Reason, Revelation, and the Law of Nature in James Wilson's Lectures on Law

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ABSTRACT

One unresolved question in the scholarship on James Wilson concerns the relationship between his natural law jurisprudence and Christianity. Engaging that debate, this article marshals evidence for the continuity of Wilson's lectures with the Christian natural law tradition. Indeed, Wilson's lectures offer a vision of founding-era jurisprudence that is self-consciously rooted in a divinely created and rationally intelligible moral order that is both complemented and presupposed by Christian revelation. By highlighting the essential continuity between the Christian natural law tradition and the first and most prominent lectures on early American jurisprudence, this article challenges a common interpretive framework that sees the founding in general, and Wilson's lectures in particular, as subtly subversive of Christianity.

Scholars of the American founding have come to "recognize religiosity as central to any plausible account of the intellectual origins of the American Revolution" (Mullins 2017, 14). The precise character of that religiosity is contested, however, and there is an ongoing interpretive debate about whether the intellectual frame of the American founding was one that privileged Christianity or deism, or perhaps even some hybrid between the two (see, e.g., Shain 1994; Frazer 2012; Stewart 2014). Looming large over this scholarly dispute is the question of eighteenth-century Christianity's relationship to natural theology, a rational investigation of God's existence and attributes apart from divine revelation. Natural

theology's distinction between truths known by reason independent of revelation and truths known only by revelation was common enough in the founding era that the Presbyterian clergyman John Witherspoon, president of the College of New Jersey and signer of the Declaration of Independence, began his lectures on moral philosophy by defining the subject as "an inquiry into the nature and grounds of moral obligation by reason, as distinct from revelation" (1912, 1).

Thomas West rightly notes that the founding-era distinction between reason and revelation "does not necessarily imply a conflict" (2017, 83; see also Lutz 1988, 165). Yet many scholars disagree and see the two traditions of biblical and natural theology as contradictory. To the extent that the revolutionary-era clergy and statesmen were appealing to truths known by reason, they were, according to some prominent interpretations of the American founding, abandoning the theological tenets of Christianity (see, e.g., Pangle 1988, 2004; Zuckert 2004; Mansfield 2011; Frazer 2012). Michael Zuckert goes so far as to suggest that the Bible and the Declaration offer discordant and mutually exclusive "narratives of the nature and destiny of humanity" (2004, 26). By eschewing reliance on biblical revelation, Zuckert contends, the Declaration and the liberal tradition it represents raise reason to a place of primacy over revelation and assert reason's self-sufficiency in moral and political philosophy (46).

Following the twentieth-century Swiss Reformed theologian Karl Barth's wholesale rejection of natural theology, some Reformed theologians in the twentieth century also viewed natural theology and its cognate concepts of natural law and natural rights as inconsistent with Christianity's commitment to divine revelation in scripture (Grabill 2006, 3; Witte 2007, 23). Beginning with the premise that Christianity is incompatible with claims rooted in natural theology and natural law, scholars and theologians from various camps have thus concluded that the prevalent idiomatic appeals to nature (e.g., law of nature, natural rights, nature's God, moral sense, and related concepts) among the American founders mark a significant shift away from Christianity and toward an Enlightenment-era natural theology that is hostile to Christianity's historic theological commitments.

The prominence of the Christian natural law tradition in founding-era political thought cuts against these interpretations. Natural law theorists have historically held that there is a purposeful, created order in nature, including human nature, and that God providentially directs human beings to their proper ends through the faculty of reason (George 2008, 412). The common emphasis in natural law theory on God both as the creator of a purposeful order in nature and as the providential author of a natural moral law known to reason predates Christianity, but Christians have nonetheless historically affirmed the rational intelligibility of a created moral order that is epistemically independent of revelation. To speak of the Christian natural law tradition, then, is to speak of the long Christian engagement with a philosophic tradition that understands human goods and

moral norms to be based on a distinctive order of nature created by God and intelligible to human reason.

Although some twentieth-century Protestant theologians did reject the claims of the natural law tradition on epistemological grounds, we should not mistakenly equate the modern epistemological rejection of natural law and natural rights with the broader Protestant Christian tradition stretching back to the sixteenth century. As John T. McNeill noted in an article published during the period of Barth's ascendency, "There is no real discontinuity between the teaching of the Reformers and that of their predecessors with respect to natural law. . . . The Assumption of some contemporary theologians that natural law has no place in the company of Reformation theology cannot be allowed to govern historical inquiry or to lead us to ignore, minimize, or evacuate of reality, the positive utterances on natural law scattered through the works of the Reformers" (1946, 168). A growing body of revisionist scholarship has built on McNeill's work to demonstrate that the natural law tradition, associated primarily with Roman Catholicism today, remained unbroken in the theology of the early Reformers and their successors (McNeill 1946; Grabill 2006; Witte 2007; Moots 2010; VanDrunen 2010; Herdt 2014; Tuininga 2017; Wolfe 2018).

Political theorists have not fully integrated recent insights about the historical continuity of the natural law tradition in Protestant, and particularly Reformed, theological ethics into interpretations of American political thought. There is a need for subtle reinterpretations of the theological ideas of those who made significant contributions to the movement for independence and the creation of new political institutions in the young republic. Pennsylvania delegate to the Constitutional Convention and early Supreme Court justice James Wilson is a case in point. Prevailing scholarly interpretations cast his lectures on law (1790–91) at the College of Philadelphia as paradigmatic of the founding era's allegedly rationalist, heterodox natural theology. Yet Wilson's lectures point in quite the opposite direction: to a vision of founding-era jurisprudence that was self-consciously rooted in a divinely created and rationally intelligible moral order that was both complemented and presupposed by Christian revelation. So understood, Wilson's *Lectures* bring into focus the limitations of the common scholarly conventions and categories that contrast enlightenment and religion, reason and revelation, or Nature's God and the God of Abraham. In Wilson's lectures, these are not "either/or" categories but rather presented together in a synthesis that emerged from the long Christian engagement with the natural law tradition.

