SUBVERTING THE REPUBLIC:
CHRISTIAN FAITHFULNESS AND CIVIC ALLEGIANCE
IN JOHN LOCKE’S AMERICA

A Dissertation

Submitted to the Graduate School
of the University of Notre Dame
in Partial Fulfillment of the Requirements
for the Degree of

Doctor of Philosophy

by

John Perry, B.A., M.Div.

______________________________
Jennifer Herdt, Director

Graduate Program in Theology
Notre Dame, Indiana
June 2007
The relation of religion to politics has been the subject of much recent controversy. In America, this most commonly involves debates about Christianity and political liberalism. Among philosophers this involves the various responses of Rawls and his critics to the Religious Right. Among theologians this involves the debate between Stout and Christian Traditionalists such as Hauerwas. These conversations are hindered by not recognizing the enduring influence of John Locke.

Locke responded to the conflicts of his day by arguing for a particular vision of religious toleration. He attempted to harmonize religious and civic obligations so that the good Christian and the good citizen could always follow the same course. Because of Locke’s decisive role in launching political liberalism and his influence on the American founders, he remains an often-overlooked presence in today’s debates. Unfortunately, Locke’s solution contains certain gaps and can be interpreted in diverse ways. This is supported by two lines of research: a careful study of Locke’s texts (especially his Letter Concerning Toleration) and recent work by political theorists (especially Zuckert) showing how the American founding is an amalgam of republicanism and liberalism.

This background is used to create a typology of the different political theologies of today’s American Christians. Each position can be understood as a particular rethinking of Locke’s solution, either in a more ‘liberal’ or more ‘republican’ direction.
Key representatives are examined for each position in the typology, including Wolterstorff and Neuhaus. This typology provides a clearer picture of today’s culture wars and also brings to light certain problems with the political theories of Christians across the political spectrum. Their shared dependence on Locke shows that conservative and liberal Christians have more in common than is often assumed. However, their unspoken assumption that Locke provides a definitive solution allows them to avoid supplying holistic statements of their own political theologies. This leads to one of two pitfalls: Lockean reasoning is invoked in tension with a thinker’s other commitments (thus confusing herself) or Lockean reasoning is invoked in ways that disguise a thinker’s actual position (thus confusing her fellow citizens).
For Micah, my son
And Hannah, my daughter
Who asked me daily,
“Did you finish your book today?”

The first service a child doth his father is to make him foolish.
George Herbert

I had no classes the next day and I spent the morning at home working on a paper for one of my philosophy courses. A bulky package arrived in the mail from my father’s publisher. My father came back from his teaching shortly before two o’clock. His hands trembled as he tore open the package. It contained ten copies of his book.

They lay on the desk in his study, covered with pale-blue dust jackets, and we looked down at them. My father picked up one and held it in his hands and opened it and peered at the title page and closed it and put it back down on the desk. His eyes were moist and his face shone and he stared down at the books and shook his head in disbelief. “So much work,” he said. “So much work in those pages.” Then he picked up a copy and turned pages quickly and read and nodded. He put the book down and sat behind his desk. “A book,” he murmured. “It is only a book. But what it means to write a book.”

Chaim Potok
The Promise
I know there is truth opposite to falsehood, that it may be found if people will, and is worth the seeking.

John Locke
CONTENTS

Abbreviations for Locke’s Works........................................................................................................ vi

Introduction: Lighting the Stage........................................................................................................ 1

Chapter 1: Rethinking Liberalism’s Crisis .......................................................................................... 16
   1.1. The Christian Critique of Political Liberalism................................................................. 16
   1.2. Stout and the Traditionalists: Liberal Theory without Liberal History ................. 18
   1.3. Locke’s ‘Third Way’: Salvation from an Ancient Dilemma? ............................... 29
   1.4. Liberalism, Republicanism, and Other Gaps ............................................................... 40
   1.5. A Contemporary Example: Homosexuality and the Law ........................................ 52
   1.6. Souder on Natural Law: Public Arguments without Private Coherence .............. 66

Chapter 2: Preventing “The Pretences of Loyalty” ............................................................................... 71
   2.1. Introduction: The Archeology of Cultural Memory ..................................................... 71
   2.2. Background to Contemporary Locke Studies .............................................................. 76
   2.3. Introducing the Letter Concerning Toleration .............................................................. 86
   2.4. Toleration in the Seventeenth Century: Sources of the Gaps .................................. 92
   2.5. The Argument of the Letter: Distinguishing Church and State ............................ 100
   2.6. A Contemporary Example and Two Lockean Responses ........................................ 135
   2.7. Conclusion .................................................................................................................. 140

Chapter 3: Beyond the Letter .......................................................................................................... 143
   3.1. Introduction..................................................................................................................... 143
   3.1. The Nature of Locke’s Law ............................................................................................. 150
   3.2. The Ground of the Law of Nature: Rights or Duties? .................................................. 168
   3.3. Sources of Moral Knowledge: The Reasonableness of Christianity ................... 182
   3.5. Conclusion .................................................................................................................. 204

Chapter 4: The Founding Amalgam ................................................................................................ 207
   4.1. Introduction..................................................................................................................... 207
   4.2. Jefferson’s “Bill for Establishing Religious Freedom” .............................................. 210
   4.3. Madison’s “Memorial and Remonstrance”................................................................. 215
   4.4. Adams’ Dissertation and Defence ............................................................................. 224
### ABBREVIATIONS FOR LOCKE’S WORKS

INTRODUCTION:
LIGHTING THE STAGE

For though the comprehension of our understandings comes exceeding short of the vast extent of things; yet we shall have cause enough to magnify the bountiful Author of our being… It will be no excuse to an idle and untoward servant, who would not attend his business by candle-light, to plead that he had not broad sunshine. The candle that is set up in us shines bright enough for all our purposes. The discoveries we can make with this ought to satisfy us.

*Essay Concerning Human Understanding* 1:1

Conflict between religion and politics has become one of the great stage dramas of our time. Whether that stage is the street corner, the pulpit, the classroom, or the White House, the action being performed captivates, maddens, and inspires a worldwide audience. But in America, at least, it seems the stage is dimly lit. Some of the actors are in clear view while others are concealed in the shadows. Various scholars have helped revealed the action more clearly by shining spotlights on this or that corner of the stage. But to fully light a stage is no easy task. Certain lights, shone from certain angles, can obscure rather than enlighten.

This project aims to bring clarity to the topic of religion and politics. What is needed to improve our vision of this drama is not the creation of more spotlights. These are already available in the work of others. What is needed is to discover which lighting combination best illumines the stage—without distorting our view. The following chapters describe how the problem of religion and politics appears *when illumined by a set of five specific spotlights*. When these particular lights are trained on the stage, we can best see the drama unfolding before us.
Some of the lights I employ are more unique than others. Depending on a reader’s field of study or preferred mode of discourse, some of the following will seem obvious, too obvious to be worth mentioning. Yet to others readers, the same point may not be obvious and may even be controversial. I am of course open to the suggestion that were other lights added, or some of these dimmed, the action might look different—some pieces of the set, hidden in the shadows, might be noticed for the first time, while others recede into the background.

1. The Nature of the Religio-Political Problem
The problem of how religion and politics relate in America is best viewed as a manifestation of one of the enduring ‘big questions’ of philosophy and theology, not as a passing phase or merely procedural matter. Religion’s public role has been a source of controversy since antiquity and the subsequent birth of Christianity has shaped it in distinct ways. The dual claims of loyalty made by God and the state may conflict, may conflict tragically, and may well persist until the end of the age. In the words of Oliver O’Donovan, “Christians … have this much in common with Plato reflecting on the death of Socrates”: both are under obligations higher than the good of any public order and both perceive the inevitability of tension between these obligations.¹ The potential conflict can be particularly acute for Christians, not only because of the notions of martyrdom and transcendence mentioned by O’Donovan, but also because the church, as a community, can appear to civil society to be a rival for its citizens’ allegiance.

The helpfulness this for light for seeing the stage is already taken for granted by some, such as certain liberal theorists, most Straussian political philosophers, and some Augustinians. To others, it will be more controversial, a light that plays tricks on our eyes.

2. The Significance of Enlightenment Political Theory
The religio-political problem, as it stands today, must be seen in light of the early modern and Enlightenment political theories that sought to solve the problem. In a time of widespread religious violence following the Reformation, philosophers

and theologians worked to end this violence and religious persecution by relating church and state in a variety of innovative ways. By and large, they believed that it was possible for the warring factions of church and state to make peace (though in some cases the proposed terms of peace required one or the other camp to surrender). The political projects of Hobbes, Locke, Spinoza, Rousseau, Kant, and Mill are among the most well-known of these efforts. Today’s disputes occur in light of, and are largely premised upon, how those thinkers harmonized church and state obligations.

Affirming the importance of Enlightenment political theories does not necessarily imply a negative evaluation of those theories. Medievalists, moderns, and modernity critics alike can agree about the importance of this moment for how religion and politics relate today.

3. Locke as the Founder of Political Liberalism
The third spotlight by which I illumine the contemporary debate is the recognition of John Locke’s decisive contribution. Despite disagreement about who was liberalism’s founder, we can best understand subsequent history if we grant Locke that title. His particular solution to the religio-political problem is massively influential and yet relatively simple: conflict between religious and civic obligations is avoided so long as religion limits its concern to the afterlife and government acts only to preserve individual property rights (broadly defined).

The beam cast by this light combines well with the first, because Locke portrays his work as a response to the enduring question of how philosophy, theology, and politics relate.

4. The Gaps in Locke’s Solution
Despite the confidence with which Locke offered his solution to the religio-political problem, cracks began to show fairly quickly. In fact, they are not so much cracks as gaps: questions to which Locke’s solution provides no clear answer. These gaps are highly significant because as we shall see, points of dispute in today’s debates very often coincide with a Lockean gap. The so-called culture wars are examples of this.

These gaps appear for three main reasons. First, Locke did not and could not anticipate all of the dilemmas that would come after him in history. Second, for his own rhetorical reasons, Locke often wrote vaguely, thus leading to multiple plausible interpretations of his meaning. Third, his solution was premised upon certain historical conditions that do not apply to the American context (such as an established church).

5. Locke’s American Children: A Family Feud
The final spotlight that illumines our stage derives from two observations about Locke’s historical legacy. The first is that his religious and political thought has been particularly influential in the United States. As one political scientist writes about Locke’s influence, “The public philosophy of contemporary American
politics is a version of this liberal tradition of thought, and most of our debates proceed within its terms.”

Unlike a number of earlier studies asserting Locke’s American influence, I do not see his thought as supporting a given economic or ideological agenda. I do not invoke him as a token for proto-capitalism or possessive individualism. This leads to my second observation about his legacy. Today’s debates proceed within the terms of Locke’s thought across ideological and theological lines. It is due to the above-mentioned gaps that he can be used to support opposing sides of a debate.

Today’s disputes are, then, a kind of Lockean family feud. However, the terms used in today’s debates are derived not from Locke but from early American political discourse. The debate turns on whether Locke is interpreted as a ‘liberal’ liberal or a ‘republican’ liberal. In other words, is Locke’s solution, as appropriated by the American founders, open to what would today be called communitarianism? Or does it preclude this as a dangerous departure from government’s narrow and well-defined task of securing individual property rights? Unless this light is shone brightly on the stage, the action being performed will continue to be misunderstood.

This spotlight may not be overly controversial for any particular group of readers, but it is by far the most complex. Part of the problem lies in the words liberal and republican, which are widely used and rarely defined.

The Argument of the Project: What We Find on Stage

The subsequent five chapters describe how the problem of religion and politics in America looks when illuminated by these five spotlights. In one sense these spotlights are simply my presuppositions: there are a variety of ways to look at the topic and I have chosen to look at it this way—in this light. What follows, therefore, is not primarily a study of the above points: that would be to turn away from what is on the stage, from our real object of interest, to examine the lights hung above it. I am more concerned with the performance than with what allows us to see the stage. But in another sense, I do not want to overlook the question of why these particular lights allow us to see the stage the

---

most clearly. At the very least, I do need to establish that these spotlights do not distort our vision.

Because of this, the subsequent chapters perform a twin task. They both explain why I have chosen particular lights to illumine my subject and they describe the, now illumined, subject itself. Throughout, I am alternatively mounting particular lights above the stage and interpreting the action before us. Having described the lights, I will foreshadow what they reveal.

Each of the following chapters builds on the previous. Despite this it would be a mistake to read the first four chapters as merely prefaces to the fifth. The final chapter is a conclusion; it is not a punch line. Each chapter offers a new contribution to its particular subject, but each is also necessary for the fifth chapter to be understood. For example, the chapters on Locke advance a new interpretation of his major works, showing how they appear in light of the rest of my inquiry. Although this is a new reading of Locke, it is not merely an end in itself. It is in service of what I argue in the final chapter.

In chapter five I turn to the contemporary debate among American Christians about how Christian and civic obligations relate. By studying five representative Christian positions, I construct a typology that uncovers their points of disagreement, as well as the unspoken premises they share. The representative thinkers in my typology are diverse: they include critics of Locke as well as his fans, Jeffersonian separatists and members of the Religious Right, conservatives and liberals, thinkers subtle and not so subtle. Such diversity is important because my typology, unlike some, does not seek to show dispute where we are inclined to see common ground; rather, I demonstrate similarities where we are inclined to see only disagreement.
My typology suggests that when the stage is lit by these spotlights, we can see that American Christians think about politics predominately in five different ways—and that each of these is subject to certain pitfalls. The positions are distinguished by how they respond to two questions: (1) Does Locke’s work provide a solution to the religio-political problem? (2) Does that solution by its nature exclude religion from public life or promote it as a source of values and civic virtue? (To oversimplify, the second question asks whether Locke’s solution is a form of what we would now call Rawlsianism or Jeffersonian separatism or whether is a form of communitarianism.) The different possible responses to these questions generate five separate positions:

1. Locke successfully solves the religio-political problem by…
   a. excising religion from public, or
   b. relying upon religion’s civic value.

2. Locke provides a good starting point, but it must be supplemented by…
   a. later developments in the liberal tradition which more clearly excise religion from public life (e.g. the tradition leading toward Rawls), or
   b. avoiding the later missteps in the liberal tradition to allow a more substantial public role for religious commitments and values (e.g. early American critics of Jefferson or today’s Christian critics of Rawls).

3. Neither Locke, nor the liberal tradition generally, can solve the religio-political problem; furthermore, such attempts are theologically harmful.

My fifth chapter provides representative examples of for each of these positions. Though all are coherent positions and all are plausibly Lockean, all are also subject to certain pitfalls. In particular they each depend upon certain unspoken theological premises regarding the nature of the church, the sources of moral knowledge, and so on. While my primary goal in chapter five is descriptive, I do briefly consider various problems with each of the positions.

What these problems reveal is that the actors on stage do not always perform consistently with their roles; as the critics would say, they are not well-conceived
characters. For example, those Christians who promote a stronger place for religion in public life must do so, on Lockean terms, by demonstrating that religion will help government fulfill its purpose of securing individual rights. But this is rarely the real reason that such Christians would promote religion in public life. They thus find themselves offering public reasons that may not cohere with their position as a whole. They can offer public, Lockean reasons without acknowledging the underlying theological premises. This not only undermines public debate; it allows theological commitments to be detrimentally shaped by political agendas.

**The Outline of the Project**

Chapter 1 is a general overview of the issues behind the project. It begins by engaging recent debates among scholars of religion and Christian ethicists (between Stout, Hauerwas, and others). I explain how my analysis of the religio-political problem in America differs from theirs. I also introduce the term republican, which is important for my study because it is appropriated by certain of today’s Christians for political purposes.³ In the second half of the first chapter, I connect this to a concrete example, legal restrictions of homosexuality.

Chapters 2 and 3 are primary text analyses of Locke’s response to the problem of religion and politics. In chapter 2 I introduce Locke’s work, reviewing the major contemporary schools of interpretation as well as providing historical background to his work. I next provide a close reading of his *Letter Concerning Toleration*, the text most relevant for my topic. It is there that Locke presents his solution most directly: the

---

³ Although not among the books I engage in detail, at a popular level the use of this term for this purpose may originate with Robert Bellah et al., *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley: University of California Press, 1985).
obligations of church and state ought never to conflict because each has its own, limited sphere of authority. Government may act only to secure individual rights and the church’s actions must be directly only toward securing happiness in the afterlife. However, it is also in the Letter that the gaps begin to appear. For example, what if certain actions indirectly influence individual rights? Can the government regulate them? And, even more problematic, what if those actions—from the viewpoint of certain religious believers—also indirectly threaten eternal happiness? More problematic still, what sources of knowledge are admissible for these questions? Is the Bible a superfluous source of moral knowledge for Christians, or an indispensable one? What about natural law? These questions, left unanswered by Locke, press us to examine the remainder of his work, in particular the Essay Concerning Human Understanding and Reasonableness of Christianity. I study these in chapter 3.

Chapter 4 connects Locke to America. Because contemporary church-state disputes so regularly appeal to the founding, the political theory of the American founding is vital to understanding today’s Christian positions. Unfortunately, there has until very recently been a major roadblock obstructing inquiry. The long-running historiographical debates have tended to see the different alternatives as mutually exclusive (the founding was either Lockean or republican or Scottish Enlightenment or evangelical Christian). In consequence today’s political disputes fall into the same pattern, appropriating whichever set of data suits their agenda: the founders were Christians, the founders were secularists, and so on. Given the diversity of founding-era texts, there is plausible support for each of these and so the dispute seems irresolvable. In chapter 4, I introduce a way past this roadblock.

Certain scholars have recently shown the founding is best seen as an “amalgam” of certain specific commitments drawing from each of these traditions, thus explaining
why the above disputes seem irresolvable. But on the question of how religion relates to politics the key founders all fit within the outlines of Locke’s solution but are applied in different ways. It is because of how these strands are blended that we can speak of as both ‘liberal Lockean’ and ‘republican Lockean’ thought. The first half of chapter 4 studies the major American founders, showing that their ways of solving the religio-political problem are Lockean. The second half of the chapter surveys the last half-century of scholarship on Locke’s American influence.

Chapter 5 builds on the previous four in order to provide a different and hopefully better interpretation of how Christians understand the problem of religion and politics. By this point in the study, all of my five spotlights will be mounted above the stage, illuminating clearly the action before us. As mentioned, what we will see is that today’s Christians think and argue politically in predominately in five ways. The background of the earlier chapters allows me, in chapter five, to reveal the unspoken premises and pitfalls with each of these positions. The pitfalls tend to be of two types: Lockean reasoning is invoked in ways that are in tension with a thinker’s other commitments (thus confusing herself) or Lockean reasoning is invoked in ways that disguise a thinker’s other commitments (thus confusing her fellow citizens).

Prefaces for Four Audiences

One of the possible obstacles readers may face in understanding this study is that it is relevant for a number of different audiences: theological ethicists, early modern historians, and so on. In the following, I address briefly four distinct audiences for whom the project may be of interest. Because I here presume knowledge of the debates within each field, readers may prefer to skip the sections not relevant to their own field of study.
**Religious Ethicists**

For scholars of religious ethics—in particular, for readers who are members of the Society of Christian Ethics—my study can be read as in dialogue with the ongoing debates between writers such as Hauerwas, Stout, Cavanaugh, and Milbank. Chapters one and five both begin by situating my study in light of that conversation and there are two primary ways that I engage it. First, that debate has been shaped by Stout into a conversation between so-called Traditionalists and non-Traditionalists. However, Stout mis-categorizes certain thinkers as Traditionalist. In addition, his way of using the label obscures how others share the Traditionalists’ interpretation of history, politics, and the Enlightenment. I work to correct this aspect of the debate.

Second, what is it about the Traditionalists’ discourse that has led Stout to misunderstand them? According to Stout, the Traditionalist position arises from a certain critique of modernity that they find in MacIntyre. Indeed, writers such as Hauerwas and Cavanaugh often do present their work in this way. The problem is that this oversimplifies early modern history and ignores how other thinkers have made related arguments. From the few places the Traditionalists examine the historical basis of their critique of modernity, it is clear that the heart of their argument is that early modern and Enlightenment writers were subverting Christianity all the while pretending to purify it. They thus argue that the liberalizing of religion *in general* is its destruction.

With regard to the early moderns, then, we are deceived if we take comfort from the fact that Hobbes’s ruler is actually a pastor-king whose state is based on Scripture. If we look closely, we see that “by making the sovereign the authority on Scriptural
interpretation, Hobbes was effectively if esoterically undermining religion altogether.”

This is easy enough to see in Hobbes, but what of Locke? According to the Traditionalists, the only difference is that Locke was clever enough to cloak his leviathan in sheep’s clothing. To readers such as Stout, this makes the Traditionalists appear quite frightening. Would they have us return to the inquisitions from which Enlightenment politics saved us?

But the Traditionalists are working within a field of discourse without acknowledging it, perhaps without realizing it. The ‘insincere’ reading of Locke, and the notion that the Enlightenment’s purification of religion is actually a subversion, are well known among political theorists. It is a particular sort of modernity critique in which the Enlightenment represents a dramatic “lowering of the standards,” making morality less demanding but more achievable. But this claim is actually nothing new, and by writing as if it is, the Traditionalists confuse their readers.

The most intellectually sophisticated and controversial presentation of this is found in the work of Leo Strauss, but traces of it can be detected in Machiavelli (a pre-modern modernity critic!) and Rousseau. In addition, a number of today’s political theorists make arguments parallel to the Traditionalists. By not engaging the bases of such modernity critiques in a more rigorous way, the Traditionalists invite the sort of misunderstandings found in Stout’s analysis. To summarize, when the Traditionalists


5 Most such arguments come from those closer to the conservative end of the ideological spectrum, though far from all would identify themselves with Strauss. Two fairly typical examples are Robert P. Kraynak, Christian Faith and Modern Democracy: God and Politics in the Fallen World (Notre Dame: University of Notre Dame Press, 2001), Peter Augustine Lawler, Aliens in America: The Strange Truth About Our Souls (Wilmington: ISI Books, 2002).
argue that we must reject all “civic politics” in favor of “ecclesial politics,” they presume all modern politics are of a certain sort. However, they have neither established the nature of modern politics (by studying the tradition from Locke to Kant to Rawls) nor have they shown that all non-ecclesial politics are subject to their critique.

**Culture Warriors**

For those engaged in the political and constitutional controversies usually termed ‘culture wars,’ my study seeks to bring clarity by revealing the current sources of confusion. I argue that the way Americans are pressed to employ a Lockean church-state paradigm causes them to confuse themselves and confuse each other. The culture wars appear to be a battle between theocrats and secularists. But at least on the level of public arguments, it is not. It is a battle between two types of Lockeans, each with a rival interpretation of how Locke reconciles Christian and civic loyalties.

Further complicating the debate is the fact that, especially among politically conservative Christians, the public arguments are never integrated with their position as a whole: so, a given policy is advocated based on sociological or psychological evidence. But is this their actual basis? Would they reverse their political stance if the social scientific evidence were overturned? Does their political theology, considered as a whole, actually embrace the classic liberal distinction between church and state such as we find in Locke—or is this merely their politically expedient argument, to be abandoned whenever it suits? They thus confuse not only themselves but also their opponents. Are they classic liberals, anti-modern theocrats, or something else entirely? The difficulty would seem to be that, on a rhetorical level, any answer other than the first excludes one from public debate.
Political Theorists

Although contemporary liberal theorists usually find themselves relegated to the footnotes of my study, their current conversations are enormously important for my own. I would even argue that our conversations run parallel. For present purposes, we can understand this conversation as beginning with Rawls and including the various sorts of responses that have been offered to him.

Rawls’s project can be seen as the culmination of a certain trajectory of liberal theory in which the state is characterized by its neutrality. The state must be neutral with regard to differing conceptions of the good. Of the many responses to Rawls, I will highlight two types. First, some reject the implication of Rawls’s theory that religious reasons must be excluded from public debate.6 Second, some reject the notion that liberal theory even on its own terms can do without substantive statements of the good or without the intentional cultivation of certain civic virtues. The latter critique has been offered most effectively by William Galston and Stephen Macedo.7 Just as the question of neutrality has become a hinge-point in liberal theory, I argue that the same already occurs among Christian political arguments. Who is the rightful heir to Locke’s solution to the religio-political problem, Rawls or the liberal virtue theorists?

Another connection between my project and contemporary political theory, already anticipated above, is the work of Leo Strauss and his students. This perspective is relevant for a number of reasons. First, like the Traditionalists, they view modern liberal

6 For example, Robert Audi and Nicholas Wolterstorff, Religion in the Public Square: The Place of Religious Convictions in Political Debate (Lanham: Rowman & Littlefield Publishers, 1997).

politics especially as found in Rawls as the end of politics. Second, their interpretation of the early modern political theorists is quite close to the critique offered by the Traditionalists; indeed, both maintain that Hobbes and Locke are essentially allies, the only difference being that one is rather subtler than the other. Third, there is a subset of Strauss’s students who maintain Strauss’s critique of modernity but deny that America is subject to that critique (i.e., they deny that America is modern). These are typically described as West Coast Straussians. Remarkably, their explicit political theory fits almost exactly the implicit political theory of religious conservatives in the culture wars. In other words, if we begin with the Religious Right’s public arguments and ask, “In order for these arguments to be part of a coherent whole, what political theory must underlie them?” the resulting theory would match almost exactly the West Coast Straussian position. Yet this demands certain presuppositions that seem to conflict with the Religious Right’s larger theological perspective.

Finally, a word about how my project differs from Rawls. When Rawls says that the political arguments of American Christians ought to be supported only by public reasons, he is making a normative claim. But when I say that the political arguments of American Christians already are (surprisingly often) supported by public reasons, I am making a descriptive claim. If Rawls says, “Follow my instructions and the problem of religion and politics will be solved,” then I am saying, “We are and it isn’t.”

However, as I explained at the beginning of this section, the insights of contemporary liberal theorists are usually limited to the footnotes of my study. It is not

---

8 To understand the different “denominations” into which Strauss’s students have divided, see Catherine Zuckert and Michael Zuckert, The Truth About Leo Strauss: Political Philosophy and American Democracy (Chicago: University of Chicago Press, 2006).
about Rawls or Galston or the Straussians. Their conversations are not my topic, though
readers familiar with their debates will be able to trace that subtext through my study.
Read in this way, it is clear that my study has major implications for the “neutrality
debate” (i.e., Rawls, Galston, Sandel, Macedo)—and that debate has implications for my
study as well.

**Early Modern and Enlightenment Historians**

My project may also be relevant for historians of early modern and Enlightenment
political thought. Because chapter 2 begins by engaging such readers, this preface will be
very brief. There has in recent decades been an unfortunate methodological dispute
between certain historians and certain political philosophers about how to read early
modern political writers especially Locke. I say unfortunate because the consequence has
been to press scholars into extreme, opposing positions: *either* early modern writers are
read merely historically (because it would be naive believe they could be relevant for our
debates) *or* they are engaged philosophically, but anachronistically or ahistorically.
Between such camps are those who realize that the choice is a false one. I hope to add to
the voices of this mediating position. We can both be sensitive to a writer’s historical
context and take seriously his philosophical arguments. In fact, this is one area where
historians and political philosophers could learn from theologians, especially historical
theologians and historically engaged moral theologians. Perhaps due to the way
theologians engage texts that self-consciously form a tradition, they have not seen this
methodological divide and their discipline has been better off for it.
CHAPTER 1:
RETHINKING LIBERALISM’S CRISIS
LOCKE’S SOLUTION AND TODAY’S CHRISTIAN CRITIQUES

1.1. The Christian Critique of Political Liberalism

It seems that a book cannot now be written on American politics without the obligatory opening chapter, “The Contemporary Crisis of Liberalism.” As much as I would like to avoid this cliché, I find I must embrace it. I feel somewhat justified in doing so by a recently published book (itself with the obligatory opening chapter) that points out, “liberalism is always in trouble,” so why pretend otherwise?¹ But what is the cause of today’s trouble and can anyone help us respond?

Of all the figures in the history of political philosophy, Locke is the one who most closely matches our present situation… [Locke’s] works are almost exclusively addressed to problems that arose from violent religious conflicts in seventeenth-century Europe—violent religious conflict being a problem for which we can now use all the help we can get.²

If liberalism is “always in trouble,” perhaps “religious conflict” is always its cause. But such conflict is not always violent and appears in many different forms. It can arise from conflicting obligations, such as between civil law and God’s law: the Jewish military

¹ Peter Myers, Our Only Star and Compass: Locke and the Struggle for Political Rationality (Lanham: Rowman & Littlefield, 1998), ix.

officer prohibited from wearing a yarmulke or the Mennonite taxpayer required to fund weapons research. It can arise from restraints on political involvement (whether legal or rhetorical): the Christian who cannot in public debate cite her real reasons for supporting a welfare policy or the atheist presidential candidate who must hide her disbelief. It can also arise from limits on government’s scope: prohibitions on prayer in public schools or the posting of the Ten Commandments. The author of the above quote believes that Locke could help because his situation so closely matches our own. “There ought to be an explosion of Locke scholarship going on right now,” he writes. But there is not.

One of the curiosities of American political thought is its divided mind on whether such explosions of historical scholarship can actually help. Among scholars of liberalism, theoretical remedies are often preferred over historical appeals. But in actual political disputes, historical evidence is absolutely indispensable. In popular debate, a single quote from an American founder is worth ten theories of justice. Given the rhetorical necessity of such appeals, whatever crisis liberalism faces today, it cannot be addressed without rigorous and historically contextual study. Unfortunately, on those occasions when liberal scholars do venture beyond the theoretical and into the historical,

---

they do so as in the above quote: there ought to be an explosion in Locke scholarship 
because Locke can help save us from this trouble. I seek a way between these 
alternatives.

Unlike the dominant liberal theorists, I respond with a sustained engagement of 
historical texts. But I am under no illusions that Locke can save us. If it is the case that 
our situation so exactly matches his own, perhaps this is only because we have come full-
circle and today’s crisis is one of Locke’s own making. How can Locke save us from 
himself? Where Locke can help is in providing a way to understand today’s crisis. What I 
seek from the past is not a simple solution to twenty-first century problems but a light to 
shine on today’s actors, a light that when positioned correctly reveals Locke, just 
offstage, directing the action from behind the scenes.

1.2. Stout and the Traditionalists: Liberal Theory without Liberal History

Theologians and scholars of religion responding to the problem of religion and 
politics have covered much ground, but there is one avenue largely overlooked in recent 
studies: an analysis of today’s Christian positions in light of the political philosophy that 
informed the nation’s founding. Doing so is vital because of how that founding 
philosophy continues to shape today’s debate.

America’s founders are invoked today by virtually all sides, not as objects of 
sincere historical inquiry but as icons. “The founders were all good Christians.” “No, the 
founders were deists.” “No, some of each.” And so on. Such arguments are seemingly 
endless. To name but one example, a recent lecture on George Washington was 
advertised as follows:

At issue for both sides in the debate over the role and character of religion in the 
founding era is the appropriate place of faith in American public life. Insincere or 
heterodox faith on the part of the founders is seen to call the public admissibility
of faith into question. By contrast, if Washington’s career was the expression of sincere Christian conviction, the argument that religiously informed positions have no place in American public life is demonstrably absurd.\(^4\)

Notice the reasoning: if Washington’s faith was sincere then such-and-such contemporary consequence demonstrably follows. I believe that even when the founding is not invoked as explicitly as in this quote, it lies in the background as a nucleus of rhetorical appeal.

That America has a founding philosophy in this sense may be something of an anomaly. For example, the histories of Britain and Canada history do not function as authoritative in a similar way.\(^5\) But as mentioned, I do not hope to solve today’s problems historically. My goal is not to prove once and for all whether the American founders were Christians. Rather I will investigate the theological and philosophical premises underlying the founding to make sense of differing positions today. Invoking “the founding” as an authority can actually obscure rather than enlighten because today’s thinkers can point to it as to an icon, never explaining their own positions holistically, nor explaining what they take the icon to represent.

Even the very best recent contributions to political theology and reflections on its crises fail to approach it from an adequately contextualized, historical approach. Jeffrey Stout opens Democracy and Tradition by conceding that he “will not, however, be drawing mainly on liberal philosophy from John Locke to John Rawls,” preferring as he does Emerson and Whitman.\(^6\) Stout has his own good reasons for such a move: he wants

---

\(^4\) The announced lecture was to be given by Peter Lillback, author of George Washington’s Sacred Fire (Bryn Mawr: Providence Forum, 2006).

\(^5\) However much is made of George Washington’s piety and prayer, I have never in my life heard anything about the religious life or beliefs of John A. MacDonald, Canada’s first prime minister. Canada’s founding does not function mythically. Ironically, John Adams prophesied that America would endure for thousands of years because it did not have a founding mythos. John Adams, The Works of John Adams, ed. Charles Adams, 10 vols. (Boston: Little & Brown, 1850), 4:292.

to present a liberalism that attracts him and that he hopes will attract others, and he finds that in Emerson and Whitman. But such an approach suffers from being too historically disconnected. Addressing the Christian critique of liberalism, and the cultural crisis and theological dissent it has occasioned, must begin with the species of liberalism that actually took hold in America.

The same lack of context permeates the Christian critics that prompted Stout’s response: those thinkers he calls Traditionalists. For example, the liberal justice that Stanley Hauerwas critiques in his much-maligned chapter, “Why Justice Is a Bad Idea for Christians” is fairly obviously a critique of justice as defined by the early Rawls; hence it is a version of liberalism that few, including the later Rawls, actually embrace. Stout recognizes Hauerwas’s misstep (even if on my account he commits a similar one): “It is a pity that Hauerwas chooses to focus his critical remarks so often on Rawls rather than on

---

7 I am aware that Stout identifies himself not a liberal but as a democrat. For simplicity’s sake I will not maintain that terminological distinction here; so far as I can tell, what Stout advocates would be called “liberal democracy” by most any reader. Nonetheless, the distinction is worth noting because cases may arise where the difference in terms is significant. Also see the final footnote in Hauerwas’s response to Stout. Stanley Hauerwas, *Performing the Faith: Bonhoeffer and the Practice of Nonviolence* (Grand Rapids: Brazos Press, 2004), 241n56.


9 Hauerwas, *After Christendom*? ch. 2.
Wolterstorff.”10 William Cavanaugh, another Christian critic of contemporary liberalism, does provide a detailed historical narrative, but it is a deeply controversial history that many find implausible. Stout comments on Cavanaugh, “the story being told here is … flawed.”11 It is thus all the more curious that Stout does not attempt to set the historical record straight.

Finally, one of the most interesting recent constructive political theologies, Oliver O’Donovan’s *Desire of the Nations*, largely avoids this debate but provides a theological history of politics, one that is grounded in a rich and insightful exegesis of Scripture. Yet O’Donovan is forthcoming that his approach may be too distant from the American context to provide much direct guidance, and may thus be in need of supplementation.12

Here is where my project departs from recent theological investigations of political theology. The Traditionalists’ position is fundamentally a theological rejection of political liberalism, but their argument for this has henceforth been too thin and too inattentive to historical context. It has never sought to understand or explain the theological-political positions that it so thoroughly rejects.13 As mentioned, Hauerwas’s

11 Ibid., 101.
12 Oliver O’Donovan, *The Desire of the Nations* (Cambridge: Cambridge University Press, 1996), 225. By emphasizing the American contextualization of my investigation, I want to remain alert to the pitfalls of the opposite extreme. It would be a terrible mistake if theologies that pay too little attention to history were replaced by an exclusively American theology.
13 My criticism could be seen as aligned with O’Donovan’s criticism of Hauerwas’s interpretation of “Constantinianism.” Hauerwas holds that the nation-state must be rejected by Christians because attempts to do otherwise repeat Constantine’s error: “Christendom” attempts to accomplish via the state what God wills to accomplish via the church. O’Donovan argues that this pays too little attention to what Constantine and the Christians of his day *saw themselves* as doing. (Ibid., 215-217.) Whatever we make of Constantine, I am arguing that the Traditionalists are doing something similar when they reject political liberalism without studying its founder. After this chapter was drafted, Wolterstorff made the same point about the Traditionalists in a critique of *Democracy and Tradition*: “I find it ironic that those Christian critics of liberal democracy who inveigh against what they suppose to be its intrinsic secularism have
critique is actually of an extreme Rawlsianism and Cavanaugh’s of a controversial read of Locke.

Stout is right to ask for more from the Traditionalists, but oddly he does not work to correct the thinness of the Traditionalist critique. Instead, he holds up Emerson, Whitman, and Dewey as models of a political vision that Christians might at least have empathy with. But this is as good as a concession that the Traditionalists were right in their critique of the other Christian positions—because those positions are not Deweyan. Rather the Traditionalists critique forms of liberalism that Stout makes no attempt to defend: Jeffersonian, Lockean, republican, Rawlsian, and so on. Either Stout’s heroes have continuity with the founders of political liberalism, something he does not attempt to show, or they pose a strong critique of American liberalism, in which case the Traditionalists are on to something. This is where Stout’s response is lacking. But as mentioned the Traditionalist critique is also lacking in not being self-consciously aware of which liberalisms it finds unacceptable.

Though both lacking in certain respects, both sides in this debate are also partly right. To be perfectly accurate, Stout never offers Whitman and Dewey for Hauerwas’s themselves accepted without question the secularist’s narrative as to the origins of liberal democracy. Liberal democracy came forth from the womb of Western Christianity, not from Enlightenment secularism. And many of the formative Enlightenment thinkers were themselves Christian thinkers—witness John Locke.” Nicholas Wolterstorff, "Jeffrey Stout on Democracy and Its Contemporary Christian Critics," Journal of Religious Ethics 33, no. 4 (2005): 638.

14 David Little makes a similar point in his critique of Democracy and Tradition. He observes that Stout effectively shows how the Traditionalists overlook the richness of the liberal tradition, but that when Stout “goes on to disavow ‘liberal’ as a word ‘blocking the path of inquiry’ … Stout inexplicably surrenders with one hand what he gained with the other.” David Little, "On Behalf of Rights: A Critique of Democracy and Tradition," Journal of Religious Ethics 34, no. 2 (2006): 288. I do not exactly share Little’s goals, but we agree as to where Stout’s approach falls short.

15 Wolterstorff argues that Stout does neither of these. In his words, “Stout does not give an account of liberal democracy.” Wolterstorff, "Stout on Democracy," 638.
consideration—as if Hauerwas might want to make them his heroes as well. They are Stout’s own heroes. Rather, the models Stout hopes the Traditionalists will embrace are “theologically conservative but politically progressive thinkers like Calvinist philosopher Nicholas Wolterstorff and Barthian George Hunsinger.” This challenge is on the mark, but it misses a very crucial step. The central goals of my project are to frame the debate so that political theologians can recognize the missing step and to invite further investigation into it. What is that step? Christians must first come to terms with the presuppositions of American politics and the liberal tradition in America. Without first doing so, they risk being co-opted by that tradition, much as the Traditionalists initially feared. We can realize the need for this step by reference to the two examples Stout proposes.

In Wolterstorff’s case, note that one of his favorite models for relating Christian and liberal politics is Abraham Kuyper, Reformed theologian and onetime Dutch prime minister. Yet Kuyper has been increasingly appropriated by politically conservative American Christians for causes other than Wolterstorff would advocate. Regardless of which appropriation is more faithful to Kuyper himself, this only confirms Traditionalist

16 Stout, Democracy and Tradition, 11.

17 Putting it this way makes it sound as if my project is a response to Stout, which would not be accurate. There is a crucial step that must be performed to “lay the ground” for any future political theology and this is what my projects seeks to do. However, it so happens that Stout and Hauerwas overlook this step. They therefore provide a helpful and current way for describing my project.

18 For example, see the preface to Nicholas Wolterstorff, Until Justice and Peace Embrace: The Kuyper Lectures for 1981 Delivered at the Free University of Amsterdam (Grand Rapids: Eerdmans, 1983). Wolterstorff’s appeal to Kuyper is examined in detail in chapter 5.

fears. Even Kuyper, who may indeed have much to offer, seems easily co-opted. One might make a similar case regarding Richard John Neuhaus’s support for the second Iraq war. From the Traditionalist perspective, certain strands of Catholic theology, as with Wolterstorff’s Calvinism, could be a valuable resource for Christian political thought. Yet again their fears are confirmed: when Neuhaus and George Weigel bring Catholic political thought together with a confidence in American democracy they conclude that the president and not the pope possesses the authority and charism for deciding when Catholic citizens go to war.20

Next, consider Stout’s appeal to Hunsinger. Drawing on Hunsinger, Stout sees Karl Barth’s Barmen Declaration as “a clear example of what it means for the confessing church to maintain the integrity of its theological commitments without defaulting on its urgent obligation to join with others in the struggle for justice and peace.” It is, in other words, a program to which the Traditionalists should be able to subscribe. Where, he asks, is their Barmen Declaration?

Hunsinger’s original occasion for recommending Barmen was to counter Neuhaus’s “Christianity and Democracy.” In a scathing rebuke, Hunsinger argues that where Neuhaus falls short is in being insufficiently critical of American democracy and of accusing any who are critical of betraying their country.21 According to Hunsinger, because of how Neuhaus argues within the American context, taking on its rhetoric and


presuppositions, he loses critical purchase. He becomes what Traditionalists such as Hauerwas and Cavanaugh fear to become, and what they believe much of the American church has already become.

But as everyone who has read the opening paragraph of “Christianity and Democracy” knows, it aspires to imitate Barmen.22 Stout is wise to ask for an American Barmen, but by being inattentive to the nature of the American context he does not see that Neuhaus has already met his request. Unless Christians first examine how American political arguments are uniquely shaped by certain political and theological presuppositions, future American Barmens may look very much like “Christianity and Democracy.” In the same way, an American Abraham Kuyper may start to look rather like Thomas Jefferson, Kuyper’s least favorite president.

The Traditionalist apprehension of affirming liberal politics is that it threatens the Christian’s loyalty to Christ and the church. God’s primary agency for operating within human history is the church and not the state, but American Christians too often reverse those terms. Hence, from Hauerwas’s perspective, what devoted Christian Democrats and devoted Christian Republicans share is far more significant than where they disagree.23 The Traditionalist concern with affirming even the qualified liberal politics of Wolterstorff seems to be that it could ultimately subvert Christian loyalty into a form of nationalism. They thus advocate the alternative politics of the church: the only politics within which Christian loyalty remains firm are those of the ekklesia. The above examples show that such concerns are not unfounded.

---


What then is the step Stout misses? I agree with Stout that Calvinists such as Wolterstorff, as well as certain Catholic writers, have much to contribute to American Christian thinking on politics. Yet I also agree with the Traditionalists that such proposals too often fall into the trap of exchanging the proper concerns of the church for those of a the nation-state. What first needs to be done is to understand why and how this happens particularly in America. In other words, we need a historically-grounded, contextual, and theological reading of American political liberalism. Were that provided, Christian theologians could then set to work on the more constructive political theologies that Stout longs for, and which the Traditionalists fear (rightly at present) would be co-opted. My goal is to provide the “clearing away” that must first occur. My own constructive proposal must wait for a subsequent volume, though it will build on themes that I introduce here.

The present project provides a theological reading of American political liberalism as a prolegomenon to a future political theology. Perspectives such as Hauerwas and Cavanaugh’s would actually seem fairly different if they started from where my project will end. I also suspect that were their projects written in light of the argument I will make here, they would be less objectionable to Stout (though not unobjectionable). My clearing away accomplishes a step that neither Stout nor his opponents saw fit to perform.

My project begins with the observation that the American founding possesses a certain kind of authoritative status such that appeals to the founders’ vision, especially on questions of religious liberty, are indispensable in contemporary debates. Contemporary arguments across the ideological spectrum thus invoke the founding solution and, in doing so, necessarily embrace its terms. The way the founders reconciled civic and religious obligations is recognizably derived from the work of John Locke, notably his
Letter Concerning Toleration. Lockean philosophy and theology thus shapes the debate in a way that is often overlooked. To restate, the political arguments made by today’s American Christians are premised upon rival interpretations of how American politics reconciles religious and political loyalties. My project is meant to be more analytic than constructive; its goal is to make it easier to understand the different political positions held by American Christians today. The study is structured in such a way that the contemporary positions will be considered in light of Locke’s way of relating religious and civic loyalties.

The importance of Locke is even confirmed, unintentionally, by the least likely of voices: Stanley Hauerwas. Stout believes that Hauerwas naively conflates all liberalism with hyper-Rawlsianism. Many of Hauerwas’s writings do give this impression, but the picture is actually more complex. When pressed in an interview, “Since … Christians blew it regarding liberal democracy, what ought Christians to do?” Hauerwas responded, “I am very sympathetic with people in the C.B. MacPherson school of political theory… who have seen how liberal democracy, particularly exemplified in people like Rawls, is really the end of politics.”24 What Hauerwas does not say, but as every contemporary political theorist knows, MacPherson is most famous for his controversial reading of Locke.25 That critique of liberal democracy, the one to which Hauerwas refers, is premised upon a certain interpretation of Locke’s work.

Though I push different positions in today’s debate toward Locke, I expect them to find, perhaps paradoxically, that they must move away from him to preserve internal

---


25 MacPherson is discussed briefly below, section 2.3.
consistency with their other theological commitments, and to provide greater transparency about their true motives. Alternatively, should they be drawn closer to Locke, they may find that they must be more explicit in articulating the theological and philosophical commitments that make greater dependence on Locke possible. To this point in the debate, both sides’ shared dependence on Locke has allowed the debate to proceed without forcing either side to develop its position holistically. This has only been deepened by recent, post-Rawlsian efforts to exclude religious language from public debate: with the sincere intent of strengthening Locke-like solutions, they actually confuse the issue by forcing religious believers to mask their true reasons. To whatever extent my project is normative, therefore, its intent is to “clear away” false alternatives, ultimately making room for approaches to political theology less indebted to reigning, often unspoken, presuppositions.

Christians across the political spectrum often assume that America’s founding provides a reconciliation of religious and civic loyalty. They believe that this is possible because of how Locke and the American founders distinguished the roles of church and state. Their purported solution depends not just on this distinction, but also on certain conceptions of republican and liberal political theory, as well as natural law, revealed moral law, and natural rights. Yet because they believe there is such a solution to be found, they present their public arguments in terms of that solution. These public arguments problematically work backward upon the Christian’s own convictions. It is this dynamic that makes otherwise valuable resources such as Calvinist and Catholic political thought subject to subversion. A Calvinist argument made in confidence that America’s founding somehow harmonizes religious and civic loyalties would be very different than an argument made that no final harmony of loyalties exists.
1.3. Locke’s ‘Third Way’: Salvation from an Ancient Dilemma?

My reasons for organizing my investigation around Locke are complex, but as the project unfolds they will become increasingly clear. In fact, given a little background, the previous neglect of Locke will seem the more surprisingly. His work is a thread woven through the differing Christian critiques. Though I cannot fully establish Locke’s relevance in advance of actually engaging him, we can get a sense from two brief passages by Oliver O’Donovan and Charles Taylor. Neither mentions Locke directly, but their comments set the stage for the role he plays in my project.

In preparing his inaugural professorial lecture for the University of Oxford, O’Donovan reported to a friend that the lecture’s subtitle would be “The Dilemma of Christian Moral Witness.” The friend hoped that this topic would include discussion of Antigone and Bonhoeffer. O’Donovan reflects on his friend’s comment:

By naming two martyrs he pointed accurately to the source of the ‘dilemma’ of which I speak: the Christian sense that the most authentic relation of truth to the public realm is that which issues in martyrdom. Christians, whose understanding of the world starts from the crucifixion of Jesus, have this much in common with Plato reflecting on the death of Socrates: they perceive the inevitability of tension between a transcendent moral truth and the good of any public order. With certain notable exceptions they have stood apart from the Aristotelian idea that ethics can be treated as an aspect of politics. The claim of the good suffers compromise when it is incorporated into the good of public order.

O’Donovan goes on to clarify that there is a second kind of dilemma, that faced by Moses in balancing the ideal of lifelong marriage with the realities of human frailty, which

---

26 To prevent a possible misunderstanding, it will be helpful to distinguish Locke from the stereotypes about self-interest that are commonly associated with his name. Whether Locke’s theory of property is nascent capitalism and whether his moral theory is purely self-interested are important questions. To the extent that such questions overlap with the topic of the church’s relation to the state, I address them in subsequent chapters. However, it is essential not to begin with our conclusions already in place. When I refer to Locke, his theory of property is rarely foremost in my mind, and he is certainly not a straw man within my project—as he is in some—representing capitalist self-interest.
Moses resolved by permitting divorce. By comparison to Moses, Antigone and Bonhoeffer’s decisions were hardly dilemmas at all. “The martyrs for whom the claim of the public good and the claim of the transcendent good have come to be in outright contradiction, have, once they have recognized their position, no dilemmas. They have only temptation, and the need for fortitude.”

Notice carefully how O’Donovan is using these stories. One could interpret Antigone and Bonhoeffer as reflections on contingent crises of consciences. In this case, they would be primarily about two evil rulers, Creon and Hitler, and the problem their wickedness poses for upright citizens. But this is not how O’Donovan reads the stories. For O’Donovan, this would miss what is most profound about the stories: how they reveal the “inevitability of tension between a transcendent moral truth and the good of any public order.” Thus Antigone and Bonhoeffer are witnesses not merely to Creon and Hitler’s wickedness, but to a general truth about the often tragic, though ultimately victorious, vocation of the Christian citizen.

