

*A Short History of American Capitalism*

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*Chapter 1*

INTRODUCTION

“America is the Canaan of capitalism, its promised land,” wrote German economist Werner Sombart in 1906.<sup>1</sup> Here, as American economic historian William N. Parker added, “the tendencies of Western capitalism could find fullest and most uncontrolled expression.”<sup>2</sup> And so they did. American capitalists had almost a free hand in gaining control of a country unimaginably rich in natural resources. In straight-out contests of strength with both organized and unorganized workers American capitalists usually triumphed. State violence, judge-made law, compliant legislatures, and administrative procedures were arrayed effectively against challenges from below.

In this book, capitalism is regarded as an economic system distinguished by certain characteristics whose development is conditioned by still other elements. The basic characteristics are: (1) private ownership of the means of production, (2) a social class structure of private owners and free wage-earners, which is organized to facilitate expanding accumulation of profit by private owners; and (3) the production of commodities for sale. Conditioning elements are: (a) a certain division of labor; (b) institutional arrangements to insure a dependable supply of wage labor; (c) a degree of social productivity sufficient to permit sustained investment; (d) commercial organization of the market—including banks—whose scope is adequate to the productivity of the community; (e) a political process whereby economic power can become translated into governmental policy; (f) a legal structure that is protective of private property; and (g) a certain toleration—at the least—of new ways of making a living.

In this sense, the American economy became predominantly capitalist only by 1900. The earlier years fall into three periods. The first, from 1600 to 1790, is characterized by handicraft-subsistence production alongside elements of a semi-capitalist economy stemming from commercial production of tobacco. The most commercialized sectors of the economy were predominantly staffed by enslaved and semi-enslaved workers. During the second period, 1790-1865, several industries became organized along capitalist lines and some sectors of

agriculture lost their subsistence character until by the period's end agriculture as a whole was producing for the market. A working class of free and unfree elements is then growing rapidly. In the third period, 1865-1920, economic development attains an extraordinary pace as industry and, increasingly, agriculture becomes subject to capitalist forces. All capitalist economies are commercialized but not all commercialized economies are capitalist.

Karl Marx, the first historian of capitalism, wrote primarily about English capitalism as the model of its kind. Try as you may, it is not possible to extract from his three-volume *Capital* a picture of the development of American capitalism. Marx did not deal centrally with the United States. While Marx identified free labor with capitalism, in the U.S. free, semi-free, and unfree labor was important; capitalism in England evolved out of feudalism but only some of the latter's remnants could be glimpsed in the U.S.; in England, the agricultural economy first became capitalist while in the U.S. it lagged behind manufacture. The U.S. was the first modern capitalist country to develop from a colonial status, from a slave base, and with an enormous natural-resource endowment. Above all, American capitalists utilized more violence in the class struggle than their confrères in any other capitalist country.

American society from the colonial period onwards was the very opposite of equalitarianism and self-denial in economic affairs. The greatest economic swindle in American history was not the Lincoln Savings & Loan affair, although this is what we have been told repeatedly. Rather, it was the stealing of the Indians' land, which constituted the basis of America's claim to unparalleled economic sufficiency and generosity. Without Indian land, the developments in nearly two centuries of colonial history would have been unthinkable. During the 17th and 18th centuries, land was the principal means of production in America. Instead of acquiring wealth by retail means such as piracy on the high seas, European Americans stole other people's wealth wholesale.

The booty was not distributed equally by any means. Instead, every level of government set up by European colonists was given a voice in the distribution of land. Politics revolved around how best to channel the choicest parcels of land to those closest to the seats of political power. Two years before the Declaration of Independence, wealth and income were concentrated in extreme fashion. This pattern continued in every seaboard town. As settlement moved

westward, frontier communities repeated the pattern, whether in Paducah, Kentucky or Milwaukee, Wisconsin.

To be sure, the European immigrants who were not semi-slaves in the form of indentured servants stood a better chance of becoming landowners than if they had remained in England or Europe. At the same time, distributing other people's land was a perverse form of generosity. Few outside of a tiny circle of insiders received free land. Even during a time of presumed success in spreading ownership, fully half the adult white males owned no land. This, for example, was the case during the decades around the Civil War (1850-1870). The proportion grew in the next generation or two.

