to the state so loathed by the English.³ For some, a varying land tax not only reduced the certainty, but also reduced the benefits from improving the land. Josiah Tucker praised the stability and certainty of the land tax, further applauding the encouragement it gave to landowners to improve their land without having to suffer a higher tax.⁴ William Eden similarly argued that ‘such variations [of the land tax] amount to a bounty on bad husbandry, and a penal law against improvement’.⁵ Arthur Young went further than this, declaring that the increase of productivity in British agriculture was the result of the encouragement to improve from the stable land tax. Young asserted this in the context of his criticism of the variable land tax that the Directory had imposed in France after the Revolution, calling it a ‘direct tax on improvement’.⁶

Although the land and window taxes were the principal forms of the direct taxation of wealth that the eighteenth century inherited from the seventeenth, they were not the only such experiments. Throughout the seventeenth century, and earlier, poll taxes were often used to supplement

¹ Kames, *Sketches*, ii, 441.

² J. L. Moreau de Beaumont, *Mémoires concernat les impositions et droits en Europe* (4 vols., Paris, 1787), i, 156-62.

³ Smith, *WN*, V.ii.c.8-9.

⁴ J. Tucker, *Instructions for travellers* (1757), 38. This pamphlet was not printed for publication, but was written as part of Tucker’s unfinished *Elements of commerce and theory of taxes* (part of which was published in 1755) and was circulated amongst his friends for their feedback.

⁵ W. Eden, *Four letters to the Earl of Carlisle* (Edinburgh, 1779), 47.

⁶ A. Young, *Travels during the years 1787, 1788, & 1789; undertaken more particularly with a view of ascertaining the cultivation, wealth, resources, and national prosperity of the Kingdom of France* (2 vols., 1794), i, 628-9.

the subsidies, assessments, and aids that taxed property. In essence, they were a means of casting the revenue net wider than those with physical property, especially in light of the difficulties in taxing personalty. Some charged a flat rate, although these were decried as being arbitrary by not taking into account the means of the payer.¹ Others were informed by the principle of proportionality and charged different rates according to rank, office, and occupation.² The last of these, in 1698, as well as charging Gentlemen of estates of £300 and more, and unmarried women of more than £1,000 estates, charged persons not otherwise subject to the poll in respect of their horses and carriages.³ These were identified as marks of status and wealth and as such would reappear in the eighteenth century as ideal subjects of taxation.⁴ Nevertheless, taxation by the head was universally condemned through the eighteenth century as arbitrary, that is, not taking into account the ability or means of each taxpayer. Using title, status, and profession as a measure of ability also informed the duties charged on marriages, births, and burials. As with the polls, Dukes and Archbishops paid the most, down through other Lords, Knights, Gentlemen, Doctors, and then 'Persons not otherwise charged'.⁵ This was balanced with a charge on bachelors and widowers, similarly distinguished by rank or title. The table of rates, and amounts raised within each, were used by King in the calculation for his table of social ranks.⁶ Introduced in 1694, these were time limited and were allowed to expire in 1699.

¹ Chandaman, *English public revenue*, 143.

² For example, 12 Car. II. c. 9 (1660) and 18 & 19 Car. II. c. 1 (1667).

³ 9 Gul. III. c. 38.

⁴ See below.

⁵ 6 & 7 Gul. & Mar. c. 6.

⁶ Hoppit, 'Gregory King (1648-1712)', *ODNB*.

(ii)

**The inheritance of the seventeenth century:
duties on commodities**

The previous section discussed many of the problems that the English and later British governments faced in trying to tax the property of the people directly. During the seventeenth century, ideas about an alternative measure of ability to pay came to fruition: expenditure. In a typically astute observation of British tax policy, Smith asserted that the 'state not knowing how to tax, directly and proportionably, the revenue of its subjects, endeavours to tax it indirectly by taxing their expence'.¹ This was achieved through two forms, customs and excises. Customs on imports and exports had long been an institution of English public finance, but inland duties on consumption were not introduced into England until 1643. The original excises were a series of levies on a wide variety of imported and domestically produced commodities. The latter were, initially, largely focussed on alcoholic beverages such as beer, cider, perry, mead, and wine, but later expanded to other products like leather, soap, salt, starch, and glass. On the Restoration of Charles II, the extent of these duties was pared down considerably to the aforementioned alcoholic drinks and coffee, chocolate, and tea.²

One of the main reasons for the rapid expansion of this form of taxation through the 1640s and 50s was its remarkable productivity and relative ease of collection.³ Furthermore, it was claimed that taxing expenditure in this way was the means through which equitable taxation could be achieved. One pamphlet from 1647, which would be reprinted in 1733 in support of Walpole's excise scheme, formulated many of the key

¹ Smith, *WN*, V.ii.k.1.

² 12 Car. II. c. 23.

³ Braddick, *Parliamentary taxation*, 168-230; Coffman, *Excise taxation*, 183-200.

arguments of both the equity of taxing proportionally and how this was achieved through excises.¹ It stated that 'all should beare their due proportions in politique payments', that is, by a 'just and impartiall dividing of all Taxes, according to mens severall estates'.² Excises met this standard of equality with the added benefit that they were 'voluntary' and did not infringe on the liberty of the people.³ In later pamphlets they were often referred to as the 'most equitable of impositions' and the 'most equal and less grievous' of taxes.⁴ The equity of such taxes was also used as justification in the preambles to the Acts and Ordinances of the Interregnum as they were continued or expanded. In an Act of 1649, the parliament declared that they found 'the Impost of the Excise to be the most equal and indifferent levy that can be laid upon the People'.⁵ This was repeated in an Ordinance of February 1656, that it was 'as equal and indifferent Levy for and towards the Ends' of finding a revenue that could be 'raised with greatest ease and equality to the People'.⁶ This view was apparently expressed by Charles II on his restoration to the throne, describing excises as 'the most insensible imposition that can be laid upon the people' and 'the best and easiest tax'.⁷

¹ On the early pamphlet response to excises in the 1640s, see D. Coffman, 'The fiscal revolution of the Interregnum: excise taxation in the British Isles, 1643-1663' (University of Pennsylvania Ph.D. thesis, 2008), 32-87.

² Philo-Dicæus, *The standard of equality, in subsidiary taxes and payments* (1647), 12. Published in 1733 under the same pseudonym and title.

³ *Ibid.*, 26-8.

⁴ For example, F. Cradock, *An expedient for regulating the customs and excises* (1659), 2-3; [Anon], *A familiar discourse, between George, a true-hearted English gentleman and Hans a Dutch merchant* (1672), 39-40; and, [W. Waterhouse], *Taxes no charge* (1690), 25.

⁵ 'August 1649: An Act for the speed, raising and levying of Moneys by way of New Impost or Excise', in C. H. Firth and R. S. Rait, eds., *Acts and Ordinances of the Interregnum, 1642-1660* (London, 1911), 213-235.

⁶ 'February 1655: An Order and Declaration of His Highness the Lord Protector, with the Advice of his Council; Touching the Continuance of the Duty of Excize and New Impost', *Acts and Ordinances*, 1035-1036.

⁷ Quoted in Beckett, 'Land tax or excise', 299.

Hobbes advocated for taxes on consumption on the basis that they produced an equality of sacrifice. This phrasing is important because it makes clear what is meant by equity of taxation; it is not everyone paying the same, but everyone suffering the same burden. Hobbes' contribution to ideas about the legitimacy of taxation was discussed in Chapter One. There it was stated that, in Hobbes' writings, it was a duty of citizens to pay taxes because of the benefits of internal order and protection from external threats that were provided by the sovereign. For the purposes of maintaining order, it was a duty of the sovereign to avoid inciting sedition and rebellion through the imposition of unjust and arbitrary taxes. It was in this context of the duties of justice and allegiance between sovereigns and their subjects that Hobbes was discussing taxation, rather than providing a comprehensive analysis of the political economy of taxation. In *De cive*, Hobbes stated that the distribution of the burden of taxation should comply with what he had stated to be the tenth law of nature: '*in awarding rights to others, you should be fair to both sides*'.¹ In *Leviathan*, he asserted that it should accord with the principle of equity, which demanded that 'Justice be equally administered to all degrees of People'.² Rich or poor, strong or weak, all subjects of the sovereign should be treated equally before the law. Hobbes immediately added that this ought to also apply to the collection of taxes: 'To Equall Justice, appertaineth also the Equall imposition of Taxes'.³ This was achieved through consumption taxes because 'what reason is there, that he which laboureth much, and sparing the fruits of his labour, consumeth little, should be more charged, than he that living idly, getteth little, and spendeth all he

¹ Hobbes, *De cive*, 69.

² Hobbes, *Leviathan*, ii, 534-6.

³ *Ibid.*, 536.

gets'.¹ Such taxes were beneficial because not only did they act as sumptuary laws on luxury and profligate consumption, they did not require the state to have to assess the extent of each individual's property.² Hobbes did not explain beyond 'consumption' what he meant to tax, but when he stated that duties should be 'layd upon those things which men consume' so that 'every man payeth Equally for what he useth' it can be inferred that he meant to tax expenditure generally.³

There were two key aspects of taxing consumption, especially through excises, that were frequently appealed to in the advocacy of them. These were that they were voluntarily paid and were insensible to the payer. Together with the perceived equity of taxing consumption, these attributes produced an opinion of excises as being fairly distributed amongst the people whilst being minimally intrusive into their affairs. The voluntariness of these duties was sometimes framed as each payer being their own assessors to the tax, because they decided how much they spent on particular commodities.⁴ The insensibility of them was based on the process of their assessment and collection. They were collected from the producer of the commodity or, in the case of those on imported goods, from the importing merchant or the first buyer of them for inland distribution. The producer or importer then recouped the tax by incorporating it into the price paid by the consumer, meaning that the latter paid it 'insensibly without complaint'.⁵ It was widely accepted that the point at which the state collected the tax was not where the burden of it lay. Thomas Mun, an early advocate of taxing inland consumption, believed that the burden of this mode of taxation spread widely,

¹ Hobbes, *Leviathan*, ii, 536-8.

² D. Jackson, 'Thomas Hobbes' theory of taxation', *Political Studies*, 21 (2006), 77-9.

³ Hobbes, *Leviathan*, ii, 538.

⁴ H. J., *Letter from gentleman*, 14.

⁵ Cradock *An expedient*, 3-4.

ultimately falling on either the 'employing producer', the 'rich consumer', or even on the 'consumption of the whole of society'.¹ This was in contrast to customs duties, which he argued impeded trade and oppressed merchants. Mun was writing in the 1620s, before excises were introduced in England, and was using the Dutch as his model of ideal taxation.² The diffuse distribution of these taxes was a regular feature of arguments in favour of them, with one pamphleteer claiming that moderate duties on articles of consumption would never be felt by any one person, because all consumers shared the weight of them.³ The aforementioned Thomas Culpeper agreed with this position, adding that because of this 'our meer Consumption can scarce be too heavily excised'.⁴

We can start to see here the language that came to be used to justify and legitimise the use of excises as taxation of expenditure; that the burden was distributed in proportion to the taxpayer's ability, and that they were 'voluntary' and 'insensible'. Not only could consumption be argued to be analogous to property or means, what one could spend being related to what one had, they also overcame the problem of distinguishing between different sorts of property or revenue. If rent from land or profit from stock could not be taxed directly in the same manner, consumption taxes could do so indirectly. It was a logical consequence of the arguments in favour of excises, that they were proportional to ability and the least bothersome for the people to pay, that consumption in general was the ideal subject of taxation. That

¹ T. Mun, *England's treasure by forraign trade* (1664), 150-61.

² The influence of the Dutch on the original introduction of taxes has been questioned, but it was often claimed that Dutch trade flourished because it was free from customs and their revenue drawn from excises. See M. T'Hart, 'The devil or the Dutch': Holland's impact on the financial revolution in England, 1643-1694', *Parliaments, Estates, and Representation*, 11 (1991), 39-52.

³ [Anon] *Familiar discourse*, 39-40.

⁴ T. Culpeper, *A discourse shewing that many advantages which will accrue to this Kingdom by the abatement of usury* (1668), 3.

is, a universal tax that was proportional to the means of all taxpayers; in other words, a general excise.

Two of the fullest accounts of such a proposal came from the political arithmeticians Petty and Davenant. In his *Treatise of taxes and contributions* (1662), Petty sought to offer the restored Charles II an analysis of the ideal method of extracting taxes from the people so as to leave them 'well satisfied, and contented to pay their just shares of what is needfull for their Government and Protection, as also for the Honour of their Prince and Countrey'.¹ Petty adopted a Hobbesian tone when he stated that 'men should contribute to the Publick Charge but according to the share and the interest they have in the Publick Peace; that is, according to their Estates or Riches'.² Petty further demonstrated the influence on him from Hobbes in his expression of how the burden of taxation should be distributed: 'Let the Tax never be so great, if it be proportionable unto all, then no man suffers the loss of any Riches by it'.³ This was because taxing proportionally produced Hobbes' equality of burden, since when 'the Estates of them all were either halfed or doubled, [they] would in both cases remain equally rich'.⁴ To achieve this Petty identified two sorts of 'Riches' or 'Estates', actual and potential: 'A man is actually and truly rich according to what he eateth, drinketh, weareth, or any other way really and actually enjoyeth; others are but potentially and imaginatively rich, who though they have power overmuch, make little use of it; these being rather Stewards and Exchangers for the other sort, then owners for themselves'.⁵ Here Petty is highlighting purchasing power as a

¹ Petty, *Economic writings*, i, 38.

² *Ibid.*, 91.

³ *Ibid.*, 32.

⁴ *Ibid.*

⁵ *Ibid.*, 91.

measure of an individual's wealth.¹ It was for this reason that Petty believed that excises were the ideal model for taxation as, 'this Tax is scarce forced upon any, and is very light to those, who please to be content with Natural necessaries'.² Additionally, no 'man payes double or twice for the same thing, forasmuch as nothing can be spent but once'.³ More importantly, these taxes, according to Petty, fell on the two sources of wealth creation, labour and land. Petty argued that 'Labour is the father and active principle of wealth, as lands are the mother'.⁴ To increase the wealth of the nation, it was necessary to increase the productivity of labour and of the use of land.⁵ Petty went further than the existing excises, which at the time of publication were only the Restoration duties. The ideal tax for Petty was one that fell on consumption in general. Rather than the term 'general excise', Petty refers to it as an 'Accumulative Excize', a single tax that came as near as possible to common expenditure.⁶ If one commodity could not be found to meet this, then Petty advocated for a number of duties 'on every particular necessity' in order to achieve the same result of taxing the general expenditure of the whole society.

Like Petty, Davenant sought to devise a method of taxation that would produce 'the most proper Ways and Means to support the government' and, most importantly, 'would lie equally upon the whole, and produce great sums, proportionable to the great wants of the public'.⁷ Davenant also wanted to avoid subjecting 'private families' to the oppressive 'search and inspection' of officers of the government.⁸ He argued that the taxation of land and trade,

¹ A. Finkelstein, *Harmony and the balance; an intellectual history of seventeenth-century English economic thought* (Ann Arbor, 2000), 120.

² Petty, *Economic writings*, i, 94.

³ *Ibid.*, 95.

⁴ *Ibid.*

⁵ Finkelstein, *Harmony and the balance*, 123.

⁶ Petty, *Economic writings*, i, 94-5.

⁷ Davenant, *PCW*, i, 62.

⁸ *Ibid.*, 67.

through the land tax and customs, fell unequally on the nation because they did not cover the amounts produced each year by arts and labour. Davenant estimated this to be twenty million pounds a year which, according to him, was around half the nation's income.¹ To achieve a satisfactory equality of burden it was income that should be taxed; income from land, trade, arts, and labour. In order to achieve this, Davenant claimed, the state ought to tax expense, for expense 'must arise from income'.² The target of taxation for Davenant was the 'superlucration' of the nation. This constituted the 'wealth or national stock' because it was the surplus of annual income, 'the whole that arises in any country, from land and its product, from foreign trade and domestic business', after the payment the 'annual expence'.³ The aim for policy makers, and the purpose of political arithmetic, was to calculate the annual income of the whole, and its expenditure, to know the superlucration of the nation. Such information allows the state to know how much taxation the people can bear. The premise of this, that expenditure represented means and therefore produced an equitable distribution of the burden of taxation, had long been asserted. Davenant explicitly expressed it as a means of taxing income. It was for this reason that Davenant advocated the taxation of domestic consumption through excises. Those who opposed excises, according to Davenant, only did so because they had 'not thoroughly weighed and compared them with other taxes'.⁴ Like Petty, Davenant believed that the least burdensome way to achieve maximum equitable proportionality was to tax a commodity of the most general consumption, the spending on which represented the income and therefore ability of the taxpayer. Davenant had

¹ Davenant, *PCW*, i, 141.

² *Ibid.*

³ *Ibid.*, 251-2.

⁴ *Ibid.*, 61.

identified this to be the ‘national drink’, beer. To this end he supported the duty on malt in the 1690s on the basis that it represented a second tax on that drink.¹

Excises, as taxes on expenditure, were approved of because the burden of them was distributed between the spending habits of the consumers, being representative of their means, and who did not have to endure the intrusion of the government into their private affairs. The producer or merchant was subject to such interference, a fact that would become of much greater prominence during the eighteenth century, but the vast majority of the population were largely left alone by those who collected the duties. The government’s hand was not in the pocket of those consumers who it was believed paid the tax nor was it forcing its way into their castle. This lack of interference is possibly why popular tumults against the collection of the tax, such as the riot and burning of the excise office at Smithfield in 1647, were so rare.² These positive attributes, as well as the assertion that they were able to target wealth beyond land, led to a number of proposals for general excises, with two failed attempts to introduce them occurring in 1666 and 1689.³ Universality was the aim of such taxes, with others following Petty and Davenant’s suggestion of identifying a single commodity or set of goods that served as a representation of general consumption. In support of the duty on malt, Anthony Burnaby suggested that it could be used as such a universal tax; the more universal a tax, he claimed, ‘the more equal’ it was. Malt, Burnaby argued, ‘will prove so universal, that not any Person will Escape paying his Proportion according to his Consumption’.⁴ This theory was largely

¹ Davenant, *PCW*, i, 63.

² Braddick, ‘Popular politics and public policy’. Coffman also discusses 52-4.

³ Beckett, ‘Land Tax or Excise’, 299-300.

⁴ [A. Burnaby], *Two proposals, humbly offer’d to the honourable House of Commons* (1696), 2.

put into effect in the period between the Glorious Revolution and Hanoverian Succession, with the Restoration excises being added to with a number of other commodities that were believed to be generally consumed, such as leather, soap, candles, and salt.¹

Duties on commodities were not immune from socio-economic or geographic inequality. An idea that was prominent from the late seventeenth century and through the eighteenth was that all taxes fell on land. This was a position most famously advocated in England by the philosopher John Locke. Locke's position was set out in his 1692 piece, *Some considerations of the consequences of the lowering of interest, and raising the value of money*. This work was more concerned with opposing the proposed bill before parliament to lower the maximum legal interest rate from six percent to four percent. Locke argued that taxes on commodities that affected trade also ultimately fell on land owners: 'Taxes, however contrived, and out of whose Hand soever immediately taken, do in a Country, where their great Fund is in Land, for the most part terminate upon Land.'² A tax on land may seem 'hard to the Land-holder, because it is so much Money visibly out of his Pocket', and this was why they were always keen to push the burden on to commodities.³ Locke believed that this was a poisoned chalice, because if the landholder would 'thoroughly consider it, and examine the Effects, he will find he Buys this seeming Ease at a very dear rate: And though he pays this Tax immediately out of his own Purse, yet his Purse will find it by a greater want of Money there at the end of the year'.⁴ Locke argued that this was

¹ See Appendix.

² [J. Locke], *Some considerations of the consequences of the lowering of interest, and raising the value of money*, (1692), 87.

³ Ibid.

⁴ Ibid.

because taxes on commodities ultimately brought down the price of rents because as the price of goods increased, so did the cost of labour.

A similar argument was presented in a pamphlet the following year, likely by the Marquis of Halifax, *Essay upon taxes* (1693).¹ Against suggestions for a general excise, the pamphlet claimed that such a tax on Home Commodities is a 'Real Land-Tax, and will have the same Influence upon Lands and Rents, as that we call a Land-Tax or Monthly-Assessment'.² This was because 'both are a Duty upon the same commodities, which are the Product of Land'.³ The burden of taxes on articles of consumption would always ultimately fall on land. Taxing these items added expense and encumbrances to domestic production and foreign trade, leading to the destruction of both. The conclusion that both Locke and Halifax drew from their claims was that it was only the landowner who was unable to shift the burden of taxation because land was the only source of wealth. As the burden of all taxes therefore, ultimately, ended on land, both argued that this should be the point at which taxation was collected. Taxing at any other point was simply adding unnecessary expense to the process of revenue raising. Locke's theory would be a regular foil for arguments about the incidence of taxation throughout the eighteenth-century. He was cited by Jacob Vanderlint in his 1734 pamphlet arguing for the repeal of taxes on commodities as causing an increase in the poor and advocating for a single tax on land as being the most efficient way of taxing.⁴ Robert Nugent similarly employed Locke as an

¹ This has also been attributed to William Temple. It was reprinted in both *Somers tracts* and *Parliamentary history* wherein both it was attributed to Halifax: *A collection of scarce and valuable tracts* (1747-1752), iv, 63-73; and *Parliamentary history*, v, pp. cxix-cxxx.

² [Marquis of Halifax], *An essay upon taxes, calculated for the present juncture of affairs in England* (1693), 10.

³ *Ibid.*, 11.

⁴ J. Vanderlint, *Money answers all things* (1734), 107-14.

authority in his two pamphlets arguing against the lowering of the land tax. Nugent argued that the land tax was 'preferable to all others, the cheapest levied, producing most, and least felt by any'.¹ The idea of a single tax replacing all other taxes will be explored more fully in the final section of this chapter, and the burden of taxation on the poorest members of society in the following chapter.

As was discussed in the introduction, recent work by Hoppit has demonstrated the stark regional differences between the amounts collected from customs and excises duties.² For the excise collection, in terms of sums raised per capita, Scotland and Wales, treated as whole administrative units within government, were far behind the six regional districts (London, South East, South West, East Anglia, Midlands, and the North) of England. Part of the reason for the low-level of Scottish revenue, which has been discussed elsewhere, was that it was enacted in the Articles of Union. The perceived inequality of Scotland's economic circumstances, compared to England, saw lower rates or exemptions, especially on malt and salt duties, employed so as to reduce the burden of taxation north of the border. Even within England, London and the south east accounted for more than fifty per cent of gross excise revenue for most of the eighteenth-century.³ In terms of per capita levels of revenue, London was the most productive region of the kingdom. There are a number of good reasons for this. Certain commodities like tea were mainly imported into London, by virtue of the East India Company monopoly, meaning that all of that revenue appeared in London's column. The administration was also divided into collections based on the article

¹ [R. Nugent], *Considerations upon a reduction of the land-tax* (1749), 9-13; and, *Farther considerations upon a reduction of the land-tax* (1751).

² Hoppit, *Britain's political economies*, 277-305.

³ *Ibid.*, 283-4.

taxed, beer, soap, leather, candles, etc., whereas in the rest of the country the local officers were required to assess all of the duties in their foot-walk or out-ride.¹ Furthermore, with commodities such as beer, in London there were only a few large producers who sold wholesale making it much easier for the duty to be assessed and collected.²

Another instance of geographic inequality occurred with the duty on malt. This duty was essentially a second tax on those beverages from which it was brewed or distilled, mainly beer but also some spirituous liquors. As such, the regions of the country that predominantly drank cider and perry, being also those places that grew apples and pears, were deemed to be escaping this tax. Cider and perry as drinks were already subject to the excise, having been one of the original 1643 duties and part of those re-imposed on the Restoration. The difference from beer was that these beverages were produced by the growers, and so the duty was collected from the first buyer so as to avoid subjecting the landed gentry of those counties to the inquisition of the excise. The proposed reform of 1763, as well as increasing the duty, was to transfer the point of collection to the point of production. This was to overcome a further cause of territorial inequity between cider and beer drinking areas. It had been local practice for some time for landholders to supplement the wages of their farmers and other workers with the cider and perry produced on their land.³ The drink distributed in this way was escaping the original excise duty because it was not going through the merchant who paid the duty. This had been a

¹ Brewer, *Sinews of power*, 101-14.

² P. Mathias, *The brewing industry in England, 1700-1830* (Cambridge, 1959), 346-50.

³ D. Walsh, A. Randall, R. Sheldon, and A. Charlesworth, 'The cider tax, popular symbolism and opposition in mid-Hanoverian England', in A. Randall and A. Charlesworth, eds., *Markets, market culture, and popular protest in eighteenth-century Britain and Ireland* (Liverpool, 1996), 71-3.

longstanding complaint from malt-growing counties, especially at those times when the levy on malt was increased. Although the reform of the cider excise passed in the first instance, the popular opposition from those areas of the country, and their landed representatives in parliament, successfully negotiated its repeal in 1766.¹

Customs and excises were not the only levies that attempted to tax expenditure. Stamp duties originated as taxes on the use of certain legal instruments, but expanded to other printed items, and then developed into a means of taxing the use of things through the issuance of licences. In 1670, a 'Law Tax' was passed that levied duties on a variety of documents required for legal proceedings: grants and charters passing through the Great Seal of the Realm, together with conveyances and leases, were charged per skin used, whereas affidavits, pleadings, depositions, decrees, and warrants were charged per document.² These were not required to be stamped, with the duties being collected through the courts on their use within them.³ They were time limited and allowed to expire in 1680. The subject of this tax was revived in 1694 with the General Stamp Act, covering many of the same legal documents, with a few additions, and all being charged in accordance with the number of skins or pieces of paper or parchment used.⁴ The progressive model was retained, with grants of honours, preferments, and degrees being charged the highest rate of forty shillings, down to pleadings in law courts and copies of depositions and wills charged the lowest of one penny. This act was similarly time limited, initially for four years, but extended until 1708

¹ P. Woodland, 'Political atomization and regional interests in the 1761 parliament: the impact of the cider debates 1763-1766', *Parliamentary History*, 8 (1989), 63-89.

² 22 & 23 Car. II. c. 9.

³ E. Hughes, 'The English stamp duties, 1664-1764', *EHR*, 56 (1941), 235-7.

⁴ 5 & 6 Gul. & Mar. c. 21.

when they were granted for ninety-nine years.¹ Scotland were explicitly exempted from these duties on the union, although were subject to all those subsequently levied.² Ireland had a limited form of these duties from 1774.³ The duties on legal documents proved remarkably efficient and productive, helped by the difficulties of avoiding them, as those without stamps were declared void in legal proceedings.⁴ They were favoured because they were charged on items more often used by the middling and wealthier orders of society.⁵ This would similarly be the underlying principle of the extension of them through the eighteenth-century, to playing cards, dice, almanacks, newspapers, and advertisements.⁶ These would later be expanded as a means of taxing by licence, which required a licence to possess or use a variety of items, with the licence requiring a stamp and the cost of it operating as a tax on the possession or use of that thing. As will be discussed in the next section, this would become a popular form of administration for new taxes.

On the accession of George I to the British throne, William Wagstaffe anonymously published a pamphlet entitled *The state and condition of our taxes considered* (1714). Notwithstanding the concluding claim that the arguments were stated as ‘Matter of Fact, and not of *Party*’, publishing as ‘a Freeholder’, lauding the great support that the ‘Country Gentlemen’ had provided to the two most recent wars to secure English liberties and the Protestant succession, and decrying those ‘who raised vast Estates out of the Funds by the Exorbitant Interest of their Money’, clearly marked out which

¹ 5 Ann. c. 5.

² Article X of the Treaty of Union.

³ Dowell, *History of taxation*, iii, 128-9.

⁴ R. S. Nock, ‘1694 and all that’, *British Tax Review*, 5 (1994), 434.

⁵ Dowell, *History of taxation*, iii, 285-8.

⁶ See appendix.

side of Britain's factional disputes the author had taken.¹ That said, the pamphlet encapsulated many of the concerns and questions that surrounded Britain's public finances on the transition from the House of Stuart to the House of Hanover. Firstly, he recited the familiar trope that has provided the spine of this chapter so far, that taxes 'ought to be laid equally on all People in Proportion to their Wealth and their Estates'.² Wagstaffe's aim was to explain how the present state of affairs fell short of this desired ideal. His principal target was the land tax. Not only was it 'very unequally divided' across the country, the 'Landed Interest in the whole' were treated very 'Unjustly' by it.³ As a member of that interest, Wagstaffe claimed that in the case of war, 'we are willing to pay our Four Shillings in the Pound upon the Land', but he countered that 'let the Landed and the Monyed Interest be taxed equally'.⁴ It was not only land that was being unfairly burdened, for 'Every Thing that is capable of raising Money is Taxed as far as it will bear'; these were: 'Coals, Candles, Soap, and Leather, pay a Duty for several Years to come, almost to the entire Destruction of the Poor; the Window Tax is injurious to the middle Sort; the Customs to the Merchants; and the Land and Malt Tax, with all the rest, to the Gentlemen and Freeholders'.⁵ Wagstaffe's solution, of a general excise or a more effective tax on funds, were not especially original.⁶ He did, however, highlight many of the problems that had been a large part of the development of English and British taxation. Notwithstanding the belief that equity of taxation meant proportionality, and the desire to put this into effect, there were significant political and

¹ [W. Wagstaffe], *The state and condition of our present taxes considered* (1714), 10, 12 & 45.

² *Ibid.*, 10-1.

³ *Ibid.*, 11.

⁴ *Ibid.*, 12-3.

⁵ *Ibid.*, 15-6.

⁶ *Ibid.*, 16.

administrative obstacles in the way. This did not become any easier as the century progressed.

(iii)

Taxing luxury expenditure

The first few decades of the Georgian era were characterised by periods of relative peace and political stability punctured by moments of fissure and insecurity. The era began with a civil war, in the form of the failed Jacobite rebellion of 1715, but was followed by a quarter century in which there was no major war. The lack of conflict allowed for some attention to be given to the size of the public debt, which had become of great concern. The management of this was aided with the introduction of the Sinking Fund in 1717, where surplus taxation was invested to expedite capital repayments of existing debt. Notwithstanding the absence of war to pay for, a number of financial crises did threaten the funding system, especially that related to the crash of South Sea Company stock in 1720. The stock had been used to exchange for holdings in the national debt as a way of privatising the liability to it.¹ The bubble and its bursting threatened the stability of the system, but the adroit management of the crisis by Walpole saw the debt and the Company survive intact.² The Sinking Fund never managed to redeem all of the debt before war on the continent recommenced in the 1740s, not helped by Walpole raiding it to avoid raising taxes or to cover other expenses when it was politically convenient.³ This period is also defined by the Whig Supremacy, aided by the Tory associated Jacobite Rebellion, and protected by the Septennial Act more than doubling the length of parliaments.

¹ Dickson, *The financial revolution*, 90-121.

² J. Hoppit, 'The myths of the South Sea bubble', *TRHS*, 12 (2002), 141-65.

³ N. A. Brisco, *The economic policy of Robert Walpole* (New York, 1907), 61-70.

As the political context was one of continuity and change, so was the fiscal. The continuity was of the use of the funding system, the variation of land tax between one and four shillings in the pound, the window tax (as reformed in 1747), and the customs and excise duties. The change came through a number of reforms of revenue collection to reduce smuggling (as will be discussed in Chapter Four), to increase the productivity of existing duties, and to promote domestic manufacturing and industry. The last of these was enacted through the removal of import duties on raw materials and of export tariffs on domestic manufactures.¹ There was a particularly concerted effort towards economic improvement in Scotland. In 1727, the accumulated equivalent, the abatement of Scottish customs and excise revenue allowed in compensation for taking on the burden of England's national debt on the Union, was invested in the Board of Trustees for Fisheries, Manufactures, and Improvements in Scotland.² Elsewhere, and of more relevance to the following chapter on universality and taxing the poor, Walpole imposed sumptuary legislation and levies on the selling of gin, to reduce what was seen as an iniquitous practice of the poor; removed and reintroduced the duty on salt; and, lowered the land tax to one shilling. The reintroduction of salt, lowering of the land tax, and reform of the duties on wine and tobacco, were designed to reduce the burden of taxation on, and to curry political favour with, the landed classes. This was the furthest that Walpole attempted to go in redistributing the burden of taxation, and with the defeat of his excise scheme and the subsequent increases in the land tax, he largely failed in that aim.

¹ 8 Geo. I. c.15.

² The Treaty of Union granted a £2,000 annuity each year which was held in reserve until the sum reached £20,000. This continued well into the twentieth-century. There is a short history included amongst the Board's papers NRS/NG1/1/1.

There was further continuity and change in ideas and debates about taxation. The language of proportionality continued to be used as the basis of the equity of taxation. The experiments of the post-Restoration era, however, had demonstrated how difficult it was for this to be achieved through one tax. Indeed, the new forms of property and ways of earning wealth that had arisen out of the expansion of international trade and the financial revolution were not necessarily amenable to being taxed in the same manner. Taxing expenditure had been the way to supplement existing forms of direct taxes on property and therefore to balance the distribution of the fiscal burden. There was potential for an equitable distribution of taxation to be achieved, as much as was possible without exposing private affairs to public scrutiny, through a variety of levies that covered a broad range of socio-economic circumstances. Kennedy has argued that in the seventeenth and eighteenth-centuries there was a ‘non-compensatory view of taxes’, that is, that individual taxes were judged against principles of equity and justice on their own terms and not in the context of the whole.¹ There is some truth to this claim. Much of the debate over certain taxes, especially through pamphlets and periodicals, came in flurries as those taxes were brought in to public view by parliament. Further, the agglomeration of taxes was piecemeal and, as discussed above, a productive unequal tax was often easier to continue with than attempt to reform it. Daunton highlighted four variables that comprised the development of the history of taxation: ‘the institutions of tax assessment and collection; the “handles” on different forms of income and economic activity; the political processes of tax revision; and the purposes of public action’.² The growth of excises, and the introduction

¹ Kennedy, *English taxation*, 102.

² Daunton, *Trusting leviathan*, 22.

of the income tax, can be seen particularly as being driven by their ability to offer the revenue better ‘handles’ on economic activity, notwithstanding political and institutional limitations on their assessment and collection.¹

There are some important factors needed to enhance these analyses, especially in respect of how taxes were discussed and framed. A prime example of Kennedy’s ‘non-compensatory view’ of taxation was Smith, who formulated four maxims of taxation and proceeded to evaluate each tax individually as to how they accorded with them. As well as the maxims of equity and certainty quoted above, Smith required that: ‘Every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it’, referred to as the maxim of convenience; and, that ‘Every tax ought to be so contrived, as both to take out and to keep out of the pockets as little as possible, over and above what it brings into the public treasury of the state’, known as the maxim of economy.² The subsequent lengthy analysis shows that very few taxes complied with all four maxims. Even his preference for taxes on luxury, being as ‘agreeable’ to the first three maxims as any other tax, ‘offend in every respect the fourth’.³ The consequence of this was that there are not many ‘proper subjects of taxation’, meaning that, in times of need, read war, taxes ‘must be imposed on improper means’.⁴ In viewing this strictly, however, we should bear in mind Smith’s approval of the wisdom of Solon, that the aim is not for the best laws, but ‘the best which the interests, prejudices, and temper of the times would admit of’.⁵

¹ Daunton, *Trusting leviathan*, 37 & 44-5.

² Smith, *WN*, V.ii.b.5-6.

³ *Ibid.*, V.ii.k.60.

⁴ *Ibid.*, V.ii.k.80.

⁵ *Ibid.*, IV.v.b.53.

The nature of public finance was such that there were numerous conflicting circumstances and ideas that structured the formulation of tax policy. During the eighteenth-century expenditure continued to be considered as the ideal form of taxing in proportion to ability to pay. The largest branch of this type of revenue was the excise, which continued to grow in significance through the century. However, after the events of 1733, excises became politically poisonous, being labelled as 'odious' and 'hateful' even by those imposing them in parliament. As shall be discussed, it was near-impossible for goods to be newly subjected to excises for over half a century after. In the wake of this, a new form of taxation emerged that would later become known as assessed taxes. These were taxes that targeted expenditure, but on items that were considered to be markers of status, rank, and wealth, in other words, luxuries. A number of luxury goods, such as tea, coffee, chocolate, imported wines, and spirits, were already subject to excises, although excises were also on products deemed to be necessities, such as leather, soap, and candles.¹ One of the positive attributes of excises was their incidence, that is, that they were able to charge the consumers of these products without having to tax them directly. The intrusion of revenue officials was endured by the merchants and manufacturers, but they were able to pass the financial burden on to their customers. The new assessed taxes charged consumers directly, by requiring them to declare their use and ownership of certain things and purchase a licence for doing so. Moreover, rather than being a one-time cost on the purchase of the good, they were an annual charge for the continued use and ownership. This was a significant uprooting of many of the established principles of taxation. Existing excises continued, with their rates also being subject to increases, but the

¹ This distinction is more fully explored in the next chapter.

favourability of them soured as they became associated with oppression and tyranny. Expenditure as a measure remained, but these new taxes were collected directly from the taxpayer and not the producer or seller. At the heart of this change in policy approach was an endeavour to specifically target the consumption of luxuries rather than expenditure generally. This was driven by the continued desire to tax in proportion to means through spending, but that sought to do so in a way that explicitly targeted the rich and not the poor.

Before discussing the nature of this change, it is necessary to account for the decline of excises as a preferable form of taxation. The mechanics of Walpole's infamous excise scheme were essentially the transference of the administration of the duties on wine and tobacco from the customs to the excise, with the point of collection moving from the importing merchant to the first buyer or inland distributor. This was achieved through a system of warehousing, the keeping of goods under the lock and key of the revenue after importation and before domestic distribution, and had been successfully applied to pepper in 1712 and tea, coffee, and chocolate in 1724. Excises had never been entirely popular. From their introduction in the 1640s, there were complaints about the imposition on merchants and manufacturers and the burden that was placed on the budgets of the poor. These arguments were all wheeled out in 1733, with the further claim that this was another step in the direction of a general excise. The image depicted to the public was of a monster that threatened to invade the liberty and consume the property of every person in the land.¹ Opposition papers *The Craftsmen* and *Fog's Weekly Journal* asserted that the increase of governmental authority was further evidence of the tyrannical regime of

¹ For example, see [Anon.], *Britannia Excisa, Britain Excis'd* (1733), BM Satires, 1936.

Walpole.¹ The role of these papers in the victory against Walpole can be seen below in one of the prints from the series *Britannia Excisa, Britain Excis'd* (1733). The mob, labelled 'Fogg', 'Craftsman', and 'No Additional Excise' confront the many headed excise monster that is pulling Walpole in his chaise. Walpole is being toppled as one of the heads of the monster turns on him.



Fig. 2: *The Congress of Excise-Asses* (1733), Anon, BM Satires 1936

Some of the fears of excessive powers being granted to the state were not unfounded. As the century progressed, the officers of the Excise would receive greater authority to inspect and assess the goods in the hands of the merchants and manufacturers. Resistance to inspection was prohibited;

¹ The classic account of the vociferous opposition is P. Langford, *The excise crisis: society and politics in the age of Walpole* (Oxford, 1975), esp 44-61 & 151-68; see also W. J. Hausman and J. L. Neufeld, 'Excise anatomized: the political economy of Walpole's 1733 tax scheme', *Journal of European Economic History*, 10 (1981), 131-143.

visitations were unannounced and officers were instructed to attend at the least expected times so that their survey could not be prepared for.¹

Smith described this episode as: 'Faction, combined with the interest of smuggling merchants, raised so violent, though so unjust, a clamour against that bill, that the minister thought proper to drop it; and from a dread of exciting a clamour of the same kind, none of his successors have dared to resume the project'.² Indeed, it was a spectre that would continue to haunt the excise through the eighteenth-century. The effect of it was profound. A decade after the crisis, Matthew Decker sought to distance his proposal to reform the duties on tea from Walpole's 'odious' scheme.³ He assured his readers that he had been 'heartily zealous against that *Bill*', adding that the 'very mention of the [general excise] will at once be apt to startle and alarm my readers'.⁴ Tucker, in his *Brief essay* (1749), proposed pretty much exactly the same scheme of warehousing imported goods and charging the tax on the inland distributor rather than the importer, but declared that it 'differs entirely from the *late famous Excise Scheme*'.⁵ 'Odious' was a popular term to apply to the excise after Walpole's scheme, as was 'hateful' after its use in Johnson's dictionary to describe the tax.⁶

Most significantly was the effect that it had on policy. Pelham managed to successfully reintroduce warehousing for tobacco in 1750 but was wise enough to avoid transferring the administration of it to the excise.⁷ Another

¹ 'Instructions for the officers who survey the large dealers in coffee, tea, &c. in London', Assorted instructions for officers of Excise in or near London, 1781, TNA, CUST 142/9, fos. 415-26.

