The Departure from the Original Intent of the 14th Amendment.

By
Johnny B. Davis

January 28, 2023

Introduction

The single most significant change to constitutional order from "original intent" has been the departure from the original intent of the 14th Amendment. 14th Amendment was enacted to fulfill Abraham Lincoln's vision for the American Republic to realize the principles of the Declaration of Independence.[1] The intent was for the 14th Amendment to require the states to respect and protect the individual rights recognized by the Declaration.[2]

The 14th Amendment was rendered virtually meaningless by court rulings that retreated before the opposition of southern nationalism. Later the defeat of segregation was based on the principles of the Declaration. However, the modern courts injected Hegelian group identity ideology into the 14th Amendment. The injection of group identity ideology has led to judicially created group rights like the right to abortion and has injected poison both into public policy and the larger culture.[3]

The Declaration sets forth its source of authority as "the Laws of Nature and Nature's God."[4] The Great Awakenings produced a consensus around natural law in the colonies rooted in the belief in individual rights of a universal nature that came from God.[5] Modern liberal judicial activists and the conservative legal establishment "originalists" deny that the Declaration of Independence is the Republic's founding document. The denial of this truth prevents them from adequately understanding the 14th Amendment.[6]

The key to understanding the 14th Amendment is Abraham Lincoln's belief that the Constitution rests on the Declaration's principles.[7] The Federal did not have jurisdiction to force the states to respect the rights recognized by the Declaration. The original intent of the 14th

---

[1] Thomas Jefferson, "The Declaration of Independence." (Washington, DC, National Archives), https://www.archives.gov/founding-docs/declaration-transcript (accessed on October 25, 2021).

[2] Gerard N. Magliocca and John Armor Bingham. *American Founding Son John Bingham and the Invention of the Fourteenth Amendment*. (New York: New York University Press, 2013), 37-39 and 78-83.

[3] Herbert W. Titus, *God, Man, and Law: The Biblical Principles*. (Chicago, IL, Institutes in Basic Life Principles, 1994), 34-38 and 106-108.

[4] Thomas Jefferson, "The Declaration of Independence." (Washington, DC, National Archives), https://www.archives.gov/founding-docs/declaration-transcript (accessed on October 25, 2021).

[5] Bruce Snavely, *The Second Reformation: Baptists in Colonial America*. (Lynchburg, VA, Liberty University Press,2013), 79-83, 92-94, and 126-132.

[6] Harry V Jaffa. *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War*. 1st ed. (Lanham, Md: Rowman & Littlefield, 2004), 77-84.

[7] Garry Willis. "Words that Remade America." *The Atlantic* (2012). https://www.theatlantic.com/magazine/archive/2012/02/the-words-that-remade-america/308801/ (last accessed April 2022).

Amendment was to give the federal government the authority to ensure that the states respected the individual rights recognized by the Declaration of Independence.[8]

Southern nationalists resisted the 14th Amendment, and the true meaning of the 14th Amendment was frustrated by the Supreme Court and public policymakers who lacked the will to overcome southern resistance. The Supreme Court pulled away from the original intent of the 14th Amendment in the 1873 *Slaughter-House*, 83 U.S. 36 (1873), and *Plessy vs.* Ferguson, 63 U.S. 537 (1896) decisions that hollowed out the Amendment's individual rights protections.[9]

The *Slaughter-House* opinion divided rights into those related to federal citizenship and those of state citizenship. A finding without any support in the Constitution or case precedent. The Court's opinion implicated rejected the Declaration of Independence's principles. [10] [11] Federal rights arise from the federal government's creation, and state citizenship rights arise before the federal government's creation.[12]

Further, the opinion held that the privileges and immunities clause only protected rights that arose from creating the federal government. Thus, the opinion excluded the rights protected by the Bill of Rights. The opinion implicitly denied the Founding Fathers' view that rights pre-date the creation of the Constitution. The Court held that the privileges and immunities clause covered only a few privileges, such as moving from one state to another and changing residence. Thus, the due process clause was limited to requiring due process for federal privileges and immunities.[13] Lincoln and Bingham's vision to fully uphold the principles of the Declaration of Independence was frustrated. [14]