THE CONTESTED LEGACY OF JAMES WILSON'S LECTURES ON LAW

By any measure, James Wilson (1742–98) had an outsized influence on the American founding. A Scottish émigré who was one of only six men to sign both the Declaration of Independence and the US Constitution, Wilson went

on to play a major role in the ratification debates in Pennsylvania and to serve on the US Supreme Court as an associate justice from 1789 until his death in 1798. As a sitting member of the first Supreme Court, Wilson was invited by the College of Philadelphia to present a series of lectures on the foundations of American law. According to a contemporaneous article published in a Pennsylvania newspaper, the audience for the first lecture, delivered December 15, 1790, included "the President of the United States, with his lady—also the Vice-President, and both houses of Congress, the President and both houses of the Legislature of Pennsylvania, together with a great number of ladies and gentlemen" (Conrad 1985, 374; Hall 2004b, 64). After the initial lecture, Wilson taught 15 students, delivering a total of 58 lectures, which were edited and published posthumously by his son, Bird Wilson, in 1804 (see Wilson 1804).

Wilson aspired to be the American Blackstone, and he hoped that his lectures would occupy a central place in American legal education as had Blackstone's *Commentaries on the Laws of England* during the colonial era (Hall 2004b, 65; 2007, 401). The lectures are quite consciously foundational to the study of law and address broad questions of moral, political, and legal philosophy. Because of his influence in the founding era and his systematic approach to philosophy, Wilson's lectures on law are thus a valuable window into early American jurisprudence.[11] Significantly, the lectures deal with first principles rather than legal precedent, and they present a vision of law that "is not the secularized natural law of some eighteenth century rationalists" (McCloskey 1967, 38). Indeed, "throughout his works, and particularly in his law lectures, Wilson clearly, consistently, and systematically appealed to the Christian natural law tradition" (Hall 2004a, 183, 189).

Some revisionist scholarship, however, contests this interpretation of Wilson as a representative of the Christian natural law tradition (see, e.g., Velásquez 1996; see also Zink 2009, 443–44; 2014, 254). In *The Spirit of Modern Republicanism*, political theorist Thomas Pangle discards the conventional view that "the thought of the Founders must be viewed as a *continuation* of Christian and especially Calvinist thinking" and provocatively suggests through a series of leading questions that some of the most influential founders—"Franklin, Madison, Jefferson, Wilson, and Hamilton"—were engaged in a project "to exploit and transform Christianity in the direction of a liberal rationalism" (1988, 21).[22] Other prominent scholars have brought similar philosophic assumptions to their study of the American founding. In perhaps the starkest juxtaposition, the natural philosophy of the Enlightenment—including not only

1. For a bibliographic essay history of Wilson's lectures, see Hall (2007, 400–414).

2. Pangle here directs his readers to Manent, who, in Rebecca Balinski's English translation, states bluntly that "it was in service of a political project, the radical discrediting of the Church's political claims, that numerous men who nurtured this project used Machiavelli to guide their thought and action" (1994, 12).

its natural theology but also its theory of natural justice and natural rights—
is necessarily subversive of orthodox Christianity's commitment to divine revela-
tion, which is a great impediment to Lockean liberalism (see, e.g., Berns 1976,
22; Mansfield 2011, 54–55). Read in this light, then, Wilson's teachings in his
lectures become subtly subversive of Christianity.

"The various efforts to categorize James Wilson's religion," Frazer contends
along these same lines, "epitomize the need for the label theistic rationalist"
(2012, 166). The theistic rationalist, according to Frazer, is one who elevates
reason, first to make it equal to revelation and then to make it the judge of rev-
elation. If Thomas Aquinas thought that philosophy was the handmaiden of
theology, the theistic rationalist reverses that priority and makes theology the
handmaiden of philosophy. Wilson, as Frazer notes, taught that "reason and con-
science can do much; but still they stand in need of support and assistance [from
revelation]" (Wilson 2007, 520). This is significant, according to Frazer, be-
cause "Scripture was called upon by Wilson to support and assist reason—not
the reverse. For him, 'the Scriptures support, confirm, and corroborate, but do
not supersede the operations of reason and the moral sense.' That is the the-
istic rationalist position" (2012, 187).

Wilson's assertion that the scriptures do not supersede the operations of rea-
son and the moral sense is not tantamount to an assertion that reason and the
moral sense are ever in conflict with revelation, however. Wilson is explicit that
the "law of nature and the law of revelation are both divine: they flow, though
in different channels, from the same adorable source. It is indeed preposterous
to separate them from each other" (2007, 509). According to Wilson, scripture
presupposes knowledge of the moral law of nature, which consists of intuitive
truths known to the moral sense and reason's deductions from those intuitive
truths. Based on his framing assumption, Frazer mistakenly attributes to Wilson
a subversive elevation of reason over revelation. Pangle errs in a different direc-
tion, homing in on Wilson's emphasis on conscience as a moral sense and attrib-
uting to Wilson a kind of Hobbesian elevation of passion over reason. Although
reason has a role in correcting the moral sense and judging matters of fact, Pangle
maintains in his interpretation of Wilson, the "ultimate ends or first principles
are 'self-evident'—but to 'sentiment,' to 'feeling,' rather than to reason" (Pangle
1988, 122; cf. Velásquez 1996, 195–96).

