



Why *Why Liberalism Failed* Fails as an Account of the American Order

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In Why Liberalism Failed, Patrick Deneen contends that the American founding is fundamentally Hobbesian and that the Constitution is the application of the Hobbesian revolution concerning liberty and anthropology. I contend that Deneen fundamentally mischaracterizes the American founding. The founders and framers affirmed the necessity of consent for political authority and obligation. But they also situated the necessity of consent in the context of a morally and metaphysically realist natural law, maintained that an objective good of the whole constitutes the final end of political association, and described liberty as subjection to the law of nature and the government of God. To be determined by one's base passions was to be a slave. Moreover, their constitutional thought and the institutional design of the constitutions they built rejected Hobbes's theory of sovereign power and the metaphysical ground on which it rests.

Patrick Deneen claims the American order was conceived in the original sin of liberalism, a universal solvent that explains the American founders, late nineteenth and early twentieth-century Progressivism, the late twentieth century political liberalism of John Rawls, which seeks a constitutional order without metaphysical foundations, and the postmodern pragmatism of Richard Rorty. Where many scholars take Progressivism, Rawlsian political liberalism, and Rorty to be opposed to the constitutional order established by the founders, Deneen sees all of these as currents within the liberal stream. Indeed, he apparently views these later movements as the unfolding of the founders' liberalism. As for America's founders, Deneen claims they are heirs to the liberal philosophy of John Locke, who, in turn, is the progeny of Thomas Hobbes. Thus, according to Deneen, the American founding, constitutional architects such as James Madison, and the Constitution are fundamentally Hobbesian. I reject this account of the founding. There is no contradiction in affirming (1) the necessity of consent for political authority and obligation on the ground of natural equality, and (2) an objective common good as the final cause of political order. Moreover, the American founders and their constitutions (state and national) *coherently* affirm both (1) and (2).

Deneen places Hobbes at the fountainhead of liberal philosophy. Hobbes, he argues, inaugurated two philosophical revolutions that overthrew the ancient and medieval worldview. “The first revolution and most distinctive aspect of liberalism,” he writes, “is to base politics upon the idea of voluntarism—the unfettered and autonomous choice of individuals. . . . According to Hobbes, human beings exist by nature in a state of radical independence and autonomy. Recognizing the fragility of a condition in which life . . . is ‘nasty, brutish, and short,’ they employ their rational self-interest to sacrifice most of their natural rights in order to secure the protection . . . of a sovereign. Legitimacy is conferred by consent” (31).¹ As for the “second revolution,” Hobbes rejected the “Aristotelian understanding” of the “human creature as part of a comprehensive natural order.” For Aristotle, “Humans . . . have a *telos*, a fixed end, given by nature and unalterable. Human nature was continuous with the natural world, and thus humanity was required to conform both to its own nature and . . . to the natural order of which it was a part. Human beings could freely act against their own nature and the natural order but such actions deformed them and harmed the good of human beings and the world” (34–35). Over and against the “Aristotelian understanding,” “Liberal philosophy rejected this requirement of human self-limitation. It displaced first the idea of a natural order to which humanity is subject and later the notion of nature itself” (35).

Deneen maintains Locke is “Hobbes’s philosophical successor,” who “understood” that “voluntarist logic ultimately affects all relationships, including family ones” (32). Moreover, if “the logic of choice” applies to such “elemental family relationships,” then it applies to every other human institution or association (33). Consequently, liberalism rejects the prevailing understanding of liberty in “pre-Christian antiquity particularly ancient Greece” and “during the long reign of Christendom” (99). The pre-modern understanding of liberty “was not doing as one wished, but was choosing the right and virtuous course. To be free, above all, was to be free from the enslavement to one’s own basest desires, which could never be fulfilled, and the pursuit of which could only foster ceaseless craving and discontent. Liberty was thus the condition achieved by self-rule, over one’s own appetites and over the longing for political dominion” (100). By way of contrast, “Liberty as defined by the originators of modern liberalism, was the condition in which humans were completely free to pursue whatever they desired. . . . Liberty was no longer, as the ancients held, the conditions of just and appropriate self-rule” (100).