² Smith, *WN*, V.ii.k.40.

³ Decker, *Serious considerations*, 12.

⁴ *Ibid.*

⁵ J. Tucker, *A brief essay on the advantages and disadvantages, which respectively attend France and Great Britain with regard to trade* (1749), 42-6.

⁶ Entry for 'Excise' in S. Johnson, *A dictionary of the English language*, second edition, (2 vols., 1755-6), i.

⁷ 24 Geo. II c. 41.

example, which was touched upon above, was the reform of the duty on cider in the 1760s. Cider and perry were already subject to the excise, but the reforms sought to improve their productivity by transferring the point of collection from the first buyer to the orchards where the drinks were produced. In the debate in the Commons on its introduction, William Pitt the Elder speaking against the tax, and George Grenville in support of it, both decried the excise as 'odious'.¹ That was two future prime ministers, on opposing sides of the debate, referring to the largest branch of the British revenue at that point.² Public attitude to the excise provided the ideal stick with which John Wilkes could beat the Bute ministry in his *North Briton*. Associating the cider duty with Walpole's scheme was important, reminding his readers that 'the monster of Excise had been so long kept tame'.³ Wilkes also utilised the term 'odious', as well as alluding to Johnson's definition when he asserted that the 'very word' of excise was 'hateful to an *English* ear'.⁴ The uproar against these reforms was enough to bring about their repeal in 1766. Walpole's attempt to transfer the duties on wine and tobacco to the administration of the excise was completed by Pitt the Younger in 1786 and 1790, respectively, but not without a reminder of their history. In opposition to the wine bill, George Dempster invoked both the 1730s and 1760s. He reminded the House of the scheme 'which had thrown the nation into a flame in Sir Robert Walpole's time' as well as highlighting, with a nod to the repeal of the hearth tax, that the cider tax failed 'because the suffering excisemen to enter men's houses was thought an odious and intolerable

¹ *Parliamentary history*, xv, 1307-8.

² It was Earl of Bute who had proposed the duties on cider, but Grenville would push them through parliament after becoming prime minister a month later (April 1763).

³ J. Wilkes, No. 42, 19 March 1763, in *The North Briton* (2 vols., 1766), i, 247.

⁴ J. Wilkes, No. 43, 26 March 1763, *North Briton*, i, 249.

badge of slavery'.¹ Such was the fear of a repeat of the clamour of 1733, before the introduction of the tobacco bill the Treasury sought to pre-empt a recurrence by collecting statements of support from tobacco merchants that reform was a necessary measure to combat smuggling.²

In defence of his scheme, Walpole argued that wine and tobacco were luxuries, and that, 'All men agree, that Taxes upon Luxury are the most just Taxes'.³ That some of the excises were on luxuries was often used in support of the use of them. Earlier arguments for the extension of taxes on commodities also focussed on items of luxury as being ideal subjects for them. A little before the above furore, and notwithstanding the paper's attitude to Walpole's excise scheme, *Fog's Weekly Journal* published a letter advocating for the use of taxation of luxury consumption: 'Taxes will be most easy, and less felt, when laid upon the Luxury and Prodigalities of the People, and upon such Things, as are not necessary for Life'.⁴ The correspondent provided a list of such goods, including gold and silver lace, jewels, diamonds, Persian and Turkish carpets, handkerchiefs, ribbons, imported liquors such as brandy and rum, 'whatsoever is imported hither from other Nations, for the Luxury of Life', and 'a Tax laid upon all Coaches kept by Gentlemen'.

After the excise crisis, especially in the 1740s and 50s, a flurry of proposals and ideas were published advocating for the taxation of luxuries. Although the idea of a general excise had been tainted with tyranny, these proposals advocated for a single tax on the use or consumption of luxury goods. The benefits of such taxes were usually highlighted as boosting industry by not subjecting manufacturers to the inspection of the excise,

¹ *Parliamentary history*, xxv, 1433.

² Treasury to Scottish Excise, 8 March 1790, NRS/CE9/1, 122.

³ [Walpole], *Some considerations*, 17.

⁴ 'Letter from a gentleman in the country to his friend in London', *Fog's Weekly Journal*, 3 March 1733.

improving trade by making it unprofitable to smuggle, and relieving the burden on the poor by targeting the profligate expenditure of the rich. One example from William Richardson proposed removing all existing taxes, especially the 'unequal' land tax and 'oppressive' excises, and lay 'one Tax on the voluntary consumers of superfluous Luxuries'.¹ Such consumers would be required to buy an annual licence that would allow them to purchase or use a variety of goods that Richardson had divided into categories. The highest rated category was the keeping of coaches and horses, down through jewellery and silver plate, to the lowest category of drinking tea, coffee, or chocolate.² A similar proposal, although with a different list of goods, came in the same year from Andrew Horsley. Horsley was replying to Decker's scheme of commuting the duties on tea to a duty on houses.³ Horsley approved of the principle, of charging consumers of certain products directly, in particular the benefits that it would bring to trade and industry, but sought to expand it beyond tea. Horsley argued, like Decker, that there 'are few People so ignorant, as not to know, that all Duties on consumed Commodities, lye on the Consumer'.⁴ As ever, he described Walpole's scheme as 'odious' whilst then going on to advocate a luxury tax on goods, including, wine, East India goods, and coaches.⁵ Tucker also proposed to raise 'One only Tax on the Consumers of Luxuries'. As well as the benefits to trade and industry, Tucker argued that such a tax was voluntary to all those who paid

¹ [W. Richardson], *An essay on the causes of the decline of foreign trade* (1744), pp. iv & 43.

² *Ibid.*, 44-5.

³ See above and Chapter Two.

⁴ A. Horsley, *Serious considerations on the high duties examin'd; addressed to Sir Matthew Decker* (1744), 13.

⁵ *Ibid.*, 8 & 15.

it and that it 'would be a most excellent *sumptuary* Law, to give a check to the Luxury and Extravagance of the Age'.¹

As well as homing in on profligacy, taxing luxuries was often portrayed as being a levy on pride and vanity. In the 1730s, Thomas Downes identified a number of luxuries that would be suitable subjects of taxation, including hats, wigs, and 'those Superfluities in Life where Pride is concern'd', by which he meant diamonds, jewels, watches, snuff-boxes, and swords.² Tucker believed that although his proposal for a single tax on luxury was in theory voluntary, for some it would be necessary to portray one's wealth and status. Furthermore, it was also a tax that would be hard to avoid, because it was a 'Tax upon *Vanity*, the very Nature of this Passion betrays itself, and will not be concealed'.³ Similar language was employed by Eden in his *Four letters*. In approving of the taxation of luxury consumption, Eden asserted that 'of all the mines of public revenue, vanity is the most inexhaustible'.⁴

The major consequence of the uproar surrounding Walpole's scheme was the disconnection between the preference for taxing luxury consumption and the association of the principal form of such a tax, the excise, with tyranny and oppression. As stated above, this was not enough to stop increases of existing excise duties or those of the customs, nor were any of them removed. New sources of revenue, however, needed to bear this new situation in mind. Taxing luxuries was justified, expanding excises was not. A strange circumstance emerged out of this as new forms of taxation were applied to luxury expenditure. The first of these was on pleasure carriages in 1746, with silver plate being added in 1756. The unusual situation was that

¹ Tucker, *Brief essay*, 77.

² T. Downes, *A scheme plainly demonstrating how several hundred thousand pounds may be rais'd yearly to the government* (1732), 8-13.

³ Tucker, *Brief essay*, 69.

⁴ Eden, *Four letters*, 54.

they were not called excises, nor were they assessed or collected like other excises, but they were administered by the Board of Excises and their officers. The duties were assessed and collected through self-declaration at a locally appointed time and place by those who 'own, have, use, or keep' the items concerned.¹ There were surveyors who had powers of inspection, and the authority to vary the amounts of levies charged, but there appear to have been few complaints about the intrusiveness of these officers. Indeed, in 1797, the Select Committee on Finance reported that, even though these taxes had been added to considerably from the two items mentioned above, 'the Ease and Convenience of the Subject is consulted as much as is practicable, confidently with the Public Service, so the Collection of this Part of the Revenue is conducted, upon the Whole, at a Rate considerable cheaper than any other'.² In the half-century after the first duty on pleasure carriages, further duties were levied on coaches, male servants, property sold at auction, inhabited houses, wagons and carts, patent medicines, proprietary medicines, hats, horses, bricks, female servants, gloves and mittens, shops, articles for the toilet, hair powder, watches and clocks, dogs, and armorial ensigns.³ Initially these were placed variously under the authority of the existing revenue administrations of excises, windows, and stamps, before being collated and labelled as assessed taxes in 1785 and placed under the administration of the newly formed Tax Office.⁴ Initially the sums raised through these taxes were very small, that on pleasure carriages bringing in less than £50,000 a year. By the time of the 1797 report, the gross annual total of these was close to that brought in by the four shilling land tax, £2

¹ 20 Geo. II. c.10; 29 Geo. II. c.14.

² Reports from the Select Committee on finance, eighth report, July 1797, 5.

³ See appendix for the details. Those on female servants, gloves and mittens, shops, articles for the toilet, and watches and clocks were all repealed by 1800.

⁴ Dowell, *History of taxation*, ii, p. 189; and 25 Geo III. c.47.

million.¹ To compare, in the same reporting period, gross excise revenue was around £10 million, and gross customs £6 million.² They may not have been as financially significant as excises, but they were not inconsiderable.

The idea of taxing luxury came into conflict with the wider debate about the nature and effects of luxury in society. Much of this debate is of more relevance to the next chapter and will be explored in more detail there. This is because the definition of luxury, and the subjective nature of it in societies of differing economic circumstances, necessarily entails a discussion of what is not a luxury; that is, what constitutes a necessity of life and whether or not such things should be taxed. The existence of luxury was seen as an indicator of great inequality and the discussion of it often entailed the effect that this had on the vast majority of the working population, that is, the poor. This is a topic that is also related to the first chapter of this thesis. Luxury was identified as a natural consequence of the rise of commercial society. Those who defended this phenomenon as having brought a variety of benefits to the people and their governance had to justify the existence of luxury as a result. In advocating for commercial society it was necessary to explain why the negative effects of luxury could and should be suffered or to argue that it was possible for its worst characteristics to be controlled or mollified.³ One solution to this was for the use of sumptuary legislation, especially of high taxes, and we have already seen some authors employ this language in the support of their proposals. Nevertheless, the thread that has been sewn so far has been to demonstrate the extent to which such taxes were produced out of the conflict between the principle of using

¹ Reports from the Select Committee on finance, eighth report, July 1797, 24.

² *Ibid.*, fourth report, 6-7.

³ I. Hont, 'The early Enlightenment debate on commerce and luxury', in M. Goldie and R. Wokler, eds., *The Cambridge history of eighteenth-century political thought* (Cambridge, 2006), 383.

expenditure as an ability to pay and the public opposition to the extension of excises. Consumption was a preferable measure of means because it was a way of taxing in proportion to the revenue or income of individual taxpayers without having to expose their private affairs to public view. The new assessed taxes did charge consumers directly, but the nature of the goods concerned meant that they were duties on public displays of rank, wealth, and status. The administration of collecting them appears to have been small and not intrusive. The French finance minister Jacques Necker commented that the collection of these types of taxes was an indication of the positive attitude that the British had to paying taxes, because enforcing them would require a limitless number of officers, and yet 'it affords a real revenue to the nation'.¹ As long as you do not mention the excise, that is.

(iv)

Income as the ideal measure of taxation

On the eve of war with Revolutionary France, in early 1792, Pitt was celebrating a near-decade of adroit fiscal management at the head of the Treasury. His administration had inherited an empire that was thirteen colonies lighter on the western part and in the midst of a corruption scandal in its eastern; a public debt that had ballooned to over £240 million during the course of the war; a population that was tired from the expense of the American war, wary of the size of the debt, and suspicious of the government's handling of public income and expenditure; the entire financial administration of the state was under review from the Commissioners for Public Accounts, instigated by the calls for economical reform; and the

¹ J. Necker, *A treatise on the administration of the finances of France*, T. Mortimer, trans., (3 vols., 1785), i, 55.

reinvigoration of factional politics provided a vociferous opposition in parliament to contend with.¹ In less than ten years, Pitt had reformed the administrative bodies of customs and excises and created a new Tax Office to administer the burgeoning assessed taxes; consolidated many duties to improve their productivity and simplify the revenue system; revived the sinking fund to regain control over the level of public debt, managing to reverse the increase and even start to reduce the amount of unredeemed debt; reformed the duties on the most smuggled commodities, especially those on tea, wine, and tobacco; instigated a number of commercial negotiations, most significantly with France, resulting in a commercial treaty that provided a great boon to the nation's trade as well as her revenue; and increased the annual revenue of taxes by nearly £4m. The extent of these achievements had been purposefully revealed in a pamphlet published by the Secretary to the Treasury, George Rose.²

Much of this good work would be undone by the following quarter-century of war against Revolutionary and then Napoleonic France. The first five years of war saw over £100 million added to the debt with no sign of that abating. A plethora of new taxes had been added, including many of the assessed taxes discussed above. If the level of debt at the close of the American war had been intolerable, the current state of affairs was much worse. To rein in the excessive increase of the debt Pitt sought to redouble his efforts at levying taxes with the aim of raising more within the year to cover immediate expenditure instead of borrowing. As well as reconsidering

¹ See Binney, *British public finance*; Norris, *Shelburne and reform*; Harling, *The waning of 'Old Corruption'*, 1-55; Conway, *The British Isles and the war of American independence*, 203-38; Innes and Burns, 'Introduction' in *Rethinking the age of reform*, 1-70; and, Reitan, *Politics, finance, and the people*.

² [G. Rose], *A brief examination into the increase of the revenue, commerce, and navigation, of Great Britain, since the conclusion of the peace in 1783* (1792).

the efficacy of the funding system, Pitt confronted the central questions that have been running through this chapter: how to tax equitably in proportion to means, including all modes of property and wealth, and the use of expenditure as a measure of that ability. Pitt was well aware of the obstacles facing such reform, lamenting to the Commons that:

if the amount of every man's property could be ascertained, it would be a most desirable thing to make the people contribute to the public exigence in proportion to their wealth. But there existed no means of ascertaining the property of individuals, except such as were of a nature that could not be resorted to.¹

The shadow of the debates of the previous century, and more, continued to loom over policy makers as they struggled to find 'the means of taxing property equally, without compelling improper disclosure'.²

Pitt's first attempt came in the form of a large increase of the rates charged on the assessed taxes, commonly known as the Triple Assessment. This was not a simple trebling of the rates, but a graduated augmentation calculated on how much each taxpayer had paid in assessed taxes the previous year: those who paid up to £25 being increased three times, rising up to those who paid over £50 being increased five times.³ The target of this tax was to achieve a greater proportionality between contributions and the income of taxpayers. In his reflection on the process of the introduction of the Triple Assessment, Rose stated that a direct tax on income had been considered, but was jettisoned because it would have been 'liable to many objections'.⁴ As an alternative, the assessed taxes, being direct charges on

¹ *Parliamentary history*, xxxiii, 1137.

² *Ibid.*, 1139.

³ 38 Geo. III. c.16.

⁴ [G. Rose], *A brief examination into the increase of revenue, commerce, and manufactures of Great Britain from 1792 to 1799* (1799), 27.

taxpayers themselves, were considered to be a 'tolerably fair criterion of the income of individuals, to which their expenditure was supposed in general to be proportioned'.¹ This language had been similarly employed by Pitt on his introduction of the bill to parliament, declaring that 'the fairest criterion for judging of the proportions which ought to be paid by the various classes of society according to their income, was the return of assessed taxes'.² Indeed, there was an explicit relation to the amount due under the increased assessment and the revenue of the payer, as the act provided for an abatement of the duties if they exceeded ten per cent of income. This could be claimed by declaring to the assessors that the new rate represented more than a tenth of income and therefore paying the lower sum. Wary of the entrenched opposition to inquisitorial powers, asserting that it was 'an imprudent and dangerous request' to grant them, Pitt allowed for the abatement to be declared by oath without requiring evidence to support it.³

Unsurprisingly, opposition was vocal and concerted. Whig opposition leaders Charles James Fox and Thomas Sheridan led the charges against it. The government was continually chastised by the opposition press, especially the *Morning Chronicle*, with the pro-government *Anti-Jacobin* being founded at the end of 1797 to serve as an anti-dote.⁴ Pitt was known to have contributed to the paper, with those articles headed 'Finance' most likely to have been by his hand. Pitt's language can be seen from the first issue, defending the distribution of the Triple Assessment, that the 'burden would be diffused among all the Householders of the Kingdom, according to as fair

¹ Rose, *Brief examination... 1792 to 1799*, 27.

² *Parliamentary history*, xxxiii, 1067.

³ *Ibid.*, 1071.

⁴ The paper was set up by Pitt's parliamentary supporters George Canning and John Hookham Frere. It ran for 36 issues between November 1797 and July 1798. J. Ehrman, *The younger Pitt* (3 vols., London, 1969-1996), iii, 110-2.

a criterion as any which we believe can be adopted'.¹ A prominent line of attack was against the legitimacy of the war, with arguments that peace should be the goal before more exactions of property. Anti-French and anti-republican hostility made this a dangerous line to tow and allowed caricatures of its proponent's love of French Revolutionary principles.² Much of the content of the *Anti-Jacobin* was aimed at picturing the opposition as pro-French, pro-Jacobin, and, thus, pro-tyranny. Fox further argued against the abandonment of the funding system, stating that 'I have never heard of a better system of raising money in times of difficulty than that of the 'Funding System'.³ Again, public wariness towards the size of the debt allowed this attack to be defended with relative ease. The most difficult questions came in respect of the subversion of established principles of taxation. Of particular prominence was that the Triple Assessment contravened the voluntariness that taxes on expenditure provided to the payers. As the increase was based on previous spending, there was no way for the payer to retrench if they could not afford it. The sarcastic response to this was that the opposition should ask the landed gentry whether they thought taxation was voluntary.⁴ The sober answer was that the payer could declare that it exceeded ten per cent of their income for an abatement. This led to the charge that this required payer's to give more than they could afford or to expose their estate to the government. The fear of an intrusive state was ever-present. The paper repeated what had been argued in parliament, that the tax was set up because they were unable to accurately tax in proportion to means without requiring a '*General Inquisition*', that is, if they could they would have.⁵

¹ *Anti-Jacobin*, 20 November 1797.

² Ehrman, *Younger Pitt*, iii, 111.

³ C. J. Fox, quoted in *Interesting debates in parliament* (1798), 62.

⁴ *Anti-Jacobin*, 11 December 1797

⁵ *Ibid.*; and, *Parliamentary history*, xxxiii, 1146-1187.

The ability to declare one's income without recourse for the government to properly assess that income saw the Triple Assessment only raise about half what was expected. This was supplemented by voluntary contributions. This had been included in the act to allow those who believed that, even with the increase of rates, they felt that they were either underrated in proportion to their income or to offer more in support of the war. This still raised less than the original target, the balance of supply having to be met by further borrowing.¹ It has been argued that the Triple Assessment paved the way for the income tax to pass the following year. Indeed, Pitt stated as much when introducing the income bill, claiming that the passage of the act affirmed the two key principles underlying it, that of raising more revenue within the year to reduce borrowing and establishing a means of achieving a more equitable proportion of the ability of taxpayers.² The failure of the Triple Assessment, according to Pitt, was simply a sign that there needed to be 'a more comprehensive, a more equal and a more vigorous application' of these principles.³ Moreover, he believed that 'there necessarily must be much income, much wealth, great means' that had not been reached through the assessment, appealing to methods of political arithmetic to support his claim.⁴ By imposing a 'general tax' on 'all the leading branches of income' Pitt hoped to get closer to a 'fair and equal contribution' to the public burden.⁵

The income bill suffered from many of the same objections that had met the Triple Assessment. These were the efficacy and legitimacy of the war; the move away from a funding system that had worked well enough up to

¹ Dowell, *History of taxation*, ii, 224-31; and, Seligman, *Income tax*, 72-115.

² *Parliamentary history*, xxxiv, 2.

³ *Ibid.*, 3.

⁴ *Ibid.*, 4; see also, S. J. Thompson 'The first income tax, political arithmetic, and the measurement of economic growth', *EcHR*, 66 (2013), 877-9.

⁵ *Parliamentary history*, xxxiv, 5.

now; that it offended the principle of voluntariness that duties on commodities had in their favour; and that it was intrusive into the affairs of the people. A new line of attack argued that it was indiscriminate towards the income of payers, treating all forms the same. Like the attempts to directly tax wealth in the seventeenth-century, Pitt's bill targeted 'all income', that is from 'lands, tenements or hereditaments' or from 'any kind of personal property, or other property whatever, or from any profession, office, stipend, pension, employment, trade or vocation'.¹ The form of disclosure included nineteen heads of property from which income could be derived, with the last providing a catch-all clause to cover 'any income not falling under any of the above heads'.² The equal treatment of all income was addressed by Henry Addington in his reintroduction of the income tax after its repeal on the Peace of Amiens. Addington revived the Tudor subsidy idea of taxing different forms of income differently, as well as lowering the rates overall. Addington separated the sources of income into five categories, with that from land being charged the highest rate of one shilling in the pound or five per cent (as compared to Pitt's ten per cent). Scotland was also charged at a lower rate than those lands in England, Wales, and Berwick-upon-Tweed. Another aim of using schedules was to allow for payers to not have to disclose the entirety of their estate to the revenue, as they had to with Pitt's single form. Although the schedules would be retained, Henry Petty reverted back to Pitt's model of taxing all income equally and similarly raised the rate back up to ten per cent, being the 'natural limit' of the tax.³ Petty's reformed income tax would remain as the format through the rest of the war until its repeal in 1816.

¹ 39 Geo. III. c.3.

² 39 Geo. III. c.13.

³ Papers relating to the Budget 1806, Political papers of Henry Petty, BL, Add MS. 88906/11 (Bowood Papers), fos. 20-30.

The purpose of treating all income equally, Pitt had argued, was that everyone would be left in the same condition after having paid it. This was the equality of burden or sacrifice that Hobbes and Petty had asserted to be the basis of equitable taxation. This was similarly argued by the *London Times*, against Addington's reforms, stating that the tax must be 'just and equitable as it leaves those persons who are affected by it in precisely the same relative situation, one towards another'.¹ The assumption on which Pitt's endeavour to directly tax income had lain was that this had been the target of taxation all along. The augmentation of assessed taxes that preceded it was explicitly as a means of increasing individual contributions in relation to their income, 'which their expenditure was supposed in general to be proportioned'. We have seen above the arguments from Petty and Davenant who had used this theory to support their advocacy for a general tax on consumption. In the eighteenth century it received further analytical support from those who wrote explicitly on political economy. Steuart categorised taxes on commodities as 'proportional', because they were in proportion to the expenditure, and therefore the income, of the payer.² These were opposed to 'cumulative' taxes, such as those on land and windows, which he called arbitrary because it was difficult for the taxpayer 'to augment his income, in proportion to the tax he pays'.³ Proportional taxes were much more easily borne by taxpayers, Steuart argued, because they could be incorporated into their industry. Such taxes would always fall on the last buyer of the commodity, which was invariably 'the idle and rich consumer'.⁴ Kames similarly argued that taxes on consumables were the least oppressive of all

¹ *London Times*, 20 July 1803.

² Steuart, *Principles*, ii, 484.

³ *Ibid.*, 485.

⁴ *Ibid.*, 494.

taxes because they 'bear a proportion to the ability of the contributors'.¹ Luxuries were the ideal subject of taxation because they were purchased by 'the opulent' who were 'commonly the greatest consumers'.² Smith's preference for taxes on luxury was because they fell 'indifferently' upon the sources of private revenue. There were three sources of private revenue, Smith claimed, being 'Rent, Profit, and Wages', and taxes must fall on one, some, or all of these.³

Underlying the argument that expenditure was a suitable measure of income for the purposes of taxation, was that under no circumstances should capital in hand be subject to taxation. Steuart asserted that it was a 'fundamental principle of taxation' that taxes should be laid on the 'fruits and not the fund'. By this he meant taxation should not result in diminution of the source of the revenue, for doing so would reduce potential future revenues. Smith also argued against any tax that diminished the capital of the payer. Firstly, it offended his fourth maxim, of keeping 'out of the pockets of the people as little as possible, over and above what it brings into the' state, by lowering the amount available for future earnings.⁴ Secondly, it reduced the productive capacities of the nation, by diminishing the 'funds destined for the maintenance of productive labour'.⁵

The premise of Pitt's income tax, therefore, that revenue was and ought to be the target of taxation was not challenged by his opponents in parliament. It was, though, in a pamphlet by James Maitland, the eighth Earl of Lauderdale, titled *Plan for altering the manner of collecting a large part of the public revenue* (1799). Prior to his career as an economic writer, Maitland

¹ Kames, *Sketches*, ii, 442.

² *Ibid.*, 443.

³ Smith, *WN*, I.vi.16-7 & V.ii.b.1.

⁴ *Ibid.*, V.ii.b.6.

⁵ *Ibid.*, V.ii.h.14.

had sat in the Commons and in the Lords, as the Earl of Lauderdale, and was firmly ensconced in the factionalism of the time.¹ Lauderdale was a close friend and ally of Fox and spent the whole of his parliamentary career as a vociferous opponent of the government, particularly Pitt's ministry from 1783.² His political career came to an end in 1796 after being voted out as a Representative peer, having been accused by the government of handling French propaganda funds. His early contributions as a writer were marked with the partisanship that had defined his political career, but during his parliamentary exile he also devoted a great deal of attention to the numerous writings on economic matters from the previous century and more.³ His later work demonstrates a close engagement with a wide array of economic ideas and cites a large variety of sources. Further evidence of his intensive reading of this literature can be seen in his notes on Smith's *Wealth of nations*, which include references to and contrasts with numerous other sources.⁴

The *Plan* set out his alternative to Pitt's income tax, and this was followed five years later with a longer and more analytical work, *An inquiry into the nature and origin of public wealth, and into the means and causes of its increase* (1804), his title betraying his main target, Smith's *An inquiry into the nature and causes of the wealth of nations*. A. V. Cole has argued that Lauderdale only opposed Smith because Smith was a Tory placeman in the

¹ Maitland's family title was an ancient one, meaning that he was one of the Representative Peers of Scotland. On the Union, Scotland only received 16 seats in the Lords for their 154 peerages (for context, England had 168), the 16 being elected by their peers and serving the same length of terms as MPs. Lauderdale was elected the same year as inheriting his title, 1790.

² Maitland entered parliament in 1780, being returned for the Newport seat in Cornwall.

³ His first three pamphlets were Earl of Lauderdale, *Substance of a speech made in the House of Peers on Friday, May 13, 1796* (1796); *Thoughts on finance, suggested by the measures of the present session* (1797); and, *A letter on the present measures of finance, in which the bill now depending in parliament is particularly considered, December 27 1797* (1798).

⁴ These notes have been published as C. Sugiyama, ed., *Lauderdale's notes on Adam Smith's 'Wealth of nations'* (London, 1996).

Customs, was a friend of Henry Dundas, and also that Pitt had been a follower and student of Smith's.¹ Indeed, his contemporary reputation for partisanship was such that in the preface to his *Inquiry* Lauderdale had to give assurances that it contained 'no allusion to Party or to Party principles'.² Thomson has challenged Cole, stating that there is much more in these two works, compared to his early offerings, to justify them being studied as contributions to an intellectual debate rather than a factional dispute.³

Through the *Plan* and the *Inquiry*, Lauderdale attacked both the basic principle of taxing income as well as many of the ideas and arguments of political economy that he saw as supporting it. His alternative was for a tax on capital passing by succession. This involved two challenges to the current fiscal system, first to the premise of income being the subject of taxation and, second, the use of an inheritance tax. There was some irony to the latter, as Lauderdale had vociferously opposed Pitt's tax on collateral succession in the Lords in 1796.⁴ This had been an attempt to reform the stamp duty on legacies that had been introduced in 1780 by Lord North. There had already been a stamp on probate inventories, since the General Stamp Act of 1694, but the 1780 duty was applied to receipts of discharge of testamentary legacies. The legacy duty was graduated in accordance with the amount bequeathed, which is sometimes attributed to the influence of Smith who had criticised the probate stamp for not being charged in proportion to the value of it.⁵ The problem with North's tax was that a receipt was not legally required

¹ A. V. Cole, 'Lord Lauderdale and his 'Inquiry'', *Scottish Journal of Political Economy*, 3 (1956), 119.

² Earl of Lauderdale, *An inquiry into the nature and origin of public wealth, and into the means and causes of its increase* (Edinburgh, 1804).

³ H. F. Thomson, Jr., 'Lauderdale's early pamphlets on public finance (1796-1799)', *HOPE*, 2 (1970), 377.

⁴ *Parliamentary debates* (1796), 1155.

⁵ Smith, *WN*, V.ii.h.15.

and so was easily avoided. Pitt's reforms sought to redress this by applying the levy to all successions, with graduations depending on the relationship between the legatee and testator; the greater familial distance the higher the rate.¹ This tax, known as collateral succession, had been advocated by Smith and Isaac de Pinto based on its success in Holland.² There had been two bills presented to parliament, dealing separately with personalty and real estate, but the latter failed to pass being seen as an additional burden on landed estates.³ Jeremy Bentham had argued for a similar tax in his *Supply without burthen* (1796) and the reforms of taxation proposed by Thomas Paine in second part of rights of man and *Agrarian justice* were also based on an inheritance tax on landed estates.⁴ The main difference between Paine and Lauderdale's plans was that the former based the valuation on the revenue produced by the land, not by its capital value.

As well as the theory of taxing expenditure as a representative of income, there was another theory of taxation with which Lauderdale had to contend. This was that all taxes ultimately fall on land and therefore that is the place from which taxation should be collected. This was introduced above, in relation to Locke and Vanderlint, and both of these authors received praise from Lauderdale for their contributions to this theory. This was because they provided support for his attack on Smith's labour theory of value, that 'labour alone, never varying in its own value, is alone the ultimate and real standard by which the value of all commodities can at all times be estimated and compared'.⁵ Lauderdale wanted to assert the productive capacity of capital

¹ Dowell, *History of taxes*, iii, 133-4.

² Smith, *WN*, V.ii.h.4; and, I. de Pinto, *An essay on circulation and credit*, Rev. S. Baggs, trans., (1774).

³ *Parliamentary history*, xxxii, 1032-41.

⁴ Paine, *Complete works*, i, 434-42 & 613-23.

⁵ Smith, *WN*, I.v.

and those that argued that land was the sole source of wealth provided with evidential support to do so. Lauderdale, however, did not agree with their conclusion that there should be a single tax on the produce of land. Of particular relevance here is the work of the French *l'économistes*, otherwise known as the Physiocrats.¹ Although Lauderdale does not cite him, the discussion of this subject in the *Plan* bears a striking resemblance to that which had been presented by Hume in his essay 'Of taxes'.²

Hume had stated that he preferred taxes on commodities 'especially those on luxuries' because they were 'voluntary' and 'insensible'.³ He is not particularly clear about how this should be manifested in policy terms, and even qualifies it by accepting the suitability land taxes and duties on the necessities of life. A principal reason for this is that he has a diffuse theory of incidence, that is, he did not believe that there was a single rule that governed the shifting of the burden of taxation.⁴ Moreover he disagreed that certain members of society were capable of shifting the burden at will. Against the idea that it was possible for labourers to increase their wages as a result of higher taxes he questioned, 'By what contrivance can he raise the price of his labour? The manufacturer who employs him, will not give him more: Neither can he, because the merchant, who exports the cloth, cannot raise its price, being limited by the price which it yields in foreign markets'.⁵ Hume went on to add that everyone desires to transfer the burden of taxation on to some other source, but this does not mean that all or any of them are

¹ Thomson has argued that Lauderdale's views on a succession tax changed as a result of his turn towards physiocratic doctrines. Thomson, 'Lauderdale's early pamphlets', 373.

² Earl of Lauderdale, *A plan for altering the manner of collecting a large part of the public revenue* (1799), 11-20.

³ Hume, *Essays*, 345.

⁴ Seligman, *Shifting and incidence*, 85-7.

⁵ Hume, *Essays*, 347.

successful in this. He then chastised the view that the landed classes are the martyrs of the system of taxation: 'And why the landed gentleman should be the victim of the whole, and should not be able to defend himself, as well as others are, I cannot readily imagine'.¹

In early versions of this essay Locke was the most likely target, although it is known that Hume read and engaged with Vanderlint's work. In dismissing the idea that all taxes fell on land, Hume asserted that 'this principle, though first advanced by a celebrated writer, has so little appearance of reason, that, were it not for his authority, it would have never been received by any body'.² From 1768, Hume upgraded his derision with the inclusion of the line that it had been 'zealously promoted by some political writers'.³ His target here was the physiocrats. It is possible that this inclusion stems from correspondence that Hume had engaged with Anne Robert Jacques Turgot between 1766 and 1767.⁴ Turgot had written to Hume after having read his essay 'Of taxes', although it appears that this had been a long-standing dispute between the pair about their difference of opinion of the ideal method of taxation. Turgot was toeing the Physiocratic line that all taxes ultimately fall on land because the produce of land was the only source of productive wealth. The central doctrine of the Physiocrats had been set out by the group's founder, François Quesnay, in his *Tableau économique* (1758) and in two subsequent explanatory essays.⁵ In short, the doctrine held that the system of market exchange was governed by laws which determined the

¹ Hume, *Essays*, 347.

² Hume, *Political discourses*, 120-1.

³ Hume, *Essays*, 346.

⁴ Hume, *Letters*, ii, 74-6 & 93-4. See also, E. Rotwein, ed., *Writings on economics: David Hume* (London, 1955), 205-9.

⁵ F. Quesnay, *Oeuvres économiques et philosophiques de F. Quesnay*, A. Oncken, ed., (Paris, 1888), 305-29.

flow of money and goods in the market.¹ Quesnay attempted to map out this flow to aid the understanding of the capacities of production and consumption in the processes of economic activity. The result was the discovery of the *net produit*, being the ‘disposable surplus over cost’.² According to Quesnay’s calculations, industry and commerce were incapable of increasing productive capacity because they were simply moving wealth around. Wealth could only be created from the produce of land. Merchants and manufacturers were therefore part of the ‘sterile’ class of society whilst farmers were part of the ‘productive’ class.³ Quesnay likened the circular flow of money to the circulatory system of the body. The purpose of mapping out this flow was to understand the processes through which wealth was created and moved around the economic body. By doing so he hoped to be able to diagnose blockages that inhibited healthy circulation as well as to identify the point at which the state can extract taxes with minimal harm to the body politic.⁴ The conclusion was that taxes on the sterile and productive classes, that is, merchants, manufacturers, and farmers, blocked the progress of money through the flow of economic activity. To prevent such blockages, that taxes ought to fall on the third class of people, the ‘unproductive class’ or ‘class of proprietors’; it was the owners of land who should bear the burden of all taxes because it was only land that was capable of producing the disposable surplus.⁵

In his intensive reading of these sources, Lauderdale identified a ‘fatal error’ in both ideas of political economy and in policies of public finance. This

¹ R. L. Meek, *The economics of physiocracy* (London, 1962), 19-20.

² *Ibid.*

³ Quesnay, *Oeuvres*, 309-11.

⁴ L. Vardi, *The physiocrats and the world of the enlightenment* (Cambridge, 2012), 61-7.

⁵ Quesnay, *Oeuvres*, 318.

was that 'private riches are universally considered in no other light than as a portion of national wealth'.¹ For Lauderdale these two were not synonymous; the 'Wealth of a Nation', he claimed, was 'not equally applicable to the Riches of Individuals'.² Throughout Lauderdale adopts the term 'wealth' to refer to 'public opulence' and 'riches' for 'private fortune'.³ We saw above how Petty and Davenant had sought to establish the taxable capacity of the country by calculating the sum total of individual wealth within it. Davenant had identified that the subject of taxation should be the national superlucration, the surplus of the nation's income, being the sum of every individual within it, after their expenses. Steuart had expressed this in terms of 'superfluity', being the income of individuals that remains after necessary expenditure. Young, in his *Political arithmetic*, similarly argued that the target of taxation should be the 'superlucration', explicitly endorsing Davenant's view. Young asserted that this was because the proportion that man should pay according to his ability must be understood in a restrained sense.

These were the ideas that Lauderdale believed were supporting the erroneous position that it was income or revenue that should be the subject of taxation. Where taxes on consumption and direct taxes on property and income had captured the revenue of individuals, it had not benefitted from the increase in value of capital. Smith's three sources of revenue, rent, wages, and profit, cannot all be treated equally: one thousand pounds of land, of stock, or of money lent will not produce the same amount of revenue.⁴ Nor are they earned or received with equal amounts of time or effort. Similarly, someone with little capital but with reasonable earnings is taxed in the same

¹ Lauderdale, *Inquiry*, 6.

² *Ibid.*, 7.

³ *Ibid.*

⁴ Lauderdale, *Notes on Smith*, 155-7.

manner as if they had great capital. The wage-earner with no capital should not be taxed, and those with similar levels of capital, but different levels of revenue should be taxed proportionally in accordance with the capital that produces the income rather than the income itself. Lauderdale further argues that the greatest benefit of his proposal is that, in theory, no person is subject to the inquisition of the revenue. The tax on succession is to be paid before the inheritance is received. The beneficiary loses nothing because their inheritance is determined after the expense of the tax and the owner can enjoy all profits during their lifetime.

(v)

Conclusion

The large sums of revenue raised by customs and excises through the eighteenth-century, and the declining importance of the direct taxation of property, clearly support the thesis that the British fiscal-military state relied heavily on the indirect taxation of the consumption of its populace. Moreover, the fleeting existence of the direct tax on income during the Napoleonic war similarly indicates that it was not a populace prepared to accept such a direct tax on their means in peace-time. Public finance is inseparable from the war that it paid for. In many instances, the needs of war allowed policy makers to overcome the objections and obstacles that had inhibited them in other circumstances. Indeed, most innovation in public finance in this period came in times of war, or in the aftermath of a war. Of the periods that have received the most attention in this chapter, only Walpole's reforms of the early 1730s were not in the context of needing revenue for immediate military purposes. As legitimate as these statements are, they do not reflect the full complexity of tax thought and policy during this period. War was never the only context;

there were a variety of factors that had to be taken into consideration by policy makers and that impacted on their ability to achieve particular ends at particular times. Public opinion, interest groups, factional politics, administrative capabilities, changing socio-economic circumstances, all placed limits on the possibilities available to policy makers. Of great significance, especially in relation to the introduction of new taxes, was negotiating the existing fiscal infrastructure that already imposed burdens on certain people and certain places. Further, some types of tax may have already been attempted, the failure of which creating prejudices that could be exploited in opposition. Existing taxes also came with existing assumptions about what was fair and not fair to tax, how the burden of taxation ought to be distributed, and how current taxes succeeded or failed in those terms.