O’Donovan’s use of these stories provides an interesting starting point for political theology. Because the Christian understanding of the world begins with the crucifixion, Christians should expect conflict between truth and public order. By invoking Socrates, O’Donovan reminds us that a dilemma not too unlike the Christian’s

---

27 O’Donovan, Principles in the Public Realm, 4-5. A more extended consideration of O’Donovan’s comments would demand attention to the “certain notable exceptions”—if indeed they are exceptions rather than the norm—in which Aristotle’s rather than Plato’s ethics are preferred; not least because the chief notable exception is arguably Christianity’s greatest theologian. I am of course referring—as was O’Donovan—to Aquinas. By linking Christian politics to Plato over and against Aristotle, O’Donovan provides what would be a fascinating starting point for a quite different study. I do not want to minimize the challenge that Aquinas’ dependence on Aristotle poses for O’Donovan’s assertion and yet I want to at least raise the possibility that Aquinas is not quite as “exceptional” on this point as one might assume. One possible avenue for evaluating this would be to compare Aquinas’ use of Aristotle to his use of Augustine on political questions.
had already faced the philosopher. The philosopher must pursue his quest whatever this means for the city. Socrates can do no other. Better to die than disobey the voice of truth. Thus the philosopher can make no promise in advance that the city will receive his highest loyalty. O’Donovan shows that what Plato says about the philosopher can, without too much imagination, be applied to the Christian. The Christian can do no other but listen to the voice of God as revealed most fully in Christ.

When describing the martyrs’ dilemma, O’Donovan includes a qualifier, almost as an afterthought, which could easily be overlooked. The martyrs’ choice is clear once they have recognized their position. But what a vast sea of dilemmas are hidden in this one clause! What allowed Moses to recognize that the question of divorce called for compromise rather than absolute affirmation of the ideal? How did Bonhoeffer realize that he was called, not to Moses’, but to Antigone’s vocation? When is it disloyal not to follow the great Martyr to his death, practicing instead the art of the possible?

In much recent political theology, notably Hauerwas’s, the answer to these questions has been clear. Martyrdom is not only the Christian starting point; it is the norm. Because the Christian disavows coercion and violence in obedience to Christ’s pacifist witness, and because the world’s political powers inevitably embrace violence, martyrdom becomes more or less inevitable. In drawing the theme of martyrdom from O’Donovan rather than Hauerwas, I signal that I am employing it for somewhat different ends. Connecting O’Donovan’s comments to a historical narrative outlined by Charles Taylor will make this clear.
In an article entitled “Religion in a Free Society,” Taylor briefly outlines one possible way of understanding religion’s relation to political life. In ancient societies there was no possibility of removing religion from public life. “No ancient polis or republic existed in which the religious life was not bound up with the civic. It seemed axiomatic to them that religion must be one with the state. Anything else would threaten to undermine the allegiance of the citizens.” Yet this situation was altered by the coming of Christianity, which relativized the significance of the state by seeing it as merely a temporary stopgap for a sinful creation. And even when Christianity promoted a nobler view of the state, the Christian’s universal allegiance always preceded national ones, “which could easily conflict with, or at least rival their political ties.” What is more, the warrior virtues—so central to early republics—were generally dismissed as un-Christian. This created a tension between Christianity and republicanism, to which Machiavelli and Rousseau both called attention.

This situation resulted in the crisis with which the modern world begins, in which political liberalism was forged, and which persists in ever-new forms—up to and including the culture wars of today. The Reformation and ensuing “wars of religion” brought the crisis to a head, but its seeds were sown long before. “It is one of the legacies of Christendom that religion can neither be fully integrated in nor fully excluded from the state.” The peculiarity of the American founding, however, is that it begins not with a conflict between civic and Christian loyalty, but with their apparent resolution. “For all

28 All quotations in this and the subsequent paragraph are to Charles Taylor, "Religion in a Free Society," in *Articles of Faith, Articles of Peace*, ed. James Davison Hunter and Os Guinness (Washington: Brookings Institution, 1990), 99-101. Though all quotations are to this source, the reader should not assume that Taylor would endorse everything contained in these two paragraphs. They naturally reflect my own interpretation and elaboration of Taylor’s position.
the well-documented tensions between Christianity and the republican tradition, the United States starts its career by linking the two closely together.” Of course, this was not exclusively American: we can find antecedents in England, such as the Puritans in the English Civil War and John Milton’s Christian republicanism. America is born out of “this new amalgam.”

As Taylor puts it, the ancient city faced two alternatives in relating political and religious life. Either civic and religious loyalty were unified, such as by worshipping city-specific gods, or religious belief “would threaten to undermine the allegiance of the citizens.” Christianity posed a special problem, because it rejected city gods and in many cases weakened civic loyalty in favor of the church.29 Machiavelli points out this conflict more openly than any previous writer: what will it profit a man to gain his soul, but lose his whole city?

The tension posed by Christianity seemed only to deepen in the first century or so following the Reformation, with widespread violence attributed to religion. Yet at the height of this tension, a possible solution emerged. As certain forms of Protestantism and republicanism interacted in seventeenth-century England, there arose the possibility of a “third way” between the alternatives of worshipping city-specific gods and religious belief that would “undermine the allegiance of the citizens.” This is what Taylor has in

29 This was the argument of, among others, Hannah Arendt. It is worth noting that O'Donovan mentions Arendt in the immediate context of the above-quoted passage. He writes, “At one level [Arendt’s] charge cannot be rebutted; it can only be embraced… But at another level the charge may be denied. Christians have not been deterred by their sense of alienation from the practical tasks of serving the public good… One [reason for this] is that Christian faith has included an eschatology. It has believed that the tension between public appearance and truth can only be provisional, that at the last, when all is laid bare, the realms of truth and appearance will be one.” O'Donovan, Principles in the Public Realm, 4-5.
mind when he refers to Milton and Puritanism, but, as I will argue, the solution was most influentially and powerfully presented in the work of John Locke.

This, then, is my primary reason for making Locke the focus of my study: he claims to resolve the dilemma of Christian loyalty by re-envisioning republicanism and Christianity in new ways. Locke’s doctrine of natural rights and religious toleration builds on earlier thinkers, to be sure, but he also represents a distinctive new moment, in which just these ideas are brought together in just this way for the first time. Locke solves the age-old dilemma of the Christian’s doubtful loyalty to her city. Should conflicts of loyalty arise, we can be sure that something has gone wrong “somewhere else in the system.” Locke’s political philosophy seeks to arrange loyalties in such a way that the good Christian and good citizen will always follow the same course. In Locke’s republic there can be no Bonhoeffers and no Antigones.30

This solution provides the fundamental inspiration and imaginative vision of the American founders’ approach to religion and politics, and it is for this reason I focus on Locke.31 If I am justified in this focus, we can see America as founded, as Taylor says, in confidence that obligations to God and country would not conflict for Christian citizens.

30 By asserting Locke’s influence on the founding, I do not rule out alternative accounts supplementing my own. For example, Judith Shklar suggests that a quite different strand of liberalism guided the American founders, one that sought above all to avoid cruelty. If in Locke’s republic there can be no Bonhoeffers or Antigones, in Shklar’s there can be no Hitlers or Creons. Judith Shklar, Ordinary Vices (Cambridge: Belknap Press, 1984), 237.

31 The question of Locke’s influence on the founders is complex, and the full treatment must wait until chapter 4. However I can anticipate the strongest of the objections by pointing out that those most opposed to finding Locke in the founding are usually referring to Locke as the great apostle of “possessive individualism.” It is doubtful whether Locke deserves that title, but my present claim sets that matter aside. Whether Locke-the-proto-capitalist informed the founders is not my concern. My argument is that the founders’ should be seen as Lockean in quite another way: how they respond to the dilemma of religion and politics. For example, Garry Wills has argued that Hutcheson and not Locke influenced the founders (via Jefferson), but even he concedes that this is not the case in the area of religious toleration. Garry Wills, Inventing America: Jefferson’s Declaration of Independence (Garden City: Doubleday, 1978), 361.
Today’s critiques, crises, and culture wars prompt an obvious question: is the solution of Locke and the founders a false one, or did it plot a sound course that has been lost along the way? In fact, one of the few Traditionalists who engages Locke in depth, William Cavanaugh, presses the question even deeper: was Locke’s solution sincere in the first place, or was it always a subversion of Christianity in service of the republic?

Cavanaugh’s is a question that should be asked of anyone purporting to offer a third way. Does the solution actually avoid the two alternatives of which Taylor speaks—city gods or disloyal believers—or does it deceptively redefine the terms so as to make the tension disappear from view? We can consider this by again referring to Machiavelli. Were he less candid Machiavelli might have responded to Christianity not by critiquing it, but by a far subtler means. He could have claimed that while corrupted Christianity posed this tension, authentic Christians embraced the warrior virtues and loved their cities more than their souls.32 Had he done this, Machiavelli would not have been proposing a third way; he would simply have been advocating a slightly modified form of one of the original alternatives: obedience to the Christian God is always and everywhere obedience to the city’s god.

According to Cavanaugh, this is precisely what Locke was up to, especially in his argument for religious toleration.33 He argues that the ground was first laid by Thomas

---

32 In places he does this, of course. But he is so forthcoming elsewhere that the veil, repeatedly being lifted, no longer conceals. One would have to be much less Machiavellian than Machiavelli to pull off such a move. Clearly Machiavelli does believe the prince should appear to be “the embodiment of … religion.” But having published the idea, the cat is out of the bag. For a controversial reading of Machiavelli that suggests he is far, far subtler than I give him credit for, see Leo Strauss’s chapter on him in Leo Strauss and Joseph Cropsey, eds., History of Political Philosophy, 3rd ed. (Chicago: University of Chicago Press, 1987), 296-317.

Hobbes in asserting that only by unifying church and state would there be peace. Without a single sovereign, the conflicts of loyalty between citizens would inevitably produce civil strife. As is familiar to readers of *Leviathan*, an end to such strife depends upon the ruler possessing full civil and ecclesial authority. “But that could not be,” Hobbes writes, “till Kings were Pastors, or Pastors Kings.” Cavanaugh continues:

In a Christian commonwealth, Hobbes denies even the theoretical possibility of martyrdom, since he defines martyrs as only those who die publicly proclaiming the simple doctrine “Jesus is the Christ.” … As for more specific doctrines or practices for which a Christian might die, these could only go under the title “subversion,” never martyrdom, since the sovereign has the sole right to determine proper Christian practice and sanction any public deviations therefrom.

But this is rather too obviously not a “third way” for it to function as such. If, as Taylor says, the ancient alternatives were risking unpatriotic believers or turning God into the city’s god, Hobbes wastes no ink pretending to choose anything but the latter. He straightforwardly asserts, “A Church ... is the same thing with a civil Commonwealth… Temporal and spiritual government are but two words brought into the world to make men see double.” At first glance, this is the opposite of Locke’s argument for religious toleration. But according to Cavanaugh, what Hobbes and Locke share is more important than how they differ.

---

Whereas Hobbes says that separating Christian and civil loyalties makes men see double, Locke holds “it above all things necessary to distinguish exactly the business of civil government from that of religion and to settle the just bounds that lie between the one and the other.” This statement is the linchpin of Locke’s view of religious toleration, as presented in the *Letter Concerning Toleration*. Provided Locke can deliver on his promise to establish the “just bounds,” he appears to have solved the ancient conflict of loyalties. His ruler does not swallow the church whole, as does Hobbes’s leviathan, for both Christian and civil allegiances are limited. The *Letter* protects the Christian’s obedience to God against threats from the state, as well as the citizen’s loyalty to nation against an overreaching church.

Cavanaugh will have none of this. Despite the apparent differences between the *Letter* and *Leviathan*, Locke is Hobbes in sheep’s clothing.

Once Christians are made to chant, “We have no king but Caesar,” it is really a matter of indifference to the sovereign whether there be one religion or many. Once the state has succeeded in establishing dominance over, or absorbing, the Church, it is but a small step from absolutist enforcement of religious unity to the toleration of religious diversity. In other words, there is a logical progression from Bodin and Hobbes to Locke. Lockean liberalism can afford to be gracious toward “religious pluralism” precisely because “religion” as an interior matter is the state’s own stepchild... Toleration ironically becomes the tool through which the Church is divided and conquered.

Granted, Christians are not forced to worship the city’s god in an explicit sense, as with early Christians required to bow to the Roman Emperor. But the freedom allowed to Christian consciences is limited by what will keep the state safe from theological threats. Thus the church is tolerated only insofar as it is merely a “voluntary society of men,

---

38 *Letter*, 15.

joining themselves together of their own accord.40 Catholic obedience to the pope thus falls outside tolerable bounds. In other words, says Cavanaugh, a toleration that only extends to a domesticated Christianity—to an entirely otherworldly, inward faith—is no toleration at all.41

But our concern is not with Cavanaugh himself. Rather, it is with Locke, with how the founders’ embraced his imaginative vision, and with the persisting importance of that vision for understanding today’s rival political theologies. America is founded in hope that Locke provides a “third way,” harmonizing age-old tensions between civic and religious loyalties. What is required, theologically and politically, for that hope to be fulfilled—for his third way to succeed? We are now in a position to see how differing answers to this question produce three distinct types of Christian critique:

1. The American Solution is Rotten Root and Branch

At its heart, Locke’s solution is little better than Hobbes’s. The theological presuppositions required for the solution to work are far too demanding; so demanding, in fact, that Christians who accept them may be essentially worshipping a city god without knowing it. Furthermore, reconciling civic and Christian loyalties is a false alternative. The ancients were right when they believed the only alternatives were disloyal Christians or disloyal citizens—with a fate similar to Jesus and Socrates never ruled out.

2. Prune the Branch but Save the Root

America’s founding principles on religion’s public role are sound. Locke and the founders devised a legitimate third way. Yet there is still much to critique. Contemporary political crises about religion are a sign that we have “gotten away

---

40 Letter, 23.

41 The argument Cavanaugh presents is in need of greater nuance. For example, Locke does not allow merely an inward faith because he says that participating in public worship is in principle necessary for Christians to be able to secure eternal life. Letter, 23. For a response to Cavanaugh on a related point, see Jennifer Herdt, “Locke, Martyrdom, and the Disciplinary Power of the Church,” Journal of the Society of Christian Ethics 23, no. 2 (2003).
from the founders” by allowing religion too prominent (or not prominent enough) a public place.

3. Prune the Branch, Graft on a New Plant

America’s founding can resolve the ancient conflict of loyalties, but only with modifications to the original principles. For example, John Courtney Murray sees the founding as fundamentally sound except that Locke’s “law of nature” departs too far from Aquinas’ “natural law,” and only insofar as Locke’s contribution to the founding is re-read as Thomist will the solution succeed.

The latter two of these critiques deny Cavanaugh’s charge, for they affirm that the American founding is a legitimate third way (or it can be made such). The first level of critique is the Traditionalists’ and it has received the most attention recently, as in Democracy and Tradition. Stout’s concern is that the influence of the Traditionalists on churches and seminaries will remove Christian support from progressive, democratic causes. This is not to mention the fear that followers of Cavanaugh, having rejected the grounds of religious toleration, will again embrace the violence that occasioned Locke’s Letter. Though an important caution, the problem Stout identifies is but one piece of a larger puzzle. By showing that the three levels of critique relate to a single question, we see that they are interrelated and cannot be considered independently from one another.

This also brings to light why the Traditionalists are at least partially justified in their negative evaluation of American political liberalism, even if the Traditionalists themselves do not fully understand the historical reasons. So long as Christians are pressed to appeal to the founders’ solution without a clear theological account of how Christianity relates to it, they will be pressed toward the sort of uncritical loyalty the Traditionalists fear.
1.4. Liberalism, Republicanism, and Other Gaps

We can now add the final chapter to the narrative I began above with O’Donovan, Taylor, and Cavanaugh. In the American context, disagreements arise over the meaning of the Lockean solution, but these disagreements are not *ad hoc* or random. The points of contention lie along the fault line between republican and liberal political theory. Was America founded, as J.G.A. Pocock says, in “dread of modernity”? Or is America the firstfruits of Enlightenment? This is the crucial factor for understanding today’s Christian political theologies: different perspectives disagree about how “classical republican” and “Lockean liberal” elements coalesce to form the solution. These terms have each been the subject of countless studies and are examined more fully in chapter 4.

1.4.1. Republicanism (Briefly) Defined

Unfortunately, in the contemporary debate the term republicanism is often used unclearly. Most often, it is invoked as a loose synonym for something like communitarianism. Liberalism, it is thought, is overly individualistic and too narrowly focused on the bare preservation of rights. We therefore need a thicker conception of the common good. This much is fairly straightforward and such arguments can be found in any number of books advocating communitarian correctives to liberalism. The argument becomes complex, however, when communitarianism is connected to republicanism as a historical phenomenon in early American history. Those who use ‘republican’ to mean something like ‘communitarian’ do so to demonstrate that their position has historical precedent. They argue that properly understood the American political system depends

---

not just on preserving the bare rights of individuals, but on sustained attention to the common good and to inculcating certain virtues. In this use, republicanism refers to the political theory that that supports communitarianism and opposes “minimalist liberalism.”

When the term republican is used in this way, it can cause two types of confusion: the first arises over confusion about the term republicanism and the second arises over debates about the term liberalism. First, although ‘republican’ is used precisely because of its presence in historical sources, it is not clear that its meaning is derived from those sources. In other words, it is invoked as a kind of token to invoke a certain conception of government and society. There is a relation between the historical and the tokenal usage, but it is rarely clear what that relationship is. Are the contemporary uses faithful to Roman republicanism, to Machiavelli’s Florence, or to Aristotle’s politics? Or is American republicanism, such as Madison describes in *The Federalist*, a unique species?

We can certainly detect a measure of affinity between these and what is today called communitarianism. To varying degrees, they all extol citizenship, civic virtue, and freedom-as-active-participation—all of which are essential commitments because humans are ‘political animals’ who can reach their highest fulfillment only by participating in the maintenance, shared life, and ruling of their city. It is also typical of republics that they embrace a substantive conception of virtue as the goal of politics. The question is whether the diversity between these strands outweighs the usefulness of grouping them under a single term.

43 This is Sandel’s phrase. See Sandel, *Democracy's Discontent*, 19.

The second problem with using republicanism as a synonym for communitarianism is that doing so depends upon a contested definition of liberalism. Defining republicanism as communitarianism is premised upon republicanism and liberalism being mutually exclusive. But some liberal theorists argue that liberalism is inherently ‘republican’ in this sense. In other words, liberalism can be defined in such a way that it is not merely concerned with ‘bare’ rights and individualism. Especially as appropriated by the American founders, Lockean liberalism is plausibly concerned with some of the same things that communitarianism is. Because of this, it is possible to use the seemingly paradoxical phrase, republican liberalism.

An excellent example of this can be found in Neuhaus’s influential book, *The Naked Public Square*. Neuhaus writes that while the American founders were liberal, they “were aware of the limitations of the formal liberalism they propounded. They knew there was another tradition that spoke of ‘republican virtues’ and thought it very much the business of government to cultivate such virtues.” He defines this republican counter-tradition:

it differs strongly from liberalism in its emphasis on the values of politics as moral cultivation of responsible selves… The peculiarity of the development of liberalism in America gives a unique texture to American liberal political thought… liberalism in America has to absorb into its outlook a number of republican concerns. Still, religious language on the national political level has frequently served as a substitute for explicit republican language…

---


American liberalism has this unique texture: it absorbs republican concerns and by doing so makes peace between religion and politics. In America, the republican tradition gives religion a public place, because religion is the source of republican civic virtue.

The public role of religion … will be decided by religion’s ability to help reconstruct a “sacred canopy” for the American experiment… whether it is called the Judeo-Christian ethic, or Christianity, or the operative social values, or a civil religion, it is the dynamic of religion that holds the promise of binding together (relegare) a nation… Religion is in the meaning business.47

In these passages Neuhaus is using the term republican to refer to something like what is now called communitarianism. The way he distinguishes republicanism from liberalism is also subject to dispute, for some would define liberalism so that it includes what Neuhaus sees as belonging to a separate tradition. Despite these pitfalls, Neuhaus’s usage is still based on legitimate historical sources; the great historiographical debates between Pocock and others, examined in chapter 4, make this clear.

In fact, closer analysis of these terms reveal a spectrum of meanings. At the extreme ‘liberal’ end of the spectrum is the notion that government is limited to the bare protection of negative liberty rights. At the extreme ‘republican’ end is the notion that government must actively promote substantive virtues among the citizenry. Between these lies a puzzling series of combinations, various forms of republican liberalism.

One common combination, which I will term Communitarian Liberalism, is closer to the liberal end of the spectrum. In order for the liberal government to fulfill its task of securing the basic negative property rights, it must actively promote a number of civic virtues, which are instrumental to securing those rights. For example, the claim that school prayer greatly reduces juvenile delinquency is a Communitarian Liberal argument.

47 Neuhaus, Naked Public Square, 60.
This shares significant ground with a republican conception of society, but is defended on classically liberal grounds, and is therefore legitimately liberal and republican.

Another puzzling position on the liberal-republican spectrum is what I will call Perfectionist Liberalism. It argues that even the liberal government is responsible for promoting certain objective conceptions of the good and virtue—and it is willing to leave the argument there. By contrast, Communitarian Liberals would go on to offer the additional evidence that connects these virtues to the securing of basic rights. In this sense they are more republican than liberal, but as in Neuhaus’s argument, it nonetheless professes to be a legitimate form of liberalism.

What makes this all the more confusing, as explained above, is dispute about whether the term liberal can be used in these broader senses. Combined positions like Communitarian Liberalism and Perfectionist Liberalism expand the term ‘liberal’ across the spectrum into what is otherwise called ‘republican’ territory. It is an open question where the legitimate use of the term ‘liberal’ leaves off and ‘republican’ takes over.

It is not my task to resolve these terminological problems, but I do need to call attention to them so the terms can be used advisedly. When we examine specific thinkers in chapter 5, it could appear that my analysis of their arguments is confused. As I am suggesting here, the problem lies with the terms themselves and with those thinkers’ own imprecise use of the terms. For the most part, I use republican in the way contemporary writers like Michael Sandel do. It is a political theory opposed to Rawlsian procedural liberalism, and it is also a political theory popular with many of the American founders. Despite the pitfalls, this is precisely how many well-respected American historians use the term. For example, Mark Noll provides a helpful definition of republicanism:

A flexible term that linked the practice of virtue (however defined) with the presence of freedom and the flourishing of society; republicans invariably held that vice (usually defined as luxury, indolence, and deceit in high places)
promoted the corruption of government, led to tyranny, and ruined the social fabric. Within colonial America and the early United States it was possible to discern contrasting strands of liberal and classical republicanism.48

As Taylor hinted, this vision of politics has the potential to cause conflicts for religious believers. Yet there are ways to rethink republicanism and Christianity so as to avoid such conflicts. Locke represents one such “rethinking.”49

1.4.2. Liberalism Defined & Compared

As Noll’s definition supplies our rough definition of republicanism, it is fitting to begin our comparison with liberal thought in his terms as well. Liberalism is “a loose term to designate systems of political organizations that stress the liberty of individuals in a state of nature, their rights in society, and their freedoms over against coercive authority.”50 For liberalism, rights are properly basic. By consequence, government is limited to securing rights and prevented from exercising the “care for the soul” of an ancient republic or a church-state.

While the bases of republican and liberal politics clearly differ, we can perhaps more readily understand their point of dispute by a concept they share, but define


49 In presenting his neo-republican theory, Maurizio Viroli senses the potential problem and responds decisively: the republic “can and must remain rigorously secular.” As he draws largely on classical Roman republican sources, it is no surprise that he is aware of the complex role religion has played in the republics of the past. He acknowledges, “A republic of patriotic and religious citizens is unlikely to be a tolerant one.” But, remarkably, he reports that he “would not be too concerned about its lacking a religious spirit, which after all concerns an aspect that should be pursued solely through spiritual means and left entirely to the faithful.” This begs the question so subtly and cleverly that Machiavelli himself would have been proud. Would Viroli’s answer would have even an air of plausibility had not been for Locke’s career? Whether this secularized republic shows that Locke was a republican or Viroli a Lockean, I will not speculate. Viroli, *Republicanism*, 92-93.

differently: liberty. To simplify, the differing definitions are not unlike Isaiah Berlin’s “two concepts of liberty,” described in his inaugural professorial lecture for the University of Oxford. There are, Berlin begins, “more that two hundred senses” of the word freedom recorded by historians of ideas, “I propose to examine no more than two of these senses.”

The first … which I shall call the ‘negative’ sense, is involved in the answer to the question “What is the area within which the subject—a person or group of persons—is or should be left to do or be what he wants to do or be, without interference by other persons?” The second, which I shall call the positive sense, is involved in the answer to the question, “What, or who, is the source of control or interference, that can determine someone to do, or be, one thing rather than another?”

The former holds, with Mill, that “The only freedom which deserves the name is that of pursuing our own good in our own way.” The latter concept affirms that freedom obtains when individuals choose what they truly want, or what they should truly want if not under the sway of ill passions. “This renders it easy for me to conceive of myself as coercing others for their own sake, in their, not my, interest. I am then claiming that I know what they truly need better than they know it themselves.” Positive freedom is in certain circumstances compatible with interference; negative freedom is equated with non-interference. Barry Shain makes a similar point regarding the early American context; he points out that freedom is not necessarily the opposite of authority; it can also be the opposite of license.

52 Quoted in Ibid., 11.
53 Ibid., 17-18.
Applying this distinction to liberal and republican political thought is a work of broad brushstrokes, but is nonetheless sound. Politically liberal regimes ensure negative liberty by securing individual rights. Republican regimes pursue virtue to further positive liberty. Government interference threatens liberal politics; government corruption threatens republican politics.55

There has been a long running debate among political theorists and historians of early America over how deeply, or even whether, liberalism and republicanism conflict—and how each informed the American founders. Writers such as J.G.A. Pocock have provided vast and complicated analysis of how “the Atlantic republican tradition” relates to earlier thinkers, especially Machiavelli. But even without such a complex analysis, we can readily see the sort of practical differences the two emphases would make. Should the government seek to inculcate certain virtues, perhaps religious virtues, in its citizens?

Locke has played an important role in this debate. His emphasis on rights, not to mention his reputation as the founder of liberal politics, would suggest that the founders had to choose between his politics and republicanism. Recent work has increasingly suggested this was not the case. The American founding was profoundly influenced by Locke but not in a way that excludes republican influence. In fact, we can even go further and observe that Locke himself found a way to incorporate roughly republican concerns into his politics. The founding philosophy can thus be described without contradiction as “liberal republicanism” (or modern republicanism, or natural rights republicanism). Such

55 The difference between these political theories, and between these concepts of liberty, may also be related to debates about the origin of the concept of subjective rights, especially involving work by, and in response to, Brian Tierney. For example, see Ernest L. Fortin, “On the Presumed Medieval Origin of Individual Rights,” in Classical Christianity and the Political Order: Reflections on the Theologico-Political Problem, ed. J. Brian Benestad (Lanham: Rowman & Littlefield, 1996). My project is not directly concerned with that debate, but I do discuss it in chapter 3.
terminology is not inaccurate because although Locke limits government to the role of securing rights (and thus forbids it from promoting virtue as such), his government could promote virtue, including its formation through the life of the church, when doing so better secures individual rights.

Because of this, there is some ambiguity about how Locke’s and the founders thought would actually resolve the problem of civic and religious loyalty. For example, how should we choose between James Madison and George Washington, who employ remarkably similar arguments about whether the government may promote religion via military chaplains—but reach opposite conclusions. Is it a republican liberalism or a liberal republicanism?

1.4.3. The Founding Amalgam & Today’s Christian Critiques

Although Locke provides a different focus than republicanism, it is clear that he does not necessarily oppose it. Yet if Locke’s solution merely reduplicates republicanism, it may fail to avoid religio-political conflict. For example, if civic virtue is essential to politics, disagreements about the content of that virtue and its source (reason? revelation?) may produce such conflicts. Today there are different views about whether Locke’s politics is a thoroughgoing revision of republicanism or a fine-tuning of it. To put it crudely, if Aristotle had lived in the seventeenth century would he have thought the Second Treatise was the end of the world as we know it—or would he have written it himself?

It is my thesis that today’s Christian political theologies embody different responses to this question in how they see America as resolving the religio-political problem. However, by and large, they do so unaware of the differing interpretations of this aspect of the founding. Thus public arguments proceed as if a certain interpretation of Locke and the founders’ solution were the only possible interpretation, in seeming ignorance of rival interpretations. This may be due to a separation between public arguments and the positions as wholes. Public arguments can be offered unaware of the theological presuppositions that would be required for the argument to hold.

This allows us to make sense of the second two types of Christian critique listed above. I will first explain each in very general terms. Following this, I offer an example to help connect these positions to concrete arguments made today. I do not treat the first level here (the Traditionalist critique) because, of course, it rejects the possibility of the solution altogether.

The second level of Christian critique (“prune the branch but save the root”) is the most confident in America’s founding solution being a legitimate third way. A republican interpretation of it would hold something like the following:

2a. Today’s liberalism is a grave departure from the American founding, in which a strong emphasis on republican concerns, such as virtue, allowed Christians to bring their religious concerns into public life without being silenced. The American founders were right to see religion as an essential support to democratic life and that must be recovered today. While the founders were right to follow Locke’s distinctions between religious and civic realms, we are mistaken if we take this to fully sever religious from political concerns. When Locke speaks of natural law, he is doing so in a traditional sense: there is an objectively knowable, normative human good. The rights secured by the law must be directed toward that good. Correctly interpreted, Locke’s natural law and biblical revelation have the same moral teaching.

A liberal version of the first level of critique might run along the following lines.

2b. Today’s liberalism is a grave departure from the American founding, in which a strong emphasis on rights ensured that religious believers would not be
threatened by governmental interferences into religious life. The founders may not always have understood how clearly religion must be separated from public life for freedom of conscience to be secure, but this should not lead us to doubt their principles. After all, their blind spots prevented them from extending suffrage to women and African-Americans, but were they consistent they would have done so. Locke and the founders based their politics on rights-as-immunities because they realized that basing it on an objectively knowable natural law or virtue would beg the question of what that law is, potentially leading to persecution of those who held minority views on such matters. People disagree over what natural law and Scripture teach, thus we must avoid giving those sources of moral knowledge authority on disputed questions.

The third level of Christian critique is less confident in America’s founding, but does not abandon it. The founding is a legitimate third way if only certain excesses are avoided. A republican example of this view:

3a. Today’s liberalism has strayed from its best principles due to certain missteps, especially due to Locke’s “modern” conception of natural law and his overconfidence in Enlightened reason. Some of the founders sought to avoid these errors, but they should have been more thoroughgoing in doing so. Insofar as we rephrase Locke’s distinctively modern natural law with a classical or Thomistic one, the solution is successful. We can recover the soundness of the founders’ solution by also recovering the “public philosophy” that grounded their political thought. For example, the banning of prayer from public schools was more or less inevitable once the founding solution became separated from its public philosophy. We need a substantive conception of civic virtue that grounds our public life; that is, we need a theory closer to the republican end of the spectrum and further from rights-based Lockean liberalism. Insofar as the founders’ solution leads to Rawls, it is problematic. Nonetheless, civic and religious obligations can be reconciled and a sound way of doing so is discernable in the founding.

And a more liberal statement of it:

57 The view is well represented by John Rawls: “Locke and Rousseau limited liberty on the basis of what they supposed were clear and evident consequences for the public order. If Catholics and atheists were not to be tolerated it was because it seemed evident that such persons could not be relied upon to observe the bonds of civil society. Presumably a greater historical experience and a knowledge of the wider possibilities of political life would have convinced them they were mistaken…” John Rawls, A Theory of Justice, Rev. ed. (Cambridge: Belknap Press, 1999), 189-190, emphasis added.
3b. Today’s liberalism ought to more thoroughly embrace the notion that the government must be neutral with regards to disputed moral or religious questions. A perspective such as Rawls’ helps us see that the founders did not always go as far as they ought to have. If anything, the founders ought to have more thoroughly embraced Locke instead of their republican assumptions about the importance of religion to public life. They should have more strongly emphasized Locke’s concern for individual rights. Whatever Locke meant by the natural law, it is distinctively modern and individualistic, and therefore sensitive to how conclusions drawn from it vary from one person to another.

Each of these is plausible or at least not obviously unreasonable. They are differing visions of how it is that Locke manages to provide a third way. Chapter 5 of this study is devoted to examining these arguments in detail. For each of these critiques, I take a contemporary Christian as a representative of that position showing how their interpretation of Locke and the founding fits this pattern. The intervening chapters, on the American founding era and on Locke’s work in detail, will allow us to view those contemporary representatives in light of Locke’s solution. We will by then know where the fault lines are in his thought that generate these diverse interpretations.

As we anticipate that analysis, we must be aware of two details. First, we must recall that especially in this context the word liberal does not necessarily mean left wing or politically progressive. It is true that they often go together, but the distinguishing characteristic of republicanism here is not conservatism, but commitment to the importance of government promoting certain substantive goods or virtues. In fact, among my representatives in chapter 5 are Nicholas Wolterstorff and John Witte, both of whom are generally closer to the political left, but who are republicans in this use of the term. Second, and relatedly, chapter 5 does not include a representative for the third level of liberal critique, the position that would amend the founding’s republicanism to a more

58 To use an example from political theory, both Stephen Macedo and William Galston would be ideologically “left” republicans, in this sense.
thoroughgoing liberalism (position 3b, above). I exclude this position not because no contemporary Christians hold it, but because there are no interesting or important representatives of this position within the theological academy. Were the representatives in my typology drawn from popular rather than academic writing, it would perhaps be more important to include a representative of position 3b. It is interesting to reflect on why this is the case, or whether we might find differences between what is commonly believed by lay Christians and what is propounded from pulpits and in seminaries. In chapter 5, I briefly consider one possible explanation for this absence.

One of my reasons for presenting the above typology is that it highlights how certain political positions are premised on certain political-theological presuppositions. Unfortunately, these positions are all too often unaware of their own presuppositions. An example will make this clearer.

1.5. A Contemporary Example: Homosexuality and the Law

In contemporary debates, the religio-political problem is rarely more pronounced than on the topic of homosexuality and the law. This includes, most recently, gay marriage but has also involved debates about homosexuals as a protected minority group and the constitutionality of anti-sodomy statues.\(^{59}\) I will refer to this example

\(^{59}\) In choosing this example, I am of course aware that it is not necessarily a religious question. However, that does seem to be the heart of the dispute in contemporary America, especially because of how, for Christians at least, Scripture’s political role is so prevalent in this dispute. See Pew Forum on Religion and Public Life, “Religious Beliefs Underpin Opposition to Homosexuality” (http://pewforum.org/docs/index.php?DocID=37).

This example is worth considering here because of its prominence in contemporary political disputes, and also because although Locke takes a side on it, he does so only passingly. We are left without his explicit explanation of his reasoning, thus giving rise to differing contemporary interpretations. Because Locke mentions it only briefly, the opinion I attribute to him in the following paragraphs should be taken loosely. To my knowledge, Locke nowhere explicitly says homosexual sex ought to be illegal. One final
occasionally throughout my project because it is a timely issue that highlights how some of the today’s most pressing moral questions present themselves in ways similar to questions faced in Locke’s day. This particular example is all the more interesting because the most recent major study of Locke and religious toleration follows intolerance toward “sodomites” as a theme, tracing it from the patristic period and the High Middle Ages to Locke’s day and the early Enlightenment. While many examples could demonstrate what I will argue using this example, these factors make the example of homosexuality particularly apt.

When politically conservative Christians such as Jerry Falwell or Pat Robertson advocate laws against homosexuality, they appear to their opponents to be advocating a theocracy: embracing a political vision completely at odds with the American founding vision. Similarly, when politically liberal Christians advocate the opposite positions they appear to Falwell to be abandoning the founders’ vision in favor of a thoroughly secular order, something akin to the French Revolution’s open hostility to religion. Were caveat: though I generally have in mind the American context, I here leave aside constitutional implications. For my purposes here, the Constitution is but one form of law, though to be sure, a special kind of law—as it would have been for Locke.

Marshall shows that patristic writings about sexuality were a key source of intolerance toward these practices in Locke’s day. Often, the terms “traitors, heretics, and sodomites” came to be used as a single designation, and support for the First Crusade was garnered partially by the claim that Muslims practiced sodomy. Arguments against heretics, such as Gregory IX’s papal bull of 1233, were also bolstered by claims that the heretics concluded their meetings by extinguishing the lights and engaging in homosexual practices. John Marshall, *John Locke, Toleration and Early Enlightenment Culture: Religious Intolerance and Arguments for Religious Toleration in Early Modern and 'Early Enlightenment' Europe* (Cambridge: Cambridge UP, 2006), 219.

I do not mean to unfairly “pick on” Falwell or Robertson, however their public visibility make them useful representatives of politically conservative Christianity in America. Similar examples can be found on the opposite side of the debate. For example, a recent dissertation uses “sociological studies” to get beyond the “culture wars divide” to arrive at the precisely opposite conclusion. See Erwin Barron, "The Bible Tells Me So? Scripture and Experience as Sources of Authority in Debates over Homosexuality in the Presbyterian Church" (Ph.D. Dissertation, Graduate Theological Union, 2006).
either analysis correct, the founding vision, by any score, would indeed have been abandoned. The former is tantamount to embracing city gods and the latter guarantees religious believers cannot be loyal citizens. But generous reading and careful attention to the public arguments of both sides show that this is not what is going on. Instead, they are embracing different visions of how republicanism and Lockean liberalism must balance if religious and civic loyalties are to be harmonized and a healthy, stable civic order maintained.

From Falwell’s perspective, homosexuality threatens to undermine civil order itself. Government, as Locke says, has as its goal the securing of citizens’ basic rights. It cannot do that if families are not stable entities within which children are raised, taught to be virtuous, and so on. Certain conceptions of the family and certain sexual practices make families less stable, thus making society less stable, thus (ultimately) threatening even the government’s ability to secure its citizens’ rights. Christians who reject Falwell’s conclusion will naturally reject this reasoning. But notice something that could easily be overlooked: overlooked because it is akin to Sherlock Holmes’ clue of the dog that did not bark in the night. What is completely absent from the public argument against homosexuality is any trace of theocracy. At no point does Falwell need to claim, “American law should be based on the Bible” or “God’s law ought to be fully established as civil law.” Indeed, there is nothing in his argument that would necessarily fall outside the bounds of the founding solution.

Such arguments, I argue, are fairly typical of those associated with the culture wars. Though they often come across to their opponents as theocratic, on the level of public arguments even the most controversial figures are closer to Locke than they might appear. Thus homosexuality is opposed because “marriage between a man and a woman is necessary for a healthy, safe society,” which (provided it can be supported, such as by
sociological evidence) is a plausible Lockean-republican argument. But is this the actual
ground of Falwell and Robertson’s position, or is it the publicly expedient one? How
would they respond if the social scientific evidence did not confirm their interpretations
of the Bible’s teaching on sexual ethics—or does their position exclude such a possibility
in advance?62

This suggests that at least on the level of public arguments liberalism’s crisis is
not best understood as battles between “theocrats” and “secularists,” as is commonly
supposed. Perhaps deep down and in private they are such battles—in which case the
founders’ solution is but a mask with which the two camps deceive themselves and each
other. It may be that were Falwell and Robertson honest with themselves they will not see
their Christian and civic loyalties as harmonized until America is a theocracy. And it may
be that their opponents’ liberal Protestant theology is nothing but warmed-over deism and
their civic and religious loyalties will not be harmonized by anything less than a
wholesale secular order. While the cynic could argue that that is what is really going on
below the surface, at present there is no way of knowing one way or the other, and there
is no reason to jump to the cynic’s conclusion.

We should instead conclude that the public arguments (unintentionally) prey upon
the ambiguities inherent in Locke and the founders’ solution. Thus, neither side is forced
to think through its positions holistically. Instead, they make arguments that conform to
this or that aspect of the founders’ solution without sufficiently articulating (1) where

62 By dealing with this example at length, it may appear that these questions raise problems of
consistency and clarity only for conservative positions. On the contrary, just as Robertson and Falwell
appear theocratic to their liberal opponents, the liberal opponents appear—to Falwell—to be advancing
liberal religious or anti-religious causes under the guise of neutrality. The confusion and potential for
internal inconsistency affects both sides in this debate.
they depart from Locke and the founders or (2) the theological presuppositions that make their acceptance of Locke’s solution possible. This has at least two detrimental consequences. First, the debate is more confused, hostile, and seemingly intractable than it needs to be because the actual points of dispute often lie hidden. Second—and theologically, this is the more serious consequence—the unspoken theological presuppositions required by Locke’s solution often “work backward” upon the Christian’s theology. Thus theological convictions are shifted by what Locke’s solution demands, rather than vice-versa.63

By and large, the Christians who make public arguments such as those described above never mention Locke, and perhaps could not even identify the century in which he lived. From these, it is especially difficult to demand answers to the deeper questions that the public arguments obscure. But not all are unaware. One Christian who has written about Locke and politics, and who also holds a view of homosexuality rather like Falwell’s is J. Budziszewski, a Catholic political scientist. Before presenting Budziszewski’s argument in detail, we should call to mind how Locke might help us frame the issue.

As we will see in chapter 2, Locke believes he can fairly neatly avoid religio-political disputes by limiting the scope of government to individual rights-securing and of Christianity to the afterlife. Thus Locke’s example in the Letter Concerning Toleration says civil government ought to prohibit theft but may not prohibit idolatry. It is my

63 That there is some of this going on is what gives Cavanaugh’s argument its power. Cavanaugh’s argument is compelling because it is partly true. However, we need not go as far as he does in reading Locke skeptically to see this. It is not so much that the Christians who “domesticate” their Christianity are dupes, as that the situation is incredibly complex and history does not often present as attractive alternatives as we would like. Whether Locke and the Christians who follow him are clever, foolish, or tragic, we cannot say.
neighbor’s right to worship whomever or whatever she chooses, so long as doing so does not infringe my rights. In Locke’s day, differing opinions about homosexuality were not drawn along religious lines, but they very often are today. Can Locke’s solution help frame the issue in a way that avoids—in the literal language of his day and the metaphorical language of ours—a war?

In principle, it does seem as though Locke’s approach should allow us to solve the dilemma of restricting sex acts. Those opposed to such restrictions—a strong voice in today’s culture wars, and a successful one in a recent Supreme Court case on the question—argue that for all the reasons Locke gives about not prohibiting idolatry, we should similarly allow consenting adults to engage in whatever private sex acts they choose. It is my neighbor’s right to sleep with whomever she chooses, so long as doing so does not infringe my rights. Religious believers may disagree about whether those acts are prohibited by God or threaten eternal salvation, but civil law cannot follow God’s law on this point. Though God may forbid both homosexuality and idolatry, the magistrate may not. Thus it would seem that Locke’s solution has indeed resolved a contemporary dispute related to civic and religious life.

1.5.1. Budziszewski’s Public Argument Against Homosexuality

But consider Budziszewski’s counter argument. He encourages Christians to advance “a heterosexual public ethic” using, among other arguments, the claim that

---


65 By specifying consenting adults, the question of whether no anti-sodomy laws necessitates no anti-pedophilia laws is avoided. The history of why “consenting adults” are the morally relevant group is itself closely related to Locke’s work (and Kant’s) but that is beyond the present scope.
increased homosexual activity has led to an increase of colorectal injuries. This places an increased burden on medical resources, which ultimately reduces others’ access to those resources, and so on. He advocates such arguments because, in public forums, “mistake number one [is] … using religious language and talking about the Bible.” He further suggests that if a homosexual should argue with a Christian by stating that he is in a committed gay relationship, the Christian should respond to this “attack” by saying, “The committed gay relationship is a myth. Research shows that homosexuals with partners don’t stop cruising, they just cruise less.” Whatever the credibility of the medical and sociological studies that Budziszewski cites, I want to draw attention to the form of the argument.

The first thing to note is that Budziszewski’s argument fundamentally agrees with Locke’s principles—the same principles that, just previously, seemed to necessitate the opposite conclusion. Where he disagrees is in seeing homosexuality as like theft but unlike idolatry.

The form of Budziszewski’s argument appears to commit him to letting social scientific evidence (such as the medical facts he cites) be the arbiter in deciding the legitimacy of anti-sodomy legislation. But is that actually Budziszewski’s position? For

66 J. Budziszewski, "Advancing a Heterosexual Public Ethic with Grace, Wit, and Natural Law," (Family Research Council, September 8, 2005). Much more could be said about Budziszewski’s comments, including asking whether his article quite delivers the “grace” and “wit” promised by its title—especially as he advises that when a homosexual believes a Christian hates him for being gay, the Christian should respond, “Of course I don’t hate you, but a pretty good case could be made that you hate yourself.”

However my goal here is not to provide an analysis of his arguments, but simply to offer an example of a Christian argument against homosexuality. Budziszewski is by no means an extreme member of the so-called Religious Right; he is an intelligent, well-published, tenured professor at the University of Texas. His main field of study is natural law. I should further clarify that in this article, Budziszewski is not supporting any particular policy, such as law criminalizing sodomy. Instead, he wants to make room for such arguments and advise Christians on how to make them.
example, would he advocate repealing such legislation if it was revealed that the studies in question had been erroneous and, after recalculation, they supported the opposite conclusions?

If so, we would need to further press the question. Is homosexuality *per se* subject to legislation, or only certain forms of it—to use Budziszewski’s examples, forms of it that are promiscuous or result in direct physical harm? On the one hand it would seem as though only those particular acts could be prohibited, in which case the law would not even reference the gender of those involved in the act, but only the acts themselves (and would thus ban equally promiscuous heterosexual sex). But on the other hand, Locke is unclear on the “directness” of the harm required to justify forbidding an act. Perhaps Locke’s theory would allow outlawing homosexuality if social scientific evidence could show a relatively direct link between it and the acts Budziszewski mentions. This would be roughly analogous to forbidding some form of idolatry because of evidence showing idolaters are likely to be thieves.

Locke’s own passing comments on “sodomy” suggest that he was closer to Budziszewski’s conclusion. Like theft but unlike idolatry, homosexual sex is subject to civil sanction. For today’s “liberal” position—those who see such anti-sodomy laws as equivalent to prohibiting idolatry—Locke is simply being inconsistent on this point, but not in a way that undermines his principles. Perhaps beset by the prejudices of his own time, or perhaps unwilling to reveal the full implications of his solution, Locke treats homosexuality as theft, when really (it is argued) it is more like idolatry. Thus according to this position, we must modify Locke’s own position to make Locke more compatible with his own best intentions. For the rights secured by Locke’s theory to be of any lasting worth, they must be more than rights to do what is “objectively good”—precisely because people disagree about what is objectively good. Indeed, Locke’s whole project seems

59
prompted by such disagreements. Predictably, today’s conservatives make the opposite argument: rights are moral claims insofar as they are rights to do good.

We can also see that further clarification is needed about how directly harm must follow from an action to justify regulating that action. For example, Locke seems to argue in the *Letter* that perjury but not lying ought to be illegal. But if enough people deceive enough of the time, would we not expect civil harm from even mere lying: a general reduction in civil stability and, ultimately, the security of individual rights? Locke had in mind that actions must meet a certain minimum standard of “directness” of harm to justify proscription. A given act of perjury may not threaten rights, but it is still criminal because, in general, perjury poses a more direct threat to rights and civil stability. A given act of lying may threaten rights but it should be made illegal because the harm, in general, is too indirect.67 These points of disagreement help bring to light the “gaps” in Locke’s theory.

These gaps make it possible to conceive of both the “conservative” argument as well as the “liberal” counter-argument as plausibly Lockean. Locke’s argument, especially as it was implemented and modified by the American founders, owed much of its seeming effectiveness to that precise moment in history in which the gaps were less visible. Thus to implement Locke’s solution today, we need to ask questions such as, “Do Lockean natural rights differ from classical natural right such that government must be neutral with regard to the good? How should social scientific evidence be used in justifying laws?” but Locke and the founders did not. This is because they could take

67 We can of course imagine ways Locke could make his principle more nuanced: lying about the existence of a fire in a crowded building certainly poses a direct enough harm to be criminal, even if it is not actually perjury.
certain things for granted about the moral convictions of people of their day, such that
different answers to these questions did not lead to differences in conclusions. However
when today’s Christians, including Budziszewski and his opponents, make arguments
such as those outlined above, they implicitly, sometimes subconsciously, take sides on
these difficult interpretive questions.

The example of laws restricting homosexuality is particularly apt because of its
prominence in current debates and also because of the interesting comparisons to what
Locke says about idolatry. But any one of a number of other disputes could serve equally
well to make this point. Especially significant in consideration of the American founders’
thought would be the role of religious belief and practice as a support for civil stability.
Even the most “liberal” founders, such as Jefferson, saw religious belief as important for
maintaining basic morality among most citizens, for promoting civil order, and—
ultimately—for securing individual rights.68 But the difficulties in how this should be
implemented were largely invisible to the founders perhaps because of the homogeneity
of religious belief in their time; though disagreements separated the many sects and
churches of seventeenth century America, virtually all were Protestant. If the government
depends on widespread religious belief in order to fulfill its mission to secure rights, what
may it do to foster that belief? We could thus say much the same things about this dispute
that were said about homosexuality: Lockean arguments about religion and civic life
could well lead to opposite conclusions, depending on how one interprets Locke’s theory.

68 Though Jefferson did not consider himself to be on the level of “most citizens.”
1.5.2. Budziszewski’s Interpretation of Locke

Returning to the case at hand, Budziszewski’s public arguments conform quite neatly to the Lockean pattern even without his mentioning Locke. But is there more to his views than his public arguments? For example, is he actually committed to making observable social-scientific evidence a necessary condition of law (as Locke appears to require)? Fortunately Budziszewski has written a book that deals with Locke at length.