Just as Deneen considers Locke the progeny of Hobbes, he maintains America’s founders descend from Locke and are *therefore* Hobbesians.²

Moreover, the Constitution is the “‘applied technology’ of liberal theory”: “The Constitution is the embodiment of a set of modern principles that sought to overturn ancient teachings and shape a distinctly modern human” (101). Certain passages in *The Federalist* demonstrate for Deneen the fundamental Hobbesianism of one of the Constitution’s principle architects:

According to James Madison in *Federalist* 10, the first object of government is the protection of ‘the diverse faculties of men,’ which is to say our individual pursuits and the outcomes of those pursuits—particularly, Madison notes, differences in the attainment of property. Government exists to protect the greatest possible sphere of individual liberty, and it does so by encouraging the pursuit of self-interest among both the citizenry and public servants. ‘Ambition must be made to counteract ambition’: powers must be separate and divided powers to prevent any one person from centralizing and seizing power; but at the same time, the government itself is to be given substantial new powers to act directly on individuals, both to liberate them from the constraints of their particular localities, and to promote the expansion of commerce and the ‘useful arts and sciences.’ (101)

Reflecting on *Federalist* 10 in *Conserving America?*, Deneen remarks, “Our regime enshrines the priority of inviolable private difference lodged in our ‘faculties,’ and is thus designed to shape a polity and a society that removes all potential obstacles to the realization of those differences.” For Madison, “Human social forms must be fundamentally understood as arbitrary and voluntarist, the consequence of free choices we make as abstract individuals” (5–6).

THE HISTORIOGRAPHIC OBSTACLE

Deneen presents his account of Hobbes, Hobbes’s relation to Locke, and the relation of the founders to both as uncontroversial. In fact, the interpretative claims he makes about each are highly contestable. This is especially true of his claim that Locke is a Hobbist and the founders Lockean-Hobbists. Locke and the American framers expressly rejected Hobbes’s moral and political philosophy.³ Proponents of the Hobbesian interpretation of the founding prior to Deneen usually concede this point but add that neither Locke nor the founders could be open about their Hobbism given Hobbes’s reputation as an atheistic materialist who denied the existence of an objective moral law.⁴ These scholars claim that Locke was latently or esoterically Hobbist and that the American framers absorbed Hobbesian premises from other sources such as Locke and Pufendorf.⁵

In his 1955 *The Liberal Tradition in America*, Louis Hartz argued that the American order was conceived in Lockean philosophy and that an unconscious Lockean liberalism explains American development from the founding to the mid twentieth century.⁶ According to Hartz, Lockean liberalism encompasses both the founders and the Progressivism that seemed to reject the Constitutional order they put into place. Two decades later in *Hobbes and America*, Frank Coleman gives the Hartzian interpretation a Hobbesian twist.⁷ Coleman argues that Locke was a Hobbesian and that American constitutional architects like Madison are really just applying ideas they inherited from Hobbes. Thus, “Hobbes is the true ancestor of constitutional liberal democracy”; “Locke and Madison transmit Hobbesian principles into the American tradition” (3); and, consequently, “the classical concept of the rule of law” is *not* “the basis for political association in America” (4). Moreover, according to Coleman, Lockean liberalism explains Madison, Thoreau, John C. Calhoun, the Social Darwinism of William Graham Sumner, and Robert Dahl’s description of twentieth century American politics.⁸

Hartz’s *Liberal Tradition* was the apotheosis of the thoroughly Lockean-liberal interpretation of the American order. But as *The Liberal Tradition* was being published, the Lockean consensus was beginning to unravel.⁹ During the decades of the mid-twentieth century, a number of scholars emphasized the influence (both direct and indirect) of classical thought on colonial America and the founding.¹⁰ At its height, what became known as the republican paradigm consigned Locke to insignificance when it came to his influence on the founders.¹¹ As with the Lockean-liberal interpretation of the American order, the republican paradigm swung the pendulum too far in the opposite direction.¹² The evidence for Locke’s influence on the founders is substantial, though the way in which they understood Locke remains a matter of dispute.¹³ Still, the evidence of direct and indirect classical influence on the founders and the Constitution is substantial as well.¹⁴ The historiography of the political thought of the founding is therefore considerably more complex than Deneen lets on.