The Supreme gutted the 14th Amendment's equal protection clause in *Plessy vs. Ferguson* 163 U.S. 537 (1896). The Supreme Court held that a statute requiring segregated public facilities did not violate the equal protection clause of the 14th Amendment. The opinion was based on deference to the police power of the states. The language of the Amendment did not require deference to police power. Instead, the Amendment limits police power from being used to violate individual liberty.[15]

---

[8] Magliocca and Bingham. *American Founding Son*, 37-39 and 78-83.

[9] Ilan Wurman. *The Second Founding: An Introduction to the Fourteenth Amendment,* (Cambridge, MA: Cambridge University Press, 2020), 81-86 and 90-95.

[10] Jaffa. *A New Birth*, 98-102, 133-138, and 151-155.

[11] Lee J. Strang. "The Declaration of Independence: No Special Role in Constitutional Interpretation." *Harvard Journal of Law and Public Policy* 42, no. 1 (2019): 42-44 and 49-50.

[12] *Slaughter-House* 83 U.S. at 71 and 78-79.

[13] Ibid.

[14] Hadley Arkes. *First Things: An Inquiry into the First Principles of Morals and Justice*. (Princeton: Princeton University Press, 1986), 13-29 and 33-39.

[15] Magliocca and Bingham. *American Founding Son*, 33-37 and 79-84.

In effect, the Supreme Court held that only an admitted direct purpose to harm minorities could violate the equal protection clause.[16] The Supreme Court echoed John Calhoun's ideas regarding state rights and policies. Justice Harlan's dissent pointed out that the opinion condones the creation of different classes of Americans in violation of the fundamental principles of the Republic. Justice Harlan upheld the truth that the 14th Amendment required all individuals to receive the same treatment before the law.[17]

Conservative establishment originalists argue that the early embrace of segregation was proof the 14th Amendment did not embrace universal individual rights. Such a position leaves them with a dim view of the meaning of the 14th Amendment. A leading establishment originalist, Dr. Strang, stated he was uncertain whether original intent would forbid forced sterilization. He argues that is proof that originalism is truly law, unlike natural law.[18] In reality, it's proof of the moral and intellectual bankruptcy of establishment originalism.

Conservatives should harken to Lincoln and his call that the Founding Fathers built the Republic upon natural law rooted in the truth that all mankind is made in the image of God. Specifically, the Constitution must be interpreted by the Declaration's principles as the Founders created the Constitution upon the Declaration of Independence.[19] Bingham and other authors stated their intentions to uphold natural rights for all.[20] The strong must be restrained from violating the rights of the politically weaker.[21] Dr. Strang and other establishment originalists generally dodge the statements of Lincoln and Bingham or try to dismiss them as empty rhetoric.[22] [23] Thus, even though Originalists argue for considering the original historical context, they don't follow the historical context. Just as disregarding the Declaration of Independence is simply getting the history wrong.[24]

---

[16] *Plessy vs. Ferguson* 163 U.S. at 71 and 541-544.

[17] Ibid, 557-559.

[18] https://www.anchoringtruths.org/should-the-declaration-inform-the-constitution-hadley-arkes-and-lee-strang-debate-transcript/ (accessed April 22, 2022).

[19] Randy E. Barnett. "The Declaration of Independence and the American Theory of Government: "First Come Rights, and then Comes Government." *Harvard Journal of Law and Public Policy* 42, no. 1 (2019): 23-25.

[20] Magliocca and Bingham. *American Founding* Son, 37-39 and 78-83.

[21] Brian Danoff and L Joseph Hebert, Jr. *Alexis de Tocqueville and the Art of Democratic Statesmanship*. (Lanham, MD: Rowman & Littlefield Publisher, Inc, 2011), 76-77.

