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The empire of political thought: civilization, savagery and perceptions of Indigenous government

BRUCE BUCHAN

ABSTRACT

This paper examines the relationship between understandings of Indigenous government and the development of early-modern European, and especially British, political thought. It will be argued that a range of British political thinkers represented Indigenous peoples as being in want of effective government and regular conduct due to the absence of sufficiently developed property relations among them. In particular, British political thinkers framed the ‘deficiencies’ of Indigenous people by ideas of civilization in which key assumptions connected ‘property’, ‘government’, and ‘society’ as the attainments of civilized polities and societies. Accordingly, Indigenous peoples in Australia and elsewhere were perceived to live in associations (rather than ‘societies’) bound by custom and tradition (rather than ‘government’). The paper will thus identify conceptual connections made between property, polity, and sovereignty in European and British political thought, and argue that such understandings provide a useful resource for understanding colonial attitudes to Indigenous people in Australia down to the present day.

Key words civilization, custom, Ferguson, government, Indigenous government, Locke, property, savagery

INTRODUCTION

Captain Cook's 1768 *Additional Instructions* (Beaglehole, 1955: cclxxxiii), marked 'secret' by the Admiralty, required him, after observing the transit of Venus from Tahiti, to proceed through the South Seas in order to discover the presumed vast southern continent, *Terra Australis Incognita*. Most importantly, he was required to 'observe the Genius, Temper, Disposition and Number of the Natives, if there be any, and endeavour by all proper means to cultivate a Friendship and Alliance with them'. This was to be accomplished by presenting 'the natives' with 'presents of such Trifles as they may Value', inviting them to 'Traffick' and taking care to show them 'every kind of Civility and Regard'.¹ Finally, the 'secret instructions' authorized Cook, 'with the Consent of the Natives to take possession of Convenient Situations in the Country in the Name of the King', or, if uninhabited, to 'take Possession for His Majesty by setting up Proper Marks and Inscriptions'. Whatever the meaning of the instruction to obtain the 'Consent of the Natives' (Denning, 2000: 112–32; Wallace-Bruce, 1989: 102; Reynolds, 1992: 51–4), there is no evidence that Cook did in fact obtain 'consent' before he took possession of the eastern coast of New Holland in August 1770. In doing so, he seems to have concluded that the Indigenous inhabitants of New Holland possessed no government with which he could negotiate.

It has been argued (Davidson, 1997: 189) that the British failure to negotiate was a consequence of the doctrine of *terra nullius*. This convenient legal fabrication, that the land was occupied, but 'unowned' and therefore 'vacant', it is claimed, was disingenuously used by the British to withhold genuine recognition of Indigenous rights. The application of this legal doctrine, however, belongs to a period in Australian history long after initial colonization (Kercher, 1995: 4–5, 18–20), and it was finally overturned in 1992 by the High Court's landmark decision in *Mabo No. 2 v the State of Queensland*. Nonetheless, debate continues over how influential arguments from the European tradition of political thought were in the dispossession of the Indigenous inhabitants of Australia (Iverson, 2003: 86–105; Buchan, 2002/3). For some (Reynolds, 1998: 208–15), this influence rests in the deployment of tendentious arguments culled from Western political thought to justify the deliberate failure to negotiate a treaty with the Indigenous inhabitants of Australia. More recently, however, it has been argued that British colonization was more benign. According to the controversial revisionist historian, Keith Windschuttle (2002: 186), British colonizers brought 'the gift of civilization', new 'techniques for living' and, above all, the distinctly 'British' practice of subjecting all the inhabitants of the colony – Indigenous and otherwise – to British law, making the colony in their 'own eyes, and in truth, a domain of civilization'.

Such an argument takes at face value the claims that the colonizers themselves made when they portrayed themselves as 'civilized' and the Indigenous

people as 'uncivilized' (and as 'savages'). It fails thereby to appreciate the 'fog' of assumptions that precluded genuine understanding in colonial encounters, as Europeans attempted to 'fit' Indigenous peoples into a language and conceptual scheme that reflected their own experience and interests (Clendinnen, 2003: 286). In seeking to determine whether the Indigenous inhabitants of Australia were 'uncivilized' or 'savage', the British (and other Europeans) were not simply aiming at factual description, but were engaged in the linguistic and conceptual representation of these peoples as subjects who could legitimately be dispossessed. Hence, another explanation for the absence of a treaty in Australia lies in the way the British were able, by means of ideas of civilization, to represent the Indigenous inhabitants as lacking an effective form of government. The British, then, did not simply 'fail' to acknowledge an Indigenous government with whom to negotiate. Rather, their perceptions of Indigenous people led them to deny the possibility (at an official level) of an Indigenous government in Australia. This denial was facilitated by the ideas of civilization colonists employed in which key concepts (such as 'property', 'society', and 'government') were used to emphasize the 'deficiencies' of Indigenous people and the absence of a legitimate Indigenous government in colonial Australia.

The term 'civilization' developed from European discourses of civility in the 16th and 17th centuries in which the polite virtues of urban life were recommended over rustic rudeness. By the time that 'civilization' entered the English language in the late 18th century, the term (and cognates such as civility and civil society) denoted a range of personal, social, and political qualities that Europeans increasingly associated with notions of their own historical development from ancient 'savagery' and 'barbarism' to an ever more refined condition of 'civilization' (Pagden, 1993: 117, 153–5, 160–5). 'Civilization' served, Starobinski (1993: 3) suggests, as a 'unifying concept' or shorthand way of referring to both a process of individual and collective refinement, and the end result of that process, namely, the condition of civilization. By means of this term, Europeans could portray themselves as different from and superior to other peoples both inside Europe and beyond (Pagden, 1988: 33–45; Bayly, 1999: 20, 25, 27–9). While this superiority could be seen in terms of the accomplishments of urbanized societies, commercial economies, systems of written law, arts, sciences and letters, it could also denote life under sovereign states, with regular government. As various observers (Febvre, 1973: 223–5; Starobinski, 1993: 14–15) have noted, civilization came to be seen as the process by which a people acquired 'polished' manners, largely due to the salutary effects of 'police', that is, good laws and effective public order. In colonial contexts, such conceptions of civilization provided the means by which Indigenous peoples could be represented as 'inferior', and Europeans as agents of a 'superior' civilization (Thomas, 1994: 14).² In this paper I will argue that a range of (mainly British) political thinkers articulated a set of arguments by which Indigenous peoples were

portrayed as being in want of effective, good, or indeed any government at all. Their accounts of Indigenous government were framed by ideas of civilization that traced the 'deficiencies' of Indigenous government to their 'primitive' means of subsistence. In the colonization in Australia (from 1788) such ideas of civilization helped to shape colonial attitudes toward Indigenous peoples, and their implications continue to reverberate in Australia today.