For his position to hold and for it to have plausible currency within the context of the American founding solution, Budziszewski’s Locke would need to believe at least the following (or, even if he concedes that Locke himself did not hold this, he needs to show that Locke’s broad solution, as embraced by the founders, is compatible with the following):

1. rights are not immunities that create zones of noninterference, but are entitlements to do what would be objectively good as determined by a natural law knowable by all apart from revelation, and

2. those violations of the natural law that are subject to civil sanction produce observable social ills, which all people can see to be social ills apart from revelation, and which may ultimately threaten civil stability and rights.

Hence in the present example, there can be no “right” to engage in such sexual practices because they are objectively wrong by the standards of natural law and sociological and medical evidence shows they are detrimental to society and will ultimately threaten civil stability and the government’s ability to secure rights. Indeed, this is how Budziszewski

---

This qualifier is necessary because the government’s role is limited to securing rights, not to enforcing all aspects of the natural law. Notice that Budziszewski does not need to hold that all violations of the natural law produce social ills; only those that he wants to restrict via law must. For example, when Locke considers the limits of toleration, he does not say that opinions contrary to morality are intolerable. What is intolerable is undermining “those moral rules which are necessary to the preservation of civil society” (Letter, 89, emphasis added).
interprets Locke. Budziszewski examines the view that “‘rights’ [are a] shield against the moral law” and concludes, “Locke—a libertarian, not a libertine—would abominate this view of rights. For him liberty is the freedom of a mature and intelligent agent to direct himself to the proper moral ends of a human being.”

He is less clear on the second point, and in fact does not address directly whether Locke holds it. Still, Budziszewski seems to hold it and believes that any credible form of natural law affirms it as well. He writes that even those who repress their knowledge of the natural law will eventually reveal their denial. “If you wait long enough the signs of what is going on [i.e., violations of the natural law] are bound to emerge because denial takes up so much psychological energy that eventually something has to give.” He gives as examples Hester Prynne’s lover, Reverend Dimmesdale, who sinks into depression and delusions following their affair, as well as “postabortion stress.” On Locke’s grounds, more would be needed to justify laws against, for example, adultery. It would not be enough that such laws would save the Reverend Dimmesdale from his fate. Because Locke holds that the government is limited to protecting rights, adultery could be prohibited only if we could also find that it, ultimately, destabilized civic order in such a way that rights were threatened.

Still, Budziszewski is not uncritical of Locke. He argues that when Locke speaks of principles of natural law being written on the heart by God, “this is lip service.”

71 Ibid., 66.
72 Ibid., 66-67.
73 Ibid., 192.
Without innate ideas, says Budziszewski, Locke’s notion of rights can eventually collapse in on itself, ending up (though Budziszewski does not say this) more or less with Hobbes. He writes, because Locke believes all duties must be grounded in sense experience, Locke emphasizes only those duties that are most obviously grounded in that way:

These turn out to be chiefly the [duties] that safeguard other people: we might express the formula “I have a duty to honor your liberty so long as you stay within the bounds of the natural law yourself.” Unfortunately, if we are cloudy about duties other than honoring liberty, then it is hard to see what staying within the bounds of the natural law could mean but honoring liberty. Gradually then the formula becomes “I have a duty to honor your liberty so long as you honor mine.” At this stage liberty is bounded by nothing but itself, which is to say that it is not bounded at all. To be sure, Locke would be horrified by this progression. The problem is that he cannot easily stop it.74

As we will see in chapter 3, Locke’s reason for denying innatism are closely related to the political solution he proposes. From his perspective, affirming innatism will more quickly cause collapse because of disagreements about what those innate principles are. In other words, Locke would likely not have seen his own arguments as successful if they depend on innate principles because those principles are in dispute—and the lines in the dispute often overlap religious convictions.

Budziszewski is aware of Locke’s influence on American politics.75 But if Locke’s solution depends on an error, and if that error has been replicated to some degree in American political thought, to what extent can Locke’s solution help us? In the above quote, Budziszewski argues that Locke strays perhaps too far from the republican end of the liberal-republican spectrum. That is, the individual’s rights are prioritized so greatly,
and the notion of substantive civic virtue removed so thoroughly, that Locke—if taken to 
this extreme—can provide neither a stable society nor a way for good Christians to be 
good Lockeans. What then is the solution for American Christians such as Budziszewski?

He argues that Locke’s emphasis on the individual is valuable because it poses a 
“counterweight” to the Aristotelian-Thomist emphasis on “the citizen as a part of the 
state.” Though Locke’s “relation between the citizen and the city is equally distorted, it 
is conveniently distorted in the opposite direction.”

The American republic was long the beneficiary of this tension; it was like a 
string pulled tight between the cult of the individual and the cult of the state. 
Unfortunately the public philosophy of our own century has made the string go 
slack. It glues the two cults together rather than pulling them apart: it distends the 
individual in some ways while diminishing him in others. The lesson for those 
who love the tradition is that we can no longer rely on a balance of errors. From 
now on, nothing less than truth will suffice.

In other words, America possessed a public philosophy that, prior to the twentieth 
century, adequately balanced the more classically republican emphases of Aristotle and 
Aquinas with the individualistic emphasis of Locke. However, that balance has now 
tipped the scale and we must now pursue only truth, not a “balance of errors.” It is 
difficult to know what Budziszewski has in mind by this closing rhetorical flourish, yet 
his interpretation of Locke is clear: Locke provided the solution embraced by the 
founders, yet Locke did not always foresee the consequences of his proposals. We must 
then amend Locke, such as by rejecting his rejection of innatism, to avoid the excesses of 
the twentieth century. Unfortunately, Budziszewski still leaves many questions 
unanswered, which we will pursue in the next two chapters. Does Locke’s theory actually

76 Ibid., 194.
77 Ibid., 195.
conceive of rights as Budziszewski suggests; that is, as bounded by the natural law rather than as immunities? Also, is Locke’s solution open to the amendment Budziszewski suggests, that is, accepting innate ideas?

This example shows that a so-called “Religious Right” position on homosexuality such as Budziszewski’s is not an argument for theocracy as such, but is plausibly Lockean. Yet it is based on a particular interpretation of Locke, which takes sides on questions Locke himself may not have considered—what I have called the “gaps” of Locke’s theory. But Budziszewski also leaves the presuppositions of his own position inadequately explained. How does natural law relate to the revealed moral law of Scripture? What would he do if sociological evidence did not confirm his expectation that all violations of natural or revealed law are “bound to emerge” as such? Would this lead him to rethink his interpretation of the natural law or Scripture, or is that precluded in advance? He does not say.

1.6. Souder on Natural Law: Public Arguments without Private Coherence

As mentioned, one of the virtues of Budziszewski’s argument is that he provides both a public political argument and, elsewhere, a theoretical analysis of Locke. For the majority of such public arguments, the theoretical background is not forthcoming. This is a much more serious problem, because those who offer public arguments in ignorance of their own suppositions are often unwittingly influenced by them. An example is found in One Electorate Under God? This book begins with statements from Mario Cuomo and Mark Souder, who offer liberal Catholic and conservative Protestant views on politics, respectively. The book then features responses from other intellectuals as well as transcripts of a conversation between Souder, Cuomo, and others. Copies of it were
presented to all delegates at both Republican and Democratic national conventions in 2004 to encourage discussion on the topic of religion and politics.

Souder begins his essay by quoting John Adams: “Our Constitution was made for a moral and religious people; it is wholly inadequate to the government of any other.” He thus invokes the founders as authoritative and claims to be working within their framework. But he believes America has strayed from that solution. Adams’ remark “was once an uncontroversial statement. It is a little more controversial today.” We must recover the founders’ notion that “faith institutions are the key to developing a personal moral foundation… But it is not the job of government to replace these institutions as the primary moral agents of society. The Founding Fathers clearly wanted no part of an official sectarian religion.” The heart of Souder’s argument is that “society discriminates against the moral views of conservatives” by excluding religious reasons from public. Leaders and citizens alike will often be religious. “These believers will not—and it is unfair to ask them to—check these beliefs at the door.”

By contrast, Cuomo argues that only those arguments that appeal to nature ought to be admissible in political debate. In the subsequent conversation, William Galston asks Souder a perceptive question.

Mario Cuomo gives an interesting and clear response: The God who ought to enter the public realm of a pluralist democracy is nature’s God, and the religious arguments that ought to enter the discourse of a pluralist constitutional democracy are the religious arguments that are the common property not only of all religions but also of all mankind. This is the classic natural law argument. My question to


79 Ibid., 22-23.
Mark Souder is whether you agree with that formulation, and if you do not, what portion of faith that is not accessible to the common reason of mankind has a legitimate role in the public realm.

Souder’s response is telling.

The notion of a natural law common to all religions is in fact a worldview and moral view that is different from a Christian worldview and moral view—and is unacceptable to me… If you ask, What is common to all religions? Well, what if child abuse is? What if date rape is? What if religions allow twelve-year-olds to have sex with adults? Does the law have to be common to all religions? … The question really comes down to, How do we respect one another? How do we resolve our differences? In other words, What is in the City of God realm and what is in the City of Man realm?

Notice carefully what has happened in this exchange. We know that Souder affirms the founders’ solution, in which he sees religion as a support for the moral life of a republic. He also acknowledges a distinction between the human city and the City of God; the nation’s goal is presumably limited in a way the City of God is not. The two have different purposes. It sounds therefore as if Galston’s question is on the mark: does not Souder, together with the founders, also affirm natural law as the basis of political judgment? Souder says not, but it is clear from his response that he does not know what the phrase “natural law” means. He seems to think it means, roughly, “a belief that all religions at their heart teach the same things about morality.” Souder concludes that if natural law means affirming whatever each religion teaches then natural law must be a species of religious or moral pluralism.

Because Souder’s comments are based on a misunderstanding, it is difficult to say what his view actually is. However the fact that he commits such a fundamental error

---

80 Ibid., 30.

81 He offers a clue in another interview, where he says, “The Ten Commandments are the closest thing we have to a foundational set of principles that are both in the Old Testament and reinforced in the New Testament.” Obviously, this is not a claim that the commandments are a natural law, but the fact that he sees them as “foundational” may be significant. Lucky Severson, “Interview: Congressman Mark
about such a crucial concept is telling. Souder has served in Congress for a decade as a visible and respected conservative Christian politician, yet he is unaware of the presuppositions on which the founders’ solution—that he explicitly invokes—depends. What he seems to be trying to say is something along the following lines.

The American founders understood the importance of religion for maintaining the basic morality needed to support the human city. The state should not become a church of its own, or even embrace an official religion, though it can “foster” religious institutions—as they are essential grounds for morality. Thus the founding solution is neither theocratic nor anti-religious. Yet the notion that nature’s god can teach morality is mistaken, because there is no such generic deity. Morality depends upon the God revealed by Christianity.

But what does this mean for the founders’ solution, which at least in name does depend on nature’s god? Perhaps Souder means to say, with Jefferson, that most people need to learn of morality through religion, but in principle it is knowable through reason? We will never know, because the mere appeal to the founding solution is made without any attempt to think through the theological presuppositions on which it depends. If moral law can only be known through revelation, how does he suggest we deal with differences in scriptural interpretation on questions such as homosexuality? Souder’s


82 In Souder’s defense, I offer two comments. First, his response was given extemporaneously. While this should not excuse a long-serving congressman and graduate of the University of Notre Dame from knowing what the term “natural law” means, it is possible that, given time to prepare an answer, he would have responded differently. Second, Souder is clearly not ignorant or an anti-intellectual fundamentalist. Elsewhere in the conversation he speaks with intelligence and subtly about the Iraqi immigrants he represents in his district, about their life under Saddam Hussein’s regime, about differences between Shi’i and Sunni conceptions of Islam, and so on.
public position is potentially more misleading than Budziszewski’s because his presuppositions are more disconnected from his public arguments.

Souder and Budziszewski are emblematic of a problem that pervades Christian contributions to political debate. Their public arguments, perhaps unintentionally, prey upon the ambiguities and gaps of the founding, leading them to confuse themselves, their allies, and their opponents alike. What they need to do, but what they and other Christians consistently fail to do, is articulate where they depart from Locke and the founders and the theological presuppositions that make their acceptance of Locke’s solution possible. But in order to do that, they would need a nuanced understanding of Locke’s solution and their implicit dependence on it. I begin to supply this in the next chapter, which examines Locke’s *Letter Concerning Toleration*. 
CHAPTER 2:
PREVENTING “THE PRETENCES OF LOYALTY”
HOW THE LETTER CONCERNING TOLERATION
DISTINGUISHES EXACTLY THE BUSINESS OF RELIGION

2.1. Introduction: The Archeology of Cultural Memory

“There’s a story making the rounds today about the beginnings of modern philosophy in which John Locke is either villain or tragic hero—take your pick.” So begins Nicholas Wolterstorff’s recent study of Locke. While Wolterstorff disagrees with the story that is “making the rounds” he finds it worth retelling because he affirms it at least to this degree: Locke is central in explaining “how we got to where we are in our thinking.” Indeed, Wolterstorff spends the entire book presenting his own retelling. His is a story in which Locke is neither quite villain nor hero, but is without doubt the leading character. So too in my story.

One of the reasons Locke is the leading character in my story is because of his influence on American politics. As we shall see in chapter 4, political leaders and clergy of the American founding era looked overwhelming to Locke to resolve tension between religious and civic life. Time and again, today’s disputes appeal to the founding for support. Now, the founding itself has become an object of dispute:

For many, the key issues of American politics now are not issues of political structure or policy, but of “values”—family values, religious values, moral values, and so forth. The battle over these “values” often takes the form of a battle for custody of the founding. So, TV minister D. James Kennedy asserts that “Christians have a right to reclaim America because the nation was founded by Christians.” To that, a liberal columnist responded by arguing that “our constitution [was] written by people—Christian, agnostic, atheist and otherwise—who believed uppermost in protecting the rights of the minority.” For both, the questions involved … have direct and deep bearing on how we answer some of the most troubling questions of our current political life.2

What both sides in this custody battle affirm is that somewhere in the founding a solution exists. According to Kennedy, this means that Christians may participate fully in politics qua Christians; if they are to do this without feigned obedience it must be clear that the state is Christian. According to Kennedy’s opponent, the original solution was quite the opposite, ensuring that non-believers need not feign loyalty to an established religion. Whatever their disagreements, they are both working in Locke’s shadow, for it was Locke who passed on to the American founders a path to preventing “the pretences of loyalty.”3

In this and the next chapter I investigate Locke’s work to help us think through the premises that underlie such disagreements. The scrutiny with which I examine him may seem unwarranted. After all, I include works by Locke that no one in America had access to during the founding period. My use of texts is similar to Wolterstorff’s. When he says that studying Locke helps us understand “how we got to where we are in our thinking,” he is not arguing that everyone for the past three centuries read, comprehended, and was persuaded by the Essay Concerning Human Understanding.


3 Letter, 15.
Instead, Locke’s work represents a moment with wide influence. To be sure, part of its influence is of the sort that can be traced by historians—identifying who read whom when—but a writer’s influence can also be distant. It is for this reason that I follow Wolterstorff in a practice he calls “the archaeology of cultural memory.” As the founder of political liberalism, subsequent political reflection is practiced in light of him—or, to reverse the metaphor, in his shadow. Quite simply, his work is the best, the most coherent, and the most philosophically sophisticated statement of how Christian and civic concerns have been reconciled within the canonical tradition of political liberalism.

The starting point for Wolterstorff’s telling of the story is that Locke’s epistemology responds to a crisis. My study recognizes this, but also notes that political liberalism today faces a similar crisis in its relation to religion. Some term this a “culture war” and for them the battle lines in the war lie between Christians and secularists, traditional and progressive morality, the Religious Right and the anti-religious Left. Others see today’s crisis as theoretical not cultural.

The original crisis that Locke addressed lay in how disagreements about religious and moral life relate to politics. If moral knowledge is based on Scripture or the church’s teaching, should the state make scriptural or ecclesial law a part of civil law? For example, if some Christians believe it is required to attend worship services or to receive communion while kneeling, are they insincere Christians if they do not require such practices of their fellow citizens? Or if a diversity of religious practices exist within a given city, perhaps civil disorder will result because of disagreements about them; thus perhaps it is a failure of good citizenship not to require uniform religious practice. Even

his *Two Treatises of Government*, which are less concerned with religious questions that his other works, address this crisis. Most obviously, the entire *First Treatise* responds to the argument that Scripture supports a given political regime. And even the *Second Treatise* refers repeatedly to the importance of the law of nature and God to the political regime that Locke advocates.

The solution that Locke proposes to this crisis separates religious and political life by arguing that religion is concerned with securing life after death and politics is concerned with securing individual natural rights, especially property, in this life. Locke’s tone shows him to be quite confident in this solution, but anyone with a cursory familiarity with today’s political disputes can see gaps that Locke leaves unresolved. I believe that these gaps, having been unresolved since Locke’s day and exacerbated by the greater pluralism of our day, are present in today’s crisis, as recapitulations of the crisis that Locke himself addresses. For example, Locke clearly recognizes that securing natural rights depends on a stable civil society—one free of widespread unrest or strife—and that such stability in turn depends on a morally upright citizenry. But if most people’s primary sources for moral knowledge are religious (Locke seems to say they are), can religion and politics be so simply separated along otherworldly and this-worldly lines? Seemingly not. At points, Locke seems aware that his solution is incomplete and at other times he seems oblivious. This is what makes today’s crisis something new. It is not merely a return to the crisis Locke faced; part of what is in crisis today are different attempts to make Locke’s own solution fill in Locke’s own gaps. It is a crisis of Lockean thought itself.

My argument is that part of what is unique about today’s crisis is that it represents disagreements *among* plausibly Lockean solutions. In other words, because Locke leaves some questions unanswered, contemporary thinkers have reconstructed answers that are
compatible with the basic thrust of Locke’s project: what they believe Locke would have said (or perhaps what they believe he did say but most readers miss).

One such interpretation argues that Locke was on the right path in separating religion and politics along other worldly and this-worldly lines, but that his distinction should have been more rigid. Morality is a private matter best left to the individual’s conscience. The primary, and perhaps only, public moral imperative is to respect the autonomy of other citizens. Rights are spheres of immunity, within which individuals exercise their personhood as they see fit. This viewpoint emphasizes the neutrality of the government’s perspective with regard to differing conceptions of the good and de-emphasizes virtue as a public or political concept. For example, proponents of this viewpoint could hold that while Locke would have permitted laws against adultery or sodomy, this was only because he had failed to realize that such acts had no civil consequences and did not threaten civil stability. Just as many of his day mistakenly believed civil order would be undermined by allowing certain styles of worship, many of our day mistakenly believe civil order is threatened by certain sexual practices.

The alternative interpretation (recall the Reverend Kennedy’s argument) agrees that Locke was on the right path in distinguishing some religious and political concerns, but argues that morality and virtue are essential components of political life. Because religion is an important source of moral formation and knowledge, the separation cannot be so rigid that religion is excluded from public altogether. For example, although the civil law could not compel church attendance it could confer benefits encouraging church involvement (such as tax exemptions) and could sanction sexual practices thought to be destructive to social order. While the first position grounds rights in immunity and autonomy, this position is based on duties from which derive rights. We have rights to do
only what nature or a Creator intends. The present chapter shows that these differing interpretations share a set of common commitments.

2.2. Background to Contemporary Locke Studies

If there is any truth to the suggestion that studying controversial issues historically helps avoid controversy, it is not true in the case of John Locke. Perhaps all that is meant by this suggestion is that the distance of history provides a kind of perspective that helps us see things in a new light, in which case it is sound advice. In the long run, I think that this is correct; indeed, it is an assumption underlying this very project. But in the short run, Locke studies are so beset by controversy that much clearing away is required before any new light can be shed.

Recent work on Locke can be seen against the background of Quentin Skinner’s “Cambridge school” critique of the interpretations offered by C.B. MacPherson and Leo Strauss in the 1950s. While interest in MacPherson’s interpretation has not disappeared altogether, it is not a major player in contemporary debates. By contrast, Strauss’s approach to political philosophy has, if anything, gained influence and thus we can see the opposing camps in today’s debate as Straussian and the Cambridge school.

Peter Myers describes this as a controversy with two axes of dispute: (1) how historical concerns should guide our interpretation of Locke and (2) how revelation and

---


6 Though recall chapter 1, note 24, above.
reason, or theology and philosophy, relate in Locke’s work. Regarding the first axis, Strauss saw Locke as working in a great tradition of political philosophy that had begun with Socrates and, according to Strauss, declined in modernity (especially in Machiavelli, Hobbes, and Locke). As to the second axis, Strauss argued that Locke was only questionably Christian and that he had practiced a form of esoteric writing to mask his true convictions. The Locke who appeals to Scripture as authoritative is a public Locke; the true Locke makes reason apart from Scripture his “only star and compass.”

Those who can discern the signs know that Locke is Hobbes in sheep’s clothing.

Skinner and the scholars who subscribe to his school predictably take the opposite positions. What is interesting is that Skinner’s reasons for doing so are rigidly methodological. They apply not to Locke in particular but to the reading of any classic

---

7 Myers, Only Star and Compass, 13. It must be acknowledged that even if I try to avoid taking sides, Myers does not: he is clearly of the Straussian school.

8 As to whether this is a fair reading of Locke I will only say that it is more plausible than critics make it sound and less plausible than Myers makes it sound. For example, differences in argument between Locke’s anonymous and named texts are suggestive, as are subtle comments that appear at first to be only carelessness but may indeed by intentional contradictions. Granted, this is a far cry from Strauss’s full-blown theory of esoteric writing and his belief in the inevitable persecution of philosophers who tell the truth, but still it should be overlooked.

9 John Marshall identifies the main figures in the Cambridge school as himself, as well as Pocock, Skinner, John Dunn, Richard Tuck, James Tully, Mark Goldie, Justin Champion, Peter Miller, and David Armitage. Marshall, John Locke, Toleration, 2.

10 It is characteristic of those informed by Skinner to emphasize that they learn not from his interpretive conclusions but from his methodological presuppositions. For example, the very first paragraph of James Tully’s book on rights in Locke states that his approach is “indebted to the methodological writings of Quentin Skinner and John Dunn.” Unsurprisingly, this results in Tully coming to the same interpretive conclusions about Locke. James Tully, A Discourse on Property: John Locke and His Adversaries (Cambridge: Cambridge UP, 1980), ix, emphasis added.

The methodological focus is also apparent in how Tully responds to his critics. He rejects opponents’ arguments against his position with, “[They] return to an older way of doing the history of political thought… [by] turning back the clock.” Perhaps they do, and on the point in question, I think Tully is correct. But portraying one’s opponents as “behind the times” is not an argument. See James Tully, An Approach to Political Philosophy: Locke in Contexts (Cambridge: Cambridge UP, 1993), 126-127.
texts. Skinner’s Cambridge school maintains that Strauss is misguided in his belief that Locke, or any philosopher, can be read as dealing with the “big questions” that concerned the other greats of the tradition. Locke must be read “historically,” by which they mean in the context of the particular political and social events of his day and, indeed, the day-to-day events of Locke’s life. Skinner writes:

> It seems to me a lost cause to try to justify the subject in terms of the answers that it can provide to the ‘perennial problems’ allegedly addressed in the classic texts. To approach the subject in these terms … is to render it gratuitously naive. Any statement is inescapably the embodiment of a particular intention on a particular occasion, addressed to the solution of a particular problem, and is thus specific to its context in a way that I can only be naive to try to transcend.11

This move by Skinner may have had as much as anything to do with making Locke studies controversial. Rather than arguing against Strauss on textual grounds, showing that Strauss simply got Locke wrong, Skinner makes the bold claim that all writing is local.12 Indeed, the boldness of Skinner’s claim leaves him open to being challenged on

11 Quentin Skinner, *Visions of Politics: Volume 1: Regarding Method* (Cambridge: Cambridge University Press, 2002), 88. The above quote is from Skinner’s famous 1969 article, “Meaning and Understanding in the History of Ideas,” which is foundational both to the Cambridge school method and to Myers’ Straussian critique of Skinner. Indeed, Myers quotes the very passage that I do, with the notable exception that since Myers’ wrote his critique, Skinner published an extensively revised version of his article. Whereas my above quote is taken from the 2002 revision, Myers quotes the same passage in the 1969 original. Skinner’s tone is now less extreme and more cautious. Myers quotation of the original reads: “The vital implication here is not merely that the classic texts cannot be concerned with our questions and answers, but only with their own. There is also the further implication that … there are simply no perennial problems in philosophy: there are only individual answers to individual questions, with as many different answers as there are questions, and as many different questions as there are questioners. There is in consequence simply no hope of seeking the point of studying the history of ideas in the attempt to learn directly from the classic authors by focusing on their attempted answers to supposedly timeless questions.” Myers, *Only Star and Compass*, 16. Quoting Quentin Skinner, “Meaning and Understanding in the History of Ideas,” *History and Theory* 8 (1969): 50.

12 But J.G.A. Pocock claims (despite his occasional agreement with Strauss) that textual arguments are precisely what Strauss makes impossible. Strauss’s interpretations cannot be refuted on textual grounds because his reading strategy places the text in dispute. Pocock writes, “methodological assumptions … tend to place Strauss’s procedure beyond the reach of criticism—which is, of course, to make it critically worthless.” J.G.A. Pocock, “Exchange on Strauss’s Machiavelli,” *Political Theory* 3, no. 4 (1975). One can see Pocock’s point, but it wants nuance. Pocock’s position seems to be that esoteric (non-literal) interpretations of texts are never subject to rational engagement because they are non-falsifiable: the
his own grounds. He claims that his methodology is essential because it recognizes contextual authorial intent. But what if, for example, part of Locke’s own intent was to deal with the “big questions” of philosophy? Locke once recommended the Two Treatises alongside Aristotle’s Politics as foundational texts on government, after all. Thus even on Skinner’s own terms, we find a local claim for broader implication.

If our goal is to understand where Strauss and Skinner differ, Myers’ analysis is very helpful. Indeed, if those were the only alternatives, Myers’ plea for the Straussian reading is not unpersuasive. However, the positions into which these extremes have forced the debate are false alternatives between which we need not choose. Indeed, many of those who disagree with Strauss do so in terms other than Skinner’s—Wolterstorff and Jeremy Waldron are examples—and Myers’ analysis does not account for this. Yet

esoteric reader can always respond to contrary evidence with, “But that passage is part of the exoteric facade.” However, this criticism is only effective against those esoteric readings that have been severed from a disciplined tradition of interpretation. For example, Augustine’s figural interpretations of the gospels are non-literal, but because of the way Augustine is disciplined by Christian theology, his use of the text cannot be infinitely malleable.

Whether Strauss is sufficiently like Augustine—or whether Straussianism is a coherent-enough tradition to discipline itself—is another matter, but Pocock’s critique would at least need to be moderated. For my own part, I am skeptical that Strauss’s grand historical narrative provides as much discipline as is needed, and yet we do see instances of the rational textual critique that Pocock believes impossible. For example, Zuckert provides solid textual, Straussian evidence against Strauss’s claim of Locke’s similarity to Hobbes. Michael Zuckert, Launching Liberalism: On Lockean Political Philosophy (Lawrence: University Press of Kansas, 2002), 3.


14 Ruth Grant says saying something similar to my argument, though in broader methodological terms: “Though it is necessary to know [as Skinner, Ashcraft, and Dunn claim] why an author wrote what he did and for what audience … it is also necessary to know whether what the author says makes sense… When an author makes his case in the form of an argument, it deserves to be considered for its cogency as an argument.” Quoted in Myers, Only Star and Compass, 31n62.

15 Though Waldron says in his most recent book that he rejects “the central claim of the Cambridge school that there is something inherently inappropriate about raiding Locke’s work … [for] insights to be recycled in twenty-first century political philosophy.” Jeremy Waldron, God, Locke, and Equality (Cambridge: Cambridge University Press, 2002), 241.
Myers’ response is not unjustified, for many scholars have accepted the extreme positions as the only alternatives. It has become depressingly common for papers on Locke to begin with pledges of allegiance: “I am of Skinner,” “I am of Strauss.”

But what is at stake for the present study in these disputes, and why are they false alternatives? The responses to Strauss and MacPherson that began in the 1960s have grown into a kind of reigning orthodoxy on Locke. It argues that he was a Christian of some sort—though possibly heterodox, certainly Latitudinarian, and maybe Unitarian. In contrast to Strauss, this position emphasizes the political history of Locke’s time, such as his own biography, especially his years of service to Shaftsbury, in understanding what Locke wrote. Some of the influential scholars who contributed to this response include Peter Laslett (who introduces the Cambridge edition of the Two Treatises), Richard Ashcraft, and John Dunn. Of particular relevance to my project is the argument that Strauss greatly underestimated the extent to which Locke was informed by Christianity, an argument advanced by Dunn and Marshall. The contributions of James Tully and Francis Oakley have also been helpful for reminding readers of the “extensive points of continuity between Locke and the late medieval Christian natural law theorists.”

---


Sometimes, but not always, this debate engages the sincerity of Locke’s faith: was he a faithful though theologically innovative Christian, or was his faith a mirage designed to make his heretical views more palatable to an orthodox audience?

Despite my reservations with both schools of interpretation, the scholars relevant for my investigation tend to be closer to the Straussian approach simply because Skinner’s methodology lessens the possibility of Locke having the contemporary relevance that we indeed see in America today. This means that I must reject as too rigid Skinner and Dunn’s notion that our questions cannot be Locke’s questions (just as they assert that Locke’s questions cannot have been Aristotle’s questions). Dunn once famously wrote, “I simply cannot conceive of constructing an analysis of any issue in contemporary political theory around the affirmation or negation of anything which Locke says about political matters.”18 However, I do not believe I need to reject outright the Cambridge position because my interest in Locke is less for methodological than phenomenological reasons: Locke simply is invoked (sometimes by name, sometimes only by style of argument) in contemporary Christian political discourse. Thus American Christians proceed as if Locke’s questions are the “big questions” of political philosophy—and most of them have never even heard of Strauss.

For these reasons, I find many Straussians among my interlocutors. That said, I do not find the Cambridge critique of Strauss’s “insincere” reading unpersuasive, though I believe that both sides wrongly premise their debate on a false dichotomy. The idea seems to be that either Locke’s sincerity entails orthodoxy or his innovation entails

insincerity. It is as if the Straussian view says, “Locke is a heterodox theologian, so therefore he cannot be a Christian,” while the Cambridge school says, “Locke is a heterodox theologian, so therefore he must be a Christian.” From my perspective, this fundamentally misunderstands theological development, whether the gradual development of a tradition or the more punctuated innovations of a single thinker.19

Locke was a theologian insofar as he employed theological categories, and believed them to be important and worthy of careful thought. He should also be read as a theologian insofar as other religious thinkers read him as such, for example clergy of the American founding period. Unfortunately, the Cambridge school’s critique has not resulted in sustained investigation of Locke’s theological thought. They may have established that he was a Christian of some sort, but few have bothered to investigate whether that made much or any difference to his politics. Even as recently as 1994, John Marshall, author of the now authoritative Locke biography could write, “Locke’s religious thought has been very little studied… A profound study of his theology is ‘a striking gap in the literature.’”20 Further, the first comprehensive collection of his religious writings was not published until 2002.21

---

19 For example, are feminist or liberation theologians insincere because they read Scripture “subverting” it to their own (prior?) commitments? It is not always obvious where the line falls between redeeming a tradition for the sake of its own best insights and subverting it in an intentionally destructive or manipulative way. For example, I suspect that most feminist and liberation theologians are sincere, Hobbes was probably not, and Spinoza was certainly not. Where does Locke fit? It is hard to tell and I am not sure that establishing his sincerity one way or the other gets us anywhere.


It seems beyond question that Locke often departed from previous orthodoxy for altogether extra-theological reasons, such as his political commitments. To a thinker like Zuckert, the instances where Locke does this are evidence that he was a philosopher and not a theologian, because he must be operating according to reason and not revelation. From my perspective, this is to slice it too thin. I agree that “one can accept Locke’s political philosophy without being a Calvinist or any sort of Protestant, or even a Christian.” My point is that precisely by constructing a (nominally) Christian political philosophy which one can affirm without being Christian, Locke actually shapes Christian theology and, as such, is a theologian. Further, it is not clear that Locke disbelieves his own scriptural exegesis, though of course many of his interpretations are so isogetical that they are esotericism of a sort.

This raises the final issue to be addressed in this section. Should Locke be read esoterically? Are the obvious or “surface” arguments in his work different than his true meanings, which he conceals? Unfortunately, this question cannot be asked without conjuring exaggerated, stereotyped images of Straussians counting paragraphs as if looking for the “Bible Code.” What we do see in Locke is an unfailingly cautious and careful writer of subtle rhetorical skill. Time and time again, Locke offers multiple arguments for a given claim in ways that subtly shift attention away from whether the multiple arguments are compatible. He regularly portrays his most innovative claims as “givens,” and his “givens” as innovations. All of this means that the interpreter must be a careful reader; as careful a writer as Locke deserves no less.

To say this is not to commit oneself to Strauss’s notion of philosophers as persecuted writers.23 In fact it is surprising how often those who reject Strauss’s conclusions find themselves forced to resort to interpretation that, from the pen of a Straussian, would draw ridicule. For example, Marshall’s intellectual biography of Locke is among the most faithful to a formal historical methodology. The book’s acknowledgments page is nearly a laundry list of Cambridge school writers. Ironically, while Strauss draws “hidden” conclusions via his particular strategy of reading, Marshall’s historical method does not prevent him from uncovering plenty of his own. Thus he argues that Locke become more interested in theology in the 1680s because he had recently fallen in love with Damaris Cudworth, who was herself interested in theology.24 Perhaps this is so, but is the idea any less speculative than what Strauss is accused of finding hidden? Or consider Wolterstorff, who soundly rejects Strauss’s claims about Locke’s insincere faith. Yet Wolterstorff reports that when he began to study Locke, he was perplexed by seemingly contradictory passages. “Eventually I concluded that to make sense of Locke, I had to distinguish between what … I call the visionary passages of the Essay and the craftsmanly passages.”25 In other words, Wolterstorff needed to develop a reading strategy to account for varying levels of directness in Locke’s work.

The implication of this for my own interpretation is that any adequate reading of Locke must be sufficiently careful to catch the subtleties of his writing. A naive critic

23 See Leo Strauss, Persecution and the Art of Writing (Glencoe: Free Press, 1952).
25 Wolterstorff, Ethics of Belief, xv.
may label this esoteric or unhistorical, but as I have argued throughout this section the
dominant alternatives need not be as rigid as it is sometimes claimed. Locke’s deepest
questions may not exactly be either Aristotle’s or our own, but they bear some relation to
them. His Christianity is unorthodox but we need not conclude that it is insincere. And
his writing is rhetorically and subtly sophisticated, but this does not make it a mask.

Were Locke studies to move outside the long shadow cast by the Cambridge-
Strauss debate, certain aspects would gain clarity. In particular, the problematic quality of
Locke’s theology could receive its due attention. To this point, the debate over whether
Locke was a Christian or a rationalist has diverted attention from what is perhaps the
more important question, at least for the theologian: is Locke’s theology sound? For
methodological reasons, historians like Marshall will not answer such a question.
Marshall’s reasoning is limited to observations such as (1) Locke was a Latitudinarian,
(2) there were many Latitudinarian in the Church of England, (3) therefore Locke is an
Anglican theologian of some sort. Unfortunately, if the only available paths for future
Locke scholars are either the historian’s or Strauss’s, no path leads to an authentically
theological engagement with Locke’s ideas. One of the secondary goals of my project is
to present another alternative, clearing a different path. That path begins here.

---

26 This is an oversimplification, of course. Marshall’s book actually pays much attention to the
changes in Locke’s theological commitments. Indeed, by the end of the book, he labels Locke “an
Unitarian heretic.” Marshall, John Locke: Resistance, 414. What he does not do, what as a historian he
would believe he could not do, is investigate the content of those beliefs theologically. My criticism is not
meant to blame Marshall for being a historian, but to call attention to what is overlooked in Locke studies if
Marshall’s approach represents the only alternative to the Straussian interpretation in which Locke’s faith
is insincere.
2.3. Introducing the *Letter Concerning Toleration*

The *Letter Concerning Toleration* was published in 1689, the same year as the *Essay Concerning Human Understanding*. Locke was living in Amsterdam at the time, having fled England shortly after his patron the Earl of Shaftsbury. Both feared for their lives for opposing the Catholic James II during the exclusion crisis. It was also in 1689 that Locke finally returned to England; with William of Orange in power, he found the political climate more hospitable.\(^{27}\) The *Letter* was likely composed in November of 1685. If so, Locke began it within two weeks of the revocation of the Edict of Nantes, which had caused a terrible wave of persecution against the French Protestants previously protected by the Edict.\(^{28}\) The *Letter* was originally anonymous, appearing in Latin under the title *Epistola de Tolerantia*. An English translation, also dated 1689 and also anonymous, was published in England by William Popple.\(^{29}\)


\(^{29}\) Any careful study of the text of the *Letter* requires attention to certain aspects of the translation. I read the two versions as equally valid statements of Locke’s position, and I move between the Latin and English when clarification is needed. I do this because, first, to my knowledge Popple’s translation never departs in any significant way from the sense of the Latin. (Most, but not all, agree. For a differing conclusion, see Maurice Cranston, “John Locke and the Case for Toleration” in Mendus and Horton, eds., *Letter Concerning Toleration in Focus*, 78-97.) Second, because the Popple translation is by far the most commonly read in English, it is the best suited to a study such as mine that concerns the *Letter’s* influence. Third, the main reasons for doubting the Popple version’s legitimacy have now been called into question.

It had long been thought that Locke did not authorize or approve of Popple’s translation, and that it should be therefore be viewed as second in authority to the Latin original. This is because in the codicil to his will revealing himself to be the author, Locke stated that Popple’s translation was made “without my privity.” However, Ashcraft argues convincingly that “Locke’s notation ‘without my privity’ means that the translation was carried out without active participation.” Further, Montuori presents evidence that Locke himself gave Popple the Latin copy that he translated and that Locke did indeed know the translation was underway. For these reasons, it is best to read the Latin and English texts as two versions of one work, rather than the English as a lesser version of the Latin. Ashcraft, *Revolutionary Politics*, 498. Montuori, “Introduction,” xxxii-xxxiii.
The political vision presented by Locke in the *Letter* is an essential component not only to his political theory as a whole, but also to the American tradition of natural-rights based liberalism. It is essential not just because Locke is widely acknowledged as the founder of political liberalism and the *Letter* is among his major works, but also because the *Letter* is specifically about the conflict between religion and politics. This is a central problem—some would say *the* central problem—that liberalism seeks to solve and, indeed, that Locke believes he does solve.

Locke’s solution is to distinguish as clearly and definitively as possible the authority of civil government and the church from each other, and to distinguish both from the realm of conscience. He argues that limiting religious and civil authority to their proper bounds not only secures individuals’ natural right to liberty of conscience, it also enhances the overall security of the political community by reducing religious conflict. But for such an argument to be persuasive in his context, he must counter a series of objections. What is the nature of the church, such that it would tolerate “heretical” worship even when it would have the power to prevent it? Does toleration extend to even criminal acts and, if not, how are its limits defined? Is toleration compatible with Old Testament condemnations of idolatry? If morality is informed by both religious and non-religious sources of knowledge, does not toleration threaten morality (or morality threaten toleration)? Locke provides at least partial answers to each of these questions in the *Letter*, and we can surmise more complete answers from his other works.

Before turning to the *Letter* in detail, we must consider the objection raised by some that it should not be taken as a founding text for liberalism because its toleration is too limited. In other words, is it too illiberal to be liberal? A brief glance over the opening paragraphs of recent articles on the *Letter* shows this to be a prevalent concern. Waldron represents a score of other scholars when he writes, the “main line of argument” in the
Letter is “an inadequate and unconvincing argument, one that in the last resort radically underestimates the complexity of the problem it addresses.” The typical plan-of-attack for such articles is to then either to say Locke is useless for supporting today’s liberalism (and we should look elsewhere, such as in Mill or Spinoza) or the Letter can prove useful if only we realize thus-and-such heretofore overlooked aspect. Neither of these responses is particularly helpful. As a historical point, Locke’s argument for toleration was quite influential and it was through this argument that today’s sensitivity to toleration arose. We cannot fully understand why we find Locke’s toleration too limited except by reference to the (limited, to be sure) toleration that he advocated. The quest for “heretofore overlooked” arguments has a place, but presumably it was the “main argument” that proved persuasive to previous readers. This suggests that the more interesting questions lie in why previously convincing arguments now appear useless.


31 Jonathan Israel argues for Spinoza as the Enlightenment’s greatest ancestor, contrasting his view of toleration with Locke’s. “The gulf between Locke’s and Spinoza’s conceptions of toleration, originating in Locke’s concern for saving souls and Spinoza’s for ensuring individual freedom, is thus widened further by Spinoza’s anxiety to whittle down ecclesiastical power.” Jonathan I. Israel, Radical Enlightenment: Philosophy and the Making of Modernity, 1650-1750 (Oxford: Oxford UP, 2001), 267.


33 My criticism of these articles should not be overstated. Each is helpful in its way, and Waldron, after having declared the Letter “unconvincing,” proceeds to do much what I am suggesting would be helpful: engage it seriously as a political argument, to help us better understand today’s concern for toleration. Interestingly, Waldron’s more recent full-length study of Locke argues that, at least on some points, Locke is more tolerant than is usually believed. I consider this below; see footnote 115.
Nonetheless, it is true that the Letter’s toleration is limited. It neither opposes an established church nor does it provide an unlimited right to freedom of conscience. And although Locke’s primary rights (life, life, property) are inalienable, they are not inviolable. That is, the object of any particular right is always in principle negotiable in a political community’s quest to secure rights in general.34

Further, Locke says nothing about the political rights of racial minorities or women. In other words, the Letter may be too specifically about religious toleration to be of relevance today, for, as some argue, “in modern society problems of toleration arise most often in connection with political, racial, or sexual matters, or with freedom of speech and of opinion more generally.”35

This assertion seems rather doubtful. Even granting that these certain problems (“sexual matters”) predominate, is it not clear that religion bears on them in important ways? Even more decisive against this argument for the Letter’s irrelevance is that one could draw the opposite conclusion from the same evidence. If the problems we encounter today are those that the Letter does not address, does this not suggest that the Letter has been singularly effective and influential in what it does argue? For example, when Thomas Jefferson writes in his own notes on the Letter that “where [Locke] stopped short we may go on,” this presumes agreement with Locke’s argument as a whole.36 What these contemporary challenges do show, and what Jefferson’s comment

34 The right to freedom of conscience may be an exception. It is inalienable and inviolable, though not unlimited in scope.

35 Mendus and Horton, eds., Letter Concerning Toleration in Focus, 2. Mendus and Horton are reporting the views of others who find the Letter to be irrelevant; they do not hold that view themselves.

reveals in a small way, is that Locke sometimes seems unaware of the full implications of his argument—or at least he does not always call attention to those implications. Additionally, the implications for today’s readers were often not implications for Locke, largely because Locke’s context was far less religiously and morally pluralistic.

Even though Locke appears supremely confident in the effectiveness of his solution, he does not here account for every eventuality that will arise from it, nor could he have. It is, after all, a relatively short letter with a defined historical purpose. Nonetheless, Locke gives us no reason to believe his solution is limited to this historical context. Indeed, the tone of his language often reveals a kind of sweeping confidence in his solution. In the very first paragraph he presumes to know “the business of true religion” and in the final paragraph he promises that were his church-state distinctions observed, “it is impossible that any discord should ever have happened between them.”37

For this reason, it will be necessary to refer to other of Locke’s works to fill in what he leaves unspecified here. For example, his solution depends directly on his assertions about the nature of the church, the government, and the law of nature, topics that he addresses outside the Letter. But as we shall see, even with the additional clarification provided by these other sources, his solution still reveals gaps: points at which his work is open to multiple interpretations, or points at which it is difficult to apply to more pluralistic contexts, such as twenty-first century America.

My approach will be to portray the Letter as a series of answers to questions that Locke anticipates from his readers. He begins by arguing for religious toleration. But, the reader will ask, how does he define religion? And if the government cannot restrict

37 Letter, 7, 109, emphasis added. The latter quote is from the final paragraph not counting the postscript.
religious practice, what about criminal or cruel religious practices? Locke answers, but this raises further questions, and so on. In this chapter, the central question to which I seek Locke’s answer is how he envisions a society in which religious and civic loyalty will not conflict. But this raises secondary questions to which I also seek Locke’s answers—questions that Locke often anticipates. For example, if we tolerate a neighbor’s sinful life—a life that we believe will result in eternal unhappiness—does my toleration not harm her? Are we not caught between lack of care for her well-being and disobedience of the magistrate (or what Locke says the magistrate ought to be)? Must we even tolerate cruel or criminal acts simply because they are part of religious worship? What things are intolerable and what is excluded outright from law’s jurisdiction? The Mosaic Law recorded in the Old Testament did not tolerate diverse religious practice; are we not disobedient to Scripture if we do otherwise? Should we tolerate diverse opinions, or practices as well? More generally, how, in all of this, do morality and religion relate?

In the following pages I present a detailed summary of the Letter. The Letter attempts to distinguish the potentially conflicting jurisdictions that lead to conflicts of loyalty so that such conflicts cannot arise. To use the terms of Oliver O’Donovan’s example about “dilemmas,” the Letter explains why there can be no Antigones or Bonhoeffers in a Lockean society.

I anticipate the objection that Locke does not deny outright the possibility of such a dilemma, but rather says they “will seldom happen.” It is true that for Locke there is a theoretical possibility of such dilemmas and in such cases “obedience is due, in the first place, to God, and afterwards to the laws.”38 From what he says in the Letter as a whole,

38 Letter, 85.
however, it is clear that he believes such dilemmas indicate something has gone wrong “elsewhere in the system,” so to speak. That is, the religious conscientious objector either misunderstands God’s command or the magistrate misunderstands the extent of natural rights. Notice that several pages on Locke gives the example of religious meetings being held in violation of the law, but he does not conclude, “This is an example of the sort of dilemma that can occur but rarely does.” Instead he criticizes the magistrate for wrongly banning the meetings. False dilemmas may occur (though “seldom”) but real dilemmas never will.

Following my summary, I will indicate some of the questions Locke either fails to raise or leaves unanswered and I look in other of his works for guidance on how he fit the solution together as a whole. Most specifically, these further questions relate to how the sources of moral knowledge (religious and otherwise) interact, how duties and rights relate, and what Locke means by the phrase law of nature.

2.4. Toleration in the Seventeenth Century: Sources of the Gaps

There are two main reasons that appealing to Locke from a contemporary context reveals “gaps” in his work. The first is simply Locke’s own, sometimes intentional, lack of clarity. Whether because his opinions were too controversial, or because he wanted to appeal to as wide an audience as possible, Locke was often vague in his arguments. (The most famous example being his seemingly contradictory definitions of law of nature.) The second source of gaps is the historical distance between the seventeenth and twenty-first centuries: perhaps not quite a wide ditch, but a broad span indeed. In this section I briefly examine Locke’s historical context, so that we can be as aware as possible of the ways his context differed from our own. The most significant historical differences for our purposes are the political conflicts the immediately preceded the Letter and the fact
that the *Letter* was written presuming a state church (something Locke emphasized by his extensive appeal to Richard Hooker). I trace these themes in what follows.

### 2.4.1. Political Context: Glorious Revolution and Edict of Nantes

Locke’s argument for toleration, and the historical context out of which it emerged, has not been as thoroughly studied as one might be expect. Two very recent works of note are Perez Zagorin’s *How the Idea of Religious Toleration Came to the West* and John Marshall’s massive *John Locke, Toleration and Early Enlightenment Culture*. As these works show, two events shape the immediate background to Locke’s work on toleration: the conflicts between the English Parliament and monarchy that dominated the second half of the seventeenth century, and the revocation of the Edict of Nantes in France in 1685. The former is in fact a complex series of events, including the period of Cromwell’s Protectorate (1653-1659), the Exclusion Crisis (1678-1681), the Restoration under Charles II and James II (1660-1688), and the Glorious Revolution (1688). Locke’s life was intertwined with many of these events: as a member of the house of the Earl of Shaftsbury, he was suspected in a plot related to the Exclusion Crisis, and fled to the Holland in 1683. He returned to England only in 1688, quite literally as part of the Glorious Revolution: he accompanied Mary II on her way to join her husband, William of Orange.

The English crises raised the issue of toleration in two specific ways. First, and most obviously, there was the question of whether England ought to be Protestant or Catholic. Second, especially if it ought to be Protestant, how should the government regard dissenters such as Puritans and Presbyterians? When a strongly Anglican Parliament came to power following the Restoration, it passed a series of laws to curb the
conflicts that, in their view, had led to the instability of the Civil War and Protectorate years. As Zagorin writes:

They charged dissenters with unreasonable separation from the Anglican Church merely over things indifferent in religion (i.e., neither commanded nor forbidden by Scripture), which the magistrate therefore had the right to regulate for the sake of order and conformity… They also made wide use of Saint Augustine’s defense of religious coercion in his writings against the Donatists.39

This specific focus of the Parliament’s intolerance on “things indifferent” is significant for understanding Locke’s position. His earliest writings on toleration, in a series of unpublished tracts, support enforcing uniformity in adiaphora. Without religious uniformity, he argued, the nation will be “in perpetual dissention and disorder.”40 Given how much this differs from his later position, it is important not to overstate the difference. Even at the early stage, Locke—seemingly paradoxically—supported toleration in things not indifferent. For example, Jews could be tolerated in not embracing Christianity (because it was for them a matter of salvation or damnation), but Presbyterians could not be tolerated in preferring different liturgical practices.