A closer look at Wilson's lectures on law tells a different story and dem-
onstrates Wilson's continuity with those traditions that he allegedly subverted.
Wilson insisted that reason, revelation, and the moral sense are in harmony. As
early scholarship on Wilson noted, his understanding of reason and revelation
had more in common with classical Christian sources than it did with the teach-
ings of modern rationalists (see, e.g., Oberling 1938; Seed 1978), and Wilson's
discussion of law "displayed his indebtedness to the Scholastic-Anglican tradition

of Aquinas and Hooker" even as he wedded the classical tradition with the epistemological insights of the Common Sense School of Thomas Reid (Smith 1956, 330).

WILSON ON THE LAW OF NATURE

Wilson's lectures exhibit a deep engagement with the sixteenth-century English theologian and priest Richard Hooker, who was for Wilson a direct mediation of the theological and philosophical ideas of the Christian natural law tradition. Hooker—in whose writings C. S. Lewis claimed to have found that tradition's "fullest and most beautiful expression" (1954, 49)—offered a classical exposition of natural law in the first book of his *Laws of Ecclesiastical Polity*. Wilson followed Hooker's broad classification of law nearly verbatim. Indeed, it was from Hooker that Wilson took his very conception of law as a rule of action that implies a principle of moral obligation (Wilson 2007, 468), which he deployed to criticize William Blackstone's definition of law that includes superiority as both the necessary and sufficient attribute of legal authority (Wilson 2007, 471; cf. 1041).

According to Blackstone's *Commentaries*, Wilson told his students, a law is a "rule of action, which is prescribed by some superiour and which some inferiour is bound to obey" (Wilson 2007, 471). The danger with this definition—if it were to be admitted "without due caution and scrutiny" (492)—is that it collapses law into power and obligation into physical compulsion. Law becomes merely the rule of one who is superior in force. In response, Wilson turned to Hooker for a concept of lawful authority rooted both in consent among human equals (483, 496), on the one hand, and in a divine superiority marked by the unity of power and goodness, on the other (503).

One authority who rivals Hooker in influence on Wilson's lectures is Thomas Reid, an eighteenth-century Scottish parish minister and successor to Adam Smith's chair at Glasgow. Wilson cited Reid nearly 20 times in his lectures, included a whole passage verbatim from Reid's *Essay on Intellectual Power*, and turned to him in particular for questions of moral epistemology (see Hall 2004b, 68). "If, in his consideration of the nature of law," Wilson's midcentury biographer Charles Page Smith observed, "Wilson went back to Richard Hooker and a tradition that was both Anglican and Scholastic, he turned, in his examination of individual psychology, to the thoroughly contemporary doctrines of Thomas Reid, the father of the Common Sense School" (1956, 333). Wilson, of course, put these authors, and many others, to his own use while writing his lectures. He did not blindly follow any one authority but rather worked to synthesize various traditions into a coherent jurisprudence for the young

United States. In doing so, he operated within the frame of the broad Christian natural law tradition.

As a sitting Supreme Court Justice, Wilson delivered his first lecture in front of George and Martha Washington, John Adams, both houses of Congress, and both houses of the state legislature, proclaiming that the "science of law should, in some measure, and in some degree, be the study of every free citizen, and of every free man" (Wilson 2007, 435). The promise of his lectures is to treat comprehensively the science of law, and he begins his first substantive lecture, with only his 15 pupils assembled, by describing the built-in design of the world as it is experienced. "Order, proportion, and fitness pervade the universe," Wilson declares. "Around us, we see; within us, we feel; above us, we admire a rule, from which a deviation cannot, or should not, or will not be made" (464). This order, Wilson insists, applies to God Himself, the "great and incomprehensible Author, and Preserver, and Ruler of all things," the one who "himself works not without an eternal decree" (464; cf. 1041).

In his first substantive treatment of the science of law, then, Wilson broaches an important philosophical debate about God and ethics. Medieval scholastics, as well as some of Wilson's contemporaries, debated whether moral obligation originates in the reason of God or the will of God or some combination of the two. The stakes for this abstract question are high. On the one hand, if moral obligation originates in God's reason alone, then we seem to allow a disunity in God's nature that submits God to a law he did not create. If, on the other hand, moral obligation originates in God's will, then the content of ethics seems to be both arbitrary (i.e., lacking a reason) and rooted in power as the sufficient cause of God's authority. A middle way is to recognize the unity of power and goodness in the divine nature such that God is subject to a law that he voluntarily imposes on himself. In the formulation of Richard Hooker, "they err therefore who think that of the will of God to do this or that there is no reason besides his will" (1888, 1.2.5). Yet even so, he concludes, "the freedom of the will of God [is not in any way] abated, let or hindered, by means of this; because the imposition of this law upon himself is his own free and voluntary act" (1.2.6). This is the path Wilson takes when he insists that "from almighty power infinite goodness can never be disjoined" (2007, 503).

Leveled partly as a critique of Blackstone's definition of law as a "rule of action, which is prescribed by some superiour, and which the inferiour is bound to obey," Wilson's insistence on the unity of divine power and goodness is an insistence that goodness and reason are part of the very definition of law. Power might be necessary, but it is not sufficient to establish and promulgate authoritative law. By analogy this applies to human law as well, which finds its moral limits in the eternal law that emanates from the divine nature. Irresistible power does not impart a right of imposing laws, and force "exerted for the purposes

of malevolence" has no right to command and imposes no obligation to obey (Wilson 2007, 502).