By the end of the 19th century, land had receded as the central means of production. Manufacturing and railroads took the forefront, along with new financial industries. Until around 1900 or so, the distribution of wealth and income in the U.S. had been less concentrated than in Europe, reflecting mainly relatively easier access to land ownership here—but this ended around 1900. Thereafter, concentration of wealth in the U.S. exceeded or matched that of industrial capitalist countries elsewhere. Around the same time, the United States became the most favored home for great wealth throughout the world. Nowhere else was the spread between the rich and the poor so great.

In a novel concerning Italy during the 1920s and 1930s, Ignazio Silone's *Bread and Wine*, a character says: "The government has two arms of varying length. The long one is for taking—it reaches everywhere. The short one is for giving—it reaches only to those nearest." This pretty well sums up the role of the capitalist government which has ruled for many years in the United States. It was most generous to those nearest when it came to distributing land and other valuable properties. And it has not hesitated to reach out to collect from the poorest person sufficient funds to extend capitalist rule.

By the 17th century, Thomas Hobbes and John Locke had posited an individual whose essence consisted of proprietorship over his own person. Owning himself, he owed nothing to society. He was free insofar as he existed independently of others' wills. Persons who were economically dependent on others were therefore not free. An unceasing struggle for hegemony raged between men, and the market was the battlefield. Social relations were seen as market relations among proprietors of various selves, some their own. The struggle of owners for dominance was said to be the natural condition of man. To

safeguard that natural striving, and especially to ensure the security of its outcome, government was instituted. Protection of individually-accumulated capital was the most fundamental function of government, a function said to be required not by common decision but by the very nature of man. Macpherson calls this conception “possessive individualism”<sup>3</sup>

“I own, therefore I am” is the paradigm of possessive individualism. Possession and possessing make the man; they also make him free. Such a person cannot conceive of existence apart from possession or the striving after it. Because ownership is the core of self, the person is not himself but what he owns. He is, in a sense, alienated from, without ever having been joined with, himself. He has senses; his self is problematical. As Tönnies wrote: “... So far as possible he conducts himself toward others as a merchant and toward himself as a hedonist, but dislikes to go about unmasked.”<sup>4</sup>

During most of America’s colonial history, possessive individualism labored under conditions that set it far apart from its English model. Pioneering, for example, often forced a communal purpose upon economic life. Widespread barter attested to an underdeveloped market and thus lessened the base for possessive individualism. In the tobacco South, where commercialism was a dominant principle of economic life, unfree forms of labor predominated. Ownership extended not merely to the labor power or its products but to the laborer himself.

The law of conquest, accepted universally by all civilized countries, constituted the legal basis of human slavery. As the British Privy Council explained in 1722:

...Where the King of England conquers a country... the conqueror, by saving the lives of the people conquered, gains a right and property in such people, in consequence of which he may impose upon them what laws he pleases.<sup>5</sup>

While the Privy Council was not directly discussing slavery, its assertion of a right to own persons had the same effect.

American history is the apotheosis of private property. It should not be surprising—nor were the historic Americans surprised—that the principle of property extended to the ownership of human beings. In a thoroughly bourgeois society, based on property rights, the pecuniary logic knows no self-limitation. One sells his labor, another buys it; why not, then, permit private appropriation of the laborer himself?

Colonial American society welcomed the development of slavery. Profits of the slave trade; returns from a growing tobacco output; the general utility of slave labor—all or even any single one sufficed as a justification of slavery. English law had long been congenial to the practice of debt slavery in the coal regions of Scotland. During the 17th and 18th centuries propertied interests, including the Crown, hastened to monopolize the bounties of bound labor forthcoming from Africa.

The very philosophy of individualism facilitated the adoption of slavery. To Locke, as we said earlier, the central tenet of individualism was man's domain over his own labor, even to the point of selling it. That right carried no social—or moral—obligation other than the expectation of buying cheap and selling dear. Enslavement was thus regarded as another expression of an individual's unceasing drive to accumulate property. And because this drive was alleged to belong to the inborn nature of man—it has arisen in the state of nature, Locke tells us—its every expression in civil society seemed only "natural."

The modern business corporation is an original creation of the American imagination. It was first fashioned to extend local markets; then, it became an indispensable means to create a national market. Both American industrialization and capitalism were crucially dependent upon the corporate form of organization. The corporation was not, however, a disembodied "first cause"; it spread in response to concrete economic challenges. But the corporation had first to become a legal instrument before it could be anything else. While the law dealt amply with the internal affairs of corporations, no internal logic dictated the further development of the corporate form. Corporate law, after all, is not a branch of higher mathematics whose cogency requires a series of more elementary operations. External, primarily economic pressures helped generate the corporation. The combined force of those pressures and the nature of American legal thought determined the eventual shape of the modern business corporation.

