**HISPANIC SCHOLASTICISM AND THE JEFFERSONIAN IDEA**

The phrase ‘Life, Liberty, and the pursuit of Happiness’ was Thomas Jefferson’s rewriting of Locke’s dictum, ‘Life, Liberty, and the pursuit of Property.’ Locke’s political philosophy speaks of a coming liberal age, engendering the *Declaration of Independence*. Anglo-Saxon historiography seemed to assure that Locke’s ideas were the autochthonous result of a historical process centered on the Reformation, Cromwellian parliamentary supremacy, and English commercial practices. Some continental philosophers look instead to the theologians of the School of Salamanca for the European origins of liberty. In this paper I will examine the recent scholarship about the impressive contribution of this School which led Jefferson to ground the *Declaration of Independence* in scholastic thought.

These scholastics provided the philosophical, legal, and economic framework for modern Europe, as it transitioned from its medieval concepts of social organization to the more liberal and individualistic one now. They were influential for a simple reason. The scholastic program used reason to develop its concepts of free will, popular sovereignty, and property rights – which well correspond to Locke’s phrase – and placed them in a congruent philosophical system derived from first principles using natural law. It was this coherent, logical framework that appealed most to the later thinkers Jefferson relied on when searching for a sound philosophical basis for the *Declaration.*

The Hispanic neo-scholastics applied natural law[[1]](#footnote-1) to prior Conciliarist parliamentary ideas to establish a new relationship between the individual, the community, and the state. This framework emphasized a greater separation of church and state,[[2]](#footnote-2) popular sovereignty, deposition of kings, and checks on monarchical power. Others, including Protestants and Enlightenment thinkers, were later drawn to this system due to its sound basing in an essentialist, classical, natural law drawn from first principles. It was this foundational coherence which attracted others, including Jefferson, who tended to mistrust the basis of the resistance theorists that also relied on historicism or scripture, such as George Buchanan, the authors of *Vindiciae Contra Tyrannos,*[[3]](#footnote-3) or Locke himself.

I.

The Hispanic neo-scholastic expansion of Aquinas’s concept of *dominium* (capacity to use) turned the medieval person into a *de jure*[[4]](#footnote-4) legal entity, and a sovereign individual free to engage in commerce – a citizen – with a state configured to protect property and other natural rights. These citizens then formed into a polity as the sovereign political subject of a state. The scholastic development of the ideas of free will and economic liberty created a need for a practical legal framework and associated political institutions that could adapt the scholastics’ ideas with the needs of Renaissance Europe.

Francisco de Vitoria was the founder of the Salamanca School of Hispanic neo-scholasticism. Apart from grounding the rule of law in natural law,[[5]](#footnote-5) and creating international law, he defended property rights, freedom of thought, and liberty. Essential to him was that natural law is always true, and applies to all; he made a secular argument that everyone is entitled to the same natural rights.[[6]](#footnote-6) Francisco Suarez later argued that the people are the vehicle of their own sovereignty and could depose a king.

The impact of these ideas in England, then in the process of developing an absolutist state, caused political upheavals that served as the crucible where Locke and Sidney developed their theories of popular sovereignty. When Suarez wrote *Defensio Fidei* (1613) against King James’s mandatory Oath of Allegiance, he presented to England a neo-scholastic concept of the equality and liberty of mankind, along with a theory of consent (popular sovereignty) and resistance (revolution), that was later identical to Locke’s.[[7]](#footnote-7) When King James ordered *Defensio* burned, Vitoria and Suarez had already stated all the precepts of liberty present in the *Declaration –* before Locke.

Vitoria and Suarez argued that sovereignty comes from God, and is vested in the people as the sovereign political subject – the ruler’s power is delegated from God, and his authority from the people.[[8]](#footnote-8) [[9]](#footnote-9) This is in contrast with Hobbes, Filmer, and others in favor of the divine right, who believed that sovereignty emanated from God and was directly passed on to the king. This patriarchal arrangement of *patria potestas* was historically and scripturally based*.* Suarez rejected this patriarchal justification, and stressed that a law’s authority is based on God’s, and known to society through reason; in his conception God is neither voluntarist nor arbitrary.

