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Aristotle, Locke, and the American Founding: The Real Truth about Leo Strauss

Edward J. Erler
California State University, San Bernardino
eerler@csusb.edu

In the summer of 1787, the delegates to the Constitutional Convention met in Philadelphia to design a constitution that was intended to put into motion those principles of constitutional government that had been enunciated in the Declaration of Independence. As Madison later wrote in the Federalist, the principles of the Constitution were derived from “the transcendent law of nature and nature’s God, which declares that the safety and happiness of society are the objects at which all political institutions aim and to which all such institutions must be sacrificed.”1 Everyone of course would have recognized this passage as a paraphrase of the Declaration of Independence. Madison aptly noted that the Declaration posits the “safety and happiness of society” as the end and purpose of government. This is the central of three explicit references to the Declaration in the Federalist and it is mentioned in the central number of the eighty-five papers. The first reference recounts “the transcendent and precious right of the people to ‘abolish or alter their governments as to them shall seem most likely to effect their safety and happiness.’”2 This reference to the Declaration is the only one in the Federalist that has a footnote giving as the source the “Declaration of Independence.” This is curious since the quoted portion is inaccurate: the words “alter” and “abolish” have been transposed, and the citation seems designed to call attention to this transposition. The object of the Convention, Madison seems to say, was to “abolish” rather than to “alter” the Articles of


2 Federalist, No. 40, 252.

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Confederation. The third reference, penned by Hamilton, also invoked the right of revolution, “that fundamental principle of republican government which admits the right of the people to alter or abolish the established Constitution whenever they find it inconsistent with their happiness.” Hamilton also clearly implies that the purpose of government is the “happiness” of the people. Thus it seems evident that the two principal authors of the Federalist believed that the Declaration posited the “safety and happiness of the people” as the end and purpose of government.

This analysis would seem to belie the argument of those who claim that the “Declaration unequivocally asserts that the purpose of government is the securing of rights, and only the securing of rights.” Madison seems insistent, however, that the purpose of government as understood by “the leaders of the Revolution” was the security of “private rights and public happiness.” As Madison clearly indicates here, the protection of private rights is a necessary but not sufficient condition for securing public happiness. Madison undoubtedly had this distinction in mind when he wrote that “justice is the end of government. It is the end of civil society. It ever has

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3 In *Federalist*, No. 40, Madison answers the charge that the Convention had exceeded its authority in proposing a new constitution when it had been charged with “the sole and express purpose of revising the articles of Confederation [to] render the federal Constitution adequate to the exigencies of government and the preservation of the Union” (No. 40, 247–48). Madison, however, argued that the instructions to the Convention were contradictory: no revision of the Articles could make them adequate precisely because the principles upon which the Articles rested were defective. As Hamilton remarked in No. 15, the Articles had created “the political monster of an imperium in imperio,” which “cannot be amended otherwise than by an alteration in the first principles and main pillars of the fabric” (No. 15, 108). It would be of little avail for the “safety and happiness” (No. 40, 253) of the people to build a new structure on a defective foundation, since the new superstructure would partake of the deficiencies of the foundation itself. Madison argued that a sound principle of legal construction required those who were faced with contradictory commands to choose the most important. Obviously it was more important to have a constitution that was adequate to meet the exigencies facing the Union than one that was inadequate but adhered strictly to the command that the Articles be revised. In any case, Madison concluded, since “the plan to be framed and proposed was to be submitted to the people themselves, the disapprobation of this supreme authority would destroy it forever; its approbation blot out antecedent errors and irregularities” (No. 40, 253; emphasis original). In submitting the proposed constitution directly to the people, the Convention also subverted its charge to present the revisions to Congress who would, upon approval, submit them to the State legislatures. A unanimous concurrence of the State legislatures was required under the Articles for ratification. In No. 40, Madison states that “the establishment of a government adequate to the national happiness was the end at which [the Articles of Confederation] themselves originally aimed, and to which they ought, as insufficient means, to have been sacrificed” (249). In other words, Madison clearly intimates that the Constitution itself resulted from an act of revolution appealing to the supreme authority of the people!

4 *Federalist*, No. 78, 469.


6 *Federalist*, No. 14, 104.
been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.”7 Liberty is the means to justice, and justice is the end of both civil society and government. Justice seems to be, on this account, nothing less than the security of “private rights and public happiness,” where private rights are always understood as subordinate to public happiness.

During a particularly contentious session of the Virginia ratifying convention, Madison remarked that “professions of attachment to the public good, and comparisons of parties, ought not to govern or influence us now. We ought...to examine the constitution on its own merits solely: we are to enquire whether it will promote the public happiness: its aptitude to produce this desirable object, ought to be the exclusive subject of our present researches.”8 Security of private rights thus appears to be only a part of the calculus; the other and—if we are to credit Madison—the more important part, is public happiness. Public happiness cannot be understood as simply the aggregate of private rights; it also includes the civic obligations that form the basis for friendship which in turn is the basis for citizenship. Madison’s argument here is reminiscent of Aristotle’s argument in the first book of the Politics that the polis is established for the sake of mere life but continues for the sake of the good life, i.e., for the sake of human happiness.

Harry Jaffa comments on the ends of government contemplated in the Declaration of Independence:

After speaking of our unalienable rights, to secure which governments are instituted, the Declaration of Independence goes on to say that “whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundations on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.” Notice that in the second institution, or reinstitution of government, “rights” become “ends.” And these ends are now said to be “Safety” and “Happiness,” the alpha and omega of political life in Aristotle’s Politics.

In a statement that is not entirely hyperbolic, Jaffa asserts that “in one form or another, this metamorphosis of Lockean ‘rights’ into Aristotelian ‘ends’ (or vice versa) recurs in many of the documents of the Founding.”9 Minds of

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7 Federalist, No. 51, 324.
a peculiar structure—those who believe (purportedly following the philosopher Leo Strauss) that there is an impenetrable wall separating the thought of ancients and moderns—might object, however, to Jaffa’s attempt to identify Aristotelian elements in the Declaration of Independence, to say nothing of his conflation of Aristotle and Locke.10

In his later years Jefferson often reflected on the purpose of the Declaration. In a letter to James Mease in 1825, Jefferson characterized the Declaration as “the genuine effusion of the soul of our country at that time.”11 And in one of his most famous letters he recounted that

> the object of the Declaration of Independence was not to find out new principles, or new arguments, never before thought of, not merely to say things which had never been said before; but to place before mankind the common sense of the subject, in terms so plain and firm as to command their assent. Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind. All its authority rests then on the harmonizing sentiments of the day, whether expressed in conversation, in letters, printed essays, or the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, &c.12

Jefferson undoubtedly read the “elementary books of public right” with the eyes of what Aristotle called a *phronimos*, a practically wise statesman. He read the history of political philosophy largely unmindful (or unaware) of the philosophic dispute between ancients and moderns. As a statesman,

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10 See, e.g., Catherine and Michael Zuckert, *The Truth about Leo Strauss: Political Philosophy and American Democracy* (Chicago: University of Chicago Press, 2006), 31; Strauss “radicalized a commonplace distinction between ancients and moderns. With the emergence of modern philosophy, Strauss believed, there had occurred a cataclysmic break with the older philosophy, a break of such magnitude that all that came after was simply a working out of the implications of that break. In the Staussian frame, the difference between ancients and moderns became decisive; Strauss sided with the ancients and traced the ills of modern philosophy and many of the ills of modern politics to that break with ancient philosophy and the consequences of that break.” It is doubtful, however, that the distinction between ancients and moderns was ever “decisive” for Strauss, except in a rhetorical sense. The crucial division in philosophy for Strauss was between reason and revelation. See, e.g., Leo Strauss, “Reason and Revelation” (1948), in *Leo Strauss and the Theologico-Political Problem*, by Heinrich Meier, trans. Marcus Brainard (Cambridge: Cambridge University Press, 2006), 177: “A philosophy which believes that it can refute the possibility of revelation—and a philosophy which does not believe that: this is the real meaning of the querelle des anciens et des modernes.”