Eighteenth-century politicians inherited the vast majority of their taxes from their seventeenth-century predecessors. Of most importance was the establishment of a settled form of the direct taxation of land and the introduction of duties on items of domestic production and consumption. The growing need for taxation was assured by the funding system as immediate expenditure for war was deferred to future generations in perpetuity through borrowing. With these policies came their unresolved problems. The socio-economic inequality of the land tax was thought most grievous at first, especially against the failure to adequately tax those who were making profits out of the funding system. There were further complaints about the geographic inequality of the distribution, treating some areas more favourably than others. These grievances would wane as the fixed nature of the tax failed to keep pace with increased rents reducing the perceived overall burden on the pockets of the landed gentry. Notwithstanding the variation of

the pound rates, no real reform would be attempted until Pitt's redemption in 1798. The use of taxing consumption as supplementary to direct taxes on property, which by 1696 included the window tax, was seen as a tolerable means of achieving a fairer proportion of the wealth of the people.

The theory that the burden of taxation should be distributed proportionally was a constant through this period. This was the measure of equitable taxation. The proportion was variously referred to be in relation to 'means', 'ability', 'property', or 'estate'. As Dugald Stewart claimed, though, for all those who agreed that proportionality was a 'self-evident truth', there was little agreement about what was meant by 'ability'. Any pure theories were necessarily complicated by the practicalities of politics. Even where there was widespread agreement about the unequal distribution of a tax, such as with the land tax, this did not make it any easier to effect reform. The main problem faced by the aid and contribution that became known as the land tax was that revenue from assets other than land was extremely difficult to assess. Achieving an adequate assessment meant exposing the private affairs of individuals to public scrutiny. This was an intolerable imposition on the people, and offensive to the sacrosanct notions of liberty and property. Expenditure offered the revenue a means of taxing in proportion to ability without requiring such exposure of private matters. What people spent was seen as analogous to what they had. This idea was developed by the likes of Petty and Davenant to argue that the ideal tax was one that taxed consumption generally. Often referred to as a general excise, this was a means of universalising the principle of proportionality. The rich consume more than the poor, and thus it must be a fair criterion of ability. The problems with this thesis are the subject of the next chapter. The use of

excises expanded through the end of the seventeenth century and into the early eighteenth on this basis.

Expenditure as a measure of means continued through the eighteenth century as being preferable to addressing the problems of directly taxing property. There were proposals for single direct taxes on property, but the limits of popular opinion prevented their realisation into policy. The events of 1733, however, challenged the foundation of taxing expenditure indirectly instead of property directly. Walpole's proposal was in accordance with many of the established principles of taxation. The subjects of it, wine and tobacco, were considered to be items of luxury and therefore suitable subjects of taxation. The excise administration had been a profitable means of revenue and the nature of the collection left the vast majority of the population outside of their purview. Merchants and manufacturers had to suffer their inspection, but the ultimate payers of the tax, the consumers, were free from the encumbrance. The duties were voluntary, insensible, and in proportion to the ability of the payers. However, intense factional divisions and the deep unpopularity of Walpole's regime combined to create a furore that saw the proposal quickly dropped. This episode tainted excises for the rest of the century. Notwithstanding its continued significance to the nation's revenue, it was considered to be 'odious' and 'hateful' and near-impossible for new such duties to be introduced. As toxic as excises became, expenditure would continue to be used as the ideal means of levying taxes. These came through the new form of assessed taxes that seemed paradoxical to conventional attitudes to taxation. They were administered by the excise service, but directly charged consumers through the issuance of licences. Their prevailing attribute was that they specifically targeted items of luxury that displayed wealth, rank, and status and which became the new ideal subject of taxation.

Arguments for the taxation of expenditure all relied upon the idea that it was representative of the income or revenue of individual payers. The introduction of the income tax was framed in explicitly these terms. The object of the tax, to tax in proportion to ability, and the measure of that ability being income, had not been altered in the principles of the income tax. The change was in the means of assessing that income from using expenditure to the income directly. Pitt had attempted to increase the levels of proportion through the assessed taxes, but the failure of this led to the attempt to tax income directly. Pitt's tax failed in many of the same ways as the seventeenth-century experiments of taxing property directly had failed. Their targets were similar, income from all manner of sources, as was the ease with which income from intangible and indeterminate assets evaded assessment. In acquiescing to the fear of tyrannical inquisition into private affairs, Pitt limited the powers of inspection available to officers collecting the tax. Payer's self-declared their income in the knowledge that it was unlikely to be checked. Pitt's endeavours in revenue raising were supported by the vast financial needs of funding the war with Revolutionary and then Napoleonic France. The continued expense of the war through the early nineteenth century kept up the pressure on justifying a direct tax on income. But Pitt was also negotiating a century, and more, of fiscal debates, experimentation, success, and failure. These were factors that had to be considered and that did inform his attempts at reforming Britain's fiscal system.

Chapter Three:

The universality of taxation and taxing the poor

At the end of the Napoleonic war, the British parliament was discussing the nation's fiscal future having ended a near-quarter century of conflict. The wars against Revolutionary and Napoleonic France had been the longest and, by far, most expensive of the eighteenth-century; exacerbated by war against the Americans between 1812 and 1815, the fiscal infrastructure of the state had faced, and survived, its greatest ever challenge.¹ Pitt had introduced the income tax to reduce the state's reliance on borrowing to fund its military expeditions. Nevertheless, during the course of all three wars, over £500m had been added to the national debt with the total unredeemed debt at the close exceeding £740m.² On top of the income tax, large additions had been made to the duties on beer, malt, spirits, and salt, referred to as the 'war duties'.³ The epithet 'war', also ascribed to the income tax, assured taxpayers that they were temporary and emergency war-time measures.

In 1816 the discussion in parliament was how to place the nation's finances on a peace establishment. Top of the agenda was repeal of the property tax (as the income tax had become known). The problem for Lord Liverpool's government was that the direct taxation of income had proved a productive source of revenue. In the previous year the tax had brought in £14m which, when combined with the sums from the other war duties of £4m, amounted to nearly a quarter of the government's gross annual

¹ Daunton argues that it is after this period that the British state lost trust in its handling of public finances: Daunton, *Trusting leviathan*, 47-57.

² £241.6m in 1792; £744.9m in 1815: B .R. Mitchell, *British Historical Statistics*, (Cambridge, 1988), 600-3.

³ Dowell, *History of taxation*, ii, 229-45.

income.¹ This was a large chunk of revenue to forsake. Notwithstanding the end of the war, there was a colossal amount of debt to deal with, huge sums due in interest payments, and time needed to consolidate the forces who had been fighting on four different continents. The feeling of the country had been tested a year before on the first peace, when Napoleon had been exiled to Elba. The press wasted no time in chastising the property tax with the usual pejoratives of an unpopular tax: ‘odious’, ‘detestable’, and ‘unconstitutional’.² Napoleon’s escape and the resumption of hostilities scuppered plans of repeal, but it was clear that the property tax would be difficult to endure during times of peace.

To appease these complaints, and to soften the blow to the budget, after Napoleon’s final defeat at Waterloo Chancellor of the Exchequer, Nicholas Vansittart, proposed a gradual repeal of the tax, reducing the rate from ten per cent to five per cent for at least two years. In 1802, on the Peace of Amiens, Henry Addington had repealed Pitt’s income tax claiming that the use of it outside of war-time would set a dangerous precedent.³ Addington, however, had set his own precedent and this was regularly cited in the petitions that flooded into parliament opposing Vansittart’s plans.⁴ The tenor of these complaints was succinctly articulated by the *Edinburgh Review*: ‘it is on every principle so oppressive, so contrary to the principles of the constitution, so destructive of individual security and comfort, that we cannot suppose a free people will endure it one instant after the termination of the

¹ Total gross income in 1815 was £79.1m. ‘Gross annual income and expenditure’, *British parliamentary papers*, 1868-9, xxxv, 36.

² For example, *Gentleman’s Magazine* (1815), lxxxv.ii, 260 & 323; *New Universal Magazine* (1815), ii, 49-52; *Scots Magazine* (1815), lxxvii, 66-7.

³ *Parliamentary history*, xxxvi, 447-8.

⁴ *Parliamentary debates*, T. C. Hansard, ed., xxxiii, (London, 1816), 24-31; 72-75; 195-213; 216-241; 261-264; 391-417.

crisis which alone justified it'.¹ Henry Brougham, who led the charge in parliament, not only wanted the tax repealed, but also called for all of the records and documents that detailed the income of individuals to be destroyed.² As well as the complaints that the tax was unconstitutional, a violation of the sacred right to property, and a gross infringement of individual liberty, it was also claimed that the tax was unequal in its distribution. As well as falling hard on the landed gentry, it was claimed to be a great burden to the industrious part of the nation, the labouring poor. Following many of the arguments outlined in the previous chapter, it was asserted that the poor should be relieved of their burden and the target of taxation should return to the luxuries of the rich.³ This particular claim irked the Chancellor. Addressing the Commons, Vansittart repeated the defence of the tax that had been used since Pitt introduced it: that it was, for all concerned, the least burdensome way of raising that much money. This was an amount that was still needed despite the ending of the war. Moreover, Vansittart argued, repealing the tax would mean that 'the poor must obviously be losers, as taxes must be levied on them in its stead'. To cries of 'Hear, hear!' in the chamber, the Chancellor accused the 'present bustle against the Tax as little else than a conspiracy of the rich against the poor'.⁴

The second chapter of this thesis explored the development of arguments about the equity of taxation and how this could be achieved by taxing in proportion to wealth. A strand of this discussion, that was mentioned but not fully explored, was the question of the burden of taxation

¹ *Edinburgh Review* (October, 1815), xxv, 550.

² The records were destroyed, although those filed at the King's Remembrancer were overlooked and therefore, fortunately, not lost to the historian: A. Hope-Jones, *Income tax in the Napoleonic wars* (Cambridge, 1939), 1-4.

³ *Parliamentary debates*, xxxi, 242.

⁴ *Gentleman's magazine* (1816), lxxxvi.i, 360.

on the poor. Alongside the assertions of luxuries being ideal subjects of taxation, the effect of certain taxes on the poor was frequently employed in tax debates. This was a powerful rhetorical weapon. The episode recounted above demonstrated how it could be, and was, used by opposing sides in the same debate. The nature of this line of argument and how it was utilised in matters of taxation through the eighteenth century is the subject of this chapter. In particular it explores the challenge to a central assumption of the theory of proportionality discussed in Chapter Two, that it was equitable because it treated all taxpayers the same and therefore left them in relatively equal conditions to each other. That is, they shared an equality of sacrifice. This position was supported by the idea that all those who received a benefit from the state, such as the protection of one's person and property, ought to contribute to the cost of supporting it. As the seventeenth and eighteenth centuries progressed this became a question of how to universalise proportionality, with expenditure being identified as a satisfactory answer to it. This had always come with the caveat of the burden on the poorest members of society, but it became much more prominent through the eighteenth century.

In this discussion the poor played two related and dependent roles, that of worker and that of consumer. Those without independent means had to work to be able to afford to consume; similarly, consumers needed things to eat, drink, and use and therefore people to produce them. As consumers, the labouring population were also taxpayers. The state needed them to consume to a certain extent so as to both pay taxes on those goods and to ensure that demand kept pace with the growing supply from the nation's trade and industry. However, it did not want them to consume too much for fear that it would affect their ability to work for and defend the state.

Furthermore, some argued that taxing the consumption of the poor increased their cost of living, meaning they needed higher wages, and thus made British goods uncompetitive in the international marketplace. As shall be discussed, elements of the above have been explored in the historical scholarship; however, the specific question of whether and how the poor should be taxed has hardly been addressed.¹ O'Brien's statement that in 'theory, and to some considerable degree in practice, wages and necessities consumed by "the poor" were exempt from taxes, direct and indirect alike' is an incomplete assessment of the terms of eighteenth-century debates about taxation.² This chapter is not interested in whether the incidence of taxes did fall on the poor in practice, but rather how the interest of the poor was utilised within discussions of the theory of taxation.³

This chapter will be structured in the following way. First, the place and identity of the poor in eighteenth-century British society will be set out, including defining the use of the term 'poor'. The second section will consider the idea of the universality of taxation, how this manifested in policy, and the ways in which the poor were treated by it. This will be followed by a discussion of the poor as consumers, focussing on their consumption of luxuries and the perceived consequences of this. The fourth and final section considers the poor as workers and will look at the debates over how taxing them affected

¹ With the notable exception of Kennedy, *English taxation*, esp. 82-94 & 105-112. It is touched upon by Seligman in his discussion of theories of incidence, Seligman, *Shifting and incidence*, 14. The subject is also part of a discussion of the pamphlet literature during the Excise Crisis, Hausman and Neufeld, 'Excise anatomized', 131-43.

² O'Brien, 'Political economy', 5.

³ There have been modern attempts to work out the incidence of taxes in eighteenth-century Britain, but with little discussion of contemporary debates: Mathias & O'Brien, 'Taxation in Britain and France'; D. McCloskey, 'A mismeasurement of the incidence of taxation in Britain and France, 1715-1810', *Journal of European Economic History*, 7 (1978), 209-10; P. Mathias and P. O'Brien, 'The incidence of taxes and the burden of proof', *Journal of European Economic History*, 7 (1978), 211-213.

trade and industry. It will explore these arguments in the context of mercantilist ideas of the balance of trade and the utility of poverty as well as assertions about how the poor should be treated by the state as a means of encouraging economic development. Through this it will be shown that the poor occupied an important yet elusive and uncertain position within Britain's fiscal system: they were the nation's productive base, the domestic customers for its products, and the largest source of revenue. These were overlapping and sometimes conflicting factors that convoluted the process of formulating tax policy. Complicating it further were fears about the welfare of the poor, the size of the population, the increased levels of people claiming parish poor relief, and the social and moral consequences of the proliferation of consumer goods amongst the poor.

(i)

The poor in eighteenth-century Britain

Britain in the eighteenth century was undoubtedly an unequal society. Political, social, and economic power was vested in its aristocrats and burgeoning property-owning middle class. As a whole, the society had become richer, with the middle and upper orders benefitting greatly from increasing urbanisation, technological advancements, the division of labour, enclosures of common land, and the exploits of commercial empire. The vast majority of the population, however, were poor, property-less, excluded from political life, and lived in rural areas. The enrichment of a few came at the expense of the many; the resulting social and economic inequality was fuelled by the population boom of the second half of the eighteenth-century, as the number of people rose from around six million at the mid-point of the century to more

than ten million at the end.¹ This caused considerable social problems as the propertied classes in parliament became increasingly concerned with social disorder, vagrancy, and levels of crime.² Driven by this concern, a raft of laws were passed aimed at protecting private property, resulting in a significant increase in capital offences.³ The number of executions actually reduced through the century, and there was a geographic disparity in the application of the death penalty across the country, but the development of the 'Bloody Code' is indicative of the ruling class' anxiety over civil chaos and the threat to their property.⁴ Lawmakers were not the only ones worried about social breakdown and public safety, as the causes and consequences were intensely debated in the public sphere.⁵

There was further disquiet about the growing numbers of people who were claiming poor relief from their local parishes. The old poor law, named as such in light of the 1834 reform, was a collection of several pieces of legislation that demanded that local parishes provide relief to those in need, funded by locally administered property taxes. The rates were charged on those with property in the parish with the original 1601 act following the

¹ Mitchell *British historical statistics*, 7-8.

² There is a large literature on crime, the administration of justice, and the economic and social problems of eighteenth-century Britain. See for example: J. M Beattie, 'The pattern of crime in England, 1600-1800', *P&P*, 62 (1974), 47-95; *Crime and the courts in England, 1660-1800* (Oxford, 1986); L. Davison, T. Hitchcock, T. Keirn, & R. Shoemaker, eds., *Stilling the grumbling hive: the response to social and economic problems in England, 1689-1750* (Stroud, 1992); P. King, *Crime, justice, and discretion in England 1740-1820* (Oxford, 2000); and J. Innes, *Inferior politics: social problems and social policies in eighteenth-century Britain* (Oxford, 2009).

³ P. Linebaugh, *The London hanged: crime and civil society in the eighteenth-century* (London, 1991), 54.

⁴ D. Hay, 'Property, authority, and the criminal law', in D. Hay, P. Linebaugh, et al, eds., *Albion's fatal tree; crime and society in eighteenth-century England* (London, 1975), 17-64; P. King & R. Ward, 'Rethinking the Bloody Code in eighteenth-century Britain: capital punishment at the centre and on the periphery', *P&P*, 228 (2015), 159-205.

⁵ R. Shoemaker, 'Worrying about crime: experience, moral panics, and public opinion in London, 1660-1800', *P&P*, 234 (2017), 71-100.

distinction made in the Tudor subsidy between real and personal property.¹ As with the land tax, the rates never kept pace with changing valuations of property. An 1860 report on the differences between the old and new poor laws highlighted the discordance in the former between rates charged and the amount of property in an area, despite the intention of the law to be a tax on the value of local property.² Although the formal regulation of this policy dates back to 1601, this was a unification and codification of older practices of parish charity.³ Relief took many forms, from providing care to the sick and infirm, alms to the destitute, and work for the unemployed.⁴ Again like the land tax, the poor law was a national policy administered locally meaning that there were regional variations in experience for both those who paid the poor rates and those in receipt of its support.⁵ This was similarly the case for Scotland and Ireland who did not inherit the English poor laws on their respective unions with England and Britain and retained their own distinct systems.⁶

So far the term 'poor' has been used as a general category to refer to those who did not qualify for the ranks of the middling sort or the elite. As such, this class of people was the largest of these, but the poor were not a homogenous group. There were varying levels of means and need amongst those referred to as the poor. In the eighteenth century, the language used for the lower orders often distinguished between 'labouring' or 'industrious'

¹ 43 Eliz. 1. c. 2.

² F. Purdy, 'The statistics of the English poor rate before and since the passing of the Poor Law Amendment Act', *Journal of the Statistical Society of London*, 23 (1860), 286-329.

³ P. Slack, *Poverty and policy in Tudor and Stuart England* (London, 1988), 122-37.

⁴ M. Daunton, *Progress and poverty: an economic and social history of Britain 1700-1850* (Oxford, 1995), 448-59; and, Langford, *Polite and commercial people*, 150-5.

⁵ Price, *British society*, 159-75; S. King, *Poverty and welfare in England, 1700-1850* (Manchester, 2000).

⁶ J. Innes, 'The distinctiveness of the English poor laws, 1750-1850' in D. N. Winch and P. K. O'Brien, eds., *The political economy of the British historical experience, 1688-1914* (Oxford, 2002), 381-408.

poor, who constituted the country's workforce, and 'paupers' or 'vagrants', who were in need of church or local authority assistance. As the nineteenth century would develop the language of 'deserving' and 'undeserving' poor, a clear distinction was made between the independent, industrious, sober, and frugal labourers and the dependent, indigent, drunken, and profligate paupers.¹ The former were the backbone of the country, the healthy and happy inhabitants of Hogarth's 'Beer Street', whereas the latter were the lazy, degenerate occupants of 'Gin Lane'. This contrast was at the heart of the poor laws, which differentiated between able-bodied poor who were capable of being put to work and infirm paupers who required charity.² The nature of parish relief, though, meant that it was rarely a lifetime condition for the majority of the population. It was there as a safety-net for those periods during the life-cycle, whether illness, lack of work, or misfortune, when assistance was required.³ Most claimants in the eighteenth century sought welfare on an ad-hoc basis and were not continually dependent on their parish.⁴

The use of the term 'labouring poor' was famously challenged by Edmund Burke in two of his later pamphlets, *Thoughts and details on scarcity* (mostly written around 1795 but not published until 1800, after his death) and *Letters on a regicide peace* (1797). For Burke the term was contradictory. Referring to the poor, 'in the sense in which it is used to excite compassion', should be reserved for the indigent and the infirm: those unable to labour.⁵

¹ See G. Himmelfarb, *The idea of poverty; England in the early industrial age* (London, 1984), 23-41.

² Daunton, *Progress and poverty*, 452-3.

³ King, *Poverty and welfare*, 80.

⁴ H. French, 'How dependent were the 'dependent poor'? Poor relief and the life-course in Terling, Essex, 1762-1834', *Continuity and Change*, 30 (2015), 193-222.

⁵ E. Burke, 'Third letter on a regicide peace', in R. B. McDowell and B. Todd, eds., *The writings and speeches of Edmund Burke* (9 vols., ix, Oxford, 1981-2015), 355.

'Labouring people' were able to support themselves and did not need the pity of the wealthier classes, especially not through charity. Moreover, it was natural that the labouring population were poor because there were so many of them: 'Numbers in their nature imply poverty'.¹ Burke saw the term 'labouring poor' as 'base' and 'wicked...political canting language' because he believed that it was being used to justify the interference of the state in economic mechanisms, such as the regulation of wages and the prices of foodstuffs.² There had been a recent example of this in Speenhamland in Berkshire, where wages were topped up by the local parish to keep pace with the fluctuating price of grain.³ Burke had taken this line to purposefully oppose such state intervention, which he associated with the Jacobin politics from across the Channel.⁴ As forceful as Burke made his point, the distinction was neither particularly accurate nor adopted by others. Indeed, although he was complaining about how much the use of the term had increased in the 1790s, 'labouring poor', 'poor labourers', and 'working poor' had long been used to generally refer to the poorer classes of society.

There were a number of attempts during this period to provide an analytical taxonomy for the make-up of society. In his social table for the year 1688, Gregory King provided three categories for the poorest members of society: 'Labouring People and outservants', 'Cottagers and Paupers', and 'Vagrants'. Together, these three bottom categories accounted for well over half the number of families.⁵ King's social structure was revived in the middle

¹ E. Burke, 'Thoughts and details on scarcity', in R. B. McDowell and B. Todd, eds., *The writings and speeches of Edmund Burke* (9 vols., Oxford, 1981-2015), ix, 121.

² *Ibid.*, 121.

³ Winch, *Riches and poverty*, 198-220.

⁴ R. Bourke, *Empire and revolution: the political life of Edmund Burke* (Princeton, 2015), 891.

⁵ 57.09%: Total families: 1,390,586 (making a population of 5,500,520); Labouring people and outservants: 364,000 families (1,275,000 people); Cottagers and Paupers: 400,000 families (1,300,000 people); and Vagrants 30,000 (persons not

of the eighteenth century by Joseph Massie, who followed King in his general categories but provided a greater variety within them. Massie included a larger range of manufacturers, merchants, tradesmen, seamen, and inn-keepers and even accounted for varying annual incomes within these categories.¹ There was no allowance for vagrants, although this is perhaps because his scheme was for the purposes of calculating the amount of tax annually paid by families within each class. Labourers and husbandmen were two of the lowest groups, although Massie makes a distinction between labourers in London and in the rest of the country. According to Massie, as well as the former earning more than the latter, London labourers earned more annually than some manufacturers in the country. Massie's analysis had labourers and husbandmen as the largest number of people, but they represented a smaller proportion of the population than King had stated, accounting for a little under half.²

Around the same time as Massie, Fielding defined the poor as 'such Persons as have no Estate of their own to support them, without industry'.³ Fielding divided them into three categories. The first, those unable to work, he asserted were 'truly inconsiderable in Number' and that providing for them 'in the most ample and liberal Manner would be so very easy to the Public'.⁴ The rest were separated between those able and willing to work and those able but unwilling to work. Fielding believed that the last of these was 'the

families). G. King, 'A scheme of the income and expense of the several families of England calculated for the year 1688', G. E. Barnett, ed., *Two tracts by Gregory King* (Baltimore, 1936), 31.

¹ [J. Massie], *Calculations of taxes for a family of each rank, degree or class: for one year* (1756), 17-46.

² P. Mathias, 'The social structure in the eighteenth century: a calculation by Joseph Massie', *EcHR*, 10 (1957), 30-45.

³ H. Fielding, *An enquiry into the causes of the late increase of robbers* (1751), 69.

⁴ *Ibid.*, 70-1.

most numerous Class of Poor' and also the greatest problem in society.¹ These were the people whose behaviour needed to be policed to divert their habits to more productive and useful activities. Half a century later, Colquhoun produced a number of works that followed much of Fielding's analysis.² Colquhoun, though, provided five categories for analysing the poor: '*the useful Poor*, who are able and willing to work'; '*the vagrant Poor*, who are able but not willing to work, or who cannot obtain employment in consequence of their bad character'; '*the Indigent Poor*, who from want of employment, sickness, losses, insanity or disease, are unable to maintain themselves'; '*the aged and infirm*, who are entirely past labour and have no means of support'; and, '*the Infant Poor*, who from extreme indigence, or the death of parents, are cast upon the Public for nurture'.³ As will be discussed below, for Colquhoun the problem for society was not poverty but indigence. Where the state needed to take action was to prevent the vagrant poor from becoming indigent and to turn them into members who were useful to society. As can be seen there were a variety of ways in which the term poor was employed and in how those on the lower rungs of the socio-economic ladder were categorised for analytical purposes. The common features though were that they formed a large part of society, were in various states of ability and means, and that it was necessary for the state to take some form of action towards their welfare, whether through support or regulation.

King and Massie were interested in calculating the annual income of households for the political arithmetical purposes of working out the nation's

¹ Ibid., 75.

² On their relationship see F. Dodsworth, 'Police and the prevention of crime: commerce, temptation and the corruption of the body politic, from Fielding to Colquhoun', *British Journal of Criminology*, 47 (2007), 439-454.

³ P. Colquhoun, *The state of indigence, and the situation of the casual poor in the metropolis, explained* (1799), 18-22. This was a precursory pamphlet whilst he was working on his more expansive and analytical *A treatise on indigence* (1806).

taxable capacity. Both made some attempt to set out the expenditure of a family in each class, although Massie's was only in relation to spending on items that were subject to taxation. The finances of poor families were more fully explored in the 1790s by David Davies and Frederic Eden who, contemporaneously yet independently of each other, sought to quantify their living standards.¹ Both were trying to provide the government with empirical evidence that could be used to inform reform of the poor laws. Davies, a Berkshire clergyman, collected details of household budgets from within his own parish as well as the parishes of thirty-four of his colleagues from across Britain.² Eden, a baronet and eldest son of the governor of Maryland, employed a researcher to travel the country for more than a year to collect information on his behalf from all over the country.³ In spite of Burke's claim about the difference between labouring people and the poor, Davies and Eden painted a picture of the majority of the population struggling to make ends meet and of wages not bearing a relation to ballooning prices of provisions. As the Speenhamland regulations had sought to address, the rising cost of subsistence saw a large number of people slip into poverty in the 1790s.⁴

It was levels of poverty that drove the English cleric and, later, political economist Thomas Robert Malthus to search for a cause of the dramatic increase of it. Where Davies and Eden had identified the problem as being rooted in the disparity between wages and subsistence, Malthus believed that poverty was caused by over-population; food shortages, high prices, and low

¹ On the importance of their work, see I. Gazeley & N. Verdon, 'The first poverty line? Davies' and Eden's investigation of rural poverty in the late 18th-century England', *Explorations in Economic History*, 51 (2014), 94-108.

² D. Davies, *The case of labourers in husbandry stated and considered* (1795), 5-17 & 21-30.

³ F. M. Eden, *The state of the poor: or, an history of the labouring classes in England* (3 vols., 1797), i, pp. ii-v.

⁴ Himmelfarb, *Idea of poverty*, 66-78.

wages were the result of there being more people than present circumstances could provide subsistence for. This was inevitable, according to Malthus, because food supply, which increased arithmetically, could never keep pace with the geometric growth of population.¹ Malthus' theory was first presented in a short pamphlet in 1798, initially a response to arguments about the perfectibility of mankind and the aim for political and economic equality, particularly that advanced by William Godwin in his *Enquiry concerning political justice* (1793).² Malthus was especially keen to counter such propositions of reducing poverty by levelling society. There had also been proposals for wholesale reform of the poor laws, such as from Thomas Paine, which included expanding the system of welfare that was available to the poorest in society.³ For Malthus this was a misdiagnosis of the cause of the problem of poverty. Paine's plan involved pensions for the elderly and infirm and more generous support for those in periods of unemployment. To Malthus this was not a remedy, but rather was inflaming the disease. He argued that the existing poor law provisions were encouraging people to have more children than they could afford, which was a significant contributor to the unstable levels of the population.⁴ This was an elaboration of Burke's claim that it was the number of people that determined poverty.⁵

Malthus was not the first to assert that enforced charity through parish welfare was creating dependency among the poor. Hutcheson had

¹ The problem is briefly outlined in chapters 1 & 2 of the 1798 essay and then more fully in 1803. T. R. Malthus, *An essay on the principle of population as it affects the future improvement of society* (1798); and, *An essay on the principle of population; or, a view of its past and present effects on human happiness* (1803).

² See A. M. C. Waterman, *Revolution, economics and religion: Christian political economy, 1789-1833* (Cambridge, 1991), 15-57; and, G. Claeys, 'Malthus and Godwin: rights, utility, and productivity', in R. J. Mayhew, ed., *New perspectives on Malthus* (Cambridge, 2016), 52-73.

³ Paine, *Complete writings*, i, 424-42.

⁴ Malthus, *Essay on the principle of population* (1803), 409-19.

⁵ On the relation between Burke and Malthus, D. Winch, *Malthus* (Oxford, 1987), 16-18; and Winch, *Riches and poverty*, 223-4.

questioned the ethical nature of the poor laws, stating that to ‘make charity a legal requirement would abate the beauty of giving’.¹ Fielding and Kames similarly asserted that state mandated welfare was neither socially beneficial nor politically desirable. The philanthropy and beneficence of the wealthy, they claimed, was sufficient to provide for those desperately in need whilst not guaranteeing a safety-net to those inclined to abuse it.² Massie used the Foundling Hospital as evidence of the iniquity of this state of affairs, asserting that ‘when People *who live from Hand to Mouth* can have their children maintained at the Public Charge, it is most probable that *Inclination to Ease* will get the better of *Parental Affection*’.³ Within two years of publishing this claim, Massie followed it up with application and admission statistics from the hospital purporting to show that the ‘Authoritative Encouragement and Public Support’ had led to huge numbers of children ‘*deserted* and made *Foundlings* by their Parents’.⁴ The use of public funds in this way, Massie argued, both allowed and assisted the poor in abdicating their social and familial responsibilities. This was later to be Malthus’ central claim. To rein in rampant poverty, Malthus argued that it was necessary to control the level of population. This was something that often occurred naturally through the providential checks of famine, war, and natural disasters. These, though, were catastrophic means through which to manage the number of people. Ideally, for Malthus, the size of the population would be controlled through preventive checks, such as delaying marriage and having children.⁵ By doing so, food shortages, high prices, and low wages would be avoided and thus also poverty.

¹ Hutcheson, *System*, i, 306.

² Fielding, *Enquiry*, 46-7; and Kames, *Sketches*, iii, 97-9.

³ J. Massie, *A plan for establishment of charity-houses* (1758), 46.

⁴ J. Massie, *Farther observations concerning the Foundling-Hospital* (1759), 4-5.

⁵ Malthus, *Essay on the principle of population* (1803), 504-10.

It was against Malthus' moral and social solutions that Colquhoun was writing his arguments on the nature of poverty and indigence. Malthus, along with Burke and Eden, had taken a Smithian attitude towards governmental intervention through the poor laws, that is, they believed that such welfare was worsening the condition of the poor rather than helping it. Wages were kept low and prices high because the state was interfering in the natural liberty of the market. This was the cause of poverty. Colquhoun disagreed and challenged Malthus' premise that poverty was the problem. In fact, he argued, poverty was necessary to compel the poor 'to exercise their industry', adding that 'Labour is absolutely requisite to the existence of all Governments; and as it is from the Poor only that labour can be expected, so far from being an evil they become under proper regulations, an advantage to every Country, and highly deserve the fostering care of every Government'.¹ Colquhoun agreed that present regulations were unfit for this purpose, but he heartily supported the principle on which they were based. It was not poverty that should be the concern of governments, but the evil of indigence, 'where the strength fails, where disease, age, or infancy, deprive the individual of the means of subsistence'.²

The subject of this chapter could be considered as questions of distributive justice. In modern terms, this is a branch of state activity that deals with the distribution of property 'throughout society so that everyone is supplied with a certain level of material means'.³ This is opposed to its classical conception that was concerned with the meritocratic distribution of political offices and status.⁴ Fleischacker identified the origins of this in the

¹ Colquhoun, *State of indigence*, 18.

² *Ibid.*

³ S. Fleischacker, *A short history of distributive justice* (Cambridge, MA, 2004), 4.

⁴ *Ibid.*, 5.

latter stages of the eighteenth century with Smith playing an integral role.¹ Fleischacker argued that there were three ways in which property could be redistributed as part of a system of distributive justice: ‘by a direct transfer of property from the rich to the poor’; ‘by taxing the rich at a higher rate than the poor’; or, ‘by using tax revenues, gathered by rich and poor alike, to provide public resources that will mostly benefit the poor’.² The sanctity of property rights in eighteenth-century Britain made the first proposal intolerable to contemporaries, although towards the end of the century ideas moved towards this.³ The focus of this chapter falls somewhere between the other two, but it approaches them from a different angle. The question it investigates is, rather than asking what should be taken from the rich to aid the poor, in the context of concern for the poor how much should they contribute to the public expense. Although this chapter is not concerned with the provision of welfare for the poor, this section has shown, though, that these were identified as considerable problems in eighteenth-century British society. With this in mind, how should the system of taxation deal with it, not in the sense of redistributing wealth, but of not redistributing the meagre means of the poorest in society. If the cost of subsistence is high, should it be taxed? This was a question that had to be balanced with those other assumptions about the equity and justice of all members of society contributing to the collective expense.

¹ This has been disputed, at least in relation to ideas of the right of necessity, by van Duffel and Yap who identify twelfth and thirteenth-century canon law as decisive: S. van Duffel and D. Yap, ‘Distributive justice before the eighteenth century: right of necessity’, *History of Political Thought*, 32 (2011), 449-464.

² Fleischacker, *Distributive justice*, 63.

³ J. R. Poynter, *Society and pauperism: English ideas on poor relief, 1795-1834* (London, 1969), p. xv.

(ii)

The universality of taxation

The idea of the universality of taxation, that all should contribute to the public expense, was implicit in the principle of proportionality discussed in Chapter Two. This stated that it was equitable and just for the burden of taxation to be shared in proportion to one's means or ability to pay. If all gave up the same fraction of their private property to the public then all suffer the same equality of sacrifice, there being no change in people's relative wealth to each other. This was further justified by the utility of taxation that was discussed in the first chapter. There it was argued that taxation was deemed legitimate because of the enjoyment of the protection afforded by the state; protection from foreign enemies by the maintenance of a navy and army; and protection from other members of society through the administration of an independent system of justice. Those with greater amounts of property benefitted more from this, so should pay more, but even those with no property enjoyed liberty and security and so ought to pay for it. The receipt of benefit made it just for all to pay and the proportionality accounted for the inequality of wealth within society. In his *Elements of commerce* (1772), Thomas Mortimer highlighted the equitable aspect of universality and its relation with proportionality when he stated that there 'should be a just proportion in the tax of every individual; and there must be no exception or immunity, which may turn to the disadvantage of others'.¹

Universality, however, was as much about maximising revenue as it was treating taxpayers fairly. One of the key attributes of the British system of public finance, especially in contrast to France, was the perceived productivity of its revenue raising capabilities without excessively burdening

¹ Mortimer, *Elements of commerce*, 300.

any one area of economic activity. Smith praised the ‘uniform system of taxation’ that treated ‘all the different parts of the united kingdom of Great Britain’ equally, with only a ‘few exceptions of no great consequence’.¹ Further, he claimed, the manner of taxation in Britain meant that it was not ‘possible to say that any particular order was oppressed’.² These comments were made explicitly in relation to France’s public finances, which Smith viewed as being plagued by ‘various and complicated revenue laws’.³ He believed that France was unable to raise as much money as Britain, despite being more populous and more fertile, because of the lack of uniformity in the imposition of its taxes. Smith highlighted both territorial and socio-economic discrepancies. He explained how each province, and sometimes even localities and cities, enjoyed its own peculiar position within the whole and thereby were not treated the same as each other. One of the worst offenders of this was the *gabelle*, the French salt tax, which was very heavy in some places and exempt in others. Moreover, because the people of France did not contribute in ‘the same proportion to their numbers as the people of Britain’, Smith claimed that it was ‘generally acknowledged’ that they were ‘much more oppressed by taxes’ than the British.⁴ This was particularly the case with the *taille*, the French land tax, that was assessed with ‘great inequalities’ on the ‘estates and tenants of different individuals’.⁵ For much of the eighteenth century there had been numerous attempts at reforming the wide array of privileges enjoyed by nobles, clergy, courtiers, military officers, magistrates, and other officials of local and national government, in the payment of this medieval tax. The kingdom had seen it necessary in its

¹ Smith, *WN*, V.ii.k.69.

² *Ibid.*, V.ii.k.78.

³ *Ibid.*, V.ii.k.72.

⁴ *Ibid.*, V.ii.k.78.

⁵ *Ibid.*, V.ii.k.77.

challenge with Britain for European supremacy to expand its tax base and aim at universal taxation.¹

Britain was not immune from problems of the universal applicability of its taxes. The most famous example of the matter of geographic universality was in relation to Britain's attempt to tax its colonies in North America. Elsewhere in this thesis, this has been discussed in the context of consent and political representation as a means of legitimising taxation, an aspect that has been the focus for much of the historical analysis of this episode. The question of universality, though, was a significant factor in this debate, at least from the British perspective. Although Smith was equivocal about whether or not the American colonists should be taxed or how it should be carried out, he was clear that universality of taxation was not unjust:

It is not contrary to justice that both Ireland and America should contribute toward the discharge of the publick debt of Great Britain. That debt has been contracted in support of the government established by the Revolution ... to which all the colonies of America owe the liberty, security, and property which they have ever since enjoyed. That publick debt has been contracted in the defence, not of Great Britain alone, but all of the different provinces of the empire; the immense debt contracted in the late war in particular, and a great part of that contracted in the war before, were both properly contracted in defence of America.²

Kames was far more certain about whether the American colonists should be paying their way in support of the British state. As well as considering the need for consent to taxation as being 'totally subversive of government', Kames stated that because the 'colonists be British subjects' and that 'from the beginning the have been protected by Britain, they ought, like other

¹ Kwass, *Privilege and the politics of taxation*, 62-115.

² Smith, *WN*, V.iii.88.

subjects, to pay for that protection'.¹ Kames' theory of universality even went as far as to include foreign visitors to the country, that is when they purchased taxable commodities, because all people who 'set foot in the territory' enjoyed the peace of a well-ordered and civilised society protected by the state.² In concluding this argument, Kames was unequivocal about the universality of taxation: 'As every member of the body-politic is under the protection of the government, every one of them, as observed above, ought to pay for being protected'.³

Closer to home, questions of universality were also raised with respect to Scotland's position within Britain's fiscal system. Elements of this have already been discussed in relation to the distribution of the burden of the land tax and excises. Despite the 'few exceptions' to uniformity in Britain claimed by Smith, fiscal disparity was at the heart of the Treaty of Union. The numerous exemptions and reduced rates were designed to ease the process of integrating the apparently weaker Scottish economy into England's methods of public finance. There was tension on both sides of this arrangement. One such exemption was from the duty on malt, introduced in England in 1697, and which operated as a second tax on beer and spirituous liquors. The first attempt to extend this duty to Scotland in 1713 saw a bill introduced in the Lords to dissolve the Union for a breach of the Treaty that was only narrowly defeated.⁴ A similar attempt to levy the duty on malt in Scotland was made by Walpole in 1725 resulting in riots in Glasgow. As the Scots objected to the oppressive overreach of the fiscal state into Scotland, the English lamented the limited levels of revenue being collected there. When

¹ Kames, *Sketches*, ii, 437-8.