Vitoria claimed that natural law was a ‘natural ethic’ that existed among all peoples.[[10]](#footnote-10) He thus claimed universal rights for mankind in his *Justos Titulos*,[[11]](#footnote-11) among which were that mankind was born free, that no one is superior to another, and that the king’s power emanates from the nation, because it was free from the beginning; in other words, liberty, equality, and popular sovereignty. Suarez expanded this by stating that the origin of the state’s authority came from mankind itself and the nature of his willful social arrangements. While human nature was God given, the foundation of the state was not; it was of popular origin, and the authority to govern was entrusted to the ruler. A people who were misruled had a right to redress; furthermore, a people had a right to resist an imposed ruler. Vitoria argued that a community keeps its natural right to self-defense.

Another Jesuit, Mariana, wrote two influential books – one was a history of Spain that Jefferson owned, *Historiae de Rebus Hispaniae*;[[12]](#footnote-12) the other was Mariana’s book *De Rege,* written against Machiavellian currents and conceiving the king as beholden to moral law and popular consent. Monarchs that impeded a popular expression of their sovereign institutions, such as a parliament, constituted a violation of the foundations of the state. Violations of this justified tyrannicide, where he argued (unlike the Huguenots)[[13]](#footnote-13) that an individual could act on his own authority.

There were Protestant resistance writers who advocated tyrannicide, but, as it were, their ideas were always displayed against the rulers they didn’t like. Huguenots began defending royal prerogatives when Henry of Navarre became king. Mariana made resistance theory truly effective, because his was a grounded and universal theory. It purported to be always true, regardless of particulars. Mariana further amplified its impact by citing a number of specific tyrants, and a number of assassinations, and justifying them. He was later imprisoned himself for *lese majeste* when he published *De Monetae Mutatione*,[[14]](#footnote-14) an attack on King Phillip III for debasing money – a book that was confiscated and burned. All this made Mariana’s theories and enticements a practical, implementable, reality, one which other writers never came close to achieving. When Henry IV was assassinated in France, Mariana was directly blamed, and *De Rege* was burned in Paris.

The Reformation specifically targeted church authority, hierarchy, and property everywhere, resulting in a weakened institutional panorama. As secular authorities gladly replaced ecclesial ones, the Protestant superstate was developed.[[15]](#footnote-15) In developing his legal system, Vitoria here reaffirmed the divide in spiritual and temporal roles.[[16]](#footnote-16) He denied both king and pope universal supremacy, and while the pope was vicar of Christ, civil power was not subject to his temporal power, only his spiritual authority. This became particularly relevant when Protestant countries, particularly in England, engendered the Hobbesian application of the divine right of kings. With this thinking, disobeying the monarch was disobeying God.

The scholastics never fully embraced religious toleration, although they did accept differences in the theological disputes within counterreformation Catholicism, ones that mirrored the conflict in the Reformation itself. But they were the only ones in Europe who strongly defended the separation of church and state against theories of divine right (England), theocracy (Geneva), royal absolutism (France), and the Renaissance popes (Rome). Thomistic theory (mirroring Plato), argued that a ruler’s coercive authority stemmed from being beholden to the church’s spiritual one, and its role and capacity to examine and discern the truth. No such restraint existed for the absolutist states being created in Europe, and the philosophical threads that engendered these could not serve the Jeffersonian idea.

II.

The political conflict in 17th century England caused Robert Filmer to write *Patriarcha* defending the divine right of kings. Writing in defense of absolutism and against parliament, Filmer specifically attacked the influential theories of Bellarmine, Suarez, and the neo-scholastics.[[17]](#footnote-17) He used a natural law and scripture based argument to liken a king’s power with the *patria potestas* of the Bible’s Adam*.*  The responses of Locke and Sidney to Filmer provided the proximate philosophical justification for the *Declaration*.