THE FOUNDERS AND THE COMMON GOOD

In *Federalist* 45, Madison avers, “the public good, *the real welfare of the great body of the people, is the supreme object to be pursued*” and claims that “no form of government whatever has any other value, than as it may be fitted for the attainment of this object” (309; italics added).¹⁵ Correlatively, in *Federalist* 51, he writes, “Justice is the end of government. It is the end of civil society. It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit” (352). Indeed, justice

and the common good are the *raison d'être* for having an *extended* republic rather than one implemented over a small sphere: “In the extended republic of the United States, and among the great variety of interests, parties and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good” (353).

In *Federalist 55*, Madison echoes the classical insistence on the necessity of civic virtue for self-government and republican form:

As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust: So there are other qualities in human nature, which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us, faithful likenesses of the human character, the inference would be, that there is not sufficient virtue among men for self-government; and that nothing less than the chains of despotism can restrain them from destroying and devouring one another. (378)

Federalist 57 expresses the classical concern for the virtue of public officials: “The aim of every political constitution is or ought to be first to obtain for rulers, men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous, whilst they continue to hold their public trust” (384).

In *Federalist 63*, Madison insists that popular rule in a republic ought to be directed and restrained by reason, justice, and truth:

As the cool and deliberate sense of the community ought, in all governments, and actually will in all free governments ultimately prevail over the views of its rulers; so there are particular moments in public affairs, when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice and truth can regain their authority over the public mind? (425)

The idea of a constitutionally constrained or limited popular sovereign fits neither with Hobbes’s subjectivist view of good and evil nor his account of sovereign power as unlimited and absolute.¹⁶

Deneen concedes the founders used the premodern *language* of “the common good.” Nevertheless,

invocations of ‘common good’ in the founding documents, cannot be understood to derive from the pre-modern natural-law sense of ‘common good.’ Instead, the idea of ‘natural law’ by this time had been considerably re-defined by the very social contract thinkers whose arguments these passages reflect. The meaning of ‘natural law’—called by Locke ‘The Law of Nature’—had been fundamentally changed from its medieval understanding in order to support the individualist premises of social contract theory. For Locke, as well as Hobbes, the ‘Law of Nature’ is primarily a law of self-preservation. We are not by nature political animals who flourish through the cultivation of virtue in political communities; rather, we are by nature rational calculators of individual advantage¹⁷

For Deneen, the idea expressed in the Massachusetts Constitution of 1780, that, “The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people,” constitutes a rejection of classical ideas of natural law and the common good. Consequently, the next clause—“that all shall be governed by certain laws for the common good”—does not refer to an objective good of the whole, the achievement of which constitutes the purpose of political order.

Yet no inherent contradiction exists between the classical notion of the common good and the *political* contractarian claim that consent is necessary for political authority and obligation. Deneen ignores a common distinction made by covenant and consent theorists influenced by classical thought. In his *Politica* (first published in 1603 and again in 1610 and 1614), Johannes Althusius maintains that the common good is the final cause of political association and consent its efficient cause.¹⁸ This same distinction was made during the American founding by the Antifederalist Brutus.¹⁹ Now this Aristotelian distinction by itself entails that there is no *necessary* or *formal* contradiction between the necessity of consent for political authority and obligation *and* the classical account of the common good.

Perhaps Deneen thinks the contradiction is substantial rather than formal because certain final causes do not cohere with certain efficient causes of political order. He never says this. He implies that the contradiction is automatic precisely by eliding the distinction between final and efficient cause. That notwithstanding, I see only two reasons one might posit a substantial contradiction between the necessity of consent for political authority and obligation and a classical common good: *first*, one might hold

the common good goes hand in hand with an *organicist* view of political order and that social contract or consent theory denies the organicist view because it posits *natural liberty*; *second*, one might treat political contractarianism as an instance of conventionalism or normative constructivism and therefore as a denial of a real and objective good.