LOCKE, INDIAN CHIEFS AND LACEDAEMONIAN KINGS

John Locke is often considered (e.g. Armitage, 2000: 115–17; Tully, 1993: 137–76) a key thinker in the development of the British 'ideology' of empire. In his association with the Earl of Shaftesbury's schemes for colonization in the Carolinas, and his later involvement with the Board of Trade, Locke's influence as an ideologist of colonization is certainly significant. Understood as the effort to transplant 'European' communities of settlers onto foreign lands, colonization required (and Locke certainly provided) an ideological justification (Arneil, 1996: 115–17). In his treatment of Indigenous government, however, Locke can also be seen as an 'ideologist' of empire, that is, the governmental project of administering 'subject peoples'. His contribution was not to deny the existence of Indigenous government, but to 'recognize' it as 'deficient'.³

Locke's view can be seen as a further development of earlier Spanish attempts to restrict Indigenous rights on the basis that their forms of social and political organization were inferior, primitive and undeveloped (Tuck, 1999: 42–5).⁴ Significantly, in making this claim, the Spanish and others tied their 'superiority' to a sense of their higher level of *historical* development. The English adopted this view, and tended to justify their colonies on the grounds that the Indigenous inhabitants did not make proper use of the land. They began to justify their *imperial* designs, however, on claims that the Indians had no laws but 'custom', a defective government (at best), and that subjection to English rule would bring them to 'civilitie' (e.g. Purchas, 1906[1625]: 224–38; J. Smith, 1969[1612]: 369–74, 438). Such justifications rested on an entrenched sense of English civility which had initially been contrasted to Irish and Gaelic 'wildness', but in America was opposed to Indian 'savagery'. In doing so, civility came to represent the qualities of a refined and regulated social life under 'good government' (Ohlmeyer, 1998; Canny, 1998). It was this discourse on which Locke drew in his writings.⁵

Locke's strategy was to demonstrate by means of an account of the 'state of nature', how political authority could be legitimately based upon the unforced consent of the members of civil society to renounce their own right of self-defence to an impartial, public authority. Locke's image of the state of

nature was constructed from a range of colonial sources on Indigenous peoples, depicting a condition without settled private property and legislative authority. The agreements needed to establish the latter he famously described in his chapter 'Of Property' (Locke, 1988[1690]: 299) as emanating from the 'common consent' of the more advanced peoples of the Earth to the use of money as the universal means of exchange thus allowing the accumulation of property. Such agreements were double-sided, one set of agreements setting the bounds of each person's property *within civil society*, the other setting the bounds of territories between the 'several States and Kingdoms' of the Earth. The implication that Locke did not hesitate to draw, was that where peoples had not consented to the use of money, no property beyond the immediate possessions necessary for self-preservation could be accumulated, and thus 'great Tracts of Ground' in America were unclaimed, and so 'still lie in common' (Locke, 1988: 299).

The thrust of this argument was that in not consenting to the use of money such peoples could have only a very circumscribed and limited property, and that, similarly, they could have only a tenuous political identity. The implications of this view were spelled out in the later chapter 'Of the Beginning of Political Societies' (Locke, 1988: 336–40), in which Locke argued that civil societies had their origin in the union of the family ruled by the patriarch. He supposed that if more than one family united, the members would use 'their own natural freedom' and appoint someone who seemed best suited to rule, and 'Conformable hereunto', Locke suggested, 'we find the People of *America*, who . . . set up the stoutest and bravest man for their Ruler'. This passage is crucial in two senses: first, in that it characterizes Indian rulership as limited by the 'natural freedom' of all members of the tribe; and second, in raising the possibility that rulership could be based on election or the choice of the members. Locke here develops an ethno-historical account of Indian 'government':

Thus we see, that the *Kings* of the *Indians* in *America*, which is still a Pattern of the first Ages in *Asia* and *Europe*, whilst . . . want of People and Money gave Men no Temptation to enlarge their Possessions . . . are little more than *Generals of their Armies*; and though they command absolutely in War, yet at home and in time of Peace they exercise very little Dominion, and have but a very moderate Sovereignty, the Resolutions of Peace and War, being ordinarily either in the People, or in a Council . . . (Locke, 1988: 339–40)

In making this argument Locke echoed other writers such as James Tyrell (1681: 76), who clearly did recognize a real but qualitatively inferior Indigenous government. This government was described in terms of a familiar trope in 17th- and 18th-century British thought of 'Lacedaemonian kings', or the

kings of ancient Sparta. The power of an Indian chief then, was described as analogous to that of a

. . . *Lacedaemonian* King . . . And so are those Caciques [chiefs] that the *Indians* in the *Caribbee* Islands and *Brasile* chuse to be their Leaders in War, but in Peace have little or no power. (Tyrell, 1681: 92)

Tyrell's (and Locke's) source on the 'Caribbees' was probably Charles Cesar de Rochefort (1666: 116), who claimed that although the 'poor Barbarian' Caribbees 'cannot be imagin'd to study much Policy' they did nonetheless have their own elected 'petty Kings and Captains'.⁶ None of these leaders 'hath any command over the whole Nation nor any superiority over other Captains', except in times of war, and 'when the expedition is over, he hath no authority' (de Rochefort, 1666: 314). The election of leaders, he described as contingent upon withstanding 'strange and savage' rituals which conferred respect, from which he made the not insignificant deduction that

. . . this Worlds Honour, whatever it may be, Virtue excepted, consists only in Opinion and Custom, which differ, and sometimes clash, according to the diversity of Mens humours. (de Rochefort, 1666: 316)

In bowing to the power of custom and opinion, de Rochefort was suggesting, as Locke was to suggest in his *Essay Concerning Human Understanding* (1970[1690]: 175), that there were more kinds of government than that which involved holding and exercising the powers of public office.⁷ The presence of government could also be indicated by the degree to which a human community regulated its affairs by the operation of social sanctions – the need to show courage and fortitude (or for Locke, rectitude and public credit). Government may also consist in the effective regulation of families, the control of children and women. It was with these latter kinds of government in mind that Tyrell refuted Hobbes's account of the state of nature, and the latter's particular claim that the Indigenous inhabitants of America exemplified it. Tyrell (1701: 328–9) contended that even though there was 'no Civill Power to keep them in awe' and that they had no 'Government in time of Peace', Indigenous Americans nonetheless possessed 'Concord' by maintaining familial bonds, and 'having no riches'. In the account of his wanderings among the peoples of the Isthmus of Panama, Lionel Wafer (1934[1699]: 93–7) – the sometime privateer and shipmate of William Dampier – similarly extolled the familial virtue, order and regularity of the Indigenous peoples he observed.

The idea that Locke, Tyrell and others employed was that 'civil' (as opposed to familial) government should be understood as a function of different arrangements of property, and correspondingly different kinds of political and social life. Tyrell's reference to the 'absence of riches' signified the view that where a subsistence economy prevailed, there could be few distinctions

of wealth and property, thus the desire for private gain would be limited, few crimes were possible, and thus few (if any) laws were needed. 'Civil' government was seen here as a function of a more advanced stage of economic, social, and political development than that exhibited in America. In other words, 'civil' government was premised on an unequal division of property requiring the regulation of conduct by laws, government, and the norms of 'civility'. Indigenous government, like that of the Lacedaemonians, was premised on rough equality and the inculcation of a rude, martial virtue.