By 1667 Locke’s view changed substantially, though he was still some distance from his mature position. In the (confusingly titled) Essay Concerning Toleration, he argued for broader toleration on grounds similar to those he would later employ in the Letter. He distinguishes between three types of opinions and actions: purely speculative, practical and amoral, practical and moral. The first type deserved full toleration and the second deserved toleration at the magistrate’s discretion. In addition, magistrates may not


choose their subjects’ religion. This claim, together with the three categories of opinions, are essential distinctions for the *Letter* because they tend “to conceive the state as an exclusively secular institution separate from religion.” Yet the notion of natural rights, which is so central to Locke’s later political philosophy, is here wholly absent.41

It was during Locke’s exile in the Holland that the Edict of Nantes was revoked. This unleashed a way of Catholic persecution against French Protestants, some 200,000 of whom escaped to the Dutch Republic and elsewhere.42 Many of those who remained were subjected to enslavement on galleys, torture, and murder. It has long been speculated that Locke was driven to his mature view of toleration by seeing the consequences of this persecution firsthand, and seeing that different religions could coexist peacefully, as in Amsterdam. While that is no doubt true to an extent, Marshall has recently shown that whatever toleration was to be found in Holland was due more to lax enforcement of laws than a principled guarantee of religious liberty.43 Both Zagorin and Selina Chen argue that Locke’s change of mind is better understood if we take the *Letter* to be a response to Samuel Parker’s 1670 *Ecclesial Polity*, which argued against toleration. Chen shows that the precise points at which Locke shifts from his earlier position are those points of concern to Parker.44 The change in mind must also have

---


42 Ibid., 245.


44 Chen also uses this fact to suggest, “the separation principle need not show that there must be no conflict whatsoever in order to be sound.” It need only show that it will prevent open rebellion. Chen, "Locke's Political Arguments for Toleration," 181.

If we are evaluating the internal logic of Locke’s argument, this could well be true, but Locke himself does not make this concession and, indeed, appears unwilling to do so. It is particularly curious that Chen is willing to make this concession when the main thesis of her argument is to show that toleration is a natural right (as opposed to a prudential policy). Asserting that toleration is a natural right in Locke does
preceded Locke’s stay in Amsterdam, because the fundamental argument about
adiaphora not being within the magistrate’s jurisdiction—so critical to the Letter—is
actually made in his “Critical Notes on Stillingfleet,” which he wrote two years before
leaving for Holland, and in his even earlier “Essay Concerning Toleration” (1667).45

Recent study of Locke’s Letter appears to have shifted in response to the 1991
article by Waldron described above. The best recent historical studies on Locke and
toleration, notably Chen’s and Marshall’s, have moved in the direction of rehabilitating
Locke’s argument for toleration by connecting what he says in the Letter to broader
aspects of his philosophy. For Chen this involves showing how his view of toleration can
only be understood in light of his theory of consent and his epistemology. For Marshall
this involves relating the Letter to the Second Treatise, and in particular its final chapter,
“Of the Dissolution of Governments.”46

My approach also shows the importance of Locke’s other works to understanding
his view of toleration. Yet it remains significant that the theory is never presented as a
complete whole. Even if, say, a certain passage in the Letter is clarified only by a certain
paragraph in the Essay Concerning Human Understanding, not all readers will make that

not necessarily require asserting that church and state can be separated without conflict. Yet it would seem
that merely avoiding open rebellion is not enough of a guarantee if what is at stake is a natural right.
Perhaps Chen would best be interpreted as conceding only what I argued in the preceding section: false
dilemmas may occur but real dilemmas never will.

45 Another explanation for his change of mind is offered by in John Locke, The Reasonableness of
lxxxiv.

46 In his recent book, Marshall uses Second Treatise chapter 19, as the hermeneutical key to
understanding the whole of the treatise, and then in turn uses the Treatise as the hermeneutical key to
understanding Locke’s view of toleration. Marshall concludes that Locke and a number of related writers
were “crucial in handing on to the ‘High Enlightenment’ many of its leitmotifs—of religious toleration, of
‘humanity’ and ‘civility’ and of the notion of progress against the alleged ‘barbarism,’ ‘superstition,’ and
connection and those who do will make it differently. While works such as Marshall’s and Chen’s may be right in the need to cast a wider net in the hunt for Locke’s view of toleration, we must not lose track of how this very fact leads to quite different interpretations. Because my project focuses on how Locke’s ideas are received, both in the founding era and today, it is important to preserve the distinctions between what he says in various texts.

2.4.2. Religious Context: An Established Church and Locke’s Use of Hooker

Locke’s early and late views on toleration differ so much that it is easy to overlook what does not change: Locke presumes throughout that the state may legitimately establish a church. When Locke concludes that magistrates may not choose their subjects’ religion, this does not preclude an established church, paying clergy with tax revenue, and so on. For those accustomed to the trajectory that disestablishment took in America, this can seem odd, and it poses a difficulty when applying Locke to the American context. In America, it is typically assumed the religious freedom and disestablishment are of a piece. But Locke did not write as if this were the case, and many early American leaders did not either. Rather, they believe (or at least appear to believe) that a subject’s natural right to freedom of religion is not in principle violated by living under an established church.

This is a further clue as to why multiple interpretations arise when Locke is invoked as an authority on contemporary church-state disputes. It is unclear whether his theory presumes, and even welcomes, an established church or whether it subtly works against establishment, but gives the appearance of accommodation for reasons of expediency. Does he believe that establishment actually violates the right to religious freedom, but is willing to leave it to later generations to advocate disestablishment? Or
does he believe establishment is purely a prudential question, and that natural rights can be secure with or without establishment, provided certain other conditions are met? How one responds to this question alters how one interprets Locke’s theory as a whole, not to mention the trajectory of Lockean liberalism. For if the latter is true, Locke’s liberal principles share significant ground with, for example, Rawls—even if Locke could not in his day follow all of the principles to their logical conclusions. Unfortunately the questions cannot be answered definitively by referring to the text of Locke’s Letter because of how it simply takes establishment for granted.

The complexity of this problem is highlighted by Locke’s quotations of Richard Hooker, the great sixteenth century Anglican theologian. By invoking Hooker, Locke gives his work the appearance (whether accurate or not) of continuity with traditional Christian views of church and state, and of natural law. The pattern is recurring, and runs as follows: Locke asserts a claim and then, without considering whether he and Hooker share the relevant premises, quotes Hooker as an authority to show that Hooker also supports the claim. Locke never mentions Hooker when the two disagree. It does not follow from this that Locke and Hooker do disagree. What does follow is that for most readers the question is overlooked; Locke supplies the quotes in ways that shield from view whether he and Hooker agree about the disputed presuppositions. Even Peter Laslett, whose edition of the Two Treatises largely rejects any esoteric readings, concludes, “The reference to [Hooker] here and throughout the Second Treatise was also intended to lend respectability to his position and turn the flank of his opponents, especially the good churchmen among them.”

47 Laslett’s note to Second, 5.
Of all of Locke’s mature works, Hooker’s name appears by far the most often in the *Second Treatise*, and he is invoked there to support Locke’s conception of the state of nature. It is true that Hooker and Locke both based their political theories on prepolitical conditions that could fairly be called states of nature, but the reasoning that leads each to that conclusion is not parallel, and may be incompatible.

State of nature-based arguments are premised on equality, of one sort or another. The classic example is Hobbes, for whom the relevant equality is that we are all equally subject to violent death and we form civil societies to prevent this. Hooker speaks of a different type of equality, the equality of the mutual obligations of love and duty that everyone owes to (and claims from) her neighbor. Depending on which sort of equality drives one out of the state of nature and into the social contract, the legitimate bounds of political community may vary greatly. Hobbes’ community exists to fulfill minimal human needs; Hooker’s to fulfill the Golden Rule. On the surface, Locke’s conception of equality appears closer to Hobbes’s. So perhaps the quotations to Hooker are, as Laslett says, “to lend respectability.” This is certainly the argument of interpreters such as Strauss and Cox. And yet careful examination shows that the picture is more complicated, for some of Locke’s quotations show that even Hooker sometimes describes equality as need rather than obligation: “we are not by ourselves sufficient to furnish ourselves with competent store of things needful for … a life fit for the dignity of man… This was the cause of men’s uniting themselves at first in politic societies.”

Given this, it is not implausible for Locke to see himself as in continuity with Hooker when he writes, “The reason why men enter into society, is the preservation of their property.”

---

48 Quoted in *Letter*, 15.

49 *Second*, 222.
What difference might this make? For Hooker, although civil society and church are not united as in Hobbes, the civil society of a Christian nation can rightly be called a “Christian commonwealth.” If so, the activities of the ruler may extend well beyond mere preservation of property. But according to Locke, “there is absolutely no such thing under the Gospel as a Christian commonwealth.” He thus rejects the premise, but does so without the least mention of Hooker or hint that this undermines their shared ground.\(^{50}\) Locke never clarifies this seeming problem, and thus those who see Locke as in continuity with Hooker and those who see his quotations as insincere have evidence on their side. But what of those who, for one reason or another, find themselves forced to choose between these interpretations? What of those, for example, who do not live in a Christian commonwealth and who need to know the government’s just bounds? For these Locke’s work provides few clues, only gaps.

2.5. The Argument of the Letter: Distinguishing Church and State

Locke spends the first three paragraphs setting the Letter in an explicitly Christian context. He advocates toleration, he says, because it is “the chief characteristic mark of the true church.” He assumes his audience will find Christian arguments convincing so long as he can show them to be authentically Christian arguments. These opening paragraphs set the rhetorical stage before he moves into his more concrete arguments, though what he says here should not be taken to be merely rhetorical.

\(^{50}\) Letter, 73. The same could be said about sumnum bonum, a concept upon which Hooker depends and Locke rejects.
Intolerant Christians appear to have the noblest motives at heart: “to make men Christians and procure their salvation.” But they reveal themselves to be under the sway of “lusts and vices,” for if their motives were pure, “why then do they suffer whoredom, fraud, malice, and such-like enormities?”\(^51\) Surely such vices threaten one’s soul more than, say, attending a non-state church. Yet the opponents of toleration spend their time concerned for the latter and disregard the former.

This represents Locke at his rhetorical best and it is important not to overlook the structure of his introductory argument for it is characteristic of his style. Locke challenges the internal consistency of his opponents’ arguments, taking their own premises but restating them in a way that shows them to be hypocritical or at least inconsistent. For example, he goes on to say that opponents of toleration “make use of arms that do not belong to Christian warfare.”\(^52\) On one level, these are all incredibly effective arguments, but notice that the way he uses internal Christian arguments can sometimes mask the disputed points. Because, of course, the very issue at stake is whether state mandated religious practice does or does not “belong to Christian warfare.” Similarly, the question is whether diversity in church practices might in fact be the cause of “whoredom, fraud, malice.” Presumably Locke’s opponents would see themselves as combating “such-like enormities” best by rejecting toleration. Throughout, Locke’s arguments follow a similar pattern: he argues against his opponents by offering reasons internal to their own positions, but subtly shifts the terms. This does not mean he is

---

\(^{51}\) *Letter*, 7, 8. I will follow Locke in using “salvation” to refer to what happens in the afterlife. This does not reflect the full theological and scriptural meaning of the term, but Locke is consistent in meaning this.

\(^{52}\) *Letter*, 13.
disingenuous. However, the reader must be diligent to notice his subtle shifts and redefinitions.

Following these introductory paragraphs, Locke enters into the heart of his argument, which is based on the distinction between government and religion. He writes:

[So that] none may impose either upon himself or others, by the pretences of loyalty and obedience to the prince, or of tenderness and sincerity in the worship of God I esteem it above all things necessary to distinguish exactly the business of civil government from that of religion and to settle the just bounds that lie between the one and the other. If this be not done, there can be no end put to the controversies that will be always arising between those that have, or at least pretend to have, on the one side, a concernment for the interest of men’s souls, and, on the other side, a care for the commonwealth.53

Here Locke states his two goals in the Letter and the means by which he seeks to accomplish them. First, the natural right to practice one’s religion should be secured. He is even more explicit that this is his goal when he later writes that the securing of equal rights is “the sum of all we drive at.”54 Notice that he wants to free subjects from not only actual conscientious disobedience, but from even the need for feigned obedience.

Given Locke’s emphasis on conscience, we can well imagine a proposal in which the law requires certain outward professions (such as for civil religious reasons), though it is acknowledged that such professions do not bind individual consciences. For example, because he limits the government’s authority to externals, it still seems plausible that certain outward religious practices might be intolerable. Locke is too concerned with sincerity to allow this.55 Hence his first goal, securing the right to liberty

______________________________

53 Letter, 15.

54 Letter, 101.

55 Paul Bou-Habib’s article engaging the major recent studies (especially Waldron and Mendus) posits that the Letter offers two arguments for toleration: the “belief argument” and the “sincerity argument.” The former demands toleration because genuine belief cannot be coerced, while the latter
of conscience, demands even the freedom from *pretence* of loyalty. His second goal is
civil peace: an end to controversy and freedom from discord. What are the means to
secure such goals?

Locke believes that a broad (though not unlimited) religious toleration will not
only prevent the violation of a key natural right, it will also ensure civil stability. This
marks a change in Locke’s view. As mentioned above, he had previously argued that
toleration would cause *more* strife because whenever one person saw another
worshipping God in the “wrong” way, she would feel obliged to defend God’s honor,
eventually leading to violence. By 1689’s *Letter* he has clearly come to the opposite
conclusion. Remove the prior persecution and we can expect the violence to disappear.

Much of the *Letter* is his attempt to draw the line between civil and religious
concerns as finely as possible. Only if the line is drawn perfectly will discord be
“impossible.” He does this by first defining the commonwealth, then by defining the
church, and finally by showing Christian faith to be largely independent of both.

He writes that a commonwealth is “a society of men constituted only for the
procuring, preserving, and advancing their own *civil interests.*” He goes on to define civil
interests as “life, liberty, health, and indolency of body; and the possession of outward
things, such as money, lands, houses, furniture and the like.”56 The “whole jurisdiction of

demands toleration because sincere (in the sense of “pure”) belief is rendered impure when undertaken for
the wrong motives. I do not find this distinction convincing; Locke certainly does not make it. Below I
distinguish between (what I call) the Sincerity Argument and the Doubt Argument. My Sincerity Argument
should not be confused with Bou-Habib’s, who ignores the Doubt Argument entirely.

One interesting aspect of Bou-Habib’s article is that his interpretation of the *Letter* rests on a
reading of the *Essay* in line with Wolterstorff’s *John Locke and the Ethics of Belief* (though Wolterstorff is
not cited). It appears that what Bou-Habib is grasping for with “sincerity” is what Wolterstorff understands
as the obligations Locke places on belief. Bou-Habib could perhaps make the distinction he desires by
invoking Wolterstorff.

56 *Letter*, 17.
the magistrate reaches only to these civil concernments”: “man’s rights.” Obviously, Locke’s strategy is to make government intolerance logically impossible by showing government to be, by definition, limited. He gives three reasons why government “neither can nor ought in any manner to be extended to the salvation of souls.”

First, the care of souls never belonged to the magistrate in the first place. Government is “by the consent of the people,” and the people never gave to the magistrate authority over their consciences. This is a de facto claim: the magistrate does not have such power. Second, the magistrate could not have such power because the magistrate’s power is limited to outward coercion. “Such is the nature of the understanding that it cannot be compelled to believe anything by outward force.” The only power that can affect the understanding is the evidence of reason. “It is only light and evidence that can work a change in men’s opinions; which light can in no manner proceed from corporal sufferings, or any other outward penalties.” Third, Locke offers a prudential reason. It would be foolish for humans to turn over the care of their souls to the magistrate, because the magistrate does not necessarily have better knowledge of religious matters than others. To give the magistrate such authority would be, in effect, to

57 Letter, 18.

58 Letter, 19. It is worth noting Locke’s phrasing here. He often associates light with reason and ignorance with darkness, thus he elsewhere famously calls reason “the candle of the Lord.” That description fits well with what he says here. Even God does not speak without evidence, and even God does not (could not?) convince by sheer power. Certainly the magistrate does not possess a power God lacks. This is the only instance of the word “evidence” in the Letter. On Locke’s view of evidence, see Wolterstorff, Ethics of Belief.

The “candle” metaphor is used in various places, including Essay, 4:3.20 and Reasonableness, 253. The light image is also repeated in the Westminster Confession; indeed it provides the Confession’s opening words, a fact that is perhaps of significance for those who argue for the importance of a Calvinist upbringing to Locke’s latter theology. By contrast, Laslett speaks of the metaphors, especially “reason as the voice of God,” as “famous neoplatonisms.” See Laslett’s editorial note to First, 86 and also Higgins-Biddle’s note to Reasonableness, 253.
say, “I will choose my religion based solely on whoever happens to be in power in the place that I am born.” But it might be merely chance or superstition or ambition that caused that given religion to be in power at just that moment.

 Locke has shown that the state must be limited in these ways, all of which lead to religious toleration. But he anticipates the objection that even if the civil government has no concern for its subject’s souls, the church surely does. For his vision of toleration to be justified, he must not only show that the government’s force is limited to external sanctions, but that the church is limited from them. He defines a church as “a voluntary society of men, joining themselves together of their own accord in order to the public worshipping of God in such manner as they judge acceptable to Him, and effectual to the salvation of their souls.” But even voluntary societies require laws. How then does he ensure that church’s authority not threaten toleration? Again, by reference to sincerity. Because “external profession” is “altogether useless” in the absence of genuine conviction, it follows that “the arms by which the members of this society are to be kept within their duty are exhortations, admonitions, and advice.”

2.5.1. Defining the Church

It seems as though this should be sufficient for Locke to accomplish his goals in the Letter: the church’s tools are limited to mental persuasion and the state’s to bodily control. Indeed, Locke points out that the Letter is “not a proper place to inquire into the

59 Letter, 23.
60 Letter, 29.
true marks of the church”—but he then proceeds to do precisely that. To put this in other terms, it seems as though the argument for toleration could be complete as long as it demonstrated the church’s limited means (i.e., persuasion). By stating that the *Letter* is “not a proper place” for further discussion, it appears he agrees that his argument could be thus complete. Instead he proceeds to discuss the church’s ends.

As he hinted in the initial definition of the church, churches exist so that their members can worship God publicly and thereby secure eternal salvation. It turns out this purpose poses an additional limit to the scope of church law: “The end of a religious society (as has already been said) is the public worship of God, and, by means thereof, the acquisition of eternal life. All discipline ought therefore to tend to that end, and all ecclesiastical laws to be thereunto confined.”

To see the significance of this limit, it can be compared to what Locke wrote about the church eight years earlier in his unpublished “Critical Notes upon Edward Stillingfleet’s *Mischief* and *Unreasonableness of Separation*.” These notes contain some of his most extended thoughts on ecclesiology. Stillingfleet had argued that the church exists so that its members may be governed “according to the Rules of the

---

61 *Letter*, 27. The sentence from which this quote is taken concludes by comparing those who claim that their church is the only true church to pagans mentioned in the New Testament. He writes, they advocate their own church “perhaps upon the same principle as the Ephesian silversmiths did for their Diana” (*Letter*, 29). He is actually even bolder in this comparison when considering the church’s origins in his “Critical Notes on Stillingfleet.” Although humans knew, from of old, that religion was an unmediated transaction between the individual and god, they found there to be some parts of religious devotion that were difficult to perform as individuals. Thus they formed “societies for Religion.” “The Christian Religion when it came into the world proceeded upon the same grounds.” Thus the church is not a divine creation. It is a human project created on precisely the same principles and for the same reasons as pagan religious societies. *Writings*, 75.


63 There are disputes about whether Locke wrote the notes alone or was assisted by James Tyrrell. Marshall argues for Locke as the sole author. *Marshall, John Locke: Resistance*, 97-110.
Christian Religion.” Locke dismisses this by saying that a church that exists only to be
governed would be like an army that exists merely to be commanded.

One can see Locke’s point, of course, but it does raise the question of how he
understands the purposes of societies in general. Almost by definition, Locke seems to
exclude the legitimacy of societies that exist only for their own internal reasons. Armies
exist because they wage military battles in support of their nations. Churches exist,
according to Locke, to lead individuals to salvation. As is clear from the Second Treatise,
his view of civil society is similar. In each of these cases, there is an unmentioned, a
priori exclusion of the possibility that the society itself (in Locke’s sense) constitutes part
of its own good.

Locke’s response begs the question of why these two in particular, church and
state, are not exceptions. Enough thinkers have held otherwise that he should at least
consider the argument. The reason he does not—the reason that his exclusion of this
possibility is unmentioned and a priori—appears to be related to the voluntary and
contractual nature of the church and state. For example, after quoting Stillingfleet’s
definition of the church, Locke responds that “the great end of every man is happiness.”
But notice how this shifts the question: Stillingfleet asks what the purpose of the church
is and Locke responds by stating what the aim of humans is. The church could not be
what Stillingfleet claims, says Locke, because “it is scarce to be imagined that [anyone]
voluntarily entered into any society merely to be governed.”64 We can know its end by
imagining what reasons the rational person would have for joining.

64 Writings, 73, emphasis added.
Locke’s alternative to Stillingfleet enumerates three “ends of religion to be attained only in societies.”\textsuperscript{65} Churches exist for edification and formation, for public worship, and for teaching (so that future generations may be raised with knowledge of the gospel and so that all Christians will know their duty to God and neighbor).\textsuperscript{66} By the time he wrote the \textit{Letter}, Locke defines the church’s goal only as the second of these three purposes. Further, in the \textit{Letter} public worship actually becomes a \textit{means} to the real end, which is individual salvation. In the “Critical Notes,” individual salvation is mentioned but has far less prominence; rather “the great business of Religion is to glorify God and find favor with him.”\textsuperscript{67} In the \textit{Letter}, individual salvation is the only end mentioned.

Even if one grants Locke’s premise that the church’s end is individual salvation, it is not clear why he requires “all ecclesiastical laws to be thereunto confined.” Why can there not be secondary ends such as he mentions in the “Critical Notes”? The move is especially surprising given that he has already specified that the church is a voluntary society. On Locke’s own terms, why should a purely voluntary society, from which members may leave whenever they please, not impose whatever laws it pleases? Certainly it is open to Locke to allow secondary ends by saying that they, broadly

\textsuperscript{65} \textit{Writings}, 73.
\textsuperscript{66} \textit{Writings}, 74.
\textsuperscript{67} For those scholars who emphasize a distinction between a “public orthodox” Locke and a “private heterodox” one, this passage is worth noting. The notes were never published, yet they contain a more orthodox statement of the church’s purpose than the \textit{Letter}, which of course was published (albeit anonymously). In this case, at least, it is the private Locke who is orthodox. On the other hand, those scholars who argue for Locke’s orthodoxy and, especially, his Calvinism should not seek to make too much of this, despite its seeming similarity to the Calvinist Westminster Catechism. Written during Locke’s boyhood, the Catechism clearly states that glorifying God is the true end of \textit{man}—not religion. It seems a subtle difference, but it is deeply significant. In the notes, Locke says explicitly that happiness, not religion, is “the great end of every man”—a \textit{part} of which is served by religion, a further \textit{part} of which is served by the church. \textit{Writings}, 73.
considered, provide salvation. Thus the church may exist to glorify God and serve the poor, but these are done only because, in some larger sense, they ensure the salvation of individual members. This would seem unfortunately reductionist—the church worships God only insofar as doing so benefits its members—but even then, why can this voluntary society not make its own laws? To use Locke’s own example, we can imagine that a given church requires communion be received while kneeling even while acknowledging that this is not a requirement for salvation and that churches that do otherwise do not threaten their members’ salvation.

In making the argument for toleration, Locke is clearly driven by political concerns more directly than he was in the “Critical Notes,” yet his political concerns lead him to a theological claim about what sort of laws a true church may make. Presumably, a voluntary society may make whatever laws it chooses, but it may disqualify itself as a true church if those laws are not directly relevant to salvation. The best explanation for Locke’s limit on church laws is that it provides a “built-in” limit for what religious toleration entails.

2.5.2. Limits on Church Law

Whatever laws the church does impose on its members, those laws cannot have any civil consequences. Essentially this is Locke’s rejection of religious discrimination. Rights belong to humans qua humans or citizens (“as man or as denizen”).68 Given that Locke sees rights as directed toward securing happiness, he anticipates the obvious

68 Letter, 33. “Denizen” here refers to a resident alien or perhaps naturalized citizen (a foreign-born subject who seeks to live permanently in a new country). Locke prefers “subject” to “citizen” throughout his writing.
objection: what if a fellow subject is using his rights (so-called) to lead a life of sin that will result in eternal unhappiness? This is vitally important to the larger question of this chapter because Locke’s response may signal whether his political theory should be aligned with what would today be called perfectionism. Can the magistrate care for subjects merely by securing their basic rights, or can that care extend to the whole of their persons, including to their own religious well-being?

As Locke mentioned previously, we can seek to convince fellows but we cannot do anything that would “prejudice another person in his civil enjoyments because he is of another church or religion.” So rigorous is his prohibition that even excommunications must be carried out with “no rough usage of word,” lest those rough words lead to civil consequences (such as loss of reputation or estate). He thus anticipates the objection that we might want to reprimand our fellows for their own sake, and responds by limiting such “care” to persuasion. The precise way he makes this argument merits attention:

We must not content ourselves with the narrow measures of bare justice; charity, bounty, and liberality must be added to it. This the Gospel enjoins, this reason directs, and this that natural fellowship we are born into requires of us. If any man err from the right way, it is his own misfortune, no injury to thee; nor therefore art thou to punish him in the things of this life because thou supposest he will be miserable in that which is to come.

First, the almost oratorical flare of the passage—this the Gospel enjoins, this reason directs, and this fellowship requires—shows this to be an important part of his argument. The poetical meter begs the reader to pause and pay attention. Even more striking is the way Locke invokes by name his three main sources of knowledge: revelation, reason, and

---

69 Letter, 31.
70 Letter, 33.
nature. Second, Locke does not return to his earlier argument about sincerity, which presumably would have accomplished his purpose here. The mind cannot be convinced by anything but evidence and reason, thus however noble your motives, civil penalties will be futile. Yet Locke avoids this line of reasoning entirely. Third, his list of virtues contains exactly those that his opponents would have used in making exactly the opposite argument. Again we see Locke at his rhetorical best. When he says that we cannot limit ourselves to bare justice but must pursue charity, the reader expects him to mean, “While bare justice demands we leave our brothers and sisters to their own fates, we as Christians must do more than mere justice, we must love our neighbors as ourselves and, if necessary, ‘compel them to come in.’” But Locke means the opposite. It is bare justice that would “compel them to come in.” Charity does “more”: it respects individual rights.

Fourth, what Locke says here contradicts what he said in the Letter’s opening, more homiletic, paragraphs. There, charity is connected with toleration but the basis of the connection is that is that we should care for our neighbors’ well-being. Toleration shows the best concern for that well-being because only sincere (non-coerced) profession can ensure salvation. Here, however, charity is connected with toleration on the basis of not caring for the neighbor’s well-being: “it is his own misfortune.” The contrast between the opening paragraph and this passage is all the more striking when we notice how gospel and charity are connected. In the opening paragraph, Locke writes, “If the Gospel … may be credited, no man can be a Christian without charity.” Because of the importance of sincerity, charity demands toleration if the gospel may be credited. But in

71 Letter, 9, emphasis added.
the above passage Locke states as definitively as possible, “This the Gospel enjoins”—no conditional, no if.

While perhaps not an outright contradiction, this does signal a shift in argument. Why does he move from his early argument based on sincerity to this argument on indifference to neighbor? There are several possible explanations. Partly we must conclude that Locke simply finds the latter argument more convincing. Only in the latter passage do reason and nature join their voices with the gospel. However, it does not follow that Locke disbelieves the first argument or that he offers it disingenuously.

Locke’s change can be further explained by his use of the word “supposest” in the final line of the above quote. Because we merely suppose our neighbors would be better off following our advice than their own, we should only restrain them if their actions would do injury to us—because in that case we would be acting on more than a mere supposition. But in the absence of certainty, we should leave them to their own fate. Contrast this with the limits Locke earlier placed on ecclesial law. Not only must all church law relate to salvation, it must “proceed from the certain expectation of eternal life.”

Perhaps the best reconciliation—if that is what one seeks—of these two types of argument is that the latter argument is Locke’s primary claim, and the former is a kind of “backup” for those who doubt the first. This relation can be seen when he later rejects the possibility of the magistrate’s infallibility. We do not know for certain, so we must leave each to his own. But he quickly adds the back-up argument: even if the magistrate were correct, it is useless to me in the absence of my own sincere belief: “No way whatsoever

72 Letter, 23, emphasis added.
that I shall walk in against the dictates of my conscience will ever bring me to the mansions of the blessed.” Thus the Doubt Argument, the more skeptical of the two, is primary; the Sincerity Argument is a second line of defense.

Locke returns to these themes later in the Letter. Again, he anticipates the objection that we cannot truly care for our neighbor if we allow them to lead a life resulting in eternal unhappiness. Granted, he says, the “charitable care” of teaching and persuasion cannot be denied to anyone. “But what if he neglect the care of his own soul?” His response is based on the limits of law. “Laws provide, as much as is possible, that the goods and health of subjects be not injured by the fraud and violence of others; they do not guard them from the negligence or ill-husbandry of the possessors themselves.” Could the magistrate make laws that no one become sick or poor? “Let us suppose … that some prince were desirous to force his subjects to accumulate riches, or to preserve the health and strength of their bodies?” Should he force them all to see only certain physicians? Obviously not, Locke implies.

He bases this on the fact that there is widespread disagreement about “the true way to eternal happiness.” The right of caring for the commonwealth does not guarantee that the magistrate will know the true way better than anyone else. Again, he also offers the “backup” argument of sincerity: “Faith only, and inward sincerity, are the things that procure acceptance with God.” Coercing belief is like trying to “cram a medicine down a sick man’s throat, which his particular constitution will be sure to turn into poison.”

---

73 Letter, 55.
74 Letter, 45.
75 Letter, 47.
76 Letter, 55.
Three aspects of Locke’s argument are worth highlighting. First, by way of background, anti-heretical literature of the time frequently used the metaphor of disease, especially leprosy, in connection with those espousing intolerable opinions.\textsuperscript{77} It is no coincidence that Locke appropriates the image. Second, the medicine example proves somewhat disanalogous at this point. Medicine often does help the unwilling patient. Contemporary concerns for patient autonomy aside, Locke clearly never parented a toddler with a cold. He tries to smooth over the disanalogy by mentioning that the patient is allergic to this particular medicine, but in that case the problem is giving medicine to those for whom it is harmful, not the coercion—which is what the example was supposed to clarify.

Third, the way Locke uses the Sincerity Argument as a backup for the Doubt Argument is somewhat problematic. For the Sincerity Argument to work, we must know something very definite about religion: salvation is based on faith alone, faith must be sincere to be effectual, and faith is mental adherence to a proposition. Coercion cannot create such faith, so coercion must be abandoned in favor of toleration. But the Doubt Argument is premised on the notion that we lack definite knowledge about religion; we tolerate because we do not know enough to warrant coercion (i.e., there is no infallible religious knowledge). It is hard to see why the statements about faith that premise the Sincerity Argument are not among those that ought to be doubted. Locke realizes this problem but merely rejects it out of hand: “whatsoever may be doubtful in religion, yet this at least is certain, that no religion which I believe not to be true can be either true or

\textsuperscript{77} Marshall, \textit{John Locke, Toleration}, 573.
profitable unto me.” But why is that fact certain when so much else is doubtful? Locke does not answer.

2.5.3. Moses’ Law and Theocracy

Locke next considers the objection that his position will wrongly tolerate idolatry, even though idolatry is a sin. He quickly dismisses this argument on grounds of reciprocity. What is idolatry to one magistrate will be piety to the next. Thus before criminalizing idolatry, Christians should realize that by giving the magistrate such power they will be threatening their own freedom to worship should “a Mahometan or a Pagan prince” come to power. After all, not all sins are punishable by the magistrate. Uncharitableness and covetousness, for example, are not. “The reason is, because they are not prejudicial to other men’s rights, nor do they break the public peace of societies.” This of course is the ground of Locke’s political theory: legitimate government is limited to securing rights.

But what of the fact that the legal structure of ancient Israel as described in the Old Testament was not thus limited? For “by the law of Moses idolaters were to be rooted out.” In very short order, Locke sets aside this argument. How he does so is interesting for two reasons. First, he explicitly rejects what was probably the more common ground for doing so before offering his own reason. Second, although he claims his reason is sufficient proof, he proceeds to offer supplementary reasons over the next several pages.

78 Letter, 55.
79 Letter, 71.
80 Letter, 73.
The most predictable response would have been to appeal to the traditional Christian distinction of moral, judicial, and ceremonial law. Laws pertaining to worship could be seen as ceremonial and, as such, not applicable to Christians. Interestingly, Locke rejects this out of hand: “there is nothing more frivolous than that common distinction … which men ordinarily make use of.” Despite rejecting the traditional grounds, Locke does agree that the laws are inapplicable to Christians. Laws only oblige those to whom they are given, and the phrase from Deuteronomy, “Hear O Israel, sufficiently restrains the obligations of the law of Moses only to that people.”81 By rejecting the tripartite distinction, Locke is able to argue that all of the Mosaic Law is limited to the ancient Israelites to whom it was first delivered. Anything that both Moses’ law and contemporary civil law might jointly command is coincidental.82 Civil law today cannot take the Law of Moses as a foundation. In a single stroke, Locke eliminates the entire Old Testament as applicable to civil law. But why should a contemporary magistrate not want to imitate the Mosaic Law, and why would doing so be illegitimate?

Locke’s answer is that ancient Israel was a special case, a theocracy in which civil and religious law were unified. Israel was “different in that from all others.” Such theocracies exist only where “God himself was the legislator.” Locke grants that if such a nation existed at his time, “the ecclesiastical laws do there unavoidably become a part of the civil.” But such nations do not and indeed cannot exist because “there is absolutely no

81 Letter, 73. Locke elsewhere contradicts this by advocating the ceremonial-moral distinction in Reasonableness, 18-19.

82 One scholar draws some significance from the place Locke gives, or does not give, to Moses. Begin with Moses (as Hobbes does) and you end up with a leviathan; begin with Adam (as Locke does) and you end up with toleration. Joshua Mitchell, "John Locke and the Theological Foundation of Liberal Toleration: A Christian Dialectic of History," Review of Politics 52, no. 1 (1990): 75.
such thing under the Gospel as a Christian commonwealth.\textsuperscript{83} Though there are many “Christian” cities, their forms of government are ancient, not Christian. Christ himself instituted no commonwealth.\textsuperscript{84} Locke then discusses a few details of the treatment of aliens under the Mosaic Law before abandoning the topic altogether. It is unfortunate that he says no more.

The issue with which Locke must contend is why the Old Testament bans idolatry when he has claimed that civil law is limited to securing individual rights to property.\textsuperscript{85} Theocracies are a special case to which that limit does not apply. Obviously, Locke might have argued that certain religious practices themselves will ultimately make individual rights insecure, such as by decreasing civil stability. But as his argument throughout the Letter has been that diverse forms of worship are without civil consequence, he will hardly want to make that shift here. He therefore seeks criteria that legitimate ancient Israel’s law but which no possible nation could meet today. There was something special about ancient Israel that allowed it to legislate on matters beyond individual rights; no other nation can be “special” in that way.

This also explains why Locke rejects the tripartite distinction; it would have left open the possibility of this or that ceremonial law being deemed legitimate because there could be disagreement about whether a law is ceremonial or moral. His criterion is much stricter. Only nations of which God is the legislator are exempt from the otherwise

\textsuperscript{83} Letter, 73.

\textsuperscript{84} Letter, 74.

\textsuperscript{85} Property here includes rights of conscience because the first and most important of all properties is that of one’s own person (Second, 27). Also, “liberty of conscience is every man’s natural right” (Letter, 95; one of only two instances of the phrase “natural right” in the Letter).
blanket principle that securing rights is the only legitimate basis of civil law. But why this provides such an exemption Locke leaves his readers to speculate. Why can God violate the limited purpose of civil law?

Based on the whole of Locke’s work, it might seem that the explanation lies in how revelation and reason relate to lawmaking (a contested point in Locke studies). For Locke reason is the ultimate arbiter of law. Even those who see him as allowing revelation to inform law must still concede that revelation is interpreted by reason and reason would still be required to verify the status of a given communicative act to be revelation. Thus it seems that God’s direct involvement as legislator somehow sidesteps the need for reason to be the ultimate arbiter. Even the way Locke highlights God’s immediacy—“God himself” as legislator—lends credence to the possibility that the explanation lies somewhere in the reason-revelation relation. But this would be a false solution, for what really needs explanation is why God is exempt from what Locke otherwise portrays as a principle of basic justice: the civil law must only secure individual rights. To put it in contemporary terms, why does Locke allow God’s civil law to be perfectionist when all other legal codes cannot be? As with the limits on church law, the answer again seems to lie in consent.

The reason that civil law is limited to securing individual rights is that this is the purpose for which individuals form government in the first place; it is limited by the intent of the social contractors. As he writes in the Second Treatise, “The great and chief end therefore of men’s uniting into Commonwealths … is the Preservation of their Property.”86 Thus the limit originates in the intent of those who form the civil society.

86 Second, 124. See Letter, 83, for evidence that the importance of consent is present in this work and not only the Two Treatises. We will see in chapter 4 that this is the reason Madison gives in the
Obviously, a nation that was formed for different ends would not necessarily be subject to this limit. What exempts Israel from the limits on civil law is that God formed it for God’s own purposes, not by Israelites for their own purposes.87

The significant consequence of this for Locke is that if God has formed no other nation besides ancient Israel then there can be no Christian nation. Theocracy is simply out of the question. But what does Locke mean by “Christian commonwealth”? What is it that is excluded? Again, Locke’s emphasis on the revelation-reason dichotomy could lead one to conclude that what he excludes is Christian revelation (Scripture) as a basis for lawmaking or political arguments. As we have seen, the exclusion is more stringent. In Locke’s terms, a Christian nation would be one in which law’s scope goes beyond merely protecting “civil rights and worldly goods,” even if the basis is not revelation.

This prompts questions about how rigidly Locke applies the limit. A strict application, limiting law to preventing direct threats to property, seems too restrictive. For example, a situation of extreme poverty or disproportionate wealth could threaten property indirectly because the poor would have an overwhelming incentive to steal from the rich. Or a society that does not provide for the education of children could conceivably have more social problems—which might in turn threaten “civil rights and worldly goods.”

Memorial and Remonstrance for rejecting Patrick Henry’s “Bill for Establishing a Provision for Teachers of the Christian Religion.”

87 There is still a potential problem with this solution. The solution depends upon the social contract being a historical event, rather than a heuristic device. While there is much dispute over whether Locke’s contract need be historical, it cannot be addressed here. Whatever the conclusion of such studies may be it is clear that to justify Israel’s anti-idolatry laws the contract must be historical—because we must know the intent of the particular founders (or Founder). To see the problem this poses, consider the claim that a given society (say, England or America) need not have a limited government because its particular founders did not intend for it to be limited. Locke could not accept this. But if he rejects it, he also seems to remove his own grounds for justifying the Mosaic Law.
worldly good”—than a society with comprehensive primary education. Thus laws that might initially appear beyond the scope of protecting rights may turn out, on closer analysis, to be acceptable to Locke.

Locke applies his limit by reference to the public good. “The public good is the rule and measure of all law-making. If a thing be not useful to the commonwealth … it may not presently be established by law.”88 But from the Second Treatise we know that the phrase public good is, for Locke, a stand-in for the securing of rights. Public good is itself a means to an end, a way to preserve property, for that is “the great and chief end.”

He gives the example that the magistrate could rightly command all babies be washed in water if this is needed to prevent disease. But he could not command baptism, even though it may appear to be simply washing with water.89 Several pages on, Locke asks his readers to consider a further example. Imagine, he says, that a handful of destitute Christians seek refuge in a pagan country. The inhabitants of the country provide the Christians with basic necessities, and the Christians grow in number, eventually outnumbering the original pagan inhabitants. Locke speculates as to what intolerant Christians would do:

Unless these innocent pagans, strict observers of the rules of equity and the law of nature, and no ways offending against the laws of the society, I say, unless they will forsake their ancient religion, and embrace and new and strange one, they are

88 Letter, 59.

89 Though Locke does not draw attention to the fact, is it significant that the subjects of his example are minors? He writes, “Children, I confess are not born in this full state of equality.” Second, 55. Perhaps, then, they need additional protection. Contemporary standards of medical ethics, including the patients’ right to refuse treatment, would seem relevant—especially given Locke’s earlier example of the patient being poisoned by medicine he wanted to refuse. Of course, we can certainly imagine Locke allowing the magistrate to require the washing of adults if it was to prevent an epidemic.
to be turned out of the lands and possessions of their forefathers, and perhaps deprive of life itself.\textsuperscript{90}

Given what Locke said in his discussion of the Mosaic Law, his implicit criticism of such intolerance is expected. What is worth noting is his reason. What ensures that the pagans cannot be subject to civil penalty? The fact that they are “strict observers of the rules of equity and the law of nature.”

Thus Locke has answered the question about how he applies his rights-based limit to law. Laws may extend beyond the direct protection of rights and property so long as they promote the public good and conform to the rules of equity and the law of nature. However, this does not constitute an exception to the limitation. All law must still ultimately serve to secure rights and worldly property, though it may do so indirectly (still limited by public good, equity, law of nature) or directly. What he means by law of nature is highly debated and cannot be answered definitively. Indeed, how he relates the law of nature to rights is perhaps the central question in applying Locke to the contemporary context. Some of his other works, considered in chapter 3, provide clues as to his answer.

\textbf{2.5.4. Opinions and the Shared Jurisdiction Over Moral Actions}

As I have portrayed it, the Letter’s argument for toleration proceeds by distinguishing the realms of civic and religious authority and then presenting a series of responses to anticipated objections. We must separate state from church. But what is a church? A church is a voluntary society. But what sorts of rules may the church make? Only those that do not touch on civil rights or worldly goods. If the magistrate cannot

\textsuperscript{90} Letter, 71.
forbid idolatry, what about the Old Testament? Ancient Israel was a one-of-a-kind exception. All other nations must protect rights by reference only to the public good, the law of nature, and equity. What of opinions? Are any intolerable?

In arriving at the question of intolerable opinions, we reach the crux of the issue in what I have termed the loyalty problem, because it is here that Locke first considers a lurking problem that he has so far ignored. For the sake of argument we can grant Locke’s point that government concerns civil rights and worldly property alone, and religion concerns the afterlife alone. But how do each relate to the moral life? Ethics appears to be a shared ground, a middle term, between civic and religious life. Government is concerned with morality because, as we have seen, its standard is equity. But religion is also concerned with morality, because it is by a sincere effort to obey God’s moral law that we secure salvation in the next life. Locke addresses this question after distinguishing types of opinions, so it is first necessary to understand that distinction.

According to Locke, opinions belong to one of two classes, speculative or practical. Both classes concern knowledge of the truth, but speculative opinions “terminate simply in the understanding,” while practical opinions “influence the will and manners.”91 In other words, the former are merely to be believed, while the latter have outward consequences. Speculative opinions are always tolerable because, by definition, “they have no manner of relation to the civil rights of the subjects.”92 Examples of

91 Letter, 77.

92 Letter, 79. Notice that Locke has made two claims about how we can identify a speculative opinion: it terminates only in understanding and it does not relate to others’ civil rights. As Locke portrays it, the second claim is a conclusion drawn from the first. But the first seems questionable. Do speculative articles of faith never affect actions? If a given belief did translate into outward actions, it seems that Locke would simply say, by definition, that we were mistaken to call it speculative in the first place. But it is not
speculative opinions include a Catholic’s belief in the real presence (“he does no injury thereby to his neighbor”) and a Jew’s disbelief of the New Testament to be God’s Word (“he does not thereby alter anything in men’s civil rights”). A further example argues that even “if a heathen doubt of both Testaments, he is not therefore to be punished as a pernicious citizen. The power of the magistrate and the estates of the people may be equally secure whether any man believe these things or no.” The importance of the final example cannot be overlooked. As we shall see in chapter 3, Locke makes clear in his other works that, for most people, the Bible is the most important source of moral knowledge. Yet here he asserts unequivocally that disbelieving the whole of the Bible has no civil consequences.

His concern is not only to show that diverse religious opinions will not cause civil problems; the attempt to eliminate diversity will create philosophical problems. That is, the knowledge of truth is undermined when it is supported by force, rather than evidence and persuasion. “Truth,” he writes, “certainly would do well enough if she were once left to shift for herself.” Truth rarely gains the support of “great men, to whom she is but rarely known,” but even if they support truth by force, the attempt would backfire. Truth always obvious how given theological confessions affect the believer’s behavior or character. Locke’s distinction seems to run the risk of either gradually reclassifying all beliefs from speculative to practice or, what is more likely, asserting that knowing truth is in many cases of no consequence. The latter is a very bold epistemological claim, one which Locke only draws attention to by beginning the paragraph with the statement, “speculative opinions are knowledge of truth.” For an interesting argument that even the most speculative theological opinions (so called) do affect the believers’ outward actions, see Kevin Vanhoozer, The Drama of Doctrine: A Canonical-Linguistic Approach to Christian Theology (Louisville: Westminster John Knox Press, 2005), 377.

93 For an argument that Locke was pressed by his view of toleration to be more critical of Judaism, see Raffaele Russo, "Locke and the Jews: From Toleration to the 'Destruction of the Temple',' Locke Studies 2 (2002). See also James Shapiro, Shakespeare and the Jews (New York: Columbia UP, 1996), 203.

94 Letter, 79.
“will be but the weaker for any borrowed force violence can add to her.”95 This, like the Sincerity Argument, is a characteristically Lockean backup argument, but it is a very persuasive one. For those who do not find his first argument convincing (religious diversity has no civil consequences), he offers this second argument: whatever “truth” we come to know by force, rather than free investigation, is a lesser truth.

Although Locke has successfully avoided the issue of religion’s relation to morality, at this point he can delay no longer. It is here that morality and religion most clearly impinge on each other’s territory and the crux of Locke’s solution to the loyalty problem becomes clear. The discussion of the tolerability of practical opinions begins with the following paragraph, which is worth quoting in its entirety. In it Locke makes a surprising admission and an extremely bold claim.

A good life, in which consists not the least part of religion and true piety, concerns also the civil government; and in it lies the safety both of men’s souls and of the commonwealth. Moral actions belong therefore to the jurisdiction both of the outward and inward court; both of the civil and domestic governor; I mean both of the magistrate and the conscience. Here, therefore, is a great danger, lest one of these jurisdictions intrench upon the other, and discord arise between the keeper of the public peace and the overseers of souls. But if what has been already said concerning the limits of both these governments be rightly considered, it will easily remove all difficulty in this matter.96

The surprising admission is that, after all, civic and religious concerns do share jurisdiction, specifically in the realm of moral actions. This seems to threaten the neat resolution of conflicts on which his argument for toleration rests. The bold claim is that this difficulty is only apparent. It is a false dilemma. Though the shared jurisdiction is

95 Letter, 79.

96 Letter, 79-81.
real, observing the other distinctions “will easily remove all difficulty in this matter.” In these confident, even brash terms, Locke claims to have solved the loyalty problem.

Although Locke shows himself to be aware of a potential problem with his solution, he does not here provide an adequate explanation of why the problem is only apparent. Indeed, at some points in this section he appears either unclear in his own mind or intentionally vague. For example, in the first sentence he mentions the connection of religion and government in their shared concern for the moral life. Therefore we might expect him to identify the overlapping jurisdiction as between the magistrate and church (or Bible); instead, the overlap is between magistrate and conscience. Yet he reveals that he does not only have individual consciences in mind when (in the subsequent sentence) he draws the distinction between the keeper of the public peace and the overseers of souls, presumably referring to religious authorities.97

In theory, this lack of clarity should not be a serious problem. Presumably religious authorities affect one’s conscience, so whichever sources form one’s conscience in the first place, the dilemma is finally between law and conscience. Again, Antigone and Bonhoeffer are the characteristic examples. However they came to their convictions, it was ultimately a conscientious conviction that led them to their actions.

While in theory it should not matter whether conscience or church is the source of the dilemma, what Locke says earlier in the Letter makes the distinction very important. Recall that Locke has previously argued that church law is limited from ruling on anything with civil concernment or from touching in any way on civil rights or worldly goods. If that limitation is observed, there is no possible way the church could ever lead

97 It is possible Locke sees one’s conscience as the “overseer” of one’s soul, but the religious authority seems a more likely referent. He does not use the word overseer elsewhere in his works.
to such conscientious objection because doing so, almost by definition, exceeds the limitation. In practice Locke’s hypothetical conscientious objector could come to her position only independently of church teaching.\footnote{We must recall, of course, that such a Lockean conscientious objector is hypothetical. The dilemma only arises if the magistrate oversteps his bounds or the believer misinterprets God’s command. To his credit, Locke is careful in anticipating the questions that such a conscientious objector would have. What if the magistrate commands something against my conscience? Locke says that I should obey my conscience and accept the punishment. But by what he says next, it is clear that Locke believes I am simply being too scrupulous; my conscience is overactive. However, if the law is \textit{genuinely} outside the magistrate’s authority then I am \textit{not} bound to obey it. The magistrate cannot command anything but what is for the public good—and surely my conscience could not object to what supports the public good. This prompts the conscientious objector’s next question: what if the magistrate believes something to be for the public good when in fact it is not? Still, he has no right to enforce such a law. But what if he believes the law is for the common good \textit{and} he believes that he has the right to enforce it? At this point Locke can only concede that God will judge “on the last day.”\footnote{Letter, 87.} Until then, obey conscience first and seek public peace second.}

What is essential to realize in such a case is that either the magistrate is wrong \textit{qua} ruler or the objector is wrong \textit{qua} subject—and God will sort it out in the end.