[22] https://www.anchoringtruths.org/should-the-declaration-inform-the-constitution-hadley-arkes-and-lee-strang-debate-transcript/ (accessed April 22, 2022).

[23] Lee J. Strang. *Originalism's Promise: A Natural Law Account of the Constitution*. (New York, NY: Cambridge University Press, 2019), 132-135, 178, and 308.

[24] Strang. "The Declaration of Independence: 54-57.

In the late 19th Century, the Supreme Court correctly upheld certain due process economic rights to restrict the state's abilities to regulate businesses. In *Lochner vs. New York*, 199 U.S. 45 (1905), the Supreme Court recognized a substantive due freedom contract right under the 14th Amendment and struck down a state law regulating the hours for bakery workers.[25] However, it was not logical to only recognize a substantive right to contract while leaving the rest of the 14th Amendment dormant.

The Supreme Court should have applied the privileges and immunities clause to restrict state interventions that violated private property rights. However, the Supreme Court did not want to disturb state segregation and left privileges and immunities dormant. The real need was to protect individual rights by preventing state actions that intervened on behalf of one party over another, such as restricting state licenses to subvert competition. Such an analysis is different when reviewing state laws because the 10th Amendment reserves police power to the states.[26]

In this case, the Court second-guessed the legislative branch's safety law to prevent excessive hours, which could exhaust workers and cause accidents. The dissident of Justice Harlan was correct that it was an exercise of the police power reserved to the states and a policy question. Therefore, the Court should have refrained from passing judgment on the underlying policy and only considered if there was a violation of any right. Here the Court was imposing a free-market policy which may have been good economics but was not within their preview as judges.[27] [28] [29]

In the 1920s, the Supreme Court began incorporating the Bill of Rights into the due process clause, starting with the freedom of speech and the press. [30] Incorporation is a false legal doctrine as the 14th Amendment required states to respect the rights recognized by the Declaration of Independence. The rights recognized by the Declaration would have been protected by the Constitution even without the Bill of Rights Conservatives attacked incorporation but failed to fight for the proper application of privileges and immunities, upholding the full rights recognized by the Declaration. [31] [32]

---

[25] *Lochner vs. New York*, 199 U.S. at 53

[26] *Slaughter-House* 83 U.S. at 71 and 78-79.

[27] *Ibid.*

[28] Harry V. Jaffa. *American Conservatism and the American Founding*. Durham, (N.C: Carolina Academic Press, 1984), 35-37, 85-89, and 203-205.

[29] James McClellan. *Liberty, Order, and Justice: An Introduction to the Constitutional Principles of American Government* 3rd ed. (Indianapolis: Liberty Fund, 2000), 594-596.

[30] Ibid, 558-559.

[31] Hadley Arkes. "We the People: the Fourteenth Amendment and the Supreme Court." *First Things* (December 200). https://www.firstthings.com/article/2000/12/we-the-people-the-Fourteenth-amendment-and-the-supreme-court.

[32] McClellan, *Liberty, Order, and Justice*, 598-602.

The first incorporation case was *Gitlow vs. New York* 268 US 652 (1925), in which the Supreme Court incorporated the 1st Amendment's Free Speech protections into the due process clause of the 14th Amendment. The opinion overturned the precedent of *Barron vs. Baltimore* 32 U.S. 243 (1833), in which the Supreme Court correctly held the Bill of Rights did not apply to the states.[33]

The Supreme Court didn't incorporate the full Bill of Rights, which it should have done if the 14th Amendment had incorporated it. Instead, the Court, case by case, bit by bit, incorporated the Bill of Rights except for the 10th Amendment and only incorporated the 2nd Amendment in the 21st Century. The Supreme Court rejected the truth that the rights came from each individual's humanity. Instead, they were rights from the state, and courts were free to create and redefine rights marking massive judicial activism and seizing power by the courts. The ideology behind this judicial power was the statist 19th Century German School of Philosophy.[34] [35]