In late 17th-century British thought, Lacedaemonian kingship could mean different things. For an absolutist like Sir Robert Filmer (1991[1648]: 157–8), limited or mixed monarchy was a dangerous concession, and the limited powers of Lacedaemonian kingship represented a defective kind of sovereignty. For British 'republicans' like James Harrington (1977[1656]: 273) and Walter Moyle (1727[1698]: 51–2, 59–60), however, Lacedaemonian kingship could be invoked approvingly in reference to the equality, tranquillity, and martial vigour of the Spartans. The Lacedaemonian system, as Harrington and Moyle understood it, represented a type of government in which a more suitable balance was struck between a limited monarchy, aristocratic privilege and popular delegates. Pocock (1975: 415–17) also reminds us that it represented a system of government based on popular involvement with the means of national defence, thus identifying it with a martial virtue that republicans claimed was being extinguished in contemporary England. In describing Indian government as 'Lacedaemonian' or 'Spartan', European writers could be advancing a claim that those Indians possessed a kind of rude martial virtue, but could also be highlighting the absence of any settled system of law and legislation. This was the sense in which Locke may be said to have invoked the imagery of Lacedaemonian kings. As a critic of absolutism (and Filmer's defence of it in particular), Locke was aware of the anti-absolutist implications of the Lacedaemonian system. But Locke's invocation of this imagery was not a recommendation, but a way of highlighting the alternatives that hedged his own recommendation of limited power.

Locke in fact was reticent to speak of sovereignty precisely because the term had absolutist connotations, and he preferred using the term 'Supream Power' (1988: 238).⁸ Locke's favoured style of government, expounded at length in the second *Treatise*, was based on the idea that political power derived from the 'consent' of property owners who together formed a civil society. This 'consent' was fully revocable on condition that the government to which they had consented had breached the trust bestowed upon it by those who had given their consent. To a late 17th- and early 18th-century English audience, this would have seemed a dangerous, if not revolutionary, doctrine (Tully, 1993a: 253–80; Ashcraft, 1986: 305). For this reason, Locke was careful to distinguish his favoured system of government not only from Filmer's absolutism, but from the more dangerously anarchic systems of

government he seemed close to recommending. Hence Locke's (1988: 385) repeated claim that his delegated 'supream power' was completely different from the simple assumption of power by undisciplined groups such as bands of 'Robbers and Pyrates'.

Such distinctions reinforced Locke's view that these dangerously unregulated associations were based on the uninhibited (and dangerous) 'natural' freedom of their members. His favoured system of government, however, rested on the freedom of those in civil society and was thus regulated not only by laws, but by a refined 'law of opinion' quite different to that which dominated the savage mind. Locke was thus insistent that his system was qualitatively superior to the superficially similar power of Indian chiefs. Although the description of the power of Indian chiefs in the *Two Treatises* made it sound democratic and even delegated, it consisted solely in command in war, and as Locke (1988: 340) also put it, 'in time of Peace' those chiefs exercised 'very little Dominion'. In phrasing his description in this way, Locke was advancing the claim that, first, those chiefs possessed no power (or dominion) in times of peace as of right, and hence did not constitute a government based on the right to legislate. The second claim was that Indian chiefs did not possess or own (as their dominion) the lands upon which they and their tribes resided, and thus could legitimately be dispossessed by Europeans who alone were capable of establishing a 'dominion'.

The idea that Indigenous peoples in America lived under the rule of chiefs whose powers could be described as roughly analogous to that of 'Lacedaemonian kings' was invoked by a variety of 18th-century 'authorities' such as Father Joseph Lafitau (1974[1726]: 283) and Cadwalader Colden (1972[1747]: 13). The superintendent of northern Indian affairs in the 13 colonies in the 1750s, Sir William Johnson (1773: 144–5), also spoke of the 'chief magistrate, or Sachem' of the Iroquois as possessing some limited authority over the 'nation', but that his 'authority is scarcely discernible' and rested on the 'tacit consent' of the tribe. Indeed, the 'political maxim' of the Indians, Johnson (1773: 145, 147) claimed, was 'Spartan-like', commending the pursuit of war and martial virtues, to which they had tailored their 'government' and its 'small degree' of 'sovereign' authority. The consequence of this 'small degree of sovereignty' was that subjecting them to British rule was a similarly minor moral concern.

SAVAGERY AND THE SCOTTISH ENLIGHTENMENT

In recognizing a limited, even temporary, Indigenous form of government, British political thinkers and colonial administrators constructed the problem of imperial administration around an ordering of government. The task of imperial administration thus required the subjection of Indigenous peoples

who possessed their own forms of government. This could be accomplished through the conquest of Indigenous peoples, but in most cases the problems of waging a war of conquest on the frontiers, not to mention polite scruples at home about conquest abroad, prevented this option (Pagden, 1995: 84–5; Buchan, 2001: 143–62). The alternative was to engage in forms of negotiation, often by treaty, in which the British could attempt to subject and control Indigenous peoples through their own ‘government’. The ‘consents’ of chiefs and sachems of the First Nations people in Canada and North America were thus taken as pledges ‘on behalf’ of their ‘tribes’, tying them by bonds of submission in return for limited recognition of rights and the payment of gifts or presents. In doing so, the British framed the recognition given to Indigenous peoples within an ethno-historical scheme that tied the limited recognition of Indigenous government to a similarly limited recognition of Indigenous property (the ubiquitous ‘hunting and fishing grounds’ mentioned in many treaties).⁹

During the 18th century, this ethno-historical scheme was given powerful expression by Montesquieu (1989[1748]: 290–2), who insisted on a distinction between ‘savage’ and ‘barbarian’ peoples. Savages, he claimed, existed in ‘small scattered nations’, whereas ‘barbarians’ formed ‘small nations that can unite together’. Savages he described as ‘hunting peoples’, barbarians as ‘pastoral people’, and significantly he claimed that because they wander about the forests, savages form no permanent social bonds and have loose, if any, family structures. Barbaric pastoralists by contrast were described as being tied to certain regions by their herds, and as living in communities with settled laws and strict familial relations. Montesquieu said little about any further progression, but he did accord the use of money an importance that implied that its invention constituted a pivotal stage in human social *and political* evolution. ‘If you are alone’, Montesquieu wrote, and you happen to come upon an ‘unknown people’ and you see a coin, ‘reckon that you have arrived in a nation with police.’ Here, ‘police’ referred to the governmental activities through which society was shaped by pervasive mechanisms of surveillance and regulation. The use of money thus implied a much more settled form of social existence, probably based on an agricultural economy, in which private property was mediated by a means of exchange, protected by laws and government.

As Richard Sher (1994: 368–401) has argued, the Scottish Enlightenment thinkers had read and appreciated Montesquieu’s work. Building on earlier foundations, the Scottish Enlightenment thinkers articulated a variety of ‘historical’ explanations of the motor forces and effects of social advance (Murray, 2003: 258–79; Hont, 1987: 253–6). According to the stadial theory, often ascribed to Adam Smith, peoples pass through four distinct stages of development based on the sophistication of their means of subsistence or economy. The means of subsistence were held to shape ‘manners’, conduct,

and the 'moral' progress of a people as they passed from primitive savagery (hunting and gathering), to barbarism (pastoralism), agriculture, and finally to civilized commerce and foreign trade (Robertson, 1791: 263).¹⁰ Although he thought it beneficial, Adam Ferguson also thought commerce was a source of moral enervation, weakening the dedication to virtue. As Pocock (1999: 350) has suggested, Ferguson's fear on this score was a 'moralistic' exposition of 'the dangers inherent' in civilized societies. Ferguson underlined these dangers by focusing on the distinction between 'savages' and 'barbarians' in order to argue that the great benefits of civilization were won at considerable moral costs (Forbes, 1966: xx, xxii).