Jefferson’s primary concern was the history of politics, not the history of philosophy; he undoubtedly understood Locke’s natural law as a reflection or adaptation of Aristotle. What Jefferson may have understood—or divined—was that after the advent of Christianity natural right had to appear in the guise of natural law, and that egalitarian natural right was the only form of natural right available to statesmen given the “theological-political predicament” posed by Christianity. As a phronimos, Jefferson would have been free to pick and choose (or combine) political elements that were useful and beneficial without any consciousness of the fact that natural right—and thereby the political prudence that animates statesmanship—had purportedly been undermined in the history of political philosophy by Machiavelli and his epigones. Jefferson and the American founders seemed to be wholly unaware of the fact that every post-Machiavellian regime was inevitably a wholly “modern” or “Machiavellian” regime governed only by the dictates of necessity; or to say nearly the same thing, that “Machiavellianism” had succeeded in banishing prudence from the universe of political discourse. But even Locke—one of Machiavelli’s supposed epigones—seemed to have breached the impenetrable wall between ancients and moderns when, in a passage that could have been addressed to statesmen, he remarked that

truth is always the same; time alters it not, nor is it the better or worse for being of ancient or modern tradition….There is no occasion on this account to oppose the ancients and the moderns to one another, or to be squeamish on either side. He that wisely conducts his mind in the pursuit of knowledge will gather what lights, and get what helps he can, from either of them, from whom they are best to be had, without adoring the errors or rejecting the truths which he may find mingled in them.13

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It is clear that Jefferson and the founders did not read Locke the way Leo Strauss read Locke. One close observer of Strauss’s work comments that “there is no evidence that the founding generation understood Locke in anything other than the conventional way, and considerable evidence pointing in the opposite direction.”14 In fact, there is no evidence that anyone had read Locke with the skill, innovation, and penetration of Strauss,

13 John Locke, Of the Conduct of the Understanding, ed. Ruth W. Grant and Nathan Tarcov (Indianapolis, IN: Hackett, 1996), 197 ($24); see Leo Strauss, The City and Man (Chicago: Rand McNally, 1964), 11.

including the most insightful philosophers. Strauss discovered an esoteric Locke buried deep in his writings, a Locke who was radically modern, and doing his part to extend the philosophic project initiated by Machiavelli. Strauss calls Locke “the most famous and the most influential of all modern natural rights teachers” and remarks that his influence stems from the fact that he makes “it particularly difficult for us to recognize how modern he is or how much he deviates from the natural right tradition. He was an eminently prudent man, and he reaped the reward of superior prudence: he was listened to by many people, and he wielded an extraordinarily great influence on men of affairs and on a large body of opinion.” The result of Locke’s “superior prudence” is that “we are then apparently confronted with an unbroken tradition of perfect respectability that stretches from Socrates to Locke.” It is only deep below the surface that Strauss discovered a Lockean natural right that is “fundamentally different.”

The exoteric Locke did provide a politically salutary doctrine—laws of nature were derived from reason and supported by revelation; sovereignty could be safely lodged in the people and government derived from the consent of the governed rather than the divine right of kings. Regular elections, separation of powers, and representation were the essentials of constitutional government and the ultimate check on government was the right of revolution, the ultimate expression of the people’s sovereignty. These first principles would provide solid support for constitutional government and the rule of law. If we are to understand the founders as they understood themselves, then we must understand Locke as they understood him, not as he was understood by Strauss.

Professors Catherine and Michael Zuckert object to this line of argument because it “seems to derogate from the honor due to the founders…[that] they were not intelligent enough to grasp the real Locke and were saved from falling into dark modernity only by their stupidity (to put it harshly).” It is difficult to know how serious the Zuckerts are here—they almost seem to be merely jesting. If the founders had penetrated to the deepest levels of Locke’s esotericism and still adopted him as “America’s philosopher” then it is difficult to see how they deserve to be honored for deliberately putting America on the path to historicism, relativism, and nihilism under the

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guise that they were adhering to the “transcendent principles” of the “Laws of Nature and Nature’s God.”

Surely the founders were philosophic statesmen, open to philosophy and guided by the “elementary books of public right,” but it would be difficult to argue that they were philosophers in their own right. Why does it dishonor the founders to suggest that they did not read Locke with the penetration of Leo Strauss when no one else had ever read Locke with the same care and precision, including, as far as we know, the most accomplished political philosophers? But, according to the Zuckerts, even if the founders understood only the exoteric Locke they would have been dragged “across into modern politics” because the exoteric Locke is inevitably accompanied by the substance of the esoteric Locke. You can’t have one without the other and the esoteric Locke will always prove more powerful that the exoteric Locke. And, the Zuckerts conclude, “this is what Strauss believed Locke succeeded in doing.”

It is true that Strauss presents Locke as a radically modern thinker:

Locke’s teaching on property, and therewith his whole political philosophy, are revolutionary not only with regard to the biblical tradition but with regard to the philosophic tradition as well. Through the shift of emphasis from natural duties or obligations to natural rights, the individual, the ego, had become the center and origin of the moral world, since man—as distinguished from man’s end—had become that center or origin.

The American founders, of course, made Locke’s “teaching on property” the foundation of constitutional government. What is more, protections for the natural right to property provided a common ground for rich and poor that was not available in the classical world. The idea of rights or natural rights, understood as claims or reservations against government, was unknown to classical political philosophy. Aristotle’s mixed regime, a combination of oligarchy and democracy, was a regime in which the interests of the rich and

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18 Zuckert and Zuckert, Truth about Leo Strauss, 249.

19 Strauss, Natural Right and History, 248.
poor served to check one another. There was no notion, however, that rich and poor would ever share a common interest. But the right to property supplied such a common interest and could be supported equally by rich and poor. Thus the foundations for republican government anchored in the right of property might hold the prospect of avoiding the kinds of class antagonisms that plagued ancient regimes. Aristotle had argued that a mixed regime with a large middle class would be the most stable because the middle class would be neither rich nor poor and would serve as a kind of buffer between the two antagonistic classes. A large middle class, of course, would have been a rarity in the ancient world simply because of widespread scarcity. The way of the world was a few wealthy and the many poor. But with a system of private property and the “emancipation of acquisition,” all justified in the name of the common good (every private acquisition in a scheme of capital accumulation increases the store of goods available for public consumption), wealth could be produced at a rate hitherto unknown. This increase in abundance makes it possible to have large, middle-class democracies in which the protection of the right to property, considered as the most comprehensive right, will be “the first object of government.” Constitutional government understood as limited government and the rule of law all proceed from Locke’s “teaching on property.”

What is more, in constitutional government of the kind inspired by Locke and fully endorsed by the founders justice could be more securely grounded in nature! As Strauss writes in *Liberalism Ancient and Modern*:

> It is a demand of justice that there should be a reasonable correspondence between the social hierarchy and the natural hierarchy. The lack of such a correspondence in the old scheme was defended by the fundamental fact of scarcity. With the increasing abundance it became increasingly possible to see and to admit the element of hypocrisy which had entered into the traditional notion of aristocracy; the existing aristocracies proved to be oligarchies, rather than aristocracies. In other words it became increasingly easy to argue from the premise that natural inequality has very little to do with social inequality, that practically or politically speaking one may safely assume that all men are by nature equal, that all men have the same natural rights, provided one uses this rule of thumb as the major premise for reaching the conclusion that everyone should be given the same opportunity as everyone else: natural inequality has its rightful place in the use, nonuse, or abuse of opportunity in the race as distinguished from at
Thus the Lockean system, adopted and adapted by the founders, made it possible to improve on the ancient models from the point of view of distributive justice or natural right. In the world of Aristotle, aristocracies were almost always thinly disguised oligarchies. Pseudoaristocracy could now be replaced by genuine aristocracy because the increase in abundance that resulted from the “emancipation of acquisition” made possible a system of distributive justice based on “equal opportunity,” where natural talents rather than class or caste would be the basis for advancement. Strauss quoted Jefferson’s 1813 letter to John Adams with evident approval: “That form of government is the best, which provides the most effectually for a pure selection of [the] natural aristoi into offices of the government.” Strauss comments that Jefferson’s statement reflected classical political philosophy’s answer to the best political order, the “claim to rule which is based on merit, on human excellence, on ‘virtue.’” The sentence preceding the one quoted by Strauss is no less remarkable: “the natural aristocracy,” Jefferson wrote, “I consider as the most precious gift of nature, for the instruction, the trusts, and government of society. And indeed, it would have been inconsistent in creation to have formed man for the social state, and not to have provided virtue and wisdom enough to manage the concerns of the society.” The existence of the natural aristoi is thus proof for Jefferson that “creation” has designed man for the social or political state! Man is by nature a political animal, and the best regime by nature is aristocracy. And since it is evident that “virtue and talent” have been “by nature…scattered with equal hand through all its conditions,” a system of equal opportunity allowing virtue and talent to rise from all classes would be most consistent with “natural right.”

