

# Interpretation

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- 223 *Lewis Fallis* The Political Significance of Friendship in Plato's *Lysis*
- 253 *J. A. Colen & Anthony Vecchio* The First Walgreen Lectures by Leo Strauss (1949)
- 355 *Edward J. Erler & Ken Masugi* **An Exchange**  
Schaefer contra Political Philosophy
- 375 *David Lewis Schaefer* Unretired: A Reply to "Schaefer contra Political Philosophy"
- 385 *Borys M. Kowalsky & Joseph Phelan* **Review Essay**  
Nietzsche and Modernist Art, Part I: The Value of *Friedrich Nietzsche and the Artists of the New Weimar*
- 401 *Kevin J. Burns* **Book Reviews**  
"From Reflection and Choice": *The Political Philosophy of the Federalist Papers and the Ratification Debate*, edited by Will R. Jordan
- 407 *Steven Forde* *Thucydides on the Outbreak of War: Character and Contest* by S. N. Jaffe
- 413 *Jerome C. Foss* *Good Things Out of Nazareth: The Uncollected Letters of Flannery O'Connor and Friends*, edited by Benjamin B. Alexander
- 419 *Steven H. Frankel* *Power and Progress: Joseph Ibn Kaspi and the Meaning of History* by Alexander Green
- 425 *Thomas Powers* *Multiculturalism in Canada: Constructing a Model Multi-culture with Multicultural Values* by Hugh Donald Forbes
- 431 *Aaron Zubia* *Taking Comedy Seriously: Stand-Up's Dissident Potential in Mass Culture* by Jennalee Donian

# Interpretation

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- Inquiries* ***Interpretation, A Journal of Political Philosophy***  
Department of Political Science  
Baylor University  
1 Bear Place, 97276  
Waco, TX 76798
- email* [interpretation@baylor.edu](mailto:interpretation@baylor.edu)

## An Exchange

### Schaefer contra Political Philosophy

EDWARD J. ERLER

THE CLAREMONT INSTITUTE

*eerler.eje@roadrunner.com*

KEN MASUGI

THE CLAREMONT INSTITUTE

*kenmasugi@aol.com*

David Schaefer teaches at Holy Cross College but has retired from political philosophy. This is not the first time Schaefer has reviewed a book by or about Harry Jaffa, and on each occasion he has indulged a pronounced personal animus against him, an animus that he has continued with unusual vehemence in his review in this journal of *The Rediscovery of America: Essays by Harry V. Jaffa on the New Birth of Politics*.<sup>1</sup> Schaefer's ad hominem review misses the central purpose of the volume: to elucidate the crucial turn to the theological-political question in Jaffa's work. If we had looked at Jaffa's work, as Schaefer does, as merely a matter of personal morality, we would not have bothered with such a trivial volume. Schaefer seems to believe that rumor,

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<sup>1</sup> David Schaefer, review of *The Rediscovery of America: Essays by Harry V. Jaffa on the New Birth of Politics*, *Interpretation* 47, no. 1 (Fall 2020): 153–68. See also David Schaefer, "Jaffa's Thinking on the American Revolution," review of *How to Think about the American Revolution*, by Harry V. Jaffa, *Review of Politics* 41, no. 3 (July 1979): 437–42; and Schaefer, "Endless Battle for Endless Rights," review of *Patriotism Is Not Enough: Harry Jaffa, Walter Berns, and the Arguments That Redefined American Conservatism*, by Steven F. Hayward, *Modern Age*, Fall 2017, <https://isi.org/modern-age/endless-battle-for-endless-rights/>.

innuendo, and slander can serve as rational argument. With one exception, we will not respond to Schaefer's hysterical slanders. We must respond to his mean-spirited innuendo that Jaffa, because he had been an outspoken critic of the morality of homosexuality, might have celebrated the death of his old friend and coauthor Allan Bloom. One of the editors of the volume under review was with Jaffa when he received the news of Bloom's death and can assure everyone that he reacted with great sadness. It is simply dishonorable (and disingenuous) for Schaefer to suggest otherwise.

Schaefer's moral indignation distorts his reading of the main theme of the volume. The essays show that the "turn" in Jaffa's thought was the "rediscovery" of the importance of the theological-political question as it related to American politics. For Leo Strauss the "theological-political predicament" became the question that animated his life's work. He did not state this frequently, but we know that Strauss also said that a philosopher's most important thoughts are not necessarily those he states most often.<sup>2</sup> It was our opinion that Jaffa pressed the theological-political question more deeply than Strauss did, perhaps because Strauss was unwilling to do so, not because he was unable. In any case, Jaffa argued that in the Strauss corpus, the most important distinction was not between ancient and moderns, but between reason and revelation. The divide between ancients and moderns is certainly real, we said in our commentary, but it was a distinction in the history of philosophy, not a distinction in philosophy. In philosophy, the genuine quarrel was not with ancients and moderns, but reason and revelation. Strauss said that the secret vitality of the West was the irresolvable tension between the two, the fact that reason cannot refute revelation and revelation cannot refute reason. In political terms, the resolution would be either a theological tyranny or an atheist tyranny, both of which have been prominent in the modern world.<sup>3</sup> Political freedom—indeed Western civilization—depends

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<sup>2</sup> Leo Strauss, *Persecution and the Art of Writing* (Glencoe, IL: Free Press, 1952), 30.