For Adam Ferguson (1966[1767]: 107) the image of 'the savage' embodied all the exotic, untutored qualities that the forces of civil society strove so hard to control. For him, the savage was 'inured to fatigue', possessed a 'robust . . . unalterable constitution', was the subject of passions that rendered him (or her) indolent when unmotivated, but 'bold, impetuous, artful and rapacious' when driven by the hunt or conquest. Ferguson used this image of the savage to highlight what he thought to be the peculiar advantages and special dangers of civilization. Although Jean-Jacques Rousseau also used the image of 'savagery' to critique civilized life, Ferguson's criticism of civilization can be separated from Rousseau's (in large part) on the basis of their construction of 'savage' life. The savage envisaged by Rousseau (1973[1755]: 65) was a rather bloodless and pathetic creature more inclined to flight than fight. Ferguson's (1966: 58, 73) savage, however, showed a robust appreciation for the boundless possibilities that savage life afforded for exercising a warrior's virtues. For Rousseau (1973: 65), 'the savage' was a stranger to anything resembling a 'society'; having 'neither houses, nor huts, nor any kind of property whatever', savages were only brought together by passing need or sudden inclination, and separated as easily 'with the same indifference'.

Adam Ferguson's (1966: 97; 1975[1792]: Vol. I, 254) savages were strangers to society because 'society' itself, Baker (1994: 94–120; Dampierre, 1960: 328–40) suggests, was seen as an artefact of a process of civilization. Consequently, 'society' was an accomplishment only of pastoral 'barbarians' and more civilized peoples. A similar sentiment was expressed by William Robertson (1812: 51)¹¹ who claimed that Indigenous Americans occupied 'the rudest' state of collective life, far inferior to the Germanic tribes described by Tacitus, in which '[w]e behold communities just beginning to unite' and in which human beings 'feel but imperfectly the force of its [society's] ties'. John Millar (1990[1806]: 14, 28, 34)¹² argued that the treatment of women was one of the key indexes of civilization, contending that female slavery was a characteristic of 'savagery', the 'rudest period of society'. The distinction between Ferguson's 'savages' and 'barbarians' was in part based, as was Smith's, on their means of subsistence, but Ferguson (1966: 81) drew from this material distinction more subtle intellectual differences.

Having 'possessed themselves of herds', barbarians put an end to the rough equality of savage hunters, accomplishing thereby 'a material difference of character', and laying the foundations for despotic forms of government.

Ferguson claimed that his depiction of savage life was drawn from accounts of First Nations people in North America, citing European 'authorities' such as Charlevoix, Wafer, Colden and Lafitau.¹³ From such sources, Ferguson (1966: 85) outlined what he took to be the social and political condition of savagery, noting that among Indigenous North-Americans each individual 'is independent', but belonged to family groups 'subject to no inspection or government from abroad' but loosely linked with other family groups 'to constitute a national council' organized as a 'confederacy'. The Iroquois, he conceded, maintained a kind of 'balance of power' and pursued 'alliances and . . . treaties, which, like the nations of Europe, they maintained, or they broke, upon reasons of state'. Ferguson's apparent recognition (1966: 85) of Indigenous government here also drew on classical sources, notably Tacitus' identification of the 'order' of 'savage' communities resting not on laws, government or the manners of civil life, but 'instinct' and communal attachment.¹⁴ Though Ferguson could admire the order of 'savage' communities, achieved without recourse to 'police or compulsory laws', it was only when divisions of property among 'barbaric' pastoral peoples gave rise to 'distinction of ranks' that the terms '*jurisdiction* and *government*' became known (1966: 81–101).¹⁵ Among savages, the chief is not 'sufficiently distinguished from his tribe' and is still regarded with 'veneration' rather than 'envy', as the 'common bond' of their union, 'not as their common master'. Ferguson cited the 'frequent practice of war' as the motor force in 'strengthening' the 'bands of society' and 'mutual attachment', but also in establishing the 'despotism' and 'political slavery' of the barbaric 'sovereign'. For Ferguson, then, the condition of savage virtue was contrasted to that of barbaric tyranny and corruption.

The 'civilized' person by contrast was an autonomous agent, capable of resisting the whims of passion through the 'study of justice . . . and good order' in civil society, entailing the inculcation of habits of civility, 'industry, sobriety, and frugality', enabling one to act 'with a view to futurity'. These qualities could exist only in a society in which private property provided the necessary foundation for 'relations of patron and client, of servant and master', and for the legal and political arrangements that protected them. Property ownership provided, Ferguson maintained, 'the ground' upon which 'a permanent and palpable subordination is laid'. The development of civil society was thereby associated with the simultaneous development of political institutions, in particular, government and the state. By 'government' he meant the careful management and regulation of 'society' to ensure the flourishing of commerce, the increase of wealth, and the extension of the disciplines of labour throughout society. Ferguson's legacy is thus ambiguous,

encompassing both a denigration of savagery, and an appreciation of what savagery could teach the civilized about combining their 'civility' with 'martial virtue'. Nonetheless, Ferguson's thought reflected the development of ideas of civilization in British thought, in which concepts of 'society' and 'government' acted as measures of superiority, providing a rationale for subjecting the 'uncivilized'.

PERCEPTIONS OF INDIGENOUS GOVERNMENT IN AUSTRALIA

British public opinion on the early colonization of Australia reflected a wide spectrum of views on Indigenous peoples, ranging from the more benevolent to those who questioned their very humanity (Black, 2002: 54–5; Atkinson, 1997: 158–9; Langford, 1989: 513–18). Whether benevolently intended or not, however, British attitudes also reflected influential understandings of 'civilization' and 'savagery', and the historical scheme by which such terms were framed (Gascoigne, 2002: 148–9). It was in this sense that Lord Morton's (1955: 514–19) humane '*Hints*' to Captain Cook nonetheless enjoined him to 'convince' the Indigenous people he found 'of the Superiority of Europeans', albeit by gentle means, and to take special note of whether they used any currency, and had any kind of government, or 'Police'. These instructions clearly reflect the kind of understandings of civilization and savagery that had been so powerfully expressed in British political thought. By representing the Indigenous inhabitants of Australia as lacking effective government, the British did not simply mistakenly or perfidiously fail to acknowledge pre-existing Indigenous forms of government. Rather, the very structure of their thought, and the language used to articulate it, led them to *deny the possibility* (at an official level) that Indigenous people could indeed possess their own legitimate forms of government.