For Jefferson, the existence of the natural aristoi was no less a self-evident truth than the fact that “all men are created equal.” It is evident that inequalities exist among human beings by nature. In addition to

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21 Leo Strauss, *What Is Political Philosophy? and Other Studies* (Glencoe, IL: Free Press, 1959), 86. Jefferson’s sentence in the original letter to Adams is posed as a question. The fact that Strauss changed Jefferson’s question to a declarative statement would seem to indicate that he adopted it as a statement of his own.

22 Jefferson to John Adams, October 12, 1813, in *Jefferson: Writings*, 1306.

inequalities in strength and beauty, there are a host of inequalities in regard to intelligence, potential for virtue, and social capacity, to mention only some. What natural equality meant for Locke, Jefferson, and the founders was that by nature there are no inequalities—however measured—that makes anyone by nature the ruler over anyone else. As Jefferson noted: “Because Sir Isaac Newton was superior to others in understanding, he was not therefore lord of the person or property of others.”24 Thus, “the just powers of government” must be derived from “the consent of the governed,” and directed to securing the “Safety and Happiness” of those who consent to be governed. The deepest problem of democratic or republican statesmanship is how to reconcile wisdom and consent.

Strauss writes that “according to the classics, the best way of meeting these two entirely different requirements—that for wisdom and that for consent or for freedom—would be that a wise legislator frame a code which the citizen body, duly persuaded, freely adopts. That code, which is, as it were, the embodiment of wisdom, must be as little subject to alteration as possible; the rule of law is to take the place of the rule of men, however wise.”25 Strauss was certainly aware that his description here of the classical solution is almost a description of the manner in which the American Constitution was framed and adopted, with one important difference: in the place of an “individual citizen of preeminent wisdom and approved integrity,” Americans entrusted the framing of the organic law to a deliberative body, a “select body of citizens, from whose common deliberations more wisdom, as well as more safety,” might be expected.26 What this deliberative body

25 Strauss, Natural Right and History, 141.
26 Federalist, No. 38, 231, 233. Madison wrote that “Solon, according to Plutarch, was in a manner compelled by the universal suffrage of his fellow-citizens to take upon him the sole and absolute power of new-modeling the constitution.” And in recounting some of the “difficulties with which…celebrated reformers had to contend, as well as of the expedients which they were obliged to employ in order to carry their reforms into effect,” Madison notes that “Solon…confessed that he had not given to his countrymen the government best suited to their happiness, but most tolerable to their prejudices.” (Madison engaged in some hyperbole here since Plutarch actually says Solon gave the Athenians the best laws they would receive [prosedexanto]). This actually had been a subject of debate at the Constitutional Convention: Pierce Butler observed that “we must follow the example of Solon who gave the Athenians not the best Gov[ernmen]t he could devise; but the best they would receive.” Madison, however, joined by Alexander Hamilton, James Wilson, and Edmund Randolph, argued that “we ought to consider what was right & necessary in itself for the attainment of a proper Gov[ernmen]t. A plan adjusted to this idea will recommend itself.” Immediately following Madison’s statement Elbridge Gerry protested that “it was necessary to consider what the people would approve. This had been the policy of all Legislators.” Considering the fact that the members of the Convention were forced to compromise on crucial issues, most importantly on the issue of slavery, deliberative bodies seem to be no less subject to the necessity of “expedients” and “temporizing policies” than ancient
produced was constitutional government which embodied the rule of law as its fundamental principle. The framers also believed that the constitutional scheme adopted in 1789 would provide “most effectually for a pure selection of [the] natural aristoi into offices of the government,” those “whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations.” An extensive republic of the kind contemplated by the new Constitution would be “most favorable to the election of proper guardians of the public weal.”27 Yet as prudent statesmen the framers knew that experience had demonstrated the utility of “auxiliary precautions” in the event that patriotism and love of justice failed as a sufficient motive to serve the “public weal.” These “auxiliary precautions”—the separation of powers—in which “ambition would be made to counteract ambition” could supply “the defect of better motives” when better motives were unavailing.28 Ambition would engage “the love of fame, the ruling passion of the noblest minds”29 in the war, not only to prevent tyrannical government, but to produce good government as well. Good government is government that pursues justice and serves the public weal—or public happiness. Lest we be too quick to conclude with some ingenious commentators that these “auxiliary precautions” were intended to render wisdom and prudence superfluous, we must heed Madison’s admonition that republican government presupposes the existence of virtue among its citizens in a higher degree than any other form of government.30

Madison challenged the American people to reject the proposed constitution if they found that it was not “strictly republican.” “It is evident,” Madison wrote, “that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every

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27 Federalist, No. 10, 82.
28 Federalist, No. 51, 322.
29 Federalist, No. 72, 437.
30 Federalist, No. 55, 346.
votary of freedom to rest all our political experiments on the capacity of mankind for self-government.” The “fundamental principles of the Revolution” of course are those adumbrated in the Declaration of Independence. In republican government the consent of the governed is the active agency, not only in the formation of the “just powers” of government, but in its operation as well. Every election is considered a periodic renewal of the consent of the people. The genius of the American people—its habits, manners, and faculties—incline them to republican government. An essential part of this “genius” which animates the “whole system” is “the vigilant and manly spirit which actuates the people of America—a spirit which nourishes freedom, and in return is nourished by it.” The experiment in self-government, of course, presupposes in the people sufficient virtue for self-government. Madison says that “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.” And the “characteristic policy of republican government...for obtaining” such rulers is the “elective mode.” And while we can be certain that Madison did not believe that every republican citizen had the requisite wisdom and virtue to serve in constitutional offices, the bulk of the citizens possessing the genius of the Americans could judge the qualifications of those that did. And it is upon this prudential truth that the Constitution holds out the prospect elevating the natural aristoi—or a close approximation—to positions of rule. Without sufficient virtue—republican virtue—in the people, the experiment in self-government will fail, regardless of the institutions discovered by the “new science” of politics designed to “supply the defects of better motives.” “Auxiliary precautions” are crucial to the practice of constitutional government; but they are not a substitute for republican virtue.

Scarcity in the ancient world prevented the actualization of the best regime by nature; “emancipation of acquisitiveness” was the necessary precondition of actualizing a regime that could adopt equal opportunity as its principle of distributive justice. Thus, the best regime of classical political philosophy became realizable only on the ground of a radically

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31 Federalist, No. 39, 240.
32 Federalist, No. 57, 353.
33 Federalist, No. 57, 350-51.
34 Strauss, Natural Right and History, 148.
transformed notion of the right to property and a scheme of constitutional government designed to protect the right to property. Even though the right to private property is wholly modern—and the “emancipation of acquisitiveness” wholly alien to classical political philosophy—it is impossible not to see, as Strauss did, the influence of Aristotelian natural right at work in the creation of the regime of equal opportunity. Indeed, Strauss himself indulged in a rare bit of advocacy when he remarked that “wisdom requires unhesitating loyalty to a decent constitution and even to the cause of constitutionalism.”

