

HOBBS AND THE RISE OF MODERNITY

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Abstract

This article examines the specific role of Hobbes' *Dialogue of the Common Laws* in the development of the liberal tradition in the common law. Hobbes usually has been regarded as the founder of a theory of absolute sovereignty and as an advocate of state centralization. In some cases he is even considered a forerunner of such neoconservative political philosophers as Carl Schmitt and Leo Strauss. However, this reading of Hobbes will contend that his philosophical and political enterprise has been misunderstood. Opposed to the authoritarian reading I wish to emphasize a strain of pragmatic and free thinking modernity in Hobbes' writings. Hobbes supports freedom of expression and enquiry against all types of sectarian claims made by the most powerful legal and religious circles and guilds of that time which he saw as intent on pursuing their own narrow self-interests against the needs of the common people. In other words, he was an early advocate of intellectual freedom and was an agent of change within the conceptual history of common law. The historical influence of these liberal features of Hobbes set in motion a shift towards a kind of consequentialist and informal utilitarianism in the understanding of common law. This is the important historical outcome of *A Dialogue*. I argue that the contrast between Hobbes' rational jurisprudence in *A Dialogue* and common law itself is particularly significant to the rise of English and American Constitutionalism, modern individualism and utilitarianism.