² *Ibid.*, 438.

³ *Ibid.*, 439.

⁴ *Parliamentary history*, vi, 1216-1220.

Walter Stanhope stood up in the Commons in 1790 to complain about the paucity of excise duties being collected in Scotland, he was echoing a view that had long been queried by Westminster and Whitehall.¹ The Scottish Commissioners of Excise were accustomed to rebukes from the Treasury, which were often prompted by petitions from English merchants and manufacturers complaining about fraudulent practices north of the border.² Their department's maladministration was further chastised in the Select Committee on Finance reports of the late 1790s, particularly relating to the transfer of sums collected to the Exchequer.³

There were similar problems within Scotland. The nature of the physical environment of the Highlands and Islands, with its sparse population and rugged terrain, made the collection of duties there very difficult. So difficult was this the Scottish administration wanted to farm out some duties in these regions because their collection was too onerous.⁴ This was especially the case in comparison with the cities of the Lowlands. There were further problems in universalising the collection of taxes in relation to the distillation of whisky. The urban areas of the Lowlands had fewer and larger producers, making assessing and inspecting them easier, whereas in

¹ This is recounted in Hoppit, *Britain's political economies*, 280. The Scottish Excise Commissioners complained to Henry Dundas about this and defended their department: Commissioners to Henry Dundas, 4 May 1790, NRS, Scottish Excise Board Letters to the Treasury, CE8/3, 87-92.

² For example, a memorial from the Association in London for Protection of Trade against smuggling of tea, coffee, chocolate, and cocoa nuts, 10 August 1780, NRS, Letters from the Treasury to the Scottish Excise Board, CE9/1, 25; a petition from Tanners in the County of Cumberland, 22 April 1784, 53-4; a representation of the manufacturers of soap, 2 June 1785, 63; regarding the stamping and marking of calicoes and muslins, 18 August 1786, 76-9; and, regarding the smuggling of tobacco, 15 October 1787, 94.

³ Fifth report from the Select Committee on Finance &c, Excise, 19 July 1797, 4-7.

⁴ The request was made repeatedly, at least from 1790, in the annual reports from the Scottish Excise Board to the Treasury, see Scottish Excise Board to the Treasury, 12 January 1790, CE8/3, 1-26; 24 October 1791, 174-200; 24 December 1792, 239-63; 16 October 1793, 282-94; 1 October 1794, 316-30; 16 October 1795, CE8/4, 69-82.

the Highlands it was more common for smaller stills to be used and the spirit to be produced in small batches. Such was the difference Pitt sought to overcome it with the Wash Act of 1784 which produced different regulations, and different rates, between Highland and Lowland distillers.¹ One impact of this was for the Highland border to be officially delineated, upsetting a Committee of Gentlemen of the County of Perth who petitioned the Scottish Board of Excise for the boundary to be redrawn in their favour.² Perth's proximity to the border, yet being drawn on the other side of it, meant that their local distillers were in competition with those who benefitted from lighter regulation and lower taxes.³

There were a few other instances of exemptions within Britain's fiscal system. The Isle of Man, the feudal lordship of the English crown in the middle of the Irish Sea, had existed outside of the remit of the revenue for centuries. In the eighteenth century it was in the possession of the Scottish Duke of Athol, but the right of the Lord of Man to collect the customs duties on the island had been vested in the Stanley family in 1406, who were later to become the Earls of Derby.⁴ The island's ample position, with ready access to the south-west coast of Scotland, including the Firth of Clyde into Glasgow, the north-west coast of England and the north coast of Wales, made it the ideal entrepôt for illicit and untaxed goods from Ireland, the Americas, the Indies, and elsewhere in Europe.⁵ As such it became a hotbed of smuggling,

¹ 24 Geo 3, Sess 2 c. 46

² Petition from the Committee of Gentlemen of the County of Perth, 8 April 1795, CE8/4, 33-44.

³ V. E. Dietz, 'The politics of whisky: Scottish Distillers, the excise, and the Pittite state', *JBS*, 36 (1997), 51-3. This was complained about in *Considerations on the impolicy of local exemptions from the payment of excise duties on the distillation of spirits in Scotland* (1797)

⁴ J. R. Dickinson, 'The overseas trade of the Isle of Man', *Transactions of the Historic Society of Lancashire and Cheshire*, 154 (2005), 3-4.

⁵ L. M. Cullen, 'The smuggling trade in Ireland in the eighteenth century', *Proceedings of the Royal Irish Academy*, 67 (1968/1969), 149-175.

so much so that Britain spent £70,000 in 1765 to re-vest the right to collect duties back to the crown. At the same time, the British were looking at repealing another privilege of taxation that was enjoyed by the estate of Ferintosh near Inverness. This had been a younger exemption, granted to the distilleries and breweries on the estate, owned by the Forbes family, because of John Forbes support for the new regime in Scotland on the Glorious revolution.¹ Ferintosh was one of the largest distilleries in Scotland and its exemption had long been a bane to the Scottish excise service. Nothing materialised from the negotiations in the 1760s, but the privilege was bought out for £32,000 two decades later by order of the aforementioned Wash Act.²

The privileges of the Isle of Man and Ferintosh were examples of sanctioned disparity that the eighteenth-century British state wanted to remove from its fiscal regime. There were other exemptions, however, that were deemed politic. The triple assessment and the income tax of the latter period of the century included minimum thresholds to exclude those with meagre earnings from them. There had already been some implicit exclusion from the assessed taxes in the sense that the items taxed were chosen because they were believed to be mainly used by those with rank and status, therefore freeing the poorer members of society from their purview. Some taxes contained explicit exemptions within them. The duties on windows, including the Commutation Act, inhabited houses, shops, and the land tax, all included a clause that excluded those who did not pay poor rates. This was a practice that had been adopted from the seventeenth-century direct taxes on property, the aids, subsidies, assessments, and the hearth tax. In one form or another, the following wording was included:

¹ An account is given by his great great grandson, Arthur Forbes: Memorial of Arthur Forbes, nd., Letters from the Scottish Excise Board to the Treasury, CE8/2, 1-15.

² 24 Geo 3, Sess 2 c. 46

Provided always, That no person who by reason of his poverty, or the smallness of his Estate, is exempted from the usual Taxes, Payments and Contributions towards the Church and Poor, shall be charged or chargeable with any of the duties by this Act impose.¹

The premise of this was that those not paying parish tithes or poor rates were the most likely to be in need of receipt of their welfare and therefore should not be charged with additional taxes. This was also a way in which the assessment of who was poor could be made in the context of local conditions; the local officials who administered the distribution of parish relief were also likely to be involved in those taxes, such as the land tax and window tax, that were similarly managed by the property-owning elites of the local community.

The universality of taxation was a complicated subject. In many instances it was believed to be inequitable for some taxes to not apply to all or to treat different areas of the country or sections of society unequally. In others, it was difficult for taxes to be devised so as to be universal in their application. The previous chapter of this thesis explored many of these problems in relation to the formulation of direct taxes on property. Conversely, sometimes it was deemed to be politic for certain taxes to not apply to all, the exemption of the poorest in society from the direct taxes discussed above being one example. Similarly, some areas of activity were freed from fiscal interference. Wool, long seen as a staple commodity of English manufacturing, was never subjected to taxation so as to avoid inhibiting its trade.²

¹ This is taken from the Hearth Tax, 14 Car. II. c.10 s.xvii. Others include the land tax (1692), 4 Gul & Mar. c.1 s.xlii; window tax (1696), 7 & 8 Gul. III. c. 18; duty on house, windows, and lights (1746), 20 Geo. II. c.3 s.xxix; inhabited house duty (1778), 18 Geo. III. c.26 s.vi; Commutation Act (1784), 24 Geo. III. Session 2 c.38 s.xviii; and, duties on shops (1786), 26 Geo. III. c.9 s.iii.

² This is discussed in Hoppit, *Britain's political economies*, Chapter 7.

A broad tax base, however, was important for maximising revenue. The most productive taxes in the eighteenth century were those on items of general consumption, such as beer, malt, tea, and salt, and, to a lesser extent, candles, leather, and soap. Save for salt, all of these were administered by the excise. As has been stated elsewhere in this thesis, these duties became the backbone of the British fiscal-military state. The productivity of these taxes was principally based on the large numbers of people who bought the commodities. More than simply arithmetic, the scale of production for goods so widely consumed made it easier for revenue officials to monitor their output. For example, the collection of duties on tea was helped by the monopoly of the East India Company importing into London. The other advantages of these taxes were that they were indiscriminate towards the source of wealth or income and so distributed the burden fairly across all areas of economic activity; their equity was further enhanced by their apparent voluntariness, because people only bought as much as they wanted or could afford; and, their indirectness, being collected from the merchant or manufacturer before being passed on to the consumer through the sale price, meant that the consumer was insensible to the tax and enjoyed relative freedom from the intrusion of revenue officers into their private affairs.

The universality of these duties, though, was also identified as a problematic feature, especially in relation to the inevitable consequence of including the poor in their remit. The equity of them was challenged because the spending on those goods formed a proportionally larger part of the budgets of the poor than the rich; their voluntariness was challenged by the fact that some goods, such as salt, were asserted to be necessary for basic subsistence, and other items, such as leather, candles, and soap, were

argued to be essential for some arts and manufactures; and, their insensibility was challenged when the amount of taxation levelled on those goods dramatically increased the price of them. It was not possible to administer an exemption of the kind that applied to some direct taxes discussed above. There were further complaints by the merchants and manufacturers of such goods of the effect that high levels of taxation were having on their trade. These are the issues that will be explored in the rest of this chapter.

(iii)

The consumption of the poor

The first chapter of this thesis studied the eighteenth-century discussions of the causes and consequences of the emergence of commercial society. The focus there had been on how the growth of international trade and the commercialisation of society, themselves driven by the expansion of empire, had eroded the bonds of servitude under feudalism. The traditional structures of power and authority were shaken by the change in relationship between the rich and poor from dominant subordination to market relations. Concomitant to this was the rise of a new agent in society, the consumer.¹ This was a key factor in distinguishing eighteenth-century commercial nations from their predecessors of earlier eras; Britain was more than a trading power, it was a nation of spenders. Although Britain has been identified as the first to be truly considered a consumer society in this period,

¹ McKendrick, Brewer, and Plumb, *Birth of a consumer society*, 9-13; and F. Trentmann, 'Knowing consumers – histories, identities, practices: and introduction', in F. Trentmann, ed., *The making of the consumer: knowledge, power and identity in the modern world* (London, 2006), 1-28.

being firmly established by the beginning of the nineteenth century, it had been a European-wide phenomenon.¹

As well as driving international trade, the increased spending habits of the people promoted domestic arts and manufactures, as consumption provided a stimulus for industriousness in the people.² There was a mutually propagating relationship between foreign trade, national industry, and a consuming public. For Smith, this placed the consumer in a vital position in the economic order because ‘consumption was the sole end of all production’.³ As a result, Smith claimed, the ‘interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer’. Indeed, Smith’s ‘very violent attack’ on the whole commercial system, especially the large section on Britain’s mercantile regulations, was driven by his belief that the consumer had been neglected in British economic policy in favour of conspiring merchants and manufacturers.⁴ The critical difference between the consumption of this period and that of earlier times, and the evidential support for the purported consumer revolution, was its proliferation through all ranks of society.⁵ While the rich indulged in an ‘orgy of spending’, and the middle classes ‘spent frenziedly’, the poor followed them in the habit of buying things superfluous to their basic needs.⁶ The

¹ This is set out in a number of essays in the edited collection J. Brewer and R. Porter, eds., *Consumption and the world of goods* (Abingdon, 1993). For an assertion of a French consumer revolution contemporary to that of Britain, M. Kwass, ‘Consumption and the world of ideas: consumer revolution and the moral economy of the Marquis de Mirabeau’, *Eighteenth-Century Studies*, 37 (2004), 187-213.

² de Vries, *The industrious revolution*, 40-72.

³ *WN*, IV.viii.49.

⁴ Smith made this quote about the *Wealth of nations* in a letter to Andreas Holt comparing the public response to that work and his account of Hume’s death. Smith, *Correspondence*, 251.

⁵ C. Muldrew, *Food, energy and the creation of industriousness: work and material culture in agrarian England, 1550-1780* (Cambridge, 2011), 163-207; and, J. Harley, ‘Consumption and poverty in the homes of the English poor, c. 1670-1834’, *Social History*, 43 (2018), 81-104.

⁶ McKendrick, Brewer, and Plumb, *Birth of a consumer society*, 10-11.

proliferation of luxury in this way made it a topic that eighteenth-century political writers could scarce ignore, as well as providing subject matter for myriad other literary performances and homilies.¹ There are two elements of this that are especially germane here. The first is the indulgence of the poor in superfluities and the perceived negative consequences on the social order and their desire to work. The second is the burden that was placed on the poor workforce by the extravagance and excesses of the rich, particularly in times of scarcity.

There had been a long tradition of classical republican and Christian writings that portended the evils that luxury brought to the nation. In this tradition, luxury was not about any one thing or set of things, it was about excessive use; it was the gratification of those desires which exceeded bodily needs.² The basic contours of these arguments were that the prevalence of extravagant expenditure was indicative of an unequal society; it corrupted the morals of the people and effeminised men's character; it engendered venality in the ruling class; it rendered the members of the society incapable of defending themselves, particularly by replacing the self-less love of the state with a selfish love of money and decadence; and, as a result, it exposed the nation to ruin or to the invasion of barbarous hordes, as was the fate of Rome. In short, luxury was the corruption of the virtuous civic life and its existence threatened the stability and security of the state.

The model of Roman decline and fall was a common theme for the numerous tracts published on this subject. The descent into excessive

¹ Hont, 'The early Enlightenment debate on commerce and luxury', 383; M. Berg and E. Eger, 'The rise and fall of the luxury debates', in M. Berg and E. Eger, eds., *Luxury in the eighteenth century: debates, desires and delectable goods* (Basingstoke, 2003), 7-27.

² C. J. Berry, *Idea of luxury; a conceptual and historical investigation* (Cambridge, 1994), 64-7 & 87-8.

consumption was related to the increase of foreign trade and imperial expansion. It was these elements that Archbishop François Fénelon, whose *Les aventures de Telemaque* (1699) was translated into English in 1701 and became supremely popular in Britain in the eighteenth-century, identified with the French monarchy's Colbertist economic policies.¹ Rome had demonstrated that this was a sure path to destruction. James Harrington and Andrew Fletcher, two of the most prominent seventeenth-century English and Scottish advocates of eschewing luxury in favour of embracing civic virtue, saw the remedy of these ills in the policies that Rome had abandoned.² Both focussed on the inequality and the moral and physical degradation wrought by luxury, and utilised classical republican solutions of martial virtue and agrarian laws. Harrington believed that the Roman Republic had 'through a negligence committed in their agrarian laws, let in the sink of luxury, and forfeited the inestimable treasure of liberty for themselves and posterity'.³ Employing similar language, Fletcher declared that modern Europe was sinking into 'an Abyss of Pleasures' in much the same manner as had beset 'the Antients'.⁴ This line of argument would be later developed by Bolingbroke to attack Walpole and his administration. This time the focus was on the political corruption wrought by luxury: the 'grandeur of Rome', which had been the 'work of many centuries, the effect of much wisdom, and

¹ P. Schuurman, 'Fénelon on luxury, war and trade in the *Telemachus*', *History of European Ideas*, 38 (2012), 179-199. On the popularity of Fénelon in Britain, see R. Whatmore, 'Luxury, commerce, and the rise of political economy', in J. A. Harris, ed., *Oxford handbook of British philosophy in the eighteenth century* (Oxford, 2013), 582.

² For the relation between the thought of Fletcher and Harrington see Pocock, *Machiavellian moment*, 428-9.

³ J. Harrington, *The commonwealth of Oceana*, J. G. A. Pocock, ed., (Cambridge, 1992), 43.

⁴ [A. Fletcher], *A discourse of government with relation to militias* (Edinburgh, 1698), 12.

the price of much blood', was destroyed 'when luxury grew up to favour corruption, and corruption to nourish luxury, then Rome grew venal'.¹

Central to Harrington's analysis was the negative effects of the unequal distribution of property, with luxury being the consequence of the accumulation of property. For Harrington, property was the foundation of arms, and therefore also of power. This was an extension of the Machiavellian argument that arms were the basis of citizenship, that is, that the security of a republic depended on an armed citizenry; those who allowed the state to be defended by others could no longer be considered to be citizens.² For Harrington the balance of power in a society ought to be contained by the balance of property. It was ancient agrarian laws, to distribute land among the people, to which Harrington appealed in order to maintain the balance of property within society. Like Harrington, Fletcher wanted a property-owning armed citizenry who practiced a 'frugal and military way of living', and could be called upon at all times to defend the state.³ This was to be achieved through the establishment of a militia. Fletcher's argument for a militia was also centred on the need to avoid a standing army. Standing armies were the tools of tyrants and required 'heavy and perpetual taxes' on the people to pay for them; worse, Fletcher added, such an army was capable of being turned on the people to collect those taxes.⁴

Luxury was identified as being intimately related to commerce; advocacy for commerce, therefore, required an apology, or at least a rationale, for luxury. Davenant declared that luxury was a 'necessary evil' that had to

¹ Lord Viscount Bolingbroke, *The works of the late right honourable Henry St. John, Lord Viscount Bolingbroke* (8 vols., 1809), iii, 275.

² J. G. A. Pocock, 'Machiavelli, Harrington and English political ideologies in the eighteenth-century', *William and Mary Quarterly*, 22 (1965), 549-583.

³ [Fletcher], *Discourse*, 12-3.

⁴ *Ibid.*, 13.

be tolerated so that the nation could reap the economic benefits of foreign trade.¹ Less apologetically, Nicholas Barbon, in his *Discourse of trade* (1690), was clear that it was ‘the wants of the Mind, Fashion and the desire of Novelties and Things Scarce that causeth Trade’.² Barbon asserted that there was a direct relationship between commerce and the security and prosperity of the state and its people. Importantly for the former, trade was ‘Useful for the Defence of the Government’ because ‘It provides the Magazines of Warr. The Guns, Powder, and Bullets are all made of Minerals, and are wrought by *Traders*’.³ Of most relevance to this thesis, Barbon claimed that trade also ‘Increaseth the Revenue of the Government’: ‘the more every Man Earns, the more he Consumes, and the King’s Revenue is the more Increased’.⁴

A year after Barbon’s text, Dudley North’s similarly titled *Discourses upon trade* (1691) also argued that the ‘main spur to Trade, or rather to Industry and Ingenuity, is the exorbitant Appetites of Men’.⁵ This, North argued, drove them to work ‘when nothing else will incline them to it’. The satisfaction of desires was the propeller of economic growth because it promoted trade and encouraged industry. Like many others who would follow in the eighteenth-century, North was cautious of allowing luxury to lead to excess, but was wary of removing it completely because if ‘Men content themselves with bare Necessities, we should have a poor World’.⁶ This was the contrast that proponents of the benefits of commerce presented in their arguments. If enjoyed in a civilised manner, luxury represented refinement,

¹ Davenant, *PCW*, ii, 275.

² [N. Barbon], *A discourse on trade* (1690), 72.

³ *Ibid.*, 40.

⁴ *Ibid.*, 39.

⁵ [D. North], *Discourses upon trade* (1691), 27.

⁶ *Ibid.*

sensuality, pleasure, and comfort, whereas a society without it was rude, barbarous, primitive, and uncivilised.

It was this distinction that Bernard Mandeville played on to highlight the hypocrisy of those who decried commerce and luxury but were more than willing to enjoy the benefits that it brought to civilised society. Mandeville was more antagonistic and provocative than other defenders of luxury, which is why he was most often the target of those who later attacked this position. Even those who adopted many of the same arguments sought to distance themselves from some of his more outrageous conclusions. Hume agreed with Mandeville's criticism of the 'unthinking condemnation' of luxury, but disagreed with his assertion that luxury was not a vice. Referring to Mandeville, Hume claimed that it was 'little less than a contradiction in terms, to talk of a vice, which is in general beneficial to society'.¹

Mandeville had argued, first in the form of a poem, and then through a number of accompanying commentaries, that the indulgence in sensual pleasure could not be a vice because of the benefits that it brought to civil society.² Contrary to the opinion of 'haughty Moralists', emulation and pride, the unintended consequences of commerce and luxury, were the causes of the increase in productivity that was propelling the market economy and the commercial success of the nation.³ Desire to emulate the success of your neighbour was a great driver of industriousness, and pride in one's own successes maintained it. Further, the comfort of modern civil society was a far better way for people to live than to have virtue in poverty.

¹ Hume, 'Of refinement in the arts', in *Essays*, 280.

² See E. J. Hundert, *The enlightenment's fable; Bernard Mandeville and the discovery of society* (Cambridge, 1994), 175-218.

³ [B. Mandeville], *The fable of the bees: or, private vices, publick benefits* (4th ed., 1725), 125-39.

Mandeville's exuberant defence of emulation in society was one the main areas over which his work was challenged. Emulation was part of the performative aspect of consumption, as the wearing or owning of certain items declared one's status within society.¹ The desire to better one's material conditions and to mimic the manners and habits of those with higher standing was identified as being a driver of economic growth. Barbon highlighted its role in the constant changing of fashions. For Barbon, fashion was the 'great Promoter' and the 'Spirit and Life' of trade.² This was because 'it occasions the Expence of Cloaths, before the Old ones are worn out'; it 'makes a Circulation, and gives a Value by Turns, to all sorts of Commodities'.³ Against this view, Fletcher had claimed that the 'perpetual change of the Fashions in Clothes, Equipage and Furniture of Houses' resulted in a wasteful society in which leisure and choice were preferred to prudence and devotion to the state.⁴ A commercial nation, however, thrived on the ceaseless spending habits of its people. Emulation was also indicative of an unequal society. There needed to be superior and wealthier ranks for those below to strive to rise to or to emulate them. King's and Massie's social tables had more than twenty orders of society, with varying degrees of means and status. The necessity of birth for some of these excluded the vast majority of the population, but there remained plenty of opportunity for social climbing.⁵ Through the eighteenth century, it was the emulation by the poor of the rich that was of critical concern.

¹ H. Berry, 'Polite consumption: shopping in eighteenth-century England', *TRHS*, 12 (2002), 375-394.

² [Barbon], *Discourse*, 65.

³ *Ibid.*

⁴ *Ibid.*, 12.

⁵ Langford, *Polite and commercial people*, 59-122.

In the middle of the century, the Bow Street Magistrate, Henry Fielding, published a treatise that investigated the causes of crime, which he claimed to have recently increased to a significant degree. The central claim was simple: ‘the vast Torrent of Luxury which of late Years hath poured itself into this Nation, hath greatly contributed to produce, among many others, the Mischief I here complain of’.¹ Fielding was unconcerned with the excesses of the elite, stating that ‘Pleasure always hath been, and always will be, the principal Business of Persons of Fashion and Fortune’.² The problem was with the ‘very Dregs of the People’ desiring ‘to be as wicked and profligate as their Superiors’.³ The role of the poor was to provide the upper orders with ‘their Pleasures, and to furnish them with the Means of Luxury’.⁴ When the poor dabbled in superfluity, Fielding contended, they abandoned ‘themselves to Idleness, the more simple and poor spirited betake themselves to a State of Starving and Beggary, while those of more Art and courage become Thieves, Sharpers, and Robbers’.⁵ Later in the same decade, the moralist John Brown published two volumes and an explanatory pamphlet explaining how the moral character of the nation had decayed in a swamp of luxury.⁶ Although the spread of profligacy and degeneracy amongst the poor was a problem, it was a symptom and not a cause of the disease. It was the manners and behaviours of the upper orders who were setting the moral tone of the nation.⁷ This was the source of idleness and debauchery that beset the nation. Emulation would be a good thing if the elite set a sober, moral, and prudent

¹ Fielding, *Enquiry*, 6.

² *Ibid.*, 17.

³ *Ibid.*, 6.

⁴ *Ibid.*, 18.

⁵ *Ibid.*, 8.

⁶ [J. Brown], *An estimate of the manners and principles of the times* (2 vols., 1757); [J. Brown], *An explanatory defence of the estimate of the manners and principles of the times* (1758).

⁷ [Brown], *Estimate*, i, 151-61.

example to follow. If the soldiers of an army or the sailors on a ship are drunk and indigent, it is the fault of the officers leading them.

The poor emulating the rich was seen as a problem because the former were deemed to be spending more time and money on things that were above their rank and status. There was another aspect of their behaviour that worried moralists in their jeremiads of social decay: drunkenness. It was alcoholic drinks, especially spirituous liquors, which were most often the target of taxation being used for sumptuary purposes. Fielding asserted that this 'odious Vice' was the 'Parent of all the others'.¹ He was writing towards the end of a period in which London had been plagued by an apparent epidemic of liquor-induced inebriety. Fielding highlighted the cause as being 'Poison called *Gin*', although this was a catch-all for a variety of cheaply produced spirits distilled from grain. The drinking of such liquors exploded in the aftermath of the Glorious Revolution. The high tariffs and prohibitions on foreign spirits, especially French brandy, its association with the Protestant restoration, the relaxing of licensing laws to encourage production, and that the distillation process provided a market for lower quality grain unsuitable for brewing, positioned 'gin' as an anti-Gallican, pro-Anglican, beverage of choice for patriotic and bacchanalian English men and women (the Scots and Irish, of course, continuing to prefer their own domestic spirits throughout this period.) A huge number of distilleries spread across the capital and, by the 1730s, several millions of gallons of domestic spirits were paying duty to the British revenue.²

The preamble to the 1735 Spirit Duties Act (known as the Gin Act of 1736 or Jekyll's Act,) the second of a number of pieces of legislation to combat

¹ Fielding, *Enquiry*, 21.

² 6.4 million in 1735. P. Clark, 'The "Mother Gin" controversy in the early eighteenth century, *TRHS*, 38 (1988), 67.

excessive boozing, clearly explained what the perceived consequences of this were:

Whereas the drinking of *Spirits* and *strong Waters*, is become very common amongst the People of inferior Rank and the constant and excessive use thereof tends greatly to the destruction of their *Healths*, and *enervating* them, and rendering them unfit for useful *Labour* and *Service*, *intoxicating* them, and *debauching their Morals*, and driving them into all manner of *Vices* and *Wickedness*, the prevention whereof would be of the greatest Publick good.¹

This act repealed a 1728 act that had banned street-sellers from vending liquor, increased the duty on such spirits, and introduced licensing for distilleries directly selling to the public. The 1736 act increased the cost of the licences to £50 per annum and a duty of 20 shillings per gallon on all spirituous liquors, from the £20 per annum and 5 shillings per gallon imposed eight years earlier.² The cost of this effectively acted as a prohibition. The act largely failed in this aim as the use of spirits ebbed and flowed through the next two decades

The appendix to Tucker's *Impartial inquiry* set out calculations of the losses the nation incurred from its revelling in spirituous liquors. Taking into account the revenue drawn from such drinks, Tucker estimated that nearly £4 million was lost every year in productivity and reduced spending elsewhere.³ As well as performing less work, the drunken poor spent less on bread and other groceries, drank less beer, cared less for their appearance and comfort affecting their expenditure on clothes and soap, and burdened their parishes when they fell into destitution. Most worrying, for Tucker, was

¹ 9 Geo. II c.23.

² 2 Geo. II c.17.

³ £5,214,285 gross loss, minus £1,216,666 revenue, making a net loss of £3,997,619. J. Tucker, *An impartial inquiry into the benefits and damages arising to the nation from the present very great use of low-priced spirituous liquors* (1751), 24-6.

the 'Loss which the Nation sustains by the *premature* and *untimely* Deaths of so many Labourers and Mechanicks, whose lives are continually shortned or destroyed by means of this Poison'.¹

One of the more important aspects of Mandeville's argument, at least for present purposes, was his challenge to the classical definition of luxury. This was the view of luxury as being all superfluity, that is, everything 'not immediately necessary to make man subsist'.² If satisfying simple desires for comfort and decency was luxury, Mandeville argued, then the term applied to almost all things and hardly had any meaning. It was on this basis that he challenged the understanding of luxury as a vice. He claimed that even 'among the naked savages' there would be attempts to improve 'upon their former manner of Living' so as to add 'something to what once sufficed them'.³ Mandeville had attempted to wholly undermine the premise of the jeremiads against luxury, but later contributions to this debate provided more nuanced interpretations of the term.

Although not wholehearted defences of luxury, Hutcheson and Hume created space for some luxury consumption to be considered as innocent and not harmful. In his *Inquiry into the original of an idea of beauty and virtue* (1725), Hutcheson was arguing against Mandeville's claims that luxury was beneficial to society.⁴ For Hutcheson, luxury consumption was still a vice that ought to be avoided. This was qualified, however, with a subjective interpretation of the nature of luxury. He argued that an understanding of the degenerative effect that luxury had on society had to take into account the living standards and overall wealth of that society. For Hutcheson, the

¹ Tucker, *Impartial inquiry*, 25.

² [Mandeville], *Fable*, 108.

³ *Ibid.*

⁴ This is explored by L. Broussois, 'Francis Hutcheson on luxury and intemperance: the Mandeville threat', *History of European Ideas*, 41 (2015), 1093-1106.

consumption which caused the most harm, and thus the most destructive to the happiness of society, was that which exceeded what could be afforded. This was a vice. But in a rich country like Britain, a moderate amount of enjoyment of the finer things in life, within one's own budgetary constraints, was perfectly innocent.

Hume agreed with Hutcheson's analysis that luxury was a vice, but that it was culturally and socially subjective. In the opening to his essay 'Of luxury', changed to 'Of refinement in the arts' from 1760, Hume explained luxury as 'great refinement in the gratification of the senses', although of 'uncertain signification'.¹ Hume's use of 'refinement' allowed him to distinguish between civilised enjoyment of sensual pleasures and excess, the latter of which was the target of moralist charges against luxury.² For Hume, luxury was a signifier of a happy and materially satisfied nation. He did not agree that it had a 'natural tendency to beget venality and corruption'. Indulgence in luxuries was only a vice if it was done at the 'expence of some virtue', for to do so without any ambition or desire for self-improvement was a 'mark of stupidity'.³ Industry drove innovation, which freed labour to work in the 'finer arts'. To eschew all sensual pleasure would be to live an unhappy life, which virtue could not save. To satisfy such pleasures in the course of living a productive and useful life was no vice at all. If there was any threat to the British state in the period that he was writing, it was the excessive use of public credit to finance expenditure.⁴ Hume repeated Barbon's claim that as commerce was necessary for a state to flourish, so was luxury to

¹ Hume, 'Of refinement in the arts', in *Essays*, 268.

² Berry, *Idea of luxury*, 144-5.

³ Hume, 'Of refinement in the arts', in *Essays*, 269.

⁴ Hume, 'Of public credit', in *Essays*, 356.

commercial prosperity. Furthermore, the expenditure of the people on such goods could be tapped into through taxation.

The rethinking of luxury to account for changing socio-economic conditions was related to broader arguments about the economic progress of the nations of Europe. As was discussed in Chapter One, commerce played a crucial role in establishing liberty and justice in the modern era. The desire for superfluity played an important role in this development. Although they distanced themselves from Mandeville's libertinage, Hume, Steuart, and Smith all acknowledged the productive capacity of the people wanting more than they needed for basic subsistence. Steuart and Smith followed Hutcheson and Hume in identifying the possibility of innocently consuming some luxury. Steuart asserted that 'luxury consists in providing the objects of sensuality, so far as they are superfluous'.¹ Steuart, however, distinguished between the positive and negative aspects of luxury consumption: 'Sensuality consists in the actual enjoyment of them and excess implies an abuse of enjoyment'.² Luxury was not in and of itself virtuous, but neither was moderate use of it a vice. He was wary of the 'hurtful consequences' that 'immoderate gratification' could lead to, but this had to be weighed against its encouragement of industry and agriculture. Importantly, the indulgence in superfluities provided 'employment and gives bread to those who supply the demands of the rich'.³

Maintaining the poor in work was essential to Smith's arguments of the benefits of luxury consumption. In the *Theory of moral sentiments*, Smith famously derided the expectation of the rich in achieving happiness through the acquisition of 'baubles and trinkets' to gratify 'their own vain and

¹ Steuart, *Principles*, i, 268.

² Ibid.

³ Ibid., 44.

insatiable desires'.¹ The unintended consequence of this, though, was that it maintained 'many thousands' in work and 'without knowing it, [the rich] advance the interest of society, and afford means to the multiplication of the species'.² This argument was reformulated in the opening chapter of the *Wealth of nations* in relation to the improved economic circumstances that the desire for 'objects of frivolous utility' had created. Along with the productivity and efficiency that was the consequence of the division of labour, the motivation to improve one's condition above bare necessity occasioned 'that universal opulence which extends itself to the lowest ranks of people'.³ Although the luxury of the 'most common artificer or day-labourer' paled in comparison to the 'extravagant luxury of the great', Smith believed that in a 'civilized and thriving country' the gap between these two was smaller than that between the former and that of 'many an African king' who was 'the absolute master of the lives and liberties of ten thousand naked savages'.⁴ This was a comparison that was often employed in the eighteenth century to make the point of the difference in living standards of all in modern commercial societies. Notwithstanding the great inequality that was present in society, the wealth of the whole society had increased to such a remarkable extent that it was unsurprising that the poorest in society were capable of indulging in some sensuality. This was a significant attribute of modern commercial societies and had to be taken into account when considering the effects of luxury on society.

The improved economic circumstances also had effects for what could be considered to necessities of life. The question of defining 'necessity' was

¹ Smith, *TMS*, IV.1.10.

² *Ibid.*

³ Smith, *WN*, I.i.10.

⁴ *Ibid.*, I.i.11.

complicated and was closely associated with debates about the nature of luxury. At its most basic, a necessity could be described as that required for basic subsistence: food, water, heat, clothing, and shelter. These, however, are highly subjective. There are a variety of ways in which a person can feed, warm, clothe, and house themselves and establishing specific essentials out of these is difficult. The legislation for the taxation of the aforementioned duties on leather, candles, and soap bear witness to this. Within each act there were graduated rates depending on the quality of the product. Those of higher quality, and therefore more likely to be purchased by the wealthier members of society, were charged at higher rates than those used by the lower orders. This was similarly the case in a number of other items, such as tea and beer. The question was further complicated by social and cultural subjectivities, especially in the context of a society, such as Britain, that had become commercial and wealthy. In his conceptual study of luxury, Berry refers to this as 'basic' and 'instrumental' needs: the former being what was required to live and the latter dependent on the conditions of the society concerned.¹ A people in a wealthy country with flourishing trade and industry had different needs and wants to those in a poor less-developed one.

Steuart referred to these socially contingent goods as a 'political-necessary'. This is different to a 'physical-necessary', which Steuart described as 'ample subsistence where no degree of superfluity is implied'.² In an advanced civilised society, however, people have desires as much as needs and when 'full physical-necessary' is easily met they aim to gratify those desires. Steuart explained this 'political-necessary' as 'certain articles of *physical superfluity*, which distinguishes what we call *rank* in society'. The

¹ Berry, *Idea of luxury*, 178-80.

² Steuart, *Principles*, i, 311.

nature of these political-necessaries, according to Steuart, are ‘determined only by general opinion, and therefore can never be ascertained justly’.¹ Adam Ferguson made a similar point in his *Essay on the history of civil society* which was published in the same year: ‘The necessary of life is a vague and a relative term: it is one thing in the opinion of the savage; another in that of the polished citizen: it has a reference to the fancy and to the habits of living’.²

Smith described a necessity as ‘not only the commodities which are indispensably necessary for the support of life, but whatever the custom of the country renders it indecent for creditable people, even of the lowest order, to be without’.³ That is, what the poorest members of that society could not possibly do without. The custom and manners of society, like Steuart’s ‘opinion’, were the determinants of these decencies:

A linen shirt, for example, is, strictly speaking, not a necessary of life. The Greeks and Romans lived, I suppose, very comfortably, though they had no linen. But in the present times, through the greater part of Europe, a creditable day-labourer would be ashamed to appear in publick without a linen shirt, the want of which would be supposed to denote that disgraceful degree of poverty, which, it is presumed, no body can well fall into without extreme bad conduct.⁴

Smith asserted the same in relation to leather shoes, which custom had rendered necessary to wear in England: ‘The poorest creditable person of either sex would be ashamed to appear in publick without them’. This was not entirely the same in France where ‘the lowest rank of both sexes appearing there publicly, without any discredit, sometimes in wooden shoes, and sometimes bare-footed’. Likewise in Scotland, it was necessary for men

¹ Steuart, *Principles*, i, 311.

² Ferguson, *Essay*, 142.

³ Smith, *WN*, V.ii.k.3.

⁴ *Ibid.*

to wear leather shoes, but women of the lowest of order 'may, without any discredit, walk about bare-footed.' 'All other things,' were luxuries according to Smith.¹

An example of subjectivity in defining luxury and as changing over time in a particular place is that of tea. When duties on domestically consumed tea were first introduced in the seventeenth-century it was undoubtedly considered to be a thing of luxury. The first excise was not on the imported leaves but on the sale of it as a liquid drink, in those places in which professionals and other middle classes met. It was an archetypal luxury: a foreign import enjoyed by the wealthier members of society. As more tea came into the country, not only through the East India Company who retained a monopoly over the trade but also from European rival East Indian companies who smuggled their product in, it became more widely available and cheaper to buy. By the mid-century tea had become that most desirable of subjects of taxation, something not necessary for subsistence and yet an item of general consumption. It was so widely consumed that in an effort to deal with the smuggling of it in the 1780s, the Pitt administration commuted the duties to the window tax.² Pitt went to great lengths to establish how many families drank tea, concluding that sufficient numbers did so to justify directly taxing consumers. He believed that the amount of people that did not drink tea was so few as to warrant taxing them in any event. In Davies' aforementioned *Case of the labourers*, at the end of the century, he argued that tea with bread had become a staple of poor diets, being able to provide 'one meal for a whole family every day, at no greater expence than about one shilling a week at an average'.³ This had become a necessity because of the

¹ Smith, *WN*, V.ii.k.3.

² This will be discussed in greater detail in the following chapter.

³ Davies, *Case of the labourers*, 38.

increased cost of malt and the difficulty of acquiring milk regularly. Fine tea, drunk by the wealthier classes, was indeed a luxury, but, Davies claimed, ‘*this is not the tea of the poor*’. The poor had recourse to the lowest-priced tea ‘from mere necessity’.¹ Davies was arguing against those who, admittedly earlier in the century, claimed that the consumption of luxury imported goods such as tea and sugar by the lower orders of society was damaging the nation’s trade and industry. Walter Harte was explicitly named by Davies, who in his *Essays on husbandry* (1764) complained about the present high prices of provisions and manufactures. Harte asserted that one particular problem was the ‘increase of luxury, in rich and poor, together, with an unlimited abuse of spirituous liquors and tea, in the common people’.² He further added that ‘as much superfluous money is expended on tea, sugar, &c. as would maintain 4 millions more of subjects in bread’.³

(iv)

Trade, industry, and the utility of poverty

The question of whether the poor should be taxed was discussed alongside a variety of other concerns about the nation’s economic standing. By taxing the poor it is meant the taxation of such goods that were deemed to be necessary for basic subsistence, the fundamentals of trade and industry, or otherwise seen as representing a large part of the budgets of the poor. One conflicting aspect of this question has already been identified. It was stated above how it was believed to be appropriate to exempt the poorest in society from certain direct taxes on property by virtue of their poverty and yet the most productive taxes of the era were those on commodities universally consumed and

¹ Davies, *Case of the labourers*, 39.

² [W. Harte], *Essays on husbandry* (1764), 166.