In colonial America, the business corporation was almost unknown. During all the years before 1789, only thirty such firms were formed and virtually all of them failed.<sup>6</sup> With the opening of the nineteenth century, however, the real history of the modern business corporation began. For the next half-century, the industrializing countries of the world turned America into a vast storehouse of cotton, wool, meat, and grain; in time, also lumber and coal. To produce these raw materials and get them to market, transportation improvements were crucial. But transportation is nothing if not expensive. Whether

the task was to develop turnpikes, or steamboat lines, or canals, or railroads—a means had to be found of gathering together extensive capital investments. Foreign investors found it convenient to buy shares in American transportation corporations. By doing so, they helped feed and clothe their own industrial population and meanwhile laid the foundation for the modern business corporation in America. And they made a handsome profit. The corporation proved an excellent net, too, to catch scattered, though appreciable, domestic investment funds.

But what is a corporation? In ancient Rome *collegia* or *corpora* performed essentially public duties and later became part of municipal administration. In no meaningful sense could they be regarded as voluntary associations of private businessmen.<sup>7</sup> A corporation, according to Roman law, had a distinct personality apart from that of its “owners” or members and existed beyond their lifetime. Also, the head of a Roman corporation who brought an action in law represented the corporation rather than its individual members.<sup>8</sup>

In 17th century England, numerous corporations were chartered by the Crown as monopolies over definite lines of business. It was reasoned that such organizations were carrying out work in the public interest and thus deserved government privilege. Lord Coke, in the 17th Century, rendered a definition that was for long considered classic:

A corporation aggregate of many is invisible, immortal, and rests only in intendment and consideration of the law. They cannot commit treason, nor be outlawed, nor excommunicated, for they have no souls, neither can they appear in person, but by attorney. A corporation aggregate of many can't do fealty for an invisible body can neither be in person nor swear; it is not subject to imbecilities or death or the natural body and divers other cases.

Coke's definition of a corporation was much like the Roman one. A century later, Adam Smith barely discussed the corporation, pausing several times only to denounce it for conspiring to charge more than the “natural price” for goods.<sup>9</sup>

When, at the beginning of the 19th century, Americans undertook to develop the corporate form, they found equally slim bodies of business practice and judicial doctrine. They had to fashion the doctrine out of the crucible of practice.

Both jurists and non-jurists puzzled over the exact nature of a corporation. Lord Coke, for example, had asserted that the

corporation was a creature of the law. Did it have all the legal rights of natural creatures?

In 1809, the U.S. Supreme Court decided *Bank of the United States v. Devaux*.<sup>10</sup> Georgia had collected a state tax levied upon the Savannah branch of the Bank of the U.S., a federally-chartered corporation. The Bank sued in federal court to recover payment. Georgia denied the existence of a federal issue; Section 2, Article III of the Federal Constitution extended the jurisdiction of federal courts to cases “between citizens of different states.” Corporations, insisted Georgia, were not citizens and thus could not have access to federal courts. The court agreed.

“That invisible, intangible, and artificial being, that mere legal entity, a corporation aggregate,” declared Chief Justice John Marshall, “is certainly not a citizen.”<sup>11</sup> He held that only real persons could be citizens. The officers of the corporation, being real persons, could sue and be sued. But the corporation itself could not enter into federal legal procedures. The *Devaux* ruling included a proposition that the firm’s owners could sue or be sued provided they lived in a state other than that of the contending side. The corporation’s legal rights did not extend to citizenship.

The *Devaux* doctrine was a compromise between traditional law and changing business practice. The law could not conceive yet—although single jurists did—of a totally abstract person possessing full legal rights. The society that had given birth to Lord Coke’s corporation was a handicraft society in which most economic activities were conducted by individual proprietors or associations of proprietors and investors. A legal order of individual property and profit had little room for enterprise by abstraction.

By 1850, America was a commercialized society. It had become normal for men to conceive of themselves as producers and sellers for impersonal ends. About a third of the total labor force worked for wages or salary and thus were sellers of their labor power. In agriculture, world markets claimed major portions of the cotton and other crude materials output of the country. Factory production in the textile industry and transportation advances were hurtling America toward economic predominance. By mid-century, American per capita output lagged behind that of England, but exceeded that of France.