Where Wilson does follow Blackstone is in his account of God's one paternal precept. Blackstone had written that the deity's one precept to man is that he "should pursue his own true and substantial happiness" (1753/1893, 41). Wilson similarly describes God's one paternal precept as follows: "Let man pursue his happiness and perfection" (2007, 523). For both Blackstone and Wilson, the natural law is the way human beings learn how to pursue their happiness and perfection. In contrast to the "brute creation, [who] act not from design," Wilson observed, human beings deliberate rationally about various courses of action and then "propose an end," that is, a reason for action in light of a desired good (468). Animals are still moved to their natural end or purpose, but they are not moved through rational deliberation. The law that governs the animal world is subrational and operates at the level of appetite, passion, and instinct. The faculty psychology prominent in the founding era, which understands human flourishing in terms of the proper ordering of the rational and subrational human faculties, is evident in Wilson's discussion (see, e.g., Howe 2009, 48–77). According to Wilson, human beings are rational animals, hybrids between beasts and gods. In being subject to the laws of physics and involuntary biological processes, human beings share much in common with the beasts. What separates humanity from the animal world, however, is knowing and being subject to the natural moral law.

The moral law is a law we can choose to obey or disobey. It is indeed only in the domain of freedom that rational moral judgments are intelligible. This framework, and the faculty psychology that undergirds it, helps make sense of the taxonomy of law that Wilson takes, unmodified in its fundamentals, from Hooker. Mirroring Hooker, Wilson asserts that there is a twofold eternal law that governs God himself and governs each of his creatures according to their natures. The law that governs creation may be subdivided into three main categories, the first of which concerns the laws governing "angels and the spirits of the just made perfect" (Wilson 2007, 497–98). About this law, Wilson has little to say except that it pertains to an eschatological state of perfection and beatitude that is nonetheless governed by law and known, even if through a glass darkly, by dint of revelation. The second category concerns laws "by which the inanimate and irrational parts of the creation are governed" (497). Although these are sometimes called the laws of nature, they are not moral laws but rather "general and fixed rules, according to which all the phenomena of the material universe are produced and regulated" (497). Finally, there is the moral law for humanity, a law we may choose to obey or disobey. This law is known to us as the law of nature (as applied to individuals) or the law of nations (as applied to societies of men), when it is promulgated by reason and the moral sense; when

it is promulgated through scripture, it is known as the revealed law (498). The moral law, finding a twofold witness in nature and revelation, provides the foundational truths of human law or positive law, the body of specific laws and regulations posited in any particular community. The positive law, Wilson told his students, could be further divided into domestic law, municipal law, and international positive law, or what he calls the voluntary law of nations.

The analytic reconstruction of law in figure 1 demonstrates the close parallel of Wilson's conception of law with that of Hooker's. As Wilson understood it, natural law is that part of the law of God for mankind known by reason and the moral sense. Its first principles are "engraven by God on the hearts of men," and "in this manner, [God] is the promulgator as well as the author of the natural law" (Wilson 2007, 470). McCloskey noted in his introduction to Wilson's collected works that Wilson's conception of natural law was not "merely a morally indifferent rule of necessity like the 'laws' of motion. It is God's ordainment, and it imposes duties on men and states" (McCloskey 1967, 38; cf. Oberling 1938, 50). Consistent with his prior discussion of the defining characteristics of law, Wilson insists that the authority of the natural law to impose moral obligations does not come from God's superior physical strength alone, however. God's power and goodness are connected in the "incomprehensible Archetype," according to Wilson (2007, 503). God's one paternal precept is that we pursue our own happiness or flourishing, and law directs us to this proper end for our own good.

FEELING AND THE MORAL SENSE

Do we have to obey the natural moral law? In one sense, of course, we do not. The natural law, known by the moral sense and reason, discloses our duty in the domain of freedom, where we have a choice to obey or disobey. Unavoidable necessity is not a moral category. Alternatively, however, we might ask whether we have good reasons to obey God's one paternal precept. Should we pursue our own happiness? Why? To avoid an infinite regress, Wilson replies simply, "I can only say, I *feel* that such is my duty. Here investigation must stop; reasoning can go no farther" (2007, 508). This is one of the places Pangle and others detect a crucial departure from the classical natural law tradition, seeing in Wilson's emotive language an upending of the classical relationship between reason and the passions (Pangle 1988, 122; see also Velásquez 1996, 199; Knapp 2014, 268). However, when Wilson uses the term "feel" in connection with the moral sense, he does so in reference to undemonstrable first principles intuitively known to the intellect, whether or not that intuitive knowledge is accompanied by an emotion. This is clear from what he says elsewhere.
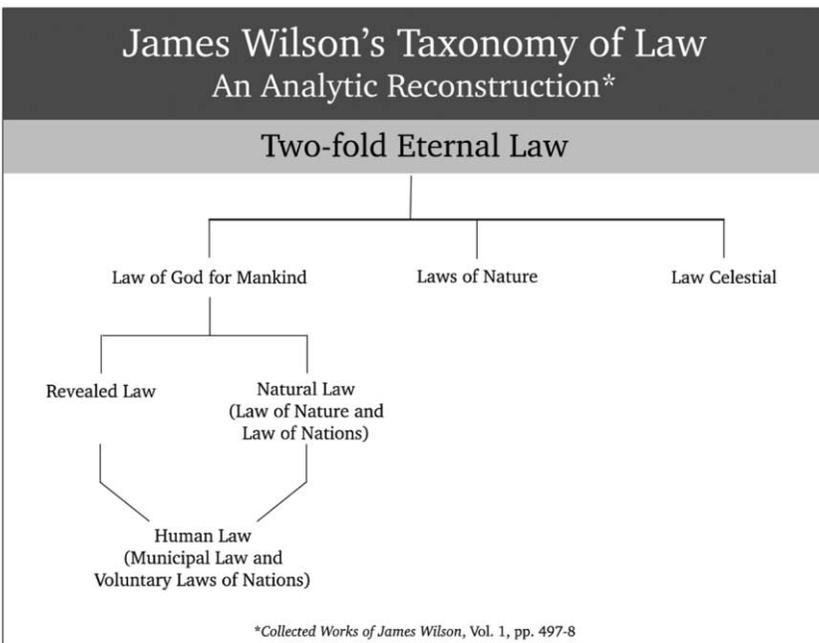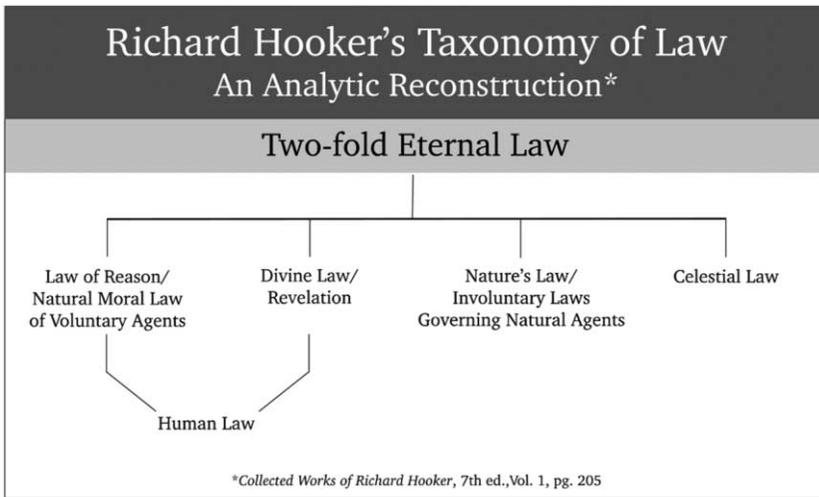
Richard Hooker's Taxonomy of Law
An Analytic Reconstruction*