³ *Ibid.*

therefore predominantly paid by the poor. There were four related themes that were dominant in economic writings of the seventeenth and eighteenth centuries within which the consequences of taxing the poor were discussed: the theory of the balance of trade; the doctrine of the utility of poverty; the question of whether wages were determined by the cost of living; and, the relationship between rich and poor countries. These subjects were largely framed by the broader matter of the nation's commercial rivalry with its European neighbours, especially those against whom it was competing on the imperial stage. The discussion of the matters was at the heart of the pamphlet debates of the seventeenth century, which collectively would later become known as 'mercantilism'.¹ They were similarly of concern to those who practiced political arithmetic as well as occupying the later writers in the emergent field of political economy.

The theory of the balance of trade came to the fore in England during the trade crisis of the 1620s.² This crisis had been precipitated by a dramatic decline in English exports, especially from the textiles industry, which resulted in high levels of unemployment.³ Essentially, a favourable balance of trade was one in which exports exceeded imports: the aim was to sell more to other nations than was bought from them, thus ensuring an inflow of their gold and silver into the country's coffers. To be a successful commercial nation under these terms, it was deemed necessary for the prices of domestically produced goods to be competitive in international markets. This

¹ There is a large literature here which can be traced back to the original criticisms of this body of thought by Adam Smith in *Wealth of nations*. For an analysis of this extensive historiographical debate, see P. J. Stern and C. Wennerlind, 'Introduction', in , Stern and Wennerlind, eds., *Mercantilism reimaged: political economy in early modern Britain and its empire* (Oxford, 2014), 3-8; and, L. Magnusson, *The political economy of mercantilism*, (Abingdon, 2015), 15-53.

² Magnusson, *Political economy*, 133-65.

³ B. E. Supple, *Commercial crisis and change in England, 1600-1642; a study in the instability of a mercantile economy* (Cambridge, 1959), 52-72.

meant that the costs of production needed to be low and therefore also the wages of its workers.¹ It was this last point that led Edgar Furniss to coin the phrase the ‘utility of poverty’ to refer to theories of the necessity of a low wage economy.² As Furniss conceived of it, this doctrine consisted of the idea that low wages were needed to maintain competitiveness in international trade as well as being as a tool to keep the poor in work. This was based on the premise that labourers would only work as much as they needed to enjoy a life of tolerable comfort and would then spend the rest of the time at leisure. There were many potential dangerous outcomes from this, including the decline of productivity and the nation’s trade and industry, so it was argued that the poor needed to be forced to work by keeping them on a subsistence wage. An alternative means of achieving this was through the prices of provisions. The higher the cost of living the more that people would have to work to make ends meet, therefore taxing items of subsistence was argued by some to excite industry in the people.

There were two complicating factors to achieving these ends. The first was the question of whether wages were determined by the cost of living. That it did was the premise that many of the foregoing assertions were based on. Those who disagreed that there was a relation between these two undermined the arguments of how to control wages for the purposes of improving trade. The second complication came from the differences in socio-economic circumstances of the nations of Europe. Now referred to as the ‘rich country-poor country’ debate, this was the discussion over the relationship between poor countries, who had a lower cost of living and could afford to pay their workers less, with rich countries, where the means of subsistence was dearer

¹ Hont, *Jealousy*, 187.

² E. S. Furniss, *The position of the laborer in a system of nationalism* (Cambridge, MA, 1920), 117.

and its labouring population were accustomed to a more comfortable standard of living.¹ This was a consequence of those circumstances set out in the above section, that the wealthier a society the higher their living standards and therefore high production costs. This was a question of particular pertinence to eighteenth-century Britain. Internationally, Britain was a relatively high wage economy, although there were regional variations of wage levels.² Not only was it vying with other European nations in international trade, there was concern that England's domestic market was under threat from Scotland and Ireland. This was the context in which the question of taxing the poor was discussed. By levying taxes on their basic subsistence, the state was intervening in economic activity from which there were various ramifications that had to be taken into account.

Before moving on to the substance of these debates it is worth highlighting that there were numerous ways in which the fiscal and legislative systems of the state were used to intervene in economic processes. The Navigation Acts sought to encourage the nation's shipping industry, and thus its navy, as well as trade with its colonies. Similarly, bounties and drawbacks, paid out of customs' revenue at the ports, were used as inducements to the export or import of particular commodities.³ Alternatively, prohibitions or higher rates of taxes, such as on French wines or Spanish tobacco, were used as discouragements against those products. In fact, customs and tariffs were the most common form of economic regulation in the eighteenth-century. A

¹ This has been most fully explored by Hont *Jealousy of trade*, 267-324. Hont extended his analysis to include French and Irish contexts in I. Hont, 'The 'rich country-poor country' debate revisited: the Irish origins and the French reception of the Hume paradox' in C. Wennerlind and M. Schabas, eds., *David Hume's political economy* (Abingdon, 2008), 243-322.

² E. H. Hunt, 'Industrialization and regional inequality: wages in Britain, 1760-1914', *Journal of Economic History*, 46 (1986), 935-966.

³ Hoppit, *Britain's political economies*, Chapter 8.

form of taxation that has not really been addressed in this thesis, but was often cited by contemporaries as a potential source of revenue for governments, was the sale of monopolies. Essentially this was the crown selling exclusive privileges to companies or other unified bodies of merchants and manufacturers. Most famously was the East India Company's monopoly over all trade from between the Cape of Good Hope (the southern tip of Africa) and the Magellan Straits (the southern tip of the Americas). From the 1690s, the monopoly over this was secured not so much through sale, as the Company lending to the government.

The purpose of these regulations had been to intentionally direct economic activity, whereas other actions by the government sometimes caused unintended consequences. With regards to taxation, one of the more obvious effects was by simply making a taxed good too expensive. A major benefit of taxing items of general consumption or necessities was that the demand for them was relatively inelastic, that is, no matter what the price there would continue to be a market for them. This was not the case for all goods. In the 1790s, in the search for more items of rank and status to tax, Pitt introduced a tax on watches and clocks to be administered as a licence to sell. Although asserted by some to be a luxury good and that the burden of the tax 'would not fall on the lower orders', complaints about the catastrophic consequences of the tax quickly reached Pitt's office.¹ A watchmaker in Derbyshire wrote to Pitt to challenge the notion that only the wealthy bought watches, claiming that they 'are almost indispensably necessary to miners and most other labourers' by letting them know when they are to start and finish work.² The worst impact was asserted to have

¹ James Burslem to Pitt, 4 July 1797, TNA, PRO30/8/277 fos. 243-4,

² 'Poor people procure these articles generally by subscribing so much per month'; J. French to Pitt, 6 July 1797, TNA, PRO30/8/277 fos. 262-3.

been on the trade's custom. Representatives from the Worshipful Company of Clock makers of London petitioned the Treasury complaining that orders for clocks and watches had already been cancelled because of the tax. The tax on hair powder in the same decade had a similar effect on the numbers of users although it remained for some time whereas that on clocks and watches was quickly repealed. Similarly, the duties on glassware and imported raw silk were repealed because of the effect that it had on their trade and because their industry employed large numbers of poor people.¹ There were also more practical consequences of taxes on goods, in particular the manner in which methods of assessment and collection interfered in processes of production and importation. It was the taxation of tea and tobacco that made the hogshead the standard unit of measurement for them, requiring them to be imported in appropriately sized barrels. The aforementioned Wash Act directed the required method of distillation so that the output could be measured for revenue purposes.² Similarly, the revenue regulations on soap-making wholly determined who, how, and where soap could be produced.³

In Britain, the taxes that were identified as being particularly burdensome on the poor were those on beer, malt, leather, candles, soap, coal, and salt. It was the duty on salt that was most frequently identified as being the most grievous of these. Smith described it as 'a very ancient and a very universal subject of taxation', and one that was taxed in 'every part of Europe'.⁴ Salt was not part of the first duties of excise in 1643, but was introduced in 1644, firstly on imported salt and then domestically produced

¹ Glassware in 1743: 17 Geo. II. c.31; and, imported raw silk in 1765: 5 Geo. III. c.29.

² Dietz, 'Politics of whisky'.

³ L. Gittins, 'Soapmaking and the excise laws, 1711-1853', *Industrial Archaeology Review*, 1 (1977), 265-275.

⁴ Smith, *WN*, V.ii.k.11.

salt. The latter was imposed with duties on butcher's meat, the introduction of which was seen to be the cause the Smithfield riot in 1647. As a result, both domestically produced salt and butcher's meat were discontinued, but the former was later reintroduced without the latter. It was proposed for it to be included as part of the hereditary excise granted to Charles II on his restoration, but it was dropped.¹ It did not reappear as a subject of taxation in England until 1694 when it was introduced as a temporary measure during the war with France. It was proposed as an alternative to duties on candles, soap, and leather which were rejected because of their perceived effect on the trade and industry of the country. These duties, would of course, be successfully introduced within the following fifteen years. On its reintroduction in 1694, domestically produced salt was administered by the excise department, and that on foreign imported salt the customs.² In 1702 it was made a permanent duty and it was granted its own set of Commissioners separate from the customs and excise.³ Apart from a brief repeal between 1730 and 1732, the duties on salt would remain in place until its repeal in 1825. On the union with Scotland, the duties on salt were charged at one third of those in England. Unlike England, Scotland had no rock salt so the only way of producing salt was by boiling sea water. The duties on coast-wise coal meant that this was seen as a further tax on the production of salt and therefore also on the Scottish fisheries who were the largest market for the salt.⁴ To protect their industry, Scottish salt producers secured a large duty on imported English rock salt, which was of better quality to Scottish sea salt.

¹ Hughes, *Studies in administration and finance*, 116-38.

² 5 & 6 Gul & Mar. c.7.

³ 1 Ann sess. 1. c. 21.

⁴ C. A. Whatley, 'Salt, coal and the Union of 1707: a revision article', *Scottish Historical Review*, 66 (1987), 26-45.

As an item of general consumption salt was an ideal subject of taxation. However, although it was universally consumed, it was seen to form a much larger part of the diets of the poor because they relied more on salted meat and fish, not being able to afford fresh. This was especially the case in some of the northerly coastal regions of Scotland where salt cured herrings were a staple of their diet. It was one of the only preservatives available and had wider effects in agriculture being used in manure for fertiliser and also in feed for livestock. This was acknowledged by the government in the 1730s when it was considering relieving the burden of taxation on the poor. At the opening of third session of the seventh parliament of Great Britain on 13 January 1730, the King requested that, given the reduction in the military expense of the nation and the positive state of the finances, parliament would consider 'giving ease, where the duties are most grievous'.¹ The proposal put to parliament was for the duty on candles to be removed, as they were argued to be 'the most grievous to the poor Artificers and Manufacturers'.² This was disputed in the committee of ways and means as not being the worst tax currently in place. One member argued that removing this duty would not relieve burden on the poor, because 'more than half the Duty on Candles is raised in *London*; it is a Tax on People of Condition, it is a Tax on Playhouses, Assemblies, Masquerades, and Visiting Days, it is a Tax on Luxury, and it is paid chiefly by ourselves'.³ Instead, it was asserted that the tax that should be removed was the one that made the people's 'Food dearer all the Year', the salt duty.⁴ Walpole was opposed to the removal of the salt duty, principally because it was administered by an entire department and therefore provided

¹ *Parliamentary history*, viii, 766.

² *The political state of Great Britain*, xliii, (1732), 163.

³ *Ibid.*, 164.

⁴ *Ibid.*

him with a raft of positions to dole out in political patronage.¹ Nevertheless, the proposal was accepted by parliament and in 1730 all duties on salt were removed.

This would only last for two years, however. As was discussed in the previous chapter, Walpole wanted to reduce the land tax to one shilling in the pound, believing the landed gentry to have been heavily burdened by the public finances and desiring to curry political favour with them. To pay for it he decided to reimpose the duties on salt. To justify this Walpole employed the argument that universality through consumption taxes was equitable because all paid in proportion to their means: 'The duty upon salt is a tax that every man contributes to according to his circumstances and condition in life; every subject contributes something; if he be a poor man he contributes so small a trifle it will hardly bear a name; if he be rich he lives more luxuriously and consequently contributes more'.² This was opposed to the land tax which, according to Walpole, was 'the most unequal, the most grievous and the most oppressive tax that ever was raised in this country; it is a tax which never ought to be raised but in times of the most extreme necessity'.³ There was much opposition to Walpole's proposal, largely on the grounds that the duty on salt was grievous to the poor rather than about the inequality of the land tax. Walter Plumer pointed out that the duty had been removed in compliance with the King's request to remove those taxes which were 'most burthensome upon the poor'.⁴ Plumer accepted the inequality of the land tax, but any redress of that problem should not 'grind the face of the poor, in order to relieve a few of the rich'.⁵ Sir William Wyndham concurred,

¹ Ashworth, *Customs and excise*, 65.

² *Parliamentary history*, viii, 944.

³ *Ibid.*, 968-9.

⁴ *Ibid.*, 946.

⁵ *Ibid.*

arguing that ‘every tax is an evil, and an evil that ought to be avoided if possible;’ but, Wyndham continued, taxes ‘were necessary for the support of society’ and so ‘when we come to make a choice between two taxes, of the two evils we certainly ought to chuse that which is least’.¹ In this instance, Wyndham declared, notwithstanding the inequality of the land tax, it was the salt duty was the greatest evil to the nation, to its labouring poor, and to its trade.

After its reintroduction, the duty continued throughout the rest of the century. In 1801, the committee appointed to enquire into the laws relating to the salt duties recommended that the duty on salt be removed because of the great strain that was put the nation’s trade and industry by it.² The committee acknowledged that the ongoing war with France made this a difficult proposition, but that they still made it in light of that circumstance, they claimed, was evidence of the strength of their opinion on the matter. The proposal was not taken up, however, with the rates later rising despite it. This was complained about greatly by Sir Thomas Bernard, one of the founders of the Society for bettering the condition of the poor, who described the regulations and taxation of salt as ‘this fruitful and poisonous source of *moral and natural evil*’.³ Bernard played a crucial role in negotiating the repeal of the salt tax in 1825.⁴

Another commodity that the taxation of was seen as disproportionately affecting the poor was beer. Beer was the emblem of Britishness in the eighteenth century; John Bull was rarely seen without a tankard in his hand; it was seen as being superior to French wine; Hogarth used it to epitomise

¹ *Parliamentary history*, viii, 952.

² Second report from the committee appointed to enquire into the laws relating to the salt duties, 30 June 1801, 507-8.

³ T. Bernard, *Case of the salt duties* (1817), 42.

⁴ Hughes, *Studies in administration*, 433-50.

polite and moderate consumption against the drinking of spirits; and, it was the product that united the interests of agriculture and industry.¹ The excise on beer was the largest producer of the excise revenue, more so when the duty on malt is taken into account. Mathias described the London excise administration of the breweries as the ‘most efficient pieces of public regulation of the eighteenth-century’.² For many it was the perfect tax. It was both universally consumed and, as an alcoholic beverage, not deemed to be necessary for subsistence. That said, the widespread consumption was principally through England as the distilling industry remained superior to the breweries in Scotland and Ireland. Hume further highlighted that the nature of the production of beer, being ‘tedious’ and ‘impossible to conceal’, meant that it was for revenue inspectors to assess and collect the duties.³ This can be contrasted with distilling where in the Highlands small-scale distillers were capable of setting up stills and producing a small batch of whisky in a short period of time.⁴ In advocating the taxation of beer and ale, Smith declared that ‘Nature does render them necessary for the support of life; and custom no where renders it indecent to live without them’.⁵ In a letter to Sir John Sinclair, Smith repeated this point when claiming that although he did not agree with taxing the poor beer and spirits were the luxuries of the poor and so prime subjects of taxation.⁶ In his discussion of the taxation of beer, Smith did acknowledge that there was an inequality in its

¹ Mathias, *Brewing industry*, pp. xvii-xxvi.

² Mathias, *Brewing industry*, 346.

³ Hume, *Essays*, 356.

⁴ T. M. Devine, ‘The rise and fall of illicit whisky-making in northern Scotland, c. 1780-1840’, *Scottish Historical Review*, 54 (1975), 155-177.

⁵ *WN*, V.ii.k.3. The distinction between beer and ale is largely redundant by this stage of the eighteenth-century, at least in Britain. Ale was the native English drink if unhopped fermented malt liquor whereas as beer was the hopped malt liquor that came from the Low Countries in the fifteenth-century. By the eighteenth-century the terms became synonymous as all malt liquor in Britain was hopped. Mathias, p. xvii.

⁶ Smith, *Correspondence*, 327.

administration. The duty was only charged on beer sold to the public so did not cover those who produced it for their own consumption so as to 'save private families from the odious visit and examination of the tax-gatherer'.¹ As a result, Smith asserted, the duties on beer and malt fell 'much lighter upon the rich than upon the poor'.² Hume also recognised this in his advocacy of taxing beer and malt. Although beer was 'not so absolutely necessary to life', he added that 'the raising of [its] price would very much affect the poorer sort'.³ Tucker asserted that this was a grievous error with the tax and that it allowed 'all opulent persons' to benefit above the 'labouring poor'.⁴ Elsewhere he argued that it was preferable for the labouring population to drink beer rather than spirits such as gin.⁵ In support of this he claimed that the level of beer drinking went up during the high taxation of gin in the 1730s.

The assertion of Hume and Smith that beer was not a necessary of life was not wholly accepted. Writing against a proposed increase of the malt duty, Massie described it as a 'pinchbelly' tax on labouring families because beer as a '*common Necessary of Life*'.⁶ Paine was perhaps the most antagonistic analyst of the effect of taxing beer. Paine claimed that the introduction of the duty on beer was the act of the landed gentry 'to ward off taxes from itself, and throw the burden upon' those things they do not use.⁷ The result has been the 'constant increase in the number and wretchedness

¹ Smith, *WN*, V.ii.k.45.

² *Ibid.*

³ Hume, *Essays*, 356.

⁴ [J. Tucker], *The causes of the dearness of provisions assigned* (Gloucester, 1766), 46.

⁵ Tucker, *Impartial inquiry*, 3.

⁶ J. Massie, *Reasons humbly offered against laying any farther tax upon malt or beer* (1760), 3.

⁷ Paine, *Works*, i, 410.

of the poor, and in the amount of the poor-rates'.¹ The worst aspect of this was that the duties on beer and malt far exceeded the amount raised by the land tax, which Paine asserted to be a grievous injustice.

The taxation of the consumption of the poor was often discussed alongside assertions of the need to force the poor to work. This principle was rather crudely expressed by Arthur Young towards the end of the century: 'Everyone but an idiot knows that the lower classes must be kept poor or they never will be industrious'.² Young advocated both taxing necessities and keeping wages low so that the poor were constantly having to work to meet their basic needs. This idea was essentially that the poor were naturally lazy and inclined to leisure and so had to be prevented from doing so. As has already been discussed, labourers occupied an integral position within the nation's economic system. Trade and industry relied on their output and so the country's prosperity was dependent on them working. Indeed, providing employment to those unable to secure it was an important aspect of the parish welfare discussed above. Similarly, one of the positive attributes associated with the prevalence of luxury was that it generated work for the lower orders. John Cary, who was a proponent of the theory that the wealth of the nation consisted in its labour, declared that 'when the Nation comes to see that the Labour of its people is its wealth, 'twill put us on finding out methods to make every one work that is able'.³ Importantly, he added, it was also necessary to prevent the poor from descending into idleness for 'to encourage them in an idle way of living, [is] contrary both to their own and the Nation's interests'.⁴ If required, Cary claimed, the law should force them

¹ Paine, *Works*, i, 411.

² A. Young, *The farmer's tour through the east of England* (4 vols., 1771), iv, 361.

³ J. Cary, *An essay on the state of England* (Bristol, 1695), 136.

⁴ *Ibid.*, 151.

to work. Once in work it was seen as important to maintain them in a condition to remain there. Mandeville extended his argument about the natural propensity of man to indulge in sensual pleasures to assert that the poor should be limited from doing so as much as possible. Providing with more than they needed and allowing them leisure time would reduce their desire to work. Furthermore, he added, educating the children of the poor was counterproductive because it would leave them unfit for the arduous labour that the upper orders needed from them to satisfy their own desires.¹

Another prominent advocate of using low wages for the poor so as to keep them employed and to maintain low costs of production was Henry Fielding. Fielding was specifically challenging Josiah Child's *Discourse of trade* in which he had argued that low wages were evidence of a poor country. Child had looked to the example of the Dutch and claimed that the high wages of their workers was proof of them being a thriving and rich country.² Hume would later express a similar point when he asserted that rising wages was a symptom of a rising standard of living for all members of society and a sign that that society was healthy and happy. Child had also claimed that when wages were low it forced workers to seek employment elsewhere and could lead to depopulation of the country. Fielding wholeheartedly disagreed with Child's conclusions of the effect of low wages. Aside from the commercial benefits, Fielding was especially concerned with keeping the poor occupied. The less each person is paid the more people who can be employed.³ Furthermore, the less time the poor had to earn to live would result in them

¹ This was stated in an essay that Mandeville appended to the fourth edition of his *Fable*, entitled 'An Essay on charity and charity-schools'. [Mandeville], *Fable of the bees*, 311.

² [J. Child], *Discourse of trade* (1693). There were numerous versions of this work: T. H. Bowyer, 'The Published Forms of Sir Josiah Child's *A New Discourse of Trade*', *The Library*, 11 (1956), 95-102.

³ Fielding, *Enquiry*, 88-9.

spending the rest of their time in idleness. This also meant that they would also be able to indulge in luxuries to a far greater degree, which he have already seen Fielding was anxious about. Fielding went further than most in demanding that wages be statutorily kept low so that the poor would have to be continuously employed in work.¹

William Temple was similarly strident in his views about the willingness of the poor to work. He stated that ‘mankind in general are naturally inclined to ease and indolence, and nothing but absolute necessity will enforce labour and industry’.² In further support of keeping the wages of workers low to keep them needing to work Temple argued that ‘the poor in general work only for the bare necessities of life and for the means of a low debauch, which when obtained they cease to labour till roused again by necessity’.³ Where Fielding claimed insight into the natural tendencies of the poor through his contact with them in his court, Temple declared his knowledge to be based on his experience as a clothier. From this experience Temple argued that it was not low prices of provisions that made labour cheap, but high prices because it forces people to work meaning that ‘labour is always plenty, always well performed, and, of course, is always cheap’.⁴ The lower the cost of living is the less people will work. It was for this reason that he believed that the taxation of necessities had a positive impact on the nation’s industry and prosperity.

Idleness amongst the poor was almost universally considered to be a danger to society.⁵ Not all agreed, though, that low wages were the means to

¹ Fielding, *Enquiry*, 93-4.

² [W. Temple], *Considerations on taxes* (1765), 6. Temple expanded on the ideas presented here in [W. Temple], *Essay on trade and commerce* (1770).

³ [Temple], *Considerations*, 7.

⁴ *Ibid.*

⁵ Poynter, *Society and pauperism*, 24-5.

avoid this. The arguments against it were closely associated with those discussed above about the benefits of commerce and luxury. The ability of the poor to indulge in sensual pleasure was dependent on them being paid enough to do so. Rising wages were a sign of a wealthy society, being associated with increased prosperity and higher standards of living. Furthermore, it was argued the workforce should not be denied their share of the spoils of trade and industry. Rewarding labourers for their time and effort was also seen to encourage them to work harder to earn more to satisfy their desires. As discussed above, this had been identified as a crucial factor in Britain's commercial success.

Defoe argued that high wages were a stimulus to further effort from labourers. In particular, this was so that they could earn more to spend. As well as producing industriousness, Defoe asserted, the consumption of the labouring population was 'the Life of our whole Commerce, and all by their Multitude'.¹ High wages meant that 'they are able to live plentifully, and it is by their expensive living, that the Home Consumption is rais'd to such a bulk'. If 'their Wages were low and despicable', Defoe claimed, 'so would be their Living; if they got little, they could spend but little, and Trade would presently feel it'.² Bishop Berkeley used his *Querist* to ask 'Whether the creating of Wants be not the likeliest way to produce Industry in a People?'³ He then later asked 'Whether the Way to make Men Industrious, be not to let them taste the Fruits of their Industry?'⁴ In a challenge to the view that the poor should be taxed so as to make them more productive, he sarcastically asked 'Whether a Tax upon Dirt would not be one way of encouraging

¹ Defoe, *Plan of English commerce*, 102.

² *Ibid.*

³ [G. Berkeley, Bishop of Cloyne], *The querist, containing several queries, proposed to the consideration of the public* (Dublin, 1735), 6.

⁴ *Ibid.*, 33.

Industry?¹ Similar arguments were made by Hume in his essay 'Of commerce'. The high price of labour, Hume argued, was 'in part the effect of the riches of their artisans, as well as the plenty of money'.² These were the consequences of being a commercial and free nation. Although the English complained about the impact that this had on foreign trade, he went on, this should 'not to be put in competition with the happiness of so many millions'.³ In contrast to this, Hume stated that the 'poverty of the common people is a natural, if not an infallible effect of absolute monarchy'.⁴

By the middle of the eighteenth century, Coats argued that the predominant view of the necessity of a low-wage economy for the national commercial interest was subsiding to calls for greater rewards for the nation's workforce.⁵ One of the most prominent advocates of this position was Smith. Central to Smith's analysis of the determinant of the level of a labourer's wages was the cost of provisions within society and the demand for labour.⁶ These two factors had a complicated relationship. In years of plenty, the price of necessities and conveniences could fall whilst the demand for labour increases thereby raising the cost of labour.⁷ The rise in wages though will soon have an effect on the price of goods. Alternatively, in years of scarcity, the cost of subsistence would rise whilst the demand for labour decreases thereby lowering the wages of labour.⁸ These fluctuations of the natural price of labour were the reason that Smith believed that wages should not be regulated. There were historical statutes still on the books in Britain that

¹ [Berkeley], *Querist*, 36.

² Hume, *Essays*, 265.

³ *Ibid.*

⁴ *Ibid.*

⁵ A. W. Coats, 'Changing attitudes to labour in the mid-eighteenth century', *ECHR*, 11 (1958), 46.

⁶ Smith, *WN*, I.viii.52.

⁷ *Ibid.*, I.viii.53-4.

⁸ *Ibid.*, I.viii.55-6.

ostensibly allowed magistrates to set levels of wages, but these were not followed.¹

A subsidiary element to this discussion was the question of whether the cost of necessities affected the price of labour. Those who believed that it did desired taxes to be taken off items of basic subsistence so as not to raise their price. This position was taken by both those who argued that the success of foreign trade depended on low wages and those who sought to augment the real wages of labourers. Those with the latter view hoped to increase the purchasing power of the poor's income and allow them some superfluity above their basic expenses. One of the most prominent advocates of this view was Jacob Vanderlint. Vanderlint's *Money answers all things* (1734) was very influential in eighteenth-century Britain and France and was regularly cited by later theorists.² Vanderlint was concerned with Britain's economic decline and its associated poverty and high unemployment rate, and believed that boosting trade was the means of remedying these. There were two factors that he identified as crucial in achieving this, the circulation of money and the conditions of labour. The former was to be achieved through a favourable balance of trade, by exports exceeding imports to increase the inflow of money into the nation.³ To do so it was necessary to lower the costs of production. He claimed that 'the Rates of Labour are always settled and constituted of the Price of Victuals and Drink;' in turn, this determined the price of manufactures because they were 'chiefly constituted of the Price or Charge of the Labour bestowed thereon'.⁴ A lower cost of living would also allow the labouring population to live in greater comfort than they were at

¹ Poynter, *Society and pauperism*, 48-9.

² A. P. Baker, 'Jacob Vanderlint, d. 1740', *ODNB*.

³ Vanderlint, *Money answers all things*, 7-8.

⁴ *Ibid.*, 6-7.

present. What had to be remembered, Vanderlint asserted, was that the poor were consumers as well as labourers and therefore the more they were able to purchase the greater circulation of money in the economy.¹ Sir John Barnard rehearsed many of these points in his proposal to improve the nation's finances. In claiming that 'wherever the necessaries and conveniences of life were dear' so will wages will be, Barnard advocated removing those duties that increased the cost of subsistence of the working poor.² He made his proposal to parliament only five years after the reintroduction of the salt duty, yet he identified both salt and coal as the two most grievous taxes at present in Britain. Tucker similarly followed Vanderlint's analysis about how the cost of necessities determined the cost of labour, which in turn determined the price of manufactures.³ In asserting that trade flourished when goods could be produced cheaply he concluded that the 'labour of the industrious poor may be considered to be the principal cause of our trade'.⁴ As well as affecting trade, Tucker believed that the 'distresses of the poor' was also caused by the 'dearness of provisions' and that the wealthy owed it to them to do all in their power to lower it because 'we are indebted to them for our conveniences'.⁵ Top of the list for Tucker was removing those taxes on the necessaries of life, especially salt and coal.

The premise that the cost of subsistence determined the wages of labour was not wholly accepted. Both Hume and Steuart believed that there was no evidence to suggest that as taxes were laid on the necessaries of life, as there had been in Britain, the cost of labour did not rise with them. As Hume sarcastically asked, by 'what contrivance can he raise the price of his

¹ Vanderlint, *Money answers all things*, 11-2.

² *Gentleman's magazine* (1737), vii, 775-80.

³ Tucker, *Causes of the dearness of provisions*, 4.

⁴ *Ibid.*, 4.

⁵ *Ibid.*, 3.

labour?’¹ This was because, Hume added, the ‘manufacturer who employs him, will not give him more’, nor can the merchant increase the price without affecting his trade.² The most likely consequence of taxes on necessities, Hume argued, was that ‘the poor encrease their industry, perform more work, and live as well as before, without demanding more for their labour’.³ It was for this reason that he was not opposed to the taxation of necessities. This was an argument that Steuart also expressed. In the previous chapter, Steuart’s theory of drawbacks was discussed. This was essentially the process of how all taxes on commodities, whether luxuries or necessities, were recouped by the buyer either through the sale of the own produce or the sale of their labour. The burden of such taxes would always finally lie on the rich consumer who was able to buy without doing any work. Following Hume, Steuart argued that not only did the poor not pay taxes levied on the subsistence, the result was to excite their industry so that they could drawback the tax from the product of their labour.

(v)

Conclusion

In the opening to this chapter, Chancellor of the Exchequer Vansittart was quoted as saying that the opposition to the renewal of the income tax in 1816 was ‘little else than a conspiracy of the rich against the poor’. A similar line had also been employed by Walter Plumer in the debates over Walpole’s reimposition of the salt duty so as to allow for the land tax to be reduced. In the case of the former, there was some truth to Vansittart’s claim, as there would be no further attempt to directly tax the wealth of the people in the

¹ Hume, *Essays*, 347.

² *Ibid.*

³ *Ibid.*, 343.

manner of the income tax until 1842. The arguments in both debates depended on different interpretations of how equity was to be achieved in taxation. We saw in the previous chapter how proportionality became the aim for an equitable system of taxation. People should contribute to the public expense in proportion to their ability to pay, that is, in proportion to the property they enjoy under the protection of the government. The benefit of security of liberty and property was used to justify the extension of this to all in society. All benefitted, so all should pay. Furthermore, proportionality was deemed to be inherently equitable. If all sacrificed the same proportion of their estate then all shared the same proportion of burden. This was also meant to account for the socio-economic inequalities in eighteenth-century British society. Those with more would pay more. Expenditure had emerged as an adequate measure of ability because of the difficulties in treating different types of wealth and sources of income equally. Consumption was deemed to be representative of means for one could only spend what one had. Many of the advocates of such taxes honed in on luxuries as being the ideal subjects, because they were voluntary and most likely to be bought by the wealthy. The epitome of these were the assessed taxes of the second half of the eighteenth-century that specifically targeted things most likely to be owned and used by the rich. As such though, the number of payers of these was pretty low, making the returns for the revenue equally so. The most productive taxes were those on items of general consumption. The nature of British society meant that the majority of the payers of these taxes were poor.

It was the taxes on goods that were widely consumed that were the backbone of Britain's fiscal-military state. The country's wealth and security was based on it being a commercial nation. More than simply a trading power, though, Britain was a nation of consumers. As well as consumers driving

foreign trade and stimulating domestic industry by providing a ready market for all manner of products, they were also the taxpayers that supported the fiscal structure of the state. This circumstance was dependent on the superfluous consumption of a large section of society. This was identified as being a potentially dangerous circumstance for the country. The poor were needed to work for and defend the state and luxury consumption was associated with idleness and profligacy. The physical and moral degeneracy that resulted from excessive indulgence in sensual pleasures would render them unfit for labour and fighting. The proponents of this view believed that the manner in which the state was fiscally supporting itself was going to be the cause of its destruction. Others contended that luxury was a necessary evil to be tolerated because its cause was also the basis of the nation's prosperity and had been the means through which the people secured liberty. Further, they argued, the poor had played a crucial role in this process of enrichment, as being its base of industry, and so it was only fair that they share some of the spoils. This was similarly identified as a potential problem for the state. The more that the poor earned for their labour the less likely they would need to work. The premise of this was the poor were naturally lazy and only worked because necessity forced them into it. Remuneration needed to be kept at a subsistence level so that the poor had to keep returning to work, otherwise they would take every opportunity to exercise their leisure.

These two roles that the poor had in society, of worker and consumer, placed them in a crucial position in the nation's economic fortunes. They were the source of its productive capacity and the largest market for its goods. As a commercial and consumer society, Britain was dependent on them to work and to spend. As consumers, they were also the largest proportion of taxpayers. The nation's revenue was heavily reliant on the taxes that the poor

paid, especially the excises. The nature of the assessment and collection of these taxes meant that it was not possible for them to operate the type of poor exemption that was included in some direct taxes on property, nor was this desirable given their productivity. These were the many factors that complicated the question of whether, or how much, taxation the poor should pay.

Chapter Four

Cheating Leviathan: smuggling and the limits of the coercive power of the state

In early January 1785, the wild winter weather forced the inhabitants of Deal, a fishing town on the south-east tip of England, to bring their boats high up on the shore to protect them from the elements. The London newspapers reported that the Kent wind ‘Blows hard’ and that there were ‘No ships in the Downs’ (the area of sea off Kent’s east coast).¹ The Prime Minister, Pitt the Younger, had been apprised of this information and saw an opportunity to remove a thorn that had long been in the side of the British revenue. Deal had become notorious for its endemic smuggling, having been described in a 1783 report from the Commissioners of Excise to the Lords of the Treasury as a town ‘which of all other Places [is] the most deeply engaged in Smuggling in every Stage of it’.² Moreover, there had been numerous accounts of the regular use of violence towards officers of the Excise or anyone else who sought to disrupt their illicit trade.³ Another report from the Excise informed the Treasury that the smugglers at Deal had enough munitions to arm two thousand men including a small cannon.⁴ Smuggling was so rife that even the Mayor of Deal was implicated; the Mayor’s storehouses on the beach were described by local officers as the ‘sanctum sanctorum for all contraband goods’.⁵ The residents of Deal may have shielded their fleet from the severe weather, but, in doing so, they had exposed it to the King’s men. Pitt had

¹ *Whitehall Evening Post*, 1-4 January 1785; and, *Morning Chronicle*, 3 January 1785.

² Excise Commissioners to the Treasury Board, Entry Books of Correspondence with the Treasury, 26 November 1783, TNA, CUST48/21, fos. 230-1.

³ *Ibid.*, 14, 18, & 26 February 1783; 3 & 24 October 1783; and 17 November 1784, fos. 61-4, 67, 201-3, & 455-7.

⁴ *Ibid.*, 18 December 1783, fos. 254-6.

⁵ Attorney General’s report on the case of the Mayor at Deal, Treasury Board Papers and In Letters, 7 May 1784, TNA, T1/603, fos. 235-8.

ordered a regiment of soldiers to go to the south coast and burn the ships on the beach.¹ *The London Chronicle* reported that it was ‘the greatest blow that smuggling has yet received’.²

The destruction of Deal’s fleet was an extraordinary act. *The Gazetteer* was outraged, calling the deed ‘the greatest show of arbitrary power since James II’.³ The paper added that, according to reports, the Attorney-General had ruled the act as unconstitutional before reneging his opposition. The allusion to tyranny was clear. Furthermore, such actions were seen as a threat to the two great pillars of the British constitution, which the government was supposed to protect, liberty and property. The problem for the government, however, was how it should react to the evasion of taxes that had legitimately passed through the legislative process; taxes that were necessary for the functioning of the government. Evasion not only hampered the state’s ability to perform its functions, it placed a greater burden on other taxpayers to meet the exigencies of the state and, more generally, it undermined its authority. What powers of coercion were available to the state to enforce the collection of taxes? This is the subject of this chapter. It will explore this through the analysis of various attitudes to smuggling as a crime and what its perceived causes were. Through this it will be argued that there were limits to the state’s ability to levy and collect taxes; limits on its ability to enforce the law caused by public opinion of the nature of smuggling as a crime and limits on the amount of duties that certain commodities could bear. This will add a further dimension to the limits of the taxing power of the state that has been presented in this thesis so far.

¹ *Morning Chronicle*, 10 January 1785; and *Morning Herald*, 10 January 1785.

² *London Chronicle*, 1-4 January 1785.

³ *Gazetteer and New Daily Advertiser*, 14 January 1785.

(i)

Smuggling in eighteenth-century Britain

Smuggling was not new to the eighteenth-century. Whenever taxes were imposed or restrictions placed on trade there were opportunities to evade those taxes or to flout those rules. The significance of the problem of smuggling, and revenue fraud more generally, grew in conjunction with the increase in the number of commodities subject to duties, higher levels of those duties, the greater reliance of the British fiscal-military state on such duties for its war machine, and the proliferation of the use of mercantile regulations to manage and direct the nation's economic activity. While the evasion of taxes is the primary concern of this chapter, it is not wholly separable from the contravention of prohibitions on certain imports and exports. The connected nature of these activities simply increased the government's concern with putting a stop to them. Furthermore, it was the revenue services, primarily the Customs but also officers of the Excise, who were tasked with policing the regulation of trade as well as collecting taxes.¹

The basic form of smuggling, which is that most often represented in popular culture from *Moonfleet* to *Poldark*, was the clandestine importation or exportation of something without fully paying the duty on it or against restrictions on its movement. The nocturnal nature of this activity earned its practitioners the sobriquet 'owlers'. There were a variety of commodities brought in duty-free, including wine and spirits, but it was tea and tobacco that were considered to be the most smuggled items and were the focus of the majority of the government's attention. As well as becoming popular items of consumption, thereby providing a ready market for them, the material

¹ W. Farrell, 'The silk interest and the fiscal-military state', in Graham and Walsh, eds., *British fiscal-military states*, 114-7.

nature of tea and tobacco lent themselves to be easily concealed and transported. Along with these goods, French silks and wrought linens were imported in breach of the prohibitions on them.¹ These restrictions were connected to the ban on the export of raw wool that dominated the outbound aspect of this clandestine business. The ‘golden fleece’, as it was referred to, was seen as vital to the nation’s trade and manufacturing and the ban on exporting it had been in place since 1660.² Such was the primacy granted to wool within England’s economic fortunes a subsequent act of 1662 introduced the death penalty for illegally exporting it and declared the activity to be a ‘common and publick Nuisance’.³ In the 1740s, the smuggler turned Port of London tidesman George Bridges claimed that it was the smuggling of wool out of the country that was sustaining the inward illicit trade in tea.⁴ Stopping the former would reduce the latter, he argued. Forty years later the opposite was claimed by the House of Commons committee appointed to ‘enquire into the illicit practices used in defrauding the revenue’. The first report of this inquiry asserted that the illegal importation of tea was so extensive that it gave ‘life and vigour’ to the ‘whole system of smuggling’.⁵

Not all smuggling was the nocturnal enterprise of landing goods on a quiet section of the coast under the cover of darkness; a great deal of it took place in broad daylight. Bribing customs officials, forging permits, pilfering

¹ R. Davis, ‘The rise of protection in England, 1689-1786’, *EcHR*, 19 (1966), 306-317; and, W. Farrell, ‘Smuggling silks into eighteenth-century Britain: geography, perpetrators, and consumers’, *JBS*, 55 (2016), 268-294.