Locke cited Bellarmine and defended him from Filmer in the beginning of the *Two Treatises on Government*.[[18]](#footnote-18) Rager and others have argued for a direct and resulting relationship between Bellarmine and the *Declaration.*[[19]](#footnote-19) In fact, much of Locke’s theory was not new;[[20]](#footnote-20) he obviously denied patriarchalism, and he restated the neo-scholastics consent and resistance theories. But Locke emphasized individual sovereignty (like Mariana), the separation of powers, and antecedent private property rights. Locke justified resistance when a ruler failed to protect property – which was the justification for the state itself – by seizing it unjustly. He further extended this right to include self-preservation,[[21]](#footnote-21) and argued that individuals had enjoyed the ‘executive law of nature’ to defend their “health, liberty, or possessions.”

Locke had problems when trying to ground his philosophical arguments in coherent, self-contained principles. In his *Essay concerning Human Understanding* he laid out an empiricist platform based on his *tabula rasa.* Obviating knowledge *a priori*, and understanding a Newtonian nature as meaningless, inferring and knowing rights from nature was an impossibility.[[22]](#footnote-22) The empiricist would have to infer rights from common shared experience, which was not easily done given the limitations of empirical enquiry. So Locke turned to scripture to help justify his “law of nature,” affirming that understanding it was impossible without revelation. He could support his political philosophy with divine sources, and given his audience, this approach was a practical one during the England of the Glorious Revolution.[[23]](#footnote-23)

The purely scriptural foundation of the early Protestant reformers negated the heuristic value of nature.[[24]](#footnote-24) Early Protestants had argued that rights came from God’s grace alone;[[25]](#footnote-25) their inability to develop a sound philosophical system based on scripture caused Protestant writers, such as Grotius and Pufendorf, both of whom influenced Locke,[[26]](#footnote-26) to rely on and extensively cite the Hispanic neo-scholastics, Suarez in particular.[[27]](#footnote-27) They attempted to adapt his natural law with Protestant thought by emphasizing its divine origin and equating it with revelation.[[28]](#footnote-28) Both of these writers were particularly influential on the Founders, and their books were featured in Jefferson’s library. This practice of conflating divine and natural rights was needed, given the pressures of the audiences they were writing for; but it also denatured its justificatory essence enough that English absolutists like King James could avail himself of natural law to justify his Hobbesian state.

James II was deposed because of a conflict with parliament over his vision for England, not because of a supposed breach in a Lockean social contract; nor were conditions dire enough in the colonies to justify a contractual breach there either. Locke’s philosophical inconsistency posed a practical problem[[29]](#footnote-29) which Jefferson solved by choosing to ignore it altogether. He wasn’t interested in justifying the Declaration with historical or scriptural arguments (as most writers at the time did, including Locke), and empirical abstractions weren’t practical either. He chose to suffuse the *Declaration* with the Protestant version of natural law as developed by Grotius and Pufendorf, which was firmly grounded in Hispanic neo-scholasticism.[[30]](#footnote-30) He found a direct basis for it in Algernon Sidney’s *Discourses Concerning Government*, writing against Filmer and the divine right of kings. While Locke was very influential in the American constitutional concepts – such as the separation of powers – Jefferson was heavily influenced by what he read in Sidney, a classical natural law theorist.[[31]](#footnote-31) Thomas West argues that, “the core of Sidney’s thought probably represents better than Locke’s the spirit of American Republicanism;”[[32]](#footnote-32) Sidney also cited Bellarmine, the Jesuits, the Schoolmen, and Aristotle repeatedly.