\footnote{Locke might respond by claiming that he distinguishes between church law and church teaching, and that his limitation applies to the former but not the latter. I am not sure this would be an effective response, however, because the way he describes the church as a voluntary society appears to have already collapsed the distinction between law and teaching: they are both advice.}
Though such situations may occur, they do so only when someone has overstepped his or her bounds. If church and state would each “contain itself within its own bounds—the one attending to the worldly welfare of the commonwealth, the other to the salvation of souls—it is impossible that any discord should ever have happened between them.”

Setting aside the problem of Locke’s lack of clarity in defining whether the dilemma of the moral life arises from conscience or church, how does he seek to show that the dilemma is, after all, a false one? As mentioned, the answer he gives here is ultimately inadequate, hence our need to investigate his other works, but he does offer some clues. Following the above passage in which he concedes the existence of a shared jurisdiction over moral actions, he devotes two paragraphs to the question, one about the immortal soul and one about temporal life.

Every human has an immortal soul. Securing happiness for it rather than misery requires believing and doing whatever God has commanded to that end. Two things follow from this. First, these obligations are the human’s highest because the consequences are infinite. Second, because one person’s false opinions or manner of worship do not violate another’s rights, each person cares only for their own soul. Christians may, and indeed should, seek to reduce their neighbor’s errors, but only by

---

100 Letter, 107, emphasis added.

101 Notice Locke’s “utilitarianism.” This obligation is the highest because our potential happiness or misery is the greatest, rather than because God is infinitely powerful or creatures owe obedience to their creator. What would be the status of God’s commands if God caused human souls to cease to exist at death (annihilationism)? “If there by no Prospect beyond the Grave, the inference is certainly right, Let us eat and drink, let us enjoy what we delight in, for tomorrow we shall die” (Essay 2:21.60). Thus it seems that without an afterlife God’s commands would not be the highest nor would they even be “moral” commands (by Locke’s definition of that term). Instead they would be advice or would merely point out natural consequences, such as in the book of Proverbs. On Locke’s distinction between natural and moral evils, see section 3.5.3, below.
“charitable admonition” and not by force. “Every man … has the supreme and absolute authority of judging for himself. And the reason is because nobody else is concerned in it, nor can receive any prejudice from his conduct.”¹⁰² Because moral actions in obedience to God’s command concern only the individual, they oblige the individual alone.

Every human also has temporal needs. Securing them is difficult because the necessities of a comfortable life are scarce, acquiring them requires hard work, and many would rather steal than labor. To protect against this, people create political societies. These exist to make provision “for the security of each man’s private possessions; for the peace, riches, and public commodities of the whole people; and, as much as possible, for the increase of their inward strength against foreign invasions.”¹⁰³ These ends limit the scope of legislative authority to “the temporal good and the outward prosperity of the society.”¹⁰⁴

Employing these terms, let us return to Locke’s earlier example of idolatry. In the Letter’s second paragraph he lists idolatry together with acts such as fornication and adultery declaring them immoral based on what Paul writes in Galatians 5. There is no question here but that those who seek eternal happiness must do all that is possible to avoid these actions.¹⁰⁵ Thus idolatry is immoral insofar as it is under the jurisdiction of “the overseer of souls.” And yet as we have already seen, Locke holds that idolatry cannot rightly be made illegal because it does not threaten others’ rights. Thus it is not

¹⁰² Letter, 81.
¹⁰³ Letter, 83.
¹⁰⁴ Letter, 85.
¹⁰⁵ Letter, 11. Note that when he later discusses idolatry in the section on the Mosaic Law he is less critical: “Idolatry is a sin say some…” (71, emphasis added).
immoral insofar is it is under the jurisdiction of “the keeper of the public peace.” For idolatry to be subject to legal prohibition, it would have to threaten private possessions, national security, or the “peace, riches, and commodities of the whole people.” To determine whether Locke has adequately shown the shared jurisdiction to be only apparent, it will be helpful to consider the other “immoralities” he quotes from Galatians.

God’s moral law clearly prohibits adultery; the adulterer “shall not inherit the kingdom of God.” But is it immoral from the perspective of the magistrate, and therefore subject to civil penalty? Conceivably yes, on the grounds that adultery is a form of breach of contract—Locke certainly views marriage as a contract—and contracts and promise keeping are important for civic order. It is for similar reasons that he denies tolerance to atheists: “promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist.” However, we must be clear that what the magistrate can rightly prohibit in outlawing adultery is not adultery per se but the breaking of a public promise. But what is the difference in a law that prohibits adultery qua adultery versus adultery qua promise breaking? Locke provides some clues in his explanation of why idolatry cannot be criminalized.

In contemporary American constitutional law, we might be reminded of the principle that laws must have secular purposes. Hence a law banning the smoking of

---

106 It may be objected that Locke would not say “idolatry is not immoral as to the law,” but would prefer to say “idolatry is immoral but should not be made illegal.” However this fails to take account his admission that there is an overlap in the realm of moral actions. Also, this fails to reflect how Locke defines moral and immoral (see “Of Ethick in General,” especially paragraphs 7-11, in Writings, 9-14).


108 Second, 79-82.

109 Letter, 93.
peyote because Native American worship is sinful fails Locke’s standard, but a law
banning the same act because opiates allegedly lead to crime or civil disorder would pass
Locke’s test.110 In Locke’s words:

Covetousness, uncharitableness, idleness, and many other things are sins by the
consent of men, which yet no man ever said were to be punished by the
magistrate. The reason is because they are not prejudicial to other men’s rights,
nor do they break the public peace of societies. Nay, even the sins of lying and
perjury are nowhere punishable by laws; unless, in certain cases, in which the real
turpitude of the thing and the offence against God are not considered, but only the
injury done unto men’s neighbours and to the commonwealth.111

So the magistrate must limit what he considers as possible reasons for establishing a law.
Reasons such as the shamefulness of the act or the act’s offensiveness to God cannot
make it punishable by law. Only injuries to others or to the community as a whole make
an act punishable. For purposes of considering whether adultery is punishable, it is
helpful that Locke specifically mentions perjury in the above passage.

Lying is not punishable unless, in certain cases, it harms others of the
commonwealth. The fact that it is presumed non-punishable is revealing as to how
directly Locke requires an act to threaten rights before it is subject to the magistrate’s
jurisdiction. Lying of any sort threatens societal order on some level, simply because it
makes all statements less credible. But for Locke, this kind of societal damage is too

the Supreme Court’s “Lemon test,” of which Locke’s test is arguably a distant ancestor (see Lemon v.
Kurtzman 403 U.S. 602 (1971)). I do not treat Locke’s test in detail in this chapter (see Letter, 101), but do
mention it briefly below in section 4.3.

111 Letter, 71. Though it cannot be addressed fully here, we cannot overlook why, according to
Locke, the listed acts are sinful. They are so by the consent of men. There is much debate in Locke
scholarship over the true basis of morality, and this supports the more pragmatist reading. Of course, Locke
says much elsewhere to support alternative readings (if not, there would be no debate). Lest it be argued
that Locke here is simply saying, “No one would one disagree that these are sins,” rather than “These are
sins because humans have said so,” note that the Latin is ablative (omnium consensu). This suggests,
though not definitively, that it is human consent that makes these to be sins.
remote, too indirect, to make lying punishable. Presumably Locke endorses the notion that what would today be prosecutable as perjury (lying under oath) or breach of contract is the sort of lie that threatens rights *directly enough* to subject them to the magistrate’s care. Does this help us determine whether (and how) adultery would be prosecutable in a Lockean regime?

As we have seen, adultery’s shamefulness or its offensiveness to God cannot make it punishable by civil law, but there are other possible grounds. For example, adultery could be seen as a threat to childrearing (and consequently to social stability). Alternatively if adultery is seen as a breach of contract, it could also be said to threaten the public good for the same reasons that lying under oath does. But notice that in these cases we need further clarification of *what* is being prohibited. In the case of concern for offspring, the real concern is related to paternity and parental obligation, not to the act of adultery *per se*—just as it is not lying that perjury statues prohibit but the stability of the commonwealth and the reliability of the court system in particular. Thus, in a society where contraception and paternity tests are available, a law that prohibited all adultery would probably fail Locke’s test simply because contracepted extramarital sex would not directly threaten anyone’s rights or society’s overall stability (even granting, by Locke’s standards, its moral offensiveness to God and humans). However, a law prohibiting uncontracepted extramarital sex would, perhaps, be acceptable.

What about the alternative argument, that adultery could be punished as a form of breach of contract? It plausibly could be on Lockean grounds, but again, a further distinction is required. Because marriage is contractual for Locke, whether adultery breaches the contract depends on the terms. For example, he argues in the Second
Treatise that women may separate from or divorce their husbands “where … their Contract allows it.”112 Locke even wonders aloud why marriage is not more often made a temporary state, ending when its aims (procreation, education of children, and inheritance) have been settled. He suggests that instead marriage might dissolve on “consent, or at a certain time, or upon certain Conditions, as well as any other voluntary Compacts.” There is, he maintains, “no necessity in the nature of the things … that it should be always for Life.”113 Regarding adultery, one can at least imagine contracts that do not demand monogamy. Though there might be societal reasons for prohibiting such contracts, once such contracts were made adultery would not be punishable on breach of contract grounds. Indeed, this is almost exactly what happens in some American states today. Marriage is generally terminable by no fault divorce, that is, at will. In those states that recognize it, Covenant Marriage is not. Thus even the American government recognizes the distinction between types of marriage contracts: those that end at either party’s preference and those that do not. What would have in Locke’s day been a very weakened marriage contract is today the standard.

Like adultery, fornication is immoral by the standards of God’s law, but could the magistrate forbid it? Locke nowhere mentions a right to privacy that would necessarily rule out regulation of sex acts. Whether the magistrate could prohibit extramarital sex depends on how it relates to the society’s “temporal goods and outward prosperity.”

Certainly, sex between unmarried partners does not directly threaten temporal goods. But

112 Second, 82. The full quote is actually “where natural Right, or their Contract allows it.” By this he seems to imply that certain circumstances always allow separation, trumping, as it were, the specific terms of the contract.

113 Second, 81.
does it do so indirectly? Recall Locke’s assertion that the magistrate could require babies to be washed to prevent the spread of disease. Some could, and indeed do, argue that the spread of sexually transmitted diseases warrants some regulation of sexual activity today. Similar arguments could be made for the need for stable environments in which to raise children. But again, one needs the further distinction about what exactly is being prohibited. Just as Locke showed that lying itself is not punishable by civil law though perjury is, in these cases fornication itself would not be punishable. However, fornication that would likely contribute to an epidemic or result in the birth of children into unstable contexts might be punishable.114

Locke is clear that securing individual rights (and the social stability needed to keep them secure) is the only legitimate grounds for lawmaking. But the above examples show that how the ruler determines what bears on rights is a complex matter, one for which Locke offers no easy answer. It would seem that contrary positions on, say, criminalizing adultery or fornication simply differ over what we might call a sociological point of fact: will such laws help secure individual rights and promote security? Once that question has been answered, presumably on empirical grounds, the magistrate knows whether it is permissible.

But this is only the beginning of an answer, for it leaves unanswered what counts as evidence and how that evidence should be weighed. Do we conduct sociological studies, observe other cultures, conduct a public opinion survey, ask philosophers? In the case of adultery, how much social stability would need to be gained to justify laws against

114 Though such laws pass Locke’s test, it does not follow that the magistrate should establish them. The magistrate may well conclude on prudential grounds that the overall burden to society of regulating sex acts is actually more destructive than not doing so.
it? What about the sources of the evidence? Locke is clear that we could not prohibit something merely because Scripture deems it a sin, but what if Scripture indicates that a sin undermines civic stability and individual rights? Even more problematic, what if Scripture provides evidence to this effect (such as by a narrative argument or parable)? When Locke faces such questions in the Letter, he simply asserts answers without offering supporting reasons. He denies toleration to atheists on grounds of promise-keeping but demands toleration for idolaters. On what grounds does he make this distinction? How does he know that atheism leads to a breakdown of civil order and idolatry does not?\textsuperscript{115}

Nowhere in Locke are there are definitive answers to these practical questions. However, there are other supplementary questions we can ask of Locke. The questions that will be of the most use concern the sources of moral knowledge and the grounding of rights. To show why these are the theoretical questions that need to be asked, I

\textsuperscript{115} Indeed, he says in the Essay that there are whole societies that lack a notion of God and that they have not consequently dissolved into chaos (1:4.8). This contradicts the reasons he gives in the Letter for refusing toleration to atheists unless we take him to mean that atheism is only conditionally intolerable. That is, in England promise keeping depends upon a notion of God, thus the magistrate need not tolerate atheists. But perhaps in other societies, even atheists keep promises and there atheism would be tolerable. Waldron makes a point similar to mine when he comments on a slightly later passage in the Essay (1:3.5). He identifies this as a Lockean example of “Rawlsian overlapping consensus.” Waldron, God, Locke, and Equality, 224.

There is no little dispute over how we should read what Locke says in the Letter about not tolerating atheists, Catholics, and Muslims. For a recent summary of the literature on the topic, see David Lorenzo, "Tradition and Prudence in Locke's Exceptions to Toleration," American Journal of Political Science 47, no. 2 (2003): 248-249.

In Waldron’s chapter on the topic, he denies that Locke excludes Catholics from toleration. While it is true that nowhere do the words “Catholics ought not to be tolerated” appear in the Letter, this does not prove Waldron’s claim. Waldron’s more interesting argument is that Locke goes out of his way to make the link between intolerable opinions and Catholics “contingent rather than necessary.” In other words, Waldron believes Locke tolerates Catholics because Locke posits that Catholics could so modify their doctrine that they would become tolerable and yet remain Catholic. But if this so, Locke does not tolerate Catholics on their own terms, but only on Locke’s. Whereas Waldron sees this as a sign of Locke’s generosity and open-mindedness, it could also be a sign of Locke’s subtle rhetoric. Or, what is more likely, it is both.
foreshadow later chapters by here briefly considering a contemporary dilemma, that of whether a ruler could require prayer in public schools. One of my goals is to show that there are multiple plausibly Lockean responses to this dilemma. To understand the different responses, we need to ask of Locke more precise questions, such as about the grounding of rights and the sources of moral knowledge. I put these questions to Locke in the next chapter.

2.6. A Contemporary Example and Two Lockean Responses

Though Locke obviously does not address the topic of school prayer, it seems as though it is just the sort of debate he hopes to resolve. He writes, “The private judgment of any person concerning a law enacted in political matters, for the public good, does not take away the obligation of that law, nor deserve a dispensation.” Many arguments for school prayer run along just these lines: without a notion of a divinity, schoolchildren cannot learn to be good citizens, hence school prayer is essential to the public good. Thus Locke would seem in principle to be open to laws mandating such practices. But immediately after this comment Locke writes:

But if the law, indeed, be concerning things that lie not within the verge of the magistrate’s authority (as, for example, that the people, or any party amongst them, should be compelled to embrace a strange religion, and join in the worship and ceremonies of another Church) men are not in these cases obliged by that law, against their consciences.\footnote{Letter, 85.}

In terms of the contemporary debate, reading this passage together with the preceding seems contradictory. Locke says that exemptions to laws are not granted for reasons of
“private judgment” so long as the magistrate believes them to serve the public good, but also that laws do not oblige “against conscience.” Which is true? Because school prayer (allegedly) bears on the public good, it is “within the verge of the magistrate’s authority.” And yet the very example Locke forbids—forced participation in religious ceremonies—is precisely what mandatory school prayer demands.

In this case, as in the previous examples of adultery and fornication, Locke’s solution to the loyalty problem does not provide a definitive answer. Because of what he does not say, later readers have had to speculate by filling in the gaps that he leaves (or, as some will argue, filling in what appear to the uninitiated to be gaps). In essence, they must reconstruct what Locke would have or should have said.

On the one hand, it is not out of the question that Locke would allow mandatory school prayer on grounds that it promotes civil stability. But on the other hand, neither is it out of the question that Locke would reject mandatory prayer on grounds that worship has, in his words, no civil concernment. Whether or not I pray in school does not affect your property rights. If anything, coerced worship decreases civil stability by causing resentment. Indeed, this latter position would go further in holding that school prayer must not be allowed in the name of securing rights, because freedom from governmentally enforced religious practices is itself a right that government ought to secure.

Post-Rawls debates over issues such as school prayer usually draw the line between those who hold that the right is prior to the good and those who hold the opposite—positions often described as deontological and teleological, respectively.117

Unfortunately this is an overly stark distinction; very few thinkers fully subordinate the
good to the right or vice-versa (though the Rawls of the first edition of *A Theory of
Justice* comes close). In addition to being overly stark, these terms do not quite line up
with the alternatives as we find them in Locke because the distinction is anachronistic.\footnote{Zuckert puts this especially well: “Locke wrote before the distinction between deontological and consequentialist arguments was formulated. The distinction as we know it is Kantian or post-Kantian. In its contemporary form it certainly bears the marks of the particular way Kant came to, raised, and attempted to answer the question about morality.” Michael Zuckert, "Reconsidering Lockean Rights Theory: A Reply to My Critics," *Interpretation* 32, no. 3 (2005): 263, emphasis added.}

One interpretation would see mandatory school prayer as a contradiction of Locke
because the freedom not to pray (or not to attend a prayer service) is itself a right.
Requiring school prayer would be like forbidding idolatry. It exceeds government’s
authority because it presumes to rule on something with no civil concernment, something
that only affects the next life. For this reason, we need not conduct a complex empirical
study investigating whether school prayer forms virtuous children, who will not grow up
to be criminals, who will not violate others’ rights. Such evidence is superfluous because
enforced prayer violates rights by definition. This is an *a priori* stipulation about what
has and does not have “civil concernment.”

Presumably this interpretation would further maintain that even if we were to
consider such evidence, it does not clearly support school prayer. At best we would find a
mixed message: virtuous students never exposed to prayer alongside prayerful
troublemakers. The rights that the government ought to secure are not the right to choose
what is good according to an objective set of duties specified by a law of nature, but to
choose what is good in one’s own eyes. Such freedom secures rights best of all.
To its opponents, this interpretation sounds very un-Lockean. It seems to them as though it is based not on Locke but on Justice Anthony Kennedy, striking down a Texas law banning same-sex intercourse:

These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life... It is a promise of the Constitution that there is a realm of personal liberty which the government may not enter.\textsuperscript{119}

However, in the \textit{Letter} Locke writes something that could plausibly be seen as an ancestor of Kennedy’s statement, even if it does not go quite as far.

In private domestic affairs, in the management of estates, in the conservation of bodily health, every man may consider what suits his own convenience, and \textit{follow what course he likes best}. No man complains of the ill-management of his neighbor’s affairs. No man is angry with another for an error committed in sowing his land or in marrying his daughter. Nobody corrects a spendthrift for consuming his substance in taverns. Let any man pull down, or build, or make whatsoever expenses he pleases, nobody murmurs, nobody controls him; he has his liberty.\textsuperscript{120}

Thus it is not that Locke sounds like Justice Kennedy, so much as Kennedy sounds like Locke—at least according to this interpretation. The tension within Locke’s own thought seems only to deepen over time. In his \textit{Second} and \textit{Third} letters on toleration he moves away from statements such as the above.\textsuperscript{121} As Marshall observes, “Locke increasingly came to stress in these \textit{Letters} the magisterial promotion of a ‘good life’ and that the


\textsuperscript{120} \textit{Letter}, 43, emphasis added. In the immediate context of the quote, Locke is not actually making a normative claim, but it is clear from the whole of the \textit{Letter} that it does represent his own position.

\textsuperscript{121} These sequels were written primarily against Jonas Proast’s three critiques, collected in Jonas Proast, \textit{The Argument of the Letter Concerning Toleration} (New York: Garland, 1984).
magistrates should hinder the practices to which ‘men’s lusts’ carried them.”

Yet in a page of notes written late in life Locke appears to move back toward the position of the first Letter: “For as for other men’s actions, which is right and wrong … he is not concerned to know. His business is to live well himself and do what is his particular duty.” These varying statements should not be seen as outright contradictions, but there is a tension between them. The precise path to navigate that tension is what occasions today’s rival interpretations.

If we press the comparison of Locke to Kennedy, we can find places where Locke seems to support the legal prohibition of adultery and sodomy. But why should he? Why does he not follow Kennedy’s line of reasoning that a complaint against my homosexual neighbor would be as illegitimate as a complaint against my spendthrift neighbor? This, Locke does answer.

[Adultery, incest, and sodomy are] sins, which I suppose have their principal aggravation from this, that they cross the main intention of Nature, which wills the increase of mankind, and the continuation of the species in the highest perfection, and the distinction of families, with the security of the marriage bed, as necessary thereunto.

122 Marshall, John Locke, Toleration, 541.

123 Locke, “98 Error,” in Writings, 82.

124 First, 59. I use this quote only to make a limited point about the multiple directions that Locke’s reasoning seems to lead: concern that one’s neighbor follow “the main intention of Nature” together with a willingness to let him follow his own course. No further weight ought to be placed on the present quote, as it is not clear that it represents Locke’s view. First, Locke only “supposes” these actions are sins for the listed reason. Second, in context, Locke is merely challenging Filmer’s logical consistency. He says, in effect, if Filmer justifies actions based on tradition or existing practice, then he must also justify these sins, because they are practiced by some. Though Locke may well have believed adultery and sodomy are sins or ought to be criminalized (see Letter, 11), his argument does not depend on it. The argument depends only on Filmer believing they are sins, because in that case his inconsistency is established.
We now know the ground of valid Lockean evidence—or do we? The actions listed are sinful because they cross the main intention of nature. But what does Locke mean by “nature”? More pointedly, what could western philosophy’s empiricist par excellence mean by nature?

Perhaps he is using nature as a concept that connects morality to happiness, something that is well established in the Essay. Indeed, at one point in the Letter, Locke lists happiness as a near-synonym for securing property, which for him is rights. But he seemingly could not mean something directed toward a summun bonum, a concept openly mocked in the Essay. Such comments are evidence on behalf of quite divergent interpretations of Locke. At issue is whether happiness is objective perfection or the subjective fulfillment of desires.

If it is the former, then the objectively morally good choice is what will lead us toward our happiness. From this perspective, it is very plausible that the government ought to require prayer in public schools, provided they have evidence to support its civil benefits. Chapter 3 investigates the aspects of Locke’s moral theory that help explain how these divergent conclusions arise.

2.7. Conclusion

To summarize, Locke argues in the Letter that there need be no conflicts of allegiance between subjects’ religious and civic obligations, no pretenses of loyalty to the prince or to God. He does this by limiting legitimate civil laws to those that secure

125 Letter, 83. Interestingly, despite their importance to Locke’s thought as a whole, the terms happy and happiness are nearly absent from the Two Treatises.
individual rights in this world and legitimate church laws to those that secure life in the next world. The ends for which each society exists dictate its limits. Further, because there is disagreement about how eternal happiness is achieved, the magistrate ought not prescribe one path to it (Doubt Argument). And because there is certainty that eternal happiness is achieved through sincere belief, the magistrate could not enforce it (Sincerity Argument). Also, a Christian magistrate is not disloyal for not enforcing the Mosaic Law. All civic law ought to be limited to individual rights. While the Mosaic Law went beyond this limit, ancient Israel was a one-time-only exception because its legislator was God. Thus the faithful Christian magistrate can affirm that idolatry is a sin and still deny that it is criminal. In all cases except ancient Israel, legitimate laws must only serve rights.

Despite the thoroughness of this argument, Locke leaves certain gaps that the Letter does not address, but of which he is aware. For example, he acknowledges that civic and religious authorities share jurisdiction over morality. He asserts that the securing of rights and the stability of society are the only legitimate bases for civil law, but he does not explain how to weigh the evidence of threats to rights. There are also gaps of which he was unaware and probably could not have anticipated. For example, his theory does not account for societies that are highly religiously and morally pluralistic. These gaps make it difficult to know whether laws that aim to protect individual rights indirectly are permissible; school prayer is one such example. In such cases, the problem of religion and politics is left unresolved and today’s readers of Locke disagree about how Lockean theory should respond.

Current debates—whether a “culture war” or a theoretical crisis identified by critics of Rawls—actually point to the gaps detailed above in Locke’s solution to the loyalty problem. Or, to put it another way, today’s controversies concern precisely those
questions to which there are multiple plausibly Lockean answers. In the subsequent chapter I seek to reconstruct Locke’s answers more fully, looking beyond the *Letter* to some of his other works. This will place us in better position to evaluate today’s interpretations of Locke when they are presented in the fifth chapter.
3.1. Introduction

The last chapter concluded with the observation that while the Letter gives specific direction about many political and religious questions, it also leaves many questions unanswered. Some of those questions simply cannot be definitely answered by reference to Locke and any such answers must remain speculative. Other questions, however, can be answered if we expand our study to include other of Locke’s works. I focus in this chapter on a variety of his major works, as well as minor contributions such as unpublished notes. My primary focus is on the Essay Concerning Human Understanding and Reasonableness of Christianity.

The sort of issues that the Letter leaves unclear can be broadly grouped under two headings: the relation of rights to duties and the sources of moral knowledge. These are the background questions that we must ask of Locke if we are to better understand those aspects of his political theory that seem under-specified. Each of Locke’s works can provide clues to these questions, but his Essay is especially helpful for understanding his relation of right, duties, and natural law, and the Reasonableness provides his theory for relating revealed and non-revealed sources of moral knowledge.

On the first question, Locke frequently speaks of the ground of his moral theory as the law of nature, but he says surprisingly little about what he means by the phrase.
Does the law of nature specify rights, duties, or something else entirely? How does his theory of rights differ from that of Hobbes? What sort of a law of nature can exist given Locke’s famous rejection of innate ideas and with his frequent observations about the diversity of moral convictions across human cultures?

As to the second question, on the sources of moral knowledge, all humans must in principle be able to determine the content of the moral law apart from sectarian religious convictions or revelation. It must be so for two reasons. First, his argument for toleration depends upon the magistrate being able to rule independently of revealed knowledge; if judgments about temporal rights depend upon religious knowledge, the Letter’s distinction between civic and religious life collapses. Second, God’s justice is at stake. A just God would not limit salvation to those who have heard of Christ, nor could a just God save those who are immoral (or who do not at least make a sincere effort to be moral). These two reasons explain why Locke needs the moral law to be in principle knowable by all. Yet this seems to make Christianity and the moral teaching of Scripture superfluous. How does Locke respond? What he says helps answer some of the areas that seem unclear when reading the Letter alone.

3.1.1. Clarifying Terms

Before continuing, certain terms warrant clarification. Following Locke’s practice I avoid the phrase natural law in favor of law of nature, though I do not make a distinction between them as some have.\(^1\) I sometimes use natural in contrast to rational (i.e., empirical versus theoretical), highlighting an epistemological difference Locke

draws between the sort of thinking we would today associate with natural and social sciences (biology, sociology, anthropology) versus that of the “hard” sciences (mathematics). This proves difficult, however, because Locke also sometimes uses natural in contrast to revealed.

The words right and rights are potentially the slipperiest of all. In the following paragraphs I describe some of the common distinctions in how the terms are used. However, my goal is not to arrive at a definition that pleases every scholar in this debate. But I do hope that my use of the term will be internally consistent. On this point, at least, Locke’s words can be my own: “If in this I use the word … in somewhat a different sense from its ordinary signification, I beg pardon.”

Zuckert’s work is helpful in that it defines the terms by drawing on Richard Tuck’s history of rights, though I will not fully rehearse what either say here. Suffice to say that the terms have ancient roots, yet there are distinctions in modern usage that did not always exist. This affirmation rejects arguments that rights theories originated in the sixteenth century (made by MacIntyre, Strauss, and MacPherson) as well as arguments that minimize or deny anything distinctive in recent rights theories (made by John Finnis). Indeed, Brian Tierney’s well-known article arguing against Finnis on this point relies substantially on the article by Zuckert on which I base the following paragraphs. Among the most helpful recent works is John Witte’s chapter, “A Short History of Western Rights,” which emphasizes how as early as the first century the term rights (ius)

---

2 Essay, 2:12.4.

was used in both its subjective and objective senses by the classical Roman jurists.  

Medieval, Enlightenment, Protestant, and Catholic thinkers subsequently contributed to and shaped this tradition in diverse ways.

There has been much dispute over what makes modern rights modern. Is it that they are subjective? Negative? Or something else? On this point, Jean Porter and Wolterstorff are helpful. Porter writes, “When modern theorists refer to natural rights, they frequently mean something more than the claims arising within a moral order… the duties correlative to such a right arise in virtue of the right. That is to say, the right is itself the ground of the duty.”

Thus modern rights are characterized by rights having a certain foundational status over and against duties. Yet as Wolterstorff points out, modernity (at least in Locke) is defined not only by the answer it poses as by the question it responds to. Modern philosophy is defined by the fact that it responds, in Wolterstorff’s words, to a particular cultural crisis:

The Reformation did not represent a working out of the logic of the situation, but a cataclysm. Locke’s epistemology was addressed to that cataclysm. That is what makes it modern… Other philosophers have addressed themselves to other phases of modernity. Other things make them modern. But this—along with his treatment of religious toleration and of civil authority—is what makes Locke modern. Applying this to rights, we can see how what makes Locke’s rights modern is the fact that they are proposed to a culture of disunity, for the purpose of supplying unity, by a

---


5 Jean Porter, "From Natural Law to Human Rights: Or, Why Rights Talk Matters," *Journal of Law and Religion* 14 (2000): 83. This distinguishing characteristic turns out to be important to Locke studies in light of our discussion below about whether his duties ground rights or vice-versa.

6 Wolterstorff, *Ethics of Belief*, 246.
particular means. Thus an argument for subjective, negative rights in Cicero’s day is not modern, but an argument for subjective, negative rights in Locke’s day may be.

Of course, my primary concern here is not what demarcates modern rights. Rather, my challenge is to define the words in a way that captures (or aspires to capture) what an incredibly diverse group of thinkers mean when they use the terms. These thinkers include Locke himself, today’s Locke scholars, and even today’s citizens. Various scholars have sought to provide definitions that encompass this diversity, sometimes by historical analysis and sometimes by merely observing how the term is used today. Works by Tuck, Tierney, H.L.A. Hart, and W.N. Hohfeld are among the more well known.7

For present purposes, I take most modern uses of rights to refer to “raisable claims.” “Unlike duties, which are morally compelling, rights are permissive—one may do or have with their warrant, but one need not do so unless also under a simultaneous duty.”8 This very general definition manages to account for certain types of rights claims that are excluded from definitions such as Tuck’s. It will be helpful to recall Tuck’s definition, as well as what prompted it.

---


8 This definition, including the remainder of the following paragraph, are dependent on Zuckert, Launching, 173-174.
Some, such as Jeremy Bentham, had previously argued that rights were merely correlative to duties. This led Hart to wonder why rights language did not gradually disappear. To explain this, Tuck, following Hart, proposed a theory of “active rights”:

To have a right to something is more than to be in a position where one’s expressed or understood want is the occasion for the operation of a duty imposed upon someone else: it is actually in some way to impose that duty upon them, and to determine how they ought to act towards the possessor of the right… [Such a right] will tend to have at its heart the idea of the individual’s sovereignty within the relevant section of his world. It will also tend as a consequence to stress the importance of the individual’s own capacity to make moral choices, that is to say, his liberty. If active rights are paradigmatic, then to attribute rights to someone is to attribute some kind of liberty to them.9

This in no way contradicts my working definition, but it excludes some otherwise plausible rights claims. For example, it does not quite capture what I mean when I say that I have a right to my paycheck.

Zuckert provides a helpful way of defining the terms when he uses the word in four different ways in four different sentences. He begins with sentences that distinguish objective from subjective right.

1. It is right for Mr. Spock to visit his mother in the nursing home.
2. It is a right of Mr. Spock to visit his mother in the nursing home.

The first is an objective right. “It is a statement of a ‘right state of affairs.’” Most such uses could replace right with duty without any change in meaning. Sentence 1 could as easily begin, “It is a duty of Mr. Spock…” The second sentence, of course, describes a subjective right, which Zuckert describes as a “moral power,” because it contains an

---

element of discretion. In the first sentence, Spock ought to visit his mother; in the second sentence, he may or may not.

3. Mr. Spock has a right to his government pension under the terms of the law governing Starfleet compensation.

4. Mr. Spock has a right to freedom of speech.

These both describe subjective rights. In that sense they are like the second sentence. But they each relate to duties quite differently. As we noted, an objective right can be much the same thing as a duty. It is not so simple with subjective rights. The difference between the third and fourth sentences lies in how each relates to duties. The third sentence describes a positive right because it implies a correlative duty. From the third sentence we can derive the statement, “It is a duty of the government to pay to Mr. Spock his pension.” Yet notice that this must be derived from the third sentence. Unlike sentence 1, which describes an objective right, a statement of subjective right cannot be rephrased as a statement of duty without some change in meaning. Because there is not a similar correlative or derivative duty implied by the fourth sentence, it is a negative right. Others may not prevent Spock from speaking, and this forbearance could be called a duty, but no positive obligation bears upon them. Although Spock has a right to speak, “nobody has a duty to supply him with a speech or to facilitate his speaking or even to listen to him when he does speak.”

As we shall see, secondary literature on Locke’s view of rights is not always clear in defining these terms. Locke, for his part, was characteristically quite consistent. He generally uses right to refer to subjective, negative rights. Yet his use of the phrase “law

10 Zuckert, Launching, 216-217.
of nature” is not always so consistent and this leads to confusion in the secondary literature. It should sometimes be taken to be a statement of duties knowable apart from revelation. But at other times he appears to mean simply a moral law that is knowable apart from revelation from which duties derive (either positive or negative) but are not necessarily duties themselves.

3.1. The Nature of Locke’s Law

One need not look far to see that Locke could be clearer than he is about his grounding of rights. In the opening paragraphs of the Second Treatise—a work to which natural rights and the law of nature are essential—he writes: “it would be besides my present purpose to enter into the particulars of the Law of Nature … yet it is certain there is such a Law.”11 As one writer laments, “It was always beside his present purposes.”12 In fact, nowhere in his corpus does he offer a precise definition of either, a fact that makes it rather difficult to determine how they relate, which in turn makes it difficult for thinkers informed by his political theory to contend with its gaps. Scholars have been attempting to fill them ever since—with greater or lesser degrees of success.13

11 Second, 12.


13 A survey of Locke’s arguments on natural law and theology can be found in Steven Forde, "Natural Law, Theology, and Morality in Locke,” American Journal of Political Science 45, no. 2 (2001). Forde argues that the “unfinished” natural theology causes “Locke’s bequest [to be] divided into two main strands” (408). He also refers to a “‘perfectionist’ Locke” that could plausibly be aligned with what I have called the republican interpretation (396n1).
3.1.1. A Non-Innate Law of Nature?

Locke occasionally appears pulled in different directions by different aspects of his thought, and in the case of rights this issues in two sub-questions. The first is the broad theoretical question of what sort of law of nature can exist if one rejects the notion of innate ideas and assumes the diversity of moral convictions across human cultures is morally relevant. Can there even be a law of nature in such a case? The second sub-question follows: whatever sort of natural law Locke’s theory allows, how does that law relate to rights and duties? Both of these questions are complex and have each been the subject of extended studies themselves. I can here consider them relatively briefly.

The first question is best answered by reference to the Essay. Together with the Two Treatises, the Essay Concerning Human Understanding is widely said to present Locke’s mature thought (to which we might also add The Reasonableness of Christianity). In the Essay, Locke rejects the claim that humans are born with innate ideas or that there are such things as natural species. These ideas were thought to relate the beliefs of the human’s mind to essences outside of the mind, based on which humans could know that their beliefs represented true knowledge. Locke’s view is there are no innate speculative principles—no concept of “red” for example, that all infants are born knowing. We develop our concept of red by sense experience: we see colors, compare observations about colors with friends, and so on. Nor are there innate practical principles. Not everyone is born knowing, “Keep your promises.” Whatever moral principles there are, we can always “justly demand a reason,” which “would be perfectly ridiculous and absurd if they were innate, or so much as self-evident.”

\[\text{\textsuperscript{14}}\text{Essay, 1:3.4.}\]
Locke does grant that there are innate appetites or tendencies, but this is not the same as knowledge. Everyone desires happiness, but it does not follow that good is to be sought and evil to be avoided. Or to be more precise, it probably does follow but that fact proves the conclusion is not innate; if it were innate we would not need to reason to it.\footnote{Essay, 1:3.3.}

Much of Locke’s argument in these early chapters of the \textit{Essay} rests on a negative argument: his observation that, as a point of fact, the sort of universal agreement we would expect given innate ideas appears absent. This leads him to his well-known conclusion about the possible existence of a single, highest good shared by all humans:

\begin{quote}
The mind has a different relish, as well as the palate; and you will as fruitlessly endeavour to delight all men with riches or glory (which yet some men place their happiness in) as you would to satisfy all men’s hunger with cheese or lobsters; which, though very agreeable and delicious fare to some, are to others extremely nauseous and offensive: And many people would with reason prefer the griping of an hungry belly, to those dishes which are a feast to others. Hence it was, I think, that the philosophers of old did in vain enquire, whether \textit{summum bonum} consisted in riches or bodily delights, or virtue, or contemplation. And they might have as reasonably disputed, whether the best relish were to be found in apples, plums, or nuts; and have divided themselves into sects upon it… So the greatest happiness consists in the having those things which produce the greatest pleasure, and in the absence of those which cause any disturbance, any pain. Now these, to different men, are very different things.\footnote{Essay, 2:21.55.}
\end{quote}

Locke was widely read in travel and exploration literature, and his works contain frequent references to the differing moral opinions of different cultures. It was especially significant to him that in other cultures we find people breaking our moral rules “with confidence and serenity.” It is not merely that evildoers exist, but that we know of people who believe sincerely that what we hold to be evil is good.\footnote{He provides examples in a number of places, but two familiar ones are \textit{Essay} 1:3.9 and the famous “only star and compass passage” of the \textit{First Treatise}, 57-58.} Further, even when we do...
find moral agreement we find vastly different reasons offered in support. A Christian will
tell you to keep promises to avoid eternal punishment, a “Hobbist” to avoid Leviathan’s
wrath, and a “Heathen Philosopher” to avoid demeaning “the Dignity of Man.”18 We find
different moral rules “amongst men, according to the different sorts of happiness they
have a prospect of, or propose to themselves.”19 In other words, even if we knew innately
that happiness is to be sought, happiness means different things to different people. It is
something people “propose to themselves,” rather than discover.

Regarding innate practical principles in particular, even if we could find universal
agreement it would not be enough. “An evident indubitable knowledge of unavoidable
punishment ... must accompany an innate Law: unless with an innate Law, they can
suppose an innate Gospel too.”20 Even if all humans know innately that we should keep
our promises, they must also know innately that not doing so will incur a sufficiently
unpleasant punishment to deter potential liars.

Does any of this threaten the idea of a law of nature? Perhaps innate ideas are
simply irrelevant to Locke’s law of nature. Indeed, the phrase “law of nature” appears
only three times in the massive Essay.21 It is interesting to note how and where it first
appears. Just after listing the Christian’s, Hobbist’s, and Heathen’s different reasons for

18 Essay, 1:3.5.
19 Essay, 1:3.6.
20 Essay, 1:3.13.
21 Essay 1:3.6; 1:3.13; 2:28.11. There are other places that may refer to the concept without the
phrase, such as 2:28.6. Interestingly, Locke uses the phrase only once in the Letter but dozens of times in
nearly 40 different paragraphs in the Second Treatise. The phrase “natural law” is rare in Locke and wholly
absent from the Essay and Letter.
promise keeping, and just before his catalog of seemingly immoral practices accepted by other cultures, Locke writes:

I grant the existence of God is so many ways manifest, and the obedience we owe him so congruous to the light of reason, that a great part of mankind give testimony to the law of nature; but yet I think it must be allowed that several moral rules may receive from mankind a very general approbation, without either knowing or admitting the true ground of morality; which can only be the will and law of a God… 22

Here Locke seems to imply that the existence of a law of nature would contradict what he has just said about innate ideas. The fact that he must grant (that is, concede) this perspective shows it to be tension with his other claims. However, he sidesteps the possible contradiction; it is only apparent. At most, a general agreement about certain rules is an exception to the rule, and at any rate would not be based on morality’s “true foundation.”

But if what looks like a natural law is not innate and, indeed, is not based on its true foundation, is there no law of nature? Locke denies this.

I would not be here mistaken, as if, because I deny an innate Law, I thought there were not but positive laws. There is a great deal of difference between an innate Law, and a Law of Nature; between something imprinted in our minds in their very original and something that we being ignorant may attain to the knowledge of, by the use and due application of our natural faculties. And I think they equally forsake the truth, who running into the contrary extremes, either affirm an innate Law, or deny that there is a Law knowable by the light of Nature, i.e. without the help of positive Revelation. 23

22 Essay, 1:3.6.
23 Essay, 1:3.13.
Thus Locke explicitly affirms a non-innate law of nature. Such a law cannot be premised upon universal agreement (it is arguably premised on universal disagreement), nor can nature (here meaning the physical world) have normative force within it because we cannot know the real essences of substances. The way in which the natural law is natural is that we can know it without revelation, not that nature itself forms part of our reasoning. What would such a non-innate, non-“natural” natural law look like? Locke tells us: it would look like math.

3.1.2. A Non-“Natural” Law of Nature? (Pure Ethics)

Locke repeatedly uses math and geometry as an example for the moral theory presented in the Essay. To see what he means by this, some background is needed on his view of ideas. If ideas are not innate, what are they? They are of three types or “nominal essences.” There are Simple Ideas, which are merely reports of sense perceptions. The idea in my mind of having the sense experience of seeing (what I call) red is an example. Such ideas are purely passive. Second, there are Complex Ideas of Substances. As the

24 Though it seems relevant, I do not deal extensively with Locke’s “Essays on the Law of Nature.” These were written very early in Locke’s career and it is difficult to evaluate their place in his mature thought. Also, they were not published until the twentieth century and therefore cannot have directly influenced Locke’s readers until quite recently. An interesting interpretation is offered in “Do Natural Rights Derive from Natural Law? Aquinas, Hobbes, and Locke on Natural Rights” in Zuckert, Launching, ch. 7. There, Zuckert argues that Locke rejects an immanent natural law in favor of a non-immanent yet still transcendent natural law. But then Locke subtly rejects even the transcendent natural law by undermining his own proof for God’s existence. I mention it here only because the distinction between immanent and transcendent natural law seems related to the distinction we now find in the Essay between innate and non-innate laws of nature.

25 Earlier in book 2 of the Essay Locke provides a more complicated catalog of ideas in which Simple and Complex are the two broad categories, with Complex being subdivided into Modes, Substances, and Relations, and then Modes being further subdivided into Simple and Mixed. Thus there are Simple Ideas, Complex Ideas, Complex Simple Modes, Complex Mixed Modes, and many other permutations. For our purposes, this more detailed arrangement is not relevant. See Essay 2:12.
name suggests, these ideas are based on composites of Simple Ideas, but as such they do not represent real essences—because the Simple Ideas are themselves only mental pictures. He says plainly, “our ideas of substances are not adequate; are not what the mind intends them to be.” Both Simple and Complex Ideas of Substances are copies of things with real existence, but are imperfect copies with no direct connection to what really exists. Given this it should be no surprise that Locke denies the existence of natural species.

Third, there are Complex Ideas of Modes and Relations. These are not copies, because there is nothing for them to copy. They do not refer to any real essence. They “are Originals and Archetypes.”26 Because purely mental, “each of them contains in it precisely all that the Mind intends it should… The Ideas therefore of Modes and Relations cannot but be adequate.”27 There are two fields of knowledge that Locke identifies as belonging to this third type: mathematics and ethics.

What math and ethics have in common is that they do not refer to actual, existing substances. But if moral ideas are purely mental in this sense, are they true only by consent? Do they have any connection to “the reality of Things”? Locke anticipates this objection in one of the Essay’s later chapters, “Of the Reality of our Knowledge.” Locke begins that chapter by wondering whether the reader will by now suppose he has been “all this while only building a Castle in the Air.”28 Given that this statement occurs over

28 Essay, 4:4.1. He also specifically addresses the question of truth and falsehood in the final chapter of book 2 (a subsequent chapter was added to book 2 in the Essay’s fourth edition).
500 pages into the *Essay*, “all this while” is rather a lot. Predictably, Locke denies that his work is such a castle.

Ideas are authentic (true or real) knowledge insofar as there is “conformity between our Ideas and the reality of Things.” We can see clearly enough what he has in mind with Simple Ideas: everyone agrees that a given visual sense experience translates to the color red. There is no essence red defined by innate ideas in our mind, but nonetheless we could solve disagreements about colors by having different people compare objects of different colors. But what does conformity mean when there is no external object by which to compare? Is the statement (which Locke offers as an example), “Murder deserves death” merely an arbitrary agreement, similar to labeling the color of grass “green”? The object of comparison in ethical statements is the same as that in math: the idea in the mind. A triangle is a triangle not by consent, but by being a three-sided figure with internal angles totaling 180 degrees.29 If I describe a triangle as having four sides, then I am wrong regardless of how many people agree with me. Hence Ideas of Modes are true (convey knowledge of reality) apart from consent. From this Locke concludes, “And hence it follows that moral Knowledge is as capable of real certainty as Mathematics.”30 Complex Ideas attain the status of knowledge and certainty when they “answer their Archetypes.”31 Thus if it is true that murder deserves death, death attaches to all of the acts that deserve the label “murder” just as three-sided attaches to all of the figures that deserve the label “triangle.”

---

29 Of course, the word “triangle” is merely a label, but what we mean by that word need not exist anywhere in the world.


31 *Essay*, 4:4.8. Archetypes are Locke’s alternative to ectypes. Ectypes are the inadequate idea we gather of substances through sense experience.
We can thus see what Locke means by comparing math and ethics. Both are demonstrative sciences. Ethics deals with real essences (though not existing ones) that have consistent relations between those essences. In Locke’s words, they have “a discoverable connection and agreement with one another.”32 Were we to employ the right method, Locke speculates, we could establish moral knowledge with as great certainty as mathematical propositions.

As should be clear, the vital distinction in Locke’s types of ideas is not between simple and complex but between substances and modes—between those that aspire to describe a thing but necessarily fail and those that do not have such aspirations and necessarily succeed. It is a distinction based on the limits of knowledge. When Locke places ethics in the latter category he protects ethical claims against the relativism that could result if they were based on our observation of the natural world (e.g. different cultures). The problem that arises is that this seems to exclude what many, including Locke himself, have otherwise identified as importantly related to ethics: human happiness. In the unpublished chapter originally intended to conclude the Essay, Locke equates moral good with the obedience of laws (human or divine) such that obedience secures pleasure and avoids displeasure.33 But if we observe what makes humans happy, and then use this to guide our determination of moral law, we base moral reasoning on inadequate ideas, for our observations of human happiness are copies. Only deepening the problem, as Locke points out, is that quite different things appear to make different humans happy, thus potentially leading to relativism. To put this in technical terms, the

32 Essay, 4:12.8.

question we face is whether Locke’s law of nature is empirical.34 This should also remind
us how this investigation was initially prompted by a question unanswered in the Letter:
in what way may empirical or sociological evidence bear on civil law? How can we
reconcile what Locke says about ethics being like geometry with the magistrate’s need to
know, for example, whether adultery’s social effects are more like those of idolatry or
theft?

The key to answering this question lies in the distinction between pure ethics and
applied ethics. The former, which we have been considering in the section, are like
graphometry. The latter, considered under the heading of political ethics below, are not
subject to the same limits: applied ethics do not exclude empirical knowledge, but by
consequence they cannot supply the same guarantee of certainty. The propositions of
pure ethics are necessarily true, while those of applied ethics are contingently true.35

3.1.3. A Political Law of Nature? (Applied Ethics)

In the first chapter of the Essay’s first book, on nearly its first page, Locke
qualifies his goal via a very effective analogy:

34 The term should not be directly equated with empiricism. To be sure, of the 1.01 million listings
generated by an Internet search for empiricism, number one is the portrait of John Locke that hangs in the
dining hall of his alma mater, Christ Church College. But this can be misleading if empiricism is too
directly equated with empirical, for the latter can also refer to observation of the physical world (i.e.,
empirical contrasted with theoretical). Locke’s claim that the mind is a tabula rasa affirms that all
knowledge is based ultimately on experience, but purely mental experiences are included under this. My
own mental reflections are among my experiences. A purely mental argument for God’s existence, with no
reference to the physical world, counts for Locke’s purposes as empiricist. The question posed above is
whether Locke’s law of nature is empirical or theoretical (i.e., is it like sociology or like math?), not
whether his law of nature is empiricist or idealist.

35 I owe this way of putting the distinction to Wolterstorff’s notes on an earlier draft of this
chapter.
'Tis of great use to the Sailor to know the length of his Line, though he cannot with it fathom all the depths of the Ocean. 'Tis well he knows that it is long enough to reach the bottom at such Places as are necessary to direct his Voyage, and caution him against running upon Shoals that may ruin him. Our Business here is not to know all things, but those which concern our Conduct.36

We can by this analogy begin to see how Locke understands the limits of human understanding. While we can attain much certain knowledge, humans must also often make do with probable or approximate understanding, which Locke labels judgment. Were we to wait for certain knowledge before undertaking any activity, we “will have little else to do but sit still and perish.”37 Locke is satisfied to play the role of the sailor: so long as he can safely navigate, he will not be concerned with the ocean’s depths.

