Political Obligation and the United States Supreme Court

Mark Hall, George Klosko

The Journal of Politics, Volume 60, Issue 2 (May, 1998), 462-480.

Stable URL:
http://links.jstor.org/sici?sici=0022-3816%28199805%2960%3C462%3APOATUS%3E2.0.CO%3B2-A

Your use of the JSTOR archive indicates your acceptance of JSTOR's Terms and Conditions of Use, available at http://www.jstor.org/about/terms.html. JSTOR's Terms and Conditions of Use provides, in part, that unless you have obtained prior permission, you may not download an entire issue of a journal or multiple copies of articles, and you may use content in the JSTOR archive only for your personal, non-commercial use.

Each copy of any part of a JSTOR transmission must contain the same copyright notice that appears on the screen or printed page of such transmission.

The Journal of Politics is published by Southern Political Science Association. Please contact the publisher for further permissions regarding the use of this work. Publisher contact information may be obtained at http://www.jstor.org/journals/spsa.html.

The Journal of Politics
©1998 Southern Political Science Association

JSTOR and the JSTOR logo are trademarks of JSTOR, and are Registered in the U.S. Patent and Trademark Office. For more information on JSTOR contact jstor-info@umich.edu.

©2002 JSTOR

http://www.jstor.org/
Sun Jan 13 21:00:26 2002

Political Obligation and the United States Supreme Court

Mark Hall
East Central University
George Klosko
University of Virginia

We inquire into reasons given by the United States Supreme Court to explain political obligations, in order to assess different theories of political obligation that are currently advanced. The justices have most often grounded moral requirements to obey the law on protection individuals receive from society. The most likely bases of these "reciprocal obligations" are an idea of reciprocity as itself a binding moral notion and, more specifically, the principle of fairness. Although the evidence is somewhat unclear, on balance, it supports the more specific fairness interpretation.

In this paper, we employ reasons given by the United States Supreme Court to explain political obligations as a means of assessing different accounts of political obligations that have been advanced by scholars.[1] Since the time of John Locke a variety of grounds have been suggested for why citizens should obey the state. Chief among these are consent, a natural duty of justice, gratitude, and fairness.[2] We also consider arguments from utilitarian principles and a principle of reciprocity. Recent literature on political obligation has presented arguments for and against all of these positions, pointing out weaknesses as well as strengths. At this point, we believe that arguments from fairness have held up best and have the most potential to ground a satisfactory

We would like to thank Henry Abraham, Ernie Alleva, Richard Dagger, Jeffrie Murphy, David O'Brien, David Rosenfeld, Mark Tunick, Alan Wertheimer, and Jonathan Wolff for helpful criticisms of and suggestions for this paper.

[1]Throughout, we treat the question of political obligation as basically interchangeable with why people should obey the law. We also generally use the terms "obligation" and "duty" interchangeably; for discussion of these concepts, see Brandt (1964); Hart (1958); Mish'Alanai (1969). In addition, we do not construe political obligations in a narrow sense, as necessarily grounded in voluntary actions. Strong moral reasons to obey the law would constitute an adequate theory of political obligation, whether or not these reasons stem from "obligations" in the strict sense. For discussion, see Klosko (1992, chapter 1); Simmons (1979, chapters 1–2).

[2]These are the main principles discussed in Simmons (1979).

THE JOURNAL OF POLITICS, Vol. 60, No. 2, May 1998, Pp. 462–80
© 1998 by the University of Texas Press, P.O. Box 7819, Austin, TX 78713–7819

theory.[3] Through the analysis of Supreme Court decisions, we can subject this conclusion to an indirect test. If fairness is indeed the strongest argument, we would expect reflective political actors to rely on it when justifying the obligations of individuals to obey specific laws. One institution that is worth studying in this regard is the United States Supreme Court.

Although Supreme Court justices are political actors appointed to their positions for what are usually political reasons, they are in an interesting position from the standpoint of political philosophy. Because they are appointed for life, they are essentially unaccountable to the public or to those who appointed and confirmed them. Further, justices are generally intelligent, well educated, and usually do not have personal interests at stake in the cases they decide. For each specific case, they are given all relevant information and have adequate time to deliberate, while their reasoning is also intended to be consistent from case to case, to be persuasive to their fellow citizens, and to be supported by later Courts. Because of these factors, decision making by the Supreme Court approximates the influential method of "reflective equilibrium" in moral philosophy put forth by John Rawls.[4] When judicial decisions express consistent underlying principles that withstand critical scrutiny over time, their reasoning should be taken seriously by moral and political philosophers.[5]

We, of course, do not claim that Supreme Court opinions should be accepted as moral truth. One can employ Court decisions for philosophical purposes only with caution. Two immediate problems bear mention. First, the justices are not moral philosophers. They usually defend their opinions on the basis of statutory or constitutional interpretation and seldom appeal directly to moral principles or make abstract philosophical arguments. However, the justices do on occasion invoke moral principles to support their opinions, especially in difficult cases. In the range of cases that most interest us, they must decide whether specific individuals should be required to take actions for the state—as opposed to merely refraining from action. These cases generally concern particularly onerous requirements individuals are asked to bear, especially military service, which could cost them their lives. When principles that different justices invoke in such cases survive critical scrutiny and are appealed to in subsequent decisions, they have a legitimate claim to our attention.

[3]The main discussions of the principle of fairness and political obligation are Dagger (1993); Klosko (1992); and Simmons (1979, chapter 5). The main criticisms of fairness theories have concerned difficulties in "accepting" public goods; see Dworkin (1986, 192–93); Nozick (1974, 95); Rawls (1971, 113–16); Simmons (1979, chapter 5); this objection is dealt with in Klosko (1992, chapter 2). For additional criticisms, see Klosko (1992, 91); Simmons (1993, chapter 8).

[4]On the general quality of Supreme Court justices see Abraham (1992). On reflective equilibrium, see Daniels (1979); Rawls (1971, 19–21, 46–53, 578–86); and Rawls (1951). For criticisms of the method, see Hare (1974); Lyons (1974); Singer (1974). For the resemblances between judicial decision making and reflective equilibrium, see Dworkin (1977, chapter 4, 6).

[5]The philosophical implications of judicial decisions are developed in Wertheimer (1987), to which we are indebted. See also Pohlman (1993).