Jefferson credited the *Declaration* to “Aristotle, Cicero, Locke, and Sidney.”[[33]](#footnote-33) Except for Locke, all claimed a basis in an essentialist natural law where reason led to man’s happiness by living within the strictures of nature. Sidney did not share Locke’s internal metaphysical contradictions, and while he was also a Protestant, he didn’t have any qualms in citing the scholastics. Filmer had attacked liberty by directly attacking what he perceived as its source: the neo-scholastics, Suarez and Bellarmine. Sidney answered him by specifically defending them.

Sidney argued that no one should anymore be accused of paganism for deducing mathematical truths from a Euclidean foundation, than to be a Catholic follower of the scholastic (authority) for accepting the politics that they derive from nature, that is, that man is “naturally free.”[[34]](#footnote-34) In other words, he fully accepts rights based on nature, in a scholastic tradition, stating that liberty was “written in the heart of every man, denied by none.”[[35]](#footnote-35) This was the underlying justification for the statement of self-evidence[[36]](#footnote-36) that “all men are created equal, that they are endowed by their Creator with certain unalienable rights.” This statement can only be apodidactic when it is assumed that all men have the same nature, can reason, and are therefore equal – as the neo-scholastics argued. Aristotle argued that natural law was “self-evident by nature.”[[37]](#footnote-37) Jefferson was clearly skeptical of Lockean abstractions, and suspected that an inner moral sense guided man in the context of an effective society, not just property and an instinct for self-preservation.[[38]](#footnote-38)

For Locke, property precedes society, and drives the development of natural rights. In the Aristotelean tradition, transmitted by the Hispanic neo-scholastics, man’s essence precedes society. Rights are come by in order for man to specifically find felicity by fulfilling his essential nature. This teleological construct behind natural rights lies opposed to Locke’s nominalism, which was directly linked to the Enlightenment effort to decouple the determinant of man’s essence from sources external to man, and thus his ethics. In England, this had started with Hobbes’s philosophy, where human nature was neither essential nor teleological;[[39]](#footnote-39) man’s rights came from “what he can do,” as opposed to “what man is.” Locke’s main difference with the neo-scholastics was that he was a nominalist and he deemphasized essences and a teleological moral purpose to man. Man’s purpose comes from his property and labor, and since individuals precede society, rights are “ontological extensions” of the individual above it;[[40]](#footnote-40) Thomism holds that that rights are secured by recognizing duties and respecting the rights of others in the context of a naturally occurring society.[[41]](#footnote-41)

Locke developed the ‘executive law of nature’ to enable man to develop, and defend, his property on his own, outside of society. Preservation of property drives the state. Jefferson’s removed *property* from Locke’s dictum of “Life, Liberty, and Property,” and it must be considered significant, considering that taxation of property was the catalyst of the American Revolution. Jefferson again does not mention the key component of the Lockean system justifying the state when he writes in the *Declaration*, “That to secure these rights, Governments are instituted among men…” There is nothing in the *Declaration* that is necessarily Lockean;[[42]](#footnote-42) especially when one considers that *property* is replaced with *the Pursuit of Happiness*,[[43]](#footnote-43) particularly considering that happiness is man’s teleological entelechy in the Aristotelean and neo-scholastic concept.[[44]](#footnote-44) Jefferson chose this essentialist version of natural law to ground the *Declaration* in the classical conceptions of man’s nature (Aristotle) and historical republican principles (Cicero)[[45]](#footnote-45) as mediated by the Hispanic neo-scholastics.

Section Two of Sidney’s *Discourses* opens with several phrases arguing against Filmer which show how the similar “pursuit” phrase in the *Declaration* could be construed as essentialist. “The principle of liberty in which God created us, and which includes the chief advantages of the life we enjoy, as well as the greatest helps towards the felicity,” is echoed by “endowed by their creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness.” Sidney here clearly uses a teleological justification for man’s liberties -- felicity.