During the early period of colonization in Australia, many colonists construed the order they sensed within and between the tribes of Indigenous inhabitants as 'savage'.¹⁶ Governor Phillip's official dispatches, for example, reflected this image of 'savage' life, commenting that 'in this state of nature' Indigenous women were 'treated as the inferior' class within the tribes, and tracing order within the tribes directly to their means of subsistence; '[t]he men seldom fish with the line', he noted, 'but strike fish from the rocks' claiming that 'their chief employment is the chase'.¹⁷ Living by 'the chase' here denoted the absence of settled social life, agriculture, and all the political and personal accomplishments that were supposed to accompany them. Colonial observers and administrators therefore construed the Indigenous inhabitants as manifesting the tenuous political condition described in political thought as the 'state of nature'. As the Judge Advocate of the colony, David Collins (1971[1798]: 544) put it:

We found the natives about Botany Bay, Port Jackson, and Broken Bay, living in that state of nature which must have been common to all men previous to their uniting in society, and acknowledging but one authority.

Importantly, the early colonists drew from such accounts a set of conclusions about the nature of Indigenous behaviour consistent with the relationship identified between 'means of subsistence' and 'manners' in British political thought.¹⁸ Collins (1971: 253–4), for example, recounted a conversation with Captain Matthew Flinders in which the latter reflected on the possible implications of the use among some Aborigines of large fishing nets and traps:

Mr. Flinders was of opinion, that this mode of procuring their food would cause a characteristic difference between the manners, and perhaps the dispositions, of these people, and of those who mostly depend upon the spear or fíz-gig for a supply. In the one case, there must necessarily be the co-operation of two or more individuals; who therefore, from mutual necessity, would associate together. It is fair to suppose, that this association would, in the course of a few generations, if not much sooner, produce a favourable change in the manners and dispositions even of a savage. In the other case, the native who depends upon his fíz-gig or his spear for his support depends upon his single arm, and, requiring not the aid of society, is indifferent about it, but prowls along, a gloomy, unsettled, and unsocial being.

Flinders's reflections here echoed the image of savage life articulated in British political thought. Such views confirmed Cook's earlier supposition that the Indigenous people possessed no extensive property, and hence no government, organized society or polity, and therefore had only a tenuous claim to rights in land or to political sovereignty. Lieutenant Watkin Tench (1996b[1789]: 57), one of the more sympathetic early observers, surmised that there did not appear to be 'any civil regulations' nor 'any degrees of subordination' among the Indigenous inhabitants. Hence he concluded (Tench, 1996a[1793]: 252–3, 274), citing Ferguson in support, that they 'rank very low . . . [among] savages' in the scale of civilization.

Throughout the 19th century, European observers continued to represent the Indigenous peoples of Australia as 'primitive', lacking their own government, or identity as 'nations'. Where recognition was made of Indigenous 'nations' it was heavily tinged with biblical connotations implying an evangelical consideration of the different peoples under God's care (Blackburn, 2002: 174–92). The application of a more political concept of the nation as a self-governing community, a concept that was invoked by Chief Justice Marshall in the United States, was not applied in Australia.¹⁹ In 1841, Justice J. W. Willis had argued in the *Bonjon* case that this kind of recognition be extended to the Indigenous peoples, but his view was sternly opposed by the

authorities in Sydney.²⁰ The *Bonjon* case did, however, suggest grave difficulties over the legal status of the Indigenous peoples, difficulties that were further exposed in the administrative reaction to Captain George Grey's 'Report on the Best Means of Promoting the Civilization of the Aboriginal Inhabitants of Australia'. Grey argued that all Indigenous laws were merely 'barbarous customs' and that Australia's Indigenous peoples should be made totally 'amenable to the British Laws'.²¹ In Westminster, Lord John Russell reacted favourably to the proposals, but Governor Gipps in New South Wales diplomatically rejected them as unworkable, while Governor Hutt in Western Australia argued that it was unwise if not 'impossible' to regard Indigenous peoples as 'at all times and under all circumstances . . . amenable to our laws'.²²

One major reason why it was thought 'impossible' so to regard Indigenous 'customs' and 'tribes' was that they were considered dangerously egalitarian. Lacking any notion of private property, the 'tribes' were also thought to lack any form of Indigenous 'government' that could be used by Australian authorities as a mechanism to effect their subjection. As the 19th century drew to a close, however, an increasing body of colonial opinion came to view Indigenous customs as a potent but diminishing source of order. Their loss, through colonization, came to be seen therefore as a significant problem as no alternative means had been found to assert and maintain control over them. As Howitt and Fison (1880: 332), the pioneers of Australian ethnology, saw it, the 'inferior' Indigenous people did not yet possess sufficiently evolved institutions (such as chieftainship) which could be used by 'superior' European administrators in the task of governing them. Lacking any firm institutional structure within their tribes, Indigenous peoples were thought to lack any kind of 'national' identity beyond them (Blackburn, 1999: 168–79). This view was most clearly expressed by J. W. Bleakley in his 1928 report entitled 'Aborigines of Central and Northern Australia'. Bleakley (1929: 30) poured scorn on the idea that Indigenous people be entrusted with their own 'native state', arguing that it would impose upon Indigenous people a 'social machine they cannot understand':

They have no conception of democracy . . . Their native laws and customs . . . utterly fail to conceive any idea of combination or federation of tribes for mutual government or protection. Each tribe is a separate and distinct group, with its own language, customs, and laws environing its peculiar totem, and has interest in nothing outside of those associations.

As recently as 1979, Justice Gibbs of the High Court argued in *Coe v Commonwealth* that the Indigenous peoples of Australia possessed 'no legislative, executive or judicial organs by which sovereignty might be exercised'.²³ This notion of Indigenous tribes as lacking 'government' and bound by immemorial custom continues to be invoked.

In 1998 Justice Olney in the Federal Court of Australia employed this view in finding against 'Members of the Yorta Yorta Aboriginal Community' in their application for lands under the Native Title Act.²⁴ In making this determination, Olney J, relying on a rigid interpretation of the amended Native Title Act, argued that the crucial issue was that the current inhabitants had not maintained their 'traditional' customs observed at the time British sovereignty was asserted in 1788. By means of the Act, Australian courts have been empowered to define Native Title solely by reference to Indigenous customs deemed to be 'traditional' (that is, practised at the time of initial colonization and observed unchanged since then). Moreover, to determine whether a custom is 'traditional', courts may rely (as the Federal Court did in the *Yorta Yorta* case), on the 'evidence' of colonial observers such as pastoralists and missionaries, most of whom had a vested interest in depicting the Indigenous inhabitants of the land as 'savages'. In the *Yorta Yorta* case, the court relied heavily on the writings of a local 19th-century pastoralist and colonial ethnologist, E. M. Curr. Curr's written 'evidence' was privileged by the court over the oral testimony of the current Indigenous inhabitants, and was used to sustain an image of an Indigenous community once bound by immemorial customs, now completely lost due to the effects of colonization and civilization.