The incorporation doctrine set the stage for the misguided separation of Church and State cases. In *Engel v. Vitale,* 370 U.S. 421 (1962), the Supreme Court ruled that school-sponsored prayer was an unconstitutional establishment of religion. The case began precedents pushing faith from the public square and creating a de facto right to be "free from religion." The states and local governments banned religious displays even though the 10 Commandments were on the Supreme Court building. The courts advocated secular statism that conflicted with the Founding Fathers' original intent.[36] [37]

The relationship of the Declaration to the Constitution is the key to understanding the original intent of the 14th Amendment. The conservative legal establishment resisted the original meaning of the 14th Amendment because they rejected natural law and the truth that the Founding Fathers created the Constitution upon the Declaration of Independence.[38] The error began when Barry Goldwater, in the name of "states' rights," called for civil rights to be left to the states. He rejected the natural law arguments of Martin Luther King (MLK) and condemned MLK as "choosing which laws he wishes to obey." [39] [40]

---

[33] McClellan. *Liberty, Order, and Justice*, 557-559.

[34] Philip Hamburger. *Is Administrative Law Unlawful?* (Chicago, IL: University of Chicago Press), 447-450, 459-462, and 471-475.

[35] McClellan. *Liberty, Order*. 557-559.

[36] Ibid, 558-561.

[37] Hamburger. *Is Administrative Law*, 469-71 483-485, and 496.

[38] Arkes. *First Things*, 139-143, 218-222, and 333-339.

[39] "Firing Line with William F. Buckley Jr.: The Future of Conservatism." Firing Line. (1966). https://www.youtube.com/watch?v=fHl5WW_sNSs&t=1454s (last accessed April 18, 2022).

[40] Barry Goldwater. *The Conscience of a Conservative.* (Shepherdsville, KY: Victor Publishing, 1060), 29-30 and 32-36.

MLK stood on the biblical natural law principles of the Founding Fathers, who, like MLK, defied the exercise of governmental power in violation of natural law. Goldwater followed the folly of John Calhoun's states' rights. Further, Goldwater's ideology limited rights to those codified by statute, rejecting natural law and logically rejecting the legitimacy of the American Revolution.[41] States have certain proper jurisdictions reserved for them by the Constitution, but they do not have the right to violate individual liberty. Goldwater's legacy lies behind the conservative legal establishment's rejection of natural law and the Declaration of Independence as the Republic's founding document.[42] [43]

In *Brown vs. Topeka* 347 U.S. 483 (1954), the Supreme Court overturned *Plessy vs. Fergusson*. First, the Court used the historical method to find the meaning of equal protection and found it inconclusive.[44] The historical method was unclear because the 14th Amendment was gutted by the courts soon after its passage. The Supreme Court did not believe in natural law and rejected the truth that the Declaration of Independence was the Republic's founding document. A natural law analysis would have applied the Declaration's principles and concluded segregation violated the 14th Amendment.

The Court ruled that segregation was inherently unequal and violated the equal protection clause of the 14th Amendment. [45] However, in subsequent decisions, the court limits equal protection cases to those involving "suspect classes" Thus, group identity ideology infects the case precedents, sharply departing from the Founding Fathers' principles. Originalists and liberal judges have left the *Slaughterhouse* precedent untouched and dormant with the privileges and immunities clause.[46]

Further, rights are subject to balancing tests in which a sufficient state interest could allow the state to violate a right. The courts have infused group identity ideology into the 14th Amendment. Rights have become group rights that come from the state.[47] Congressman Bingham and the authors of the 14th Amendment intended to uphold the individual liberties recognized by the Declaration. Bingham understood the neo-feudal system of the south had

---

[41] Ibid.

[42] John G. Gove. *John C. Calhoun's Theory of Republicanism*. Lawrence, Kansas: University Press of Kansas, 2016), 159-163.