Two-fold Eternal Law

Law of Reason/
Natural Moral Law
of Voluntary Agents

Divine Law/
Revelation

Nature's Law/
Involuntary Laws
Governing Natural Agents

Celestial Law

Human Law

Collected Works of Richard Hooker, 7th ed.,Vol. 1, pg. 205

James Wilson's Taxonomy of Law
An Analytic Reconstruction*

Two-fold Eternal Law

Law of God for Mankind

Laws of Nature

Law Celestial

Revealed Law

Natural Law
(Law of Nature and
Law of Nations)

Human Law
(Municipal Law and
Voluntary Laws of Nations)

Collected Works of James Wilson, Vol. 1, pp. 497-8

Figure 1. Taxonomy of law in Hooker and Wilson.

In a section of his lecture "Of Man, as an Individual," Wilson takes to task "those philosophers, who have attempted to fan the flames of war between common sense and reason" and insists instead that "between them, there never can be ground for real opposition: that, as they are commonly joined together

in speech and in writing, they are inseparable also in their nature" (2007, 604). Common sense, he had just told his students, was "that degree of judgment, which is to be expected in men of common education and common understanding," and the term "judgment," he maintains, is applied to a "determination of the mind concerning what is true or what is false," a determination that can be made "intuitively" or "discursively." That is to say, it is a determination that can be "founded on truths that are selfevident, as well as on those that are deduced from demonstration" (599). Some of the examples of self-evident truths that Wilson offers his students are things like the existence of the conscious self, the reality of the external world, and the freedom of the will (see, e.g., 594, 602, 801). In each of these examples he uses the word "feel" to describe a truth known intuitively, and he uses "feel" and "know" interchangeably. About thinking or consciousness, for example, he says simply, "I know—I feel—it to be true; but I know it not from proof: I know it from what is greatly superiour to proof: I *see* it by the shining light of intuition" (617).

When Wilson uses the ocular metaphor of seeing to describe the way he knows by intuition, he is not, of course, saying that he sees objects with his eye. Indeed, philosophers have long used the metaphor of sight to describe the faculty by which human beings apprehend "immediate and self-evident truth" (White 1978, 105). Similarly, when Wilson uses the metaphor of feeling, he is not saying that he feels with an emotion or the sensation of touch. He feels that he has a moral obligation in the same way that he feels that the objects of consciousness, including his thoughts, exist (Wilson 2007, 594). In these examples, he is saying something altogether different than that moral obligation is conveyed by emotion or sentiment. What he is saying is that reason depends on undemonstrable and underived first principles that are known intuitively rather than by deduction and are, metaphorically, simply seen or felt to be true. Only after taking these intuitive truths as a starting point can deductive reasoning proceed. "We cannot, therefore, begin to reason," he insists, "till we are furnished, otherwise than by reason, with truths, on which we can found our arguments" (508). This is equally true of mathematics as it is of morality: "Morality, like mathematicks, has its intuitive truths, without which we cannot make a single step in our reasonings upon the subject" (508).

Wilson thus distinguishes the faculty by which we perceive or intuit first principles from the faculty by which we make deductions from those first principles. The former he often calls sense or perception or feeling; the latter he calls reason. But he also acknowledges that the power to make intuitive judgments and the power to reason from those judgments "are frequently included under the general appellation of reason" even as he often uses "reason" to refer specifically to "the process, by which we pass from one judgment to another, which is the consequence of it" (Wilson 2007, 600). Nonetheless he attributes these foundational

intuitive judgments to the faculty of reason as well. "We assign to reason two offices," he observes, "or two degrees. The first is, to judge of things selfevident. The second is, from selfevident principles, to draw conclusions which are not selfevident. The first of these is the province, and the sole province, of common sense, and therefore, in its whole extent, it coincides with reason; and is only another name for one branch or degree of reason" (604). Common sense, as we have seen, is that body of judgments we would expect from men of common education and common understanding, and some of these judgments are intuitive—that is, they do not rest on any antecedent truth.