The second problem is that the Court is not a monolithic entity. Obviously, its composition changes over time. Individual justices have their own political and philosophical views, which have differed enormously throughout the Court's history. Because the Court is not a univocal body, any claims concerning "its reasoning" are necessarily selective. However, we do not believe such skeptical claims should be accepted without limits. The cases that we discuss are the ones in which the Court has addressed questions of political obligation most directly and most clearly articulated underlying moral principles. We have been unable to locate other cases that clearly present opposed views. As we will see, one case on which we draw heavily, *Arver* v. *U.S.*—one of the famous "Selective Draft Law Cases," 245 U.S. 366 (1918)—is an important precedent, referred to repeatedly in subsequent decades, when similar questions were before the Court (on which, more below).

Although the composition of the Court changes, the justices have been surprisingly consistent when they address the question of why specific citizens have obligations to obey specific laws. This is especially true in regard to requirements of military service. Looking at decisions in this area is particularly useful, not only because of the burdensome nature of military service, but because it is opposed to some people's religious beliefs and so is especially controversial. In dealing with these issues, the Court has consistently appealed to principles of a particular kind. Subsequent decisions invoke similar principles and have upheld earlier decisions, which are cited as precedents.

In the first section, we briefly outline the major theories of political obligation to which the Court could appeal. In the next section, we examine relevant cases. The third section presents the evidence for fairness as the Court's preferred ground of political obligation, and the final section offers a brief conclusion.

Theories of Political Obligation

For reasons of clarity, we should begin by explaining what we mean by a moral principle underlying an obligation. As generally understood, an "obligation" is a particular kind of moral requirement, distinctive because of its specificity.[6] Obligations are generally said to have three central features. Construed on the model of a promise, an obligation is viewed as (a) grounded on a specific voluntary action or performance; (b) owed to a particular person; and (c) having a determinate content. Thus, if Grey promises to give Brown $5.00, the obligation is (a) established by the promise Grey makes, (b) owed to Brown and not to other people, and (c) a requirement to pay Brown the $5.00. In general, we can assume that there must be a moral reason for a specific obligation to hold.[7] In our example, the source of the obligation is of course Grey's promise.

[6]On the concept of obligation, see the articles cited above in note 1.

[7]This is also true of requirements other than obligations in the strict sense; thus if A has a duty to perform some service for B, we can presume that this too must have an underlying moral basis.

By analogy, if Green, a citizen of country X, is obligated to provide military service, the question is, what is the source of this obligation? As we will see, the Court has generally answered that this is a reciprocal obligation that Green incurs in exchange for the protection he receives from his fellow citizens. But the moral principle underlying this reciprocal obligation is still not accounted for. One obvious explanation would rely on the notion of agreement: Green's fellow citizens agree to protect him, if he agrees to serve in their armed forces. Such an arrangement would involve the basic liberal idea that political obligations rest on the consent of the governed.

The idea of consent is bound up with the social contract or contract of government, according to which citizens agree to obey government under certain conditions. When these conditions are not satisfied, the citizens recover their liberty. Variations on this central idea are found in such classic works as John Locke's *Second Treatise of Government.* They are clearly expressed in the Declaration of Independence, according to which governments derive "their just powers from the consent of the governed." Ever since the time of David Hume, however, theorists have challenged the idea that obligations to obey government rest on consent.[8] The leading argument is that adequate numbers of people have not in fact consented to government—either expressly or tacitly.[9] Because few citizens of actual states have consented to their governments, consent is widely rejected by philosophers as an explanation of political obligations.[10]

Another popular, common sense justification of political obligation proceeds from consequentialist or utilitarian principles. Briefly, Jones should obey the law—e.g., pay her taxes—in order to promote the public good. Unless she pays, society will be harmed. But such an argument can also be faulted on factual grounds. Barring unusual circumstances, in a large society, the community would often actually be better off if Jones did not pay. Her contribution would barely be noticed, while if she did not pay, she would have extra money to spend on herself, her family, or some worthy cause, which might make a real difference in people's happiness. The flaw in consequentialist arguments for political obligations is that, on the whole, society requires general but not universal compliance with its edicts. If a certain amount of disobedience makes no notable difference, then it is difficult to require that a specific individual (e.g., Jones) obey.[11]

[8]Hume (1985); the best recent discussion is Simmons (1979, chapters 3–4).

[9]The claim that large numbers of people have tacitly consented to government is demolished by Simmons (1979, chapter 4). The clearest instances in which consent to government is relevant to political obligations are naturalization cases, in which oaths are discussed. See, for instance, *Luria* v. *United States,* 231 U.S. 9 (1913) and *U.S.* v. *Amalia Manzi,* 276 U.S. 463 (1928).

[10]Even Beran (1987), the best defense of consent theory in the literature, argues for "reformist consent" rather than "actual consent," i.e., that institutions should be changed to allow people to consent, not that adequate numbers have consented.

[11]See Klosko (1992, chapter 6); Lyons (1965, chapter 5); for paradoxical cases, see Klosko (1990); for "contagion" or "snowball" arguments, see Glover (1975).

Three other plausible accounts of underlying moral principles can be named: gratitude, reciprocity as itself a basic moral principle, and fairness. We will sketch these in turn.

The concept of gratitude is familiar.[12] It holds that if Jones provides Smith with some benefit, Smith should express his appreciation to Jones and make an appropriate return, in order not to treat Jones merely as a means to his own ends. Extended to the state, a gratitude account would have Green incur a moral requirement to obey the law in order to express his gratitude to his fellow citizens and not use them as means to his own ends. Although intuitively appealing, such theories have confronted strong objections and are not widely held among contemporary philosophers.[13] The main problem is that although the provision of benefits may generate an obligation for Green to make some appropriate response, it follows from the expressive nature of gratitude that it is up to him to determine exactly what this response should be. This is problematic, because the state does not require just any suitable response for the protection it provides. It demands specific responses—that, e.g., Jones serve in the military—under conditions that it rather than he dictates.[14] By contrast, obligations of gratitude are like gifts; it is up to the giver rather the recipient to decide what the gift will be (Camenisch 1981).