Jefferson continues; the purpose of a new (revolutionary) government is “to effect (man’s) Safety and Happiness,” another teleological approach that does not mention property. This further omission shows that the *pursuit of happiness* was not an accident or a whim, but deliberate. The “Safety and Happiness” phrase undergirds an end to government that seeks to promote virtue and man’s fulfilment, which itself is Aristotelean, and is transmitted through Sidney.[[46]](#footnote-46) Jefferson continues with classical justification, bothering to making a case “it is their right, it is their duty, to throw off such Government,” against “Prudence” – an Aristotelean virtue specifically associated with statesmen. An admonition toward “duty” can only be conceived in a morally directed universe. Jefferson’s *Declaration* is thus firmly rooted in an Aristotelean and neo-scholastic tradition.

**Conclusion**

Due to their travels, their books and textbooks, and their confessor manuals, the impact of Hispanic neo-scholasticism in modern European thinking was enormous, but little credit has been noted historically. A primary reason is that unlike the neo-scholastics, Enlightenment writers did not cite their influences often.[[47]](#footnote-47) However, there were other reasons. Protestant writers had to appeal to their readers’ sensibilities and prejudices. The original *sola scriptura* approach of the Reformation had proved unworkable philosophically; Protestant writers therefore stocked their libraries with the works of the neo-scholastics,[[48]](#footnote-48) but found themselves apprehensive about citing them. Others were simply hostile to scholasticism in general. The philosophes, the physiocrats, the absolutists, and other Enlightenment thinkers represented a position antithetical to scholasticism, and thus refused to acknowledge the casuists.[[49]](#footnote-49)

In England, it had been dangerous to express any ideas regarding popular sovereignty, irrespective of their origin, until Cromwell. When Locke began writing, his ideas on resistance and consent were identical to the neo-scholastics,[[50]](#footnote-50) but he couched them in an empiricist, abstract, non-classical natural law; Sidney did, and referred to them multiple times.

The decline of Spain and its universities proved an insurmountable obstacle for its institutions to defend the integrity of its intellectuals’ ideas. With the expulsion of the Jesuits, and Spain under an absolutist regime, it became impossible for anyone to promote and develop the concepts of the neo-scholastics. Their ideas were not lost, but attributed credit was. Historians are now beset by normalcy bias,[[51]](#footnote-51) which precludes the credit due to those neo-scholastics who helped fashion the modern world.

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**ADDITIONAL NOTES**

**I. Bellarmine**

Cardinal Bellarmine crystallized the doctrines of the Hispanic scholastics better than anyone else. In *De Laicis*, he restated the scholastics’ ideas that power comes from God, and is vested in a community of equals. Bellarmine also maintained Mariana’s tradition of applying his principles universally. He was placed on the index for not supporting papal power enough; “he proved the argument of those who championed the temporal powers of the pope faulty.”[[52]](#footnote-52) A student of Mariana’s, he later taught at the Jesuit Roman College, where he was a colleague of Suarez’s for 10 years. Bellarmine’s travels, students, writings, and prominence profiled scholastic ideas everywhere; Hobbes had met him in Rome, and commended him in his writings. Bellarmine, along with Suarez (whose book, *Defensio Fidei* was ordered burned by King James) became a reference during the Oath of Allegiance controversy, and the later 17th century political turmoil in England, where he was attacked by Protestants.[[53]](#footnote-53)

Bellarmine’s arguments for origins of power, popular sovereignty, equality, and revolution and self-determination found direct echoes in the Declaration of Independence:[[54]](#footnote-54)

Independence. Bellarmine: "Political power emanates from God. Government was introduced by divine law but the divine law has given this power to no particular man." De Laicis, Ch. VI.

DOI: "They (the people) are endowed by their Creator with certain unalienable rights."

Bellarmine: "Men must be governed by someone, lest they be willing to perish. It is impossible for men to live together without someone to care for the common good. Society must have power to protect and preserve itself." De Laicis, Ch. VI.