[43] Barry Goldwater. *The Conscience of a Conservative.* (Shepherdsville, KY: Victor Publishing, 1060), 29-30 and 32-36.

[44] *Brown vs. Topeka*, 347 U.S. at 489.

[45] Jaffa. *American Conservatism*, 35-37, 85-89, and 203-205.

[46] Jaffa. *American Conservatism*, 35-37, 85-89, and 203-205.

[47] Strang. "The Declaration of Independence, 47-49, and 54-57.

violated the rights of the enslaved people, and poor whites were treated as second-class citizens. The whole system needed to be overturned to uphold true equality.[48] [49] [50]

The right to abortion is a group identity right used to deny the individual right to the unborn child's life. The originalist response is the morally neutral argument that abortion is not mentioned in the Constitution and does not raise the individual rights of the unborn child.[51] *Roe vs. Wade* is wrong because the 14th Amendment ensures the states uphold the individual rights recognized by the Declaration. Therefore, all individuals, including the unborn, have the rights and privileges of the Constitution, and the states are required to respect all individual rights to due process and equal protection. The state must protect the right to life of all individuals, including the unborn. [52] [53]

The natural law view holds that the privileges and immunities clause of the 14th Amendment fully protects the individual rights recognized by the Declaration and forbids states from violating those rights. Therefore, the privileges and immunities clause is the essential clause. The due process clause requires states to grant due process to each individual before infringing upon any right. The equal protection clause requires that all individuals be treated equally under the law. Therefore, no law may treat another differently or be enforced differently basically on the immutable characteristics of that individual, such as skin color.[54] [55]

Therefore, the meaning of the 14th Amendment has been limited to far less than the original intent. The originalist position would hold that an unborn baby does not have a right to life since the authors of the 14th Amendment did not have the modern medical knowledge to be sure of the humanity of the unborn baby. The originalist position has no legal or moral authority and, therefore, is incapable of prevailing in the long run. Only natural law is rooted in the moral authority of the Declaration. They provide the proper guidance for the 14th Amendment and uphold the rights of the unborn and all humanity.[56]

The Supreme Court used group identity ideology to uphold affirmative programs against *Brown vs. Topeka's logic.* Segregation based on race was facially a violation of equal protection.

---

[48] Jaffa. *A New Birth*, 77-84.

[49] Wurman. *The Second Founding*, 80-85 and 89-95.

[50] Magliocca and Bingham. *American Founding Son,* 33-37 and 79-84.

[51] Strang. The Declaration of Independence, 47-49, and 54-57.

[52] Arkes. *First Things: An Inquiry*, 209-302 and 335-339.

[53] Arkes. Religious Freedom. 366-369 and 373-377.

[54] Arkes. *First Things:* 365-368, 378-383, and 304-396.

[55] Arkes. We the People.

[56] Arkes. "Religious Freedom," 368-371 and 376-379.

Therefore, any law, regulation, or policy that judges individuals based on race should also violate equal protection. In *Regents of the University of California vs. Bakke*, 438 U.S. 265 (1978), the Supreme Court held that California was permitted to have affirmative action programs that set aside slots for minorities and put white applicants at a disadvantage.[57]

In *Regents vs. Bakke.* The Supreme Court held that a less qualified application could be admitted based on race. The opinion was just a plurality opinion, so the precedent was uncertain. In *Grutter vs. Bollinger,* 539 U.S. 306 (2003), Justice Sandra O'Connor, an establishment originalist, authored the opinion that followed the *Regents vs. Bakke* opinion and allowed race as a factor in higher education admissions. Justice O'Connor added that such a practice would not be constitutional in 25 years. An illogical position, especially for an originalist, one she could not enforce on future justices and reflects the profoundly political and judicial activist nature of the opinion.[58]