Surely he was not unaware of the connection between Locke, the American founding, and constitutionalism.

What is more, Locke’s revolutionary teaching “with regard to the biblical tradition” eventuated in a more tolerant Christianity, no small matter for a generation of statesmen for whom the wars of religion were more than a distant memory. Both Madison’s “Memorial and Remonstrance” and Jefferson’s “Statute on Religious Liberty,” the two greatest American documents arguing for religious liberty and the separation of church and state, owed their principal arguments to Locke’s “Letter on Toleration,” to say nothing of his *Reasonableness of Christianity*. All of these developments have had the most salutary influence on American politics and constitutional development. The framers were acutely aware that constitutional government would be impossible without free exercise of religion and the separation of church and state. Sectarian disputes are politically irresolvable. Constitutional government requires majority rule, and minority acquiescence in the decisions of the majority. At the same time, the majority must rule in a manner consistent with the rights of the minority. If religious questions are a part of ordinary politics, the minority will never be able to acquiesce in the decisions of the majority, for no religious minority would ever abandon or compromise its religious scruples based merely on the vote of a majority. The founders of America, however, did not confront such religious issues because, based on Locke’s work, the theological-political predicament in America had been settled, at least on a moral and political level—that is, on the only level in which it is possible to solve the question of reason and revelation. On the highest level, the question of what perfects or completes human life, reason or revelation, seems impossible to resolve. Reason is incapable of refuting the possibility of revelation and revelation cannot deny the possibility of reason. But on the moral and political level, reason and revelation can agree.

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36 See Leo Strauss, “Progress or Return?,” in *The Rebirth of Classical Political Rationalism*, ed. Thomas
it was Locke who prepared the ground for that agreement in America which took the form of the “Laws of Nature and Nature’s God.” American preachers regularly cited the “great Mr. Lock” in their sermons and urged the biblical duty of resisting tyranny. Preachers also urged the legitimacy of compact as the rightful ground of civil society as well as the duty of government to protect natural and God-given rights.

A remarkable election-day sermon was delivered by the Reverend Samuel West in Boston in 1776 entitled “On the Right to Rebel Against Governors.” The “nature and design of civil government,” West remarks, is found in “Mr. Locke.”37 What is perhaps most important, however, is what the Reverend West learned from Locke about the theological-political question: “A revelation,” West avers, “pretending to be from God, that contradicts any part of natural law, ought immediately to be rejected as an imposture; for the Deity cannot make a law contrary to the law of nature without acting contrary to himself,—a thing in the strictest sense impossible, for that which implies contradiction is not an object of the divine power…. The doctrine of non-resistance and unlimited passive obedience to the worst of tyrants could never have found credit among mankind had the voice of reason been harkened to for a guide, because such a doctrine would immediately have been discerned to be contrary to natural law.”38 Thus, “whatever right reason


requires as necessary to be done is as much the will and law of God as though it were enjoined by an immediate revelation from heaven, or commanded in the sacred Scriptures.”39 The Reverend West concludes: “we see that both reason and revelation perfectly agree in pointing out the nature, end, and design of government.”40 Those ends are the promotion of the “welfare and happiness of the community,” and the “design of government” derives from the “most sacred” character of social compact and rests on representative constitutional government.41 Reverend West’s election-day sermon was not atypical of the sermons of the day; such sentiments were expressed in many sermons throughout the period and Locke dominated the pulpit no less than he dominated legislative halls and constitutional conventions. Thus a remarkable Providence seemed to have guided the American experiment in republican government in the form of a dispensation—largely orchestrated by “the great Mr. Lock”—from theological-political disputes that would have rendered impossible any attempt to establish constitutional government. Strauss was a refugee from Nazi Germany; surely he was not unaware that George Washington was almost certainly the first non-Jewish head of state to address Jews as fellow citizens.42

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But will all these salutary Lockean influences be eventually undermined by the esoteric Locke, especially the radical “ego” and “the self-creating self” that serves as the foundation for the right to property? As Michael Zuckert describes it: “If the ‘great foundation of property’ is labor, then Locke is suggesting that the person is himself the product of transforming and appropriating labor. Human making, not divine making, is the primary moral fact. The chapter on property leads up to the suggestion that human beings are self-owners because they are the makers of their selves and


41 Ibid., 431, 417.

they own what they make.”43 For Zuckert, the “self-creating self” inevitably becomes the self-destructive self. Can a system that emphasizes the private right to property sustain “public happiness”? Insofar as the common good is merely an incidental byproduct of individual selfishness or egotism, won’t the illusion of the common good ultimately collapse into a frenzy of sheer self-aggrandizement in which the “pursuit of happiness” is understood in purely idiosyncratic terms as a right to anything that serves pleasure, however illusory the pleasure may be? After all, Strauss’s final judgment on Locke’s teaching seems to be that “Locke is a hedonist.”44 For the Zuckerts and like-minded commentators, it is impossible that the founders of America could have escaped or even mitigated these low origins.

Professor Steven B. Smith writes that in Natural Right and History “Strauss accepted the view, less popular today than it once was, that Lockean ideas formed the theoretical foundation of the new American republic. It is not an exaggeration to say that Strauss’s judgment on Locke is his judgment on America.” But what Strauss reveals—in “an irony” that could not have escaped his “attentive readers”—is that “Hobbes, not Locke, was the true founder of America.”45 In Strauss’s interpretation, Locke presents merely a “sugar-coating” for “the harsh, even unpalatable teachings of Hobbes….It was Locke’s genius to have provided a kind of placebo effect that disguised an otherwise bitter pill.”46 In this regard, the Zuckerts are in full agreement.47 It is certain, however, that the founders did not read Locke as a more palatable stand-in for Hobbes. While invariably praising Locke, what little the founders said about Hobbes was uniformly critical. Alexander Hamilton, for example, wrote in his early polemic “The Farmer Refuted” that his opponent could easily be mistaken for a disciple of Hobbes. “He held, as you do,” Hamilton wrote, “that [man in the state of nature] was perfectly free from all restraint of law and government. Moral obligation, according to him, is derived from the introduction of civil society; and there is no virtue, but what is purely artificial, the mere contrivance of politicians, for the maintenance of social intercourse. But the reason he run into this absurd and impious doctrine, was, that he disbelieved the existence of an intelligent

43 Michael Zuckert, Natural Rights and the New Republicanism, 278.
44 Strauss, Natural Right and History, 249.
46 Ibid.
47 Zuckert and Zuckert, Truth about Leo Strauss, 251.
superintending principle, who is the governor, and will be the final judge of
the universe.” What follows is an account of the obligatory character of the
“laws of nature” and the rational pursuit of happiness. Although Hamilton
relies principally upon quotations from Blackstone, the main outlines of his
argument are plainly derived from Locke whom he opposes to Hobbes.48

In a similar vein, Jefferson, who rarely mentioned Hobbes,
woke in a letter to Francis W. Gilmer, dated June 7, 1816, that “the principles
of Hobbes” are a “humiliation to human nature; that the sense of justice
and injustice is not derived from our natural organization, but founded on
convention only.”49 This passage reminds of a more famous statement that
Jefferson wrote in a letter to Thomas Law on June 13, 1814: “The Creator
would indeed have been a bungling artist, had he intended man for a social
animal, without planting in him social dispositions.”50 Critics will surely
point out that this statement accords more with Aristotle than it does with
Locke; but considering the fact that Locke insists that the obligations of the
law of nature are binding in the state of nature, one could easily conclude that
obligations exist by nature and therefore human being are by nature political
or social. This is precisely how a reading of Locke easily leads to Aristotle and
this is precisely how the founders were led to Aristotle—as the exoteric Locke
undoubtedly intended.