<sup>3</sup> Schaefer cites Steven F. Hayward, *Patriotism Is Not Enough: Harry Jaffa, Walter Berns, and the Arguments That Redefined American Conservatism* (New York: Encounter Books, 2017) as an authority on the works of Jaffa. Hayward is indeed thoroughly conversant with the Jaffa corpus but he does make one curious, not to say absurd, observation when he remarks that Strauss's "interest in the 'theological-political problem'" does not "seem to bear closely on current American politics" (32). Hayward surely must have noticed the current conflict between Islam and the West, and that the terrorist attacks on America that were inspired by religion and politics have raised the "theological-political problem." Hayward must have been puzzled to read in Jaffa that the Civil War should be properly considered, as Lincoln ultimately did, a religious war, even though the Founders believed that the theological-political question had been settled on a moral and political level at the Founding. The fact that the "problem" was reignited during the Civil War and is surely alive today indicates that the "theological-political question" is always a part of political life as Strauss and Jaffa (and indeed

on whether the conflict or creative tension between reason and revelation can be kept alive. Strauss's effort was to support both reason and revelation, believing that a kind of dialectic between reason and revelation was necessary to the survival of the West. Modernity, of course, attacked the authority of both reason and revelation, and it was the task of philosophy to defend both. It was in this context that Strauss revealed that the dominating purpose of his career was the attempt to understand this theological-political question.

We continue to believe, despite Schaefer's skepticism, that Strauss used the ancients/moderns distinction mainly as a rhetorical device to attract intelligent readers to ancient texts. We say again that the ancients/moderns distinction is real and important within the history of political philosophy, but the "theological-political question" is the one that animates philosophy and political philosophy. Strauss, of course, never explicitly said this, but it certainly can be deduced from his work. Here we relied on Thomas West, who speculated about why Strauss exaggerated the radical modernity (the "Hobbism") of Locke:

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... 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.<sup>4</sup>

We believe that Professor West is eminently correct in his observation, although, as he readily admits, it would be difficult to provide definitive proof. In any case, once Strauss's Locke is read in this light—in the light of Strauss's overall rhetorical purposes—then it is utterly impossible, as we will

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all philosophers) recognize! See Edward Erler, *Property and the Pursuit of Happiness* (Lanham, MD: Rowman & Littlefield, 2019), 51–53.

<sup>4</sup> Thomas G. West, "The Ground of Locke's Law of Nature," *Social Philosophy and Policy* 29, no. 2 (Summer 2012): 24.

argue, to maintain that the Founders read Locke with the same purpose that Strauss did.

#### WHAT SCHAEFER MISSED: ANCIENTS AND MODERNS, AND PRUDENCE

*The Rediscovery of America* was designed to highlight two essays: chapter 1, “Aristotle and Locke in the American Founding,” and chapter 7, “The Decline and Fall of the American Idea: Reflections on the Failure of American Conservatism.” The latter chapter, nearly half the book, had never been published before and the collection, in truth, was an excuse to publish something that no one else would publish because it attacked too many conservative icons, particularly Harvey Mansfield, the leader of what Jaffa came to call the school of the Eastern Straussians. Our response will concentrate on chapters 1 and 7.

Schaefer, an “Eastern Straussian,” belongs to a school that clings to the ancients/moderns distinction as if it were an eidetic bridge that can never be crossed, convinced that those who believe it can be crossed are simply uninitiated in the mysteries of esotericism. He has difficulty therefore in understanding the thesis of “Aristotle and Locke in the American Founding,” where Jaffa conflates, if he does not confound, the teachings of Aristotle and Locke. But, in a way, Schaefer confounds his readers: he says that Jaffa presents nothing new in the chapter. But he has not read it carefully. Schaefer is not to be faulted, however, because Jaffa says it took him many years to see what had always been hidden in plain sight. After announcing that governments are instituted to secure rights, the Declaration proceeds to state that “whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.” Jaffa comments 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*.” Jaffa’s analysis carries over to *The Federalist*, where a careful reading reveals that its central number, essay 43, not only makes an explicit reference to the Declaration as the principled source of the Constitution and adopts the ends of government specified in the Declaration as the “safety and happiness” of the people, but also refers to “happiness” and “public happiness” far more

frequently to describe the ends of government than it does the protection of rights and liberties.<sup>5</sup>

Schaefer would have us believe, however, that the peroration invoking “our sacred honor” should be read as indicating that the framers of the Declaration did not think that Locke was “a mere materialist,” or a radical modern. According to Schaefer this is something that Harvey Mansfield pointed out long ago, when he demonstrated that there was “a powerful appeal to the sense of honor” in asking the people to answer the question whether a ruler has transgressed the lawful limits of power to such an extent that he deserved to be removed from power. So what Jaffa says is nothing new; Locke has already been—if not exactly Aristotelianized—then at least taken out of the ranks of the radically modern (156). And besides, even Jaffa admits that Strauss never said that the American Founders understood Locke as a Hobbian. Case closed, according to Schaefer. Not so fast however! Many Eastern Straussians believed Locke was a Hobbian, including Walter Berns and Mansfield.<sup>6</sup> But in the end, using (not to shock Schaefer!) the same peroration from the Declaration, we will show that Strauss himself either recanted his position on the Hobbian Locke from *Natural Right and History* or revealed that he was dissembling all along.