Among Curr's many observations of the customs and traditions of the Indigenous people, Olney J placed particular emphasis on those which represented the nature of Indigenous 'society' as bound by custom and lacking government. The Indigenous people, Curr (1968[1883]: 245, 252, 263) claimed, had 'no government' and

... nor was any authority, outside of the family circle, existent. Within the family the father was absolute ... The adult male ... recognised no authority in anyone, under any circumstances, though he was thoroughly submissive to custom. (Curr, 1968: 244)

Informing Curr's approach was the key distinction between 'savage' and 'civilized' social order. Curr depicted Indigenous people as having no idea of agricultural cultivation, pursuing only an erratic and profligate use of resources. Consequently, there was, in his view (Curr, 1886: 192), no such thing as a society or 'national life' among Indigenous Australians: 'failing even to reach the earlier stage of clan life ... [they] existed to the end in tribes ... destitute of any formal governing principle.' The tribes of the Aboriginal people, he claimed (ibid.: 241, and 52–4), held 'together in a way quite distinct from European society' by being maintained not through the rational deliberations of government, but the 'impersonal', 'hidden' and 'constraining' power of custom.

Sentiments such as these have played a prominent part in the European colonial discourse on Aboriginal people supposedly demonstrating the

'absence' of Indigenous government, and a general lack of legislative capacity. Portrayed as caught within the 'customs' and 'traditions' of their own 'tribes', Indigenous Australians were considered not only 'subjects' of 'superior' Western knowledge, but also 'subjects' of 'superior' Western government. This image of Indigenous life bound by custom and tradition is one of the most salient features of the colonial attitude to Indigenous people (Mamdani, 2001: 651–64). It is an image that imperial and post-imperial authorities have helped to foster, but it is also an image that has a prominent place in British and Western political thought.

NOTES

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- 1 Cook was supplied with an additional list of 'Hints' from James Douglas, 14th Earl of Morton (1955: 514–19) and President of the Royal Society, who counselled Cook to recognize Indigenous rights to possession, seek their consent, and prevent bloodshed by seeking trade or 'traffick'. Bernard Smith (2000: 159) has argued that the emphasis placed on 'trafficking' shows that Cook was the agent of British commercial civilization.
- 2 Starobinski (1993: 5) errs in arguing that Enlightenment writers used the word civilization to distinguish between themselves and a merely 'hypothetical primordial state' of human existence. As this paper contends, British and other political thinkers believed this condition to be anything but 'hypothetical'. (See also, note 3.)
- 3 Buckle (2001) argues that Locke's *Two Treatises* were written primarily with English (rather than American) political issues in mind. Armitage (2004: 604–5), however, is surely correct to maintain that the colonial context of Locke's arguments served as much more than mere examples of 'his hypothesized natural state' (Buckle, 2001: 274).
- 4 Keal (2003: 34–5) suggests that this claim lay at the heart of the exclusion of Indigenous peoples from 'international society'. As Tuck (1999: 102–8) indicates, however, the very idea of an 'international society' of states was an artefact of European imperialism.
- 5 Locke was familiar with significant non-English colonial sources, and among these the argument put forward by the Spanish Jesuit, Father Joseph Acosta

- (1880[1604]: 409–10; Batz, 1974: 664), that the ‘thing wherein these barbarous people shew their barbarisme, was in their government’, seems to have exerted significant influence.
- 6 In his (1701) *A Brief Disquisition of the Law of Nature*, Tyrell referred to ‘the French Author of the Natural History of the *Caribe* Islands, Part. 2d. Chap. 11 and §19’ (1701: 330). In addition to Acosta (see note 5 above), another likely source for this view of Indigenous leaders was the French Récollet missionary Father Gabriel Sagard (1939[1632]: 151).
 - 7 Here Locke referred to the ‘law of opinion’ as a means of regulating conduct (also see Locke, 1993: 236–7).
 - 8 I am obliged to James Tully for making this point forcefully to me in private correspondence.
 - 9 See, for example, the *Treaty of 1693 With Tribes of Massachusetts Bay and Rivers Area*, and the 1714 and 1717 *Maritimes Treaties* [<http://www.kstrom.net/isk/maps/maritimes1693.html>].
 - 10 Edmund Burke (1987[1770]: 83) included ‘politics’ in the broad category of ‘manners’. ‘Every age’, he argued, ‘has its own manners, and its politics dependent upon them.’
 - 11 Robertson’s *History of America* was originally published in 1777.
 - 12 Millar’s *Origin* was originally published in 1771.
 - 13 Thanks to Peter McCarthy who pointed out to me that Ferguson (1966: 82) made the claim, in a footnote to the 1768 edition, that his account of ‘Rude Nations’, and specifically the ‘original North Americans’, was based ‘on the concurring representations of living witnesses, who, in the course of trade, of war, and of treaties, have had ample occasion to observe the manners of that people’.
 - 14 In the *Germania* of 98–9 Tacitus (1999: 77–8, 80) spoke of the various nations of the *Germani* as obeying either ‘kings [*reges*] which they choose for their birth [*nobilitas*], and who had strictly limited powers, or ‘generals [*duces*] which lead more by example [*virtus*] than command’.
 - 15 All subsequent references to Ferguson’s *Essay* are taken from pp. 81–101. A similar account of the origins of government was expressed by John Millar (1990: 3–5).
 - 16 Some early colonists did recognize that the Indigenous inhabitants possessed their own forms of property and some kind of internal order; one example only must suffice here. David Collins (1971: 544–5, 598–9) observed that the Indigenous people did not wander as lonely ‘savages’ but lived in ordered tribal groups that possessed their own ‘real estates’. Significantly, an early reviewer (Anon., 1803: 35) of Collins’s *Account* noted that the Indigenous people did seem to have definite rules and laws, especially relating to conflict (‘duelling’). Even this limited recognition of Indigenous laws, however, was represented in terms of ‘some tendency to civilization’.
 - 17 *Historical Records of Australia*, Vol. I, series I (1914): 26, 160; subsequently cited as *HRA*.
 - 18 It is worth noting that William Robertson drew on these early accounts in revisions to the second volume of his *History of America* (1812: 130, 393–4), representing Indigenous Australians as an example of ‘the earliest stage’ of human society, living in ‘inconsiderable’ tribes, subsisting ‘entirely on fishing’, and practising no cultivation.

- 19 In the United States, Chief Justice Marshall argued in the 'Cherokee cases' (notably in *Worcester v Georgia*) in the 1830s, that the Cherokees constituted a 'self-governing community', with which the federal government ought to deal on a nation-to-nation basis, entitled to recognition by treaty of their 'domestic dependent nation' status (see Norgren, 1996).
- 20 *British Parliamentary Papers, Colonies Australia*, 8 (Shannon: Irish University Press, 1969), pp. 151–5; subsequently cited as *BPP*.
- 21 *HRA*, Vol. XXI, pp. 34–5. Grey was subsequently made Governor of South Australia before being made Governor of New Zealand (twice), and finally of the Cape Colony.
- 22 *BPP*, Hutt to Russell, 10 July 1841: 392; and *HRA*, Vol. XXI, pp. 312–15 (312). Dispatch dated 24 January 1842.
- 23 *Coe v Commonwealth* (1979) 53 ALJR 403.
- 24 *The Members of the Yorta Yorta Aboriginal Community v The State of Victoria & Ors* [1998], 1606 FCA (18 December 1998), pp. 1–50. Source: http://www.austlii.edu.au/au/cases/cth/federal_ct/1998/1606.html