Professor Smith suggests that there are some indica-
tions—however slight—that Strauss might not have regarded the American
founding as radically modern, that the founders might have been saved from
“the theoretical radicalism of Lockean principles” by “Locke’s own prudence
[which] to some degree successfully disguised the nature of [his] radicalism
by emphasizing his links with the past. America thus remained something
of a theoretical anomaly protected by its Lockean origins from the gusts of
later modernity.”51 Does this mean that the exoteric Locke might have saved
the American founders from the esoteric Locke? Smith even indicates that
Strauss’s citation of the Declaration of Independence at the beginning of
Natural Right and History may have been an “overt teaching” suggesting
“a recovery of the possibility of natural right….The book sets out a kind of

49 Jefferson to Francis W. Gilmer, June 7, 1816, in The Works of Thomas Jefferson, ed. Paul Leicester
Ford, vol. 11 (New York: Putnam’s Sons, 1905), 534.
50 Jefferson to Thomas Law, June 13, 1814, in Jefferson: Writings, 1337.
51 Smith, Reading Leo Strauss, 172–73.
irredentist strategy for reappropriating an earlier phase of modernity as a prophylactic against the corrosive effects of Rousseau, Marx, and Nietzsche. Indeed,” Smith proceeds, “Natural Right and History is nothing if not an invitation to American readers to take seriously their political founding and the philosophic ideas that gave rise to it. The American founding represented the first wave of modernity in the fullness of its theoretical vigor and self-confidence. It is necessary to recover some of that confidence today through the critique of historicism.” 52

It turns out, however, that Strauss’s “invitation” at the beginning of Natural Right and History was undermined by his “deeper teaching,” which demonstrates “that such efforts at reappropriation either are doomed to failure or result in fateful concessions to modernity regarding the role of rights, commerce, and technology.” 53 Thus for Smith, as for the Zuckerts, the headlong slide into radical modernity seems fated by events beyond the control of any practically wise statesmen. Such analysis, however, deftly ignores Strauss’s insistence that a theoretical crisis does not necessarily lead to a practical crisis. 54 From the Aristotelian point of view, theoretical wisdom is clearly superior to practical wisdom, but prudence or practical wisdom does not depend on theoretical wisdom. “Within its sphere,” Strauss notes, “the sphere of all human things as such, prudence is supreme. The sphere ruled by prudence is closed since the principles of prudence—the ends in the light of which prudence guides man—are known independently of theoretical science.” 55 Strauss could not be more emphatic—for Aristotle prudence is supreme in the sphere of politics, in “the sphere of all human things as such.” This may be the reason that Aristotle made natural right a constituent part of political right. And, Aristotle argued, while natural right had everywhere the same force or power (or dynamic) it is everywhere changeable. One might say that natural right exists squarely within the realm of prudence, “the sphere of the human things” or the political things. Surely the whole thrust of Natural Right and History was to demonstrate that natural right is always a potential of the human political condition—wherever political life exists natural right is potentially available if prudent statesmen or “enlightened statesmen” are present. It is impossible to believe that Strauss could have accepted moder-

52 Ibid., 173.
53 Ibid.
55 Strauss, City and Man, 25.
nity’s claim to have banished prudence from the sphere of political life or that Machiavelli had succeeded in destroying the possibility of natural right.

We cannot reasonably expect that a fresh understanding of classical political philosophy will supply us with recipes for today’s use. For the relative success of modern political philosophy has brought into being a kind of society wholly unknown to the classics, a kind of society to which the classical principles as stated and elaborated by the classics are not immediately applicable. Only we living today can possibly find a solution to the problems of today. But an adequate understanding of the principles as elaborated by the classics may be the indispensable starting point for an adequate analysis, to be achieved by us, of present-day society in its peculiar character, and for the wise application, to be achieved by us, of these principles to our tasks.56

An analysis “to be achieved by us” and a “wise application, to be achieved by us” is a description of Aristotelian natural right—classical wisdom applied to different political circumstances, even circumstances that may not have been in the contemplation of the classics. The repetition of the phrase “to be achieved by us” is striking. Classical prudence is available “for us” and is applicable to our situation as it is more or less applicable to all political situations. Modernity has not altered this enduring legacy from classical political philosophy. And, if we are to follow Strauss on this point, in Aristotelian natural right “there is no fundamental disproportion between natural right and the requirements of political society, or there is no essential need for the dilution of natural right.”57 The American founders, of course, had to make concessions to modernity given the peculiarity of the theological-political predicament they faced. Egalitarian natural right was recognized as a possible form of natural right by the classics, but was not the preferred form. But for the American founders, equality was the only access to nature or natural right available to them. It may be true that a certain view of natural right looks upon the requirement of consent as a fatal compromise with wisdom, as establishing “a right of unwisdom, i.e., an irrational, if inevitable, right.”58 Natural right would, of course, be impossible in modernity without this fatal “dilution.” Yet from Aristotle’s point of view this “dilution” would be consistent with natural right understood as part of political right or justice. According to Strauss, Aristotle understands “justice as everyone

56 Ibid., 11.
57 Strauss, Natural Right and History, 156.
58 Ibid., 152.
knows it and as it is understood in political life.” Aristotle does not deny, of course,

the tension between the requirements of philosophy and those of the city; he knows that the simply best regime belongs to an entirely different epoch than fully developed philosophy. But he implies that the intermediate stages of that process, while not absolutely consistent, are sufficiently consistent for all practical purposes…the justice which may be available in the cities appears to be perfect justice and unquestionably good; there is no need for the dilution of natural right. Aristotle says, then, simply that natural right is a part of political right.59

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Strauss rarely mentioned the Declaration of Independence in his works; his most extensive discussion, although brief, occurs quite unexpectedly in the “Plato” chapter in The City and Man: “When the signers of the Declaration of Independence say: ‘we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor,’ they mean that they are resolved to forsake their lives and fortunes, but to maintain their honor: honor shines most clearly when everything else is sacrificed for its sake, including life, the matter of the first natural right mentioned in the Declaration of Independence. While honor or justice presupposes life and both are meant to serve life, they are nevertheless higher in rank than life.”60 Here Strauss clearly indicates that the framers of the Declaration of Independence ranked the goods of the soul higher than the goods of the body by their willingness to sacrifice the natural right to life and property to “honor or justice.”61 This means, of course, that the framers were not Hobbians! And if Smith and the Zuckerts are correct—as they surely are—in saying that Strauss’s interpretation in Natural Right and History exposes Locke to be essentially (if secretly) a Hobbian, then by parity of reasoning the Locke of Natural Right and History cannot be the Locke of the American founding. The writers of the Declaration, unlike Hobbes and Locke, were not “political hedonists.”62 From this passage in The City and

59 Ibid., 156–57; 191.
60 Strauss, City and Man, 89. Besides the opening paragraph of Natural Right and History, this is the only other direct reference I know of in the Strauss corpus; see Persecution and the Art of Writing (Glencoe, IL: Free Press, 1952), 30 (lines 24–26).
61 Strauss includes in a footnote a citation to Cicero’s De finibus 3.20–22. This passage provides a discussion of the relation of honor and justice in the context of a Stoic critique of Epicureanism.
62 Strauss, Natural Right and History, 169 (Hobbes is “the creator of political hedonism”); 249 (“Locke is a hedonist”).
Man it is impossible to conclude that Strauss believed that “Hobbes...was the true founder of America.”

It seems clear that Strauss’s interpretation of Locke in *Natural Right and History* exaggerates his “radical modernity” for purely rhetorical purposes. Professor Thomas West, an intelligent interpreter of Strauss’s thought, has recently written that

Strauss’s lifelong agenda was to restore philosophy in the modern world. Since recent versions of modern philosophy had led to the reigning positivism and historicism, both of which deny the possibility of philosophy (in the sense of ascending from opinion to knowledge), Strauss seems to have decided that the philosophers most likely to appeal to modern readers were the Greek classics....Strauss therefore wanted to instill in his readers, as their first reaction to his work, a moral revulsion against modernity, so that they would be more open to the attractions of classical political philosophy....