Everyone knows, however, that Leo Strauss among many others pointed out that the language of the Declaration in relevant part was derived from Locke’s *Second Treatise*. But what no one else had ever pointed out before Strauss was that buried deep within the esoteric Locke was a radical modern who agreed with Hobbes and worked to enlarge the Hobbian project that had been initiated by Machiavelli. No one before Strauss, including, as far as we know, the most insightful philosophers, had ever read Locke with such care, precision, penetration, and understanding. Did the American Founders read Locke the same way Strauss did? Jefferson said the Declaration “was intended to be an expression of the American mind...whether expressed in conversation, in letters, printed essays, or the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, &c.” Jefferson undoubtedly read the “elementary books of public right” with the eyes of what Aristotle called a *phronimos*—a practically wise statesman.<sup>7</sup> He read the history of political philosophy largely unmindful of the philosophic dispute between ancients

<sup>5</sup> See Erler, *Property and the Pursuit of Happiness*, 9–13.

<sup>6</sup> See “The Decline and Fall of the American Idea,” in *Rediscovery*, 210.

<sup>7</sup> See *ibid.*, 196.

and moderns. As a statesman, Jefferson's primary concern was the history of politics, not the history of philosophy; he certainly understood Locke's natural law as a reflection or adaptation of Aristotle. Strauss says that Locke was "the most famous and the most influential of all modern natural right teachers," one who "wielded an extraordinarily great influence on men of affairs and on a large body of opinion." This resulted, in part, from the fact that "he was an eminently prudent man, and he reaped the reward of superior prudence," the "essence" of which is to "know when to speak and when to be silent." As a result, "we are then apparently confronted with an unbroken tradition of perfect respectability that stretches from Socrates to Locke."<sup>8</sup> This "prudent" Locke was the "exoteric" Locke, the Locke read by Jefferson and the American Founders, who could take political elements from Aristotle as well as Locke, disregarding what Machiavellian followers viewed as an unbridgeable eidetic divide between ancients and moderns. We must also not forget that *Natural and History* was not Strauss's last word on the Declaration. His most extensive discussion, although brief, occurred quite unexpectedly in the "Plato" chapter of *The City and Man*, published ten years after *Natural Right and History*:

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 mention 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.<sup>9</sup>

Here Strauss clearly indicates that the authors of the Declaration ranked the goods of the soul higher than the good of the body by their willingness to sacrifice their natural right to life and property to "honor or justice." For Hobbes, of course, courage is not a virtue, nor is honor any part of the human good. It is utterly impossible to imagine Hobbes ever pledging his "sacred honor" to any cause. This surely means that in Strauss's final estimation, the framers were not Hobbians! We think it is safe to say that in the light of this passage from *The City and Man*, it is impossible to conclude that Strauss ultimately thought that a Hobbianized Locke was the founder of America. Rather, it was an Aristotelianized Locke that was read by the *phronimoi* who were the Founders of America. Do we not suspect that Strauss was dissembling (or

<sup>8</sup> Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 165.

<sup>9</sup> Leo Strauss, *The City and Man* (Chicago: Rand McNally, 1964), 89.

at least exaggerating) about Locke in *Natural Right and History* and that his dissembling might have served the rhetorical purposes mentioned previously? This would have served the prudential approach that he described in *The City and Man*, where he asserted that

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 states 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 task.<sup>10</sup>

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 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. If man is by nature a political animal and the polis exists by nature, then justice and natural right are a potential of every political community as long as enlightened statesmen are present to actualize the potential as circumstances permit. Modernity has not destroyed the possibility of natural right or replaced prudence by the iron law of necessity, no matter how much the “new modes and orders” of Machiavelli and his epigones advocated such a revolution against the “imagined republics” of the ancients.

#### WHAT SCHAEFER MISSED: THE THEOLOGICAL-POLITICAL QUESTION

In his last book, with that whimsical title (and Jaffa did nothing without a purpose) *The Crisis of the Strauss Divided*, Jaffa reevaluated his analysis of Aristotelian natural right, concluding that for Aristotle, prudence and natural right were one and the same.<sup>11</sup> Since natural right was a *part of political right* and was everywhere changeable even though it everywhere had the

<sup>10</sup> Ibid., 11.

<sup>11</sup> Harry V. Jaffa, *Crisis of the Strauss Divided: Essays on Strauss and Straussianism, East and West* (Lanham, MD: Rowman & Littlefield, 2012).

same force or power, prudence or practical wisdom, the political virtue par excellence, must be the same as, if not identical with, natural right. “The prudence of the Declaration is the prudence of Aristotle and Lincoln,” Jaffa wrote, “because there are not two kinds of prudence. While the manifestations of prudence are as many as the circumstances in which prudent action is possible, the virtue itself remains one and the same. This is why regarding Aristotle and Locke as representing opposing and contradictory philosophic doctrines is mistaken. The assumption that there is such a difference is the nerve of the difference between Eastern and Western Straussians.”<sup>12</sup>

Schaefer claims that Jaffa never proves that the Founders did not read Locke the way Strauss did. But surely he must admit that the Founders were not philosophers. Can Schaefer point to any philosophers who read Locke with the care and penetration of Strauss, or were able to uncover the Hobbian roots of Locke’s thought? Would Schaefer have read Locke the way Strauss did without Strauss’s guidance? Can he point to a Founder who understood Locke the way Strauss did? Has he understood Strauss the way he understood himself? We think we have proved that Strauss dissembled in *Natural Right and History*. Was that so easy to see? The American Founders were indeed “enlightened statesmen,” but they were not philosophers. They were active statesmen without the customary leisure necessary to parse the depths of “the elementary books of public right,” which as we remember included Locke as well as Aristotle.