As to the second point, treating political contractarianism as an instance of conventionalism or normative constructivism fails to distinguish between political and moral contractarianism. Perhaps Deneen thinks they are the same thing. Yet political contractarianism is an attempt to apply the moral norm of promissory obligation to political ties. It therefore requires a *moral* norm such that we ought to keep our promises or binding agreements, and is therefore not the creation of human will or construction. Locke understood this.²⁰ Put another way, political contractarianism requires the rejection of moral contractarianism for its intelligibility. And Locke explicitly rejected moral contractarianism.²¹

So did revolutionary era Americans. When Americans of the period discussed the nature and foundation of moral obligation, they rooted it *neither* in human agreement or construction, *nor* in the exigencies of preservation *but* in God's goodness and prescriptive will. This grounding of morality in divine goodness and power pervades lectures on morality delivered by university presidents, law lectures, pamphlets, political sermons delivered to state legislatures, and public documents.²² For instance, *The Essex Result*, a public document produced by a convention of twelve towns in Essex County that met in 1778 to consider a Constitution proposed by Massachusetts General Court, states the following: "The reason why the supreme governor of the world is a rightful and just governor, and entitled to the allegiance of the universe is, because he is infinitely good, wise, and powerful. His goodness prompts him to the best measures, his wisdom qualifies him to discern them, and his power to effect them." Turning to political order, "In a state likewise, the supreme power [of political order] is best disposed of, when it is so modelled and balanced, and rested in such hands, that it has the greatest share of goodness, wisdom, and power, which is consistent with the lot of humanity."²³ The authors of *The Essex Result* were proponents of political but *not* of moral contractarianism. Rather, they were thoroughgoing theistic moral realists. And *The Essex Result* is not anomalous.

As to the first point, the classical notion of the common good does not require an organicist view of political order. For Aristotle, organic things are substances. Substances are the union of a particular form with particular matter. Individual persons are for Aristotle substances and organic wholes. But a *polis* is not a substance. A *polis* is a natural but *not* an or-

ganic whole.²⁴ Consequently, the good of political society (just as such) is not the good of an organic whole. Consequently, the notion of the common good does not entail an organicist view of political society and, therefore, does not require rejecting the view that political society is established by consent.

Moreover, natural liberty does not entail a radical individualism that rejects an objective good of the whole. When Locke affirmed natural liberty, he was rejecting Robert Filmer's criticism of two Counter-Reformation Thomists: Robert Bellarmine and Francisco Suarez. According to Bellarmine, "[Political] authority immediately resides in the entire multitude as its subject because this authority is of divine law. But divine law did not give this authority to any particular man; therefore it gave it to all. Moreover, once we remove the positive law, there is no good reason why among many equals one rather than another should rule. Therefore this authority belongs to the entire multitude."²⁵ Asserting that this is "the one and only argument I can find produced by any author for the proof of the natural liberty of the people" (6), Filmer proceeds to reject Bellarmine's argument.²⁶

Locke's rejection of Filmer's rejection of Bellarmine's and Suarez's account of natural liberty is, necessarily, an affirmation of their account. Natural liberty is therefore not a Lockean idea but one that he appropriates from Bellarmine and Suarez via his rejection of Filmer. Bellarmine and Suarez, however, were moral and metaphysical realists who affirmed a real common good as the proper aim of law and political association. They affirmed *both* natural liberty and a classical understanding of the common good. From their perspective, an objective good of the whole does not require denying natural liberty, nor does natural liberty entail rejecting classical accounts of natural law and the common good.

THE FOUNDERS' CONSTITUTIONALISM VERSUS HOBBS'S

While no contradiction exists between the founders' insistence on the necessity of consent and the classical conception of the common good, there is one between American constitutionalism and Hobbesian political theory. There is, as Hobbes believed, an *essential* connection between his metaphysics (his nominalism concerning universals, subjectivism and relativism concerning good and evil, rejection of a *summum bonum* or *finis ultimus*, an account of felicity as the satisfaction of one desire after another where the satisfaction of any particular desire is merely the means to the satisfaction of future desires, and claim that in the natural condition nothing is just or unjust) *and* his theory of sovereignty (as absolute in the sense of being unlimited and indivisible, as unlimited both with respect to

what it can reach and as to what it can with right command, as over and above law and therefore unlimited by law).²⁷ Given Hobbes's metaphysics, I maintain the only account of authority available to him is the theory of sovereignty he elaborates.²⁸ Consequently, if one affirms both Hobbes's metaphysics (HM) and political authority (PA), whether as actual or merely conceptually possible, then one must also affirm Hobbes's account of sovereignty (HS): $(HM \cdot PA) \supset HS$.