By exaggerating Locke’s hostility to nature, it was rhetorically easier for Strauss to situate him on the slippery slope leading from Machiavelli, who abandoned virtue as the end of politics, to Heidegger, who embraced radical historicism and Hitler. In order to give his readers an incentive to return to the classics, Strauss had to exaggerate the continuity within the history of modern philosophy in order to show, or rather to suggest, how the entire modern philosophic enterprise led to historicism and political irresponsibility.63

Once Strauss’s “Locke” is read in this light—in the light of Strauss’s overall rhetorical purposes—then it is utterly impossible to maintain that the founders read Locke with the same purpose that Strauss did. The way is now cleared for any serious reader to understand the founders as they understood themselves.

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In *Natural Right and History*, Strauss casually remarked that his interpretation of Locke on the crucial question of natural law “stands in shocking contrast to what is generally thought to be his doctrine, and especially the doctrine of the Second Treatise.”64 For Locke, the desire for happiness—the pursuit of happiness—is innate in men. And for Strauss, the pursuit of happiness is merely the desire for comfortable self-preservation, an

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64 Strauss, *Natural Right and History*, 220.
extension of the right to life. And while there are no innate principles of natural law, the desire for happiness in Locke is an “innate practical principle” which never ceases to operate on human desire. It has, therefore, according to Strauss, “the character of an absolute right, of a natural right. There is, then,” Strauss concludes, “an innate natural right, while there is no innate natural duty.”65 It is an absolute natural right because it operates by necessity, in the same way that the fear of violent death drives men by natural necessity. The pursuit of happiness is, of course, subordinate to the right to life, because the desire for self-preservation is “the first and strongest desire God planted in men.”66

Strauss therefore concluded that “Locke is a hedonist.”67 The reason is that Locke seems to deny that it is possible to guide human life by considerations of a *summum bonum*. Strauss cites a passage from *An Essay Concerning Human Understanding* where Locke seems to make the dogmatic assertion that

> the philosophers of old did in vain inquire, whether *summum bonum* consisted in riches, or bodily delights, or virtue or contemplation? And they might have as reasonably disputed, whether the best relish were to be found in apples, plums, or nuts; and have divided themselves into sects upon it....Though all men’s desires tend to happiness, yet they are not moved by the same object. Men may choose different things, and yet all choose right, supposing them only like a company of poor insects, whereof some are bees, delighted with flowers and their sweetness; and other beetles, delighted with other kinds of viands; which having enjoyed for a season, they should cease to be, and exist no more for ever.68

In short, then, “the greatest happiness consists in the having those things which produce the greatest pleasure; and in the absence of those which cause any disturbance, any pain.”69 But is there no distinction between the pleasures? Is it simply a matter of taste? Remarkably, Locke qualifies the statement by saying “if there be no prospect beyond the grave, the inference is certainly right.”70

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65 Ibid., 226–27.
66 Ibid., 227; 228n92; 236; 280; 297.
67 Ibid., 249.
69 Ibid.
70 Ibid.
In a passage barely three paragraphs preceding the one just quoted, Locke notes that since “the highest perfection of intellectual nature, lies in a careful and constant pursuit of true and solid happiness; so the care of ourselves, that we mistake not imaginary for real happiness, is the necessary foundation of our liberty.” In the very next paragraph after the one quoted at length above Locke refers to the “wrong measures of good and evil” that inform choices, and which violate “the eternal law and nature of things,” and choices that “really and truly make for...happiness.” Finally, Locke asks, “since men are always constant, and in earnest” in the pursuit of happiness, “the question still remains, how men come often to prefer the worse to the better.” The conclusion, Locke implies, is inescapable: the “necessity of preferring and pursuing true happiness as our greatest good.” So it appears here and in other places in the Essay that there is a *summum bonum* which is “true happiness.”

Some three hundred pages later Locke speaks of “rational creatures” following “the direction of nature...to search out their *summum bonum.*” Professor West concludes that “Locke’s teaching on the *summum bonum* might be acceptable to an Aristotle or a Plato, if explained in the following way: Each person has his or her own ‘palate,’ talents, and disposition, and is therefore fundamentally limited in life choices likely to be beneficial to himself [or herself]. For that reason, the philosophic life cannot be the *summum bonum*, the highest good, for everyone. Only by considering a person’s nature, the range of passions and tastes, intellectual strengths and weaknesses, can a rational path to happiness for each person be found.” This would, I say, represent something of a “lowering of the horizons” on Locke’s part which may or may not be acceptable to Plato or Aristotle, but was made necessary by the fact that Locke faced a political-theological dilemma that was unknown to the ancients. The doctrine of individual salvation, the heart of Christianity, was utterly foreign to the ancient city—as was the idea of a universal Deity. Modern philosophy’s complaint against the classics was that the standards of the best way of life they articulated were unrealistic (even utopian) and out of the reach of the bulk of mankind. Christianity made the ultimate perfection or goal of life available to every believer. The immortality that was reserved in classical philosophy to a few philosophers was available

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71 Ibid., II.xxi.56.
72 Ibid., II.xxi.51.
73 Ibid., IV.xii.11.
in the Christian world to all believers. As West correctly observes, Locke has put “perfection” within the reach of every individual according to his individual talents and abilities. But, of course, the *summum bonum* for most men will be supplied by the “law of morality Jesus Christ hath given us in the New Testament…by revelation. We have from him a full and sufficient rule for our direction, and conformable to that of reason.” Because “the greatest part cannot know, and therefore they must *believe*,” “the instruction of the people were best still to be left to the precepts and principles of the gospel.” And of course the “precepts and principles of the gospel” point to eternal felicity in the next life as the *summum bonum*. “The philosophers,” Locke notes, “indeed showed the beauty of virtue; they set her off so, as drew men’s eyes and approbation to her; but leaving her unendowed, very few were willing to espouse her.” But with the “principles of the gospel” as its endowment, virtue now is visibly the most enriching purchase, and by much the best bargain. That she is the perfection and excellency of our nature, that she is herself a reward and will recommend our names to future ages, is not all that can now be said of her. It is not strange that the learned heathens satisfied not many with such airy commendations. It has another relish and efficacy to persuade men: that if they live well here, they shall be happy hereafter….The view of heaven and hell will cast a slight upon the short pleasures and pains of this present state, and give attractions and encouragements to virtue, which reason and interest and the care of ourselves cannot but allow and prefer. Upon this foundation, and upon this only, morality stands firm and will defy all competition.

Locke was fully aware, however, that the ultimate question of the *summum bonum* could not be so easily dismissed. The excellence of the highest human type necessarily suggests a single standard of human excellence to which all human beings should aspire. Those who fall short of the highest standard, of course, have not reached the peak of human excellence simply because they have achieved all or most of their individual potential. Locke noted in the *Essay*, Epistle to the Reader, in plain and unequivocal terms that contemplation is the highest pleasure as it engages “the most elevated faculty of the soul, so it is employed with a greater, and more constant delight, than any of the others.” This statement is hardly that of a rank hedonist—but it is not unworthy of Aristotle’s discussion of the contemplative life in the

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76 Ibid., 185 (§245).
Nicomachean Ethics.\textsuperscript{77} Clearly there is in Locke a hierarchy of pleasures—contemplation being the highest—reserved for a very few who are capable of a “sort of hawking and hunting” after truth “wherein the very pursuit makes a great part of the pleasure.”\textsuperscript{78}

In his First Inaugural Speech, delivered in New York, April 30, 1789, George Washington remarked that

there is no truth more thoroughly established, than that there exists in the economy and course of nature, an indissoluble union between virtue and happiness; between duty and advantage; between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and felicity: Since we ought to be no less persuaded that the propitious smiles of Heaven, can never be expected on a nation that disregards the eternal rules of order and right, which Heaven itself has ordained.\textsuperscript{79}

This statement delineating the natural connection between virtue and happiness is, of course, purely Aristotelian. Thus Washington (and Madison, who wrote the speech)\textsuperscript{80} understood the “pursuit of happiness” to mean the pursuit of virtue! And this surely encapsulates Madison’s statement in the Virginia Ratifying Convention, noted above, when he argued that “political happiness” is the end of government and should be the architectonic guide for political deliberations.