Schaefer is exercised by the fact that Jaffa says that had Aristotle lived in Locke’s time he might have written something like the *Two Treatises of Government*. Aristotle presumably would have recognized the unique theological-political problems presented by Christianity. Social compact was criticized by Aristotle, but Jaffa argues that Locke used it as a means of restoring the “natural political” condition of man against the transpolitical stance of Christianity. This of course violates all the rules governing the ancients/moderns paradigm and has brought scorn upon Jaffa. But for Locke, understood as an attempt to address a theological-political problem that might prevent a recurrence of the wars of religion, it was a brilliant stroke which Aristotle would have recognized. On the theological-political issue, Strauss remarks that once natural right emerges it can be easily adapted to the regnant religious orthodoxy.<sup>13</sup> He relates that the social contract philosophers

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<sup>12</sup> Jaffa, “Straussian Geography,” in *Crisis of the Strauss Divided*, 21–22.

<sup>13</sup> Strauss, *Natural Right and History*, 85.

describe man as apolitical, but Strauss adds that Hobbes used the “a-political view for a political purpose...[for] a political meaning.”<sup>14</sup> We believe that this observation would apply equally to Locke. The “political meaning” was the justification for the establishment of particular political regimes as a reaction to the supranational and divine authority of Christianity. In other words, the social contract philosophers sought to reestablish the political nature of man by providing the ground for particular political regimes.

Jaffa describes the theological-political problem facing post-Christian political philosophers in “Equality, Liberty, Wisdom, Morality and Consent in the Idea of Political Freedom,” chapter 2 in the volume under consideration. Here he argued that:

Christianity had established within the souls of men the idea of a direct, personal, trans-political relationship between the individual and his God. But this relationship did not determine what the laws were to be, or the precise character of the obligation owed to those laws. The idea of the state of nature—the idea of a non-political state governed by moral law—corresponded to the relationship which every Christian had with every other Christian as he considered himself prior to and apart from his membership in a particular civil society. Just as every Christian was under the moral law, without being a member of civil society, so every human being was under the moral law of the state of nature, prior to entering a particular civil society by way of the social contract.

We remember, of course, that both Hobbes and Locke maintained that the obligations of the law of nature are binding in the state of nature, if not always *in foro externo*, then always *in foro interno*. Jaffa continued:

Nowhere in the *Politics* does Aristotle confront the question of how the citizens will be persuaded to obey the laws, if there are no gods to whom those laws will be ascribed. Nowhere does he confront the question of how the authority of an unmediated universal nature will replace the authority of the gods. The state of nature and the social contract supply that mediation. Aristotle recognizes that particular polities will require particular institutions—that they will be the work of legislators acting in particular circumstances. But if these legislators can no longer crown their work by appealing to the authority of particular gods as the foundation of their laws, they must appeal directly to nature. They must have some way of translating the authority of a universal nature into the ground of particular laws... Moreover the idea of the state of nature, by treating civil society as a voluntary

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<sup>14</sup> Ibid., 169.

association, lays a firmer foundation for the idea of the rule of law than in Aristotle's *Politics*.<sup>15</sup>

Social compact thus reaffirms man's political nature by establishing particular political communities where this-worldly aspirations are the proper objects of political life. At the same time, man's universal nature is affirmed by the law of nature, that is, the standard and measure by which particular communities are judged. While reasserting man's political nature, social compact at the same time retains its compatibility with the City of God because natural law is understood to be, in Locke's terms, "the will of God" (*Second Treatise*, II.135; II.142; II.195) or "reason which is the voice of God" (*First Treatise*, I.86; *Second Treatise*, II.56).

Aristotle had, of course, maintained that man is by nature a political animal, one that shares a universal nature but requires particular polis for the perfection of that nature. Virtue, the perfection of nature, could not develop outside the polis; beasts are incapable of virtue and perfection is superfluous for the gods. Neither intellectual nor political virtues would exist without particular human communities. The question of the one and the many is the enduring concern of political philosophy.

While the polis exists last in the order of time, it is first in the order of final causality. The polis is preceded in time by the relationship of male and female, the family, the village, and the tribe. All of these associations are incomplete from the point of view of the virtuous life, and their incompleteness points to the polis as the comprehensive association. The polis is therefore the final cause, and the final cause is, according to Aristotle, the natural cause. While the polis exists by nature, it does not "grow" spontaneously; it must be "constituted" (*sustēsas*) by human art. It needs a founder whose art, like every other art, is an imitation of nature (*Physics* 199a8–20).

Social compact is often criticized as a modern doctrine that is contrary to Aristotle, mainly because it is wholly a product of human invention that has no connection to natural right. In this view, Aristotle was a critic of social compact, noting that politics is concerned with greater purposes than exchanges and alliances (*Politics* 1280a30–b10). The question, however, is whether Aristotle would have opposed the social compact origins of political life had he faced the same political-theological issues that Locke faced. Social compact required no more human art or invention than his own account of the founding of the polis. Would the emphasis on private rights have been a concern for Aristotle? Private

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<sup>15</sup> Jaffa, *Rediscovery*, 44–45; see 197–99.

rights did not exist in the Aristotelian universe, but given the peculiar characteristics of Christianity described above by Jaffa, would Aristotle have been so quick to reject the necessity of private rights in a world dominated by a religion that posited the private relation of men and God?