Another possible theory of obligation we must consider is based on reciprocity as an inherently binding moral notion. Although such a view is not widely discussed in the literature, it could be behind the Court's frequent invocations of reciprocal obligations. Lawrence Becker describes reciprocity as follows:

> Reciprocity is a moral virtue. We ought to be disposed, as a matter of moral obligation, to return good in proportion to the good we receive, and to make reparation for the harm we have done. (Becker 1986, 3)

According to an account of political obligation based on this notion, Green would be required morally to make appropriate return for the benefits he receives from the state, because he receives them. Such an argument has strong advantages over the alternatives we have discussed. Unlike a formal contract, reciprocity does not require that the recipient make return only for benefits he accepts. His reception of them is enough to create an obligation to obey the state (Becker 1986, 124–30). Accordingly, the fact that Green has not consented to obey government in return for the benefits it provides does not undermine the argument from reciprocity. In addition, as Becker says, the requirement of reciprocity is to make a return that is "fitting and proportional" to what one has received (105–24). Thus, if Green receives protection from his fellow citizens, he has an obligation to contribute to protection himself—by serving in the military (413–17). This line of argument, then, is able to circumvent the main problem with gratitude theories of political obligation.

[12]For the concept of gratitude, see Berger (1975); Camenisch (1981); Card (1988); Walker (1980–81).

[13]See Klosko (1989, 1991); Simmons (1979, chapter 7); Walker (1988, 1989).

[14]The best attempt to get around this problem in the literature is Walker (1988), discussed in the additional articles cited in the previous note.

As we will see, the Court's language is often consistent with a reciprocity explanation. While the Court does not speak of obligations of consent or gratitude, it does discuss reciprocal obligations. Because the justices make little effort to explain the moral force of these obligations, it is possible that they have viewed them as inherently binding. But we believe that the concept of reciprocity cannot alone ground political obligations.

Although considerations of space preclude detailed discussion of the concept of reciprocity, one point should be noted briefly. One reason not to view reciprocal obligations as inherently binding is that this could make other moral principles otiose. If the fact that A gives B an important benefit generates an obligation of reciprocity for B to make an appropriate return, it is not necessary to invoke concepts of consent, gratitude, or fairness to explain B's obligation to return the benefit. However, because it is unusual not to appeal to one of these other principles, either instead of or along with reciprocity, it seems that reciprocity alone does not explain particular moral requirements.

We believe that, rather than being an inherent moral notion, reciprocity is actually a family of moral requirements, each of which centers on returning benefits for benefits received. The principles underlying different requirements are the ones we have noted: consent, gratitude, fairness—and perhaps others. Not only do different forms of reciprocity rest on different moral principles, but unless one of these is also in effect, an obligation of reciprocity will not obtain. In other words, in any given case in which an obligation of reciprocity can be identified, it actually rests on one of these principles rather than on reciprocity *simpliciter*.

The limitations of reciprocity are clear in regard to public goods. If Smith does a favor for Jones, the latter might decide on an appropriate response with little difficulty. But things are far more complex in regard to benefits that are jointly produced, especially public goods (see Becker 1986, 111–27; on public goods, see below). If a large group of people supplies Jones with the benefits of national defense, how should she respond? She cannot make an appropriate return to each of her benefactors individually. As Becker says, because important jointly produced goods are generally products of ongoing institutions, the appropriate response is "reciprocal participation" in the institutions from which benefits derive (1986, 114). Becker identifies Jones's "fair share" as contributing roughly what the average benefactor contributes (1986, 115). Accordingly, in not contributing, Jones would be free riding, not doing her fair share. In cases of this sort, obligations of reciprocity become virtually indistinguishable from obligations under the principle of fairness. The latter are discussed below, but for now we can note that they are requirements to do one's fair share in cooperative institutions that provide benefits, with "fair share" construed as bearing burdens similar to those of other members of the institution.

Because obligations to reciprocate for public goods require appeal to notions of fairness, it is not clear how basic they are. In his account of reciprocity, Becker says: "Grounding a judgment is putting a non-arbitrary stop to the end-

less process of reason-giving—to the endless process of 'proving' the judgment" (1986, 62). On this criterion, however, appeals to reciprocity in regard to institutions that provide public goods do not ground reciprocal obligations. In any given case, the reciprocal obligation can be traced back to the principle of fairness, which is more likely to be grounded in Becker's sense.

The last moral principle we will discuss is the principle of fairness. This was originally formulated by H. L. A. Hart in 1955:

> [W]hen a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission. (Hart 1955, 186)[15]

The moral basis of the principle is the mutuality of restrictions. Under specified conditions, the sacrifices made by members of a cooperative scheme in order to produce benefits also benefit noncooperators, who do not make similar sacrifices. According to the principle, this situation is unfair; the principle is intended to justify the obligations of noncooperators. According to David Lyons, the underlying moral principle at work in the principle of fairness is "the just distribution of benefits and burdens" (Lyons 1965, 164). According to John Rawls: "We are not to gain from the cooperative labors of others without doing our fair share" (1971, 112).

Considerations of space limit discussion of the principle of fairness to a few central points.[16] As a basis for political obligations, the principle of fairness is closely related to reciprocity, especially in regard to obligations to help supply public goods. But fairness is distinctive in two respects. First, while obligations of reciprocity can arise from receipt of benefits generally, fairness obligations are incurred only by benefits that are jointly produced, especially public goods. Public goods are nonexcludable; they cannot be provided to specific members of society without being made available to a wider population. National defense and relief from air pollution are paradigmatic cases of public goods. In addition, relevant public goods must be costly to provide. If people did not have incentives to avoid the costs of providing them, questions of obligations would not arise.

The second feature is that obligations of fairness have distinctive binding force. The underlying moral principle is often associated with opposition to "free riding." If Jones profits from a public good that is provided by the cooperative efforts of others, she should cooperate as well. Because she benefits from other members of society doing their fair shares, it would be unfair of Jones not to do her fair share, unless there were significant morally relevant differences between her and her fellow citizens. In other words, a distinctive feature of fairness obligations is that they ground obligations a given person incurs in the existence of a cooperative association of her fellow citizens in which each bears his or her fair

[15]Hart was anticipated by Broad (1915–16) and Ewing (1953).

[16]For references, see above, note 3.

share of the overall burdens. We have seen something similar in regard to obligations of reciprocity bearing on public goods—which is of course our reason for believing that the two moral notions are closely related.