It is more than probable that the source for this notable statement in Washington’s speech was Locke’s \textit{Essay Concerning Human Understanding}: “For God,” Locke says,

having, by an inseparable connection, joined virtue and public happiness together; and made the practice thereof, necessary to the preservation of society, and visibly beneficial to all, with whom the virtuous man has to do; it is no wonder, that everyone should, not only

\textsuperscript{77} See \textit{Nicomachean Ethics} X.7.

\textsuperscript{78} Locke, \textit{Essay}, Epistle to the Reader; see West, “The Ground of Locke’s Law of Nature,” 34.


\textsuperscript{80} The editors of the Madison papers note a singular set of events that transpired after Washington presented his address. “Having composed the inaugural, [Madison] drew up in turn the address of the House of Representatives in reply to the president (5 May 1789), the president’s reply to the House address (8 May), and for good measure the president’s reply to the Senate address (18 May).” The editors laconically note: “Thus in the opening series of formal exchanges between the president and Congress, JM was in dialogue with himself” (ibid., 12:120–21).
allow, but recommend, and magnify those rules to others, from whose observance of them, he is sure to reap advantage to himself.\textsuperscript{81}

Madison, if not Washington, was well acquainted with Locke’s \textit{Essay} and this passage would have readily sprung to mind as setting an appropriate tone for “the preservation of the sacred fire of liberty, and the destiny of the Republican model of Government, [that] are justly considered as deeply, perhaps as finally staked, on the experiment entrusted to the hands of the American people.”\textsuperscript{82} It is easy to see how these two enlightened statesmen who were concerned with the political things as such were led by the pressure of events to an understanding of Aristotelian natural right through a reading of Locke.

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In an uncharacteristic understatement, Harry Jaffa has recently written that “nothing is more important for understanding Strauss than the place of the Declaration of Independence in the beginning of \textit{Natural Right and History}.” Strauss began by remarking that it is proper for more reasons than the most obvious that I should open this series of Charles R. Walgreen Lectures by quoting a passage from the Declaration of Independence. The passage has frequently been quoted, but, by its weight and its elevation, it is made immune to the degrading effects of the excessive familiarity which breeds contempt and of misuse which breeds disgust.

Strauss continued, quoting the first sentence of the second paragraph of the Declaration:

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We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of happiness.
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Strauss comments:

The nation dedicated to this proposition has now become, no doubt partly as a consequence of this dedication, the most powerful and prosperous of the nations of the earth.

He then ends with two questions:

Does this nation in its maturity still cherish the faith in which it was conceived and raised? Does it still hold those “truths to be self-evident”?

\textsuperscript{81} Locke, \textit{Essay}, I.iii.6.

Jaffa notes that when Strauss delivered the original version of the Walgreen lectures in 1949 he began with a medieval quotation about Aristotle (Solet Aristoteles quaerere pugnam). When the lectures were published in 1953 as *Natural Right and History*, the quote about Aristotle had been replaced by the above quoted passages. Jaffa modestly contends that his own early work on Lincoln had influenced Strauss to make the fateful change, substituting the Declaration for Aristotle (or a quote about Aristotle). I am inclined to believe Jaffa may have in fact influenced the change. What Jaffa points out, however, is Strauss’s startling message hiding in plain sight: immediately after quoting the Declaration, Strauss uses the language of Lincoln’s Gettysburg address without attribution, thereby adopting Lincoln’s language as his own and linking Lincoln and the Declaration. Strauss may have been suggesting, as Jaffa remarks, “that the fate of the Declaration of Independence was an authentic representation of the fate of Natural Right.”

In *Crisis of the House Divided* (1959), Jaffa had accepted Strauss’s interpretation of Locke in *Natural Right and History*, arguing that Lincoln had introduced Aristotelian elements into the regime as a corrective to its “Lockean” origins. Strauss made it clear that it was Lincoln’s Declaration that he referred to at the beginning of the Walgreen lectures—the Lincoln who had corrected Locke! Jaffa, however, has changed his mind about Lincoln’s role: the Aristotelian elements that he once believed Lincoln had used to refound the regime he now believes were already present in the founding. Jaffa’s volte-face is, I believe, due to a deeper understanding of the “theological-political predicament.” He is now less inclined to speak of the Declaration as “wholly a document of the rationalistic tradition” or of the necessity of “a synthesis of elements which in Jefferson remained antagonistic.” Indeed, Jaffa wrote in *Crisis* that the “deepest root for Jefferson’s generation” was “Lockean”; it was “preeminently a requirement of enlightened self-interest” which taught “the security of the rights of the self-regarding, egotistical individual.” Thus, Jaffa concludes, “the doctrine of universal rights in the Declaration in the Revolutionary generation can be traced to the egotistic quality of these rights in the Lockean formulation,” and that it was left for

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83 Jaffa, *Crisis of the Strauss Divided*, 13, 46, 58.
85 Ibid., 326.
Lincoln to give “a greater consistency and dignity to the position of the signers than was theirs originally.”

In Crisis Jaffa had engaged in some significant, and at times persuasively eloquent, rhetorical exaggerations of his own in order to magnify the importance of the role Lincoln played in elevating the regime to new and higher ground. In New Birth of Freedom (2000) Jaffa argues that Lincoln perpetuated the regime and preserved its founding principles through its greatest crisis. In other words, Lincoln did not understand the founders better than they understood themselves; rather he understood them precisely as they understood themselves. Those Aristotelian elements that Jaffa once thought were supplied by Lincoln were always in the founding, like the purloined letter, in plain sight but difficult to see. The phrase “safety and happiness” has always described the telos of government in the Declaration. Reading the Declaration as if it were another outpost in the battle between ancients and moderns or that it was a document of pure “political hedonism,” designed solely to protect the rights of “self-regarding, egotistical individuals,” made it almost impossible to see what was always there! The question that remains unresolved is whether the Lincoln of Crisis who understood the founders better than they understood themselves is the authentic Lincoln, or whether a new interpretation befitting Lincoln’s newly discovered role is required.

In New Birth of Freedom Jaffa enters a new universe. Happiness and the pursuit of happiness are no longer understood by the revolutionary generation as the idiosyncratic preferences of the self-regarding individual, but as “the objective good, and therefore the rational good, at which all the laws and institutions aim. This is assumed by Jefferson…no less than by Aristotle, as it was by American public opinion of the Revolutionary generation.”87 No longer is the doctrine of the Declaration understood as purely “rationalistic”; rather, Jaffa writes,

implicit in the natural rights doctrine of the Declaration of Independence is the rule laid down in the New Testament: “Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets.” As Jesus’ admonition is addressed to all humanity, present and future, it presupposes necessarily, and as a self-evident truth, “that all men are created equal.”88

86 Ibid., 324.
88 Ibid., 49.
One last example should suffice to illustrate our point: “Jefferson’s Lockean understanding of property—above all, his understanding that personal freedom, personal property, constitutional government, and the rule of law all originate in the natural right to own one’s self—was inherited directly by Lincoln and was the rock upon which his biblical house was built.”

What Strauss would have thought of Jaffa’s volte-face cannot be known with any certainty. In the fiftieth-anniversary edition of *Crisis*, Jaffa describes *A New Birth of Freedom* as “a far more intricate and complicated work” than *Crisis*. *New Birth* is the kind of work, Jaffa proclaims, that “would have challenged Strauss in the way he best liked to be challenged.” Certainly *New Birth of Freedom* is an “intricate and complicated work,” but this hardly accounts for the thematic differences between the two works. Jaffa seems curiously reluctant, unlike Strauss, to acknowledge his “second sailing.” If Strauss was willing to accept Lincoln as the enlightened statesman who introduced Aristotelian natural right into the American regime, there is no intrinsic reason why he would have been unwilling to accept the interpretation that the founders—instead of Lincoln—were the *phronimoi* who grounded the American regime in natural right. The most extensive passage on the Declaration ever written by Strauss appears in *The City and Man* and was quoted above. That passage, I believe, is proof that Strauss did not believe that Hobbes or a Hobbian Locke was the inspiration for the Declaration. He may therefore have believed, along with Jaffa, that the Declaration itself represented an authentic expression of the principles of classical natural right.