DOI: "To secure these rights (Life, Liberty, and the Pursuit of Happiness) governments are instituted among men."

Bellarmine: "This power is immediately as in its subject, in the whole multitude." De Laicis, Ch. VI. "The people themselves, immediately and directly, hold political power so long as they have not transferred this power to a king or ruler." De Clericis, Ch. VII. "The commonwealth cannot exercise this power itself, therefore, it is helped to transfer it in some way to one man or some few." De Laicis, Ch. VI.

DOI: " Governments are instituted among men, deriving their powers from the consent of the governed."

Bellarmine: "In the commonwealth, all men are born naturally free and equal." De Clericis, Ch. VII. "There is no reason why amongst equals one should rule rather than another." De Laicis, Ch. VI.

DOI: "All men are created equal."

Bellarmine: "For legitimate reason the people can change the government to an aristocracy or a democracy or vice versa." De Laicis, Ch. VI. "It depends upon the consent of men to place over themselves a king, counsel, or magistrate." De Laicis, Ch. VI.

DOI: "Whenever any forms of government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute a new government . . . Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes."

II. Conciliarism

The Councils of Constance and Basel in the 15th century, called to resolve the crisis of the papacy in the late Middle Ages, affirmed their capacity and supremacy to rule the church and their ability to depose the pope at will. These councils influenced parliamentarism in England through Scottish exiles in Paris,[[55]](#footnote-55) and linked conciliarism with incipient constitutionalism. Textual analysis shows how the documents of these councils were read and commented on by Scottish writers such as John Mair.

The Councils of Toledo were a series of church councils that took place during the Visigothic Kingdom of Spain to help settle Arrianism and other major questions of church and state. The Visigothic monarchy was elective, and the nobles frequently deposed the king; the Toledo Councils were extensively cited at the Council of Constance, where Spain was represented by Diego de Moxena, a Salamancan who became the eminence gris of that council.[[56]](#footnote-56) The principles of state cited from the Councils of Toledo formed a major part of the evolving conciliarist tradition, which, coupled with the development of constitutional rights by canon lawyers there, heavily influenced the development of parliamentary authority everywhere.[[57]](#footnote-57)

**III. Economists of the School of Salamanca**

Joseph Schumpeter and Marjorie Grice-Hutchinson have made powerful arguments that Salamanca was the origin of modern economic science, and economists of the Austrian school consider them as being proto-libertarians.

The key driver for the philosophical evolution of the neo-scholastics of Salamanca from medieval concepts of common ownership and communal living was their creation of universal, individual, and inalienable private property rights. Amaya Amell outlines how they (in particular Vitoria) applied the concept of *dominium* in a way that made this private property regime possible.[[58]](#footnote-58) Aquinas argued that private property was an invention of human reason and not contrary to natural law,[[59]](#footnote-59) and necessary; as the neo-scholastics believed that common property regimes led to waste, inefficiency, and economic injustice, because the strong would prevail over the weak. Private property regimes also necessitated limiting the state’s rights, and allowed for the legitimization of profit.

Vitoria broached the debate over just price; prices in the medieval world were frequently fixed or restricted, as it was assumed that a just price depended on the supposed value of labor used. Vitoria believed that a just price is the actual market price, and Azpilcueta followed by arguing that government price-fixing is wrong. Covarrubias and Molina followed by fully developing a purely subjective theory of price and value based on a good’s utility to the individual. Their contributions are the foundation of modern supply and demand theory. These economists influenced Condillac, Turgot, and Galiani.[[60]](#footnote-60)

Molina joined the value theory to private property rights to attack crown monopoly privileges. Free floating prices were necessary to the efficient function of the market, and thus monopolies were considered theft. He felt the consumer had a right to purchase from the cheapest seller. Price fixing was also a target for the economists of Salamanca.