American constitutions from the founding period—including the *Constitution of 1789*—and the constitutional thought of the framers reject Hobbesian sovereignty. In particular, the founders' Constitutional order rejects the notion of absolute and arbitrary sovereign power. Rather, the founders insisted not only on limited government but also upon limited political authority of any kind. Thus, if we call the founders advocates of popular sovereignty, then they embraced constrained or limited *rather than* unlimited popular sovereignty. That, indeed, is the point of the argument concerning majority faction in *Federalist* 10 and of the argument concerning the Senate, quoted above, in *Federalist* 63. Thus, the founders affirmed $\sim HS$. Given *modus tollens*, necessarily they also rejected the antecedent to the conditional.²⁹ Thus, $\sim(HM \cdot PA)$ —i.e., not both Hobbesian metaphysics and political authority. According to DeMorgan's Rule, $\sim(HM \cdot PA)$ is equivalent to $\sim HM \vee \sim PA$ (*either* $\sim HM$ *or* $\sim PA$).³⁰ That is, denying Hobbesian sovereignty, as the founders and their constitutions did, entails either rejecting political authority (as such) or rejecting Hobbesian metaphysics. But the founders and their constitutions sought to constitute political authority in the proper way. They affirmed PA, which is equivalent to $\sim \sim PA$. Given the Disjunctive Syllogism, necessarily they affirmed $\sim HM$: they rejected Hobbesian metaphysics.³¹ The logic of their position and the design of their constitutions coheres with their express disavowals of Hobbes.

The way in which the framers and the Constitution constrained popular sovereignty also entails the affirmation of a real good, transcendent and normative for human willing.³² Madisonian constitutionalism and the Constitution of 1789 affirm the authority of the people as determined by the majority but also distinguish long-term from immediate public opinion, favoring the former over the latter. The passages from *Federalist* 51 and 63 are among those that make this clear. But in that case, Madisonian constitutionalism distinguishes some instances of popular will from others. Now it is impossible intelligibly to distinguish some instances of will from others on the basis of will alone.³³ Consequently, any distinction of some instances of will as authoritative or binding in relation to other instances of will *necessarily* presupposes a rule and measure of right will-

ing that is normative for human will and not constructed by it, for any constructed standard would reduce to one instance of will among others. To put all this another way, Madisonian constitutionalism—in contrast to the unrestrained majoritarianism of Oliver Wendell Holmes—entails an objective or *real* standard of good and right not reducible to human will, desire, or perception.

THE FOUNDERS' SYNTHESIS: THE NECESSITY OF CONSENT AND REALIST NATURAL LAW

Rather than affirming a Hobbesian metaphysic or philosophical anthropology, the American founders affirmed the necessity of consent for the efficient cause of political authority and obligation *and* a realist account of moral obligation and the good. Samuel West's election day sermon to the Massachusetts legislature in Boston in 1776 captures their position:³⁴

[A] state of nature, though it be a state of perfect freedom, yet it is very far from a state of licentiousness. The law of nature gives men no right to do anything that is immoral, or contrary to the will of God, and injurious to their fellow creatures; for a state of nature is properly a state of law and government, even a government founded upon the unchangeable nature of the Deity, and a law resulting from the eternal fitness of things. Sooner shall heaven and earth pass away, and the whole frame of nature be dissolved, than any part even the smallest iota, of this law shall ever be abrogated; it is unchangeable as the Deity himself, being a transcript of his moral perfections. (414)

West proceeds to elaborate a thoroughly classical conception of liberty:

[T]he highest state of liberty subjects us to the laws of nature and the government of God. The most perfect freedom consists in obeying the dictates of right reason, and submitting to natural law. When a man goes beyond or contrary to the law of nature and reason, he becomes a slave of base passions and vile lust; he introduces confusion and disorder into society, and brings misery and destruction upon himself. This, therefore, cannot be called a state of freedom, but a state of the vilest slavery and the most dreadful bondage. The servants of sin and corruption are subjected to the worst kind of tyranny in the universe. Hence we conclude that where licentiousness begins, liberty ends. (415)

As for political rule,

tyranny and arbitrary power are utterly inconsistent with and subversive of the very end and design of civil government, and directly contrary to natural law, which is the true foundation of civil government and all politic law. Consequently, the authority of a tyrant is of itself null

and void; for as no man can have a right to act contrary to the law of nature, it is impossible that any individual, or even the greatest number of men, can confer a right upon another of which they themselves are not possessed; i.e., no body of men can justly and lawfully authorize any person to tyrannize over and enslave his fellow-creatures, or do anything contrary to equity and goodness. (416)

West's sermon conjoins elements from Lockean political theory with a classical conception of liberty, a realist account of the good, and an account of moral and political obligation grounded in divine Goodness, authority, and prescriptive will—all without contradiction. Here we must note that many of the seemingly “Lockean” elements in West's sermon antedate Locke (and Hobbes), appearing in classically grounded theorists such as Richard Hooker, Bellarmine, Suarez, and Althusius. Contemporaneous to (but also just before) Locke, Algernon Sidney affirmed all the so-called Lockean elements affirmed by the American founders.³⁵ But in all these cases, the moral and metaphysical ground was realist rather than Hobbesian. Given that the major lineaments of Lockean political theory antedate Locke and Hobbes, founders like West are not merely syncretizing Lockean political theory with a classical foundation. Rather, they are returning consent theory to its proper metaphysical and anthropological home.

Notes

1. *Why Liberalism Failed* (New Haven, Conn.: Yale University Press, 2018), 31. Further citations of this work will be given parenthetically in the text.

2. See *Conserving America?: Essays on Present Discontents In Conserving America?* (South Bend, Ind.: St. Augustine's Press, 2016), 158.

3. Locke expressly rejected being a Hobbit with respect to morality in his correspondence with Isaac Newton. See Maurice William Cranston, *John Locke: A Biography* (Oxford: Oxford University Press, 1985), 372–73. As for the American founders, see Alexander Hamilton's “The Farmer Refuted, &c.” published in the *New York Gazetteer*, 23 February 1775, printed by James Rivington; and James Wilson's “Lectures on Law,” chapter II, 474, chapter III, 510, and chapter IV, 530, in the *Collected Works of James Wilson*, Volume 1, ed. Kermit L. Hall and Mark David Hall (Indianapolis: Liberty Fund, 2007).

4. See Gary L. McDowell, “Private Conscience & Public Order: Hobbes & *The Federalist*,” *Polity* 25(3) (Spring 1993): 423–24; and Walter Berns, “Judicial Review and the Rights and Laws of Nature,” *The Supreme Court Review* (1982): 67.

5. McDowell, “Private Conscience,” 424.

6. Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought since the Revolution* (San Diego: Harcourt Brace & Company, 1955).

7. Frank M. Coleman, *Hobbes and America: Exploring the Constitutional Foundations* (Toronto: University of Toronto Press, 1977).

8. See chapters 6 and 7.

9. Joshua Foa Dienstag, "Serving God and Mammon: The Lockean Sympathy in Early American Thought," *American Political Science Review* 90(3) (September 1996): 498–501.

10. Richard M. Gummere, *The American Colonial Mind and the Classical Tradition* (Cambridge, Mass.: Harvard University Press, 1963).

11. See J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, N.J.: Princeton University Press, 1975).

12. Daniel T. Rodgers, "Republicanism: The Career of a Concept," *The Journal of American History* 79(1) (June 1992): 11–38.

13. See Steven M. Dworetz, *The Unvarnished Doctrine: Locke, Liberalism, and the American Revolution* (Durham, N.C.: Duke University Press, 1990).