In recent years, the principle of fairness has been developed into a general theory of political obligation. The most prevalent approach concentrates on particular public goods deemed essential for people who would lead meaningful lives. The goods include physical security: national defense, law and order, and the provision of basic public health measures (Klosko 1992, chap. 2). It bears mention that providing these benefits is generally viewed as the state's central function. We should also note that fairness theory has on the whole held up better in the philosophical literature than theories based on consent and gratitude. To some extent this is because it has been developed only recently. But though criticisms have emerged, the theory's central claims have not yet been rebutted.[17]

Political Obligations in Supreme Court Opinions

While Supreme Court opinions address questions of political obligation, the justices generally skirt an important philosophical issue. They generally assume that the laws they apply are binding, although they explore important questions concerning the limits of legal obligations and how these interact with other moral precepts. It is therefore unlikely that the Court's reasoning would satisfy a philosophical anarchist, who doubts that there are binding reasons to obey the laws,[18] but we will set this question aside. If—along with the Court—we assume that citizens have obligations to obey the law, we can see that, in spite of different times in which it addressed these questions and the different justices who authored opinions, the Court's reasoning consistently tends in a certain direction.

Throughout the course of its history, the Court has referred to numerous principles of obligation—sometimes even in the same case. For instance, in *The United States* v. *Rice,* 4 Wheaton 246 (1819), Justice Story stated that Americans living in British-occupied Maine during the War of 1812 did not have to pay American duties because "where there is no protection or allegiance or sovereignty, there can be no claim to obedience" (254). Though Story's exact meaning is unclear, it seems that, in a single sentence, he appeals to "allegiance"—based perhaps on consent—as well as to an exchange between obedience and protection (on which, more below). Accordingly, we do not claim that the Court has appealed to only one moral principle to justify political obligations. In some cases the Court does not appeal to any moral principle at all, while in cases in which it discusses general obligations to obey the law, it frequently refers to commonsense notions of consent or utility. However, evidence shows that, when

[17]For references, see above, note 3.

[18]We are indebted for this point to Ernie Alleva; the most prominent philosophical anarchist is Simmons (1979, 1993); see also Wolff (1970). For recent discussion, see the papers in Sanders and Narveson (1996).

it is asked to justify the *particular obligations of identifiable individuals to obey specific laws,* the Court relies on more sophisticated moral arguments, which put forth a set of moral principles that are consistent from case to case.

As we have noted, according to the central tenets of liberal political theory, political obligations rest on consent. People have strong moral requirements to obey the law, because they have consented to do so. But as we have also seen, because few citizens have actually consented to their governments, consent is generally rejected as a basis for political obligations. This conclusion is supported by the Court, albeit in a qualified way. Although it has espoused the general idea that government rests on consent, the Court has not argued that the *particular obligations of identifiable individuals* are based on their consent. In other words, the Court has argued from consent only on an abstract level. When it has addressed the obligations of particular individuals, its reasoning falls more in line with that of current moral philosophy. For example, in the important case, *Chisholm* v. *Georgia,* 2 U.S. 419 (1793), Justice James Wilson said in dicta: "The only reason, I believe, why a free man is bound by human laws, is, that he binds himself" (456). In addition, "the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of these, whose obedience they require" (458).[19] While these statements are not unimportant, they are not essential to the substantial holding of the case—that a state may be sued by a citizen of another state. More important, these points were not expressed in order to account for specific moral requirements of specific people. It would have been difficult for the Court to argue along these lines when specific individuals could not be shown to have consented. Because of the prominence of consent theory, the possibility that political obligations do rest on consent was probably considered by many justices. The fact that they have not made this argument constitutes something akin to rejection of consent theory.

Along similar lines, the fact that we have found no case in which the Court argues that particular individuals are required to serve in the military out of gratitude for the benefits they receive tells strongly against the plausibility of such a claim.

Our conclusion is similar in regard to the Court's use of utilitarian or consequentialist language. To the unwary reader, appeals to the "common good" or the "good and welfare of the commonwealth," as in the compulsory vaccination case, *Jacobson* v. *Massachusetts,* 197 U.S. 11 (1905) (at 26, 27), might indicate utilitarian theories of obligation. Further, at a more sophisticated level, arguments based on "contagion" or "snowball effects" appear in decisions. According to this line of argument, Jones should obey a given law for fear that, if she does not, large numbers of other people will not do so either. In *U.S.* v.

[19]For further examples, see *McCulloch* v. *Maryland,* 17 U.S. 316 (1819) at 402–5, and *U.S. Term Limits Inc.* v. *Ray Thornton,* 63 U.S.L.W. 4413 (1995), esp. 4425, 4432.

Macintosh, 283 U.S. 605 (1931), Justice Sutherland appears to invoke such reasoning: "if all or a large number of citizens oppose such defense, the 'good order and happiness' of the United States can not long endure" (260). However, in these cases and others like them, the justices do not attempt to establish connections between the behavior of specific individuals and that of all or large numbers of other people. Such connections must be made if a decision can be said to justify political obligation on utilitarian grounds (see above).

The fact that the justices generally have not made clear utilitarian arguments to justify the political obligations of particular individuals is not surprising. As we have noted, such arguments are notoriously weak. Outside of unusual circumstances, the requisite connections cannot be established. It is generally not the case that Jones's behavior will influence large numbers of other people. It appears that the Court has ordinarily used the idea of "common good" as a starting point for arguments that ultimately depend on principles of reciprocity or fairness. And so it has moved beyond weak consequentialist reasoning to more defensible arguments based on these principles. Accordingly, as we will see below, a case such as *Jacobson*, which at first glance seems to make a utilitarian argument, is better understood as justifying political obligation on the basis of fairness.

A prominent theme in the Court's reasoning about the political obligations of identifiable individuals is that people have "reciprocal obligations" to government in return for important benefits government provides, mainly protection. The idea that political obligations are "reciprocal obligations" was first clearly expressed in the 1875 case *Minor* v. *Happersett*, 88 U.S. 162 (1875), and has been used by the Court ever since.[20] This case dealt with the question whether the Fourteenth Amendment gave women the right to vote. The first issue the Court addressed was whether women are citizens, to which it answered in the affirmative. In discussing citizenship, Justice Morrison Waite wrote, for the unanimous Court:

> The very idea of a political community, such as a nation is, implies an association of persons for the promotion of their general welfare. Each one of the persons associated becomes a member of the nation formed by the association. He owes it allegiance and is entitled to its protection. Allegiance and protection are, in this connection, reciprocal obligations. The one is a compensation for the other; allegiance for protection and protection for allegiance. (165–66)

The central idea here is apparent. The citizen owes the state allegiance, while the state in turn owes the citizen protection.