No institution was more significant in that growth than the business corporation. The modern business corporation was the country’s second great contribution to the world economy. (How to

fight a war with paper money was the first.)<sup>12</sup>

With commercialization and industrialization growing apace, legal thought turned to practical business problems. The expansion of corporations forced the courts to review older doctrines and face up to altogether new problems as well. In 1844, the U.S. Supreme Court declared the corporation a citizen. The federal courts, it was revealed, had never been satisfied with the old *Devaux* ruling. John Marshall, who had written the Court's opinion, had himself become disenchanted with the ruling.<sup>13</sup>

"Economic power," wrote John Commons, "is simply power to withhold from others what they need."<sup>14</sup> It may include food, shelter, jobs, or income. Economic power is the central component of the capitalist system. During America's history before the arrival of Europeans, economic power did not exist since life at that time was characterized by an equality of condition. Even Native American chiefs who presided over crop surpluses were obliged by custom to share with those in need. Economic power implies a choice not to share; the fact of inequality of possession is secondary.

Since the economically powerful in a society are almost by definition a minority, self-concern requires that their advantages be made secure from attack. Power and political rule are thus joined. As Lawrence Friedman writes: "A plan of government is a plan for distribution of the power and wealth of a society."<sup>15</sup> The powerful are not in the habit of relinquishing power, least of all during the process of constitution-making. Rather, that is the time for consolidating and structuring advantage.

Rule on behalf of the economically powerful proceeds most readily when the ruled accept the legitimacy of that rule. The ruled may come to regard their deprivation as a mere coercion of circumstance. ("That's the way the world goes.") If so, the more powerful have triumphed. Economic power always establishes itself in practice and only later in law. That is why it is so readily presented as "practical." (In the United States, slavery was first widely used in agriculture and only later incorporated into law.) Power creates practicality.

Economic power dominates. It precludes anything resembling an equality of bargaining. Its possessors dominate in order to create dependence. Thorstein Veblen, writing in 1919, observed:

The population ... now falls into two main classes: those who own wealth invested in large holdings and who thereby control the



conditions of life for the rest; and those who do not own wealth in sufficiently large holdings, and whose conditions of life are therefore controlled by these others.<sup>16</sup>

Research into the history of wealth in the United States has become a major field of investigation during the past generation; the principal works thus far are barely a decade old, and some even less than that. Except for a broader ownership of land than in most of Europe, the findings of American authors do not sustain at all the traditional portrait of substantial equality. American society after the Native American period was always characterized by sizable differentials in wealth and power. Only by ignoring masses of recent research can the contrary be claimed.

During more than 150 years before the American Revolution, an economic and political elite held sway in just about all the colonies. Bureaucratic capital accumulated as offices in government became a main avenue for acquisition of land. Prodigious land grants were assigned by top officeholders to themselves or handed over to family, friends, and business associates. The elites treasured such golden connections and closely superintended access to official positions in county- and province-wide government. Almost invariably, large-scale merchants, landowners and slaveholders, and occasionally professionals occupied the top rungs of colonial society. Even where politics was more democratic, as in colonial Boston, concentration of economic power did not fade away.

Wealth and power were further consolidated during the Revolution and the drafting of the Constitution (1775-1783 and 1787-1788). After three decades of independence, conservative concern that popularly elected law-making bodies might confiscate accumulated wealth was found groundless. In 1813, Thomas Jefferson wrote John Adams that "from 15 to 20 legislatures of our own, in action for 30 years past, have proved that no fears of an equalization of property are to be apprehended from them."<sup>17</sup> By that time, a new framework for wealth and power began to take definite shape. Capitalism after a time absorbed older forms of enterprise and simultaneously raised the stakes of business to unexpected heights.

One difficulty for Americans in understanding the rise of capitalism in the United States is the very fact that capitalism is a system. Adam Smith once explained that "a system is an imaginary machine invented to connect together in the fancy those different movements and effects which are already in reality performed."<sup>18</sup>

Thus, economic systems are not fixed representations like constellations of stars, each essential part of which is visible to the viewer. Instead, they are combinations of real actions and mental interconnections. Since the whole machine “works,” one would consider its existence to be beyond dispute. The opposite is true.