Aristotle would undoubtedly have seen the prudence of reestablishing the dignity of particular political communities without which the virtues that he so famously celebrated could not exist. Locke, of course, stressed virtues more suitable to republican government, whereas Aristotle had in mind the virtues of gentlemen who rule in aristocracies. In establishing separate, independent political communities social compact sought to reaffirm what Aristotle affirmed: that man is by nature a political being who is impelled to leave the state of nature for civil society. This idea is carried through to the Declaration of Independence, which posits that all men share the same human nature in the recognition of the “self-evident truth” that “all men are equal” at the same time that it announces that America is to become a particular regime, that is, a “separate and equal” nation. Jaffa revealed, as we have already discussed, that the purpose of the Declaration is *not*, as some suggest, “the securing of rights, and only the securing of rights,”<sup>16</sup> but rather that it posits the “ends” of social compact as the “Safety and Happiness” of the people. As we have seen, Jaffa felicitously described these ends as “the alpha and omega of political life in Aristotle’s *Politics*.” In this regard, Jaffa claims—rightly in our opinion—that the most authoritative statement of America’s first principles is Aristotelian.

After the establishment of Christianity, classical natural right had to be understood as natural law (i.e., universally applicable to all men) and right had to be understood as natural rights (i.e., individual rights, because of the individual’s direct connection to God through Christianity). These political accommodations, Jaffa recognized, were necessary because of the theological-political problem presented by Christianity. But they can be viewed in the light of Aristotelian prudence, and Jaffa was convinced Strauss did see them in that light. But Schaefer and the so-called Eastern Straussians cannot tear themselves away from the ancients/moderns paradigm that denies the possibility of prudence in modernity.

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<sup>16</sup> Michael Zuckert, *The Natural Rights Republic* (Notre Dame, IN: University of Notre Dame Press, 1996), 26, 28–30, 206.

## WHAT SCHAEFER MISSED IN MANSFIELD

As mentioned earlier, we regard chapter 7 as the most important chapter of the collection, and it is mainly devoted to the dispute between Jaffa and Harvey Mansfield. We believe that Jaffa's superior understanding of the American Founding allowed him, from the vantage point of 1996, to predict much of what is happening in our current politics. Moreover, his identification of classical elements in the Founding allowed him to understand the prudential requirements of the classical understanding. As we discussed above in the context of the Strauss quotation from *The City and Man*, there are no formulas from classical thought to be applied to our time, but there is prudence to be applied to our political situation—if, that is, our situation is understood properly. We believe that Jaffa's understanding of the classical elements of the Founding and the prudent action required of that understanding allowed him to see further into the future than most of his contemporaries. He saw with clarity the moral dissolution of the country that is happening today, including the permissive equality that results from a misunderstanding of the principle of equality. Once the morality inculcated by the principles of the Declaration is completely abandoned, owing to the historicism, nihilism, and relativism that have infected both conservatives and liberals, the regime cannot survive. This realization, we believe, accounts for much of Jaffa's seemingly frantic (and sometimes extreme) polemic that Schaefer misattributes to personal resentments. Jaffa saw clearly the dangers that lie ahead, much as Lincoln did in the Lyceum address. A clear vision of the nation's impending dissolution and doom that will result from the loss of its very soul can excuse what appears to the near-sighted and blind to be frantic and extreme analysis and predictions. We must, however, never confuse prudence with moderation. We must, if we understand matters clearly, acknowledge that Lincoln believed it was better to suffer civil war than to lose the soul of the nation, the Declaration of Independence.

Jaffa argued that the revival of American politics required a rededication to the principles of the Declaration of Independence; here he obviously followed Abraham Lincoln. But he realized that the revival, if it were to happen, had to come from the conservative wing of the Republican Party. Thus, his essay "The Decline of the American Idea" examined various factions of the Republican Party and found all the factions had one thing in common: they all rejected the principles of the Declaration of Independence. Since this is something they shared with the left wing, a critique of conservatism was also a critique of the Left. Conservatives, including Mansfield, Martin Diamond,

and Irving Kristol, have, in the most fundamental respects, joined the liberal Left in rejecting the principles of the Declaration. Mansfield had accused Jaffa of lurking behind the battle lines in the war with ideological liberalism and shooting fellow conservatives in the back because he asserts that the “self-evident truth” that “all men are created equal” is the central principle of the American Founding. Mansfield, as we said in our introduction to the chapter, “believes this puts Jaffa at odds with conservatives and on the side of the liberals since any reference to equality as a regime principle will inevitably degenerate into permissive egalitarianism.” But in abandoning the Declaration’s central principle, we argue, Mansfield was in fact “defecting to the side of the ideological liberals” and along with other conservatives had “joined the liberal skirmish line firing against Jaffa.”

To recapitulate their similarity to Mansfield’s view, recall that Kristol argues that the American Revolution, unlike the French Revolution, was a successful revolution, while Diamond stressed that it was a revolution of “sober expectations.” Sobriety and success! Kristol makes a great effort to detach the “success” of the Revolution from the Declaration. Jaffa quotes Kristol as writing that “Jefferson...wrote nothing worth reading on religion or almost anything else.” Schaefer, of course, knows that Jaffa has written on more than one occasion that “the most fundamental of the assumptions underlying the American political tradition is not set forth in the Declaration of Independence.” Rather, it was to be found in Jefferson’s “magisterial exordium” in the Virginia Statute for Religious Freedom.<sup>17</sup> The Declaration assumes and rests on the foundations of the “magisterial exordium” which demonstrates that religious liberty and political liberty shared the same metaphysical ground in the indisputable fact “that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint.” In saying that Jefferson never wrote anything on religion worth reading or any else, Kristol explicitly included the Virginia Statute for Religious Freedom and by clear inference the Declaration of Independence which rested on the same metaphysical foundations as the Virginia Statute.

We cannot help but notice Kristol’s astounding statement, unremarked by Schaefer, that “A textbook on American intellectual history could safely ignore the Civil War, were it not for the fact that one feels it to be almost sacrilegious that so much suffering should be so barren of consequence. The

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<sup>17</sup> Harry Jaffa, *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War* (Lanham, MD: Rowman & Littlefield, 2000), 118–19.