Azpilcueta and Molina noticed the problem of an oversupply of money, and its relationship to price and inflation. Bodin took credit for the Quantity Theory of Money even though Azpilcueta published his 12 years earlier[[61]](#footnote-61) (incidentally, Bodin’s theories of sovereignty influenced Hobbes and Filmer). This theory, along with the concept of private property, supported Molina’s and Escobar’s reforms in credit markets, against the Aristotelean and medieval enjoinders against usury. Escobar was bitterly attacked in France by Pascal.[[62]](#footnote-62)

As seen, the theologians of Salamanca provided a foundation of knowledge that was assumed into the general corpus of economic knowledge. Adam Smith’s *Wealth of Nations* and the emergence of a free market regime would have been impossible without them.[[63]](#footnote-63)

**IV. Declaration of Independence (introduction)**

When in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

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. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — 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. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

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1. Schumpeter, p. 109 Molina redefined the concept of natural lawby affirming that it was based on reason, the common good, and what was socially expedient or necessary for the success of society. This implies a sense of justice that would find an echo in scholastic theory of state. What was against the commonweal was unjust, and contrary to natural law. This process drove their conception of popular sovereignty and economics, based on freedom and the political equality of all human beings regardless of condition. [↑](#footnote-ref-1)
2. Amell, pp. 109-112 [↑](#footnote-ref-2)
3. Locke intro, p. 69. Filmer’s reliance on historicist and scriptural sources may have precluded their use in both the *Declaration of Independence;* Locke’s *Two Treatises* did rely on scriptural justifications*.* [↑](#footnote-ref-3)
4. *Dominium* implies a *de jure* relationship, as opposed to *usus*. [↑](#footnote-ref-4)
5. Fitzmaurice, pp. 45-46 [↑](#footnote-ref-5)
6. Amell, p. 163 [↑](#footnote-ref-6)
7. Springborg, p. 513 [↑](#footnote-ref-7)
8. Amell, p. 85 [↑](#footnote-ref-8)
9. Schumpeter, p. 92 [↑](#footnote-ref-9)
10. Amell, p. 85 [↑](#footnote-ref-10)
11. Amell, pp. 125-146. Vitoria extended the medieval concept of dominium to sovereignty, but allowing for overlapping dominium. Natural law applied to everyone at all times, because everyone could reason. By enjoindering slavery, unlike Aristotle, man was considered free. Man could exercise universal, inalienable natural rights, where the sovereign’s *dominium* could overlap, but not interfere, with man’s rights. [↑](#footnote-ref-11)
12. Graf, p. 472-473 [↑](#footnote-ref-12)
13. Calvin and the Huguenot writers allowed for resistance to a monarch through noble intermediaries or “magistrates.” They did not allow for individual action. [↑](#footnote-ref-13)
14. Graf [↑](#footnote-ref-14)
15. Schumpeter, p. 92 [↑](#footnote-ref-15)
16. St. Augustine, against the traditions of antiquity, framed a theological argument conceptualizing a separation of church and state in the *City of God.*  [↑](#footnote-ref-16)
17. Sigmund, p. 8 [↑](#footnote-ref-17)
18. Sigmund, p. 8 [↑](#footnote-ref-18)
19. Rager, *Democracy and Bellarmine* [↑](#footnote-ref-19)