Connections between citizenship, membership, and reciprocal duties were clearly presented in the immigration case *Luria* v. *U.S.,* 231 U.S. 9 (1913):

[20]The phrase "reciprocal obligation" is used in five Supreme Court decisions prior to this, but in the context of contract law or treaties. See, for instance, *Cherokee Nation* v. *State of Georgia,* 30 U.S. 1 (1831) and *Rutland Marble Co.* v. *Ripley,* 77 U.S. 339 (1870). In *Republica* v. *Chapman,* 1 U.S. 53 (1781), the phrase was, for all practical purposes, used by Chapman's attorney, when he argued that "protection and allegiance being political obligations of a reciprocal nature" (53). However, this is not a Supreme Court decision or even the Pennsylvania Supreme Court's decision.

> Citizenship is membership in a political society, and implies a duty of allegiance on the part of the member and a duty of protection on the part of the society. These are reciprocal obligations, one being a compensation for the other. (22)

The idea that the nature of citizenship is found in the exchange between allegiance and protection predated *Minor* v. *Happersett* by almost a century—although the term "reciprocal obligation" was not used. In the early expatriation case *Talbot* v. *Jansen,* 3 U.S. 133 (1795), Justice James Iredell, in his seriatim opinion, denied that citizens can simply renounce their citizenship at any time. He noted:

> It is not the exercise of a natural right, in which the individual is to be considered as alone concerned. As every man is entitled to claim rights in society, which it is the duty of the society to protect; he, in his turn, is under a solemn obligation to discharge all those duties faithfully, which he owes, as a citizen, to the society of which he is a member, and as a man to the several members of the society individually with whom he is associated. (162)

In *U.S.* v. *Wong Kim Ark,* 169 U.S. 649 (1898), Justice Gray argued along similar lines. This case held that children born to noncitizens in America automatically become citizens. On the basis of a lengthy exploration of English common law, Gray concluded: "Such allegiance and protection were mutual—as expressed in the maxim *protectio trahit subjectionem subjectio protectionem*—and were not restricted to natural born subjects and naturalized subjects" (655). Gray proceeded to argue that American authorities have supported this common law doctrine, that Congress had never rejected this view, and that the Fourteenth Amendment enshrines it (652–705). Though Justices Fuller and Harlan dissented, arguing that the United States is not bound by English common law, they did not question the essential connection between citizenship and protection (705–32).

Minor v. *Happersett* and *Talbot* v. *Jansen,* along with many other cases, are important in describing the nature of the state to which individuals owe allegiance. It is an "association of persons for the promotion of their general welfare." According to this conception, each individual is one member of an association of similar individuals, working together for mutual security. The main benefit, as we have seen, is mutual protection. This is produced by the joint efforts of the group, and in return for this, each individual owes allegiance to the other members of the group. In return for protection, the individual owes allegiance "to the several members of the society" who provide it.

The nature of the individual's obligation to this political association was the subject of numerous cases, several of which concern the obligation to provide military service. In ruling on different aspects of military obligation, the justices have generally held that Americans have reciprocal obligations to obey the government in exchange for protection. During World War I, the Court addressed the extent to which the state can require individuals to fight in a war. In *Arver* v. *U.S.,* 245 U.S. 366 (1918), the constitutionality of the draft was

challenged. A number of issues were raised, but the most important was the contention that "compelled military service is repugnant to a free government and in conflict with all the great guaranties of the Constitution as to individual liberty" (378).

Chief Justice Edward D. White, for a unanimous Court, rejected this claim. He declared that the "premise of this proposition is so devoid of foundation that it leaves not even a shadow of ground upon which to base the conclusion":

> It may not be doubted that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need and the right to compel it. (378)

While the government may choose to excuse certain people from this obligation, as it did ministers and members of pacifistic religions, it is not required to do so.

According to the Court, not only does the individual have an obligation to defend the state, but he must submit to the government's definition of how this obligation must be fulfilled. This position is clearly stated in *Jacobson* v. *Massachusetts*, 197 U.S. 11 (1905). Here the Court upheld a law requiring vaccinations even for individuals opposed to them. Justice John Marshall Harlan, for the Court, held that "upon the principle of self-defense, of paramount necessity, a community has the right to protect itself against an epidemic of disease which threatens the safety of its members" (1905, 27).

The common good is, after all, the reason societies are organized in the first place. How is the common good determined?

> In a free country, where the government is by the people, through their chosen representatives, practical legislation admits of no other standard of action; for what the people believe is for the common welfare must be accepted as tending to promote the common welfare, whether it does in fact or not. (1905, 35)

Thus, the government may even compel a man "by force, if need be, against his will and without regard to his personal wishes or his pecuniary interests, or even his religious or political convictions, to take his place in the ranks of the army of his country, and risk the chance of being shot down in its defense" (1905, 29).

This principle applies to national defense insofar as the Court has held that society, acting through its elected representatives, may determine what sort of duties citizens must fulfill. For instance, the Court has held that pacifists may be required to swear that they will defend the United States with arms as a condition of citizenship. This was true even though in one case the defendant was a 50-year-old woman who would realistically never have been asked to serve in the military (*U.S.* v. *Schwimmer,* 279 U.S. 644 [1929]). In later cases the Court upheld this principle, even for a person whose pacifism was firmly based on religion, and was therefore arguably protected by the First Amendment. For instance, in *U.S.* v. *Macintosh,* 283 U.S. 605 (1931), the Court refused to exempt Douglas C. Macintosh, a Baptist professor at Yale who had served as a chaplain

in the Canadian army in World War I, from the requirement that immigrants swear unconditionally to use arms to defend the United States. Justice George Sutherland, for the majority, firmly explained that any exemption made for conscientious objectors was a privilege granted by Congress, not a constitutional right. To claim otherwise, he noted:

> if it means what it seems to say, is an astonishing statement. Of course there is no such principle of the Constitution, fixed or otherwise. The conscientious objector is relieved from the obligation to bear arms in obedience to no constitutional provision, express or implied; but because, and only because, it has accorded with the policy of Congress thus to relieve him. (623)

Sutherland argued that one cannot appeal to a higher law to avoid an obligation to defend the United States. Permitting this would allow a person to put "his own interpretation" of the will of God above that of the country.