Civil War was and is a memorable event—but not any kind of turning point in American history.”<sup>18</sup> Only someone who, unlike Jefferson, believes that the Revolution was successful and unconnected to the Declaration could believe such drivel. Lincoln thought that the Civil War was the final battle in the Revolutionary War, this final battle to vindicate the principle of consent which the Declaration said was the foundation of all “just powers” of government. The Revolutionary War had secured the principle of consent for some, but not all; now was the time to extend that principle to all the governed—the slaves to be emancipated by the war. In the *Notes on the State of Virginia* (largely written during the Revolution) Jefferson wrote that

I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever...that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest....I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the master, rather than by their extirpation.

The masters, of course, did not consent and the slavocracy was destroyed (“extirpated”) in the Civil War. We believe the passage from Jefferson was very much “worth reading,” despite Kristol’s admonitions to the contrary, and so did Abraham Lincoln who used it as a model for his Second Inaugural.<sup>19</sup> It is simply a mistake to attempt to understand the history of the American Founding by minimizing the importance of the Revolution and its revolutionary core, the principle of the Declaration of Independence that “all men are created equal.” This is precisely what Kristol and Diamond attempt to do. Success and sobriety are hardly adequate descriptions of the world-historical event that was the American Revolution. Kristol and Diamond distort the truth because they do not believe, along with Mansfield, that equality can ever become the regime principle!

Martin Diamond argued that the “sobriety” of the American Revolution rejected the “drunk” Declaration, because the latter gave us “no guidance whatsoever,” with respect to the form of government that was to be erected on its principles. It commanded consent, Diamond argued, for

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<sup>18</sup> See Jaffa, “The Decline and Fall of the American Idea,” in *Rediscovery*, 190.

<sup>19</sup> *Ibid.*, 182–83.

the establishment of government, but not for its operation. Thus, limited or constitutional monarchy would be legitimate as long as it received the consent of the governed. Jaffa easily dispatches this argument by pointing out that while consent is required for the establishment of government it is also required in the Declaration for its operation as well. The second use of consent occurs when one of the “repeated injuries and usurpations” “having in direct object the establishment of an absolute Tyranny over these States” is that the king “has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.” The “Consent of our legislatures,” is, of course, the same as the consent of the governed. Whether to keep standing armies in times of peace is a policy matter to be decided subsequent to the establishment of government, not one connected with the question of founding a government. Similarly, the king has imposed “taxes on us without our Consent,” strong evidence that he intends to reduce the people to tyranny. Again, the matter of taxes, what kind, how much, and so on, is not a matter of establishing or founding government, but of its operation or administration. The plain implication is that consent is required for the operation as well as the establishment of government. Jefferson in the *Notes on the State of Virginia* stated clearly that the “administration” of “civil society” “must be conducted by common consent” (Query VIII). The opinion of the principal author of the nation’s founding principles should carry some authority. Diamond had said on one occasion that government was of and for the people, but not necessarily by the people. We believe that Lincoln had a better vision of what was required of the principles of the Declaration when he said in the Gettysburg Address that it required a government that was “of the people, for the people, and by the people.” That is, a democratic, not a monarchical, form of government. Jaffa frequently quoted Lincoln’s *Dred Scott* speech of 1857, where Lincoln remarked that “I had thought the Declaration promised something better than the condition of British subjects; but no, it only meant that we should be *equal* to them in their own oppressed and *unequal* condition. According to that, it gave no promise that having kicked off the King and Lords of Great Britain, we should not at once be saddled with a King and Lords of our own.”<sup>20</sup> Clearly, the Declaration envisions a form of government that solicits the consent of the governed at regular elections, where their consent to be governed is renewed. This is where elections become the substitute for revolution as expressions of the people’s ultimate sovereignty in democratic government. Diamond, like Kristol, wants to separate or minimize the

<sup>20</sup> *The Collected Works of Abraham Lincoln*, ed. Roy Basler (New Brunswick, NJ: Rutgers University Press, 1953), 2:406.

Declaration's influence on the Constitution because he fears the radicalism of its equality principles. The Constitution mitigates the radicalism of those principles and tempers the potential drift into permissive egalitarianism. Jaffa's claim that in taking the Declaration and equality out of the Constitution, Diamond joins Calhoun is not as extreme as Schaefer claims. Without the Declaration, the compromises in the Constitution protecting slavery cannot be distinguished from its principles. It is the Declaration, not the Constitution, that condemns slavery. It is the Constitution, only as it is read in the light of the principles of the Declaration, according to Lincoln, that put slavery on the course of "ultimate extinction." Calhoun, like Diamond, knew that without the Declaration's "guidance" the Constitution gave "no guidance" for ending slavery.<sup>21</sup> Diamond, of course, was not in any manner a defender of slavery, but he cannot escape the consequences of his "no guidance" thesis.

Schaefer would defend "the great Harvard political theorist, constitutionalist, and conservative Harvey Mansfield Jr." against a "scandalous charge [that] was not merely ungrateful; it was false. Again, Jaffa blamed a fellow scholar for espousing the same views he himself maintained." What was that view? It was that when Jaffa argued the Declaration's principle that "all men are created equal," he admitted that for the Founders it was also a self-evident truth that all men were not created equal in all respects. Thus, when he accuses Mansfield of perpetrating a "deceitful falsehood" by writing that the Declaration's claim that "all men are created equal" is a "self-evident half-truth," he is accusing Mansfield of doing nothing more than he himself had done, namely, admit that there are politically relevant inequalities among men (163–64).