² The restrictions on the ban on the export of raw wool has most recently been discussed by Hoppit, *Britain’s political economies*, ch. 7.

³ 14 Car. II c. 18. The death penalty was replaced by fines, forfeitures, and imprisonment in 1695, 7 & 8 Gul. III c. 28.

⁴ G. Bridges, *Plain dealing: or the whole method of wool-smuggling clearly discovered* (1744) 8. Bridges also gave evidence to the 1745 inquiry into smuggling of tea, [S. T. Janssen], *Smuggling laid open* (1763), 131.

⁵ William Eden, later to become Baron Auckland, was the chair of this committee. ‘First report from the committee, appointed to enquire into the illicit practices used in defrauding the revenue’, 24 December 1783, *Reports from committees of the House of Commons* (15 vols., 1803-1806), xi, 231.

at the quayside, or otherwise using the guise of legitimate business to carry out frauds were also identified as factors in contraband exchanges.¹ These frauds were often separate from the clandestine running of goods although the term 'smuggling' was frequently used to refer to both, especially within government and parliament.² There were also other revenue frauds that were carried out, ranging from, amongst other things, trading without licences, not stamping items which required stamps (paper, linens, etc.), illicit brewing and distilling, illegal production of soap and candles, and, at the end of the century, not disclosing income for the income tax. Notwithstanding its concern with all losses of revenue, it was the evasion of duties through smuggling that most frequently occupied the government's time and attention.

The extent of smuggling in eighteenth-century Britain is an elusive topic. This is unsurprising given the nature of the activity. There were some contemporary attempts to estimate the amount of smuggling using reports of goods seized together with anecdotal accounts from people au fait with the continental commerce in contraband goods. In 1746, the estimates of tea illicitly imported ranged from three million pounds weight to five million pounds, based on how much tea was believed to be consumed in the country compared with the amount sold at the East India Company's auctions.³ In 1783, it was estimated that in the three years leading up to the investigation, 'upwards of twenty millions of pounds of Tea' had been brought into the

¹ The first two reports of the 1783/4 inquiry into defrauding the revenue contain the most comprehensive discussion of the means and methods used: 'First report', 228-34; 'Second report from the committee, appointed to enquire into the illicit practices used in defrauding the revenue', 1 March 1784, *Reports from committees of the House of Commons*, xi, 263-6.

² The term 'running' was more commonly used in the seventeenth and early eighteenth-century, especially in the legislation addressing it.

³ *CJ*, xxiv, (1741-5), 101-10.

country having paid no duty.¹ As these official statistics are somewhat haphazard, some historians have attempted to provide their own quantification of the extent of smuggling. Cole sought to use the amounts of tea imported legally through the East India Company in the periods before, after, and between the 1744 and 1784 reductions in duty to determine the elasticity of demand. Through this Cole estimated that, during the American war, 'it seems possible that £2 or £3 million worth of goods may have been smuggled into Britain each year'.² Nash applied Cole's methodology to discern the extent of the illegal trade in tobacco in the seventeenth and eighteenth centuries. Using estimates of the extent of consumption and the premise that demand for tobacco was inelastic, Nash asserted that at around the peak of tobacco smuggling in the 1730s and 40s, illegally imported tobacco probably accounted for one pound weight out of every three pounds sold in the domestic market.³ Cole's methodology was challenged by Mui and Mui who argued that, although 'theoretically perfect', Cole oversimplified the nature of the trade and did not acknowledge the integrated nature of the licit and illicit markets.⁴ Of course, this did lead to the Muis having to conclude 'that the quantitative importance of smuggling is irretrievably lost'.⁵

Although the extent of smuggling is quantitatively obscured, there are other factors that indicate its prevalence. As stated above, contemporaries believed that the amount of tea being drunk in the country far exceeded the

¹ 'First report from the committee on illicit practices', 229.

² W. A. Cole, 'Trends in Eighteenth-Century Smuggling', *EcHR*, 10 (1958), 395-410, at 409.

³ R. C. Nash, 'The English and Scottish tobacco trades in the seventeenth and eighteenth centuries: legal and illegal trade', *EcHR*, 35 (1982), 354-372, at 363-6.

⁴ H.-C. Mui and L. H. Mui, "'Trends in eighteenth-century smuggling" reconsidered', *EcHR*, 28 (1975), 28-43, at 28.

⁵ Mui and Mui, 'Trends... reconsidered', 43. Cole does reply to the Muis in, W. A. Cole, 'The arithmetic of eighteenth-century smuggling: rejoinder', *EcHR*, 28 (1975), 44-9.

amount legally imported, so much so that on at least two occasions the government ordered the Company to increase its supply to meet domestic demand.¹ Furthermore, the Commons was concerned enough to conduct three official inquiries into fraudulent practices in the revenue; in 1733 the primary concern was the smuggling of tobacco and wine, in 1745/6 it was tea, and in 1783 the government ordered a complete investigation into the 'illicit practices used in defrauding the revenue'.² In addition to this, between 1733 and 1816, eighty-six Acts of Parliament were passed that were in some way concerned with the clandestine market of untaxed and prohibited goods.³

There was more to smuggling than being a profitable enterprise that existed without the realms of regulation. Those analyses that focussed on the commercial nature of the trade, such as Cole, Nash, and Mui and Mui, have been criticised for ignoring the use of violence by smugglers in protecting their business.⁴ Violence was central to Winslow's analysis that depicted smuggling as a class war between the 'plebeian gangs' of smugglers and 'the forces of the Government'.⁵ The smuggler is described as a 'social rebel' who was challenging the rule of the propertied oligarchy and their monopolisation of wealth. This characterisation of smugglers was based on Rule's discussion of smuggling being a 'social crime'. Rule explained that a social crime was a 'criminal action which is legitimised by popular opinion', that is, crimes that

¹ These demands were made in 1744 and 1784 as part of reforms to the taxation of tea so as to reduce the smuggling of it. The substance of these reforms will be discussed in greater detail below, but the orders to the East India Company to increase their importation of tea were contained within: 18 Geo. II c. 26, ss. x & xi; and, 24 Geo. III Session 2, c. 38, ss. v & vi.

² The reports from these inquiries will be referred to throughout.

³ The number of acts passed has been calculated by searching the long titles of acts using the Parliamentary Archives Catalogue: <http://www.portcullis.parliament.uk>. These acts were then cross-referenced using Ruffhead, ed., *Statutes at large* and Raithby, ed., *Statutes of the realm*.

⁴ P. Muskett 'English smuggling in the eighteenth century' (D.Phil. thesis, Open University, 1996), 12.

⁵ C. Winslow, 'Sussex smugglers', in D. Hay, P. Linebaugh, et al, eds., *Albion's fatal tree; crime and society in eighteenth-century England* (London, 1975), 158.

are sanctioned by law but not by ‘community opinion’.¹ Within this model, smuggling is equated with poaching and wrecking, where all three could be considered to be ‘protest crimes’ against the perceived oppression of laws, as well as being conducted by the poor ‘as a means of getting or supplementing a living’.² More importantly, perhaps, is that these offences were also ‘property crimes’, laws passed to protect property-owners from the property-less. This tack was developed by Frykman who analogised smugglers with pirates by combining the study of their ‘economic activities’ with their ‘countersystemic social organization’.³ Through this, Frykman argued, ‘both Atlantic piracy and English southcoast smuggling represented an alternative, though ultimately parasitic, form of trade-driven development’.⁴ The perception of smuggling as a crime, in the eyes of the authorities and of the public, will be explored in more detail in the following section.

The relationship between illicit trade and political opposition to the government formed the basis of Monod’s work on the connection between smugglers and Jacobite exiles on the continent. According to Monod, these Jacobite merchants, using their continental connections, were ‘a crucial component in the emergence of an organized network of contraband trade in south-east England’.⁵ In the 1740s, in the lead up to and the aftermath of the ‘45 rebellion, the assistance granted to Jacobites by smugglers was frequently raised by those lobbying the government to deal with the problem. These

¹ J. Rule, ‘Social crime in the rural south in the eighteenth and early nineteenth centuries’, in J. Rule and R. Wells, eds., *Crime, protest, and popular politics in southern England, 1740-1850* (London, 1997), 156.

² *Ibid.*, 161.

³ N. Frykman, ‘Pirates and smugglers: political economy in the Red Atlantic’, in P. J. Stern and C. Wennerlind, eds., *Mercantilism reimaged; political economy in early modern Britain and its empire* (Oxford, 2014), 218.

⁴ *Ibid.*, 219.

⁵ P. Monod, ‘Dangerous merchandise: smuggling, Jacobitism, and commercial culture in southeast England, 1690-1760’, *JBS*, 30 (1991), 150-182, at 154.

connections continued following the defeat of the '45. After Culloden, a number of Scottish Jacobites escaped to Gothenburg and provided the Swedish East India Company with a route into the British market through Scotland.¹

Muskett attempted to provide a more comprehensive understanding of the nature of smuggling in eighteenth-century England. He saw the adversarial model presented by Winslow, Rule, and Monod as an 'oversimplification' of the nature of smuggling in this period and which neglected the wider context of the practise as being part of an international trade.² Further, he was unconvinced that smugglers were more intent on affecting political change than they were with making profit.³ For Muskett, smuggling, first and foremost, had to be understood as a 'series of interlocking networks linking a range of interests and individuals'.⁴ Constituents of these networks were distinct yet 'interdependent' and 'within which individuals could aspire to wealth and standing'.⁵ Similarly, Morieux, in a broader study of the relationship between Britain and France over the Channel, widened the analysis of smuggling from the usual focus on economic, social, and cultural issues.⁶ Although smugglers were contravening national laws, and their operations within a country were localised, they were engaging with foreign nationals in an extraterritorial space. The flow of goods was not one way and there were political and

¹ G. Behre, 'Jacobite refugees in Gothenburg after Culloden', *Scottish Historical Review*, 70 (1991), 58-65; and, D. C. Janes, 'Fine Gottenburgh Teas: the import and distribution of smuggled tea in Scotland and the north of England c. 1750-1780', *History of Retailing and Consumption*, 2 (2016), 223-238.

² Muskett, 'English smuggling', 31.

³ *Ibid.*, 11.

⁴ Muskett, 'English smuggling', 8.

⁵ *Ibid.*, 437.

⁶ R. Morieux, *The Channel: England, France and the construction of a maritime border in the eighteenth century* (Cambridge, 2016), 249-51.

religious factors in the creation and maintenance of connections. As with Jacobites, Huguenot refugees fleeing France were a crucial part of smuggling networks.¹

One important aspect raised by Morieux is the question of jurisdiction. In his analysis, this was focussed on the problem of governing a stretch of sea, which although a natural border, operated as a shared space between British and French interests. The Channel Islands were a prime example of this conflict.² Closer to France than Britain, yet dominions of the British crown, the islands enjoyed a neutrality that allowed them to trade with both sides up until William III reversed this in 1689. Nevertheless, after the Revocation of the Edict of Nantes in 1685, a large number of Huguenots settled on the islands to help forge transnational trade networks that facilitated exchange in contraband goods. Guernsey and Jersey, especially, were frequently cited in government reports as a place where goods were deposited before their covert running into the country.³

The jurisdictional issue was particularly prominent with the Isle of Man. The island's position in the middle of the Irish Sea provided the ideal location for a smuggling entrepôt. Whether as a port of call for ships returning from North America or the East Indies or as a link with Ireland, the Isle of Man had ready access to the south west coast of Scotland, including the Firth of Clyde into Glasgow, the north west coast of England, and the north coast of Wales.⁴ Blackstone described the constitutional status of the island as a 'little subordinate royalty'; although technically an asset of the British crown,

¹ Morieux, *Channel*, 252.

² *Ibid.*, 251-9.

³ *The report, with the appendix, from the committee of the House of Commons appointed to enquire into the frauds and abuses in the Customs* (1733), 13 & 60-7; [Janssen], *Smuggling laid open*, 8 & 82-5.

⁴ L. M. Cullen, 'The smuggling trade in Ireland in the eighteenth century', *Proceedings of the Royal Irish Academy*, 67 (1968/1969), 149-175.

the right to collect customs duties there had been invested in the Stanley family, later to become the Earls of Derby, since 1406.¹ On the death of the eighth Earl of Derby in 1736, who died without male heirs, the Lordship of Man passed to the second Duke of Atholl, James Murray. Its existence outside of the state's jurisdiction caused significant problems for the British revenue. James Baldwin published a vituperative attack on the island and its role in smuggling, declaiming that it was:

an open Receptacle: Accommodating chiefly the *French*, in pouring those precious Commodities, Duty-free, into these three Kingdoms; destroying the fair Trader, plundering the King of his Revenue, as well as the Kingdom of its Cash, and rolling it continually into the Lap of *France*; thereby enervating this Nation, and strengthening the most potent and dangerous Enemy, against their own Protectors'.²

More sedately, though no less seriously, Postlethwayt, in *Britain's commercial interest* (1757), stated that the extent of the problem was so bad that the island was 'crippling' the British economy.³ This was a situation that the state had long been aware of. A 1725 act instructed the Treasury to conduct negotiations with the Earl of Derby to arrange the purchase of the revenue rights to the island.⁴ The revestment in the crown was completed in 1765 for the sum of £70,000.⁵ One indicator of how much smuggling was taking place there is the complaints coming from the island of its inhabitants' ruined

¹ Blackstone, *Commentaries*, i, 102-4. See also, J. R. Dickinson, 'The overseas trade of the Isle of Man', *Transactions of the Historic Society of Lancashire and Cheshire*, 154 (2005), 1-31, at 3-4.

² J. Baldwin, *British liberty in chains, and England's ruin on the anvil, in the Isle of Man* (1755), 7.

³ M. Postlethwayt, *Britain's commercial interest explained and improved* (2 vols., 1757), 401.

⁴ 12 Geo. I c. 28.

⁵ 5 Geo. III c. 26 & c. 39.

businesses after they could no longer successfully engage in the running trade.¹

Within political and economic histories of taxation, smuggling is often little regarded as a significant problem. In extolling the virtues of the use of excises, both O'Brien and Brewer contrasted the Excise with its sister service the Customs. In doing so, both argued that the former was superior to the latter. O'Brien described the Customs as being 'a less fruitful source of taxation for central government' because of the 'highly organized "firms" of smugglers who traded in contraband and redistributed it within the kingdom'.² Similarly, Brewer identified smuggling as a problem of the Customs administration and a further justification that excises were a more effective means of raising revenue.³ Indeed, this position supports their view of the strength of the British state in its revenue collection, especially compared to its European rivals. Intuitively, customs duties would be more effected by smuggling, being tasked with administrating the nation's imports and exports. That said, this does neglect the fact that the most smuggled commodity in the eighteenth century, tea, had been excisable since 1723.⁴ Furthermore, it dismisses the almost continuous concern throughout this period with the productivity of certain taxes and, more generally, the problem of defrauding the revenue.⁵

¹ Governor of Isle of Man to Henry Dundas, 24 September 1791, Dundas Family of Melville Papers, NRS/GD51/1/220; Dundas to the Treasury, 27 September 1792, NRS/GD51/1/227.

² O'Brien, 'Political economy', 24.

³ Brewer, *Sinews*, 100 & 217.

⁴ The movement of tea, coffee, and chocolate to the administration of the Excise was enacted by 10 Geo. I c. 10.

⁵ Smuggling is an aspect that is considered in some detail by the *longue durée* histories of the revenue services but these fail to go beyond descriptive narratives of the problem. Hoon, *The English customs system*; G. Smith, *Something to declare; 1000 years of customs and excise* (London, 1980); and, Ashcroft, *Customs and excise*, 165-183.

In the introduction to this thesis, O'Brien and Brewer were discussed within the context of the strand of British historiography that presents the British state of this era as strong and effective. The prevalence of smuggling, and more broadly the state's ability to enforce the collection of some taxes, is a significant anomaly in this position. Indeed, Price uses it as an example of the weakness of the eighteenth-century British state.¹ This is especially in contrast to the Victorian state, supposedly less intrusive and more restrained, that 'stamped out' smuggling through the reduction of duties and a greater emphasis on policing.² Elsewhere in this thesis, various factors have been highlighted that presented obstacles to the formulation of tax policy. These have ranged from entrenched opposition to an intrusive state, the administrative capability of the government, public opinion of what could be taxed and how taxes could be collected, and conflicting ideas of equity and justice. This chapter adds to this picture by exploring the limits of the state's coercive power. In particular, how aspects of the smuggling trade, including public attitudes to it as a crime, placed additional curtailments on the state's capacity to tax. Moreover, in the existing scholarship, contemporary conceptions of the nature of the crime have focussed on local attitudes, especially areas where it was prevalent. What has been neglected is how it was understood in the context of the legitimacy of taxation more generally and the impact it had on debates over what could and could not be taxed and the appropriate ways in which taxes could be collected. The compliance of tax policy with principles of equity and justice was only useful to the state if they were paid. Understanding the circumstances that led to particular taxes being evaded was another factor in ensuring the co-operation of taxpayers.

¹ Price, *British society*, 124.

² *Ibid.*, 125.

(ii)

The perceptions of smuggling as a crime

The foremost English legal theorist of the era, William Blackstone, categorised smuggling as a ‘public wrong’, as in a ‘crime or misdemeanour’.¹ This was ‘a breach and violation of the public rights and duties due to the whole community, considered as a community, in its social aggregate capacity’, as opposed to a ‘private wrong’, being ‘an infringement or privation of the civil rights which belong to individuals, considered merely as individuals’.² As a crime, Blackstone asserted that smuggling was a positive offence, that is, contrary to municipal law, rather than an offence against natural law, law that was ‘co-eval with mankind and dictated by God himself’.³ A positive law was ‘a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong’.⁴ The principal laws being transgressed by smugglers were those that levied taxes or that regulated trade in some way. As the century progressed, however, further laws were passed to cover activities associated with smuggling, such as requiring permits to carry wool or tea near the coast, prohibiting gathering in large groups around coastal areas, resisting seizure, and restrictions on boats hovering too close to the shore.⁵

Blackstone’s view that smuggling was not a crime against nature was commonplace in contemporary legal theory. The Scottish Court of Session

¹ On the distinction between public and private wrongs in Blackstone’s work, see D. Lieberman, ‘Mapping criminal law: Blackstone and the categories of English jurisprudence’, in N. Landau, ed., *Law, crime, and English society, 1660-1830* (Cambridge, 2002), 139-161.

² Blackstone, *Commentaries*, iv, 5.

³ Blackstone, *Commentaries*, i, 307.

⁴ *Ibid.*, 44.

⁵ Carrying wool near the coast, 7 & 8 Gul. III c. 28; more than 6lbs of tea within five miles of the coast, 9 Geo. II c. 35; smuggling gangs, 19 Geo. II c. 34; hovering off the coast, 5 Geo. I c. 11.

judge, Lord Kames, similarly classed smuggling within the laws that had been passed 'by statute for the good of society'; smuggling, he asserted, had been 'left indifferent by the law of nature'.¹ This sentiment was shared by Adam Smith, who described a smuggler as:

a person, who, though no doubt highly blameable for violating the laws of his country, is frequently incapable of violating those of natural justice, and would have been, in every respect, an excellent citizen, had not the laws of his country made that a crime which nature never meant to be so.²

We know from Smith's *Theory of moral sentiments* that he viewed a 'natural crime' as one that produces the sentiment of 'demerit' or 'disapprobation' in the impartial spectator.³ This is a different conception of natural to Blackstone and Kames, being based on the moral sentiment of individuals rather than divine law.⁴ Nevertheless, the understanding of smuggling was the same: whilst not offending the law of nature it was still a crime against the state.

Smuggling was also framed as a crime against the sovereign. This was because, historically, customs duties had been vested in the monarch by right in return for the protection afforded to merchants from the Royal Navy.⁵ Such duties were known as the 'hereditary customs'. It was this interpretation that led Johnson, in his *Dictionary*, to describe a 'smuggler' as a 'wretch, who, in defiance of justice and the laws, imports or exports goods either contraband or without the payment of customs'.⁶ By referring to the evasion of customs, which he had defined as a 'tribute' for the import or

¹ H. Home, Lord Kames, *Principles of equity* (Edinburgh, 1760), 60.

² Smith, *WN*, V.ii.k.64.

³ Smith, *TMS*, II.i.

⁴ Haakonssen, *Science of a legislator*, 63-6.

⁵ Blackstone, *Commentaries*, i, 303-7.

⁶ Entry for 'Smuggler', Johnson, *Dictionary*, ii.

export of goods, allowed Johnson to label a smuggler as a wretch whilst also asserting that the excise, which smugglers also evaded, was a 'hateful tax levied upon commodities, and adjudged not by the common judges of property, but wretches hired by those to whom the excise is paid'.¹ It was in this vein that the compiler of commercial knowledge, Malachy Postlethwayt, described smuggling as 'robbing of the royal revenue'.² That smuggling was a crime against the sovereign was further supported through scripture. Most often quoted here were Matthew 22:21: 'Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's'; and, Romans 13:7: 'Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom'. The sin of smuggling was declared by the Church of Scotland in three Acts of the General Assembly in 1719, 1736, and 1744. As well as railing against the offence of not giving rulers their due, the first of these acts condemned the 'dreadful profanation of the Lord's Day' as smugglers were carrying on their illicit trade on the Sabbath.³

This crime was also ascribed to those who assisted smugglers by purchasing their illicit goods. Drawing on the book of Romans, the author of an anonymous pamphlet in 1731 asserted that, as 'Tribute due to Rulers' had been expressly declar'd by the Word of God', those who participated in smuggling, whether directly or indirectly, 'detain what God has given' to the sovereign.⁴ Those who denied that tribute by buying smuggled goods 'become unlawful Possessors' of it and 'criminally enjoy it'.⁵ In a sermon delivered in

¹ Entries for 'Customs' and Excise', Johnson, *Dictionary*, i.

² M. Postlethwayt, *The universal dictionary of trade and commerce* (2 vols., 1757), ii, 741.

³ 'Act showing the sin and evil of running unentered goods, and of the perjuries at the custom-houses in matters of trade', xi. Session 8, 22 May 1719, *Acts of the General Assembly of the Church of Scotland 1638-1842*, Church Law Society, ed., (Edinburgh, 1843).

⁴ [Anon], *The duty of paying custom* (1731), 6-7.

⁵ *Ibid.*, 7

Essex, published as *The sinfulness of buying run-goods* (1773), the Rector William Unwin likewise took aim at those who encouraged smuggling. Unwin declared to his parishioners that 'If you can afford to buy; buy at the markets, and scorn the meanness of prostituting your honesty to save your money.'¹ One of the most fervent attacks on smugglers and their customers came from the Methodist preacher John Wesley. As well as the aforementioned scriptural evidence against the practice, Wesley also brought in one of the Ten Commandments, Thou shalt not steal. Smugglers, he proclaimed, were akin to highwaymen, for 'you are as much a thief if you take [the King's] duties, as a man is that takes your coat'.² Such was his zeal in this matter he ordered all of his preachers to distribute his 1767 pamphlet, *Word to a smuggler*, at every opportunity in their tours of coastal regions.³ He even went as far as to exclude those followers who refused to abide by his strictures. In his *Journal*, Wesley recounted an episode in Sunderland where he 'told them plain, none could stay with us, unless he would part with all sin; particularly, robbing the King, selling or buying run goods; which I could no more suffer, than robbing on the highway'.⁴ He added that a 'few would not promise to refrain: so these I was forced to cut off'.

Wesley further portrayed smuggling as 'not only robbing the King, but robbing every honest Man in the Nation'.⁵ This was because the consequence of not paying taxes was that others must be increased, which 'lie upon us all: they are the Burden not of some, but of all the People of England.' Not only were smugglers and their patrons not pulling their fiscal weight, they were

¹ W. Unwin, *The sinfulness of buying run-goods* (1773), 16.

² J. Wesley, *A word to a smuggler* (1767), 3.

³ R. F. Wearmouth, *Methodism and the common people of the eighteenth century* (London, 1945), 258-9.

⁴ J. Wesley, *The journal of the Rev. John Wesley, A.M., from October 14th 1735, to October 24th 1790* (4 vols., London, 1903), ii, 392.

⁵ Wesley, *Word to a smuggler*, 3-4.

also placing a greater load on other taxpayers. This view of it as a crime had earlier been expressed by Daniel Defoe in his brief account of the state of England's trade. Defoe described smuggling as 'as real a Felony in the Essence of the Crime, as robbing a House is in the Letter of it'.¹ Likewise, Duncan Forbes asserted that 'every shilling the Smuggler, got came out of the Pocket of his Neighbour whom he cheated'.² The equivalence of smuggling with stealing from the nation as a whole, rather than the person of the king, was expressed through the use of the phrase 'public robbers', such as by Stephen Theodore Janssen in his *Smuggling laid open* (1763).³ This work received a great deal of attention by virtue of it being the first appearance of the 1740s report of the inquiry into the smuggling of tea. Thomas Mortimer also employed 'public robbers' to support his assertion that paying taxes was a duty because they had been legitimately passed by parliament.⁴

One thing that can be gleaned from Wesley's travails around the country was that in certain parts smuggling was not considered to be the evil that he declared it to be. Indeed, the Treasury papers are littered with reports from the Customs and Excise administrations complaining of areas where their work was hindered by the attitude of local populations. In the period leading up to the assault on Deal, the Treasury received countless reports from officers of the Excise that it was almost impossible to address the problem because the practice was so prevalent amongst the people.⁵ In those places where public opinion was not with the law Justices of the Peace were accused of using too much clemency towards smugglers brought before them

¹ [D. Defoe], *A brief state of the inland or home trade of England* (1730), 36.

² [D. Forbes], *Considerations upon the state of the nation* (Edinburgh, 1730), 7.

³ Janssen, *Smuggling laid open*, p. iii.

⁴ Mortimer, *Elements of commerce*, 321.

⁵ Excise Commissioners to the Treasury Board, Entry Books of Correspondence with the Treasury, 14, 18, & 26 February 1783; 3 & 24 October 1783; and 17 November 1784, The National Archives (TNA), CUST48-12, fos 61-4, 67, 201-3, & 455-7.

despite clear evidence presented.¹ In areas where smuggling was prevalent, such as Cornwall, officers of the Excise found it difficult to get juries to convict smugglers making it futile to bring cases against them.² In 1745, parliament passed a law that allowed revenue officers to try cases outside of the assizes where the crime was committed so as to 'ensure impartiality'.³ For those in Kent, Sussex, and East Anglia, this meant that they could bring cases to the Old Bailey where it was believed they would get a fairer hearing. This was also a problem in Scotland, where landholders and revenue officers alike were believed to be complicit in widespread smuggling.⁴

It was these attitudes towards smuggling that formed the basis of Rule and Winslow's claim that it was a 'social crime'. Smuggling and related activities, Rule asserted, were 'not held to be crimes in the popular view, no matter by whom or in what circumstances'.⁵ In a similar vein, Styles asserted that smuggling, poaching, and wrecking were 'forms of illegal appropriation which were redefined as legitimate, both by men of middling rank and the poor'.⁶ This was an opinion that was frequently expressed in the eighteenth-century. In Scotland, Forbes claimed that it was impossible for the trade to be carried out without 'the countenance of the people'; further, he added, that 'smuggling became as fashionable as any other vice' and that smugglers became 'the chief favourite of the people'.⁷ Kames complained that it had

¹ Memorial of Tea Dealers, Entry Books of Correspondence with the Treasury, 4 February 1779, TNA, CUST 48/19, fos. 449-53; and, Excise Commissioners to the Treasury Board, 15 February 1783, TNA, CUST 48/21, fos. 41-61.

² Muskett, 'English smugglers', 386.

³ 19 Geo. II c. 34.

⁴ D. Forbes, *Some consideration on the present state of Scotland* (Edinburgh, 1744), 14. Forbes also says this in a letter to the Marquess of Tweeddale, D. Forbes to [J. Hay], 4th Marquess of Tweeddale, 1 January 1742, Papers of Henry Pelham, Newcastle (Clumber) Collection, Ne C fo. 1610.

⁵ Rule, 'Social crime', 156.

⁶ J. Styles, 'Our traitorous money makers': the Yorkshire coiners and the law, 1760-83', in J. Brewer and J. Styles, eds., *An ungovernable people: the English and their law in the seventeenth and eighteenth centuries* (New Brunswick, 1980), 209-10.

⁷ Forbes, *Some considerations*, 9-10.

‘almost become a maxim, that cheating the government is no fault’.¹ Smith stated that the ‘indulgence of the publick’, through their opinion of the severity of the crime, often encouraged the smuggler ‘to continue a trade which he is thus taught to consider as in some measure innocent’.² Indeed, so pervasive was smuggling, Smith even upbraided the ‘hypocrisy’ of those who ‘pretend to have any scruple about buying smuggled goods’.³ Andrew Hamilton, Deputy Comptroller of the Excise in Scotland, wrote in 1790 that ‘to evade a revenue law, is no longer a disgrace’.⁴ In a broader context, fraudulent practices in dealing with the Customs were apparently so well known that a ‘Customs-House oath’ was a euphemism for a lie.

The perception of smuggling as a crime was an important factor in determining what punishments were appropriate for it, either as retribution or deterrence. On this matter, British jurisprudence of the late eighteenth century owed a great deal to the work of the Italian jurist, Cesare Beccaria, whose *Dei delitti e delle pene* (1764) was published in English in 1767 as *An Essay on Crimes and Punishment*.⁵ Beccaria’s ideas of leniency were also influential in French jurisprudence, especially regarding his views of the subject under consideration here.⁶ In his short chapter on smuggling, Beccaria described the act as ‘a real offence against the sovereign and the nation’.⁷ Nevertheless, he asserted that ‘the punishment should not brand the offender with infamy, because this crime is not infamous in the public

¹ Kames, *Equity*, 60.

² Smith, *WN*, V.ii.k.64.

³ *Ibid.*

⁴ A. Hamilton, *An enquiry into the principles of taxation chiefly applicable to articles of immediate consumption* (1790), 52.

⁵ A. J. Draper, ‘Cesare Beccaria’s influence on English discussions of punishment, 1764-1789’, *History of European Ideas*, 26 (2000), 177-199.

⁶ M. Kwass, *Contraband: Louis Mandrin and the making of a global underground* (Cambridge, MA, 2014), 285-317.

⁷ C. Beccaria, *An essay on crimes and punishments*, (1767), 126.

opinion'.¹ Blackstone cited this passage when he questioned the use of the death penalty for evading duties.² In an earlier discussion of the right of king to levy taxes, Blackstone stated that the 'natural and most reasonable punishment' for smuggling was the 'confiscation of the commodity'. This, however was 'quite ineffectual' because of the potential gain to be made from the enterprise.³ Blackstone continued, 'Recourse must therefore be had to extraordinary punishments to prevent it; perhaps even to capital ones: which destroys all proportion of punishment, and puts murderers upon an equal footing with such as are really guilty of no natural, but merely a positive offence'.⁴

Beccaria's ideas of leniency were particularly influential on William Eden who, as well as authoring *Principles of penal law* (1771), chaired the 1783/4 House of Commons committee on illicit practices in the revenue. Eden's *Principles* placed social harmony and the preservation of the social contract as the foundations of penal law.⁵ Criminal law should be used to guide the conduct of the people and this could only be done if the people loved the laws. The central claim of Eden's work was for there to be a proportion between the severity of punishments and the nature of the crime: 'Lenity should be the guardian of moderate governments: Severe penalties the instruments of despotism'.⁶ This was particularly important in punishments 'for the most tempting offences'.⁷ An 'open thief' who brazenly robbed someone in public should not be punished the same as a 'pilferer' who,

¹ Beccaria, *Crimes*, 126.

² Blackstone, *Commentaries*, iv, 155-6.

³ Blackstone, *Commentaries*, i, 306-7.

⁴ *Ibid.*, 307.

⁵ A. J. Draper, 'William Eden and leniency in punishment', *History of Political Thought*, 22 (2001), 110.

⁶ W. Eden, *Principles of penal law* (1771), 12.

⁷ *Ibid.*, 8.

although guilty of a crime, was not threatening the cohesion of society.¹ Eden included smuggling under the heading of ‘Crimes immediately relative to the state’, being offences short of treason, but nevertheless ‘infractions of the public peace’, which ‘directly affect the King, and his government’.² In closing his short account of these crimes he stated that in ‘this branch of the penal system, lawgivers should be extremely cautious, not to confound atrocious breaches of the civil contract, with simple violations of the police’.³ Police here means those regulations that have been instituted for the good conduct of society. In a later chapter on ‘Crimes of positive institution’, Eden discussed those laws, stated above, that punished activities associated with smuggling, such as gathering in large groups and resisting the seizure of goods.⁴ These crimes, Eden asserted, ‘do not flow from the general obligations of morality, and the general condition of human nature; but have their reason and utility, in reference to the *temporary* advantage for which they are enacted’. Every such law, he added, ‘ought to have a limited duration; and should not be suffered to remain a burthen upon the people’.⁵ He closed his work by stating that the ‘accumulation of sanguinary laws is the worst distemper of a state. Let it not be supposed, that the extirpation of mankind is the chief object of legislation’.⁶

Eden’s views on the leniency of punishments for crimes that do not warrant severity were expressed in the third and final report of his committee on fraudulent practices in the revenue. Eden had asked Smith, by that point a Commissioner of the Scottish Customs, to give evidence to the inquiry,

¹ Eden, *Principles*, 7.

² *Ibid.*, 181-2.

³ *Ibid.*, 186.

⁴ *Ibid.*, 277-9.

⁵ *Ibid.*, 279.

⁶ *Ibid.*, 279-80.

although it does not appear that he did.¹ Nevertheless, in words very similar to those of Smith's quoted above, Eden's committee advocated offering smugglers an indemnity for past crimes in return for ceasing their contraband trade. By doing so, it was advised that the state should 'avoid driving to extreme distress' the 'multitude of individuals, who, however combined against the laws of their country, are, by their talents, spirit, and activity, peculiarly capable of becoming useful members of society'.² Although Eden does not invoke the language of natural law, as Smith had, it is clear that he did not consider the crime to be in such a category. Furthermore, as Smith had argued, were it not for the laws, smugglers would be merchants like any other. The proposal supported by Eden's committee that sought to remedy the dilemma between the severity of the crime and the level of punishment needed to deter people from it will be discussed in greater detail below.

The question of legitimate punishments for smuggling was intractable. It was a crime against the public revenue that the state wanted to put a stop to. Not only was it a violation of the law, there were broader consequences on society. The government incurred additional expenses in enforcing the law and were forced to seek other means of making up for the lost revenue. For the most part in the eighteenth century, punishments were there to act as a deterrent. Crimes against person and property were identified as being especially egregious because of the threat that they posed to public order and established social hierarchies. As a result, these were often accorded the severest penalty of death. Although defrauding the revenue through smuggling was a felony, because it carried the punishment of the forfeiture

¹ Smith, *Correspondence*, 272-3.

² 'Third report from the committee on illicit practices', 299.

of land and goods, on its own it was never punishable by death, which common opinion of the time associated with felonies.¹ Smugglers who were executed had been convicted of other crimes, in particular the use of violence in defence of their trade.² The crackdown on smuggling on the south coast in the second quarter of the century, which was the focus of Rule, Winslow, and Styles, can be categorised in this way. The gangs of Kent and Sussex, especially the Hawkhurst gang, were notorious for the brazen and brutal manner in which they carried out their illicit trade. Indeed, even the smugglers whose executions preceded the Porteous riots in Edinburgh in 1736 were not executed for the crime of evading duties, but for re-appropriating goods that had been seized by the Customs.

As Muskett has argued, however, the use of violence could be seen as being inseparable from the trade itself. Indeed, as the government stepped up their efforts to counter the illicit trade, smugglers equally increased their defences. Prior to the episode in Deal recounted above, the Treasury received frequent reports of the amount of force smugglers there were prepared to use. In the early months of 1783, the Excise Commissioners reported that the illegal enterprise in Deal was protected by heavily armed vessels that were ‘of such warlike Equipment as to be of a Strength and force far superior’ to any employed in the revenue’s services.³ Even bringing the military in to help proved ineffectual. Another report described a recent attempt at a seizure that left ‘one private Dragoon wounded in the thigh, several shot thro’ their cloaths and some their Helmutts shot off and lost’.⁴ Such were the defences at Deal

¹ Blackstone, *Commentaries*, iv, 94-5.

² N. Rogers, *Mayhem: post-war crime and violence in Britain, 1748-1753* (New Haven, 2012), 122-30.

³ Excise Commissioners to the Treasury Board, 15 February 1783, TNA, CUST 48/21, fos. 41-61.

⁴ CUST48/21 14 February 1783, fos. 62-4

that apparently the gangs had erected coastal batteries to provide covering fire for the landing of goods.¹

Deal might have been an extreme example but it was not a unique one. In Salisbury, the brutality of the smugglers had left the revenue officers too scared to do their rounds.² The lawlessness implied by this was more than a matter of public order, it challenged the legitimacy of the government in the exercise of its authority. The preamble to the 1745 'Offences Against Customs or Excise Act' detailed the nature of the problem that the government faced. It recounted how 'divers dissolute Persons' have 'appeared in great Gangs' in many places across the country 'carrying Fire-arms, or other offensive Weapons' whilst 'aiding and assisting in running, landing or carrying away prohibited or uncustomed Goods' to the 'great Discouragement of the fair Trader, and the Loss of the Publick Revenue'. Moreover, these gangs had 'wounded, maimed, and some of them killed' officers of the Customs and Excise 'to the great Terror of his Majesty's peaceable Subjects, in Defiance of the Laws, and to the utter Subversion of all Civil authority and Power whatsoever'.³ Later in the century, the Eden committee were so concerned about this that they believed some areas of the country were in 'a partial state of anarchy'. The committee further added that when the practice was so prevalent it had 'a tendency to weaken and impair every idea of a regular government, and all due submission to the laws of the land'.⁴

More problems for the government came from criminality and corruption within its own ranks. This was especially identified with the illicit trade in tobacco. Indeed, the reason for Walpole attempting to reform the

¹ 'First report from the committee on illicit practices', 5.

² Excise Commissioners to the Treasury Board, 15 February 1783, TNA, CUST 48/21, fos. 43-6.

³ 19 Geo. 2 c. 34

⁴ 'Third report from the committee on illicit practices', 229.

collection of duties was because the greatest amount of frauds in tobacco were taking place within the system and under the guise of legitimate trade. Although Walpole's scheme was interpreted as a transference of administration, from the Customs to the Excise, the crucial change in policy was for tobacco to be warehoused – as had been successfully done with pepper in 1712 and tea, coffee, and chocolate in 1723.¹ This would have meant that there would be no, or little, duty to pay on importation with the tax being collected on release of the commodity from the warehouse into the home market. The aim was to subvert the frauds that were taking place in the processing of tobacco through the Customs. Of most concern to the government, in this regard, was the apparently rife collusion of Customs' officers in these frauds. The 1733 report into smuggling claimed that the biggest fraud that was taking place was in the Landwaiters' books at the ports.² This included the underweighting of tobacco on importation, allowing undamaged tobacco to be passed as damaged (and, therefore, free of duty), and exploitation of the drawback system.³ The system of drawbacks could also be exploited by packing tobacco or, before its warehousing, tea, with other foliage which resembled them and made it appear as if more of the product was being re-exported than there actually was. This allowed the smugglers to reclaim more of the customs that had been paid on importation with some of the goods remaining in the domestic market. The frauds within the drawback system in Scotland were so extensive that, in the five years between 1769 and 1773, the annual average of duties on tobacco collected was over £1 million, whereas the annual average net receipt by the Treasury

¹ 10 Geo II c. 10.

² This was central to concerns in the two inquiries of 1733 and 1783: *Frauds and abuses in the customs* (1733), 6-9; 'Second report from the committee on illicit practices', 263-82.

³ Nash, 'English and Scottish tobacco trades', 357.

after drawbacks was £6,150.¹ In other cases, tea or tobacco were re-landed at some point further along the coast after the drawback had been claimed following re-exportation.