Political thought, for Locke, requires both types of understanding. Indeed, this fact is central to how Locke conceives of politics. In Ruth Grant’s words:

The limits of human understanding, as Locke sees them, give the political problem its particular shape. Politics involves both sorts of thought and knowledge; one where practical conduct can be known with certainty, and the other where practical judgments of probabilities much suffice.38

These two types of knowledge align with Locke’s distinction between political science and philosophy, between “the art of governing” and “the original of societies.” The knowledge we acquire from demonstrative sciences, including ethics, is proper to political philosophy. But political rulers need more than this. In applying law, they must weigh human tendencies and desires; they must consider what sorts of responses to expect from subjects under certain conditions, and so on. The former can provide certain

---

36 Essay, 1:1.6.
knowledge, while the latter issues in probable judgments. But where in this scheme does the law of nature belong?

We can best understand Locke’s conception of the law of nature by comparing the interpretations offered by Grant and Peter Laslett. Laslett’s introduction to the Two Treatises argues that the Second Treatise is “policy,” by which he means it is not demonstrative science. As Grant shows, Laslett goes even further when he claims, “the Essay has no room for natural law.”39 Laslett’s reasoning seems to run as follows: the law of nature and political thought both demand reflection on how humans in fact behave or are likely to behave. The Essay rejects, or at least devalues, such knowledge by denying innatism and by showing the natural sciences to provide only inadequate knowledge. Thus the Essay is incompatible with a law of nature and thus “empirical science, rather than philosophy, is Locke’s model for his political writing.”40

Grant provides compelling evidence for rejecting Laslett’s interpretation, much of which should already be clear from what I have said about the Essay in the above sections. But Grant’s goal is not only to show that the Essay does not reject a law of nature. She also wants to show Laslett to be mistaken when he sees the Second Treatise as natural rather than demonstrative. She writes:

Locke’s Second Treatise, then, is not a discussion of lessons in the art of government drawn from personal experience or from historical examples. Instead, it is a kind of demonstrative normative theory the possibility of which is argued in his Essay. It is an analytical argument demonstrating the grounds for and extent of political rights and duties from the premise of all men’s equal natural rights to preservation.41

39 Quoted in Ibid., 24.
40 Ibid., 23.
41 Ibid., 22.
Thus the *Second Treatise* is, on Grant’s account, a political ethics—and as such a demonstrative science. It does not however contain all that the political ruler must know, for every ruler will need to call upon probable judgments. In fact, Grant should perhaps soften her argument slightly, for the *Second Treatise* does appear occasionally to invoke empirical evidence, such as human’s “inclination” to live in society. But in general, Grant’s argument is effective. For Locke, the law of nature is demonstrative and not empirical. It provides the grounding to both the *Essay* and *Second Treatise*. As Grant puts it, “the *Second Treatise* is a work of political ethics that illustrates Locke’s methodological approach to ethical argument as he describes it in the *Essay*.”

3.1.4. A Human Law of Nature?

Having established that Locke’s law of nature is not rendered invalid by its being non-innate, non-empirical, or political, we are left with one final puzzle. How can the law of nature be a demonstrative law for humans, when the category “human” is itself a Complex Idea of Substances, a product of empirical observation or the natural sciences? How could a thinker who denies natural species posit a natural law for *humans*? Quite remarkably, Locke reveals that his law of nature is not for humans.

Locke’s position is a very subtle distinction, based on the uncertainty that he attributes to the study of substances. He writes:

> When we say that *Man is subject to Law*, we mean nothing by Man but a corporeal Rational Creature: What the real Essence or other Qualities of that

---

42 *Second*, 77. We could say the same about the rationality of humans contracting their way out of the state of nature. Doing so depends upon the likelihood of the state of nature becoming a state of war. If it were exceedingly unlikely to happen, the social contract would not be rational.

Creature are in this case is no way considered. And therefore, whether a Child or a Changeling be a Man in a physical Sense, may among the Naturalists be as disputable as it will, it concerns not at all the moral Man, as I may call him, which is this immoveable unchangeable Idea, a corporeal rational Being.44

This is the subtle distinction: Locke’s ethics does concern seeking reward and avoiding punishment by obeying law, but it does not concern humans doing so: it concerns thinking bodies. Thus in a curious passage, Locke asks whether the true human would be the creature that looks like a human but has the reason of a horse, or the creature that looks like a horse but has the reason of a human. For moral purposes, the true human is the latter.45 Though Locke does not do so, we could again compare this to math. The horse-creature is like an optical illusion involving geometric figures. If a pair of lines appears parallel but intersect, and another pair of lines appears perpendicular but never intersect, only the latter is parallel.

It is at this point that most of the Essay’s readers are disappointed. Having established that his rejection of innate ideas does not imply the rejection of a law of nature, Locke fails to deliver the demonstrative science of ethics in support of it. Yet he provides enough for our present purposes, which was to inquire into the grounding of his rights. We can see what a Lockean law of nature would be. It would be natural in the sense that it is rationalistic and does not depend on divine revelation.46 It does not involve innate ideas. It presumes widespread disagreement on moral questions, yet it is not relativistic—for some moral opinions are objectively wrong. Though not relativistic, it

44 Essay, 3:11.16.

45 Peter King, The Life of John Locke (London: Henry Colburn, 1830), 1:162.

46 I use “depend” here loosely, merely to mean that the proofs are legitimate absent revelation. As we shall see in the next section, this is one of the questions about which Locke is unclear and about which his readers disagree. See the citations listed in Myers, Only Star and Compass, 63n20.
does not follow that all moral opinions are true or false, because the moral law may not speak with specificity on all matters. For example, the statements “Triangles have more than one side,” “Triangles have three sides,” and “Triangles have fewer than ten sides,” all differ in their levels of specificity but none are incorrect. Similarly, “Triangles are big” is neither true nor false (though perhaps confused). To say that ethics is demonstrative does not reveal the level of specificity we can expect it to produce, though we can know that whatever conclusions it produces will be certain.

Further, Locke’s law of nature is not natural, if by that term we mean that the physical world has normative force within it. The ethicist who observes human nature would be like the mathematician who measures, rather than proves, angles. As we have seen, Locke excludes nature as a kind of safeguard to protect against relativism. Because of the diversity of moral opinions, morality would be overturned were it based on nature in this way.47

It should be apparent how such conclusions lead to ambiguities in Locke’s law of nature: its lack of defined specificity and the exclusion of nature. Because he fails to provide a demonstrative science of ethics, it is unclear how specific moral rules can be in Locke’s moral theory. We never know when the proof is done. Is “Murder is wrong” as specific as we can determine, or can we go further and conclude, “Murder is wrong and deserves death”? Or can we go still further and conclude, “Murder is wrong and deserves

47 Myers actually uses a similar phrase to mine, calling Locke’s idea of “corporeal rational creature” a “bulwark against such destructive rationalism.” Ibid., 56. In that section of his study, Myers is arguing something similar to what I present here, though for different ends. He goes on to make an interesting point about the irony of Locke’s anti-empirical science being based on the empirical observation of diverse moral opinions.
death by painless execution”? How are we to know when a moral rule is overly specific, when we are saying, in effect, “Triangles are red”?

It would seem that in principle Locke provides a limit to specificity by excluding empirical reasoning. The reason we cannot say “Triangles are red” is because a triangle only has color when physically drawn, in which case it is not, properly speaking, a geometric figure. Consider again the punishments for murder. On what grounds might we argue that it deserves death? Perhaps the death penalty is a deterrent to further murders. One the one hand, this would seem to be based on social scientific evidence (i.e., potential murderers will refrain due to fear of execution). We would have to conduct sociological studies to know whether or not that is the case. On the other hand, perhaps it is not based on such evidence. All “thinking bodies” have an appetite for happiness. Presumably, the prospect of execution is an unhappy one and thus execution can be established as an appropriate punishment quite independent of sociological studies.

According to Locke’s theory, the latter would seem to be acceptable and the former not, but the distinction is a slippery one and is not always maintained in practice. The reader is simply left to wonder.  

---

48 It would seem that an analogous problem occurs for Locke’s theory of knowledge, even without considering politics. How do we know that what we say of a triangle is true without also implying that what we say of any internally consistent idea is true, including what he calls “fantastical” ideas? In other words, are triangles any different from centaurs? Locke says that modes and relations must “be so framed that there be a possibility of existing conformable to them” (2:30.4), by which he appears to mean simply that such ideas must be internally consistent. But the idea of a centaur is presumably also internally consistent. He returns to the problem much later in the Essay (4:5.7) when he writes, “Who knows not what odd Notions many Men’s Heads are fill’d with, and what strange Ideas all Men’s Brains are capable of? But if we rest here ’twill be altogether as true a Proposition to say all Centaurs are Animals, as that all Men are Animals… But of what use is all such Truth to us?” This is a question that he never adequately answers. Locke, it appears, is content to “rest here.”

The implications of this for Locke are examined in James Gibson, "Locke's Theory of Mathematical Knowledge and of a Possible Science of Ethics," Mind 5 (1896). Gibson’s article argues that Locke is here following Cumberland by identifying ethics as mathematical. However, Cumberland eventually acknowledged that because human and divine actions were central to ethics, ethics could not be
The heart of the ambiguity is that it is not so clear where mathematical-type reasoning leaves off and empirical reasoning begins. Recall Locke’s statement from the *First Treatise* that adultery is sinful because it crosses “the main intention of Nature.” He says, in effect, adultery is wrong because stable family life is essential to the increase of the species.\(^{49}\) But is that based on observation of nature, or a purely rational conclusion about all thinking bodies? It certainly does seem to involve at least some basic biological knowledge about how humans reproduce. Indeed, despite the rigidity of Locke’s theoretical distinction, what we actually find throughout his work is a mixture of purely rational (i.e., math-like) and natural (i.e., physical or social science-like) reasoning. In the absence of the promised demonstrative science, the best Locke’s readers can do is to observe him in action.

Giving Locke the greatest benefit of the doubt—assuming that his mature work represents a coherent body of thought—the best explanation is that Locke’s non-innate, non-natural law of nature provides a groundwork or foundation to all moral thought, properly speaking. However, the ethicist must make regular “excursions” from the realm of the mind into the natural world, occasionally drawing on empirical observation to instantiate the rational foundation in particular rules. Thus Locke does seem to hold that adultery is immoral, but it is also evident that his saying so poses a tension to his moral theory.

\(^{49}\) As observed in chapter 2, note 124, the passage in which Locke labels adultery and sodomy sins is part of an argument against Filmer’s internal consistency. Thus identifying these actions as sinful does not necessarily represent Locke’s own view. For present purposes, however, I will proceed as if it does.
This represents one of the gaps in Locke’s work that help explain how today’s interpreters come to such differing conclusions. Some conclude that Locke cannot call adultery a sin without overstepping the bounds of his own moral theory by appeal to natural observation (about family structure, for example). And yet the alternative interpretation has justification as well. If Locke appears to us to overstep the bounds of his own theory, perhaps it is we who are mistaken; family structure may be a necessary rational entity, not based on observation. Or perhaps family structure is based on natural observation, but because it is premised on Locke’s rational foundation, it is a legitimate “excursion” into natural science—the sort of excursion that will not lead to the relativism that a wholly nature-based ethics would. All of these are plausible interpretations; none lack textual support.

Were we to press for a definitive Lockean answer, the interpretation provided by Grant is the most satisfactory. Because political thought involves both empirical and theoretical reasoning—the “art of governing” and the “original of societies”\(^50\)—we expect these overlaps. Yet knowing this fact does not help resolve many contemporary questions, especially “culture war” type questions. What it does conclusively show is what anyone who seeks to make a Lockean argument must affirm. Ethics, including political ethics, is based on non-empirical reasoning with no appeal to revelation. Yet the application of political theory through law often does require empirical reasoning. This is the heart of the political problem; it depends upon limited knowledge.

\(^{50}\) Whenever Locke uses the term “original,” the reader should pay close attention. He does so in crucial passages of the *Essay*, the *Second Treatise*, and the *Reasonableness of Christianity*. What is so significant about originals? They are not copies.
Understanding how the law of nature fits into Locke’s anti-innatist moral theory is only the first step in understanding how he grounds rights. Now that we have seen what sort of law of nature Locke has in mind, we are now in a position to enquire as to how that law relates to duties and rights.

3.2. The Ground of the Law of Nature: Rights or Duties?

The next topic to be addressed concerns how duties and rights relate to Locke’s law of nature. The reason for this investigation is that how we understand Locke’s relation of civic and religious life hinges, in part, on this relation. This was especially clear in the examples of adultery and school prayer, with which I concluded chapter 2, and the example of homosexuality from chapter 1. Even if we could conclude that any of those acts is objectively moral or immoral, could civil law require or proscribe them? This hinges in part on whether rights are correlates of the law of nature, spheres of immunity, or something else entirely.

My examination begins with one of the best recent works on this aspect of Locke’s thought, John Simmons’s *The Lockean Theory of Rights*. I largely agree with Simmons’s conclusions about how Locke relates rights, law, and duties, especially with where he sees other Locke scholars as having going wrong. Yet Simmons does make some missteps of his own and attention to these points will help us better understand why it proves so difficult to determine what Locke thought on these matters.

Two theories have commonly been offered as to how Locke’s rights and law of nature might relate. The first holds that the law of nature prescribes human duties, such as the duties owed to other humans generally, animals, God, to one’s own children, and so on. Then, rights derive from these duties. For example, the natural law prescribes that I care for my children; thus I must have a right to do so. If someone has a right to my
assistance, this theory suggests that this is a kind of shorthand; what we really mean is that I have a duty to assist that person. As Simmons shows, this is the view (in slightly varying form) of James Tully, Richard Ashcraft, and James Dunn. Dunn’s emphasis on Locke’s Calvinism makes this particularly pointed in his interpretation, but for that reason it makes his position all the more clear. According to Dunn, Locke was deeply influenced by the Calvinist notion of “calling.” Thus our rights are simply the freedom we must logically possess in order to obey God’s commands.

The alternative view sees duties as deriving from rights. Thus when Locke speaks of the law of nature, he simply means a specification of subjective rights; duties correlate to rights and derive from them. Simmons identifies Leo Strauss and Richard Cox as the chief proponents of this view, though others hold variants of it. Cox puts it most clearly: “The ‘law’ of nature turns out to be first and foremost concerned with the ‘right’ of self-preservation, and only secondarily or derivately with ‘duty’ to others or to a transcendent order… According to Locke, rights are by nature absolutely superior to duties.” Making rights rather than duties the foundation need not mean this view rejects natural law. It simply means that what the natural law specifies is “zones of noninterference,” rather than positive obligations.

---


52 Dunn, Political Thought of John Locke, 220. It becomes clear why Dunn emphasizes this point so clearly when we recall that his work, and especially the chapter identified here, is focused on refuting Macpherson’s presentation of a possessive individualist Locke (the first word of the chapter, unsurprisingly, is “Macpherson”). It does appear that this goal leads Dunn to overstate the Calvinist case, as I hinted above in comparing Locke to the Westminster Confession and Catechism (see chapter 2, note 67).

53 Simmons, Lockean Theory of Rights, 68.

54 Richard Cox, Locke on War and Peace (Oxford: Clarendon Press, 1960), 84-85. Yet Locke does speak of self-preservation itself not only as a right but also as a duty.
In his study, Simmons draws on Hohfeld’s typology of rights to show that at times Locke speaks of rights in both ways, thus (says Simmons) disproving both interpretations. Locke does sometimes speak of rights as directly following from duties, such as in the parents’ right and duty to raise their children. This would seem to be evidence against Cox. But Locke also speaks of negative or liberty rights. I have a right to plant an apple tree in my garden though no duty to do so. This seems to disprove the thesis that all of Locke’s rights derive from duties. If negative rights imply duties, the logical connection runs from my right to do what I please gardening-wise to your duty not to interfere, rather than the reverse (I have a right to plant my garden because you have a duty not to interfere).

As mentioned, Simmons concludes from this that both interpretations are misguided, though he is adamant that Strauss’s rights-ground-duties thesis is more wrong than Tully’s duties-ground-rights argument. Simmons’ own solution is that the correct understanding of rights lies “between these extremes, in a form of ‘pluralism’ that acknowledges neither right nor duty as primary, basic, or fundamental… This amounts to little more than the view that no single kind of moral consideration or value is primary (all others being derivative from it).” This seems correct. In fact, Simmons could go further: as he presents them, Strauss and Tully are anachronistically trying to fit Locke into deontological or teleological categories. But the errors Simmons attributes to Strauss and Tully are, in effect, mirror images of one another. Why then does he insist that

---

55 For example, Second, 58.

56 Simmons, Lockean Theory of Rights, 69.

57 Ibid., 79, 79n36.
Tully’s duty-ground errs “far less” than Strauss’s rights-ground? If neither is correct, how can one be more wrong?

We can begin to answer this question when we notice a further curiosity. Throughout the passage, Simmons seems to use “natural law” interchangeably with “duty.”58 To be sure, there are good reasons for linking the two. Natural law is often thought of as issuing in positive commands, and Locke does once define law as “that which enjoins or forbids the doing of a thing.”59 Yet because the very issue at stake is how natural law, duty, and rights relate—not to mention that the terms were in flux at Locke’s time—using natural law as a synonym for duty is problematic.

On closer inspection, it becomes clear that Simmons has conflated a number of questions that would be better kept distinct. This explains why Strauss and Tully can commit mirror image errors, yet one can be more wrong: Strauss’s error is indeed “more wrong,” but is in response to a different question than Tully’s. Sorting out the conflated questions will not only make Simmons’s argument clearer, it will help us better understand Locke’s theory. What Simmons has conflated is better separated into these questions:

58 When considering the content of the natural law, Simmons lists “four categories of duty” (Ibid., 60.). I do not dispute Simmons’ categories, but it is worth noticing that this formulation necessarily preferences duties over rights, which is the point in dispute. Of course, as Simmons points out, there is justification in Locke for speaking of the law of nature as “natural obligation” (Second, 118). As for using natural law and duty interchangeably, Tully seems to do something similar in his comments on Strauss in Tully, Discourse on Property, 63.

59 Essays on the Law of Nature, 1 in Locke, Political Essays, 82. One should be careful, however, in noting that in this passage Locke is describing what “others, and they are many, refer to [as] a law of nature.” Thus the above definition may agree with Locke’s own, but not necessarily so.
1. Are there real duties in Locke’s theory or merely rights without correlative duties?
   x. There are real duties.
   y. There are no real duties, only rights without correlative duties.

2. Are duties the ground of rights or do duties derive from rights?
   a. Rights derive from duties.
   b. Duties derive from rights.

As Simmons has it, Strauss and Tully are both offering different answers to the second question. In fact, however, Strauss’s concern is the first question and his answer is that there are no real duties (or something close to that). This is why Strauss famously and controversially argues that Locke is more rather than less like Hobbes. Hobbes held that while I have a right to plant an apple tree in my garden, you have a right to steal the apples, cut down the tree, and burn my house.

What makes this interpretation of Locke controversial is that Locke explicitly rejects it. In addition to distancing himself from Hobbes by name, Locke states that although his state of nature is a state of liberty, “it is not a State of License.” In fairness to Strauss, it must be remembered that he does not deny Locke says any of this; he simply denies that Locke meant it (or claims that the logical conclusion of Locke’s theory would make it impossible for him to differentiate between liberty and license).

Tully is not concerned with the first question. Responding to scholars such as Macpherson, who portray Locke as setting out to make unlimited acquisition a virtue and create capitalism, Tully argues that the real ground in Locke’s theory is duty. Tully holds position 2a in rejection of 2b. In his book on Locke’s view of property, Tully cites Macpherson nearly two dozen times and Strauss only once, and then passingly. To speak

---

60 Second, 6.
loosely, Tully is far more concerned with showing that Locke is not Adam Smith than that he is not Hobbes. We can now see why, even if Simmons could not, how Strauss can be more wrong than Tully. Strauss’s famous (infamous?) “Locke chapter” in *Natural Right and History* responds to question 1, not 2.

Restating Simmons’ argument so that it accounts for this distinction, Simmons argues that Locke affirms real duties. This seems correct. Having established this, Simmons then proceeds to the second question. Do duties derive from rights or vice versa? Answer 2b—duties derive from rights—emphasizes how rights are like property. They are exclusive ownership claims. If my car is actually my property, you have a duty not to destroy my car. This is not the same as saying that I own my car *because* you have a duty not to destroy it. Various thinkers offer this interpretation. Macpherson is an obvious example, but Cox also fits here (who Simmons confusingly linked with Strauss). At its extreme, such a view of rights grounding duties can indeed lead to libertarianism—an agenda for which Locke is sometimes claimed—but many non-libertarians fit here, including “big-government” non-libertarians such as Rawls and anti-big-government non-libertarians such as Zuckert. Because of the connection to libertarianism, we can see why Simmons so easily conflates the questions. Libertarians are often taken to claim there are no positive obligations, only the right to possess and acquire property. As should now be clear, such a position implies at least a negative duty on others and is thus distinct from Hobbes’s unlimited right.

The answer 2a can best be understood as a rejection of 2b, one that is often proposed on the grounds that if Locke was not a proto-capitalist libertarian the opposite must be true. Tully’s response is much more subtle but still representative of the position. He writes, “men have natural rights *because* they have natural duties; Dunn stresses that what ‘defines human life [for Locke] is a set of duties and a right to promote happiness in
any way compatible with these duties.’”⁶¹ The ground of morality is a set of duties and from those duties we derive correlative rights. We have already seen parental rights as correlative obligations of parental duties. But in quoting Dunn, Tully reveals that the position has room for rights that are not merely correlative to duties, but denote zones of liberty around which duties set a boundary or fence. In both cases, however, duties are prior to rights and define them, either highly specifically (for correlative rights) or less specifically (for bounded negative rights).

Simmons concludes that neither 2a nor 2b quite capture how Locke answers question 2. Instead, the bulk of his volume is spent establishing 2c: “a form of ‘pluralism’ that acknowledges neither right nor duty as primary, basic, or fundamental.”⁶² We are now in a position to address the “curiosity” I observed above: though I have now described all of the major positions identified by Simmons, I have not once mentioned natural law or the law of nature. But Simmons uses the phrases repeatedly, usually to refer to duties in distinction from rights. This gets us to the heart of the confusion.

Those thinkers who critique positions such as Macpherson’s often point to Locke’s repeated references to “law of nature” as evidence against the claim that duties derive from rights.⁶³ It is as though if Locke can be shown to appeal to a “law of nature” this proves he opts for 2a over 2b, that all rights derive from duties. But this follows only if the law of nature directly specifies duties. We have already seen that there is evidence for this from Locke’s own pen. In the (unpublished and very early) Essays on the Law of

---

⁶¹ Tully, Discourse on Property, 63.
⁶² Simmons, Lockean Theory of Rights, 79.
⁶³ For example, see Ibid., 71, Tully, Discourse on Property, 63.
Nature, he does indeed describe law in this way. Other commonly cited examples include Locke’s statements about parental duties in the Second Treatise. Adam and Eve, and all parents following them, are “by the law of nature, under an obligation to preserve, nourish, and educate the children, they had begotten.”64 Yet is this understanding of the law of nature the only option? After all, Locke states that everyone by the law of nature has a right (not a duty) to punish criminals in the state of nature.65

In his work on the topic, Zuckert suggests that Locke is up to some trickery. Locke makes, in Zuckert’s words, “an extremely clever move.”66 In both the Essays on the Law of Nature and in simplified form in the Second Treatise, Locke argues that there is a law of nature and that it is transcendent (obliges all) but not immanent (humans do not have direct access to it, such as by its being innate). Having studied the anti-innatist Essay in the preceding section, we can certainly accept this claim. But then, says Zuckert, Locke proceeds to undercut even the transcendent natural law through a series of contradictions. On the one hand, Locke seemingly needs a law of nature to distinguish himself from Hobbes, because Locke’s rights imply genuine duties. But on the other hand, says Zuckert, Locke removes his own ground for the law of nature.67 What he is left with is distinctively modern natural rights: subjective, individual rights as the ground of morality from which duties derive.

64 Second, 56.
65 Second, 7.
66 Zuckert, Launching, 188. His work that is relevant for this issue is Zuckert, Launching, ch. 7, Zuckert, New Republicanism, ch. 8.
67 His argument to this effect is presented most clearly in Zuckert, New Republicanism, ch. 9.
We can thus see how Zuckert resolves the puzzle of whether the law of nature specifies rights or duties (when Locke’s text seems to pull us in both directions). He concludes that, at the end of the day, Locke’s references to such a law are “extremely clever” but not much more. Locke’s rights do not derive from a law of nature in any real sense. In terms of the law of nature, Locke really would lead us to Hobbes. There is a simpler solution to the puzzle that Zuckert does not consider.

Zuckert takes for granted that when Locke refers to the law of nature he is using the phrase fairly conventionally, as he did by defining it as “commands” in the Essays on the Law of Nature. A better explanation would observe that Locke actually varies what he means by the law of nature and, indeed, he provides a clue about its meaning at the very beginning of the Law of Nature essays. The essays are actually a series of questions to which Locke responds, disputation-style. The opening question reads, “Is there a Rule of Morals or Law of Nature given to us? Yes.”68 Though the Locke of these early essays differs from the mature Locke, he does seem consistent on this point: the phrase law of nature is a synonym for moral law. Thus law of nature is not a synonym for duties. It is not, in other words, a statement in favor of objective right over and against subjective rights. Seeing this allows us to realize that Locke can talk quite freely about the law of nature without this making him into a scholastic natural lawyer, without making his rights unlimited à la Hobbes, and without his law being a clever trick. Based on this, there are two logical possibilities.

68 Locke, Political Essays, 81.
3. If the ground of Locke’s moral thought is what he calls the law of nature, does that law specify rights or duties as its foundation?
   a. The law of nature specifies duties and rights derive from them.
   b. The law of nature specifies rights and duties derive from them.

Clearly, those who hold 2a tend also to hold 3a and advocates of 2b will support 3b—and there is evidence in Locke for both. Is there then any way to choose between the two? On a certain level, the careful reader must simply admit that Locke is not always entirely consistent. Yet overall Locke is a careful writer and he does not leave the reader clueless. Choosing between these options does not contradict Locke’s frequent use of both rights and duties-language, for both of these positions affirm that both rights and duties exist.

The question is whether its deepest foundation, “all the way down,” the law of nature grants rights or commands duties. In technical terms, is the law of nature a statement of objective right or subjective rights?

The best indication Locke provides is in his most consistent image for subjective right: property. On this, Locke is clear: “Property is the original law of nature.”\footnote{Second, 30. Recall note 50, above!} This suggests (even if it does not prove) that 3b is closer to the mark: for Locke, rights are more fundamental than duties. In Locke’s usage, rights-as-property implies a broader, more autonomous moral freedom than rights-from-duties. Zuckert shows how the sort of liberty right-as-duties generates is quite different than that provided by rights-as-property. (His terminology in this passage uses natural law as a synonym for rights-from-duties.)

The natural law-inspired right to liberty is not a right to do or not to do, as each agent determines. Rather, it is a right only to adhere to the natural law mandated in a truly human way, that is, through the agent’s reason and will. It implies nothing whatsoever about a broader moral freedom—a realm of personal sovereignty or of free choice… The freedom inhering the natural law does not in
any way imply a libertarian society. Thomas Aquinas remains very far from John Stuart Mill.  

I am suggesting that Locke manages to make this distinction, but not in a way that cuts off his use of the phrase law of nature. In that sense, Locke shares at least a little with both Aquinas and Mill. At its heart, what the law of nature specifies according to Locke—what reason specifies—is that human beings are rights bearers because they are self-owners. Though it is correct to speak of the three basic Lockean natural rights as life, liberty, and (real) property, for Locke all three are aptly described as property. As Locke uses the term, property necessarily generates highly specific liberty rights and less specific statements of moral obligations (i.e., positive commands). This is because in Locke’s usage the concept of ownership implies that owners possess some sort of “zone of indifference” around their property.

It is important not to overlook the qualifier in Locke’s usage. The concept of property was central to scholastic discussions of rights that preceded Locke (to which in part he was responding), yet these did not necessarily imply a morally neutral zone of indifference. It is beyond the scope of my study to examine these prior uses of the term, but it is clear that Locke uses the term for his own end, one that would not always have been shared by earlier thinkers. His ability to make this difference seems to lie in the

---

70 Zuckert, Launching, 185.

71 Interestingly, though not appealing to each other’s work, Zuckert and Jean Porter come to the fundamentally same conclusion about subjective rights in Aquinas. Responding in similar ways to contemporary disputes about the definition of rights, they agree that “Aquinas does come close to articulating a doctrine of subjective natural rights, even though he does not quite do so.” Porter, “From Natural Law to Human Rights: Or, Why Rights Talk Matters,” 85. Cf. Zuckert, Launching, ch. 7.

72 Simmons, Lockean Theory of Rights, 76. To be sure, etymologically speaking, duty also employs the image of property. It is what is owed to a feudal lord by his inferiors. But this only reinforces the distinction I am drawing: duty refers to property over which I do not have discretion of use, for, in a sense, it is not truly my own property.
weight he grants to the diversity of moral laws across cultures and his denial of innate ideas. Absent such concepts, property becomes more like a sphere of moral autonomy.73 Yet his use of the phrases property and law of nature give an appearance of continuity with earlier thinkers.74 As Tuck points out, even in the fourteenth century “it was possible to argue that to have a right was to be the lord or dominus of one’s relevant moral world, to possess … property.”75 Locke does the same, but for him (for the reasons stated above regarding relativism), his conception of property leaves less room for positive duties on the parts of others, focusing almost entirely on the negative duties of restraint created by the property.76

Locke makes this harder to see than he might have, especially because his assertion that humans are self-owners does not come until chapter 5 of the Second Treatise. In chapter 1 he had made the seemingly contradictory claim that humans are the property of God, not of themselves.77 One need not go as far as Zuckert in seeing this as an outright contradiction, but it can be confusing.78 Further confusing the issue is that

73 Yet this too is not entirely original with Locke. Tierney finds the view that natural law “could be permissive as well as perceptive … at least from the twelfth century onward.” Tierney, "Natural Law," 399.


75 Tuck, Natural Rights Theories, 3.

76 For a helpful survey of how historians have definitely shown the notion of rights, property, and dominium well prior to the seventeenth century, and the relation of this to Locke, see Cary J. Nederman, "Property and Protest: Political Theory and Subjective Rights in Fourteenth-Century England," Review of Politics 58, no. 2 (1996).

77 In an article on the origin of modern rights, Tierney argues against both the incompatibility of these assertions and the originality of these assertions. Brian Tierney, "Historical Roots of Modern Rights: Before Locke and After," Ave Maria Law Review 3, no. 1 (2005): 32.

78 It is fair for Zuckert to say this leads to contradictions when we consider certain moral quandaries. For example, if humans are God’s property then suicide is forbidden but if humans are their
Locke sometimes affirms positions akin to both 3a and 3b even in a single passage. Immediately after the *Second Treatise’s* crucial property chapter, Locke writes, “Law, in its true notion, is not so much the Limitation as the direction of a free and intelligent Agent to his proper Interest, and prescribes no farther than is for the General Good of those under that Law.”\(^7^9\) The opening and final clauses of this sentence describe law in terms quite close to subjective rights based primarily in the agent’s liberty. Whatever duties it may specify are general; they can be no more than general because they are limited by the agent’s liberty. Yet the middle clause could well be taken as support for the theory that Locke’s law specifies objective right. If the agent has a *proper* interest (rather than a merely subjective or apparent one), how could it be otherwise? As I have said, taken as a whole, the view that Locke’s law specifies rights does seem closer to the mark; but it is passages like these that lead to differing interpretations. Perhaps Locke was not as careful as he might have been, or perhaps today’s readers find it hard to hold together distinct options that, in Locke’s mind, fit quite easily.

Locke’s description of his law of nature is problematic in one final way. He understands “obligatory” to refer to those actions that fall under threat of punishment or benefit of reward. Thus for the law of nature to be morally obligatory, it must be a sort of

---

\(^7^9\) *Second*, 57. This passage occurs in the context of what is the most serious challenge to the interpretation I am advocating here. The passage is found in chapter 6 of the *Second Treatise*, which concerns parental *obligations* to children (yet note the title of the chapter: Parental *Power*). What Locke says in paragraphs 57 and 58 is perhaps the closest he comes to describing his law of nature as objective right. Parents’ moral power to care for their children arises *from* their duty to do so. The duty is not generated by the right, nor is exercise of the right optional. To be fairly treated, Locke’s view of the family would deserve its own extended study. Here I merely acknowledge it as potential counter-evidence to my position.
divine law, at least in the sense that the lawmaker (i.e., God) enforces it via punishment and reward. We must therefore be able to know by reason that the soul is immortal: there is another life in which judgment will be rendered. Yet Locke explicitly says we cannot know by reason that the soul is immortal.\textsuperscript{80} The law of nature at which Locke finally arrives, though he never admits as much explicitly, is not a form of divine law. It is simply reason itself. It is the principle of self-preservation. Chapter 2 of the \textit{Second Treatise} is generally thought to be the more orthodox or traditional statement of Locke’s law of nature, for it is there that he presents his Workmanship Argument: the law of nature is obligatory because violating it violates God’s property rights over his creatures. Yet repeatedly throughout the chapter, in nearly every other paragraph, Locke describes the law of nature as a synonym for \textit{reason}, and places relatively little emphasis on it being a law the issues from God or that God will enforce.\textsuperscript{81} Locke’s failure to fulfill his own criteria has long been, and will continue to be, a debated topic among his interpreters. What should be clear to all is that Locke’s work consistently takes for granted that the law of nature exists. Yet he uses the phrase “law of nature” contrary to other, earlier definitions—perhaps including his own.

Where does this extended investigation into Locke’s view of the law of nature leave us? First, ethics, including the law of nature is a theoretical endeavor like math, and not an empirical one in which the human being \textit{qua} creature has normative force. As we saw, the moral being is defined not by physical characteristics but precisely by being subject to law. Yet political life is characterized by the problematic necessity of going

\textsuperscript{80} \textit{Essay}, 4:3.6.

\textsuperscript{81} \textit{Second}, 6, 8, 10, 11, 12, 16.
beyond what can be learned from merely “geometric” reasoning. Second, Locke’s ethics are fundamentally grounded in subjective rights, especially negative rights. But this does not contradict his insistence that there is a law of nature. This is because Locke’s law of nature originates, as he says, in property. To be sure, Locke clearly changes the meaning of the term from earlier uses, but we cannot thereby conclude his law of nature does not exist or is an illusion. We thus see that Locke’s rights are not rights merely to do what is objectively good, not because there is no objective good (as in relativism), nor because the rights have no correlative duties (as in Hobbes, as well as in Strauss’s Locke). Rather, Locke’s rights are genuine moral freedoms because they are spheres of immunity or indifference. As negative rights, they imply duties of a sort, but primarily duties of forbearance.

3.3. Sources of Moral Knowledge: The Reasonableness of Christianity

The first half of the chapter provided a deeper investigation of how rights, duties, and the law of nature relate in his thought. We now begin the second half of the chapter, in which I study what Locke says about the sources of moral knowledge. This is especially important for contemporary Christian political theology, because it in part addresses what political role Scripture may have. It also addresses the question of whether Locke’s argument for basing law, and ethics generally, on non-revealed sources alone makes the Bible’s moral teaching superfluous.

82 “It being unavoidable in Discourses differing from the ordinary received Notions either to make new Words, or to use old Words in somewhat new signification, the latter … is perhaps the more tolerable of the two.” Essay, 2:12.4.
Locke’s thought on the sources of moral knowledge centers around three poles, each of which at times pulls away from the others. First, innate ideas are not a source for moral knowledge. Second, morality must be accessible to all by reason alone without the aid of revelation. This is so because political leaders cannot depend upon particular religious convictions and because a just God could not have left “those who have not heard” without moral knowledge. Third, the teaching of Scripture and especially of Jesus is an essential source of moral knowledge. Trying to affirm these three positions at once can easily sound confused: Everyone can know what is right, but not everyone does know what is right. Further, the most general source (innate ideas) from which morality might be learned is non-existent, and the most particular source (Scripture) is vital! If the moral law is as obvious as he suggests—in one place claiming it is as easily known “as the positive laws of the commonwealths, nay possibly plainer”\(^{83}\)—how seriously should we take his denial of innatism? And if morality being universally known is as important as he suggests, how can Scripture be so essential?

The best way to consider these questions is to see Locke as engaged in a task of Christian ethics. He does not see Scripture as merely dispensable or superfluous, and yet he believes that individuals can attain moral knowledge without it and political communities can be governed apart from it. He most commonly explains this seeming paradox by a historical narrative about how humans came to the sure moral knowledge that he believes they now possess. As a moral teacher, Jesus represents a climactic moment in the history of moral knowledge. In fact, contrary to expectations, it is not in

\(^{83}\) Second, 12.
spite of Jesus’ prominence to Locke’s narrative that politics can be based on rational
grounds alone, but because of it.

In the following sections I will argue that these ethical concerns are actually
central to *The Reasonableness of Christianity as Delivered in the Scriptures*, more so
than is often assumed.\(^{84}\) This does not mean Locke is unconcerned with the book’s many
other topics, but certain historical developments have perhaps tilted the balance of the
standard reading too far in one direction. I have in mind specifically the concerns about
Locke’s orthodoxy that are often raised by the book. Was he a Socian? A Deist? For such
questions, the ethical passages of the *Reasonableness* are of less significance than the
passages concerned with doctrine. This reading was been reinforced by Locke’s
subsequent two *Vindications of the Reasonableness of Christianity*, for it was Locke’s
doctrinal claims that his earliest readers interacted with. As we shall see, the ethical
concerns deserve at least as much attention as the book’s doctrinal chapters.

There are a variety of views about what Locke means by calling Christianity
“reasonable” in the book’s title. Certainly part of what he has in mind is that biblical
theology is compatible with natural theology. Victor Nuovo suggests, quite plausibly, that
Locke wanted to show Deists that they need not abandon the Bible.\(^{85}\) In the book’s
opening paragraph, Locke reports that he seeks to avoid two extremes of Christian
thought: either millions who have not heard of Christ are damned to hell or those millions

---

\(^{84}\) Of course, I do not limit myself to the *Reasonableness* in what follows. Indeed, it is interesting
to note its resonance with other of his works despite being a comparatively late work (published in 1695, it
was the last major work of Locke’s life). The *Two Treatises*, the *Letter*, and the *Essay* were all published in
1689, and he was working on the first drafts of the *Essay* as early as 1671. For example, despite the time
difference, one of Locke’s more crucial points in the *Reasonableness*, made in the second-last paragraph,
has a very close parallel in the opening book of the *Essay*.

are not damned, but in consequence Jesus is nothing but the preacher of a natural religion.\textsuperscript{86} Locke is more than a Deist, but not so much more that he is a Calvinist.

Another clue about Locke’s meaning can be found in the only instance of the word “reasonableness” in the entire work.

These two, Faith and Repentance, \textit{i.e.} believing Jesus to be the Messiah, and a good life, are the indispensable Conditions of the New Covenant to be performed by all those who would obtain Eternal Life. The Reasonableness, or rather Necessity of which, that we may better comprehend, we must a little look back to what was said in the beginning.\textsuperscript{87}

Here, reasonableness is a synonym for necessity. This recalls Locke’s distinctions in earlier writings, especially the \textit{Letter}, between things necessary to salvation and those unnecessary, the \textit{adiaphora}. Christianity requires no more than basic logic requires; all else is \textit{adiaphora}. Based on this Nuovo argues,

Christianity, in this respect, appears not so much as an altogether supernatural religion, but as the paradigm of a less rigorous religion of nature. These two modes of religion become in Locke’s thinking not rivals but complementary moments in the providential government of the world.\textsuperscript{88}

Natural religion reaches its pinnacle in Christianity, from which it follows that Christianity is the one, true religion. However, Christianity has all too often been beset by schisms and quarrels, a fact that Locke seeks to remedy by showing in the \textit{Reasonableness} what true Christianity entails.

To understand Locke’s narrative history of moral knowledge we must first understand what he sees as the purpose of Christianity. Given human mortality, God

\textsuperscript{86} \textit{Reasonableness}, 1-2.
\textsuperscript{87} \textit{Reasonableness}, 199.
\textsuperscript{88} Nuovo, "Introduction," xlix-l.
made it possible for humans to regain eternal life. However, this would normally only be possible if humans perfectly obeyed “the Law of Reason, or as it is called of Nature.”

God thus provides the Law of Faith under which all that is required is doing one’s moral best, not perfect obedience. What is the Law of Faith? “For everyone to believe what God requires him to believe, as a condition of the Covenant he makes with him, and not to doubt of the performance of his Promises.” The Law of Faith can therefore be stated as a formal principle: believe what God requires you to believe.

Given the gospel, the Law of Faith is no longer merely formal; it takes on content. “Under the Revelation of the Gospel” we must now believe Jesus to be the Messiah, which means “giving credit to the miracles he did and the profession he made of himself.” Unfortunately, this is still rather formal: believing Jesus’ profession to be the Messiah means believing Jesus’ profession to be the Messiah. In fact, Locke is frustratingly obscure in not revealing what the profession of Jesus’ messiahship actually means, which is perhaps his intention. The more specific he is about what messiahship means, the less he will be able to show that true Christianity does not lead to partisan doctrinal disputes. For example, believing Jesus is the Messiah does not entail believing him to be divine. Perhaps the best description of what Locke had in mind was that believing Jesus to be the Messiah is more a quasi-political, rather than a doctrinal, commitment. Nuovo describes this as follows:

[Locke] did not regard acceptance of Jesus as Messiah as a matter of faith, but as an act of submission to one’s Lord… [This] lends cogency to the separation of

---

89 *Reasonableness*, 14.

90 *Reasonableness*, 25.

faith in Jesus as Messiah from all the other doctrines of the faith. It also makes his version of Christianity immune from controversies over orthodoxy, a fact that he recognized and celebrated.\footnote{Nuovo, "Introduction," xlvii.}

So from Locke’s perspective, confessing Jesus to be Messiah is more akin to recognizing his authority and making oneself his disciple than affirming a metaphysical proposition.

### 3.3.1. The Structure of the *Reasonableness*

The *Reasonableness* can be divided into two sections; the first is concerned with the above point about Jesus as Messiah. Even this part is told largely narratively as a history of redemption from Adam to Christ.\footnote{Joshua Mitchell terms this “Locke’s Dialectic of Biblical History.” He comments, “All this is common knowledge within departments of religion. In political science, however, we still labor under the illusion that to speak of the dialectic of history is, in the same breath, to invoke Hegel—or perhaps Marx.” Mitchell, "John Locke and the Theological Foundation of Liberal Toleration: A Christian Dialectic of History," 64, 74.}

Throughout these chapters, Locke clears away what he sees as unnecessary, that is, unreasonable. The theology of the four gospels and the Acts of the Apostles is the logical response of God to the human condition, and it is largely devoid of doctrinal commitments. Of course, read with a critical eye, this clearing away process is riddled with difficulties over which Locke glides. In typical fashion, Locke subtly shifts the terms in such a way as to call attention away from the difficulties. For example, he writes that Christ “shows the way of admittance into this Kingdom, \textit{viz.} Repentance and Baptism; and teaches the Laws of it, \textit{viz.} Good Life.”\footnote{Reasonableness, 75. Locke does actually address baptism in more detail at *Reasonableness*, 197, but he does not here address the real problem, which is whether or not it is absolutely required alongside confessing Jesus to be Messiah and, if so, whether certain baptisms are illegitimate.}

The requirement of baptism should pose a conceptual difficulty to Locke’s task of clearing away, because if baptism is required then professing Jesus to be the Messiah is
not the only thing required. But he ignores this, never explaining how he would solve the dilemma. But in doing so, Locke again shows his rhetorical skill. By mentioning baptism alongside the phrase “Good Life,” it appears to the reader that he has taken account of the problem.

If these chapters reveal Locke clearing away unnecessary doctrinal commitments, what is he clearing room for? This is found in the concluding chapters where Locke shows that the profession about Jesus is not, after all, the one thing that is required. He foreshadows this fairly early on, most clearly in the closing sentence of chapter 5: “All that was to be believed for Justification was no more but this single Proposition: That Jesus of Nazareth was the Christ, or the Messiah. All I say, that was to be believed for Justification: For that it was not all that was required to be done for Justification, we shall see hereafter.”

It is clear what Jesus’ role is in Locke’s history of redemption: he brings the Law of Faith, which allows humans to gain eternal life by sincere effort rather than perfect obedience. But what is Jesus’ role in the history of that moral knowledge? How do humans come to know what is “required to be done”? This is what Locke addresses in the book’s second section. In earlier scholarship the much longer first part has received greater attention. Although the shorter of the two parts, the second should be seen be read as at least equal in significance to the first.

The point at which I divide the sections differs from the standard critical editions. There are fourteen chapters in the book, plus an appendix typically numbered

---

95 *Reasonableness*, 47, emphasis added.

as a fifteenth chapter (in which Locke explains why he did not treat the New Testament epistles alongside the gospels as primary source materials). Nuovo divides this into chapters 1-10, “which is an account of the history and propagation of the gospel,” and chapters 11-14, “which treats the advantages of Christianity, and some related problems of theodicy.” In other words, Locke explains himself in ten chapters and then makes miscellaneous comments in the remaining four or five. Locke did have his shortcomings as a writer—he was often hopelessly repetitive, for example—but his ability to structure a text deserves more credit than this.

As he argues throughout *Reasonableness*, Christianity consists of two requirements: believing Jesus to be the Messiah and leading a good life. This is a fairly obvious clue to the structure of the work itself. The first eleven (not ten) chapters explain the meaning of the first of these requirements, which I have described as Locke’s clearing away. Here he explains why the many doctrines that have become attached to Christianity are neither scriptural nor necessary. Much of what Locke says in these chapters, most notably 8-10, is interesting because of how Locke depicts Jesus as an esoteric preacher trying to both reveal and obscure his office, otherwise called the Messianic Secret. As Locke portrays it, this is the genius of the gospel: Jesus’ preaching is not a hidden


98 Though I make my plea for the importance of the second part as forcefully as possible, and though I do believe the second part is more important to Locke’s lifework taken as a whole, I perhaps do stretch the evidence if I am taken to claim these chapters are more important than the first eleven. As a minimum demand I would insist that the parts be read complementarily: either the crucial second part fills in what Locke has cleared room for via the first part (my position) or the second part shows the reader that Locke has not, in the crucial first part, cleared more away than he should have.

As to dividing the parts between chapters 11 and 12, I can offer no evidence beyond the reading of the chapters themselves. I find nothing to support Nuovo’s 10-11 division. And the division does matter: placing it before chapter 11 forces the reader to read the second part as “Miscellaneous Considerations.”
message for the “Wise and Prudent Men of the World.” It is a reverse esotericism in which “good poor men” are enabled by “ignorance and lowness” to serve the master.99 The book’s final three chapters (12-14, counting 15 as the appendix) deal, unsurprisingly, with the second requirement.

The first requirement of Locke’s Christianity has often generated the most interest, and earned him comparisons to Hobbes, who also argued for a single doctrinal tenet for Christianity.100 Unfortunately, Locke is never as clear as one would like about what it is, in terms of actual content, that Jesus’ followers are supposed to believe.101 Though the early chapters contain repeated promises that he will soon explain what the belief actually entails, at no point does Locke fully deliver.102 Instead what we find are careful explanations of why almost everything Jesus says translates to a claim to be the Messiah. But this nearly reduces to a tautology: believing him to be the Messiah means believing his professions, but his main profession was his messiahship. Either a tautology or it is synthetic, like being required to believe “Jesus is x.”

Locke was clearly aware of this, but the fact does not seem to have motivated him to resolve the problem. He begins chapter 15 by writing, “If the belief of Jesus of Nazareth to be the Messiah, together with those concomitant Articles of his Resurrection, Rule, and coming again to Judge the World, be all the Faith required as necessary …”103

---

99 _Reasonableness_, 154-155. On esotericism in the gospels, see also _Reasonableness_, 136.

100 Hobbes, _Leviathan_, III.43.

101 This is an oversimplification, of course, for the reader might interpret passing clues as Locke’s answer. For example, at one point he notes, “It was a received Doctrine in the Jewish Nation that at the Coming of the Messiah all their sins should be forgiven them” (_Reasonableness_, 113). This is not much of an answer.

102 For example, the end of chap. 3 and the opening lines of chaps. 4, 7, 10.

103 _Reasonableness_, 290-291.
Technically, then, the profession is neither a tautology nor is it entirely vacuous. Yet where do these “concomitant articles” come from? Why, after nearly 300 pages, does he suddenly qualify the claim that Jesus’ messiahship is the only belief necessary? The concomitant articles appear to be an afterthought. For example, after receiving his personal copy of *Reasonableness* from the publisher, Locke went back and identified two passages in chapter 10 as related to this by writing “Concomitant Articles” in the margin.¹⁰⁴ Yet in their contexts, neither passage quite says that the Messiah-profession entails these other beliefs. In fact, the second of the two marginal notes and the clearer of the two, refers to the preaching of the Apostle Paul, the authority of which Locke spends chapter 15 undermining.¹⁰⁵

By never actually delivering his promised explanation of what it means to believe Jesus is the Messiah, we can see how thorough was Locke’s clearing away. The two requirements of Locke’s Christianity are believing Jesus and doing good. But because Locke also depicts Jesus as a teacher of morality and lawgiver (though he never tells us what those laws are until the ethical chapters), we see that “believing Jesus” entails doing good. As Nuovo says, accepting Jesus as Messiah is, for Locke, “an act of submission to one’s Lord.” But if the only requirement Jesus makes of his subjects is that they obey his moral commands, then believing “Jesus is the Messiah” simply means, “Obey Jesus as a moral teacher.” The problem is that Locke nowhere says just that.

¹⁰⁴ We know this because the Locke’s personal copy, the so-called Harvard Copy, is still available for study. See Higgins-Biddle’s note in *Reasonableness*, 164.