*Natural Right and History* demonstrated that the only alternative to natural right in the modern world is positivism or historicism that eventuates in nihilism: “The contemporary rejection of natural right leads to nihilism—nay, it is identical with nihilism.” But, of course, we are bound to heed the warning that the need for natural right does not guarantee the existence of natural right! The backdrop of Strauss’s work was the crisis of the West. Jaffa’s work has centered on the crisis of America. I believe, however, that Strauss would have agreed that the crisis of America is identical with the crisis of the West and that somehow the fate of the Declaration will ultimately

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90 Ibid., 24.
91 Ibid., 5, 18.
92 Ibid., 6, 75.
determine the fate of the West. The Civil War was fought to restore the Declaration to its rightful place as the “sheet anchor” of American republicanism against its detractors who claimed it to be a “self-evident lie.” The nation succeeded—Lincoln succeeded. But Americans were soon thereafter deprived of the fruits of victory by the onrushing tide of historicism and positivism that inundated the country in the postwar years. This tide originated in continental thinkers and became known as Progressivism. Progressivism, of course, denied the relevance of the Declaration of Independence and the very idea of natural right. The decline of America—its headlong slide into relativism and nihilism—was due not to its adherence to the Lockean principles embodied in the Declaration, but to the rejection of those principles by “second wave” modernity, beginning with Rousseau.

In Rousseau, nature was replaced by an almost unlimited potential for perfectibility, a potential that was actuated by “the chance combination of several foreign causes.”

In other words, nature had been replaced by history. What Hobbes and Locke could still call human nature became in Rousseau only the epiphenomenal result of humanity’s reaction to historical circumstances—to blind fate. And the most fateful development in man’s historical evolution was the establishment of private property. Without the creation of the right to property there would have been no desire to acquire beyond the need to acquire, no desire to profit at the expense of others, and no desire for the recognition and power that accrues to the unequal possession of property. “All these evils,” Rousseau says, “are the first effect of property and the inseparable consequence of nascent inequality.”

“The first person,” Rousseau asserts,

who, having fenced off a plot of ground, took it into his head to say *this is mine* and found people simple enough to believe him, was the true founder of civil society. What crimes, wars, murders, what miseries and horrors would the human race have been spared by someone who, uprooting the stakes or filling in the ditch, had shouted to his fellow men: Beware of listening to this impostor, you are lost if you forget that the fruits belong to all and the earth to no one! But it is very likely that by then things had already come to the point where they could no longer remain as they were.

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94 Ibid., 156.

95 Ibid., 142.
The idea of property, Rousseau says, could not have been conceived all at once but depended on “many prior ideas which could only have arisen successively.” A sort of property existed in the development of families, but the idea of property became inevitable only after the division of labor. And, once “property was introduced,” “equality disappeared.” Natural inequalities in the state of nature were barely noticeable and of little advantage, but once the division of labor and property were introduced “the stronger did more work; the cleverer turned his [inequality] to better advantage; the more ingenious found ways to shorten his labor…. Thus does natural inequality imperceptibly manifest itself along with contrived inequality.”

Thus, having arrived at “this last stage of the state of nature,” man made a choice which was perhaps inevitable, but not fated. There was no philosopher there to uproot the stakes and warn against this fraud perpetrated against humanity. Philosophy itself did not exist at the time since philosophy is the product of civil society; it belongs to a later epoch. In this “last stage of the state of nature,” human faculties occupied “a golden mean between the indolence of the primitive state and the petulant activity of our vanity, and must have been the happiest and most durable epoch.” This was the state that was “best for man” and was abandoned “only by some fatal accident, which for the common good ought never to have happened.” This last stage was the “veritable prime of the world; and that all subsequent progress has been in appearance so many steps toward the perfection of the individual, and in fact toward the decrepitude of the species.”

Rousseau quotes “the axiom of the wise Locke, where there is no property, there is no injury.” Whereas Locke saw the right to prop-

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96 Ibid.
97 Ibid., 154–55.
98 Ibid., 150–51.
99 Ibid., 151.
100 Ibid., 150. The quotation is from the Essay, IV. iii.18. In a note, Roger Masters points out that Rousseau substitutes “injury” where Locke had said “injustice.” In the French translation used by Rousseau, the word is de l’injustice. (Prof. Hilail Gildin reminds me that d’injure can mean “contrary to right, or that which is contrary to justice.”) See also John Locke, Some Thoughts Concerning Education, ed. Ruth W. Grant and Nathan Tarcov (Indianapolis, IN: Hackett, 1996), 82 (§110). In 1792 Madison published anonymously in the National Gazette a devastating critique of Rousseau’s Project for Perpetual Peace. Rousseau is identified as one of the “visionary philosophers” whose “project...was as preposterous as it was impotent” (Papers of James Madison, 14:206–7; see also Madison to Thomas Jefferson, October 24, 1787, in Papers, 10:212). Rousseau is almost certainly among the “Theoretic politicians” criticized by Madison in Federalist, No. 10, 81. Jefferson may have been somewhat more sympathetic to Rousseau as evidenced by several passages in the Notes on the State of Virginia (a work that Jefferson never intended for publication) that clearly rely on the Second Treatise, but where
property as a right of nature—even the comprehensive natural right—Rousseau maintained that “the right of property is only conventional and of human institution.” Rousseau viewed property and the inevitable inequality that followed in its wake as the ultimate corruptor of the human species. The only benefit to be derived from mankind’s blind choice to accept the idea of property was the perfection of “a few great cosmopolitan souls,” of philosophers like himself who are the greatest adornments of the civilizations spawned by the right to property. This, of course, was not a small or insignificant benefit in Rousseau’s eyes. What set the human soul on its fateful journey from its almost unlimited potential for perfectibility to its “decrepitude” was not something intrinsic to the human soul, but merely the accretions that resulted from “chance combinations” of history.

For Rousseau the events of history are merely random. It was left for Hegel to find reason in history in the form of the historical dialectic. And it was Hegel and his epigones, both left and right, who came to dominate post–Civil War America. Progressivism sought, above all, to undermine the principles of the American founding. Insofar as those principles were said to be an expression of “human nature,” or derived from “the laws of nature and nature’s God,” they could only be self-willed delusions, since the idea of a permanent nature had been exposed as false by historicism and scientific evolution, both of which had their origins in Rousseau. The “self-evident truths” of one era “seem but nonsense in another” and “such for the most part is the fate which has overtaken the sublime truths enshrined in the Declaration of Independence.” This is the judgment of Carl Becker, a leading Progressive historian, in his book *The Declaration of Independence*, published in 1922. The “sublime truths” of the Declaration were inspiring in their day, but they have no application to any other era—they were merely the byproduct of the most powerful forces of the day and “could not survive the harsh realities of the modern world.” Each era has to construct “truth” for itself. Thus, “to ask whether the natural rights philosophy of the Declaration of Independence is true or false is essentially a meaningless question.” The final insight into the truth of history is that all truth is relative to the historical conditions that

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Rousseau is not mentioned. No evidence of Rousseau, however, appears in any of Jefferson’s public documents and Rousseau is rarely mentioned in Jefferson’s private correspondence.

101 Rousseau, *Discourse on Inequality*, 168.

102 Ibid., 160.

produced it—except, presumably, this final historical insight, which is good for all historical eras and presumably needs no explanation as to why it is the only “truth” that remains exempt. But, of course, if it is meaningless to ask whether the principles of the Declaration are true or not, it is also meaningless to ask whether freedom is preferable to slavery or whether constitutional government is superior to tyranny. These are merely value questions and reason cannot arbitrate between conflicting values or value systems. Nature or natural right has been expelled from the universe of the Progressives and replaced by “historical consciousness”—but the very terms in which natural right has been expelled would seem to stand as testimony to the fact that the possibility of natural right itself is sempiternal. In fact, the American founding seems to have stood against the storms of modernity, sheltered by its still intelligible attachment to classical natural right.