In *McDonald vs. Chicago*, 561 U.S. 742 (2010), the Supreme Court, a gun control law, was overturned by incorporating the 2nd Amendment into the due process clause. The opinion was based on an originalist view and rejected Justice Thomas's urges to overturn the *Slaughterhouse* precedent to restore the privileges and immunities clause to protect all the rights recognized by the Declaration.[59] The Court admitted that almost all legal scholars consider the *Slaughterhouse* precedent a severe legal error but were unwilling because that would require reviving the privileges and immunities clause.[60]

The *McDonald vs. Chicago* case was a great failure point of the modern conservative legal project that showed it was doomed to failure. Justice Thomas's position would have set the Court on the path to restoring the original intent. The revival of privileges and immunities would allow for the rejection of incorporation and judicial power without overturning individual rights. The moral authority of the natural law principles can win moral and political battles. The Declaration's principles would strengthen the protection of individual liberties and civil rights.[61]

The Court could have eliminated all group identity and statist ideology from the law. No individual would on immutable qualities such as race and ethnic background. The right to abortion could be exposed as a false group identity right. No individual can be denied their full

[57] *Regents of the University of California vs. Bakke*, 438 U.S. 265, at 277-280, (1978).

[58] *Grutter vs. Bollinger*, 539 U.S. 306 at 330-335 (2003).

[59] *McDonald vs. Chicago*, 561 U.S. at 773 and 780-781.

[60] Ibid. at 757

[61] Titus, *God, Man, and Law*, 88-92, 106-108, 138-142.

humanity; therefore, the unborn baby's right to life must be protected. Originalists refused to embrace the principles and moral authority of the Declaration of Independence. [62] [63]

The proper legal reasoning would have been laid to overturn precedents that mandated an anti-religious view of the separation of Church and State. The 14th Amendment would cover only actual infringements of religious practices, and the claims rooted in being offended by religion would be overturned. Policymakers should decide what history should be acknowledged, such as the 10 Commandments legacy behind our rule of law. Most current disputes over religion in government are policy disagreements over what worldview should guide government.[64] [65]

In *Obergefell v. Hodges*, 571 US 644 (2015), the Supreme Court ruled that the 14th Amendment included a right to gay marriage. The opinion was written by Justice Kennedy, an originalist, and demonstrates the failure of the modern conservative legal project. Kennedy's opinion made the state the creator and definer and marriage and the family.[66] The rejection of the Declaration's principles paved the way for such an opinion. The establishment originalists lack moral authority and even reject the need for moral reasoning.[67] As a result, keep giving away before the misguided pseudo-moral reasoning of the left.[68]

The Supreme Court rightfully overturned the horrible Roe vs. Wade precedent in *Dobbs vs. Jackson*, 597 US __ (2022). However, the Court made a significant error in overturning Roe on federalism grounds alone when it should have restored the original intent of the 14th Amendment by upholding the truth that the personhood of all humanity must be recognized, including the unborn.[69] The 14th Amendment was enacted to fulfill Abraham Lincoln's vision for the American Republic by requiring the states to respect and protect the individual rights recognized by the Declaration.[70]

Justice Alito's opinion correctly finds that Roe vs. Wade was based on faulty legal reasoning and a false interpretation of history. However, the opinion still used the judicially invented

---

[62] Thomas West, *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America*. (Lanham, MD: Rowman & Littlfield Publisher Inc., 2001), 112-117 and 198-2002.

[63] Hadley Arkes. "We the People: the Fourteenth Amendment and the Supreme Court." *First Things* (December 200). https://www.firstthings.com/article/2000/12/we-the-people-the-Fourteenth-amendment-and-the-supreme-court.

[64] Arkes. *First Things*, 209-302 and 335-339.

[65] Arkes. "We the People."

[66] *Obergefell v. Hodges*, 571 U.S. at 667-671.

[67] Strang. *Originalism's* Promise,132-135, 178, and 308.

[68] Titus, *God, Man, and Law*, 118-122, and 133-138.

[69] *Dobbs vs. Jackson*, 597 US __ at 8-9 and 65-68.