¹⁰⁵ To be sure, chapter 15 is concerned with Paul’s epistles, whereas the marginal note refers to quotations from Paul’s sermons as recorded in Acts. Still, it would seem that Locke’s reasons for qualifying the importance of the epistles (e.g. their occasional nature) would apply equally to the sermons.

His clearing away complete, Locke begins chapter 12 as follows:

What those were to do, who believed him to be the Messiah … we shall best know by the Laws he gives them and requires them to obey…

What he proposed to his Followers to be believed, we have already seen by examining his, and his Apostles preaching, step by step… The same Method will best and plainest show us, whether he required of those who believed him to be the Messiah anything besides that Faith, and what it was. For he being a King, we shall see by his Commands what he expects from his Subjects: For if he did not expect Obedience to them, his Commands would be but mere Mockery.106

In describing Jesus’ moral teaching, Locke faces the twin tasks of showing Jesus to be indispensable for theological reasons and dispensable for reasons of politics and theodicy. The three chapters that I have identified as of ethical concern deal with precisely these concerns.

The first ethics chapter is largely extracts from the gospels stating Jesus’ moral teaching, summarized in Matthew’s version of the Golden Rule.107 Locke also exeges a couple key passages that might seem to call for quite radical forms of obedience, such as Jesus telling the wealthy young to sell all he has for the poor. On Locke’s interpretation, this is not a rule, “but a Probationary Command,” the purpose of which is to determine—unsurprisingly—“whether he truly believed him to be the Messiah.”108 According to Locke, Jesus’ moral law maintains the full strictness of the Old Testament law, though it excludes “the corrupt glosses of the Scribes and Pharisees” as well as the ceremonial precepts of Moses’ law. Indeed, Locke speculates that the New Testament’s moral

106 *Reasonableness*, 215-216, emphasis added.
107 *Reasonableness*, 219.
teaching is fully comprehensive. “There is not, I think, any of the Duties of Morality, which he as not somewhere or other, by himself and his Apostles, inculcated over and over again to his Followers in express terms.”

The subsequent two chapters deal with possible objections; the exact topics, in fact, that prompted our investigation. Chapter 13, as well as the first four paragraphs of 14, respond to the concern, “If all sinners shall be condemned [except for those who believe in Jesus] … what shall become of all mankind who lived before our Savior’s time, who never heard of his name, and consequently could not believe in him?” Locke first answers the easy case, showing that the heroes of the Bible, such as Abraham, who lived before Christ had merely to believe whatever promises they received. Clearly, says Locke, they could not be expected to believe someone named Jesus, of whom they had never heard. Locke, it turns out, does not seem to think the question worth his time: “To this, the answer is so obvious and natural that one would wonder how any reasonable man should think it worth the urging.”

He then considers the more serious version of the objection. What of those who lived since Christ but have never heard of him? These must merely follow reason, “the candle of the Lord, so far as to find what was his duty.” The law that these must follow “is the eternal, immutable Standard of Right.” To be sure, Locke here simply ignores the difficulties of the law of nature with which he grappled in his earlier works. Though his theory seems to offer little ground by which to say this, what he means by it is clear. It is

---

109 *Reasonableness*, 129.
110 *Reasonableness*, 243.
111 *Reasonableness*, 253.
also interesting that no belief is required of this, “the rest of mankind.”\textsuperscript{112} It is enough that they do their moral best, insofar as they can see it.

The bulk of chapter 14 considers the objection that arises in response to these answers. If anyone can be saved simply by being reasonable, “What advantage have we by Jesus Christ?”\textsuperscript{113} After a winding and unusually flowery plea that such mysteries be left to the wisdom of God, Locke consents to answer. Though the “Rational Man or fair searcher after Truth” would be satisfied in leaving this to God’s mystery, the answer is, in this case, so obvious that Locke feels free to respond.\textsuperscript{114} Although he describes this as an explanation of Jesus’ necessity, he of course has in mind why special revelation of any kind was necessary. In other words, why is natural religion not enough?

Before considering Locke’s answer, notice carefully what he avoids. Those who live today but have not heard the gospel must obey the moral law insofar as they know it, but they are not under an obligation to believe anything in particular (unlike, for example, Abraham). If the two requirements of Christianity are belief in God’s promises and doing one’s moral best, the real puzzle is not how such people can know the moral law—because all anyone is required to do is their best, including those who have heard the gospel. The real difficulty is whether the command to believe Jesus is the Messiah is “necessary,” that is, whether it is reasonable. If merely obeying Christianity’s second (moral) requirement saves those who have not heard, why can everyone not be saved in this way? Why does the first (belief) requirement oblige anyone?

\textsuperscript{112} Reasonableness, 251.

\textsuperscript{113} Reasonableness, 254.

\textsuperscript{114} Reasonableness, 256.
Locke may have realized that this was the logical consequence of his arguments. Three years after the publication of the *Reasonableness*, he wrote the following in his notes:

The first step to orthodoxy is a sincere obedience to [Christ’s] law. Objection: But ’tis an ignorant day labourer that cannot so much as read. How can he study the gospel and become orthodox that way? Answer: A ploughman that cannot read is not so ignorant. He has a confidence and knows in those few cases which concern his own actions what is right and what is wrong. Let him sincerely obey this light of nature: it is the transcript of the moral law in the gospel… Even though there be error in it will lead him into all the truths in the gospel that are necessary for him to do.\(^\text{115}\)

This is an even more difficult case of someone “who has not heard.” The ploughman presumably has heard, at least in a formal sense, but he has not understood. Thus there are all sorts of people who have not heard: perhaps those who have only heard bad sermons or have only read overly verbose translations of the New Testament are among those “who have not heard,” in some sense. Are they exempt from Christianity’s belief requirement? But Locke does not even mention this difficulty in the *Reasonableness*, though it would seem that the force of his argument would make the requirement to believe in Jesus as the Messiah optional. Instead, he addresses the epistemological question of how the moral law came to be known, and this at length.

Considering Locke’s answer in more detail, he discusses five distinct “advantages we receive by the coming of Jesus the Messiah.”\(^\text{116}\) The third and fifth points are brief, so I pass over them quickly. The third concerns proper worship and the fifth addresses the

\(^{115}\) Locke, “98 Error” in *Writings*, 82. Locke’s notes are largely unpunctuated; thus I have edited this passage for readability.

\(^{116}\) *Reasonableness*, 256.
assistance provided Jesus’ sending his Spirit. In essence, Locke says that Jesus made religious piety appropriately private—not a matter of public ceremonies—and by sending his Spirit, Jesus will help his followers obey him. The first, second, and fourth advantages are of more relevance for our study.

Locke presents his history of moral knowledge most clearly in these sections, and it reads not unlike a Quest for the Ethical Jesus. In the gospel according to Locke, Jesus’ enemies are not Scribes, Pharisees, and Sadducees, but philosophers, magistrates, and priests. Each has some role to play, each grasps a small part of the truth, but morality is fully and finally established only in Jesus. Just as the first requirement of Christianity is explained by a historical narrative, following Adam to Christ, so too is the second requirement—tracing moral knowledge up to, through, and beyond Jesus.

Locke’s thesis is clear. Jesus’ moral teaching is necessary for two reasons. It helps cover the gap between theory and practice, by which everyone could discern the moral law but some individuals lack time or education, and it provides a surer foundation, by tying morality to eternal consequences. Thus Jesus’ moral teaching is not necessary, strictly speaking, because some individuals might have come to the same conclusions, were they intelligent enough, had sufficient free time, and so on. And some may obey it even absent the eternal consequences established by Jesus; they might, for example, be


118 Given that Locke says Jesus brought together what these could not, one might expect him to point out that these three correspond to the three offices traditionally ascribed to Jesus, prophet, priest, and king. To the contrary, Locke had earlier argued, “Though these three offices by in Holy Writ attributed to our Savior, yet I do not remember that he anywhere assumes to himself [these titles]” (*Reasonableness*, 214). We should further note that when Locke refers to priests it was not always clear if he means heathen or pagan priests, or those of ancient Israel, or Christian priests of his own day. In the *Second Vindication of the Reasonableness* he states that he refers only to priests before Christ’s coming. But as Higgins-Biddle points out, Locke’s unpublished works say much the same thing about even the clergy of his own day.
captivated by the beauty of virtue. As Locke sees it, virtue’s beauty does not quite hold a candle to the threat of hell, motivation-wise, but in theory it might inspire some.

3.4.1. The First Advantage of Revelation: Monotheism

The first advantage of Christ’s revelation is in establishing monotheism. That there is one God should have been obvious, “yet the world made so little use of their Reason that they saw him not.” This resulted in serious ethical and political consequences: “Vice and Superstition held the world.” Belief in multiple gods was a roadblock to virtue and morality because it undermined reason. People learned to do what they were told was right, not what they discovered to be right according to the light of reason. But why was reason so inadequate to combat such superstition? “The Rational and thinking part of Mankind” found God “when they sought after him,” but “they kept this Truth locked up in their own breasts as a Secret.” Reason should lead the mind to God, but “Reason, speaking never so clearly to the Wise and Virtuous, had never Authority enough to prevail on the multitude.” In other words, political factors, especially the power of priests, prevented what should have been reasonable from being widely believed. Granted, the Israelites believed in one God, but this was due to revelation. By contrast, none “had a greater light of Reason” than the Athenians. They were the wisest of all ancient societies. “And yet we find but one Socrates among them, that opposed and laughed at their Polytheism… And we see how they rewarded him for

119 Notice the contrast to the earlier assertion that the gospel is not given to “the Wise” Reasonableness, 154.
it.”\textsuperscript{120} His message attested by miracles, Jesus accomplished what Socrates could not—though he received the same reward.

\subsection*{3.4.2. The Second Advantage of Revelation: Clear Knowledge}

Morality was studied carefully by some philosophers before Jesus, but like monotheism, it “got little footing among the people.” Again, this was largely the fault of priests. According to Locke, the ancient priests did not care about virtue so long as they controlled worship. And as for the laity, “Lustrations and Processions were much easier than a clean conscience and a steady course of virtue. … No wonder then that Religion was everywhere distinguished from and preferred to Virtue.” Priests, then, would not teach virtue. Philosophers lacked authority to convince the people. And though the magistrates often knew what was right, they too were only concerned with better securing their own position, and their subjects under them. Given all of this, “’tis too hard a task for unassisted Reason to establish morality in all its parts upon its true foundations, with a clear and convincing light.”\textsuperscript{121}

Christian philosophers—presumably including Locke himself—have provided such a foundation. But as Locke argues, this was possible only subsequent to Jesus’ teaching.

Everyone may observe a great many truths which he receives at first from others, and readily assents to as consonant to reason, which he would have found it hard, and perhaps beyond his strength to have discovered himself. Native and Original

\textsuperscript{120} \textit{Reasonableness}, 256-259.

\textsuperscript{121} \textit{Reasonableness}, 264-265.
truth is not so easily wrought out of the Mine, as we who have it delivered, ready
dug and fashioned into our hands, are apt to imagine.¹²²

Moral philosophy functions retrospectively, as it were. This is because of the obstacles
thrown up by human passions and the meddling of priests and magistrates. Locke
continues:

Human reason unassisted failed Men in its great and proper business of Morality.
It never from unquestionable Principles, by clear deductions, made out an entire
Body of the Law of Nature. And he that shall collect all the Moral Rules of the
Philosophers, and compare them with those contained in the New Testament, will
find them to come short of the Morality delivered by our Savior, and taught by his
Apostles: A College made up for the most part of ignorant, but inspired
Fishermen.¹²³

Locke goes on to write that even if what he has deemed impossible were to be found—a
pre-Christian collection of rules equivalent to Christ’s teaching—it would lack the
authority and unity of the Christian moral law. Truth was mixed with error, and authentic
moral rules scattered here and there with immoral practices. Even an otherwise moral
society may “take away the lives of their children by exposing them.”¹²⁴ What was
needed, and what Jesus provided, was a full and complete statement of the moral law,
gathered in one place and attributed to the one God.

Locke is adamant that this is “no diminishing,” either to revelation for its being
later confirmed reason, or to reason for its initial dependence on revelation. Ethical study

¹²² Reasonableness, 267.
¹²³ Reasonableness, 267-268.
¹²⁴ Reasonableness, 274. One of Locke’s favorite examples of the diversity of human moral
conclusions is child exposure, which he cites here as well as in Essay 1:3.9, First 56, and “Essays on the
Law of Nature,” Political Essays, 112. This provides a helpful window into Locke’s moral thinking. Given
the same evidence, he could draw the opposite conclusion: the fact that other societies kill children by
exposure rather than direct killing shows that even they find the taking of a human life to be repugnant.
That this is not what Locke says is a reminder that, though his political and moral thought does sometimes
tend toward the consequential, he is at ground a rights-thinker. What makes child exposure evidence of
immorality rather than imperfect morality is that it takes the infant’s rightful property: her life.
is complex and most lack the time. “You may as soon hope to have all the Day-Laborers and Tradsemen, the Spinsters and Dairy Maids perfect Mathematicians, as to have them perfect Ethics in this way.” Locke continues in one of his most famous statements: for such people, “Hearing plain Commands is the sure and only course to bring them to Obedience and practice. The greatest part cannot know and therefore they must believe.”125 Thus we again see the theme of Christianity being especially suited to the ignorant and lowly, yet not by that fact made unacceptable to the wise. Though this does suggest that revelation is not needed equally by all. Christ’s moral teaching was most especially needed so that the day laborers and dairymaids could know.

3.4.3. The Third Advantage of Revelation: Motivation

The third advantage of Christ’s revelation is that it provides great encouragement to lead a moral life. Previously, “the portion of the Righteous has been … pretty scanty in this world, and therefore Virtue seldom had many followers.” In day-to-day life, strict observance of all moral rules would often appear to threaten happiness, not secure it. In the long run and all things considered, strict observance may well lead to happiness, but most people need more direct consequences. The philosophers were of little help: their praise of virtue was little motivation when weighed against momentary desires. As for the priests, the multitudes obeyed them only in superstitions, and “the quicker sighted” were wise enough not to obey them at all. What this lacked was a sure connection between the attainment of happiness and morality, which for Locke is the true basis of morality. In its

—

125 *Reasonableness*, 278-279.
place, the philosophers, priests, and magistrates presented only “an imperfect view of reason, or perhaps the decayed remains of an ancient Tradition.”

This had long been a key concept in Locke’s moral theory; it is not something he added merely to bolster his list of advantages of Christ’s revelation. In “Of Ethick in General”—the unfinished chapter apparently written to provide the Essay’s promised moral science—Locke helpfully connects two major aspects of his thought: the moral theory of the Essay and the Reasonableness’s theological claim that Jesus’ moral teaching is indispensable. In the unpublished chapter, Locke explains that good and evil are relative terms denoting the tendency of things to produce pleasure or pain. However, morally good denotes something more: the tendency of a thing to produce pleasure (avoid pain) in the relation between the actions of “an understanding and free agent” and the “intervention” by the laws established by “an Intelligent Being.” This helps Locke distinguish between natural and moral evils. In Locke’s example, a hangover is the natural consequence of drinking too much wine. Drunkenness is a moral evil only insofar as an intelligent being has established a punishment for it.

---

126 Reasonableness, 284-287, emphasis added. Though outside the scope of my study, this statement warrants a brief comparison to another, much more recent text. In the above sentence, the arch-founder of liberalism himself offers “A Disquieting Suggestion” that morality is but the remains of a decayed tradition. Indeed, depending on how one counts such things, it is nearly the last paragraph in the last major work of his career. The seventeenth century’s great advocate of liberalism closes his career by depicting morality as the remains of a decayed tradition. Three hundred years later, one of the twentieth century’s great critics of liberalism will open his most famous work, After Virtue, with the very same image.

127 One paragraph of the unpublished chapter (paragraph 10) was even part of the Essay’s draft, though Locke later removed it. Thus at least that passage was written no later than 1671, nearly a quarter century before Reasonableness. See Nuovo, “Introduction,” xxvii.

Moral theories that do not include reference to punishment or reward beyond natural consequence are therefore insufficient, and Locke considers Aristotle and his followers to be guilty of this. Recall that the *Essay* divides the basic units of knowledge into Simple Ideas, Complex Ideas, and Modes or Relations, the final being the domain of ethics. According to Locke, when a moral philosopher such as Aristotle identifies a virtue or vice, he is working only in the realm of complex ideas. Though there is no such actual entity as “temperance,” humans can at least agree upon the sort of actions captured by the word, just as they do with the term “house.” But having defined the concept of temperance does not self-evidently answer the question of whether it is good or evil, and indeed some do argue that it is a vice. Locke is here concerned to prevent human disagreement about morality from leading down the path to relativism.

Properly speaking, moral rules are not the names humans assign to complex ideas but are the laws set down by a superior with the power to punish. These rules belong to the category of modes and relations and they determine whether given actions (complex ideas) are morally good or evil. Of course, as Locke clearly states, all of this depends upon knowing that there is such a lawgiver and what the lawgiver’s rules are. What are the rules and who is the lawgiver? True to form, Locke defers. “I must only at present suppose this rule till a fit place to speak of these, *viz.* God and the law of nature.”129

While the “fit place” never did present itself to Locke, it is appropriate to see the closing section of *Reasonableness*, listing the advantages of Christ’s revelation, as related to this, especially the advantage of moral encouragement.

But now there being put into the scales on her [virtue’s] side, an exceeding and immortal weight of glory, interest is come about to her, and virtue now is visibly the most enriching purchase and by much the best bargain. That she is the perfection and excellency of our Nature, that she is herself a reward and will recommend our names to future ages, is not all that can now be said for her… Upon this foundation and upon this only, Morality stands firm and may defy all competition. This makes it more than a name, a substantial good worth all our aims and endeavors. And thus the Gospel of Jesus Christ has delivered to us.\textsuperscript{130}

Whatever the inadequacies of philosophers, priests, and magistrates, with Jesus the moral law is established on the terms Locke had set out in “Of Ethick in General.”\textsuperscript{131}

As we saw above, Locke sees this as the restoration of an ancient tradition of morality that has since fallen into decay. As he clarified in notes written several years after the \textit{Reasonableness}, what happened was that ancient societies were controlled by two sorts of teachers: priests who mediated with God for the people, and philosophers who taught virtue but had nothing to do with the priests. “These two parts or provinces of knowledge, thus under the supposition of two different sorts of men, seem to be founded upon the supposition of two clearly distinct originals, \textit{viz}. Revelation and Reason.” The priests never appealed to reason to justify their ceremonies and the philosophers “pretended to nothing but reason.” What clergy and scholars put asunder, Jesus has joined together: “Jesus Christ, bringing by revelation from heaven the true religion to

\textsuperscript{130} \textit{Reasonableness}, 288-289. Stylistically, this is one of the best-written passages of all of Locke’s work. He may often have overstated himself, but he rarely let the rhetorical flourish of which he was capable show through as clearly as here. The passage also recalls the first book of the \textit{Essay}: “For God [has], by an inseparable connexion, joined \textit{Virtue} and publick happiness together, and made the Practice thereof necessary to the preservation of Society, and visibly beneficial to all” (1:3.6).

\textsuperscript{131} It may be argued that Locke does not quite meet the standards he set out for himself because the moral law provided in Jesus depends on revelation. This is true, however one must recall Locke’s carefulness as a writer. Never in “Of Ethick in General” does he say that the moral law must be established by reason \textit{unassisted by revelation} (though he implies this elsewhere); he simply says it must be proved. And in \textit{Reasonableness}, his point is that Jesus does make such establishment (of law and lawgiver) possible by reason alone \textit{retrospectively}. Whatever its shortcomings, this is at least internally consistent on Locke’s own terms. What makes it unsatisfying to many readers is that works such as the \textit{Discourse on Miracles} would seem to undermine the reasons Locke gives in \textit{Reasonableness} for knowing Christ’s authority.
mankind, reunited these two again, Religion and Morality, as the inseparable parts of the worship of God, which ought never to have been separated.”

This, then, answers our questions about the sources of moral knowledge. Morality can be known by reason alone, though the historical process by which that is possible involves revelation. Thus “the multitude” can know morality only retrospectively. Christian ethics are not dispensable, but precisely because they were once given, we are now in a historical position from which revelation-based moral claims can be removed from political consideration. They can be privatized without loss. It is as if morality was a puzzle that Jesus helped humanity solve. Having seen the assembled puzzle, we now see it may have been solvable in the first place without his clue—though perhaps the multitude still needs all the clues it can get.

3.5. Conclusion

Having spent two complete chapters on a detailed investigation of Locke’s work, it may be something of a surprise that they have not provided a clearer picture. Why has our archeological practice left so much still obscured by centuries of dust? One author provides a clue as to why Locke is not always Locke’s own best interpreter.

For such a prosaic and bland writer, John Locke has bequeathed an astonishing legacy; there are more papers and books on John Locke than stars in the sky. And speaking of Locke, there are quite a diverse number of Lockes. There is first of all the popular Locke and the philosophic Locke, or the Locke of the statesmen and the Locke of the scholars; and these of course can be further subdivided; my friend Marion Montgomery writes of “Locke North” and “Locke South” in discussing American sensibility prior to the civil war. And then there are the

132 Locke, “98 Sacerdos,” in Writings, 17. Though Locke does speak of decay from an earlier time, and here specifically states “reunited … again” there need not be a historical moment to which he refers.
various Lockes that emerge from his various writings, most of which he did not attach his own name to, the Locke of the Treatises, and the Locke of the
Reasonableness, or the Locke of the Essay, all interpretations of which are to be further scrambled by the Locke of the notebooks and private correspondence. And then we must add to our Locke pile, the old Locke and the new Locke of scholarly interpretation, without forgetting that the old Locke was the new Locke of forty years hence.

Were this not convoluted enough, this author says he will be “making the case for the old new Locke,” only to conclude ultimately that “perhaps the real, the original, John Locke is both the old Locke and the new Locke.”

The key disagreement that lies behind, that creates, these multiple Lockes is how he relates to earlier traditions of political thought. Is his work a radical, Hobbesian rejection of pre-modern politics? Or is Richard Ashcraft correct when he portrays Locke’s work as one of “renovation and reinforcement”: “Locke is at once closer to Aristotle and Hooker … than the prevailing interpretations of his political thought maintain”?

We can partially explain the existence of multiple Lockes by Locke’s own, sometimes intentional, lack of clarity. But the issue is perhaps equally due to the inherent hermeneutical problems that arise when a writer born in the 1600s is read in an attempt to solve subtle and controversial political disputes of the twenty-first century. Even if our political world is shaped by Locke, he could not have anticipated all of the consequences of his own thought, much less could he have written with the intent of fighting our battles.

---


for us. Nonetheless, it is essential for us to study Locke because of how he *is* invoked in today’s battles, though not always by name. Instead, he provides a basic framework for relating church and state, to which today’s public arguments typically seek to conform.

The next chapter shows how widely Locke’s solution was taken by early Americans to be the long-sought path away from religious and political conflict, but how even then gaps began to appear in the solution.
4.1. Introduction

The purpose of this chapter is to connect Locke’s thought to today’s political debates by examining his influence on the American founding. Because the founding has such a powerful authoritative status, today’s debates quickly turn into historical claims. As we saw at the beginning of chapter 2, TV minister D. James Kennedy believes America was founded as a Christian nation, while his opponents argue the opposite. Until quite recently, historians and political scientists have been engaged in a strikingly parallel debate: if we can only settle the question of which political theory dominated the founding, we can know what meaning the founding holds for us. But this is hopeless. It is hopeless not because the founding holds no meaning for us, but because it depicts the founding too monolithically and turns historical conclusions into quick-and-ready solutions to abiding problems.

With the gaps in Locke’s theory identified in the previous chapters, we can begin to see how all sides in this debate have historical support. Locke’s work can be applied faithfully in seemingly contradictory ways. In this chapter we will see a further source of confusion. There are not only gaps within Locke’s solution, but in the founding era, it
was combined with other political theories in a variety of ways. This is what so many historians and political theorists have previously failed to see.¹

As I will show, on the question of religion and politics, the founding was decisively Lockean but what this meant was ambiguous. Even the founders themselves, employing the same general principles, came to quite different conclusions. For example, consider George Washington’s well-known promotion of religion while he served as president, not only rhetorically through his speeches but also substantively through increasing the pay of military chaplains. What is interesting to note is not that Washington shares ground with today’s religious conservatives, but that his reasoning conforms to Locke’s solution. Religion is necessary, Washington argues in his “Farewell Address,” because it provides “the security for property, for reputation, for life.”²

Or consider Patrick Henry’s controversial and ill-fated “Bill for Establishing a Provision for Teachers of the Christian Religion.” The bill, proposed in 1784, would have levied a property tax to be distributed to various churches to fund “a Minister or Teacher of the Gospel, or the providing of places of divine worship, and to none other use whatsoever.” When objections were raised about the acceptability of such overt government support, the bill was amended to begin, “Whereas the general diffusion of Christian knowledge hath a tendency to correct the morals of men, restrain their vices,

¹ For an especially clear presentation of this debate and recent developments see Alan Gibson, Interpreting the Founding: Guide to the Enduring Debates over the Origins and Foundations of the American Republic (Lawrence: University Press of Kansas, 2006).

and preserve the peace of society…”³ When pressed to justify the bill, the reasons given are precisely those that Locke’s solution would demand.

When the Reverend Kennedy and his liberal opponent contend for custody of America’s founding, they also do so on the terms set forth by Locke’s solution. The prologue amended to Henry’s bill was but the first of what has since become centuries of such rhetorical appeals. Whether consciously or not, such appeals are shaped by Locke’s terms. In the remainder of this chapter, I respond to this in two ways. First, by reference to texts by Jefferson, Madison, and Adams, I show that the founding at least on this issue is broadly Lockean. This involves demonstrating not only that these thinkers distinguished governmental and religious spheres for instrumental reasons (such as to prevent civil strife), but also because they held that doing so was morally obligatory. Solving the loyalty problem was a matter of securing a natural right.

The second half of this chapter also involves the founding era, but its task is more complex. Drawing on certain recent studies I argue multiple traditions were present in the founding, but that in important ways each is a certain manifestation of Locke’s solution. In that portion of this chapter, I therefore review the historiographical debate on this aspect of the founding and offer my own analysis of it. While the first half of the chapter examines the writings of the founders themselves, the second half is a study of secondary literature on the founding.

³ Thomas Buckley, *Church and State in Revolutionary Virginia, 1776-1787* (Charlottesville: University Press of Virginia, 1977), 188.
4.2. Jefferson’s “Bill for Establishing Religious Freedom”

It has become cliché to cite Jefferson’s self-written epitaph as aid to understanding his work. But it is nonetheless helpful. He instructed that his tombstone bear the following inscription (“and not a word more”): “Here was buried Thomas Jefferson, author of the Declaration of Independence, of the Statute of Virginia for Religious Freedom, and Father of the University of Virginia.” It would be interesting to ponder the achievements he fails to mention and why. What is clear is that the two texts mentioned were central to Jefferson’s self-understanding.

The Bill for Establishing Religious Freedom was written in 1777 and submitted to the Virginia Assembly in 1779, but became the subject of controversial debate and was not passed until 1786. Jefferson’s draft, slightly different from what was eventually ratified, consists of three paragraphs. The first accounts for the vast majority of the text and is a philosophical justification for the bill. The second paragraph is a single sentence providing the bill’s actual legal content. The final paragraph is a non-binding request made to future legislators on behalf of the bill’s enactors, imploring them against repeal.

The opening paragraph’s philosophical tone is especially helpful for revealing how Jefferson conceived of the relationship between civil and religious authority, however I begin my analysis with the third paragraph, indeed with the bill’s final sentence. There, Jefferson concedes that the bill cannot declare itself irrevocable; doing so “would be of no effect in law.” Nonetheless, “we are free to declare, and do declare,

---


that the rights hereby asserted are of the natural rights of mankind.” Any act repealing or narrowing the scope of the present bill “will be an infringement of natural right.” He thus states in no uncertain terms what the bill is for: it is to secure a natural right. It is not merely a procedural measure seeking to avoid the societal strife that might accompany religious wars. The government cannot exceed these limits not only because the bill says so, but because it may not do so. That is, government may not qua government exceed these bounds. Paradoxically, then, one of the arguments of the bill is that the bill is, strictly speaking, superfluous.

What are the limits that the government may not exceed? Religious attendance and worship may not be compelled, nor shall anyone be “restrained, molested, or burthened in his body or goods, or shall otherwise suffer, on account of his religious opinions or beliefs.” The phrase “shall otherwise suffer” could convey a quite broad scope and indeed this would appear to be the intent, if Jefferson’s later actions are a guide. Years after becoming president, in a letter responding to a clergyman’s inquiry, he explained why he would not issue a proclamation recognizing a day or prayer and fasting, even though his predecessors in office, Washington and Adams, had done so. He explains first that he could not prescribe such a day because it would violate the first and tenth amendments: it would make a law respecting religion and even if it did not, the tenth amendment reserves non-delegated powers to the states thus making it beyond the federal government’s authority. He continues:

But it is only proposed that I should recommend, not prescribe a day of fasting & prayer. That is, that I should indirectly assume to the U.S. an authority over religious exercises which the Constitution has directly precluded them from. It must be meant too that this recommendation is to carry some authority, and to be sanctioned by some penalty on those who disregard it; not indeed of fine and
imprisonment, but of some degree of proscription perhaps in public opinion. And does the change in the nature of the penalty make the recommendation the less a law of conduct for those to whom it is directed?6

Clearly not, says Jefferson. Even presidential recommendation is a form of coercion, even if a subtle one. How to interpret this in light of Jefferson having earlier issued the proclamations that he here refuses is a complex question. Regardless, we can here see how broadly religious freedom extends. It forbids not just physical or financial punishment, but even the possibility of loss of public respect for not observing a recommended day of observance.

The philosophical basis of the bill is the most interesting for our purposes, because it clearly reveals Jefferson’s debt to Locke. This has already been well established in scholarship, most strikingly by Gerald Sandler’s parallel-column analysis comparing Locke’s Letter Concerning Toleration to Jefferson’s notes on Locke to Jefferson’s bill. Even when Jefferson’s phraseology departs from Locke’s, the connection is often made obvious via Jefferson’s notes, which sometimes paraphrase rather than quote. Sandler identifies five key ideas as the basis of both Locke’s Letter and Jefferson’s bill.7

6 Letter to Rev. Samuel Miller, January 23, 1808 in Ibid., 397-398. Jefferson said something similar in a much earlier, and much more famous, letter: his note to the Danbury Baptists in which he coined the phrase, “wall of separation between church and state.” Interestingly, the passage about days of fasting was deleted by Jefferson. The original lines were only revealed in 1998 when the F.B.I. was asked by the Library of Congress to study the draft. James Hutson, "A Wall of Separation," Library of Congress Information Bulletin 57 (1998): 138. As we saw in chapter 2, Locke argues something similar when he states that even excommunication must be done without damaging the subject’s reputation or estate.

1. True belief is inspired by reason, not force
2. That civil magistrates may be fallible in religious matters is demonstrated by history
3. Because the domains of church and state are separate, a citizen’s religious opinions should have no effect upon his civil capacities
4. Civil government must interfere, however, when principles break out into overt acts against peace and good order
5. Truth, unaided, has sufficient power to prevail over error

At those points where Jefferson seems at odds with Locke, even the dissimilarity turns out to emphasize the relationship. For example, Jefferson was more willing than Locke to extend toleration to seemingly seditious religious opinions, and the bill does indeed protect opinion more than Locke’s Letter. In his notes, Jefferson explains his departure from Locke: “It was a great thing to go so far… but where he stopped short we may go on.” This is because governmental penalties are unneeded where public opinion will suffice. Instead, such “opinions may be despised.”

One substantive difference is the sort of religious coercion each text seeks to avoid. The examples Locke provides in the Letter show him to be concerned with compelled (or prohibited) acts of worship, such as whether the law may require kneeling to receive communion or ban animal sacrifice. Locke also hopes to extend toleration to differing doctrinal opinion, such as whether Jesus is the messiah. Jefferson takes for granted the toleration Locke sought and wishes to ensure that indirect compulsion is also prevented, such as through public funds being used to support religious activities.

---

8 Jefferson entered a footnote in his notes at this point: “Perhaps the single thing which may be required to others before toleration to them would be an oath that they would allow toleration to others.” Jefferson, The Complete Jefferson, 945.
Perhaps the most striking connection is how Jefferson’s *presuppositions* for justifying the bill take sides on disputed points, always presupposing the side of the dispute on which Locke is found. The bill opens:

Well aware that the opinions and beliefs of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free… that all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion…

But for those who oppose Jefferson’s conclusions, these are the very points of dispute, notwithstanding the assertion that we are “well aware” of them. What is most worth noting is that Jefferson is here giving a *theological* defense of the bill’s legal conclusion, yet he provides no theological reasons to support the presuppositions. His conclusions depend upon religion being what he asserts: on opinions not depending on the will, on the “plan of the holy author” being what he claims, and so on. Yet these are merely assertions. The conclusion is sound so far as it goes, but it hinges on premises that were themselves in dispute.

This bill is the clearest example of Jefferson’s dependence on Locke, and taken together with the Declaration of Independence, shows how Jefferson relates religious and civic life so as to avoid conflicts of loyalty between the two. By limiting state and church in a particular way, a particularly *Lockean* way, natural rights can be best secured. We cannot leave our examination of the bill without observing how much it leaves unsaid. It is still unclear whether the president could recommend days of thanksgiving. Jefferson himself eventually concluded that he could not, but such recommendations *for civic reasons* would not necessarily be excluded. His principles simply do not decide conclusively one way or the other. In the well-known example, Jefferson was stopped on his way to church one Sunday. “You are going to church, Mr. J. You do not believe a
word in it.” Jefferson replied, “Sir, no nation has ever yet existed or been governed without religion. Nor can be. The Christian religion is the best religion that has been given to man and I, as chief Magistrate of this nation, am bound to give it the sanction of my example.”9 If this incident occurred as reported, Jefferson was quite concisely doing what he said, in the letter to Rev. Miller, that he could not do. If a recommended day of fasting was a subtle form of coercion, is not the chief magistrate’s example? It is such gaps as these that allow even Jefferson, perhaps the least theologically orthodox of the founders, to serve as evidence for both the Reverend Kennedy and, say, the American Civil Liberties Union.

4.3. Madison’s “Memorial and Remonstrance”

Madison’s “Memorial and Remonstrance” bears an interesting relationship to Jefferson’s bill. Madison composed the piece in 1785 in an attempt to prevent the passage of Patrick Henry’s “Bill for Establishing a Provision of Teachers of the Christian Religion”—the same bill, discussed above, to which a preface was added in hopes of making it more palatable. Drawing fairly clearly on Locke’s concept of social contract, the Letter Concerning Toleration, as well as Jefferson’s draft of the bill for religious freedom, Madison’s argument was successful. Though likely to have passed previously, the bill, as Madison tells it, not only failed miserably but had an ironic effect: out of fear

---

9 The incident was recorded in a journal by the Reverend Ethan Allen, the original of which is in the Library of Congress. Full citation details can be found in James Hutson, Religion and the Founding of the American Republic (Washington: Library of Congress, 1998), 96. Some have raised doubts about Allen’s account of the incident, given that he may have been quite young during Jefferson’s term in office.
of future such bills, the Virginia Assembly finally passed Jefferson’s “Bill for Establishing Religious Freedom.”

In brief, Henry’s bill was a subtle form of religious establishment. In contemporary terms, it created a “church voucher” system. A property tax would be collected and passed along to the denomination of each citizen’s choosing. The revenue from those who did not choose to specify a denomination were directed to the public treasury and restricted to general educational purposes only. It was not unlike the current optional income tax contribution to presidential campaigns: selecting a party neither increases nor decreases one’s tax burden.

The first article of Madison’s response invokes the social contract theory of Locke’s *Second Treatise*. The human conscience follows evidence and not force. Thus its exercise has no part in the social contract. Madison writes:

[Freedom of religious practice] is unalienable, because the opinions of men, depending only on the evidence contemplated by their own minds cannot follow the dictates of other men: It is unalienable also, because what is here a right towards men, is a duty towards the Creator… This duty is precedent, both in order of time and in degree of obligation, to the claims of Civil Society.

The contract forming civil society is necessary in the first place to secure one’s property. As such, property *is* part of the contract and may be justly demanded by the state when doing so makes property, as a whole, more secure (such as taxes to pay police officers).

---


11 Madison’s use of the term unalienable in distinction from property may be confusing, given Jefferson’s well-known correlation of the two. This is simply a less than careful use of terms on Madison’s part, not an actual disagreement. Madison and Jefferson would agree that the right to property is unalienable, though property itself is alienable. So too with liberty: a man may not be permanently enslaved (this would violate the right to liberty), but he may be imprisoned (which alienates his liberty but not his right to it). In this passage of the “Memorial,” Madison argues that neither the right to freedom of religion nor that freedom itself may be alienated.
This is not so with conscientious practices, such as religious worship. While it is rational to relinquish some of my property to better secure the whole, it would be irrational to relinquish control of my conscience (were doing so even possible) and thus risk losing eternal life. This is true for all the reasons Locke gives and Jefferson echoes in his bill: the civil magistrate is as fallible on religious matters as any of his subjects, thus it is an ill-advised gamble to place one’s afterlife in his hands. In Madison’s words, “We maintain, therefore, that in matters of religion, no man’s right is abridged by the institution of civil society; and that religion is wholly exempt from its cognizance.”

Picking up on this phrase, Vincent Phillip Muñoz labels Madison’s doctrine of church and state “non-cognizance”—as opposed to the more common schools in constitutional law, strict separationist and non-preferentialist. Muñoz rightly emphasizes Madison’s debt to Locke, but argues that Madison’s principle of government non-cognizance of religion goes beyond Locke’s argument in the Letter. He writes:

Although the “Memorial and Remonstrance” adopts Locke’s basic social contract framework, Madison’s derivation of the principle of “noncognizance” represents a significant break from Locke. In *A Letter Concerning Toleration*, Locke does not speak of religion as an “inalienable” right, nor does he claim that the state must remain noncognizant of religion. He explicitly says that civil magistrates are not obliged to tolerate “opinions contrary to human society, or to those moral rules which are necessary to the preservation of civil society.” In this context, Locke famously teaches that civil magistrates need not tolerate atheists or “that church [whose members] . . . ipso facto deliver themselves up to the protection and service of another prince,” i.e., Catholics. Locke clearly allows the state to be cognizant of a citizen’s religious belief or lack thereof. Madison breaks from Locke on this point; his principle of “noncognizance” is uniquely his own. In this context, one should also note that other leading American founders adopted an approach more Lockean than Madisonian. George Washington, for example, did

---

I do not intend to argue that Madison never departs from Locke, but in this passage Muñoz overlooks a subtle distinction, which leads him to see differences between Madison and Locke, and between Madison and the other founders, where none exist. One of Locke’s principles in the *Letter* for determining the scope of toleration is that liberty should extend to any practice or belief that would otherwise be tolerable when considered apart from religion. “Whatsoever is lawful in the Commonwealth cannot be prohibited by the magistrate in the Church. Whatsoever is permitted unto any of his subjects for their ordinary use, neither can nor ought to be forbidden by him to any sect of people for their religious uses.”\(^1\)\(^4\) If it is permissible for a citizen to kill his own calf or eat bread and wine while kneeling, it must be permissible to do these as religious practices. In effect, Locke has created a test for tolerability: translate the practice into non-religious language, consider its permissibility, and then render a judgment.

According to Muñoz’s interpretation, Locke’s approach is “cognizant of religion” because the atheist and Catholic are subject to civic sanction for their beliefs. But notice carefully Locke’s phrasing: “That Church can have no right to be tolerated by the magistrate which is constituted upon such a bottom that all those who enter into it thereby *ipso facto* deliver themselves up to the protection and service of another prince.”\(^1\)\(^5\) This is not cognizance of religion; this is simply Locke employing his own test for tolerance. He *translates* the religious opinion in question (“I must obey the pope”)

---


\(^{14}\) *Letter*, 67.

\(^{15}\) *Letter*, 91.
into non-religious language (I deliver myself “up to the protection and service of another prince”). Is it ever permissible for a citizen to swear loyalty to a foreign ruler? Then it is not permissible to do so on religious grounds. The same is true in Locke’s refusal of toleration for atheists; their opinion is impermissible because “Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist.” The opinion, “There is no God” can be translated for purposes of this test into “I need not keep my promises.”

As when Jefferson observes that where Locke stopped short, he hopes to go further, Madison also wants to go further in greater freedom of opinion. But the difference is not related to cognizance of religion, as Muñoz claims. The difference, rather, is that Madison and Jefferson appear to believe that these religious opinions, once the religious language is stripped away, translate into nothing—or nothing of civil consequence.

It is true, as Muñoz argues, that Madison was less willing than Washington to enlist religion in government’s ranks, but it is important to recognize that all three share a basic framework concerning the distinction between civil and religious life. Government is concerned with securing those natural rights that its citizens sought to protect when they created civil society. Thus when Washington justifies a given, seemingly religious, policy on the grounds that it secures those rights, he is arguing within Madison’s—and Locke’s and Jefferson’s—framework of a harmony of civil and religious obligations.

Regarding the bill at issue, Madison is more strongly opposed than we would expect

---

16 The “atheist problem” in Locke is intriguing. If opinion is subject to evidence only and not force, it is not clear what the conscientious atheist is to do, for she is a criminal for an offence that, according to Locke, she cannot help but commit.
Washington to have been, but this does not indicate that they were acting from wholly opposing principles. It is clear that Madison regarded the bill as *de facto* religious establishment. It was, after all, for the support “of Teachers of the *Christian* Religion,” and while it made provision for Mennonites and Quakers (who did not ordain clergy, to whom the funds were otherwise given), non-Christian religious communities were simply outside the bill’s scope—as presumably were non-Mennonites and non-Quaker Christians who for whatever other reason did not fit the bill’s conception of Christianity.

There is a discernable structure to the Memorial that is relevant to our study. Its first four articles offer theoretical arguments drawing primarily (though not explicitly or exclusively) on Locke’s social contract theory and his relation of civil and religious obligation. As described above, these show that religious and civic concerns being separated as they are in the formation of the civil contract, government has no authority to establish religion, which, in Madison’s estimation, is what the bill does. The latter articles offer arguments either from pragmatic or from explicitly Christian perspectives. For example, article 6 states that governmental funding of churches can lead nowhere but to corrupt and prideful religious leaders and article 10 warns that the citizens of Virginia are likely to emigrate elsewhere rather than pay the tax. In addition to this pragmatic caution, article 6 also asserts that believing the bill to be necessary “is a contradiction to the Christian Religion itself.” And article 12 holds, “the policy of the Bill is adverse to the diffusion of the light of Christianity.”

---

17 In fact, although this bill was presented as a voucher system of sorts, it is possible that this may have been Henry’s way to make the bill palatable to those who accepted the constraints of Locke’s system. Henry had apparently tried, repeatedly and unsuccessfully, to pass a bill declaring, “the Christian Religion shall in all times coming be deemed and held to be the established Religion of this Commonwealth.” Perhaps his opponents saw this bill as but a disguised form of the others. Gaustad, ed., *A Documentary History of Religion in America*, 1:262.
It could be plausibly argued that Madison’s use of secondary, supporting arguments shows that the Lockean framework was not universally endorsed. Why would he need to go beyond explaining how Locke’s theory renders Henry’s bill unacceptable, if that was sufficient grounds? The point must on some level simply be granted. Not every political or religious leader of the era understood, much less affirmed, Locke’s theory. Madison marshals those arguments that he felt would be most persuasive given his audience. Yet on another level, the multiple types of arguments are not ad hoc rhetoric. The pragmatic arguments actually address a sub-question of the rights-based arguments.

Notice first of all that the combination of types of arguments is found in Locke’s own work. In the *Letter Concerning Toleration*, he supports his larger argument about the distinction between church and government with both pragmatic and Christian arguments. Support toleration, he says, because it is the Christian thing to do and because society will be a safer place overall. While Locke also had to employ the arguments that would appeal to his audience, such arguments begin to reveal something important about his relation of religious and civic obligations: the bare framework of rights, social contract, and distinction of spheres lacks specificity. Those who embrace it can reasonably come to different conclusions about the policies it demands. We know that the government must remain non-cognizant of religion, but which policies are cognizant and which are not?

Madison’s theoretical argument (the first four articles) depends almost entirely on his belief that the bill is *de facto* establishment. Madison realizes that for certain of his opponents, this begs the question: they may agree that government must not establish religion, but may deny that this bill constitutes an establishment. In order to convince such readers, Madison thus goes beyond the theoretic argument in the latter articles.
Observing this, we can now see the Memorial accepts the constraints of Locke’s theory as givens and then, within those givens, offers additional principles to help guide the application of the theory. Thus when Madison claims that the bill would fail on pragmatic grounds, he presupposes the primary argument’s criteria for success. In other words, he *presumes* that “religion is wholly exempt from [government’s] cognizance.” But he also realizes that it is not always clear which specific policies violate this principle and which do not; hence the need for the supporting arguments. Thus even the secondary arguments reinforce the terms on which the primary, Locke arguments depend.

This can be seen more clearly in a letter written toward the end of Madison’s life. He was responding to the Reverend Jasper Adams, a college president in South Carolina, who had sent Madison a sermon apparently in praise of establishment.18 After brief introductory remarks, Madison begins,

Waiving the right of Conscience, not included in the surrender implied by the social State, and more or less invaded by all religious Establishments, the simple question to be decided is whether a support of the best & purest religion, the Xn religion itself ought not so far as at least as pecuniary means are involved, to be provided for by the Government rather than be left to the voluntary provision…19

In other words, even if we set aside concerns such as social contract and freedom of conscience, let us consider whether it benefits Christianity itself to be funded by civil government. It is important to notice the way he brackets this investigation. He signals that the sort of reasoning he is about to employ is called for only after one has set aside the more important concerns of conscience. He asks, in others words, *even if we could*

---


justly infringe on citizens’ religious freedom, even if the social contract allowed for it, should we do so? In what ways might we want to do so? To answer these questions he then proceeds to offer a remarkable historical narrative, situating America’s conception of church and state in comparison to others in political history.

The first possible way of relating government and religion is what he calls the papal system, which consolidates church and state. His judgment is terse: “That is found to be the worst of Governments.” By contrast, “most of the Governments of the old world” established a particular religion and allowed little or no toleration for others. Nowadays, says Madison, few enlightened people believe such an arrangement is beneficial for religion or government, but previously “it was taken for granted that an exclusive & intolerant establishment was essential.” Government could not survive without religion, nor religion without government. As an attempt to get beyond the pitfalls of such an approach, “Holland ventured on the experiment of combining a liberal toleration with the establishment of a particular creed.” All of these, however, were but variations on a single theme. “It remained for North America to bring the great & interesting subject to a fair, and finally to a decisive test.” Madison’s history of religious liberty culminates, not surprisingly, with the nation he helped found. On this point, America stands apart from all that went before. It is a third way beyond the false alternatives of the past.

The eschatological significance Madison attaches to this “decisive test” is reinforced by his opening qualifier, “waiving the rights of conscience.” Not only is America’s arrangement successful on pragmatic grounds, it alone deals justly in delineating the citizens’ religious and civic obligations. Like Jefferson, Madison subscribes to a basic framework for relating these obligations. But also like Jefferson, Madison realizes the need to go beyond merely theoretical reasoning. The policy
decisions demanded of government often relate to theory in complex ways. As it turns out, this complex relation has been the subject of extended, and heated, debate among historians and political theorists. And at the center of their disputes lies the figure of John Locke.

4.4. Adams’ Dissertation and Defence

Although I examine John Adams’ writings on this matter more briefly than Jefferson and Madison, it is still important that his voice be heard. My goal here is not so much to show an explicit debt to Locke (though the most recent major study argues for precisely that).\(^{20}\) Rather, this section anticipates a counter-argument. For today’s interpreters who see the founding as closer to the “republican” end of the spectrum, Adams is a hero: the great non-Lockean, non-Virginian. However, even a brief examination of Adams demonstrates that, broadly considered, he employs the same framework as the other founders considered above. To be sure, he differs in certain respects from Madison and Jefferson. But as we saw, so did Washington. Whatever their differences, they share a great deal.

The argument that Adams’ relation of church and state is fundamentally different than Madison and Jefferson’s originates from the different public roles permitted to religion in Massachusetts and Virginia. Virginia, it is said, was radically secular

\(^{20}\) That study claims Adams decisively abandoned Calvinism for Lockeanism. It is not within the scope of my study to weigh whether this is an overstatement. See C. Bradley Thompson, *John Adams and the Spirit of Liberty* (Lawrence: University Press of Kansas, 1998). In light of Pocock’s argument (see below), it is especially interesting that Thompson argues elsewhere, Adams “was unique among the Founding Founders in that he read and took seriously Machiavelli’s ideas… Adams even claimed to have been a ‘student of Machiavelli.’” C. Bradley Thompson, “John Adams's Machiavellian Moment,” *Review of Politics* 57, no. 3 (1995): 390.
compared to the accepted practice of the other colonies, where religion had a prominent role that included established churches and Protestant-only limits on officeholders. As a historical matter, this is indeed the case. Adams was far more comfortable with religious language, and more praising of religious believers, than Jefferson. While Jefferson would accept nothing less than disestablishment, Adams was open to the establishment of a single “Publick religion” so long as freedom was guaranteed to “many private religions.” Notice also his praise of how Massachusetts’ constitution is in continuity with the highly religious Puritan founding texts, such as the Mayflower Compact. But what does Adams’ actually mean by such praise, and does it demonstrate a departure from the framework of Jefferson and Madison?