Wilson's contemporaries associated with the Scottish Enlightenment such as David Hume, Adam Smith, Francis Hutcheson, and Thomas Reid debated whether we become aware of moral obligations through sentiment or through reason. As with Reid, so Wilson also included in his lecture verbatim or near-verbatim passages from other theorists of the Scottish Enlightenment such as Hume and Hutcheson (see, e.g., White 1978, 133–34). Yet, as Hall observes, on this crucial point Wilson followed Reid's argument that reason rather than sentiment apprehends the first principles of the natural law (Hall 1997, 68–72). Indeed, Reid "contended that the first principles of morality are known through common sense, which is a degree of reason" (71; see also Howe 2009, 66). Although the word "feel" has an emotive connotation in its usage today, the *Oxford English Dictionary* (*OED*) helpfully offers as one definition "mental perception or apprehension; understanding, comprehension; knowledge."[3] Noting that this is a chiefly Scottish and now obsolete meaning, the *OED* entry captures a common eighteenth-century employment of the word "feel" to indicate the way in which foundational truths are known by intuition.

There is nothing about this particular way of framing the issue that stands in tension with the Christian natural law tradition, even as that tradition was incorporated into the Calvinist theology of Scotland and the northern American colonies. As Grabill notes when introducing the section of Calvin's *Institutes* devoted to conscience, "Calvin teaches that natural law is discovered by the use of reason and conscience working in tandem" (2006, 93). When Calvin discusses the biblical concept of conscience, he both uses the term "feeling" and clearly associates the faculty of conscience with moral knowledge known to the intellect. "The definition [of conscience] must be sought in the etymology of the word," Calvin insists, alluding to the Latin *conscientia*, meaning "with knowledge": "For as men, when they apprehend the knowledge of things by the mind and intellect, are said to know, and hence arises the term knowledge or *science*, so when they have a sense of the divine justice added as a witness which allows them not to conceal their sins, but drags them forward as culprits to the

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3. *Oxford English Dictionary*, 2nd ed. (1989), s.v. "feel."

bar of God, that sense is called *conscience*. For it stands as it were between God and man, not suffering man to suppress what he knows in himself; but following him on even to conviction" (Calvin 1846, 3.19.15). Note that while Calvin clearly associates moral knowledge with the intellect, he describes conscience as a partner of reason, an internal monitor that makes it difficult to suppress moral knowledge out of self-interest.

In his *Commentary on Romans*, Calvin offers further thoughts on conscience and concludes that we have certain knowledge of at least one foundational moral truth: "that one action is good and worthy of being followed, while another is to be shunned with horror" (1961, 49; cf. Grabill 2006, 94). Similarly, Thomas Aquinas offers as the first precept of the natural law that "good is to be done and pursued, and evil is to be avoided" (1952, I–II, 94.2). Following in this vein, Wilson insists that the "science of morals, as well as other sciences, is founded on truths, that cannot be discovered or proved by reasoning" (2007, 508), and that for a man ignorant of the categories of right and wrong the "terms would be to him equally unintelligible, as the term *colour* to one who was born and has continued blind" (509). It was important for Wilson to emphasize such a seemingly banal point—that we have intuitive knowledge of the concept of moral obligation and the distinction between right and wrong—to guard foundational moral knowledge against the skeptical philosophy of some of his contemporaries such as David Hume (see, e.g., 607–9). Before the enterprise of moral reasoning can get off the ground, he insists, we must first recognize as an "intuitive truth" the principle of obligation founded on the distinction between right and wrong (508–9). Determining the "specified action, or series of specified actions" that it is our duty to perform is then the task of moral reasoning, informed by the natural moral law (watered by the two streams of the moral sense/conscience and reason) and the law revealed in the Bible—"by our conscience, by our reason, and by the Holy Scriptures" (507, 509).

Wilson's arguments about the moral sense emerge from within a theological tradition that emphasizes the need to align one's rational will with the laws of God and nature rather than being enslaved to one's passions (see Shain 1994, 301–19). The laws of God and nature are compatible, according to Wilson. Revelation refines and exalts, but does not contradict, moral knowledge known and discovered through conscience and reason. The Bible, he observes, presupposes "a knowledge of the principles of morality" and is "addressed to rational and moral agents, capable of previously knowing the rights of man, and the tendencies of actions; of approving what is good, and disapproving what is evil" (Wilson 2007, 522). For some commentators, there is something untoward in Wilson's formulation. As we have seen above, Frazer attributes the role Wilson gives to reason, as a source of knowledge standing alongside revelation, a departure from Protestant Christianity, something he labels "theistic rationalism"

(Frazer 2012, 186–87). In Pangle's analysis, Wilson is less a rationalist than a sentimentalist who roots knowledge ultimately in sentiment or feeling rather than reason (Pangle 1988, 122). If we read Wilson in light of his intellectual influences and place him within the larger Christian natural law tradition, however, we see that his arguments are not subversive of but rather develop in concert with that very tradition.

GOD AND THE SOURCE OF MORAL OBLIGATION

Thomas West correctly notes that many in the founding era saw no contradiction either between reason and revelation or between the God of Nature and the God of Revelation (2017, 82–83). He does, however, suggest that reason alone cannot disclose moral obligations and that as a result many in the founding era connected natural law to the will of God rhetorically to impute to the natural law a morally obligatory force. Nonetheless, he insists, the "idea that natural law comes as a commandment from God is not so much an argument as an unsupported assertion" (87).