[70] Jaffa. *American Conservatism*, 85-89, and 103-109..

historical rights analysis, which is based on the presuppositions that the rights come from the state and are determined by the federal courts.[71] The Founding Fathers' grounded the Republic on the truth that rights come from each individual's humanity, while historical rights analysis holds that rights are mutable and non-intrinsic.[72]

The entire opinion avoids all questions of higher truth and morality. However, the law is inherently rooted in presuppositions about truth and morality. The law needs moral authority to properly and justly function. The opinion implicitly rejects the Founding Father's belief that rights are inherent to the humanity of each individual. The court refused to address the core question of the life of the unborn, while the dissent boldly denies the humanity of the unborn.[73]

Natural Law and the 14th Amendment

The natural law view holds that the privileges and immunities clause of the 14th Amendment fully protects the individual rights recognized by the Declaration and forbids states from violating those rights. Therefore, the privileges and immunities clause is the essential clause. The due process clause requires states to grant due process to each individual before infringing upon any right. The equal protection clause requires that all individuals be treated equally under the law. Therefore, no law may treat another differently or be enforced differently basically on the immutable characteristics of that individual, such as skin color.

Therefore, the meaning of the 14th Amendment has been limited to far less than the original intent. An unborn baby does not have a right to life since the authors of the 14th Amendment did not have the modern medical knowledge to be sure of full-term humanity. The originalist position has no legal or moral authority and, therefore, is incapable of prevailing in the long run. The truth of the natural law principles can heal the sickness of modern American culture.

Establishment originalist judges have rejected the Declaration's principles and failed to uphold the true original intent of the 14th Amendment. The Founding Fathers established the Republic upon natural law. The Constitution rests on the principles of the Declaration of Independence, and the 14th Amendment gives the federal government the authority to ensure the states respect and protect the individual rights recognized by the Declaration. Rights are intrinsic and not subject to the definitions of democracy. The Republic needs a return to the founding principles, requiring the recognition of the moral imperative to uphold the value and dignity of all individuals, which is the cornerstone of a just society of liberty.

Therefore, returning to the truth that the Constitution rests on the Declaration's principles and embraces the natural law principles of the Declaration is the only way to restore the original intent of the 14th Amendment and the valid rule of law to the Republic. Originalist claims natural law opens the way to judicial activism but cannot demonstrate such abuses by the early Republic judges who embrace natural law. The reason is that principles Declaration's principles

---

[71] *Dobbs vs. Jackson*, 597 US __ at 12-15, 18-22, and 23-28.

[72] West, *Vindicating the Founders*, 85-89, 111-116, and 198-2002.

[73] *Dobbs vs. Jackson*, 597 US __ at 8-9, 78-79, 149-152, and 178-188.

give the proper guidance to natural law to prevent judicial misuse, and they inherently call on judges not to impose will. Further, the natural law approach is the original intent of the Founding Fathers and the authors of the 14th Amendment.

Conclusion

The single most significant change to constitutional order from "original intent" has been the departure from the original intent of the 14th Amendment. The 14th Amendment was rooted in the Declaration's principles and designed to give jurisdiction to the federal government to ensure states protected the individual rights recognized by the Declaration. The modern courts revived the 14th Amendment grounded in a secular statist worldview that rejects the Declaration's principles. The current political establishment shares the statist worldview.[74]

Establishment originalist judges have rejected the Declaration's principles and failed to uphold the true original intent of the 14th Amendment. They embraced a legal positivist view which is a veil for furthering the agenda of the Republican establishment. The Founding Fathers established the Republic upon natural law. The Constitution rests on the principles of the Declaration of Independence, and the 14th Amendment gives the federal government the authority to ensure the states respect and protect the individual rights recognized by the Declaration. The Republic is in dire need of a return to the founding principles. The most crucial area of legal jurisprudence is restoring the true meaning of the 14th Amendment.

[74] Robert Higgs. *Crisis and Leviathan Critical Episodes in the Growth of American Government*. (Oakland, California: Independent Institute 1987), 258-262.