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<sup>21</sup> Schaefer does not mention in his review of *Rediscovery* Jaffa's argument that Diamond's position of "no guidance" put him in the company of John C. Calhoun, but he did notice that the charge was not "legitimate" in a review of Jaffa's *How to Think about the American Revolution*, *Review of Politics* 41, no. 3 (July 1979): 439. Both Schaefer and Mansfield advised Jaffa to drop any further discussion of Calhoun and slavery: "since the issue of slavery has long been settled in America, the time has come for political theorists to redirect their concern to the greatest domestic threat to liberty in our time—the tendency of the principle of equality to extend itself into areas of life never intended by its original liberal authors (economic, social, intellectual)" (Schaefer, review of *Rediscovery*, 165; see Mansfield's reply to Jaffa in *Rediscovery*, 211–12). It is curious—although typical—that Schaefer says that equality "extend[s] itself" without any human agency. This is the Tocquevillean thesis of the historical inevitability of "permissive egalitarianism." But it is premised, as we have already mentioned, on a misunderstanding of the *principle* of equality. In any case, "the issue of slavery" has *not* "long been settled in America." It is very much alive today! The new Democratic president-elect has pledged to support reparations for slavery. The "1619 Project" which alleges that all of American history, including the Declaration and the Constitution (including presumably the Civil War), must be viewed as a sustained effort to perpetuate slavery, has gained enthusiastic support among educators, and is already required reading in innumerable school districts and "diversity training" programs. The Black Lives Matter movement has become the most powerful political party in the country today.

Every competent human being, of course, is compelled to agree that “all men are created equal” because it is in fact a “self-evident truth” in the same sense that “things equal to the same thing are equal to each other is a self-evident truth.” But every competent human being must also concede that it is also a self-evident truth that all men are not created equal in all respects—intelligence, strength, beauty, among other things. But in the politically relevant sense of who are the rightful rulers by nature, it is clear that all men are created equal because nature has not marked some to be by nature the rulers of others. (See Locke, *First Treatise*, I.67.) No one therefore has the right to rule anyone else by nature without his consent. Schaefer, for some odd reason, endeavors to point out that Locke in the *Second Treatise* never says that “the doctrine of natural equality” is a self-evident truth. But of course, we are compelled to note that Locke did say that there was “nothing more evident” than the natural equality of all men. Surely, no one can fail to see this to be the equivalent of “self-evident.” In any case, Schaefer calls on the eminent authority of Michael Zuckert to buttress his attempt to undermine Jaffa’s attempt to portray the Declaration as an example of Aristotelian natural right. Zuckert had argued in a 1987 article that when the Declaration says “We hold these truths. . .” it means the “truths” of the Declaration are “true” only because we hold them, they are not held because they are objectively or intrinsically true or grounded in natural right. They are simply “our truths,” and are therefore conventional, not natural. Schaefer adds that Zuckert had the “magnanimity to organize a symposium...on Jaffa’s work on the occasion of his ninetieth birthday” (164n14). This allowed Zuckert to continue his less than magnanimous criticism of Jaffa, though he might also have sought enlightenment from Jaffa.

Mansfield’s characterization of the Declaration’s “all men are created equal” as a “self-evident half-truth” was prompted, as Schaefer notes, by a concern that the principle of equality will inevitably degenerate into permissive egalitarianism as Tocqueville predicted. But Schaefer fails to see the full implications and radical character of Mansfield’s argument.<sup>22</sup> In a part of the Mansfield article that Schaefer does not quote, Mansfield wrote that “a

<sup>22</sup> For some odd and seemingly inexplicable reason Schaefer seems more interested in Martin Diamond’s divorce than following the important and interesting nuances of Mansfield’s argument to its conclusion. We just remind readers that California at the time did not have no-fault divorce and Jaffa was subpoenaed by Mrs. Diamond to appear in court and was, of course, sworn to tell the truth. We do not know what he said at the trial, but we do know in general that he was a strong supporter of families and knew that Diamond was engaged in an affair with a graduate student whom he later married. Schaefer also admits that Diamond was mostly at fault in the incident but still blames Jaffa for one treachery or another resulting from the “betrayal” of his friend and benefactor (166–67).

regime based on the self-evident half-truth that all men are created equal will eventually founder because of its disregard of the many ways in which men are created unequal. Even if such a regime seems powerful at the moment, it will be subject to revolution by the partisans, in this case of the few, whom it ignores.”<sup>23</sup> Mansfield makes obvious reference here to a short dialogue that Aristotle included in chapter 10 of book 3 of the *Politics*. The many poor make a democratic claim, arguing that free birth or equality is the superior claim to rule. The few wealthy make an oligarchic claim, justifying their argument through the inequality of wealth. Aristotle remarks that both claims hit on a part of justice but not the whole of justice. Both claims are only partial and therefore partisan. The polis needs free and equal citizens no less than it needs wealth. Aristotle suggests that a regime that he calls a polity, or *politeia*, could combine the two claims to rule. In the polity, the interest of the two antagonistic classes would balance one another. What Aristotle makes clear, however, is that the oligarchs and democrats will not share a common good because there are no principles beyond the political partisanship that stands at the foundation of polity. Mansfield claims that the partisanship of polity applies to all regimes in Aristotle. “For Aristotle,” Mansfield says, “there isn’t anything behind the political.”<sup>24</sup> According to Mansfield, the Declaration must be understood in the same manner: it is political and must be understood not as principle or truth (“half-truth” is, after all, not “truth”) but as mere partisanship.