The Court has thus firmly held that Congress has an essentially unlimited right to require military service. Even relatively liberal Courts at the height of the Vietnam War, in a well-known series of conscientious objector cases, did not hold to the contrary.[21] The Court has also ruled that Congress has virtually unlimited authority to dictate how the military should be organized and run.[22]

Interpretation of the Cases

Identifying obligations to obey the law as reciprocal obligations based on receipt of protection does not exhaust what we can say about them. The concept of a reciprocal obligation is not entirely clear, and we will examine additional decisions to see what the Court has meant by this. We are especially interested in the underlying moral bases of reciprocal obligations, that is, the moral principles on which the Court has relied in explaining their binding force. It is possible that all decisions on political obligation do not reflect a single set of underlying moral principles. Because the Court has not developed full-fledged philosophical arguments, it is not possible to decide with certainty in favor of one particular principle, although we believe that the most likely underlying principle is fairness. However, because the evidence is not definitive, it is possible that reciprocal obligations rest on a somewhat weaker basis, the idea of reciprocity as a moral principle in its own right. It is also possible that different decisions are based on either of the two ideas.

Keeping these qualifications in mind, we believe there is significant evidence that the Court has gravitated toward fairness. To begin with, as we saw in the last section, the Court has grounded political obligations on society's provision of essential benefits, especially protection. In this respect, the Court's reasoning and

[21]Most prominent among these are *U.S.* v. *Seeger*, 380 U.S. 163 (1965); *Welsh* v. *U.S.*, 398 U.S. 333 (1970); and *Gillette* v. *U.S.*, 401 U.S. 437 (1971).

[22]See, for instance, *Goldman* v. *Weinberger*, 475 U.S. 503 (1986), and *Parker* v. *Levy*, 417 U.S. 733 (1974).

fairness theory coincide. A related point is that the Court has frequently depicted society as a cooperative venture for mutual benefit, with the benefits stemming from citizens' joint efforts. These points are central to the view of society as an association, discussed above. But in themselves, these points do not necessarily indicate a fairness view of obligations. In spite of the difficulties we have seen in grounding obligations to help supply public goods on reciprocity alone (see above), it is possible that the justices have not been aware of these and so have interpreted the obligations as simply reciprocal. In order to identify the obligations in question as rooted in fairness, the Court must clearly conceive of society as an association in which mutual benefits result from each person *doing his or her share* in the collective effort.

These crucial points were appealed to by the Court in the most important draft case—*Arver* v. *U.S.,* 245 U.S. 366 (1918). Upholding selective service legislation, Chief Justice White wrote:

> In fact, the duty of the citizen to render military service and the power to compel him against his consent to do so was expressly sanctioned by the Constitutions of at least nine of the states, an illustration being afforded by the following provision of the Pennsylvania Constitution of 1776: 'That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion toward the expense of that protection, and yield his personal service when necessary, or an equivalent thereto.' (Art. 8) (at 380)

The language here clearly implies that the obligation in question is one of fairness. The citizen is not required simply to serve in return for protection, as would be consistent with the idea of reciprocity as a basic moral notion. Rather, his obligation is to contribute *his proportion* toward the costs of protection. In *Arver* the Court conceived of society as an association in which "every member" contributes his share to the expense of common benefits. This conceptualization of society is also explicit in the government's arguments before the Court in the *Arver* case, which the Court apparently adopted: "Compulsory military service is not contrary to the spirit of democratic institutions, for the Constitution implies equitable distribution of the burdens no less than the benefits of citizenship" (*Arver* v. *U.S.,* at 371). Thus, the Court has suggested that, with all other people contributing their proportions, it would be unfair of the citizen in question not to contribute his or hers.

Arver presents additional evidence for a fairness conception of obligation. White refers to "at least nine" state constitutions that provide for compulsory military service. Perusal of these indicates that Pennsylvania was not alone in using the language of fairness. Although not all the constitutions (and other sources) White cites employ similar language,[23] constitutions of the following states unmistakably do:

[23]The states cited by White for authorizing compulsory service but which do not use similar language are New York, Delaware, Maryland, Virginia, and Georgia.

> Vermont (1777, chap. 1, art. 9): That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore, is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto; . . .

> Massachusetts (Bill of Rights, 1780, art. 10): Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: . . .

> New Hampshire (1784, pt. 1, Bill of Rights, art. 12): Every member of the community has a right to be protected by it in the enjoyment of his life, liberty and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent.

The language of all these articles is obviously closely related to that of the Pennsylvania Constitution. In all cases, the authors of the constitutions appear to have drawn upon basic ideas of fairness. They did not present reciprocal obligations as inherently binding. In all cases, obligations were traced back to an underlying moral idea that each person should do his fair share in providing society's collective benefits.

It bears mention that in none of these constitutions is language of "reciprocal obligations" used. State constitutions conceived political obligations in terms of fairness long before language of reciprocal obligations was employed in Supreme Court decisions. This is evidence that, in incorporating the principles evoked in these constitutions into *Arver,* the Court was arguing from fairness rather than reciprocity.

The evidence in *Arver* takes on added weight because of the role this case has played in American constitutional law. It should be noted that *Arver* was decided by a unanimous Supreme Court and that its basic holding and justification have never been questioned by a single Supreme Court justice. Although four justices (Cardozo, Brandeis, Stone, and Douglas) suggested at different times that the case does not necessarily give Congress the power to draft men in the absence of a declared war, even these justices did not say that it definitely prohibits this practice (see *Holmes* v. *U.S.,* 391 U.S. 936 [1968] [at 936–38]). Further, the case has been cited as an authoritative precedent in more than 47 United States Supreme Court opinions and in over 300 federal lower court and state supreme court opinions. Of particular interest to us is the fact that it has been relied upon by the Supreme Court to justify Congress's: requiring military service in foreign countries (*Cox* v. *Woods,* 247 U.S. 3 [1918]); forcing immigrants to swear to use arms to defend America (*U.S.* v. *Schwimmer,* 279 U.S. 644 [1929] and *U.S.* v. *Macintosh,* 283 U.S. 605 [1931]); and carefully regulating conscription practices and exceptions (*U.S.* v. *Seeger,* 380 U.S. 163 [1965]; *U.S.* v. *O'Brien,* 391 U.S. 367 [1968]; *Gillette* v. *U.S.,* 401 U.S. 437 [1971]; and *Wayte* v. *U.S.,* 470 U.S. 598 [1985]). Thus, *Arver* has been repeatedly relied upon by different justices at different times to support congressional requirements for specific individuals to

obey specific laws—frequently onerous laws. Accordingly, the decision occupies an important place in American constitutional law.[24]

Although other cases draw less explicitly on fairness, this can be seen to underlie additional arguments. We have noted the intuitive plausibility of linking political obligations and the common good. But as we have also seen, reasoning of this sort is defective unless clear connections can be established between imposing specific requirements on a given individual and the public good. When it has been forced to connect individual behavior and the public good, the Court has appealed to fairness.