In contrast, West maintains a very limited conception of what reason can disclose, narrowing it to hypothetical imperatives and the existence of a God of Nature tantamount to the first principle that animates the world and is discoverable through reason's observations and inferences from nature (2017, 82). "The laws of nature," he writes, "founded in reason's judgment of what is useful for human life and happiness, become morally obligatory only when they take on a juridical or legal character"—which they do not as disclosed by reason unaided by revelation, according to West—and "thus the founders presented rational arguments regarding the usefulness of natural rights while supporting teachings like divine will and the moral sense to give their arguments moral weight" (95). Yet, as we have seen, Wilson's teaching is that the truths intuited by the moral sense—including God's one paternal precept that man ought to pursue his own happiness and perfection—are foundational to practical reason and rest on no antecedent truths. Further, these undemonstrable first principles are presupposed but not revealed by scripture.

This general way of framing the issue is consistent with the historic teachings of Protestant Christianity, including the Calvinist theology that exhibited a disproportionate influence on the theological currents of eighteenth-century America. Crucial to the Reformed engagement with the natural law tradition is the doctrine of *duplex cognitio dei*, or the twofold knowledge of God (see, e.g., Grabill 2006, 71–73). Calvin opens his *Institutes of the Christian Religion* with just this distinction. Human beings know God through reason as the Creator, the French theologian and reformer writes, whereas they know God through revelation as the Redeemer. Although Calvin does not set about to

write a systematic treatise on natural law, he adopts the basic categories of the natural law tradition as he describes this twofold knowledge of God. On the basis of reason, according to Calvin, prior to God's revelatory self-disclosure, human beings have access to knowledge of God as Creator, and on the basis of their knowledge of God the Creator they also have knowledge of basic moral obligations. One practical effect of this knowledge, after the fall of man described in the first chapters of Genesis, is to leave mankind without excuse for moral failure and to bring before their minds a recognition of their alienation from God, but natural law also plays a positive role in Calvin's thought by structuring and ordering our common life together and providing the "moral standard for civil government" (Tuininga 2017, 369).

"The key to making sense of Calvin's variously positive and negative statements regarding the usefulness of natural law," Matthew Tuininga observes, is interpreting these statements in light of "the difference between the law's *temporal* purpose and its *spiritual* purpose, between *earthly* things and *heavenly* things" (2017, 107). Even though he thinks that natural theology is neither efficacious for salvation nor fully epistemically reliable, Calvin does emphasize the sufficiency of this knowledge in "earthly things," including "matters of policy and economy, all mechanical arts and liberal studies" (1846, 2.2.13). Civic life is one of those spheres for which the knowledge we have by reason can guide us reliably even if not infallibly. As Calvin insists, "the view to be taken is this: Since man is by nature a social animal, he is disposed, from natural instinct, to cherish and preserve society; and accordingly we see that the minds of all men have impressions of civil order and honesty. Hence it is that every individual understands how human societies must be regulated by laws, and also is able to comprehend the principles of those laws" (2.2.13).

Calvin maintains in his discussion of civil government that there can be a legitimate diversity of constitutional forms based on circumstances, "provided they all alike aim at equity as their end" (1846, 4.20.16). The content of equity or justice, "as it is natural" according to Calvin, is "nothing else than a testimony of natural law, and of that conscience which God has engraved upon the minds of men," and the "whole of this equity of which we now speak is prescribed in it. Hence it alone ought to be the aim, the rule, and the end of all laws" (4.20.16; cf. Grabill 2006, 91). In other words, knowledge of the natural moral law—unable as it is to bring one to salvation and determine the manner in which one must render worship to God—can offer guidance for public affairs, and natural equity is in fact the goal, rule, and limit of civil laws, which aim at natural justice.

As John Witte has chronicled, Calvin "developed a detailed theory of moral laws and duties that foreshadowed a whole range of later Calvinist natural law and natural rights theories" (Witte 2007, 3). The Reformed Protestant engagement

with the larger Christian natural law tradition left an imprint on the intellectual world of the founders, many of whom "were schooled by Scottish Presbyterian tutors or at the Presbyterian College of New Jersey, which graduated 'ten cabinet officers, thirty-nine congressmen, twenty-one senators, twelve governors, thirty judges (including three Supreme Court justices), and fifty state legislators' under the leadership of President John Witherspoon" (Conklin 2019, 75; internal quotation from Richard 1994, 20). The point of highlighting the positive role of natural law in Calvin's *Institutes* is to suggest not that Wilson was following Calvin directly on these points but rather that Wilson's appeal to natural law does not represent a break from or subtle subversion of eighteenth-century Christianity or an affront to Reformed theology. The natural law tradition was a point of convergence for the Presbyterian, Anglican, and Catholic traditions during the founding era.

Although Wilson was the son of a "strict Calvinist, who destined his son for a ministry in the Church of Scotland" (Ewald 2008, 902), in his law lectures he appeals primarily to the authority of the Anglican priest and theologian Richard Hooker for matters theological.[4] For Calvin as well as Hooker and Wilson, the existence of God the Creator (who stands outside his creation and thus is not tantamount to the animating first principle of nature) is among those truths understood or perceived prior to revelation, and it is God the Creator (known prior to revelation) who provides the basis of moral obligation. As Wilson notes, revelation is itself addressed to "moral and rational agents" who already have knowledge of the principles of morality. Moral knowledge may be refined by revelation, but it does not originate with revelation.