(iii)

Smuggling, trade, and the fair trader

The status of commerce as a matter of national importance has been a recurring theme through this thesis. Eighteenth-century Britain was a commercial nation, populated by consumers, whose liberty, security, and prosperity were underwritten by the fate of its commerce. Moreover, the taxes drawn from consumption were the backbone of the fiscal-military state and, for some, the epitome of the equity and justice of the state's revenue raising. Smuggling complicated this. As Smith and Eden stated above, were it not for the laws of the land the smuggler would have been a merchant like any other. Indeed, it has been argued that illicit trade played an important role in the country's commercial development.² In the case of tea, as well as other East Indian commodities, the contraband trade has been identified as a key feature of the proliferation of these goods away from the tables of the wealthy few.³ As well as being smuggled in from the continent, pilfering of items from the portside and illicit dealings from within the East India Company increased their availability and grew consumer demand.⁴ Nevertheless,

¹ 'Second report from the committee on illicit practices', 265.

² G. D. Ramsay, 'The smugglers' trade: a neglected aspect of English commercial development', *TRHS*, 2 (1952), 151-2.

³ E. Erikson, *Between monopoly and free trade; the English East India company, 1600-1757* (Princeton, 2014), 107-24.

⁴ H. V. Bowen, "'So Alarming An Evil:' smuggling, pilfering and the English East India Company, 1750-1810', *International Journal of Maritime History*, 14 (2002), 1-31; and, C. Nierstraz, 'The popularization of tea: East India Companies, private traders, smugglers and the consumption of tea in Western Europe, 1700-1760', in M. Berg, F. Gottmann, H. Hodacs, and C. Nierstraz, eds., *Goods from the East, 1600-1800* (Basingstoke, 2015), 263-76.

parliament had levied taxes and regulated trade for what it believed, or at least what it claimed to believe, was in the public interest. Away from loss from of revenue, smuggling was seen as damaging to the nation's economic interest, both in general and in particular. The mercantile regulations over the woollen and linen trades, the navigation acts that controlled shipping through the ports, the monopoly privileges granted to the large trading companies, and restrictions on trading with enemy states were all framed as being for the protection of national political and economic interests. Contravening these was aiding and abetting the nation's decline.

In the legislation that was enacted to deal with smuggling, the preambles to the acts frequently identified two victims that parliament was acting on behalf of: the public revenue and the fair trader.¹ The 'fair trader' was both representative of a particular trading community who dealt in the subject of the legislation and the personification of the nation's trade. The fair trader was the crucial cog in the machinery of the market; they were honest, played by the rules, paid taxes, and it was their business that suffered from the price war with those who traded in untaxed commodities. The interest of the fair trader was intertwined with that of the public revenue and nation's overall commercial interest.

This was a view that was similarly expressed within the public sphere. It was the interest of the fair trader that Defoe was defending in his castigation of dealers in smuggled goods, whom he described as 'Enemies to their Country, Destroyers of its Commerce, and in a Word, of all fair and

¹ For example: 'to the great Loss of the fair Trader, and the Prejudice of his Majesty's Revenue', 16 Geo. II c. 26, s. 5; 'to the great Discouragement of the fair Trader, and the Loss of the Publick Revenue', 19 Geo. II c. 34, preamble; 'to the great Prejudice both of the publick Revenue and of the fair Trader, 26 Geo. II c. 13, preamble; 'whereby the Revenue and the fair Trader have been greatly injured', 3 Geo. III c. 13, preamble; 'to the great Injury of the Revenue, and to the Hurt of the fair Trader', 21 Geo. III c. 55, preamble.

honest Dealing'.¹ Defoe's depiction of the nation's fair trading was that it took place in shops not on the street where hawkers and pedlars were stealing their business. His association of contraband trade with those hawking their wares on the street led him to declare that 'as the Receiver is the Support of all Thieving, so the Hawker is the Life of all Smuggling'.² In the entry for smuggling in his commercial dictionary, Postlethwayt asserted that smuggling was an 'unspeakable injury to fair trader'.³ Bouchier Cleeve also attacked the 'dishonest and perjured Rivals of trade, who enrich themselves by those Means which impoverish the fair trader'.⁴ In presenting the reports of the 1740s inquiry into frauds in the tea trade, Janssen prefaced his work by stating that the evasion of duties was to 'the manifest detriment of the fair Trader; the very affecting diminution of the Revenue; and the utter disgrace of Government'.⁵ In 1780, William Richardson published a pamphlet that informed merchants of forthcoming laws, which were designed to combat smuggling, entitled *Advice to unwary*. Richardson lambasted the great increase of smuggling in recent years which he said 'brought universal distress upon the fair traders, from the most opulent and respectable, even to the smallest shopkeeper'.⁶ The continuation of smuggling and of consumers buying smuggled goods, Richardson claimed, would only lead to 'foreign states' being 'enriched at the expence of this country, and the destruction of many fair traders'.⁷

¹ Defoe, *Brief state*, 39.

² *Ibid.*, 37.

³ Postlethwayt, *Universal dictionary*, ii, 741.

⁴ B. Cleeve, *A scheme for preventing a further increase of the national debt and for reducing the same* (1756), 14.

⁵ [Janssen], *Smuggling laid open*, p. v.

⁶ W. Richardson, *Advice to the unwary* (1780), 2.

⁷ *Ibid.*

For actors in a particular trade, correlating their specific interest with that of the country generally was a useful way of garnering support for their cause. Crucial to this was the employment of balance of trade arguments in the context of competition with the nation's commercial and imperial rivals. This was the tack taken by tea-dealers in the 1740s to complain about the smuggling of tea. They had initially presented their arguments in the periodical *The Champion*, but, to further their cause with parliament and the public, the editor of that paper collated them and produced a pamphlet in 1745. As well as putting their own case and that of the East India Company, the tea-dealers also reminded the public of the threat of smuggling to the trade of the nation. They estimated that the purchasing of undutied tea was sending around £100,000 a year to Holland, France, Sweden, and Denmark.¹ The tea-dealers emphasised that this money was 'absolutely lost to the Nation' and they equated it to being taxed 'for the Benefit of Foreigners'.² Indeed, in the subsequent inquiry into tea smuggling in 1745/6, one witness to the inquiry stated that he believed that the French did not consume one tenth of the tea they imported and sold the rest to the British.³ According to this witness, the British people were entirely supporting the East India trade of a country who, at that time, were in the opposing alliance in the War of Austrian Succession.

In 1780, a contributor to the *Edinburgh Magazine* employed this framing of the effect of smuggling to challenge those calling for economical reform. The writer stated that, although waste in government was a 'laudable' cause, the proposed annual reduction of £200,000 in offices and pensions

¹ Tea-dealers, *Considerations on the duties on tea, and the hardships suffer'd by the dealers in that commodity*, (London, 1744), p. 13.

² Ibid.

³ Janssen, *Smuggling laid open*, p. 12.

paled in comparison to the £2.3 million lost each year to smuggling.¹ Worse than this loss of revenue, the writer declared, the smugglers were supporting the rival commerce of the Dutch, Swedes, Danes, and French.² This was especially the case with tea and other East India goods, with the illicit trade supporting foreign trading companies. In Scotland it was such goods from the Swedish East India Company that dominated the market, with ‘Gottenburgh tea’ being used as a euphemism for smuggled tea in public advertisements.³

Contraband commodities were seen as being in competition with domestic producers in other ways. One such problem was the demand for labour. In certain coastal areas, some employers struggled to hire labours because their pay could not compete with the returns that could be made by working for smugglers.⁴ The effect of illicit trade on the domestic economy, especially Scotland’s, was a major concern of Duncan Forbes, the Lord Advocate of Scotland and the President of the Court of Session who also sat on the Board of Trustees for Fisheries, Manufactures and Improvements in Scotland. In particular, Forbes was concerned with Scottish breweries and distilleries and the revenue that was being raised from them. In the 1730s and 40s, he expressed these views in two pamphlets and numerous correspondence with senior officials in the government.⁵ Forbes believed that Scotland was raising so little excise from beer and spirits because of the illicit importation of tea and brandy.⁶ He complained that the consumption of tea in Scotland was now so ‘excessive’ that even the ‘meanest families’ make ‘a

¹ *Edinburgh Magazine*, xxxvii (1780), 108.

² *Ibid.*, 109.

³ Janes, ‘Fine Gottenburgh Teas’, 225-7.

⁴ *Gentleman’s Magazine*, xix, (1749), 138.

⁵ The majority of the correspondence is contained in H. R. Duff, ed., *Culloden papers* (1815); and, D. Warrand, ed., *More Culloden papers* (5 vols., Inverness, 1923-9).

⁶ *Culloden papers*, 114-6; and *More Culloden papers*, iii, 45.

morning's breakfast out of it'.¹ The result of this was that the labouring poor were no longer drinking small beer for breakfast, greatly affecting both the domestic production of beer and the revenue taken from it. This was similarly the case for drinking tax-free brandy and the distilling business. Forbes lambasted the smuggler, who he said was 'murdering his country' as well as those who aided and abetted the trade by 'cherishing and hugging in their Bosom the Smuggler, that Leech that lives by sucking their Heart's Blood'.²

Forbes' use of language was as outlandish as his proposed solution to the problem. Forbes surmised that the poor were unable to afford dutied tea and were only able to consume tea because of the availability of it tax-free. He proposed, therefore, that the consumption of tea should be restricted to families with an annual income of above fifty or one hundred pounds.³ This should, according to Forbes, remove the market for smuggled tea and restore the domestic beer industry and the revenue from it. Forbes became frustrated in the 1740s that his suggestion was not being heeded, but he was told on a number of occasions that Pelham's government did not think that it was viable to restrict who could and could not drink tea.⁴ Although Forbes was rebuffed, he was not a lonely outlier. A similar argument was made by Joseph Danvers in the Commons, that the poor should go back to drinking beer for breakfast instead of tea.⁵

In his attack on the vendors of smuggled goods, Cleeve identified another consequence of widespread smuggling: the additional regulation

¹ D. Forbes to [J. Hay], 4th Marquess of Tweeddale, 1 January 1742, Papers of Henry Pelham, Newcastle (Clumber) Collection, NUL, Ne C fo. 1610.

² D. Forbes, *Some consideration on the present state of Scotland*, (Edinburgh, 1744), 15-6.

³ D. Forbes to [J. Hay], 4th Marquess of Tweeddale, 18 August 1743, Papers of Henry Pelham, Newcastle (Clumber) Collection, NUL, Ne C fos. 1611-2.

⁴ *More Culloden papers*, iii, 193-5. On this episode see G. Menary, *The life and letters of Duncan Forbes of Culloden* (London, 1936), 136-55.

⁵ Cobbett, *Parliamentary history*, ix, 150.

imposed by the government in order to prevent it.¹ As the century progressed, officers of the revenue were granted ever greater powers of inspection as the state ramped up its intrusion into merchants' businesses. That consumption taxes were deemed to be paid by all consumers but who were not all burdened with the process of collection was one of the positive attributes of such duties. It was the merchants and manufacturers of taxed goods that had to deal with the revenue administration. This was what Walpole's political opponents focussed on as they stoked the fear of all goods being subject to the excise as they opposed his scheme. *The Craftsman* was at the forefront of this attack, asserting that the plan to reform the administration of the duties on tobacco and wine, in order to improve their productivity by reducing the evasion of them, was another step towards extending the excise 'to every part of Trade'.² This would mean that all merchants and manufacturers would be 'always liable to the Inquisition of *little Officers*, who often think it their Duty to be as vexatious as possible'.³ The powers granted to the excise, it was claimed, reduced the fair trader to '*Beggary and Dependence*, which are properly the Circumstances and Characteristics of *Slaves*'.⁴

As was discussed in Chapter Two, the scheme was dropped in the face of this opposition, which had lasting effects on how excises were viewed for the remainder of the century. More immediately, dealers in tea, coffee, and chocolate, sought to capitalise on this by petitioning parliament to have the excise duties on their commodities repealed.⁵ The transfer of these duties to the excise in 1724 had been the model for Walpole's scheme and which had,

¹ Cleeve, *Scheme*, 22-3.

² These were published collectively in pamphlet form: C. D'Anvers, *An argument against excises* (1733), 46.

³ *Ibid.*, 72.

⁴ *Ibid.*, 22.

⁵ Cobbett, *Parliamentary history*, ix, 9-10.

at least initially, hindered the smuggling of those goods. Despite using many of the same arguments as had been presented in opposition to the Excise Bill, these petitioners could not gain the popular or parliamentary support their motion and it was quietly ignored by the government. A second attempt by dealers in tea to be afforded the same treatment as tobacco and wine traders was made in the subsequent session. This time it was debated in parliament, but was again rejected. A significant obstacle was the servicing of debts already secured against the duties, although Pelham also argued that to accept the proposal would invite more from maltsters, brewers, and soap-boilers.¹

Complaints about the imposition of regulation also took place over geographic lines. In 1780 the 'Association in London for the Protection of Trade against smuggling of tea, coffee, chocolate and cocoa nuts' petitioned the Treasury to complain that the Excise in 'North Britain' were not as scrupulous as their English counterparts in weighing imports or taking regular accounts of the stock of dealers.² There was a similar complaint from 'Newcastle Sopeboilers' who asserted that the evasion of the duty on soap was so rife in Scotland that it must be happening with the connivance of Excise officers there.³ Such were the accusations of complicity of the Scottish revenue administration, in 1807 the Treasury sent four English officers of Excise to Scotland to investigate. Their report confirmed many of the accusations of their laxity in their duty 'much to the detriment of the revenue'.⁴

¹ Cobbett, *Parliamentary history*, ix, 144.

² Scottish Excise Board Letters to the Treasury, 5 September 1780, NRS/CE8/1 f. 34; and Scottish Excise Board Letters from the Treasury, 10 August 1780, NRS, CE9/1, f. 25.

³ 10 May 1785, NRS, CE8/2, fos. 45-7.

⁴ 5 December 1807, NRS, CE8/9, fos. 147-57.

The trade in untaxed commodities was not only a detriment to the public revenue, it had an impact on those who were operating within the legal market. Duty free goods were naturally cheaper than those that paid taxes and the merchants concerned frequently appealed to parliament to address the problem. The influx of contraband goods also affected other domestic industries, as cheaper foreign alternatives were resorted to. As well as being undercut in the marketplace, those who carried out their business legitimately saw themselves as being onerously burdened by the revenue administration. The more regulation that was brought in to quell smuggling, the more interference that fair traders had to endure. This had to be borne in mind by the government so as not to upset the acquiescence of existing taxpayers. Consumption taxes were favourable because they did not subject the whole of society to the intrusion of the state, but there were also limits to the amount of intrusion that merchants and manufacturers would bear in their stead. This was a further constraint on the coercive capacity of the state.

(iv)

Political economy of smuggling

In May 1779, following the presentation to parliament of another bill that was aimed at putting a stop to smuggling, the *Morning Chronicle* foresaw that the provisions contained therein would not go any way to achieving its desired end. The paper argued that the ‘foundation of smuggling and illicit trade’ was ‘high duties and prohibitions’.¹ The high duties were ‘such temptation of gain, that where the risque and charges of smuggling, came lower to the purchaser than the duties paid, Government must be defrauded, and the honest

¹ *Morning Chronicle*, 18 May 1779. All subsequent quotes in this paragraph are from this paper.

conscientious trader injured, or eventually ruined'. The Bill that had been introduced to the Commons by Sir Grey Cooper offered 'nothing that can possibly prevent the evil; it goes intirely upon that narrow, impolitic system of increasing pains, penalties, forfeitures &c. which experience has shewn to be, in every instance, nugatory!' Where smugglers were able to insure against the risk of penalties and forfeitures, such sanctions were sure to fail. 'Visionary and speculative politicians' may have believed that they could 'force rogues to be honest even against their interest, but experience and common sense proves, that temptation to gain' is a stronger force on 'the minds of bad men, than any laws human or divine'. The piece concluded, the 'consequence is clear and incontestable, that nothing can prevent smuggling and illicit trade, but removing the temptation'.

Blaming the temptation to profit caused by high duties was frequently asserted in discussions of smuggling. Decker had claimed that some 'Merchants will venture where they can double, or treble their Capital; and all the Art of Man won't be able to hinder them.'¹ A year later Richardson argued that the high rates of customs were like 'throwing out a Bait to a greedy Fish'.² Forbes asserted that 'Gain expected was the Temptation that drew Traders into this villanous project', although he did also concede that, in Scotland at least, a strong dislike of paying revenue to the English was another drive towards smuggling and fraud there.³ Smith claimed that an 'injudicious tax offers a great temptation to smuggling.'⁴ In a discussion of sumptuary taxes in order to inhibit the consumption of certain goods, he argued that they 'have in many cases served only to encourage smuggling.'⁵

¹ Decker, *Serious considerations*, 7.

² [Richardson], *Essay on the causes of the decline of foreign trade*, 13-4.

³ Forbes, *Some considerations*, 5.

⁴ Smith, *WN*, V.ii.b.6.

⁵ *Ibid.*, V.ii.k.27.

When Kames sought to establish principles of taxation in *Sketches of the History of Man*, his first principle was ‘That, wherever there is an opportunity of smuggling, taxes ought to be moderate; for smuggling can never effectively be restrained, where the cheapness of imported goods is in effect an insurance against the risk’.¹

This view of the cause of smuggling was even expressed in parliament and in government. Henry Saxby, author of *British customs* (1757), and some sort of official at the Customs House, reported to Horace Walpole in the 1740s that if the government wanted to address the extent of smuggling of tea it had to lower the duties to remove the temptation.² In 1783, the Scottish Excise Board wrote to the Treasury and stated that the cause of smuggling was temptation, but refrained from advocating the reduction of duties.³ In 1784, Pitt told the Commons that the ‘best possible plan’ was to ‘take away the temptation [to smuggle], by diminishing the profits of it’.⁴ Eden’s committee resolved that ‘the increase of smuggling should bear a proportion to the temptation’.⁵

High duties were not the only cause of smuggling. By the end of the century there was an excessive amount of regulation that governed Britain’s external trade had clearly become an issue by the end of the century. The select committee on finance of 1797 were clearly dismayed by the situation:

Upon adverting to the Laws of the Customs, Your Committee have found them to be voluminous in Bulk, intricate in Details, and comprehending not less than Twelve Hundred Articles upon which Duties are levied; about Nine

¹ Kames, *Sketches*, iii, 447.

² Henry Saxby to Horatio Walpole, 23 July 1748, Walpole (Wolterton) Papers, Economic papers 1722-1754, BL, Add MS 74051, fos. 135-40.

³ Scottish Excise Board Letters to the Treasury, 4 December 1783, NRS/CE8/1, fos. 149-66.

⁴ Cobbett, *Parliamentary history*, xxiv, 1008-9.

⁵ ‘Third report from the committee on illicit practices’ 286.

Hundred of these are subject to rated Duties, and the rest are charged ad Valorem.¹

They added that the ‘Statutes relative to the Customs alone, fill at present Six large Volumes in Folio’ and that it was without an index. This was not an unknown problem. In the previous decade, the Commissioners of public accounts reported to the Commons that the laws of customs were a ‘Science so complicated few are willing to study’.² Similar language was employed by Eden in his *Four letters*, when he claimed that the ‘Customs House rules’ had become ‘a matter of science to know and an occupation of great dexterity to compute them’.³ A year later, Eden was the recipient of a letter from Smith who recounted his experience of assuming his role as a Commissioner of Customs in Scotland:

About a week after I was made a Commissioner of the Customs, upon looking over the list of prohibited goods, (which is hung up in every Customhouse and which is well worth your considering) and upon examining my own wearing apparel, I found, to my great astonishment, that I had scarce a stock, a cravat, a pair of ruffles, or a pocket handkerchief which was not prohibited to be worn or used in Great Britain. I wished to set an example and burnt them all.⁴

The regulation of trade had become so complex that even those conscious to obey the law could hardly keep track. This created a tension for the government’s commercial policy.⁵ The purpose of banning such articles was either to encourage domestic manufactures or to prevent the support of manufactures of economic rivals (sometimes both). But, as Smith informed

¹ Reports from the select committee on finance, fourth report, July 1797, 213.

² *CJ*, xl (1784/5), 712.

³ Eden, *Four letters*, 58.

⁴ Smith, *Correspondence*, 245-6.

⁵ On the complicated nature of customs regulations, see E. Carson, ‘The complication of the customs duties in the eighteenth century’, *British Tax Review* (1782), 315-321.

Eden, the 'sole effect of a prohibition is to hinder the revenue from profiting by the importation'.¹

It is somewhat banal to state that taxes and prohibitions were the cause of smuggling. Indeed, without them there would be no such crime. Notwithstanding the framing of smuggling as a social crime in the face of unjust laws, or as part of wider attempts to undermine the government, smuggling would not have been carried on to the extent that it was without it being a viable economic enterprise. The key question for the government was how it could put a stop to it. There were numerous attempts during the eighteenth century to achieve this. As Walpole had done with tea, coffee, and chocolate, and attempted to with wine and tobacco, one way was to change the tax from an import to an inland duty, by transferring the collection of it to the Excise from the Customs. This was meant to discourage the importing merchant from engaging in smuggling by relieving them of the burden of the tax. Moreover, the Excise was perceived to be more efficient and effective in its administration than the Customs. The failure of this idea, however, was that it did not remove the cause of temptation, with untaxed goods remaining cheaper than their taxed versions. Furthermore, as was discussed in Chapter Two, after the furore over Walpole's excise scheme, and the cider controversy thirty years later, new excises were unpalatable to the population and politically dangerous to attempt to impose.

Another option, which was discussed in the foregoing section, was to increase the regulations of the trades involved. This could be done through requiring a licence to practise a particular trade or to travel with certain goods in certain areas; legislating the processes of manufacture to make it easier for officers to assess the duties; and increasing the powers available to officers

¹ Smith, *Correspondence*, 246.

to inspect premises where the trades are carried out. A significant consequence of this though was to alienate those who were engaging in their business legitimate and to further entrench hostility to the revenue services. This in turn could push them towards the illicit market as the burdens of complying with the law became ever greater.

There were similar issues with the use of increased military force to confront smugglers. The more resources employed in collecting duties lowered the cost efficiency of those duties. Throughout the eighteenth-century the revenue services frequently complained to the Treasury about their lack of resources. In the early 1740s, the Treasury received a variety of reports from the Customs complaining that they were powerless in the face of well-organised and well-armed gangs of smugglers.¹ These assertions were repeated in the 1745/6 inquiry into smuggling. Many of the witnesses, ranging from tea-dealers, former smugglers, and officers of the revenue services, claimed that the revenue did not have the ships or firepower to stop smugglers.² If the Customs' cutters were to have any effect then they needed to be able to match the size of the smugglers' vessels or to enlist the help of the Navy. In a later example, Customs' officers on the south coast complained that smugglers were using vessels with eighteen to twenty-one carriage guns – far too large for revenue cutters to intercept and needed assistance from the Navy.³ Likewise in a 1780 report to the Treasury, the Excise Commissioners bemoaned that there was nothing they could do to stop smuggling without

¹ William Wood to John Scrope 28 February 1745/6 includes 'An account of what representations have been made by the Commissioners of the Customs to the Lords of the Treasury for the last Three Years relating to the infamous and destructive practice of Smuggling' Treasury Board Papers and In Letters, TNA, T1/319 fos. 107, 112-6.

² [Janssen], *Smuggling laid open*, 34-9.

³ Treasury Board Minute Books, 23 May 1783, TNA, T29/54, f. 94.

the help of the military.¹ In response to this request the Secretary of War granted the Excise Commissioners the right to call on troops in London to assist them.² Not all requests were met with positive responses. In 1791 the Scottish Commissioners of the Excise wrote to the Treasury to request an additional Hulk to be stationed at Auchenmalg because of the great increase of smuggling on the south west coast of Scotland. The Treasury responded, through its secretary Charles Long, by asking whether ‘the means you propose are the cheapest you can suggest for the purpose of suppressing smuggling’.³

The stretching of resources was at its worst during periods of military conflict. During the American War of Independence the Customs and Excise services lost their military support to challenge the actions of the smugglers. In May 1777 the *Gazetteer* reported that the ‘coasts of England, Scotland, and Ireland, now swarm with vessels’ that were involved in smuggling because there were ‘no cruizers to spare to act against them’.⁴ Later that year the *London Evening Post* decried how smuggling had increased to ‘an alarming height in many parts of the kingdom’, blaming ‘the small number of military’ that can be spared from service in America.⁵ Such was the scarcity of resources, and an indication of the nation’s priorities, in 1778, during the American war, a Royal Proclamation was issued pardoning ‘persons who have been guilty of offences against the Revenue on condition of their entering into His Majesty’s Service’.⁶ A similar order was issued during the Napoleonic war. In 1804, Scottish fishermen were given notice that any of them caught

¹ Report from Excise Commissioners to the Treasury, August 1780, Excise Commissioners correspondence with the Treasury, TNA, CUST48/20 fos. 123-4.

² Ibid. f. 140

³ Letters from the Treasury to the Scottish Excise Board, NRS, CE9/1, f. 135.

⁴ *Gazetteer*, 21 May 1777.

⁵ *London Evening Post*, 18 September 1777.

⁶ Board of Customs Minute Books, 11 April 1778, TNA, CUST29/5, f. 488.

smuggling would be impressed into the Sea Fencible Service, the nation's naval home guard.

The options available to the state were neither assured of success nor without their own problems. It was not possible, nor cost effective, to constantly guard the coast. As well as being an expensive solution, the increased use of force was often met with greater force from the smugglers as they sought to protect their trade. Increased regulation, whilst sometimes effective, created more bureaucracy for the state to administer and was seen by fair traders as unfairly punishing them for the actions of others. Where acquiescence was needed to ease the collection of taxes, measures that increased the animosity of taxpayers towards the revenue risked reducing compliance. Furthermore, as was noted by the *Morning Chronicle*, quoted above, these approaches did not engage with what was widely perceived to be the root cause of the problem, being the temptation to gain. Ultimately, if the government wanted to put a stop to smuggling it had to make it unprofitable to engage in.

One of the most sustained analyses of the nature of smuggling, its causes, and the government's attempts to deal with it came from the Deputy Comptroller of the Scottish Excise, Andrew Hamilton, in his *An enquiry into the principles of taxation, chiefly applicable to articles of immediate consumption* (1790). Hamilton opened his work by asserting that 'Taxation has long been practised as an art, but has never been fully explained', and that, 'as a subject of knowledge, has never been duly cultivated'.¹ Hamilton utilised his experience of the practice of revenue collection, together with a reasonable comprehension of the some of the major works of political economy of the era, especially being influenced by Smith, to critique the

¹ Hamilton, *Principles*, p. iii.

British government's attitude towards its power of taxation. The central claim of the work was that the state had overestimated its powers of taxation. Since the Glorious Revolution, Hamilton argued, the expansion of the system of taxing consumption had given the legislature the belief that it had the power of 'successfully taxing, any commodity indefinitely'.¹ The number of regulations, restrictions, and penalties that the state had to impose in the intervening century to enforce the collection of these duties, which Hamilton gives a meticulous account of, should have made the state aware that it did not have a limitless capacity to tax.² He added that 'high duties, rigorous laws, and increase of smuggling, have been hitherto inseparably connected, in the fiscal history of this country', claiming that this had been 'the opinion of every sensible man'; except, that is, for 'every successive minister and parliament' who had continued to add to the regulations with 'a kind of fatality'.³

Hamilton called this the 'over-tax system'. A Leith merchant, writing in 1792 under the pseudonym 'Trader Political', employed a similar term in a number of articles published in *The Bee*. The merchant stated that 'there is a certain rate at which duties ought to be fixed' and that exceeding this was 'overstretching taxation'.⁴ The limit of taxation that could be levied on certain goods was an important part of Hamilton's critique. In formulating a tax, he asserted that there was one question that should be asked by politicians: 'What rate of duty is the commodity capable of bearing?' He added that the 'answer to this, when truly given, points out the limits of the power, which taxation can give to mankind, in regulating commerce, restraining the use of

¹ Hamilton, *Principles*, 50-1.

² *Ibid.*, 17-49.

³ *Ibid.*, 53.

⁴ *The Bee* 10 July 1792 and 10 August 1792, x, 58 & 321.

any article, or in rendering it with ease, and safety, subservient to the purposes of revenue'.¹ Hamilton provided a more rigorous analysis of the claim that smuggling was caused by temptation to profit. It was more than a simple arithmetical calculation of the smuggler's profit margin. He identified two key factors that had to be borne in mind in the formulation of tax policy: 'the circumstances in a country, which indicate the general rate of taxes that ought to prevail in it'; and, 'the particular nature and situation of each commodity, by which it is fitted, or unfitted to be a productive subject of taxation'.²

From this, Hamilton explored the merits of three proposals to reform the fiscal administration to combat duties. The first was to repeal the duties on commodities that were easily smuggled and to tax others that were not. As was discussed above, notwithstanding their being ideal subjects of taxation, the materiality of tea and tobacco made them peculiarly suitable to smuggling. It was also possible to mimic them with other foliage to pretend they were being re-exported elsewhere. Indeed, it became a necessary skill for officers of the revenue to identify real and fake tea and tobacco.³ The idea to target those goods less easily smuggled was supported by Hamilton's theory of the shifting of the incidence of taxation. This was essentially that it was impossible to determine where the burden of a particular tax ultimately fell.⁴ He believed that there were a number of known and unknown factors in the process of the movement of a tax through economic activity, meaning that there could be no certainty to theories of where it stopped. He explicitly disregarded the theory that all taxes fell on land, as presented by Locke and

¹ Hamilton, *Principles*, 82.

² *Ibid.*, 216.

³ Assorted instructions for officers of the Excise, 1781, TNA, CUST142/9, fos. 415-26.

⁴ Hamilton, *Principles*, 182-3.

the Physiocrats, and Steuart's claim that they ultimately rested on the pockets of the rich consumer.¹ If the purpose of the tax was to raise money it should be levied where it was most easily and efficiently collected. Nevertheless, Hamilton believed that the 'prejudices of the people' over the effects of certain taxes, that this was not a viable option for the time-being.²

The second proposal was to split the points of collection on a particular commodity, that is to 'catch the same subject, in different hands, so as to levy two rates of duties, from two distinct classes of advancers' instead of the one rate from one set of payers.³ The example Hamilton cites of this working in action, was the duty on malt and beer being two taxes on the one drink. That said, Hamilton does not acknowledge that the malt duty hits drinkers of spirits as well. Eden had also approved of this method of collection. He had been explicitly arguing against Smith's proposal to remove the duty on beer and lay a single tax on malt so that private brewers paid the same tax as beer sold to the public.⁴ Eden believed that this would encourage more to evade the malt duty because it would be so high.⁵ In the same year that Hamilton published his work, 1790, this idea had been enacted in the reforms of the tax on tobacco. Instead of a wholesale transfer of the duty from the Customs to the Excise, as had been preferred by Walpole over half a century earlier, the duty was split between the two administrations. This had been lobbied for by Glasgow tobacco merchants, through the Glasgow Chamber of Commerce, because they were wary of the effect of a high excise duty on their trade.⁶ The importing merchants and inland distributors came together

¹ Hamilton, *Principles*, 134-42.

² *Ibid.*, 234.

³ *Ibid.*, 235.

⁴ Smith, *WN*, V.ii.k.46.

⁵ Eden, *Four letters*, 59.

⁶ Memorial on behalf of the Importers and Dealers in Tobacco to Charles James Fox, June 1783, Correspondence and papers of the Glasgow Chamber of Commerce,

through the Glasgow Chamber of Commerce to devise a way that would reduce the smuggling that was hindering their trade but would not onerously increase the regulation on either of them. The theory supporting it was that if the importers and inland distributors shared the load then their temptation to evade it would be lower, there being less profit to make from smuggling.

The final proposal considered by Hamilton was to commute the duty to another form of taxation. This was different from the first proposal of taxing another commodity. It also differed from the theory of the second proposal, of taxing the same thing at separate points of its movement through the market. A commutation was the targeting of the same source of revenue, as in the ultimate payers of the tax, but through an entirely distinct mode of taxation. There had been a very recent experiment of this in the taxation of tea in 1784, where the duty on tea was severely reduced and the remainder commuted to the window tax. This was not the same as the lowering of the duty that had occurred in 1745, because in that case there had been no attempt to recoup the balance elsewhere. The argument that supported the taxing of windows in lieu of taxing tea was that no additional burden of taxation was being created. Instead, in an effort to reduce the smuggling of tea, which was also believed to be the staple commodity of all contraband trade, the consumers of tea were being taxed directly. This was a complete uprooting of the process of taxing consumption and a subversion of the principles that had made it such a preferable method of taxation.

To support such a proposal, it was necessary to demonstrate that there was a correlation between the two modes of taxation. That is, that the tax base would remain much the same as under the previous system. To achieve

TD1670/4/16; Observations on the advantages of dividing the duty on tobacco, 1785, TD1670/4/23.

this Pitt turned to political arithmetic to make his case. There were two elements that needed to be established for the commutation to work. The first was figuring out what level of duty tea could bear so as to still raise some revenue but without making it profitable to smuggle. The intention was never to wholly remove the duty. There was still some expense to smuggling and it was from the profit margins of smugglers that the level of duty could be determined. The second aspect was the relation between the balance of the amount previously paid through the tea duty and the addition to the window tax.

To calculate the level of duty that tea was capable of bearing, Pitt sought advice from the merchant banker and business adviser to Lord Shelburne, Francis Baring, and the Chairman of the Open Committee of Warehouses, Nathaniel Smith. The pair provided Pitt with details of the price the smugglers could purchase tea on the continent, together with information they had received regarding the expense of transporting the untaxed goods into Britain.¹ From this Pitt calculated that he could charge twelve and a half per cent duties on Bohea (a coarse black tea that was most commonly smuggled) and smugglers would not be able to undersell legitimate traders.

The justification for commuting the duty on tea was that the consumption of it was believed to be near universal. Eden's committee, which supported the idea of a commutation, declared that, in Britain, there were 'few [houses] in which tea is not consumed'.² There were enough people who regularly drank tea to be able to claim that the duty on it could be paid through a compulsory property tax. This was an assertion that was largely

¹ F. Baring to W. Pitt, 20 July 1784, TNA, PRO30/8/293, fos. 55-6. Baring also corresponded with Pitt about other matters, see PRO30/8/111; and N. Smith to W. Pitt, 1 July 1784, TNA, PRO30/8/293, fos. 35-6.

² 'Third report from the committee on illicit practices', 286.

accepted in the subsequent debates of the policy. Of greater difficulty for Pitt was proving that there was a correlation between the two sums. To do this Pitt sought to establish the amounts of tea consumed ‘in Houses of different descriptions’ and in different places. He received reports covering a range of places that detailed the rent charged, the number of windows, the number of people therein, the amount of tea consumed therein per week and per annum, and the amount spent on tea each year.¹ He also received an account of ‘the consumption of tea by families of different distinctions with the number of each family and of windows in their several Houses’.² Pitt obtained additional calculations of the ‘consumption of Tea annually, by a Family consisting of a Gentleman, his Wife, six Children, the oldest 8 years old & the Servants’.³ Each of these accounts aimed to quantify the amount each household annually spent on tea each year. From this it could be calculated the amount of duty that would have been paid and correlate that to the number of windows of their houses so that some proportion could be given to the additional rate charged on windows. The subsequent calculations are lost to us but when Pitt presented the bill to the Commons he justified it by explaining that:

a house which should be rated at 10s. 6d. [having ten windows] would have a number of inhabitants sufficient to consume 7lb. of tea at 7s. per pound, which would come to 1l. 5s. 10d.; the whole of which being taken off, and in lieu of it, a tax of 10s. 6d. being laid on, there would be a saving to the family by this new mode of 15s. 4d.⁴

¹ ‘Observations made at the places undermentioned respecting the consumption of tea in houses of different descriptions’, TNA, PRO30/8/294, fos. 253-6.

² ‘An account of the consumption of tea by families of different distinctions with the number of each family, and of windows in their several houses’, PRO30/8/294 f. 277.

³ Mr Fisher, ‘Annual consumption of tea in two families distinguishing each’, PRO30/8/294, f. 27.

⁴ *Parliamentary history*, xxiv, 1010.

Pitt had gone to great lengths to provide support to his claim that this was not a new levy, but a transference of the point of collection from the merchants to the consumers directly. As the opponents to this declared, this was a subversion of those long-standing principles of taxation that had served Britain so well. The duty was no longer voluntary, payers could not choose to buy less tea if they could not afford it; and it was no longer insensible, as it was now very clear to them the burden that they were bearing. They also worried about where the slippery slope of directly taxing consumers could take them.

One aspect that was complained about, highlighted by Hamilton, was that this experiment was on a commodity of which there were monopoly rights over its sale. The primary beneficiary of the scheme was the East India Company, not the revenue. Their trade was further protected whilst the taxpayer suffered a greater burden. This was made worse by it occurring in the midst of the Hastings corruption scandal. The hand drawn print below, *Catlap for ever, or the smuggler's downfall* (1784), exemplifies the way in which these two issues were brought together.¹ Pitt stands on two boxes of tea, one labelled 'Bohea Tea Duty Free' and the other 'East India Bill', under which his adversary Charles James Fox is crushed. Prior to Pitt's reform of the East India Company, Fox had attempted it during the Fox-North coalition, but, having passed the Commons was killed in the Lords on orders of the king.² It was in the aftermath of this that the coalition was ousted and Pitt was installed as Prime Minister.³ In the background, India House, on Leadenhall Street, is supported by the pillars of monopoly and prerogative.

¹ Catlap is a Scotticism for a weak watery drink.

² Bourke, *Empire and revolution*, 559-67.

³ Ehrman, *Younger Pitt*, i, 118-27.

Although the Commutation Act was the first experiment of taxing consumers of a particular commodity directly through a property tax, the idea had been circulating for some time. Without explicitly naming him, Hamilton identified the originator of this theory as Sir Matthew Decker, being the author of ‘a pamphlet published in 1743, proposing a commutation of the duties on tea’.¹ He is referring to Decker’s *Serious Considerations on the several high duties* (1743), a work that has already been cited a number of times in this chapter, and indeed, elsewhere in this thesis. Decker was a Dutch émigré who, becoming naturalized in 1704, was a significant merchant in the City of London. He was one of the original directors of the South Sea Company before spending thirty years as a director of the East India Company a period which included spells as the Company’s deputy-governor and governor.² His pamphlet was originally published anonymously, but by 1744, a response to it by Andrew Horsley named Decker as its putative author, stating that he was ‘believ’d by the Town to be the Author of a little Performance entitled, *Serious Considerations*’.³ The pamphlet went through five editions in its first year, with the seventh posthumous edition of 1756 naming him as the author.

Despite producing only the one pamphlet on this idea, Decker was forever associated with it. So much so, that he was even confused as the author of a different pamphlet, published a year later, *Essay on the causes of the decline of foreign trade* (1744). Indeed, it was this pamphlet that Smith was referring to when he described Decker as an ‘excellent authority’.⁴ This

¹ Hamilton, *Principles*, 237n.

² There is no biography of Decker and biographical information about him is limited. But, see Perry Gauci, ‘Matthew Decker, 1679-1749’, *ODNB*.

³ Horsley, *Serious considerations on the high duties examin’d*, 1.