BIBLIOGRAPHY

- Acosta, J. (1880[1604]) *The Natural and Moral History of the Indies*, Vol. II, trans. E. Grimston. London: Hakluyt Society.
- Anon. (1803) 'Collins's Account of New South Wales, Volume II', *Edinburgh Review* 2(3): 30–42.
- Armitage, D. (2000) *The Ideological Origins of the British Empire*. Cambridge: Cambridge University Press.
- Armitage, D. (2004) 'John Locke, Carolina, and the *Two Treatises of Government*', *Political Theory* 32(5): 602–27.
- Arneil, B. (1996) *John Locke and America*. Oxford: Clarendon Press.
- Ashcraft, R. (1986) *Revolutionary Politics and Locke's Two Treatises of Government*. Princeton, NJ: Princeton University Press.
- Atkinson, A. (1997) *The Europeans in Australia: A History*, Vol. I. Melbourne: Oxford University Press.
- Baker, K. M. (1994) 'Enlightenment and the Institution of Society: Notes for a Conceptual History', in W. Melching and W. Velema (eds) *Main Trends in Cultural History, Ten Essays*. Amsterdam: Rodopi.
- Batz, W. G. (1974) 'The Historical Anthropology of John Locke', *Journal of the History of Ideas* 35(4): 663–70.
- Bayly, C. A. (1999) 'The British and Indigenous Peoples, 1760–1860: Power, Perception and Identity', in M. Daunton and R. Halpern (eds) *Empire and Others: British Encounters with Indigenous Peoples, 1600–1850*. Philadelphia: University of Pennsylvania Press.
- Beaglehole, J. C., ed. (1955) *The Journals of Captain James Cook on His Voyages of Discovery*, Vol. I, *Voyage of the Endeavour 1768–1771*. Cambridge: Cambridge University Press.
- Black, J. (2002) *Europe and the World, 1650–1830*. London: Routledge.

- Blackburn, K. (1999) 'White Agitation for an Aboriginal State in Australia (1925–1929)', *Australian Journal of Politics and History* 45(2): 168–79.
- Blackburn, K. (2002) 'Imagining Aboriginal Nations: Early Nineteenth Century Evangelicals on the Australian Frontier and the "Nation" Concept', *Australian Journal of Politics and History* 48(2): 174–92.
- Bleakley, J. W. (1929) *The Aborigines and Half-Castes of Central Australia and North Australia 1928*. Government Printer.
- Buchan, B. (2001) 'Subjecting the Natives: Aborigines, Property and Possession under Early Colonial Rule', *Social Analysis* 45(2): 143–62.
- Buchan, B. (2002/3) 'Aboriginal Welfare and the Denial of Indigenous Sovereignty in Australia', *Arena Journal* 20: 97–121.
- Buckle, S. (2001) 'Tully, Locke and America', *British Journal for the History of Philosophy* 9(2): 245–81.
- Burke, E. (1987[1770]) *Thoughts on the Cause of the Present Discontents*, in I. Hampsher-Monk (ed.) *The Political Philosophy of Edmund Burke*. London: Longman.
- Canny, N. (1998) 'England's New World and the Old, 1480's–1630's', in N. Canny (ed.) *The Oxford History of the British Empire*, Vol. I, *The Origins of Empire*. Oxford: Oxford University Press.
- Clendinnen, I. (2003) *Dancing with Strangers*. Melbourne: Text Publishing.
- Colden, C. (1972[1747]) *The History of the Five Indian Nations of Canada*. Facsimile of the London edn. Toronto: Coles Publishing.
- Collins, D. (1971[1798]) *An Account of the English Colony in New South Wales*. Two vols, facsimile edn. Adelaide: Libraries Board.
- Curr, E. M. (1886) *The Australian Race: Its Origin, Languages, Customs, Place of Landing in Australia, and the Routes by which it Spread Itself over that Continent*, Vol. I. Melbourne: Government Printer.
- Curr, E. M. (1968[1883]) *Recollections of Squatting in Victoria*. Facsimile of the Melbourne edn by George Robertson. Adelaide: Libraries Board.
- Dampierre, E. de (1960) 'Note sur "Culture" et "Civilisation"', *Comparative Studies in Society and History* 3: 328–40.
- Davidson, A. (1997) *From Subject to Citizen*. Cambridge: Cambridge University Press.
- De Rochefort, Charles Cesar (1666) *The History of the Caribby-Islands*. In *Two Books*, Book I. London.
- Denning, G. (2000) 'Possessing Tahiti', in R. Borofsky (ed.) *Remembrance of Pacific Pasts*. Honolulu: University of Hawaii Press.
- Febvre, L. (1973) 'Civilization: Evolution of a Word and Group of Ideas', in P. Burke (ed.) *A New Kind of History from the Writings of Febvre*, trans. K. Folca. London: Routledge & Kegan Paul.
- Ferguson, A. (1966[1767]) *An Essay on the History of Civil Society*. Edinburgh: Edinburgh University Press.
- Ferguson, A. (1975[1792]) *Principles of Moral and Political Science*, Vol. I. Hildesheim: Georg Olms Verlag.
- Filmer, R. (1991[1648]) *The Anarchy of a Limited or Mixed Monarchy*, in J. P. Sommerville (ed.) *Patriarcha and Other Writings*. Cambridge: Cambridge University Press.

- Forbes, D. (1966) 'Introduction' to A. Ferguson, *An Essay on the History of Civil Society*. Edinburgh: Edinburgh University Press.
- Gascoigne, J. (2002) *The Enlightenment and the Origins of European Australia*. Cambridge: Cambridge University Press.
- Harrington, J. (1977[1656]) *The Commonwealth of Oceana*, in J. G. A. Pocock (ed.) *The Political Works of James Harrington*. Cambridge: Cambridge University Press.
- Hont, I. (1987) 'The Language of Sociability and Commerce: Samuel Pufendorf and the Theoretical Foundations of the "Four-Stages Theory"', in A. Pagden (ed.) *The Languages of Political Theory in Early-Modern Europe*. Cambridge: Cambridge University Press.
- Howitt, A. W. (1996[1904]) *The Native Tribes of South-East Australia*. Canberra: Aboriginal Studies Press.
- Howitt, A. W. and Fison, L. (1880) *Kamilaroi and Kurnai*. Melbourne: George Robertson.
- Iverson, D. (2003) 'Locke, Liberalism and Empire', in P. R. Anstey (ed.) *The Philosophy of John Locke: New Perspectives*. London: Routledge.
- Johnson, W. (1773) 'Extracts of Some Letters, from Sir William Johnson Bart., to Arthur Lee, M.D., F.R.S. on the Customs, Manners, and Language of the Northern Indians of America', *Philosophical Transactions of the Royal Society* 63: at <http://www.bodley.ox.ac.uk/cgi-bin/ilej>
- Keal, P. (2003) *European Conquest and the Rights of Indigenous People: The Moral Backwardness of International Society*. Cambridge: Cambridge University Press.
- Kercher, B. (1995) *An Unruly Child: A History of Law in Australia*. St Leonards: Allen & Unwin.
- Lafitau, J. F. (1974[1726]) *Customs of the American Indians Compared with the Customs of Primitive Times*, Vol. I, ed. and trans. W. N. Fenton and E. L. Moore. Toronto: Champlain Society.
- Langford, P. (1989) *A Polite and Commercial People: England 1727–1783*. Oxford: Clarendon Press.
- Locke, J. (1970[1690]) *An Essay Concerning Human Understanding*, ed. J. Yolton. London: J. M. Dent.
- Locke, J. (1988[1690]) *Two Treatises of Government*, ed. P. Laslett. Cambridge: Cambridge University Press.
- Locke, J. (1993) 'Credit, Disgrace', in D. Wootton (ed.) *Political Writings of John Locke*. New York: Mentor.
- Mamdani, M. (2001) 'Beyond Settler and Native as Political Identities: Overcoming the Political Legacy of Colonialism', *Comparative Studies in Society and History* 43(4): 651–64.
- Millar, J. (1990[1806]) *The Origin of the Distinction of Ranks*. Bristol: Thoemmes.
- Montesquieu, C. L. Secondat, Baron de (1989[1748]) *The Spirit of the Laws*, ed. and trans. A. M. Cohler, B. C. Miller and H. S. Stone. Cambridge: Cambridge University Press.
- Morton, James Douglas, Earl of (1955) 'Hints offered to the consideration of Captain Cooke, Mr Banks, Doctor Solander, and the other Gentlemen who go upon the Expedition on Board the *Endeavour*', in J. C. Beaglehole (ed.) *The Journals of Captain James Cook on His Voyages of Discovery*, Vol. I, *Voyage of the Endeavour 1768–1771*. Cambridge: Cambridge University Press.