For instance, in *Jacobson* v. *Massachusetts,* Henning Jacobson refused to be vaccinated as required by a Cambridge, Massachusetts, law. In supporting the right of the state to delegate the power to pass such a law to a city, the Court emphasized that such laws were enacted for the "common good" and the "good and welfare of the commonwealth" (26, 27). Yet, the Court did not directly proceed from this premise to Jacobson's requirement, as would be consistent with utilitarian reasoning. Rather, Justice Harlan argued that Jacobson could not refuse to contribute to the important benefit of public health by refusing to be vaccinated unless he could demonstrate a morally relevant difference between himself and other citizens. In other words, all citizens alike must do their part to promote the common good, unless there are significant morally relevant differences between them (39). The principle underlying this argument, that individuals have equal responsibilities to contribute to the common good, is best understood as fairness.

Similarly, in *Lichter* v. *U.S.,* 334 U.S. 742 (1948), the Court held that if Congress has the power to conscript individuals for military service, then Congress can also require civilians to contribute toward the war effort:

> In total war it is necessary that a civilian make sacrifices of his property and profits with at least the same fortitude as that with which a drafted soldier makes his traditional sacrifices of comfort, security, and life itself. (754)

Once again, the underlying principle here is fairness. All individuals alike have obligations to contribute to the war effort, although their specific roles may differ. As noted above, it is up to the government to say exactly how each individual's obligation must be met. This decision, which relies on *Arver* as central authority, is therefore consistent with other decisions requiring all citizens to contribute to the public good unless there are morally relevant differences between them (756, 758).[25]

[24]On the importance of *Arver,* see Malbin (1972). It bears mention that *Arver* has also been cited to justify regulating industry and private property during time of war (*McKinley et al.* v. *U.S.,* 249 U.S. 398 [1919]; *U.S.* v. *Bethlehem Steel,* 315 U.S. 289 [1942]; and *Lichter* v. *U.S.,* 334 U.S. 742 [1948]).

[25]See also *Northern Pacific Railroad Company* v. *North Dakota,* 250 U.S. 135 (1918); *U.S.* v. *Bethlehem Steel Corp.,* 315 U.S. 289 (1942); *Yakus* v. *U.S.,* 321 U.S. 414 (1944); and *Bowles* v. *Willingham,* 321 U.S. 503 (1944).

Conclusion

It could be argued that examination of the relatively small number of Supreme Court decisions that we have discussed (plus those cited in the notes) proves little about the Court's reasoning, or provides little support for a theory of political obligation based on fairness. However, the cases we discuss are the ones in which the Court has tackled the question of political obligation most directly, while *Arver* in particular is an important precedent, cited repeatedly in subsequent decades. Though other notions—consent, reciprocity, utilitarianism—have been appealed to in different cases, we have seen that this has not been to support specific requirements of particular individuals. When the Court has been forced to justify such requirements, it has most often appealed to reciprocal obligations, and when these are examined carefully, to fairness. The best examples of the Court's reasoning are cases requiring individuals to contribute toward society's protection. In these cases, the justices have most often upheld requirements for specific individuals to serve in the military, or to make related contributions, on the basis of fairness. Each individual must contribute his or her share to the common good; it would be unfair for them not to contribute unless they could produce strong moral reasons why they need not do so.

In addition to the evidence supporting the principle of fairness, it bears mention that the Court provides indirect evidence against other theories of political obligation. It has not argued from familiar principles of consent or gratitude. We believe that the fact that the Court has consistently traced obligations to obey the state back to protection the state provides also tells strongly against currently popular views of political obligation as rooted in other kinds of principles, for instance, a natural duty of justice, or a principle of association.[26] Rather, as we have seen, obligations have been grounded on different, more commonsense notions, concerning the exchange between obligations and protection, and each person's requirement to contribute his share to the common good.

Manuscript submitted 16 January 1996
Final manuscript received 2 May 1997

References

Cases

Arver v. *U.S.* 1918. 245 U.S. 366.
Bowles v. *Willingham.* 1944. 321 U.S. 503.
Buck v. *Bell.* 1927. 274 U.S. 200.
Cherokee Nation v. *State of Georgia.* 1831. 30 U.S. 1.

[26]Briefly, according to an associative view of political obligations, Jones has obligations to the state because it is deeply implicated in her life. For criticism and discussion of theories of associative obligation, with further references, see Simmons (1996); for criticism and discussion of a natural duty view, with further references, see Klosko (1994).

Chisholm v. *Georgia*. 1793. 2 U.S. 419.
Cox v. *Woods*. 1918. 247 U.S. 3.
Gillette v. *U.S.* 1971. 401 U.S. 437.
Goldman v. *Weinberger*. 1986. 475 U.S. 503.
Hamilton v. *Regents*. 1934. 293 U.S. 245.
Holmes v. *U.S.* 1968. 391 U.S. 936.
Jacobson v. *Massachusetts*. 1905. 197 U.S. 11.
Jones v. *Perkins*. 1918. 245 U.S. 390.
Lichter v. *U.S.* 1948. 334 U.S. 742.
Luria v. *U.S.* 1913. 231 U.S. 9.
McCulloch v. *Maryland*. 1819. 17 U.S. 316.
McKinley et al. v. *U.S.* 1919. 249 U.S. 398.
Minor v. *Happersett*. 1875. 88 U.S. 162.
Northern Pacific Railroad Company v. *North Dakota*. 1918. 250 U.S. 135.
Parker v. *Levy*. 1974. 417 U.S. 733.
Republica v. *Chapman*. 1781. 1 U.S. 53.
Rutland Marble Co. v. *Ripley*. 1870. 77 U.S. 339.
Talbot v. *Jansen*. 1795. 3 U.S. 133.
U.S. v. *Amalia Manzi*. 1928. 276 U.S. 463.
U.S. v. *Bethlehem Steel Corp*. 1942. 315 U.S. 289.
U.S. v. *Macintosh*. 1931. 283 U.S. 605.
U.S. v. *O'Brien*. 1968. 391 U.S. 367.
U.S. v. *Rice*. 1819. 4 Wheaton 246.
U.S. v. *Schwimmer*. 1929. 279 U.S. 644.
U.S. v. *Seeger*. 1965. 380 U.S. 163.
U.S. v. *Wong Kim Ark*. 1898. 169 U.S. 649.
U.S. Term Limits Inc. v. *Ray Thorton*. 1995. 63 U.S.L.W. 4413.
Wayte v. *U.S.* 1985. 470 U.S. 598.
Welsh v. *U.S.* 1970. 398 U.S. 333.
Yakus v. *U.S.* 1944. 321 U.S. 414.