20. Schumpeter, p. 117. Locke breaks with scholastic natural law tradition with the *Essay concerning Human Understanding*, but that does not “imply that there was a similar break in political or economic theory.” [↑](#footnote-ref-20)
21. Much like Vitoria [↑](#footnote-ref-21)
22. Locke intro, pp. 80-81 [↑](#footnote-ref-22)
23. Locke, intro [↑](#footnote-ref-23)
24. This was due to the Protestant reformers perceived belief in the unreliability of human reason, due to man’s essentially corrupt nature. This was in contrast to the Aristotelean-Vitorian tradition, where man is essentially oriented to good. [↑](#footnote-ref-24)
25. Amell, p. 72 [↑](#footnote-ref-25)
26. Locke intro, p. 75 [↑](#footnote-ref-26)
27. Hobbes and Berkeley cited Suarez occasionally. Other English thinkers who expressed themselves in terms of natural law, such as Matthew Hale, Richard Hooker, and Christopher St. Germain, owed a direct debt to Aquinas, Suarez, and the other neo-scholastics, but the credit was lost due to the sectarian context. [↑](#footnote-ref-27)
28. These had not been the first Reformed writers to appropriate scholastic natural law with appeals to divine law or a creator – Buchanan was one. [↑](#footnote-ref-28)
29. Locke intro, p. 66 [↑](#footnote-ref-29)
30. See Amell, Chapter 5 [↑](#footnote-ref-30)
31. Sidney, foreword p. 1 [↑](#footnote-ref-31)
32. Sidney, foreword, “Sidney’s Legacy” [↑](#footnote-ref-32)
33. Letter to Henry Lee, May 8, 1825 [↑](#footnote-ref-33)
34. Sidney, Section 2, “The Common Notions of Liberty are not from School Divines, but from Nature” [↑](#footnote-ref-34)
35. Ibid. [↑](#footnote-ref-35)
36. Ibid. Sidney believed that man’s nature is reason, enabling a “self-evident” natural law, “written in the heart of every man;” Empiricism would not allow for a priori knowledge. [↑](#footnote-ref-36)
37. Amell, p. 82 [↑](#footnote-ref-37)
38. Jayne, pp. 41-61 [↑](#footnote-ref-38)
39. Sidney, foreword. In Section Two of the *Discourses*, Sidney makes it clear that man’s essential nature is teleological. [↑](#footnote-ref-39)
40. Colvin, “The Language of Rights” [↑](#footnote-ref-40)
41. McInerny, “Natural Law and Human Rights” [↑](#footnote-ref-41)
42. Some phrases are Locke’s, such as “long train of abuses…” But philosophically, there is nothing in the *Declaration* that is essentially Locke’ [↑](#footnote-ref-42)
43. “Pursuit of Happiness” is probably derived from the *Essay concerning Human Understanding*, but in a completely different context, where Locke is discussing ‘happiness’ and ‘liberty’ in the context of free will and ethics. [↑](#footnote-ref-43)
44. Ibid. Sidney mentions “felicity” in this context several times. [↑](#footnote-ref-44)
45. Cicero’s *De Legibus* expounds classical natural law [↑](#footnote-ref-45)
46. Sidney, foreword [↑](#footnote-ref-46)
47. Internet Encyclopedia of Philosophy, “Suarez” [↑](#footnote-ref-47)
48. Grice-Hutchinson, p. 65 [↑](#footnote-ref-48)
49. Grice-Hutchinson, p. 76 [↑](#footnote-ref-49)
50. Springborg, p. 513 [↑](#footnote-ref-50)
51. Schumpeter, p. 99, p. 112 [↑](#footnote-ref-51)
52. Springborg [↑](#footnote-ref-52)
53. Paul Sigmund p.4 [↑](#footnote-ref-53)
54. Father John Rager in Democracy and Bellarmine [↑](#footnote-ref-54)
55. Sigmund, p. 11 [↑](#footnote-ref-55)
56. Rodriguez-San Pedro, p. 175 [↑](#footnote-ref-56)
57. Sigmund, p. 11 [↑](#footnote-ref-57)
58. Amell pp. 126-146 [↑](#footnote-ref-58)
59. Schumpeter p. 92 [↑](#footnote-ref-59)
60. Grice-Hutchinson p. 76 [↑](#footnote-ref-60)
61. Grice-Hutchinson p. 52 [↑](#footnote-ref-61)
62. Grice-Hutchinson p. 75 [↑](#footnote-ref-62)
63. Grice-Hutchison p. 69 [↑](#footnote-ref-63)