- Moyle, W. (1727[1698]) 'An Essay on the Lacedaemonian Government', in *The Whole Works of Walter Moyle, Esq.; that were published by himself*. London. Ann Arbor, MI: University Microfilms.
- Murray, G. H. (2003) 'Historiography', in A. Broadie (ed.) *The Cambridge Companion to the Scottish Enlightenment*. Cambridge: Cambridge University Press.
- Norgren, J. (1996) *The Cherokee Cases*. New York: McGraw-Hill.
- Ohlmeyer, J. H. (1998) "'Civilizing of those rude partes": Colonisation within Britain and Ireland, 1580's–1640's', in N. Canny (ed.) *The Oxford History of the British Empire*, Vol. I, *The Origins of Empire*. Oxford: Oxford University Press.
- Pagden, A. (1988) 'The "Defence of Civilisation" in Eighteenth-Century Social Theory', *History of the Human Sciences* 1(1): 33–45.
- Pagden, A. (1993) *European Encounters with the New World: From Renaissance to Romanticism*. New Haven, CT: Yale University Press.
- Pagden, A. (1995) *Lords of All the World*. New Haven, CT: Yale University Press.
- Pocock, J. G. A. (1975) *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton, NJ: Princeton University Press.
- Pocock, J. G. A. (1999) *Barbarism and Religion*, Vol. II, *Narratives of Civil Government*. Cambridge: Cambridge University Press.
- Purchas, S. (1906[1625]) *Hakluytus Posthumus or Purchas His Pilgrimes*, Vol. XIX. Glasgow: James MacLehose.
- Reynolds, H. (1992) *The Law of the Land*. Harmondsworth, Mx: Penguin.
- Reynolds, H. (1998) 'Sovereignty', in N. Peterson and W. Sanders (eds) *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*. Cambridge: Cambridge University Press.
- Robertson, W. (1791) *An Historical Disquisition Concerning the Knowledge which the Ancients had of India*. London.
- Robertson, W. (1812[1777]) *History of America*, Vol. II, 12th edn. London: Cadell & Davies.
- Rousseau, J.-J. (1973[1755]) 'A Discourse on the Origin of Inequality', in *The Social Contract and Discourses*, trans. G. D. H. Cole. London: J. M. Dent.
- Sagard, G. (1939[1632]) *The Long Journey to the Country of the Hurons*, ed. G. M. Wrong. Toronto: Champlain Society.
- Sher, R. B. (1994) 'From Troglodytes to Americans: Montesquieu and the Scottish Enlightenment on Liberty, Virtue, and Commerce', in D. Wootton (ed.) *Republicanism, Liberty and Commercial Society, 1649–1776*. Stanford, CA: Stanford University Press.
- Smith, B. (2000) 'Constructing "Pacific" Peoples', in R. Borofsky (ed.) *Remembrance of Pacific Pasts*. Honolulu: University of Hawaii Press.
- Smith, J. (1969[1612]) *A Map of Virginia*, in P. L. Barbour (ed.) *The Jamestown Voyages under the First Charter 1606–1609*, Vol. II. Cambridge: Hakluyt Society.
- Starobinski, J. (1993) *Blessings in Disguise; Or, the Morality of Evil*, trans. A. Goldhammer. Cambridge: Polity.
- Tacitus (1999) *Germania*, trans. J. B. Rives. Oxford: Clarendon Press.
- Tench, W. (1996a[1793]) 'A Complete Account of the Settlement at Port Jackson', in T. Flannery (ed.) 1788. Melbourne: Text Publishing.
- Tench, W. (1996b[1789]) 'A Narrative of the Expedition to Botany Bay', in T. Flannery (ed.) 1788. Melbourne: Text Publishing.

- Thom, M. (1995) *Republics, Nations and Tribes*. London: Verso.
- Thomas, N. (1994) *Colonialism's Culture: Anthropology, Travel and Government*. Princeton, NJ: Princeton University Press.
- Treaty of 1693 with Tribes of Massachusetts Bay and Rivers Area, and the 1714 and 1717 Maritime Treaties*, <http://www.kstrom.net/isk/maps/maritimes1693.html> (accessed 17 December 2004).
- Tuck, R. (1999) *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*. Oxford: Oxford University Press.
- Tully, J. (1993a) 'Placing the *Two Treatises*', in N. Phillipson and Q. Skinner (eds) *Political Discourse in Early-Modern Britain*. Cambridge: Cambridge University Press.
- Tully, J. (1993b) *An Approach to Political Philosophy: Locke in Contexts*. Cambridge: Cambridge University Press.
- Tyrell, J. (1681) *Patriarcha Non Monarcha: The Patriarch Unmonarch'd: Being Observations on a Late Treatise and Divers Other Miscellanies, Published under the Name of Sir Robert Filmer Baronet*. London.
- Tyrell, J. (1701) *A Brief Disquisition of the Law of Nature*. London.
- Wafer, L. (1934[1699]) *A New Voyage and Description of the Isthmus of America*, ed. L. E. Elliott Joyce. Oxford: Hakluyt Society.
- Wallace-Bruce, N. L. (1989) 'Two Hundred Years on: a Reexamination of the Acquisition of Australia', *Georgia Journal of International and Comparative Law* 19(1): 87–116.
- Windschuttle, K. (2002) *The Fabrication of Aboriginal History*, Vol. One, *Van Diemen's Land 1803–1847*. Sydney: Macleay Press.

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