General

Abraham, Henry J. 1992 *Justices and Presidents*. 3d ed. New York: Oxford University Press.
Becker, Lawrence. 1986. *Reciprocity*. London: Routledge and Kegan Paul.
Beran, Harry. 1987. *The Consent Theory of Political Obligation*. London: Croom Helm.
Berger, Fred. R. 1975. "Gratitude." *Ethics* 85:298–309.
Brandt, Richard. B. 1964. "The Concepts of Obligation and Duty." *Mind* 73:374–93.
Broad, Charlie Dunbar. 1915–16. "On the Function of False Hypotheses in Ethics." *International Journal of Ethics* 26:377–97.
Camenisch, Paul. 1981. "Gift and Gratitude in Ethics." *Journal of Religious Ethics* 9:1–34.
Card, Claudia. 1988. "Gratitude and Obligation." *American Philosophical Quarterly* 25:115–27.
Dagger, Richard. 1993. "Playing Fair with Punishment." *Ethics* 103:473–88.
Daniels, Norman. 1979. "Wide Reflective Equilibrium and Theory Acceptance in Ethics." *Journal of Philosophy* 76:256–82.
Dworkin, Ronald. 1977. *Taking Rights Seriously*. Cambridge: Harvard University Press.
Dworkin, Ronald. 1986. *Law's Empire*. Cambridge: Harvard University Press.
Ewing, Alfred Cyril. 1953. "What Would Happen If Everyone Acted Like Me?" *Philosophy* 28:16–29.
Glover, Jonathan. 1975. "It Makes No Difference Whether or Not I Do It." *Proceedings of the Aristotelian Society, Supplement* 49:171–90.

Hare, Richard M. 1974. "Rawls's Theory of Justice." In *Reading Rawls,* ed. Norman Daniels. New York: Basic Books.
Hart, Herbert L. A. 1955. "Are There Any Natural Rights?" *Philosophical Review* 64:175–91.
Hart, Herbert L. A. 1958. "Legal and Moral Obligation." In *Essays in Moral Philosophy,* ed. A. I. Melden. Seattle: University of Washington Press.
Hume, David. 1985. "Of the Original Contract." In *Essays: Moral, Political, and Literary,* ed. E. Miller. Rev. ed. Indianapolis: Liberty Classics.
Klosko, George. 1989. "Political Obligation and Gratitude." *Philosophy and Public Affairs* 18:352–58.
Klosko, George. 1990. "Parfit's Moral Arithmetic and the Obligation to Obey the Law." *Canadian Journal of Philosophy* 20:191–214.
Klosko, George. 1991. "Four Arguments Against Political Obligations from Gratitude." *Public Affairs Quarterly* 5:33–48.
Klosko, George. 1992. *The Principle of Fairness and Political Obligation.* Savage, MD: Rowman and Littlefield.
Klosko, George. 1994. "Political Obligation and the Natural Duties of Justice." *Philosophy and Public Affairs* 23:251–70.
Lyons, David. 1965. *Forms and Limits of Utilitarianism.* Oxford: Oxford University Press.
Lyons, David. 1974. "Nature and Soundness of the Contract and Coherence Arguments." In *Reading Rawls,* ed. Norman Daniels. New York: Basic Books.
Malbin, Michael J. 1972. "Conscription, the Constitution, and the Framers: An Historical Analysis." *Fordham University Law Review* 40:805–26.
Mish'Alanai, James. 1969. "'Duty,' 'Obligation,' and 'Ought.'" *Analysis* 30:33–41.
Nozick, Robert. 1974. *Anarchy, State, and Utopia.* New York: Basic Books.
Pohlman, Harry, ed. 1993. *Political Thought and the American Judiciary.* Amherst: University of Massachusetts Press.
Rawls, John. 1951. "Outline of a Decision Procedure for Ethics." *Philosophical Review* 60:177–97.
Rawls, John. 1964. "Legal Obligation and the Duty of Fair Play." In *Law and Philosophy,* ed. S. Hook. New York: New York University Press.
Rawls, John. 1971. *A Theory of Justice.* Cambridge: Harvard University Press.
Sanders, John T. and Jan Narveson, eds. 1996. *For and Against the State.* Lanham, MD: Rowman and Littlefield.
Simmons, A. John. 1979. *Moral Principles and Political Obligations.* Princeton: Princeton University Press.
Simmons, A. John. 1993. *On the Edge of Anarchy.* Princeton: Princeton University Press.
Simmons, A. John. 1996. "Associative Political Obligations." *Ethics* 106:247–73.
Singer, Peter. 1974. "Sidgwick and Reflective Equilibrium." *Monist* 58:490–517.
Walker, A. D. M. 1980–81. "Gratefulness and Gratitude." *Proceedings of the Aristotelian Society* 81:39–55.
Walker, A. D. M. 1988. "Political Obligation and the Argument from Gratitude." *Philosophy and Public Affairs* 17:191–211.
Walker, A. D. M. 1989. "Obligations of Gratitude and Political Obligation." *Philosophy and Public Affairs* 18:359–64.
Wertheimer, Alan. 1987. *Coercion.* Princeton: Princeton University Press.
Wolff, Robert. P. 1970. *In Defense of Anarchism.* New York: Harper and Row.

Mark Hall is assistant professor of political science, East Central University, Ada, OK 74820.

George Klosko is professor of government and foreign affairs, University of Virginia, Charlottesville, VA 22901.