History is all but absent from the pages of the Left and the Right in the United States. Left journals rarely deal with the history of American capitalism. Nor do references to the subject appear in articles devoted to analysis of the contemporary scene. In other words, economic history seems to be irrelevant. Capitalism in Left discussion becomes only contemporary American capitalism. And it is an unchanging capitalism. How it originated is a mystery. More is written about the history of English capitalism, although the particularities of English and American history are extremely different.

On the Right, capitalism is conceived as eternal and unchanging, as part of human nature. Clearly, then, capitalism has no history. In this view, capitalism did not develop, it was created whole. Since it is eternal, it neither ages nor decays. Criticism of capitalism is blasphemy, and heretics are banished. Gifted devotees are venerated and awarded great wealth. The business press of the United States is largely devoted to celebrations of capitalism, certainly not to a critical history of its origin and development.

When a specific criticism of capitalism is occasionally voiced in public, it is countered with a charge of faultfinding or, curiously, is characterized as “past history.” Americans, who seem peculiarly attracted to celebrating centenaries, bicentenaries, and such have never celebrated one of these for the origin of the capitalist system.

## NOTES

1. Werner Sombart, *Warum gibt es in den Vereinigten Staaten keinen Sozialismus?* (Tübingen: J.C.B. Mohr, 1906), p. 7. Unaccountably, the English translation omits reference to “Canaan”. See Sombart, *Why Is There No Socialism in the United States?* Translated by Patricia M. Hocking and C.T. Husbands (M.E. Sharpe, 1976), p. 3.
2. William N. Parker, “Historiography of American Economic History,” p. 6 in Glenn Porter, ed., *Encyclopedia of American Economic History. Studies of the Principal Movements and Ideas*, I, (Scribner’s, 1980).

3. See C.B. Macpherson, *The Political Theory of Possessive Individualism* (Oxford: Clarendon Press, 1964); *The Real World of Democracy* (Oxford: Clarendon Press, 1966); "Revolution and Ideology in the Late Twentieth Century," in Carl J. Friedrich (ed.), *Revolution* (N.Y.: Atherton Press, 1966); and "Democratic Theory: Ontology and Technology," paper read at the 1966 Annual Meeting of the American Political Science Association, September 6-10, 1966.
4. Ferdinand Tönnies, *Community and Society*, tr. Charles P. Loomis (East Lansing: Michigan State University Press, 1957), p. 168 [Orig. published in 1887.]
5. Quoted in Elizabeth G. Brown, *British Statutes in American Law, 1776-1836* (Ann Arbor: University of Michigan Law School, 1964), p. 11.
6. See Joseph S. Davis, *Essays in the Earlier History of American Corporations* (Cambridge: Harvard University Press, 1917), I, 48; II, 8 and 255.
7. See Joseph Salvioli, *Der Kapitalismus in Altertum* (Stuttgart: Dietz, 1922) chapter 5 and esp. p. 135.
8. Charles P. Sherman, *Roman Law in the Modern World*, II (N.Y.: Baker, Voorhis, 1937), pp. 117, 132.
9. See Adam Smith, *The Wealth of Nations*, pp. 61, 119, 123, and 127 (Mod. Lib. Ed.).
10. Cranch 61 (1809).
11. Cranch 61 (1809).
12. See Benjamin Franklin to Samuel Cooper, April 22, 1779, *The Papers of Benjamin Franklin*, Library of Congress: "This currency as we manage it is a wonderful machine. It performs its office when we issue it; it pays and clothes troops, and provides victuals and Ammunition; and when we are obliged to issue a quantity excessive, it pays itself off by Depreciation."
13. See Joseph Story to Chancellor Kent, August 31, 1844, in W.W. Story (ed.), *Life and Letters of Joseph Story*, II, p. 469; and Justice Wayne, in *Louisville, Cincinnati, and Charleston Railroad Co. V. Letson*, 2 How. 496, at 555-556.
14. John R. Commons, *Legal Foundations of Capitalism* (Madison: University of Wisconsin Press, 1924), p. 52.
15. Lawrence M. Friedman, *A History of American Law*, 2<sup>nd</sup> edition

(NY: Simon and Schuster, 1985), p. 107.

16. Thorstein Veblen, *The Vested Interests and the State of the Industrial Arts* (NY: B.W. Huebsch, 1919), p. 160.

17. Thomas Jefferson to John Adams, October 28, 1813, Lester J. Cappon (ed.), *The Adams-Jefferson Letters*, II (Chapel Hill: University of North Carolina Press, 1959), p. 389.

18. Adam Smith, *Theory of Moral Sentiments*, p. 352.