Even so, what exactly gives moral norms their binding or obligatory force? The "precise state of the question," Wilson tells his students, is "what is the efficient cause of moral obligation—of the eminent distinction between right and wrong?" (2007, 507). Wilson clearly answers that the efficient cause of moral obligation—that is, the cause that brings moral obligation into being— is "the will of God. This is the supreme law. His just and full right of imposing laws, and our duty in obeying them, are the sources of our moral obligations" (508). Our duty to obey the will of God, Wilson further contends, is itself enjoined by conscience and felt or intuited as a first principle, one of those truths "that cannot be discovered or proved by reasoning" (508). Further,

4. According to Hall, several years after his law lectures, in 1794, Wilson became an active Episcopalian, although he continued to rent a pew at the First Presbyterian Church in Philadelphia until his death in 1798. "Denominational commitments are not unimportant," Hall notes in an observation equally applicable here, "but more significant for our purpose is the extent to which Wilson's Christian beliefs influenced his political philosophy and, hence, his contributions to the creation of the American republic" (Hall 2004a, 181, 188).

our intuited sense of obligation to obey the will of God derives at least in part from God's goodness and not merely his superior physical strength.

When considering this frequent contention in the founding era that moral obligation is rooted in the will of God, West comments that it is "striking how little evidence is provided for these assertions in the official documents" (2017, 86). Yet prominent writers on moral philosophy such as John Witherspoon did spend time considering a priori and a posteriori "proof of the being of God, the great foundation of all natural religion; without which the moral sense would be weak and insufficient" (1912, 37). As Witherspoon notes, however, there also is a view—attributed to unnamed "authors of Scotland" and leveled as a response to Humean skepticism—that knowledge of God's existence is one of those "first principles or dictates of common sense, which are either simple perceptions, or seen with intuitive evidence" (39). Wilson implicitly follows this path of treating God's existence as one of those first principles or dictates of common sense in his lectures, since he does not offer a proof of God's existence even as he locates the efficient cause of moral obligation in the will of God. For Wilson, reason and revelation work together with conscience and experience to establish the goodness and will of God as the efficient cause of moral obligation and the ultimate ground of all law, including the recent edifice of the US Constitution.

CONCLUSION

The jurisprudence of Wilson's lectures emphasizes a prominent place for reason in civic affairs and appeals in public life primarily to God as Creator rather than God as Redeemer. What commentators have sometimes called our "civil religion"—the set of propositions about the deity that infuses our civic realm and undergirds our founding creed—has historically been framed in terms of a shared theology. In Robert Bellah's classic formulation, these beliefs include affirmation of the existence of a divine source of sovereignty beyond the Constitution, a divinely sanctioned moral law that is the ultimate criterion of right and wrong, and the outworking of divine providence in the world (1967/2005, 42–43). Although "not antithetical to and indeed sharing much in common with Christianity," Bellah notes, American civil religion from the founding on has been "neither sectarian nor in any specific sense Christian" (46). The doctrine of the twofold knowledge of God in Christian theology has, however, given theological warrant for a civil religion that makes it possible to include as fellow citizens and full participants in public life those who have different conceptions (or no conception at all) of God's revealed plan for redemption. It is God the Creator, known by reason, whom Wilson invokes in

his lectures on law and in whose will he grounds moral obligation to conform to the natural law.

In Wilson's lectures, the very concept of law is embedded in a natural theology that imparts to us knowledge of moral obligation, something that is consistent with the broader Christian natural law tradition. Scholars who argue that James Wilson's lectures on law represent a departure from Christianity rest their case on a particular view of Christian theology that sees it as theoretically incompatible with natural theology. In these accounts, the Reformed tradition in particular emphasizes the total depravity of man and the resultant inability of fallen human reason to ascertain moral truth or truth about God apart from biblical revelation. There is thus no place in Reformed Christianity for natural theology, and consequently no place for the perennial natural law tradition. To the extent that the pastors who delivered fiery political sermons in defense of the Revolution and the statesmen who wrote public documents to steer the ship of state did so by affirming natural law principles and appealing to natural knowledge of God, they were betraying their own Christian traditions.

Recent works by Stephen Grabill, John Witte, Glenn Moots, and Stephen Wolfe, among others, have demonstrated, however, that the recurrent scholarly theme about the incompatibility of Christian (and especially Reformed) theology and the natural law tradition is no longer tenable. Whether or not they have engaged the work of the twentieth-century Swiss Reformed theologian Karl Barth, many modern scholars nonetheless read into their analyses of eighteenth-century Christianity something like Barth's rejection of natural theology and natural law as epistemologically incompatible with divine revelation (see Brunner and Barth 1934/2002). Very few of Barth's Reformed predecessors held these views, however. As Grabill notes, "the older magisterial Protestant tradition (Lutheran and Reformed) not only inherited but passed on the doctrines of *lex naturalis* and *cognitio Dei naturalis*, especially the idea of an implanted knowledge of morality, as noncontroversial legacies of patristic and scholastic thought" (2006, 3).

The role of the Christian natural law tradition in founding-era political thought and jurisprudence remains deeply contested today. In one prominent interpretative framework, the political philosophy that undergirds the American founding represents a rupture with ancient and medieval ideas about the nature of political order and instantiates distinctly modern ones. Sometimes the alleged modernity of the founding is celebrated, and other times it is condemned. One recent study in the latter genre is Patrick Deneen's best-selling and widely discussed book *Why Liberalism Failed*. For Deneen, the liberalism of the American founding entailed the grafting onto Western political thought of an anticlassical and anti-Christian anthropology. The features of this anthropology entailed a rejection of virtue politics; the overturning of social structures that inculcate virtue

in "political, social, religious, economic, and familial life"; and a conquering and overcoming of the moral limits imposed by nature (Deneen 2018, 25). Wilson's lectures on law challenge this common interpretative framework of the founding as anti-Christian by highlighting the essential continuity between the Christian natural law tradition and the first and most prominent lectures on early American jurisprudence.

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