⁴ Smith, *WN*, IV.v.a.20. It appears that Smith did not have Decker’s *Serious considerations* in his library and Mizuta ascribes the *Essay* to William Richardson, who is a better candidate for the authorship. H. Mizuta, *Adam Smith’s library*

work offered a similar proposal to Decker's *Serious considerations*, based upon the principle of taxing consumers directly, but there are sufficient differences in style and several contradictions to suggest that Decker was not the author of the *Essay*. In the early 1780s, in the midst of the great concern over smuggling, a contributor to *The Public Advertiser* recommended the 'Single Tax' as the best means to solve the crisis, although he did mistake his name for William Decker.¹ In 1786, Baring published a pamphlet praising the Commutation Act, in which he declared that the idea 'upon which the plan for commuting Duties upon Tea was founded, if traced to its true source, will be met with in Sir Matthew Decker; which book is in the hands of every person conversant with finance'.² Baring had earlier discussed Decker's idea with Lord Shelburne, after the latter's resignation as Prime Minister, in correspondence about the state of the nation's finances. In an exchange towards the end of 1783, Shelburne recommended Decker's pamphlet to Baring and asked for his thoughts.³ The latter replied that he had already been aware of the work and commended its excellence. In a later exchange on the same subject Baring informed Shelburne that if 'a new system of finance shall be adopted for a future war it must be upon the principle of Decker'.⁴

Decker's pamphlet was scarce on details about how his tax would work in practice, but there were important details that bear a resemblance to the later Commutation Act. Decker wanted to remove all duties on the importation of tea and 'instead the Duty may be raised upon every Family

(Cambridge, 1967), 87 & 134. For a discussion of the attribution of these texts, see Seligman, *Shifting and incidence*, 56-8.

¹ *Public Advertiser*, 9 February 1780.

² F. Baring, *The principle of the Commutation-Act established by facts* (1786), 45.

³ Baring to Shelburne, 23 November 1783, BL, Add MS 88906/1/1, f. 102.

⁴ Baring to Shelburne, 30 November 1783, BL, Add MS 88906/1/1, f. 110.

in *England* which drinks Tea' with the rate calculated 'in Proportion to the Number of Persons in each Family'.¹ Decker, calling it a 'Single Tax', suggested that this new duty be removed from the Excise and collected by the administration of the window tax.² Decker proposed a form of property tax but did not detail how the burden would be distributed or how the value of properties would be calculated. His aim was to make a case for the idea that consumers could be taxed directly for the consumption of particular commodities. It was meant to quell smuggling by wholly removing the interference of the revenue into the affairs of merchants. Not only would there be no duty to pay, so that it would be unprofitable to smuggle, merchants would not be encouraged to engage in illicit trading because of the oppressive intrusion of revenue officials. As Massie complained, however, the interference simply transferred from the merchant to every household, thereby contravening its most positive attributes.³

One idea that was investigated by Pitt, and that Decker had sought to distance himself from, was the use of licences to consume luxuries. This was how the taxation of tea operated in the Dutch Republic. Pitt wrote to Joseph Yorke, British diplomatic representative at The Hague from 1756 to 1780, to ask him to provide 'any information' that was 'relative to the Tax upon Tea in Holland'.⁴ This had been also the basis of the proposal of the *Essay on the causes of the decline of foreign trade*.⁵ The benefits of using licences to directly tax consumers was that it overcame the involuntariness of property taxes. It removed the duties from merchants, thereby removing the temptation to

¹ Decker, *Serious considerations*, 8.

² *Ibid.*, 11.

³ J. Massie, *The proposal for one general tax upon houses, laid open* (1757), 65-9.

⁴ J. Yorke to W. Pitt, 24 June 1784, PRO30/8/293, fos. 21-2. Yorke's account: J. Yorke, 'Brief account of the taxes upon tea and coffee in Holland as settled in the year 1751', 24 June 1784, PRO30/8/294, fos. 207-10.

⁵ *Essay on the causes of the decline of foreign trade* (1744), 44-5.

smuggle, but consumers still had the power to decide to consume as their budget allowed. The opposition to this form of taxing consumers directly, however, was that it was not possible to determine how much tea was purchased. This meant that it was arbitrary towards the ability of the payer making the tax unequitable. The expenditure on a particular commodity or the use of a property tax was supposed to represent the wealth of each taxpayer providing a fair distribution of the burden of the tax.

(v)

Conclusion

In late October 1786, more than a year after the fishing fleet at Deal had been destroyed on the orders of the prime minister, the *Kentish Gazette* reported that the locals had returned with vigour to their illicit trade.¹ Pitt's use of the military to destroy their property failed in its attempt to stifle the area's engagement with smuggling. Although it was never going to be a viable means of tackling the problem in the long-term, the speed of the locals return to it supports the perception that even extreme measures by the government were an insufficient deterrent. There were also mixed reports about the effectiveness of the Commutation Act. A key failing appeared to be the supposition that the whole enterprise was supported by the trade in contraband tea, and that it would not be worth the smugglers' while without that commodity. The sale of legal tea did increase, but the Customs in England soon reported to the Treasury that the transition to dealing in untaxed tobacco had been relatively smooth.² The Scottish Excise similarly reported that even without tea the operations of smugglings continued

¹ *Kentish Gazette*, 31 October 1786.

² PRO30/8/304 fos. 118-21

apace.¹ Reducing the profitability of smuggling of tea had appeared to have worked, but there remained sufficient business elsewhere for smugglers to engage with. Any further attempts at reform were hampered by renewed conflict with the French in the 1790s and it would not be until the nineteenth century, with the removal of tariffs and other barriers to trade from the free trade movement, when inroads were made into the profit margins of the smugglers.

That smuggling continued to be a strain on the British fiscal state throughout the eighteenth century indicates that it was not especially effective at dealing with the problem. The time and attention devoted to it, however, tells us that the matter was considered by the successive governments to be of great concern. Despite this, the evasion of duties does not appear as a significant factor in the political and economic histories of taxation. Instead it is framed as a feature of the Customs' administration and thus a tangential part of the fiscal state. Indeed, it is within the studies of the administrative aspect of the state, especially the Customs' service, that smuggling has most prominently featured. Elsewhere, it has been analysed as a localised activity and as having greater significance in certain areas. The nature of smuggling means that it is going to take place in coastal areas and be of greater concern to officials in and around the ports. The loss of revenue was not the only cause of concern to the government. The subversion of trade policy, such as monopolies or prohibitions, devised with the intention of furthering the national economic interest, also caused anxiety.

Smuggling was a contravention of laws that sought to regulate the nation's commerce and to raise revenue for public purposes. For some, this

¹ Scottish Excise Board to the Treasury, 16 November 1786, NRS, CE8/2, fos. 109-17.

was a crime against the king, the state, and the national interest. Smugglers and their customers were stealing from the public purse and therefore also their compatriots who paid their taxes. Furthermore, those operating within the legitimate market suffered greater burdens as the state increased its regulatory powers to combat illicit trade. Despite this, smuggling was not universally decried. The extent to which it was carried on in some places meant that it had to be done with the complicity of the locals. Indeed, this was the 'social crime' that Rule had described. It was not seen to be a crime in the eyes of many people. This was acknowledged in the jurisprudence of the era. Not only was it not considered to be a 'natural crime', as in against a law ordained by God or that mankind was naturally inclined to oppose, public opinion did not perceive it to be a crime that warranted severe punishment. This attitude limited the options available to the state of viable punishments for it. Those who violently defended their trade were accorded with the severest punishments, but the seizures and fines given to others were insufficient to deter people from the trade. The use of excessive punishment was deemed to be an unreasonable response to the severity of the crime. Furthermore, the lawlessness and violence associated with the trade were consequences rather than causes. These would cease if the contraband trade could be addressed. This could only be done, it was believed, by removing the root cause: temptation.

The acknowledgement that it was the state's own policies that were causing the problem was difficult to negotiate. The need for revenue remained. Moreover, the duties being evaded were those that satisfied other principles of equity and justice and were considered to be ideal subjects of taxation. As Hamilton had argued, though, the state also had to recognise that it did not have a limitless capacity to coerce co-operation with all taxes.

The administrative capabilities of the state had to be borne in mind when levying taxes. For imported goods, such as tea and tobacco, the ease with which they were smuggled meant that there was a limit to the level of duty which these commodities could bear. This limit was determined not by the needs of the revenue or the abilities of taxpayers, but by the profit margins of smugglers. If it was possible to covertly import the goods, and insure against seizures, and still undercut taxed versions the duty was too high. It was this thinking that informed the formulation of the Commutation Act. Tea was still taxed, but at a level believed to be low enough to deter smugglers and the balance was recouped by directly taxing consumers through the value of their properties. This, however, subverted the principles that had made taxing consumption so desirable. Taxing consumers directly was neither voluntary nor insensible, and it placed them, instead of the merchants, under the inspection of the revenue. This was also only possible with tea because it could be argued that it was universally consumed. Such an involuntary direct tax on consumption was not possible with spirits or tobacco. With these duties not being able to be commuted, the state would have to acknowledge the limits of its powers of taxation.

Conclusion

In essence, this thesis has been about one thing: the legitimacy of taxation in eighteenth-century British policy and opinion. This is not so much in the sense of how legitimacy was achieved, but how it was framed and discussed. It has explored this through a number of areas: the role of taxation in the narrative of the emergence of commercial society out of feudalism; theories of how to tax equitably and justly and the difficulties encountered putting them into practice; and, the matter of how the state should deal with the evasion of taxes. These themes have been examined through a variety of sources. Unsurprisingly, taxation was a subject that interested a wide array of people. Every tax had an effect somewhere in society and was capable of forcing those so affected to express their views in public through pamphlets and the popular press, or to the government through petitions. Or, indeed, both. As well as these representations from those in direct contact with tax collection, there was a continual conversation between Whitehall and the bodies that administered the collection of taxes about the practicalities of the implementation of tax policy. Politicians also felt the need to utilise the press to present their justifications and explanations for particular taxes and to challenge those who had opposed them in print, adding to the debates that were taking place between coffee-house politicians. The final realm that has been explored in this thesis are those theorists who participated in forms of political arithmetic and political economy. It was in these works where some of the more general analysis of the method of taxation as a whole were discussed, especially in relation to its wider ramifications through politics and society. The aim has not been to establish causal links between these areas of thinking and writing about taxation and the formulation of tax policy,

but to explain and interpret the different ways that taxation was viewed and understood. It has analysed a number of assumptions and principles that were frequently deployed in tax debates in a variety of media, how these came into conflict with each other, and how they were used to defend or attack specific taxes. As such, this has been a study that has encompassed the general and the particular, and ideas and practice.

The political, economic, and administrative aspects of taxation in eighteenth-century Britain have received a great deal of scholarly attention. At the centre of this has been Brewer's conception of the 'fiscal-military state' and the ways in which this state was able to combine financial wherewithal with administrative skill to tax, borrow, and spend at an exceptional level.¹ The 'fiscal-military state' has endured as an analytical concept not because it was wholly explanatory, but because it encapsulated two of the largest functions of the eighteenth-century state: waging war and raising the means to pay for it.² The underpinnings of tax policy that supported this analysis has been similarly long lasting. The work of Beckett, Mathias, O'Brien, and more recently the revisions of Daunton, Hoppit, Graham and Walsh, have established the framework of what was taxed, how it was taxed, and how successful, or unsuccessful, the state was in collecting those taxes.³ The principal pillars of this were the decline in the importance of the direct taxation of property until the introduction of the income tax in 1799; the corresponding rise in the use of the indirect taxation of consumption and its proliferation through numerous, although not all, areas of economic activity; and, the establishment of a professionalised and centralised system of

¹ Brewer, *Sinews of power*.

² On its enduring influence and relevance see Graham and Walsh, 'Introduction', in Graham and Walsh, eds., *British fiscal-military states*, 1-8.

³ See the discussion of these in the introduction.

revenue assessment and collection that retained enough local participation and negotiation to maintain co-operation. Although there were weaknesses within the system and an uneven application of it in practice, the eighteenth-century British state was nevertheless capable of levying and collecting sufficient sums to service a phenomenal level of debt for the purposes of waging war on a global scale without bankrupting itself and without collapsing in the face of popular tumults.

A crucial aspect here was that the state was able to maintain enough legitimacy and trust in its handling of public funds. The foundation of this was built on the authority that the Commons had over matters of money. At least in theory, this gave the people, through their representatives, the right to consent to be taxed. This was only part of the process of legitimisation, though. As has been identified in a number of other studies, public opinion was capable of building up enough opposition to certain measures to force their withdrawal.¹ Indeed, the terminus dates of this thesis, marking the Excise Crisis and the repeal of the income tax, exemplify the power that popular resistance was capable of exerting on the nation's tax policy. Similarly, the processes of local negotiation of the collection of certain taxes helped to facilitate co-operation with them.² What has been lacking from the scholarship, and what this thesis has aimed to provide, is an analysis of the various ways in which the question of the legitimacy of taxation was interpreted and how it was negotiated with other principles of equity and justice. This thesis has done this by analysing discussions of taxation in general, and specific taxes in particular, the arguments used for and against

¹ Langford, *Excise crisis*; Woodland, 'Political atomization and regional interests'. The stamp duties levied on the American colonists were also withdrawn as a result of the opposition to them.

² Braddick, *Parliamentary taxation*, 291.

them, and the assumptions and rhetorical devices that were appealed to in the process. These are essential elements to understanding how the legitimacy of taxation was viewed and understood and how it was believed that it could be achieved. These were ideas that had to confront, consider, and sometimes acquiesce to, the practicalities of tax collection. As such, this thesis further advances our understanding of the limits of the state's fiscal power, especially in relation to contemporary notions of what, how, and who the state could tax.

This thesis additionally contributes to the studies of the politics of commercial society and the position of public finance within it. Principally in Chapter One, this thesis has studied the significant role that taxation was deemed to have played in the emergence and governance of commercial society. This has been underappreciated in the existing scholarship. This work has rightly emphasised the extent to which the political and economic thought of this era was preoccupied with the danger that public borrowing, paper money, and the political clout of the monied interest, posed to the stability and security of the state.¹ It has failed to acknowledge, however, the different, yet nevertheless important, concerns that surrounding the concomitant issue of taxation. In particular, the direct link that was made between the progress of liberty in states such as Britain and the establishment of a regular system of taxation. Building on Montesquieu's claim that there was a correlation between the amount of political liberty enjoyed in a society and the extent of taxation within it, Smith confidently asserted that every tax 'is to the person who pays it a badge, not of slavery,

¹ For example, see Pocock, *Machiavellian moment*, 423-61; Winch, 'The Political Economy of Public Finance', 8-26; and, Hont, *Jealousy of trade*, 325-53; Sonenscher, *Before the deluge*.

but of liberty'.¹ This was because taxation presupposed the right to private property and the existence of the institutions of government necessary to protect it. Twentieth-century scholarship would term this form of political organisation the 'tax state', but the importance of the phenomenon was recognised in the eighteenth century. Trade, arts, and manufactures flourished because of the protections granted to person and property. Taxation was identified as the mechanism that allowed this to happen, because it replaced the arbitrary powers of appropriation that had been the features of feudalism. This was a line of argument that justified taxation on the basis of its utility. Taxation was the bridge between the public and the private and, as such, commercial society could not exist without it.

Where Chapter One explicated an argument about the utility of taxation in general, Chapter Two focussed on the relation of legitimacy to taxes in the particular. Although taxation as a method of public finance had been justified, this was still dependent on specific taxes according with accepted notions of equity and justice. An important aspect of maintaining trust and legitimacy in the system of taxation was that the individual taxes that constituted it had to be framed as being equitable. One of the most frequently asserted claims about the equity of taxation in this period was that it was achieved through a proportional distribution of the burden. This was variously asserted to be in proportion to means, ability, revenue, property or estate, largely being synonyms for individual wealth. The quandary for theorists and policy makers was how this wealth should be assessed and measured for the purposes of taxation. It was here that the accepted principle of the equity of taxation came into direct conflict with the sacred English tenets of liberty and property that taxation was supposed to protect.

¹ Smith, *WN*, V.ii.g.11.

Throughout the seventeenth and eighteenth centuries attempts at the direct taxation of property in accordance with taxing in proportion to means were stymied by the state's inability to accurately, or even adequately, determine individual wealth. The hearth tax, using the number of hearths as a measure of the value of a property and thus its owners or occupiers, was repealed as a 'badge of slavery'; the land tax, as well as its assessment and subsidy predecessors, failed in its explicit aim of taxing revenue from all sources; and, the triple assessment and the early years of the income tax raised far less than expected because of the allowance of self-declaration out of fear of an intrusive version of them failing. When, on his introduction of the income tax, Pitt lamented to the Commons that, although 'it would be a most desirable thing to make the people contribute to the public exigence in proportion to their wealth,' there 'existed no means of ascertaining the property of individuals, except such as were of a nature that could not be resorted to', he was articulating a century, and more, of the nation's fiscal plight.¹

Chapter Two also analysed the development of the use of expenditure as a measure of ability for the purposes of taxing proportionally. These taxes are called indirect because the source of the tax, being the wealth of individual consumers, was not the point from which they were collected. This was one way in which the fear of the state infringing on liberty and property in the process of taxation could be overcome. Moreover, expenditure was asserted to be an adequate measure of the ability of individual taxpayers, with what one could spend being believed to be analogous to what one had. As such, they were capable of reaching the different sources of wealth that direct taxes had failed to adequately assess. These taxes quickly acquired other arguments to support the use of them. The most frequently repeated of

¹ *Parliamentary history*, xxxiii, 1137.

these were that they were voluntary and insensible. Voluntary because taxpayers could choose when they bought the good that was taxed, and insensible because the tax was wrapped up in the purchase price with the consumer not knowing how much of it was destined for the taxman. Such taxes were further justified when they were levied on items considered to be luxuries. As well as satisfying the desire for taxes to be voluntary and insensible, they were asserted to be a greater burden on the rich than the poor. Many of the proposals that were sent to politicians or were advocated for in print used this expression as vindication for targeting a particular good or service. It can be seen from the list of taxes in the appendix how from the 1740s the items chosen to be taxed were identified because they were seen as being predominantly part of the budgets of the wealthy. The majority of these formed the basis of what would later become known as the assessed taxes. Although not reaching the sums of the customs or excise, their proliferation through the second half of the century exemplifies the desire to use expenditure as a means of targeting the wealth of individuals.

Having set out some of the basic principles of equity that informed the discussion and framing of taxes, Chapter Three explored some of the wider problems that were raised with these. In particular it analysed the claim that proportionality was equitable because it treated everyone the same. Hobbes had defined this as an 'equality of sacrifice', leaving each tax payer in the same relative circumstances to each other. As well as being deemed to treat all fairly, the universality of some taxes was the primary cause of their productivity. Items of general consumption, such as beer and salt, were two of the largest producers of revenue and were justified on the basis that everyone was contributing a little bit to the public expense. They were further argued for on the basis that the rich were believed to consume more than the

poor, so they must have paid more of the duties. These were combined with the aforementioned attributes of voluntariness and insensibility that were associated with taxing consumption. The socio-economic make-up of eighteenth-century British society, however, meant that taxes that were universal in their applicability were mostly paid by the poor majority. The salt and beer duties, especially, were argued to form a larger part of the budgets of the poor than the rich. Salted meat and fish were staples of diets for those who could not afford fresh, and beer brewed for private consumption, as commonly happened on country estates, escaped the excise on it. Whether these were insensible to the poor was thus questioned. Furthermore, the voluntariness of duties that were either on the necessities of life, such as salt, or tools of the trade for various arts and manufactures, such as candles, leather, and soap was also challenged. In modern terms these would be viewed as regressive. On top of these questions of the inequality of the distribution of the burden of certain taxes, there were concerns about the consequences this had on the nation's trade and industry. The poor formed the majority of the workforce, and increasing their cost of living could force their wages up, passing the burden on to their landlords or employers. This also risked making domestic manufactures more expensive and therefore uncompetitive in the international marketplace. These were significant complicating factors in determining the legitimacy and equity of particular taxes. They especially challenged some of the widely held assumptions of about how to achieve an equitable system of taxation.

The final chapter of this thesis approached the question of legitimacy from the perspective of fraud and evasion. In particular, it focussed on the nature of smuggling, the perceived causes of it, and the extent of the powers available to the state in combatting it. The problem of evasion was essentially

one about the coercive capacity of the state, especially when the duties evaded were those that had passed accepted tests of legitimacy and equity. This was the case with the two commodities that were believed to be the most smuggled in this era, tea and tobacco. They were foreign imports and were widely deemed to be superfluous, although this was questioned with tea towards the end of the century, making them ideal subjects of taxation. As such, the taxation of them was rarely challenged as being illegitimate or inequitable. There were a number of reasons why they were smuggled. There was a considerable market for both of them, although tea more so than tobacco, making them worthwhile to trade in. Their materiality made it convenient for them to be concealed or even mimicked by other roughage for drawback frauds. The principal reason, though, as was acknowledged at the time, was that the level of duty was such that it was an extremely profitable enterprise. It was regularly asserted that the government was tempting people to smuggle by making it so financially rewarding for doing so. So much so, that in some parts of the country farmers and other tradesmen were struggling to attract labourers because they could not match the returns made by engaging in illicit trade.

The claim that smuggling was caused by high duties raised questions about the level of punishment that it was legitimate to impose. Severe punishments remained for those who engaged in the violent defence of their illicit trade, but in general fines and seizures proved to be insufficient deterrents. Harsher penalties for those only caught evading the duty were seen to be disproportionate to the scale of the crime. One option was to increase the regulation of the trades involved, impose licences to participate in them, and give greater powers of scrutiny to officers of the revenue. However, this mainly resulted in the animosity of the so-called fair traders

who paid their taxes and yet were rewarded with ever greater intrusions into their businesses. The simplest answer was to lower the duty to a level that made it unprofitable to smuggle and therefore remove the temptation to profit. Some claimed that the corresponding increase in legitimate trade could make up the difference, although this was not necessarily the case. The perception was, therefore, that there was a limit of taxation that certain commodities could bear. It was not within the state's power to tax them any higher, not because of any contraventions of principles of legitimacy, equity, or justice, but because it was unable to coerce everyone to pay them. The deputy comptroller of the Scottish Excise, Hamilton, described this as 'overtaxation', and asserted that the British government had long overestimated its powers of taxation. As with the limitations that assessing property placed on direct taxes, the limits of the coercive power of the state in its enforcement of particular duties severely restricted the amount of revenue that it was possible to raise from them.

It will have been noticed that many of the issues that have discussed in each of the chapters of this thesis have often converged in particular debates or moments in time. The repeal and reintroduction of the salt duty, and associated lowering of the land tax, although being primarily motivated by political manoeuvring, was presented and discussed as being about the distribution of the burden of taxation, the equity of using expenditure as a measure of ability for the purposes of taxing proportionately, and the productivity of duties on goods that were universally consumed. The salt tax had been repealed because of its perceived burden on the poorest of society, and opponents of reintroducing the salt tax so as to lower the land tax framed it as a transfer of the fiscal burden from the rich to the poor. The effect that taxing necessities of life was perceived to have on wages, and thus on the

price of manufactures, saw others assert that the landed had been relieved at the expense of the nation's trade and industry.

A year later, in 1733, Walpole's attempt to reform the collection of the duties on wine and tobacco, saw the principles of equity and justice and the practicalities of tax collection come into conflict with each other. Wine and tobacco satisfied the contemporary opinion of suitable subjects of taxation, by being on luxury expenditure and so being voluntary, insensible, and more burdensome to the rich than the poor. The basis of the scheme, which had previously been successfully implemented with pepper, tea, coffee, and chocolate, was to transfer the point of collection of the duty from the importing merchant to the inland distributor. The aim was to discourage merchants from engaging in smuggling by removing the cause of their temptation to smuggle. The theory was that, although the point of collection changed, in either instances of being a customs or an excise, the person who actually paid the tax – the consumer – had not changed. The opposition to this did not question the legitimacy or equity of the subjects of the tax or where the burden of it lay. Opponents of the scheme, or rather the political opponents of Walpole, capitalised on the fear of the threat to liberty and property from the intrusion of the revenue into private affairs.¹ These had been the arguments that were deployed against direct taxes on property, such as the hearth tax and attempts to tax personal property, but had been infrequently used against taxes on consumption. Indeed, the indirect nature of these taxes was meant to avoid those issues. By framing the scheme as an attempt to establish a general excise, which not only would extend the state's tentacles into every sphere of economic activity, it also was argued to risk

¹ The affair is mostly discussed in the context of its political machinations: Langford, *Excise crisis*, esp 44-61 & 151-68; Jones, 'House of Lords and Excise Crisis'. Cf. Hausman and Neufeld, 'Excise anatomised'.

providing the executive government with a productive source of revenue exclusive of parliamentary oversight.

The fear of an intrusive state was commonly appealed to by those seeking to oppose particular taxes. Negotiating this was at the forefront of Pitt's mind when he formulated his triple assessment and income tax. Both measures were intended as a means of increasing the proportion of taxes paid by the wealthier members of society. The former used expenditure on certain types of luxury goods as the measure, and the latter tried to rectify the land tax's failure to assess revenue from personal assets. Anxious of avoiding complaints of intrusiveness, Pitt allowed for these duties to be assessed predominantly through self-declaration, although there were investigative powers if informants exposed their fellow taxpayers. That Pitt felt the need to do this further demonstrates the limits of the coercive powers of the state in the levying of duties, no matter how legitimate or equitable they were deemed to be. In advocating for the measures, as well as asserting the need in the nation's cause against France, Pitt appealed to those principles that were widely assumed to make taxes equitable and fair: taxing in proportion to wealth and that the rich should bear a greater burden than the poor. The question of the distribution of the burden of taxation between the rich and poor would take centre stage again as the income tax was repealed on the close of the war.

One of the more general conclusions of this thesis is that, although the categories of direct and indirect, or of taxes being on consumption or property, or the use of the official labels of excises, customs, and land taxes, are useful analytical tools and frames of reference, these were not the sole considerations of what and how to tax. Arguments over particular taxes were about where the burden of a tax was perceived to fall. Such arguments

required intellectual support from theories of how the burden reached its destination. One of the most frequently resorted to reforms was of changing the point at which a tax was collected. This was often justified by assertions that no additional burden was being created. The change from import to inland duty, for example in Walpole's Excise scheme, was argued to be an administrative change rather than an economic or social one. If consumers paid consumption taxes through the purchase price, it was argued, it should make no difference to them how it was collected.

The introduction and expansion of the assessed taxes, as discussed in Chapter Two, challenged the conceptions of consumption duties being indirect. These taxes were levied on a wide variety of goods and services that were identified as being indicative of opulent consumption.¹ They were explicitly utilising the theory that expenditure was a reasonable measure of the wealth of individuals and thus a means of taxing in proportion to that wealth. Not all of these duties, however, were collected indirectly. Those on carriages, silver plate, and hair powder, for example, were paid directly by those who owned, had, or used them. Furthermore, these duties were annual and therefore akin to, although not always defined as, licences for their use. Although far from the largest source of revenue in the eighteenth century, that these taxes formed the majority of those newly imposed in the second half of the century is significant to our understanding of who, what, and how the state was trying to tax. They are representative of the principles that the rich should pay more than the poor, that expenditure was a suitable measure of individual wealth for the purposes of taxing proportionally, and that luxuries were ideal subjects of taxation.

¹ As can be seen from the list in the appendix

The distinction between direct and indirect was further blurred by the Commutation Act. Again, this episode is an example of how a number of the aspects of the legitimacy of taxation that have been discussed through this thesis converged in particular debates. The primary motivation of the reform was to combat the evasion of the duties on tea, with the reports of the preceding parliamentary inquiry into the matter reiterating to the government that the punishments legitimately available to the state were insufficient deterrents.¹ The first aspect of the reform was to reduce the duty on tea to a level that would remove the temptation to profit. The second aspect was to collect the balance of revenue from the consumers of tea through different means. This was achieved through an addition to the window tax. This was argued to be a commutation because it was not creating an additional burden, but transferring the point at which it was collected. Richardson, as the purported deviser, and Pitt as the implementer, using methods of political arithmetic, went to considerable lengths to justify and explain this. The crux of their argument was that tea was consumed in a sufficiently large number of households to tax those households directly. Furthermore, it was claimed, the amount of tea consumed per household was relative to the wealth of that household. The tea drunk by the rich was Souchong and Pekoe black tea, and Bloom and Hyson green tea, which were of better quality and more expensive. Most importantly, they were taxed at a higher rate than the Bohea and Singlo tea that the poor were believed to drink. The use of windows as the measure of the value of a property, the value of the property being indicative of the wealth of the owner or occupier, and their wealth was relative to the amount of tea duty they had previously been paying. There were

¹ 'Third report from the committee, appointed to enquire into the illicit practices used in defrauding the revenue', 299.

questions within government about whether this could be usefully applied to other smuggled commodities, such as spirits and tobacco, but neither of these would satisfy the requirement of being universally consumed.

There are a number of other aspects of the legitimacy of taxation that this thesis could have explored. Two obvious areas are on the management of funds within government and the spending of them. These were both especially important in the period from the American Crisis to the conclusion of the Napoleonic war. The debates over economical reform, and the reports of the Commissioners of Public Accounts and the select committee on finance, have been referred to at points in this thesis, but not with the purpose of fully exploring questions about state spending. This is similarly the case with relation to challenges to the legitimacy of the wars against the American colonists and the French revolutionaries, and thus to the public money being expended on them. This could also be extended to the management of funds raised through the locally administered poor rates. One explanation for this is that these areas have already received a great deal of scholarly attention.¹ Furthermore, there has been an accepted explanation of the huge expansion of the fiscal system in this era, that expediency and necessity were the primary factors in deciding how and what to tax. Indeed, this has been a longstanding view. In 1820, as was recounted in Chapter Two, Hutches Trower was trying to convince his friend David Ricardo to publish a textbook for use by politicians to inform them how they should tax. The existing fiscal structure, Trower claimed, had been guided solely by ‘convenience’, adding that ‘whatever article seemed capable of bearing the

¹ For example, see See Binney, *British public finance and administration*; Norris, *Shelburne and reform*; Harling, *The waning of ‘Old Corruption’*; Conway, *The British Isles and the war of American independence*; J. Innes and A. Burns, eds., *Rethinking the age of reform*; and, Reitan, *Politics, finance, and the people*.

burden of Taxation, and was likely to prove productive' was selected.¹ Later in the nineteenth-century, a similar sentiment was expressed by the political economist William Sargant. In his *Tax: past, present, and future*, Sargant claimed that the 'course of events' in the period up to 1815 'teaches us nothing as to the principles of taxation under ordinary circumstances and in times of peace'. The only lesson, he added, was that 'when war and disaster overtake the nation, every tax is good that is available'.²

What this thesis has shown, however, is that this was not wholly the case. The fiscal history of this period was dominated by fighting wars, preparing for war, and paying off debts incurred during those wars. The taxes raised were almost fully used for these purposes. But taxes were rarely ever justified solely on the basis that they were needed. The co-operation of the taxpaying public was not wholly achieved by the legitimacy of the nation's military and imperial ambitions. Taxes that were imposed had to be explained and justified. This was done by appealing to a set of arguments about what, who and how it was legitimate, just, and fair to tax. Often the principles that informed this came into conflict with each other and there had to be a negotiation between them. Sometimes expediency and necessity helped this process along, but not always, and were never the only considerations. To fully comprehend the huge expansion of the system of taxation in this period, the decisions over which taxes to impose, not impose, repeal, or reform, it is necessary to understand the arguments used for and against them, and how they were asserted to accord or conflict with principles of equity and justice.

¹ Hutches Trower to David Ricardo, 13 September 1821, in Ricardo, *Works and correspondence*, ix, 69.

² W. Sargant, *Taxation: past, present and future* (London, 1874), 3.

Appendix I

Table of Taxes

The following table is a list of products, goods, and services that were taxed from the Restoration to the end of the long eighteenth century in Britain (save only for polls, land, and income taxes which had a longer history in the direct taxation of wealth). It is intended to be comprehensive, but the lack of a reliable guide, even from the eighteenth century, means that it is not possible to be certain about this. That there is no such list should be justification enough to provide it, but it is also intended to portray two important things: the sheer array of commodities and other parts of economic life that became targets of the taxman, notwithstanding the widespread political opposition to a general tax on consumption; and, that there is no easy distinction between customs and excises, and that this dichotomy tells us nothing about the nature of taxation in this period.

The information shown is simply the product, the date first taxed after the Restoration, the act introducing, and the department it was first placed under. The Restoration has been used as a starting point primarily for ease, but also because it represented the start of a new chapter in English fiscal history. All of the interregnum excises were repealed and then only some reinstated. Similarly, the customs duties of tonnage and poundage, and the Book of Rates, started afresh in 1660.¹ Goods in the Book of Rates have not been included, and they only appear in the list if they were subject to additional duties aimed specifically at them. For example, tobacco was part of the poundage of 1660, but appears in this list as being taxed in 1685 because it was directly charged with an additional import duty. This is partly to keep the table simple (by the end of the century around 1,200 articles were

¹ 12 Car. II c. 4.

subject to import or export duties, although only 160 apparently raised more than £1,000 a year).¹ It is also to maintain focus on things that were granted greater legislative attention.

The year is that which a good was first taxed. Often these were temporary, sometimes extended, other times made permanent, or even allowed to expire. Extensions of time limits and making taxes permanent has not been recorded, but the footnotes state if a tax was not renewed or was repealed. The department administering the tax is that which it was first placed under, although many changed departments as and when their collection was reformed during the century. Tea, coffee, and chocolate started life as an excise, transferred to the Customs in 1688, and then returned to the Excise in 1724.² In 1785, the Board of Taxes was created to administer the assessed taxes, which had been dispersed through the variety of other departments. The change of departments has not been noted.

¹ Select committee on finance, July 1797, fourth report, 25-6.

² 1 Gul. & Mar. Session 2, c. 6.

Product	Year	Act	Department
Beer.	1660	12 Car. II c. 23	Excise.
Cyder and Perry.	1660	12 Car. II c. 23	Excise.
Metheglin or Mead.	1660	12 Car. II c. 23	Excise.
Strong water or Aqua-vit.	1660	12 Car. II c. 23	Excise.
Coffee.	1660	12 Car. II c. 23	Excise.
Chocolate, Sherbet, and Tea.	1660	12 Car. II c. 23	Excise.
Wine and spirits.	1660	12 Car. II c. 4	Customs.
Hearths. ¹	1662	14 Car. II c. 10	Constables, Headboroughs, Tything-men, or other such local officers.
Vinegar.	1685	1 Ja. II c. 3	Customs.
Tobacco.	1685	1 Ja. II c. 4	Customs.
Sugar. ²	1685	1 Ja. II c. 4	Customs.
Imported Hops.	1690	2 Gul. & Mar. Session 2 c. 4	Customs.
Salt. ³	1694	5 & 6 Gul. & Mar. c. 7	Salt.
Vellum, parchment, and paper.	1694	5 & 6 Gul. & Mar. c. 21	Stamps.
Hackney Carriages & stage-coaches.	1694	5 & 6 Gul. & Mar. c. 22	Hackney Carriages.
Marriages, births, and Burials. ⁴	1694	6 & 7 Gul. & Mar. c. 6	Land Tax Commissioners & Justices of the Peace.

¹ Repealed 1688, 1 Gul. & Mar. c. 10.

² Expired 1693.

³ Repealed 1730, 3 Geo. II c. 2; reintroduced 1732, 5 Geo. II c. 6.

⁴ Expired 1699.

Bachelors and widowers. ¹	1694	6 & 7 Gul. & Mar. c. 6	Land Tax Commissioners & Justices of the Peace.
Glass wares. ²	1694	6 & 7 Gul. & Mar. c. 18	Customs.
Stone and earthen bottles. ³	1694	6 & 7 Gul. & Mar. c. 18	Customs.
Coal and Culm.	1694	6 & 7 Gul. & Mar. c. 18	Customs.
Windows.	1696	7 & 8 Gul. III c. 18	Windows.
Sweets. ⁴	1696	7 & 8 Gul. III c. 30	Excise.
Malt.	1696	8 & 9 Gul. III c. 22	Excise.
Hawkers & pedlars.	1696	8 & 9 Gul. III c. 25	Commissioners for transportation.
Candles.	1709	8 Ann. c. 5	Excise.
Pepper.	1709	8 Ann. c. 12	Excise.
Raisins.	1709	8 Ann. c. 12	Excise.
Nutmegs, cinnamon, cloves, and mace.	1709	8 Ann. c. 12	Excise.
Hides & Skins.	1710	9 Ann. c. 12	Customs.
British hops.	1710	9 Ann. c. 13	Excise.
Cards and dice.	1710	9 Ann. c. 16	Stamps.
Soap.	1711	10 Ann. c. 18	Excise.
Printed, stained, silks, linen, calicoes, handkerchiefs.	1711	10 Ann. c. 18	Stamps.
Leather.	1711	10 Ann. c. 19	Excise.

¹ Expired 1699.

² Repealed 1698, 10 Gul. III c. 24; reappears as a tax on glass bottles 1745, 19 Geo. II c. 12.

³ Repealed 1697, 9 Gul. III c. 45; reintroduced 1812, 52 Geo. III c. 139.

⁴ 'Sweets' are mixed liquors.

Starch.	1713	13 Ann. c. 9	Customs (imported)/Excise (domestic).
Pensions & offices.	1720	7 Geo. I c. 27	Stamps.
Retailers of spirits.	1729	2 Geo. I c. 17	Stamps.
Pleasure carriages.	1746	20 Geo. II c. 10	Excise.
Alehouse licences.	1756	29 Geo. II c. 12	Stamps.
Silver plate. ¹	1756	29 Geo. II c. 14	Excise.
Coaches.	1776	16 Geo. III c. 34	Excise.
Male servants.	1776	17 Geo. III c. 39	Houses and Windows.
Property sold at auction & Auctioneer's licenses.	1776	17 Geo. III c. 50	Excise.
Inhabited houses. ²	1778	18 Geo. III c. 26	Houses and Windows.
Post.	1779	19 Geo. III c. 51	Stamps.
Legacy Duty.	1780	20 Geo. III c. 28	Stamps.
Licence for vending tea, coffee, and chocolate.	1780	20 Geo. III c. 35	Excise.
Fire insurance.	1782	22 Geo. III c. 48	Stamps.
Receipts.	1783	23 Geo. III c. 49	Stamps.
Patent medicines and licences for selling.	1783	23 Geo. III c. 62	Stamps.
Wagons and carts. ³	1783	23 Geo. III c. 66	Excise.

¹ Repealed 1776, 17 Geo. III c. 39.

² Combined with the window tax in 1798, 38 Geo. III c. 40.

³ Repealed 1792, 32 Geo. III c. 4.

Licences for dealers in excisable commodities.	1784	24 Geo. III c. 61	Excise.
Sporting licences.	1784	24 Geo. III c. 14	Stamps.
Horses.	1784	24 Geo. III c. 31	Stamps.
Hats. ¹	1784	24 Geo. III c. 51	Stamps.
Bricks and tiles.	1785	24 Geo. III Session 2 c. 24	Excise.
Female servants. ²	1785	25 Geo. III c. 43	Houses and Windows.
Pawnbrokers.	1785	25 Geo. III c. 48	Stamps.
Gloves and mittens.	1785	25 Geo. III c. 55	Stamps.
Attorneys.	1785	25 Geo. III c. 80	Stamps.
Shops. ³	1785	25 Geo. III c. 30	Houses and Windows.
Sweet scents, odours, perfumes, and cosmeticks. ⁴	1786	26 Geo. III c. 49	Stamps.
Hair powder.	1795	35 Geo. III c. 49	Stamps.
Sea insurance.	1795	35 Geo. III c. 63	Stamps.
Dogs.	1796	36 Geo. III c. 124	Tax office.
Watches and clocks. ⁵	1797	38 Geo. III c. 108	Tax office.
Armorial ensigns.	1798	38 Geo. III c. 53	Stamps.
Appraisements and licences for appraisers.	1806	46 Geo. III c. 43	Stamps.

¹ Repealed 1811, 51 Geo. III c. 70.

² Repealed 1792, 32 Geo. III c. 3.

³ Repealed 1789, 29 Geo. III c. 9.

⁴ Repealed 1800, 39 & 40 Geo. III c. 69.

⁵ Repealed 1798, 38 Geo. III c.40. Is replaced by the armorial ensigns' tax.

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