Mansfield seems to agree with Aristotle: the equal and the unequal can never share a common good and therefore cannot coexist in a regime animated by the principle that “all men are created equal.” Although there may be pious talk of a common good, each side will remain fiercely partisan. In America today, the democrats, of course, are able to display their partisanship openly, while the oligarchs must disguise their partisanship as enthusiasm for the welfare of the democrats, or the “least advantaged.” This concealed partisanship, Mansfield believes, cannot last forever, especially when the headlong slide into “permissive egalitarianism” makes it difficult for the oligarchs to continue dissembling their contempt for democracy and egalitarian natural right much longer.

What is more, the Founders’ idea that the principles of equality, properly understood as the equal protection of equal rights, could provide the

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<sup>23</sup> Harvey C. Mansfield Jr., “Returning to the Founders: The Debate on the Constitution,” *New Criterion* 12, no. 1 (Sept. 1993): 50–51.

<sup>24</sup> See *Rediscovery*, 211, 236.

common ground for the few and the many is, for Mansfield, an illusion. The unequal can never seek common ground with the equal because both seek incommensurable goods that have no common denominator. There can be no common good for Mansfield because the world of politics is always (and only) partisan. But is it possible, as the Founders believed, for the right to property—an idea unknown to Aristotle—to provide a common ground for the few and the many? The few do not want to be dispossessed by the many, and the many want to keep what they possess in security, knowing that if they prosper in the future, their property will be secure. We remember the statement in *Federalist*, No. 10 that “the first object of government” is “the protection of [the] different and unequal faculties of acquiring property, [from which] the possession of different degrees and kinds of property immediately results.” The natural right principle of distributive justice inherent in equality understood as a principle reconciles both the claims of equality and the claims of inequality—equality of opportunity and the justice of the inequality of results.

In book 5 of *Nicomachean Ethics*, Aristotle describes two different kinds of justice: justice in exchanges and justice in distribution. Justice in exchanges is governed by a numerical equality that must be present at the beginning and end of every transaction. The parties to the exchange are equal and the justice of the exchange is intrinsic to the exchange itself and does not depend on the character or quality of the parties—that is, on their differing talents and abilities, to say nothing of their moral or political virtue, wealth or poverty. Justice in exchanges is equality of result.

Justice in distributions—distributive justice—is an entirely different matter. Here justice requires inequality of result. Distributive justice is governed by proportional equality. Here justice is governed by inequality of result. This means that just distributions should be determined by unequal shares to unequals and equal shares to equals, because giving unequal shares to equals and equal shares to unequals would be unjust, whether it is a matter of exchanging goods and services or the distribution of honors and offices. Any other scheme of reward not based on equality rightly understood would be unjust from an Aristotelian point of view. Is this not precisely the system of distributive justice envisioned by the Founders that came to be known as “equal opportunity,” a system that eliminated artificial barriers to the development of natural talents and abilities at the same time it authorized a system of rewards based on the unequal expression of those talents and abilities?

This is the true understanding of the equality principle. Was its decline inevitable? Was the slide into “permissive egalitarianism” fated?<sup>25</sup>

Schaefer claims that Jaffa ignored “Mansfield’s Tocquevillean concern” about “perhaps *the* fundamental danger of our democracy” that the “principle that “all men are created equal” will inevitably lead to permissive egalitarianism.<sup>26</sup> In his answer to Mansfield, Jaffa pointed out the obvious: Tocqueville never considered equality a principle of natural right; rather he considered it a “fated fact,” a historical artifact, as it were, a product of history “in which the ‘ought’ is identified with the ‘is’” in a perfectly Hegelian schema.<sup>27</sup> Tocqueville thus never mentioned the Declaration; he must have been surprised by the ahistorical sense of those who insisted that it was the principled foundation of American politics. Regime questions were not important for Tocqueville because the triumph of democracy had been decided by the impersonal—albeit providential—forces of history. We will draw the curtain on this discussion by making a simple but revealing observation: At the end of the first volume of *Democracy in America* (1835) Tocqueville speculated on the future of the three races in America, natives, Africans, and whites. Tocqueville demonstrated great foresight about many aspects of American politics, particularly the centralizing tendencies of the administrative state. He even predicted civil war. But he thought it would take the form of slave rebellions against masters. Tocqueville could not have predicted that in America a civil war would be fought among whites over the morality of slavery, a war to determine whether the Declaration was to remain the “father of all moral principle” for the American people. Tocqueville could not have predicted this because he did not understand—as Mansfield does not understand—that for the American Founders “all men are created equal” is the principle of natural right that energizes American political life. There is something behind the political; America is grounded in “the Laws of Nature and Nature’s God.” The fact that Americans have fallen away from their “ancient faith” is not to be ascribed to some inherent defect in the Founding, but to the explicit attempt to “re-found” the regime by the Progressives who mounted an attack against the idea that there could ever be permanent principles informing political life rooted in a permanent order of nature. Evolutionary science taught the Progressives that history, not nature, is the primary force of human experience. Historicism, which eventually leads to positivism and nihilism, is our current condition, but it is not fated. A return to Founding principles is possible if we understand them properly.

<sup>25</sup> Some of the foregoing paragraphs are derived from Erlner, *Property and the Pursuit of Happiness*, 155–57; see Jaffa, *Rediscovery*, 236–52.

<sup>26</sup> See *Rediscovery*, 212–13.

<sup>27</sup> *Ibid.*, 249.