Bibliography

https://www.anchoringtruths.org/should-the-declaration-inform-the-constitution-hadley-arkes-and-lee-strang-debate-transcript/(accessed 13 March 2022).

Arkes, Hadley. *First Things: An Inquiry into the First Principles of Morals and Justice*. Princeton: Princeton University Press, 1986.

Arkes, Hadley. "Religious Freedom and the Crisis Over Conservative Jurisprudence." *Faulkner Law Review* 10, no. 2 (2019): 171-196.

Arkes, Hadley. "We the People: the Fourteenth Amendment and the Supreme Court." *First Things* (December 200). https://www.firstthings.com/article/2000/12/we-the-people-the-Fourteenth-amendment-and-the-supreme-court.

Barnett, Randy E. "The Declaration of Independence and the American Theory of Government: "First Come Rights, and then Comes Government." *Harvard Journal of Law and Public Policy* 42, no. 1 (2019): 23-29.

Danoff, Brian and L Joseph Hebert, Jr. *Alexis de Tocqueville and the Art of Democratic Statesmanship*. Lanham, MD: Rowman & Littlefield Publisher, Inc, 2011.

"Firing Line with William F. Buckley Jr.: The Future of Conservatism." Firing Line. (1966). https:/www.youtube.com/watch?v=fHl5WW_sNSs&t=1454s (last accessed April 18, 2022).

Goldwater, Barry. *The Conscience of a Conservative.* Shepherdsville, KY: Victor Publishing, 1960.

Gove, John G. *John C. Calhoun's Theory of Republicanism*. Lawrence, Kansas: University Press of Kansas, 2016.

Hamburger. Philip. *Is Administrative* Law Unlawful? Chicago, IL: University of Chicago Press.

Higgs, Robert. *Crisis and Leviathan Critical Episodes in the Growth of American Government*. Oakland, California: Independent Institute 1987.

Jaffa, Harry V. *American Conservatism and the American Founding*. Durham, N.C: Carolina Academic Press, 1984.

Jaffa, Harry V. *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War*. 1st ed. Lanham, Md: Rowman & Littlefield, 2004.

Jaffa, Harry. *Original Intent and the Framers of the Constitution: A Disputed Question,* Regency Publishers: Washington DC, 1994.

Jefferson, Thomas. "Draft of the Declaration of Independence." (Washington, DC, National Archives), https://www.archives.gov/founding-docs/declaration-transcript (accessed on 25

October 2021).

Magliocca, Gerard N. and John Armor Bingham. *American Founding Son John Bingham and the Invention of the Fourteenth Amendment*. New York: New York University Press, 2013.

McClellan. James. *Liberty, Order, and Justice: An Introduction to the Constitutional Principles of American Government* 3rd ed. Indianapolis: Liberty Fund, 2000.

Snavely, Bruce *The Second Reformation: Baptists in Colonial America*. Lynchburg, VA, Liberty University Press, 2013.

Strang, Lee J. "The Declaration of Independence: No Special Role in Constitutional Interpretation." *Harvard Journal of Law and Public Policy* 42, no. 1 (2019): 43-59.

Strang, Lee J. *Originalism's Promise: A Natural Law Account of the Constitution*. New York, NY: Cambridge University Press, 2019.

Titus, Herbert W., *God, Man, and Law: The Biblical Principles*. Chicago, IL, Institutes in Basic Life Principles, 1994.

West, Thomas. *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America*. Lanham, MD: Rowman & Littlfield Publisher Inc., 2001.

Willis, Garry. "Words that Remade America." *The Atlantic* (2012) https://www.theatlantic.com /magazine/archive/2012/02/the-words-that-remade-america/308801/ (last accessed April 28 November 2022).

Wurman, Ilan. *The Second Founding: An Introduction to the Fourteenth Amendment*. Cambridge, MA: Cambridge University Press, 2020.