14. See Carl J. Richard, *The Founders and the Classics: Greece, Rome, and the American Enlightenment* (Cambridge, Mass.: Harvard University Press, 1994).

15. Alexander Hamilton, James Madison, and John Jay, *The Federalist*, ed. Jacob E. Cooke (Middletown: Wesleyan University Press, 1961).

16. See chapters 3 and 4 of DeHart, *Uncovering the Constitution's Moral Design* (Columbia: University of Missouri Press, 2007). On Hobbes's account of sovereign power, see DeHart, "Leviathan Leashed: The Incoherence of Absolute Sovereign Power," *Critical Review* 25(1) (2013): 11–17.

17. Patrick J. Deneen, "Liberalism's Logic and America's Challenge: A Reply to Schlueter and Muñoz," *Public Discourse*, March 6, 2013.

18. Johannes Althusius, *Politica*, ed. and trans. Frederick S. Carney (Indianapolis: Liberty Fund, 1995), chapter I, section 29, p. 24.

19. Brutus II in *The Anti-Federalist: Writings by the Opponents of the Constitution*, ed. Herbert J. Storing, abridged by Murray Dry (Chicago: University of Chicago Press, 1985), 118.

20. See *Questions Concerning the Law of Nature*, ed. and trans. Robert Horwitz, Jenny Strauss Clay, and Diskin Clay (Ithaca, N.Y.: Cornell University Press, 1990), 115–17 and 211–13.

21. *Questions*, 199–201.

22. See John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), Lecture IV, Thomas Clap, *An Essay on the Nature and Foundation of Virtue and Obligation being a Short Introduction to the Study of Ethics* (New Haven: Printed by B. Mecom, 1765), 8–13, and James Wilson, "Lectures on Law," II–IV.

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23. Theophilus Parsons, *The Essex Result in American Political Writing during the Founding Era, 1760–1805*, Volume I, ed. Charles S. Hyneman and Donald S. Lutz (Indianapolis: Liberty Fund, 1983), 489.

24. See Fred D. Miller, *Nature, Justice, and Rights in Aristotle's Politics* (Oxford: Clarendon Press, 1997), 54–55.

25. Robert Bellarmine, *On Laymen or Secular People* in *On Temporal and Spiritual Authority*, trans. and ed. Stefania Tutino (Indianapolis: Liberty Fund, 2012), chapter 6, p. 22; Filmer, *Patriarcha and Other Writings* (Cambridge: Cambridge University Press, 1991), chapter 1.

26. Suarez also expressly affirmed natural liberty in *A Treatise on Laws and God the Lawgiver* in *Selections from Three Works* (Indianapolis: Liberty Fund, 2015), Book II, chapter III, p. 430.

27. See DeHart, “Leviathan,” in *The New Catholic Encyclopedia Supplement 2012–2013: Ethics and Philosophy*, Volume 3, ed. Robert L. Fastiggi (Detroit: Gale, 2013), 888–90.

28. See “Natural Law and the Constitution: Conflict or Concord?” delivered to fourteenth meeting of the James Wilson Seminar, April 28, 2018.

29. *Modus tollens* is a rule of inference for conditionals that holds (1) If A, then B, (2) Not B, *therefore* (3) Not A. A stands for the antecedent and B for the consequent in the conditional. \supset is the logical symbol for implication (if . . . then).

30. DeMorgan’s Rule is a rule of logical equivalences for conjuncts that holds $\sim(A \cdot B)$ —or *not both A and B*—is equivalent to $\sim A \vee \sim B$ (not A or not B).

31. The Disjunctive Syllogism holds (1) A or B ($A \vee B$), (2) not B ($\sim B$), *therefore* (3) A. Double negation holds that A is equivalent to $\sim\sim A$ (not, not A).

32. See DeHart, *Uncovering*, chapters 3 and 4.

33. See DeHart, “Leviathan Leashed,” 23–26.

34. “On the Right to Rebel Against Governors,” in Hyneman and Lutz, *American Political Writing during the Founding Era*.

35. Donald S. Lutz, *The Origins of American Constitutionalism* (Baton Rouge: Louisiana State University Press, 1988), 114 and 118–19.