Adams’ arguments are most clearly presented in his pre-revolution *Dissertation on the Canon and the Feudal Law* and his much later *Defence of the Constitutions*, written against a critique of his proposed Massachusetts Constitution. Taken as wholes, both texts challenge the suggestion that Adams was taking a stand against the Lockeanized Virginians. Rather, Adams is revealed to advocate a perfectly ordinary republican interpretation of the Lockean solution, and his praise of the Puritans is shown to be in service of that solution.

Adams wrote the earlier text because of his fears of growing sympathies among fellow Americans toward laws reminiscent of ecclesial control and feudal landholding. He called these “the two systems of tyranny” and described them as purposed for “cruelty

and lust.” The only thing worse than one was a “wicked confederacy” of both. To argue against such proposals, Adams sought to show, rather cleverly, that even the Puritans themselves—ostensibly the most traditional and religious of Americans—that even they wanted nothing to do with such arrangements. Theirs was not a secular rejection of religion, nor was it a return to the two tyrannies. It was a third way. In fact, the dialectic of oppression he depicts between “priesthood” and “civil magistracy” is remarkably similar to Locke’s argument in Reasonableness of Christianity.

Concerning the Puritans’ religion, Adams’ tone is consistently apologetic. They were religious, he grants, but we should expect no less given their upbringing. “Religious to some degree of enthusiasm it may be admitted they were; but this can be no peculiar derogation from their character, because it was at that time almost the universal character.” If there religious enthusiasm is thus a potential source of embarrassment—something to be explained away—what is it that Adams admires? “It was not religion alone, as is commonly supposed; but it was a love of universal Liberty, and an hatred, a dread, an horror of the infernal confederacy, before described [between priest and magistrate].” The Puritan governments were formed “in direct opposition to the cannon and the feudal systems.” He praises their political theory not for its adherence to Scripture, but for what it opposes. He praises their clergy not for their piety but for their knowledge of Greek and Roman philosophy.


23 See below, 4.5.2.

My point is not to undermine Adams’ argument, as if his praise were dishonest. But he is not appealing to the Puritans for how they differ from Jefferson. “Be it remembered,” he says, “that liberty must at all hazards be supported. We have a right to it derived from our maker. But if we had not, our fathers have earned and bought it for us.”

He reflects on these themes twenty-five years later in *Defence of the Constitutions*. He is more forthcoming here about what makes American political theory unique. We see the tyranny the Puritans rejected. What have their children built in its place?

The United States of America have exhibited, perhaps, the first example of governments erected on the simple principles of nature; and if men are now sufficiently enlightened to disabuse themselves of artifice, imposture, hypocrisy, and superstition, they will consider this event as an era in their history… It will never be pretended that any [of the American founders] had interviews with the gods, or were in any degree under the inspiration of heaven… it will forever be acknowledged that these governments were contrived merely by the use of reason and the senses.

This is more than a repudiation of religious enthusiasm—as much a preoccupation for Adams as it was a century earlier for Locke. It is the pronouncement of a final and decisive end to the dialectic of oppression that has plagued the world since the birth of Christianity. It is a declaration that an end to tyranny—and to potentially conflicting loyalties—had been found “on the simple principles of nature,” just as Locke would have said.

---

25 Ibid., 1:120.

Did Adams mean by this phrase the same thing Locke would have? That is difficult to say. Among his rough notes for the *Defence* are reflections on the development of scientific knowledge, through Descartes, Bacon, Newton, and Locke. He here speaks highly of Locke’s anti-innate epistemology, and seems to imply a fairly direct progression of knowledge through these thinkers. My argument does not depend on Adams’ explicit appeal to Locke; I am content to suggest a certain affinity. At the very least, Adams cannot be invoked as a Puritan opponent of Jeffersonian secularism.

What we see up close in Jefferson, Madison, and Adams’ writings is, viewed from a distance, a conversation about America’s foundational political theory. In historiographical studies, this conversation has been investigated in terms of two competing political theories, each of which possesses its own particular grounding principles, primary concerns, and mode of discourse. Heretofore, this research has unfortunately seen these two theories as wholly incompatible. For contemporary Christians seeking to understand the founding, this has usually expressed itself in attempts to prove the case decisively one way or the other on historical grounds. Either the founding was informed by *this* theory, in which case *x* follows, or it was informed by *that* theory and *y* follows. By attention to recent developments in this field that have yet to inform the broader landscape, we will see that this is a false dichotomy. The founding was, of course, informed by many sources and theories and they combined in complex ways. Yet although the founding is subject to multiple interpretations, it is not incoherent. It is a mixture of sources, but not an eclectic mix.

In the remainder of this chapter I engage the historiographical debates, observing that a consensus is now forming among its key participants. This will help us see how Jefferson, Madison, and Adams (and even Washington and Henry) were able to share
certain key principles—or, at least, share a common discourse—and yet at the same time come to differing conclusions when applying those principles.

4.5. Christians & Republicans

My focus on Locke could easily give the impression that my study flies under the banner, *Locke et praeterea nihil.*27 When serious debate on this question began about sixty years ago, this was the slogan that historians arguing for Locke’s influence were accused of championing. It was the rejection of naive assumptions about Locke’s influence that led to ensuing historiographical battles. These debates are complex but, if they can be reduced to a single question, it is whether the American founding was fundamentally “liberal” or “republican.” The debate has typically assumed that the founding must have been Lockean or republican. Recent work has suggested this is false; surely the founding combined elements of both. But as we saw in chapters 2 and 3, even Locke (and not just his American heirs) can be said to contain elements of both. Thus it was previously thought *Locke et praeterea nihil* allowed no room for other traditions, while *Locke et multum praeterea* did. The points at which Locke is open to multiple interpretations show that even if the founding had been exclusively Lockean (of course it was not), there would still have been room for some of the perspectives we identify with republicanism. To reiterate, I am arguing for Locke’s influence but against the notion

---

27 On this phrase, see Robert Shalhope, “Toward a Republican Synthesis: The Emergence of an Understanding of Republicanism in American Historiography,” *William and Mary Quarterly* 29, no. 1 (1972).
that this excludes other voices: not only were there republican voices in addition to Locke’s, Locke’s politics are (at least in the minds of some) broadly republican.28

We saw earlier that some, such as Taylor, O’Donovan, and Arendt, consider Christianity to be in tension with republicanism. America begins, however, with the two being closely joined. Mark Noll’s history of early American religion labels the Christian affirmation of republicanism “the American exception.” To emphasize the exceptional character of this alliance, he quotes John Wesley’s letter to the American colonies, written on the eve of the Revolution, “No governments under heaven are so despotic as the republican.” This in comparison to Benjamin Rush’s letter written shortly after the ratification of the Constitution, “Republican forms of government are the best repositories of the gospel.” It is unremarkable that two Christians held differing political opinions, but what Noll shows is remarkable: Wesley’s argument represents the dominant assumption and common sense of American Christians roughly until the mid-1700s, whereas Rush’s argument represents the common sense of American Christians in the last half of that century. Between these years Americans came to see republicanism and Christianity as uniquely compatible.29

28 In the words of a contemporary Italian republican, “From a historical point of view, the relationship of liberalism to republicanism is one of derivation and innovation.” If this is so, we would expect significant overlap between the theories. Viroli, Republicanism, 58.

29 Noll, America's God, 51. There were of course earlier Christians who had embraced republicanism, but as Noll observes, one can see why the suspicion persisted: the theological orthodoxy of Christian republicans, such as John Milton, was often questionable. Although Noll is widely regarded as America’s preeminent historian on this specific subject, critical questions have been raised about his general approach. See D.G. Hart, "Conservatism, the Protestant Right, and the Failure of Religious History," Journal of the Historical Society 4, no. 4 (2004), Leonard Sweet, "Wise as Serpents, Innocent as Doves: The New Evangelical Historiography," Journal of the American Academy of Religion 56 (1988).
About the time of Rush’s letter, Thomas Paine offered his own contribution to republican discourse: “It has always been the political craft of courtiers and court governments to abuse something which they called republicanism; but what republicanism was, or is, they never attempt to explain.”\textsuperscript{30} A sentiment shared apparently by John Adams: “There is not a more unintelligible word in the English language than republicanism.”\textsuperscript{31} I take Adams’s and Paine’s complaints as a warning to proceed no further without clarifying what the term means; doing so will also help clarify why the concept is so important to this study.

When Noll describes the synthesis that formed between Christianity and republicanism in the mid-eighteenth century, he typically has in mind an approach to politics best captured by two themes: “a fear of abuses from illegitimate power and a nearly messianic belief in the benefits of liberty.” What makes this definition complex is that depending on what it is compared to, its themes highlight different emphases. Though Noll is generally precise, it is typical of other writers to carelessly slide between these two emphases. We can see the two possible emphases when Noll writes, “Within colonial America and the early United States it was possible to discern contrasting strands of liberal and classical republicanism.”\textsuperscript{32}

When Noll contrasts republicanism to liberalism, it has a slightly different sense (or is viewed from a different angle) than when it is praised by Rush and disparaged by Wesley. What Wesley opposed was republicanism \textit{as an alternative to monarchy}, rather


\textsuperscript{32} Noll, \textit{America's God}, 567.
than republicanism as opposed to liberalism (though one can only imagine what he would have said against the latter!). Thus republicanism differs from monarchy by locating sovereignty in the people. Yet how a republican people exercise their power is in certain respects an open question. A republic is not necessarily (what we would today call) a democracy, though the founders sometimes use the word in this way.33

But when Noll writes of republicanism as an alternative to liberalism he is speaking of a debate about what form republicanism should take in giving the people sovereignty. Republicanism is thus best understood not as a precise political form, but by a certain set of emphases, such as concern for citizen participation, the pursuit of certain civic goods and virtues, and so on. To be sure, these emphases exclude certain possibilities: an unlimited monarchy likely would be unacceptable, but a limited or constitutional monarchy in principle would be acceptable. In his Defence of the Constitutions, John Adams considers this question explicitly. He quotes an extended passage in Latin from Cicero’s Republic and concludes, “According to this, a simple monarchy, if it could in reality be what it pretends to be, a government of laws, might be justly denominated a republic. A limited monarchy … may with strict propriety be called by that name.”34

The historical movement of which Noll speaks could thus be described as follows. In the decades leading up to the American Revolution, a pattern of thought emerged that joined republicanism to Protestant theology, manifested most visibly in Christian support

33 Indeed the two were often considered contradictory because the populace was thought to be as prone to tyranny as a king. It was one of the innovations of the American founders, most especially by Madison writing in The Federalist, to unite the two concepts.

34 In Adams, Works, 4:296.
for the Revolution and opposition to the British king. But following independence, republicanism manifested itself in a different way: as a set of emphases by which to conceive of the new nation’s political structures. Once Americans opted for republicanism against monarchy, they still had to decide whether their republic would be classical, such as in Aristotle, or Roman—either Cicero’s or Machiavelli’s—or a departure from all predecessors, a *novus ordo seclorum*.

As we shall see in the following sections, there has been a long-running Battle of the Books among historians and political theorists about which, if any, of these options best describes the American founding. For too long it has been argued that the founders chose either a Lockean liberal politics based on rights or a republican system grounded in virtue. It was of course both—and more. The events of 1776 did, as the Great Seal declares, inaugurate a new order for the ages but even the new United States was not created *ex nihilo*. The proper question to ask is not whether the founding was liberal or republican, but rather, how can we best understand the *liberal republicanism* that the founders embraced? More relevant for the present study, how does liberal republicanism relate civic and religious life? Recalling the narratives of O’Donovan and Taylor from chapter 1, the seemingly inevitable tensions between Christianity and republicanism appeared to have been reconciled in America’s reinvented republicanism. But upon what presuppositions do arguments seeking to conform to that solution depend?

All of this leads us back to Locke. The exact extent of his influence has long been debated, but there is no longer serious opposition to his thought having played a major role. His thought is recognizably present not only in aspects of the major founders’ thought, but also in the minds of everyday Christians. Even those colonists who would never read the *Second Treatise* or the *Letter Concerning Toleration*, who would perhaps
never even hear Locke’s name, often encountered him “in the water,” such as in the sermons they heard.  

The question now facing historians and political theorists is not whether but how the founders brought Locke and republicanism together—on questions such as political authority, revelation and reason as sources of moral and political knowledge, natural law’s relation to rights, and so on. But even this question needs to be pressed back one level. Even before the founders combined republican and liberal thought, Locke had done some of this. His theory can itself be understood as a reinvented republicanism. Thus the most pressing question is how a broadly Lockean politics relates to some of republicanism’s characteristic themes. Is it a slight modification or a thoroughgoing subversion? Today’s American Christians disagree—sometimes explicitly, but often implicitly and unconsciously. Does Locke’s solution resuscitate Rome or found a new order?  

In taking an approach that is focused more on Locke than the founders, I am arguing that today’s Christian political arguments are shaped, on the most important questions, by Locke’s liberal republicanism rather than the founders’ distinctive alterations to that theory. In their arguments for independence and in developing the constitution and the federal system of 1789, the founders went a good deal beyond Locke

but this was typically on topics less central to our question, which is the relation of civic and religious obligations.36

None of this is to say the founders were exclusively Lockean in how they related church and state. Indeed, there was much disagreement even among them on the question, and also from other segments of society such as the clergy. But I do argue that a focus on Locke’s theory and Locke’s mind is where the investigation should start. It supplies the crucial vision within which the age-old tension between Christian and civic obligations appears to be reconciled. It would of course be an interesting future study to consider whether the problems I highlight in Locke could actually be resolved by some of the ways the founders differ from Locke. As we shall see in chapter 5 some contemporary Christians claim this. While I am inclined to doubt the significance of such differences, my project provides a framework by which such claims can be better evaluated, one in which the theological issues are explicitly (rather than unconsciously) assessed. To better explain the role my study might play I will briefly mention two examples.

In a book on the founders’ conception of virtue, political theorist Jean Yarbrough argues that Jefferson departs from Locke on certain important questions, which she says vindicate the founders from the charge of selfishness and individualism. For example, “whereas Locke in the Essay on Human Understanding links happiness with the desire to avoid pain and seek pleasure, Jefferson, while … affirming [this] also insists that happiness is allied with virtue.”37 Thus she sees the liberal-republican debate as

36 For example, in The Federalist Madison turns the word republic nearly on its head (compared to how it was previously used) when he equates it with democracy, and Locke was himself no democrat. But this is of less direct relevance for the religion question.

misguided for not asking the essential question, “how a free society might develop and
nurture in its members the full range of human excellences both public and private, moral
and intellectual, which will vindicate the honor and dignity of the American republic.”

Yarbrough’s account is at least plausible, and I have no strong reasons to doubt the
distinctions she draws between Locke and Jefferson. But what I want to press—and what
I hope to encourage especially among theologians—is reflection on what this implies for
religion’s relation to the state within American politics, especially in arguments that
appeal to the American founding as authoritative. The reason virtue becomes such an
issue in liberalism’s interaction with republicanism is chiefly, if not exclusively, related
to religion—and this because of religion’s role in supplying moral knowledge and
forming moral character. Thus a study such as Yarbrough’s would be improved by more
direct attention to the religion-politics question, as well as to the question of whether
Jefferson’s differences from Locke threatens Locke’s solution as a whole. For example, if
virtue is essential to both civic life and human happiness, what should be done when
religious perspectives lead to disagreements about virtue? I am not arguing that it is
impossible Jefferson’s conception of religious and political life is successful in ways that
Locke’s is not, but it does demand further study and, especially, sustained theological
reflection in light of contemporary culture wars disagreements among American
Christians.

One example of a more theologically informed approach is found in John Witte’s
work. He argues, “the ‘fundamental ideas’ of Puritan Calvinism did, indeed, contribute to
the genesis and genius of the American experiment in ordered liberty and orderly

38 Ibid., xv.
pluralism.” In other words, Witte claims that what is essential about the American project is its Puritanism and, while that was transformed over time (by Locke, among others), Puritanism is of more lasting significance that any newer ideas such as Locke’s. Witte’s study is precisely the sort of investigation I want to encourage, but unfortunately most such studies (unlike his) are overly polemical, and even Witte’s claims could be challenged. For example, in an earlier work, Witte provides his own typology of founding-era views: Puritan, Evangelical, Enlightenment, and Civic Republican.  

But as should already be apparent, and as will become clearer in the remainder of this chapter, it is not obvious that the thinkers can be thus divided, for these types of thought overlap and interrelate. Is George Washington a republican and thus not primarily a Christian thinker? What are we to make of the curious prominence of republicanism among Christians that Noll identifies? Does it matter that Adams represents Puritan thought in Witte’s latter book, but is labeled a civic republican in his earlier? I do not think these are irreparable problems for Witte, but they do reveal a need to come to terms with the interrelation of the founders’ thought.

It is my argument that the point around which they orbit, the locus of their interrelation, is Locke’s solution. Though, as Witte rightly shows, they come to that solution from different perspectives and thus interpret it differently. If Witte hopes to ransom the founding from the clutches of the Enlightenment—if, in his terms, he believes Puritan departures from Locke are substantial—he needs to show how such differences

---


40 To his credit, Witte is not unaware of this issue. He reports in his preface that the book’s second edition strives to be “more careful … to show that the Evangelical, Enlightenment, and others ‘models’ of religious liberty are only heuristic types.” Ibid., xvi.
do not pull the Lockean solution apart at the seams, transforming it not into a third way but back into the pitfalls of city gods or disloyal citizens. And if differences do not threaten the solution, they may not be significant enough to avoid the problems I will identify. My project hopes to provide a background against which such studies can better proceed.

4.6. The Liberal-Republican Historiographical Debate

I begin this section by answering two questions and offering a caveat. First, what is at stake in the debate over how republicanism and liberalism relate in America’s founding for those actually involved in the debate? Second, what makes it relevant for my study? Finally, my caveat: for the remainder of the chapter, I am entering into a long-running historiographical debate. As such, I predominately will be engaging secondary sources, and when I turn to primary sources from the founding it will be through the eyes of my contemporary interlocutors.

The first question could well seem puzzling. Why has this debate on occasion grown so heated that it can be called a “raging scholarly Battle of the Books”? That such questions seemingly cannot be answered by calm investigation of historical sources suggests that there is more at stake than disputes over how many times Locke’s name appears in a given colonial sermon. Indeed, there is more at stake but this fact is often obscured because the debate is an odd combination of detached historical study and ideologically-driven polemics written by writers who want to establish or reject Locke’s influence because his influence means something particular to them. Authors of the

---

former do often care passionately, but their concern is to set the record straight for the sake of historical accuracy, rather than to save the republic from immanent demise.

It will be helpful to describe some of the major ideological concerns underlying the debate so that, when encountered, we can better understand the exchange. In general, there are two reasons that contemporary historians and political theorists offer for why “getting the founding right” matters so much. First is the concern that if the founding is described in overly republican and insufficiently liberal terms, certain essential commitments of the founding will be lost, most especially individual freedoms. This is what drives Steven Dworetz to warn that insufficiently Lockean tales of the founding “could become life-threatening.”

Second is the concern that an overly liberal and insufficiently republican view of the founding promotes possessive individualism, wild free-market greed, and general amorality. But then, as an added level of complexity, there are disagreements over how Locke fits vis-à-vis these two concerns. Some argue that Locke indeed leads to selfishness, but they deny Locke’s relevance to the founding. Others deny that Locke (and liberalism generally) threatens the stability of community and virtue; they argue that only insofar as the true liberalism of the founding was

---

42 Dworetz, *Unvarnished Doctrine*, 4-5. Dworetz appears to have in mind that, absent certain distinctly Lockean notions, dissent in America could become outlawed. “American republicanism too often reads like a prospectus for the Leviathan,” and militarism, religious conformity, and slavery “are known to have been justified in the language of civic republicanism.” Such warnings are perhaps melodramatic not to mention unconvincing: all of these have also been opposed using republican language.

43 Though a somewhat tangential figure to these debates, this appears to be the concern of Wills, *Inventing America*. The above-mentioned book by Yarbrough may also fit here, for while she affirms Locke’s influences she highlights Jefferson’s departures from Locke in such a way that implies that were Locke the sole influence it would have been problematic. However, by drawing on Nathan Tarcov’s interpretation of Locke, Yarbrough also shows that Locke himself is not so anti-republican as is sometimes assumed. Yarbrough, *American Virtues*, xvi. Also see Nathan Tarcov, *Locke's Education for Liberty* (Chicago: University of Chicago Press, 1984).
abandoned does it appear soulless.\textsuperscript{44} In summarizing this debate, we must thus remain sensitive not only to concerns about the stability of America’s founding, but also to disagreements about where Locke fits, given those concerns.

To answer my second introductory question—why this debate is relevant for my study—we must recall what we learned in chapter 1, especially in the example about homosexuality and the law. We saw that it is possible to come to radically different conclusions about that issue while remaining solidly within Locke’s framework. The different conclusions could be loosely described as liberal and republican interpretations of Locke. Given the existence of this raging scholarly battle, my description of the homosexuality example could be considered wildly mistaken. I am trying to have it both ways: the political theory of the founding was not liberal \textit{and} republican. It was one or the other. In the following section I anticipate and refute this charge. I argue not only that both informed the American founding, I also show that a consensus is forming in the debate that affirms my argument. To this end, I introduce Michael Zuckert’s “amalgam thesis,” which explains \textit{how} such seemingly contradictory notions could be combined. I also critically engage Zuckert’s work, showing that it needs to be developed to better account for his own evidence, as well as to better explain the theological self-understanding of Christians of the founding era.

There is another reason for paying such close attention to this debate, beyond my attempt to immunize myself against a certain critique. The interpretive dispute about the founders runs parallel to a similar interpretive dispute about Locke, and both of these disputes provide a crucial (often unseen) background to today’s culture wars. To

oversimplify, the heart of the historiographical battle lies in whether the founders radically departed from ancient political traditions to embrace modernity, or whether they subtly modified ancient politics to avoid certain pitfalls while keeping the tradition more or less intact. I stated in chapter 1 that there are disputes among Locke scholars that essentially turn on whether or not Locke is in line with Aristotle (who, in these debates, is essentially an icon for pre-modern political thought). As we shall see in the following pages, there is a similar dispute about the American founders.

What makes the debates so contentious is that many of the debaters believe that if it can be established where Locke falls in line with Aristotle, then this will help resolve today’s most controversial political disputes. What I seek to show is that no such definitive case can be made, simply because both in the founders’ appropriation of Locke and in Locke himself, there are multiple plausible answers to be found—as we saw in the first chapter’s example of homosexuality.

4.6.1. A Lockean Founding: The “Older View”

I have been arguing that the political arguments of today’s Christians are often premised on the belief that Locke successfully reconciled civic and Christian obligations, which had been in tension perhaps since Christianity’s birth. Unfortunately, the drive to provide public arguments that fulfill the promise of harmony often leads to accepting troubling theological premises upon which that harmonization depends. And even when those premises are questioned, the rhetorical necessity to provide arguments in line with that solution undermines efforts to replace those premises with alternative voices. The gaps in how Locke reconciles loyalties give rise to rival interpretations of that reconciliation. Christians on the political “right” offer political arguments in line with a republican interpretation of Locke, and those on the “left” with a liberal interpretation.
I have so far been using these labels fairly loosely. By liberal I have meant a politics based on individual rights, in which those rights are understood primarily as negative liberties: immunities or freedom from hindrance. By republican I have meant a politics based on the securing of good order and promotion of the common good through the exercise of virtue and active citizenship. Republican freedom emphasizes citizens’ participation in ruling and freedom from corruption (not from restraint per se). We can easily see that both of these may incorporate natural law, virtue, liberty, and rights—but that they may mean different things by these terms and will relate them differently. As it turns out, the categories of liberal and republican are well established in discussions of Lockean political theory and American political history. This will allow me to give a more complete definition of the terms.

Some consideration of republicanism has crept into public view recently through the communitarian critique of liberalism. For example Michael Sandel’s *Democracy’s Discontent* argues that contemporary liberalism (especially via Rawls’ vision of a liberalism that is neutral with regard to the good) lacks the balance that early American republicanism provided, with its concern for the common good, public virtue, and so on. Of course, making this argument against liberalism is not exactly the same as arguing for republicanism—though there has been an increasing interest in that as well.45


242
But among historians and some political philosophers, interest in republicanism long precedes communitarianism. The relation of republicanism and liberalism in the American founding has been seriously debated since the 1940s or 1950s. Unraveling the scholarship written since will help explain how Locke connects to the founders.

Through the 1940s, the “older view” of republicanism argued that English republicans such as Algernon Sidney and James Harrington had no effect on the founding era, and Americans had little or no knowledge of past republics. The political theory of Locke ruled in the minds of the leaders of the Revolution; the only republican influence in the founding was Jefferson’s post-Confederation arguments against federalism.47

Over time and through a series of articles, this view was gradually questioned, more often from the republican side, by calling Locke’s significance into question. Such challenges to dominant assumptions were initially subtle. The first merely asserted that Radical Whig arguments lived on via Americans’ reading of Sidney and “Cato” (John Trenchard and Thomas Gordon).48 Eventually, however, the challenge became more thoroughgoing. America was not Lockean with a trace of republicanism. Nor was its revolution ancient and its Constitution modern (as Gordon Wood argued). In J.G.A. Pocock’s *Machiavellian Moment*—perhaps the culminating text of this stage of the debate—it became entirely ancient: America was the nation founded in the “dread of

47 Shalhope presents George Dutcher’s 1940 article as representative of this view. See George Dutcher, "The Rise of Republican Government in the United States," *Political Science Quarterly* 55 (1940), Shalhope, "Toward a Republican Synthesis," 49-51. Of course, seeing Jefferson as the lone republican voice would have to be nuanced, even in this early scholarship, for his Federalist opponents themselves invoked the word republic, though perhaps giving it a new meaning in the process.

modernity. Tracing this change will clarify how my position relates to the earlier scholarship. It will also clarify what the terms in dispute mean.

Louis Hartz can be said to have instigated the charge toward a republican interpretation of the founding by having argued precisely the opposite. The outlook of the founders, he said, was the decidedly individualist ethic of Locke, especially as depicted in the state of nature. Republican arguments preceded Hartz, but they were of the sort described above and were premised upon Locke’s dominant influence. If the earlier republican position had been dormant, Hartz brought it to life by enlarging Locke’s role—and pressing everyone else offstage. Yet there is more going on in these historiographic debates than historiography, and without paying careful attention it is easy to miss the subplots.


50 Even limiting our scope to roughly the 1940s to 1980s, the scholarship on this topic is vast and complex. A number of articles have effectively summarized the exchanges, such as Robert Shalhope’s and Daniel Rodgers, though the best and most recent is the brief appendix to Mark Noll’s America’s God. The best critical evaluation is found in Michael Zuckert’s Natural Rights and the New Republicanism. I draw on all of these here. See Noll, America’s God, Daniel Rodgers, "Republicanism: The Career of a Concept," Journal of American History 79 (1992), Shalhope, "Toward a Republican Synthesis." Zuckert, New Republicanism, ch. 6. See also James Kloppenberg, "The Virtues of Republicanism: Christianity, Republicanism, and Ethics in Early American Political Discourse," Journal of American History 74 (1987).

Noll’s concerns are not so far from my own, though he is primarily interested in identifying what he calls “Christian republicanism” so as to answer the question of how Christians who previously supported the monarchy came to be its most vocal critics during the Revolution. Christian republicanism, writes Noll, is the pattern of thought “that joined Real Whig political thought to Protestant theology, especially the theology of evangelical revivalists” (564). Alternatively, I am primarily concerned to show that Christians of this period also joined their theology to Lockean views of religion and government—though admittedly in a republican vein. However, Noll and I both have a contemporary reason for our inquiries: to better understand how today’s American Christians “got to where they are in their thinking,” and as such we both have a special interest in evangelicals, those most uniquely American of Christians.
4.6.2. The Republican Challenge: Bailyn, Wood, and Pocock

The first major work that could be considered a response to Hartz was Bernard Bailyn’s *Ideological Origins of the American Revolution*, followed shortly by Wood’s *Creation of the American Republic*.\(^{51}\) Though broadly in agreement there are differences. The starting point is Bailyn’s insight that Whig writers such as Trenchard and Gordon, with their concerns about corruption and power, most influenced the founders. Wood’s contribution was to extend this insight forward in time, connecting the revolutionary and constitutional periods. Pocock extended it backward in time to republicanism’s earlier origins in England and Italy.\(^{52}\) Wood and Pocock also differ from Bailyn by portraying republicanism and liberalism not as synthesized in the founding but dichotomized. Bailyn could be seen as reminding scholars of a previously overlooked voice, but Wood and Pocock argue that this should not lead us to exclude other voices as irrelevant.\(^{53}\) If the founders learned from the Whigs, they surely learned little from Enlightenment figures such as Locke.

In one sense, Wood need not have drawn this stricter conclusion, for much of his evidence is anecdotal rather than strongly theoretical. For example, he emphasizes how common Greek and Latin references were in mid-eighteenth century America; so much so that the period could be called neo-classical, with patriots adopting nicknames of their


\(^{52}\) Zuckert, *New Republicanism*, 151.

\(^{53}\) This is partly explained by the fact that Bailyn is not arguing for republicanism *per se*, but for themes of liberty, power, and corruption, which become associated with republicanism in other writers. Citing Joyce Appleby, Zuckert points out, “‘Republic’ receives only one entry in Bailyn’s index, and that pretty fairly suggests its place in his book.” Ibid., 156.
favorite ancient republican heroes and newspapers embellishing articles with Latin phrases.\textsuperscript{54} None of this would necessarily have excluded non-classical influences, least of all Locke. Yet Wood is hunting for the theme that unites such concepts. What explains the appeal that antiquity held for the founders?

Republicanism meant more for the Americans than simply the elimination of a king and the institution of an elective system. It added a moral dimension, a utopian depth, to the political separation from England—a depth that involved the very character of their society.\textsuperscript{55}

And what was the heart of this moral dimension?

The sacrifice of individual interests to the greater good of the whole formed the essence of republicanism and comprehended for Americans the idealistic goal of their Revolution. From this goal flowed all of the Americans’ exhortatory literature and all that made their ideology truly revolutionary. This republican ideology both presumed and helped shape the Americans’ conception of the way their society and politics should be structured and operated—a vision so divorced from the realities of American experience, that it alone was enough to make the Revolution one of the great utopian movements of American history.\textsuperscript{56}

For Wood, Locke is synonymous with social contract and is therefore the high priest of individual interest. Given this understanding, we can easily see why Wood concludes that “eighteenth-century English political thought perhaps owed more to Machiavelli and Montesquieu than it did to Locke”—and why this preference would have been even more pronounced in the colonies.\textsuperscript{57} If what made America revolutionary was the sacrifice of individual goods, surely Locke’s influence is peripheral. But Wood limits the force of these claims to the founding period: beginning with constitutional ratification, America

\textsuperscript{54} Wood, \textit{Creation}, 49.
\textsuperscript{55} Ibid., 47.
\textsuperscript{56} Ibid., 53-54.
\textsuperscript{57} Ibid., 29.
joins the modern world. On nearly the final page of his massive book *Creation of the American Republic*, Wood pronounces “the end of classical politics”: “The Americans of 1787 shattered the classical Whig world of 1776.”

This is further clarified by contrasting it to *The Machiavellian Moment*. Whereas for Wood the republic died when the Constitution was born, Pocock’s lives on.

The emphasis in Wood’s presentation differs slightly from that in Pocock’s, however. Wood understands the classical dimension of his republicanism as an expression of the naturalness or organic character of the political community. As Aristotle said, the *polis* is by nature and is prior to the individual, as the whole human individual is prior to a part like a hand. Wood’s republicanism demanded not Pocock’s participative ideal of citizenship or Bailyn’s suspicion of all power, but rather the recognition of a supervening common or public good… For Wood, the republican ideal is one more of duty than of self-fulfillment.

While Bailyn made a place for Lockean liberalism in his version of the “synthesis,” Pocock and Wood develop the republican ideal as a full-scale alternative to … Locke.

Another important difference between their perspectives is that while Wood’s evidence is an entertaining narrative of founding-era anecdotes, Pocock’s evidence is a complex, often impenetrable, web of theory and methodology.

Unfortunately, this means that it is never quite clear whether, at any given point, Pocock is making substantive historical claims or is trying to establish the superiority of a certain methodology. Thus it appeared to a good many readers that his book, like Wood’s, necessarily excluded Locke when it proposed an ancient founding, and indeed there are passages that fairly clearly suggest as much.  

---

58 Ibid., 606.

59 Zuckert, *Natural Rights Republic*, 205.

been advocating? In an article responding (sometimes irritably) to his book’s critics, Pocock clarifies what he meant in arguing for a republican founding:

To be “republican,” however was not merely to take up a posture on the left wing of mixed-government doctrine; it was also to commit oneself to engaging, one way or the other, in a discourse about “virtue”… The notion of civic “virtue” was liable to surface wherever were being felt the effects of the ancient commitment to the proposition that man was by nature a political animal; it is surfacing still.61

He does not wish to be taken as arguing more than this: “It was enough for me to affirm that ideas of active citizenship were formulated by Florentines, that they could be said to have rested on the ideal of the zōon politikon expressed by Aristotle.”62

But what does this have to do with the Machiavelli of Pocock’s title? Pocock’s Machiavelli sees politics as natural—not organic, as Wood had—because politics was the realm within which active citizens assert their “values.” Humans fail to be free, and fail to be truly human, unless they do so. Thus Pocock’s humanist republicanism presumes a plurality of values; politics is the realm in which competing values claims are

61 J.G.A. Pocock, “States, Republics, and Empires: The American Founding in Early Modern Perspective,” in Conceptual Change and the Constitution, ed. Terence Ball and J.G.A. Pocock (Lawrence: University Press of Kansas, 1988), 64-65. The irritability with which Pocock sometimes engages his critics is clear from some of his comments that follow the above quote: “If I had wanted to write a book called The Catonian Moment, I would have done so,” “I am tired of a debate conducted in these primitive terms,” and so on. More relevant to the present study is the following passage, which comprises the immediately subsequent sentences to the above: “The proposition had been challenged by Christians, who had long held that the city of God was more than the city of man and who were still arguing that it was an error to identify civil with moral personality; but an important part of the eighteenth-century program of reducing Christianity to a civil religion was the reassertion of the Greco-Roman doctrine that man was a political animal and every citizen (or every magistrate) his own priest. But this rebirth of ancient paganism was no sooner attempted than it was challenged by modernity.”

This recalls the discussion from chapter 1 concerning whether modernity offers a “third way” between Christian disloyalty to the city, and worship of city gods. Pocock suggests that the possibility of making Christianity open to the latter (by making it a civil religion) was actually challenged by modernity. Yet this did not mean the victory of the former. Rather, modernity itself, Pocock later hints, was its own third way, in which the commercialism and the state make self-rule and citizenship impossible.

negotiated. Whereas the virtue of Aristotle’s citizen was necessarily good, Machiavelli’s “virtù is capable of being used when that capacity is not disciplined by moral or political restraints.” As for the American implications of such claims, Pocock’s arguments are relatively modest: Florentine republicanism was embraced by English republican James Harrington, whose ideas were passed to the American founders. Thus Machiavelli’s republicanism is an important source for founding thought. But whereas Wood (by arguing for classical republicanism) is forced to concede that early American republicanism gave way to modern politics, Pocock can argue that republicanism lives on in America: because his republicanism already accounts for modernity. Pocock claims, “I see Machiavelli as he saw himself, as one concerned with the statement of ‘ancient’ values under ‘modern’ conditions.”

Much of the scholarly response to Pocock has taken this to exclude Locke’s significance, an interpretation Pocock has done much to encourage. But recently, especially in an afterword written for the 2003 printing of Machiavellian Moment, he seems to have altered his position, arguing that he never hoped to be caught up in the liberal versus republican debates in the first place. Rather, he is concerned with a

---

63 I here refer to Pocock’s concept as humanist republicanism, though others (and occasionally Pocock) use the phrase “civic humanism,” to distinguish it from “classical republicanism.” There is much overlap in the terms, but in general civic humanism refers to Italian republics, while classical republicanism to the republics of Greece.

64 Pocock, Machiavellian Moment, 557.

65 Ibid., 564.

66 Pocock seems to deny that this is a change of position. Granted, his boldest claims against Lockean or liberal influence on the founding preceded Machiavellian Moment, including the famous (or infamous) statements about America being founded in the dread of modernity and its revolution not being the first act of enlightenment but the last of the renaissance (both from 1972’s “Virtue and Commerce in the Eighteenth Century”). Thus concerns may have been “read in” to the book by his critics. For example, the passages Zuckert cites as showing Pocock’s rejection of Locke’s role are from sources outside The Machiavellian Moment, a fact that seems significant. Nonetheless, I am somewhat unconvinced by
related but not identical concept: the two types of liberty described by Isaiah Berlin. Pocock’s recent statement will help us see that a republican founding is not necessarily a non-Lockean one. I thus consider the new afterword in detail.

4.6.3. Pocock’s Afterword: Machiavelli and Isaiah Berlin

Pocock maintains that not only was he uninterested in the American liberal-republican debate, his work is unconcerned with liberalism generally. He proudly points out that “The Machiavellian Moment … contains very few references to ‘liberalism’ … and I should be at ease if it contained none at all.” But he is concerned with a topic that has relevance for those debates, and this is based in Berlin’s concepts of liberty. Berlin famously argued that when speaking about political liberty we should be careful to distinguish between its “positive” and “negative” forms—concepts not altogether unlike the distinction I make above between the liberty promoted by republican and liberal political theories. Not only does the 2003 afterword reveal that Berlin’s work was of interest to Pocock as he was writing Machiavellian Moment, he maintains that his book is inseparable from Berlin: a remarkable claim given that Berlin’s name appeared nowhere in it.

Pocock’s claim of continuity. Pocock (not unlike Rawls) does have a confusing habit of presenting his changes of mind as “what I actually thought all along if only my readers had understood.”

67 Pocock, Machiavellian Moment, 579.

68 Berlin, Two Concepts of Liberty. The distinction was not meant to be merely descriptive. Berlin was concerned with positive liberty’s potential for paternalist curbs on negative liberty. Or, as MacIntyre writes, Berlin sees “in this republican commitment to public virtue the genesis of totalitarianism and even of terror.” MacIntyre, After Virtue, 237.
Pocock identifies three insights that he draws from Berlin. First, that Machiavelli “had shown political life as the encounter with diverse value systems between which there could be no final reconciliation.” Second, that it is the task of political philosophy to engage these irreconcilabilities. Third,

that there existed two concepts of liberty, the one positive, entailing the determination of self and its encounter with other selves engaged in the same determination, the other negative, entailing no more than the freedom from hindrances to the practice of social activities in which the encounter with other selves was diversified and rendered manageable by law, government, and culture. It is at the third of these points that one confronts the differences between “republican” and “liberal,” “ancient” and “modern,” concepts of “liberty”; and I see The Machiavellian Moment as concerned with the tensions between them, whose history may be ongoing and without a final outcome.69

At first it may be difficult to see how this is not participating in the republican-liberal debate, for the difference is subtle. What Pocock seems to be saying is that he is concerned with the ideas of republican and liberal themselves—not with which thinkers affirmed one or the other of them—and that the ideas are related to Berlin’s distinction. Why is Pocock so carefully pressing such a seemingly insignificant distinction? He provides no clues to where he is headed—until delivering the punch line on nearly the last page: it is a mistake to assume that Locke is either republican or anti-republican, because his theory operates at a different level. Thus the American founding is republican, but insofar as the founders drew on Locke, it is a Lockean republicanism.70

Pocock gets to that conclusion by, first, revealing the significance of Berlin’s work for his own. Second, he cites an article of his own, published several years after

69 Pocock, Machiavellian Moment, 555-556.

70 The extent to which Pocock would affirm Locke’s influence is still qualified. In the afterword he repeatedly denies that there is such a thing as “the Lockean moment.”
Machiavellian Moment, in which he argued that virtue and right were inevitably in tension.71 “The sharp distinction I aimed to draw was one between two conceptual premises: between a right to which one may lay claim (perhaps because it is inherent in one’s nature) and a virtue which one must find in oneself and express in actions undertaken with one’s equals.” But in the afterword, Pocock clarifies that he did not mean to say these are in opposition. “Since I see ‘virtue’ and ‘right’ not as incompatible but as irreducible, I incline toward a Berlinesque vision in which these concepts of liberty are unlikely to arrive at any lasting reconciliation.” To what end does Pocock adopt this vision? “This may be a philosophy of history; I see it rather as a governing formula useful in understanding what is going on in the foundation of historical narrative in early modern Europe and America.”72 This, Pocock now says, is what he has been trying to say all along. How did his readers misunderstand him in the first place? “If I am right in holding that my positions have been unjustly simplified, it is a question of how this simplification has come about. Part of the answer seems to lie in a special veneration American historians have come to feel for the figure of John Locke.”73 This is the third and final step in Pocock’s argument. So determined were Americans to defend Locke that they took Pocock to be saying more than he was.


72 Pocock, Machiavellian Moment, 561. It is important to clarify that Pocock sees this debate as “sharply distinct … from that history of ‘negative liberty’ which is told entirely in terms of the law… Liberty defines as jus, right, droit, or recht…” (572). For this reason, Pocock finds irrelevant Richard Tuck’s arguments against him.

73 Ibid., 577.
At this point, Pocock concedes that *Machiavellian Moment* was perhaps overly concerned with refuting Hartz, or at least that were he to write the book today he would not be similarly concerned with Hartz. Pocock reports that when he first wrote his book, [I merely] proposed, as a research strategy, that we should empty our minds of Locke and his ‘importance’ and wait for him to force his way back—as I was sure he would… I do not think that *The Machiavellian Moment* has led me to minimize his role, or that it was intended to do so; but there persists to this day a habit of writing as if Locke were in need of vindication against me.\(^74\)

Since the book, Pocock observes that he has been genuinely interested in Locke’s ‘major part in promoting that liberal quasi-Christianity whose appeal to Americans was noted at the time.’ He never intended to ‘minimize his role… To define is to delimit, but not to reduce.’\(^75\)

Pocock says he intended to participate in the American republican-liberal debates only to challenge one small part of the claim asserted by those who make Locke the “patron saint and founding father of the American civil religion known as ‘liberalism.’”\(^76\) It is these he argues against.

It is thought necessary to affirm that it is enough for the “liberal” citizen to know his rights and to be active in asserting them, whereas “republican” theory requires him to affirm a “virtue,” a combination of autonomy and commitment, to which the concept of a rights-bearer is not altogether adequate. Here we begin to draw near, once more, to the tensions between “positive” and “negative” liberty prominent early in this [afterword]. When [in the original book] I presented revolutionary thinking as based on the fear that “corruption” might promote the loss of “virtue” (and therefore liberty), I was held to be negating the extent to

\(^74\) Ibid., 578, emphasis added.

\(^75\) Ibid., 578.

\(^76\) Notice that, for Pocock, liberalism does not deserve the label ideology. It is a “civil religion” or “quasi-Christianity.” He also wants to challenge the very notion of a monolithic founding, a point he makes via a backhand compliment: “The Founders were a historically sophisticated generation, whatever may be said of the culture they helped bring into being.” Ibid., 577.
which it was based on an enumeration of rights; and this appears to be what the “Lockean moment” is all about.

Pocock’s reasoning begins with the observation that there is a republican concern for virtue in the founding. Given this, Pocock believes we are left with two possible conclusions: either Locke excludes virtue-talk in favor of rights-talk and therefore Locke was not a major voice in the founding or Locke is a major voice but there is some way to include concern for virtue within Lockean politics. One of the goals of the afterword is to argue for that latter of these. Some historians believe Lockean politics excludes virtue, but it need not. This is because

There was no blueprint for a Lockean republic, and Locke—who was interested in the origin and end of government but not its structure and exercise—had carefully abstained from instructing the people as to how they might reconstitute the state after dissolving it. A Lockean polity would be a community of rights-bearers, but that said nothing as to its form… We must therefore look beyond Locke…

We thus understand how Pocock can go on to say that he never intended the debate to become an either-or. The Lockean emphasis on rights places certain limits on political form, perhaps excluding certain options, but it is primarily a set of theoretical commitments. The Second Treatise cannot decide for or against representative democracy, for example, because that is a practical question. Of course, Locke’s particular emphases could well lead to greater concern for rights and less for virtue, but insofar as these are in flux, Pocock’s larger point seems to be confirmed: negative and positive liberty are in irreducible tension but not outright contradiction.

Beyond revealing his previously undisclosed debt to Berlin, Pocock is oddly reticent about how he developed the position of his afterword. He even declines to identify whom he is engaging, writing, “I shall not attempt a bibliography of this debate,

77 Ibid., 579-580.
since I have sought not to take part in it.”78 Two likely candidates are Stephen Dworetz and Michael Zuckert.79 Though Zuckert’s is the more important response in terms of the scholarly debate, Dworetz’s is also well known and is more directly critical of Pocock. I will consider Dworetz briefly first, before turning to Zuckert. Both of these authors’ works were written prior to 2003. They thus respond to the original Machiavellian Moment, and Pocock’s afterword may have them in mind. What we will see is that the afterword essentially concedes the point to Dworetz and Zuckert, presenting a solution they had already offered.

4.6.4. Dworetz’s Unvarnished Doctrine

Steven Dworetz provides a response to those thinkers, chiefly Pocock, who argue for an un-Lockean founding. The American founding, he writes, is a Platonic noble lie but one that “is more, not less, than fact.” The chief figure in the myth is Locke. Though he provides what is in many respects an excellent study, Dworetz is perhaps the best representative of a response to Pocock that pulls toward the opposite extreme. Ultimately, he is little more helpful than Pocock’s afterword at explaining how the two relate, even if he anticipated Pocock’s afterword in asserting that they do.

78 Ibid., 579n60.

79 Two others are Joyce Appleby and Isaac Kramnick, the latter of whom Pocock cites in the afterword. Despite the importance of their excellent studies, I pass over them here because they are more directly concerned with economic developments; these are not irrelevant to my concerns about religion and politics, but they are somewhat peripheral. See Joyce Appleby, Liberalism and Republicanism in the Historical Imagination (Cambridge: Harvard University Press, 1992), Kramnick, Republicanism. Pocock’s response to their work is found in J.G.A. Pocock, “Between Gog and Magog,” Journal of the History of Ideas 48 (1987).
In presenting his argument for Locke’s preeminence among the founders’ thought, Dworetz lets slip that it is perhaps not so simple as he sometimes suggests. This is revealed in ironic fashion via the book’s epigram, from which it takes its title. In 1772, colonist Arthur Lee wrote in the Boston Evening Globe, “This is Mr. Locke’s doctrine, it is the doctrine of reason and truth, and it is, sir, the unvarnished doctrine of the Americans.” Yet as the epigram points out, but Dworetz does not discuss, Lee did not write under his own name. He wrote as Junius Americanus. Even the declaration of Locke’s preeminence is made in the voice of a Roman republican hero. In a way that Dworetz did not intend, his book advocating Locke’s importance shows the complexity of that claim.

By the end of his book, Dworetz’s position seems softer than his introductory “life-threatening” fears. A secularized interpretation of Locke, he concedes, would perhaps be equally dangerous by going too far in the other direction. While a liberal would always prefer to live under Robert Nozick than Robert Filmer, “liberalism will not flourish within the narrow ideological confines of libertarianism.” Thus, “We should begin by calling a truce in the war between republicanism and liberalism… American republicanism in the Revolutionary years was a distinctively liberal republicanism.” But this is the fourth last sentence of the entire book, leaving Dworetz far too little space to explain what, it turns out, should have been his crucial question all along. Fortunately, Zuckert’s studies reach a similar conclusion but provide a clearer, more systematic explanation of how the two relate.

80 Dworetz, Unvarnished Doctrine, v.
81 Ibid., 190-191.
4.6.5. The Founding Amalgam: Zuckert’s Natural Rights Republicanism

As a whole, Zuckert’s work is directed at restoring Locke’s teaching on natural rights to what he sees as its proper place of prominence in American political thought. His *Natural Rights Republic* shows how the arguments of the Declaration of Independence reveal distinctively Lockean thinking; in it he further studies how that thought relates to the earlier Puritan politics. His *Natural Rights and the New Republicanism* examines the origins of this thinking, showing that the founding was an “amalgam” of diverse strands of thought. This is now known as the amalgam thesis.

After summarizing the historiographical arguments in one section of *Natural Rights and the New Republicanism*, Zuckert concludes by identifying a distinction made previously by both Locke and Jefferson, which appears to show in a systematic way how republican and Lockean strands could have related in the founding. He writes:

> “Politics,” Locke said, “contains parts very different the one from the other, the one containing the original of societies and the rise and extent of political power, the other, the art of governing of men in society.” He placed his own *Two Treatises of Government* in the first class of political works. Just a century later, Thomas Jefferson repeated Locke’s distinction, this time in terms of “theory” and “practice.”

Jefferson listed Locke’s *Treatises* as an example of theory and *The Federalist* as an example of practice. This distinction would allow us to see how the founders could have

---

82 Zuckert, *New Republicanism*, 165. Zuckert prefaces this passage by remarking that “many others” have made this distinction. He elsewhere reveals this to include at least Hugo Grotius. Zuckert, *Natural Rights Republic*, 4. It would be an interesting study to investigate whether the very terms of the distinction as offered by Locke and Jefferson are quite the same as Grotius and, more importantly, to what extent the very categories are distinctively Lockean. In other words, is the distinction between philosophy-theory and science-practice a more or less general one, allowing a wide variety of content to be “plugged in” to each category. Or do these categories themselves reflect the content that Locke wants to place in the philosophy category? I cannot explore this further here, but there is an intuitive plausibility to the latter. The way in which Locke defines government as limited by the individual’s prior rights is neatly parallel to how he defines political science as limited by the prior “rights” of philosophy.
drawn on both rights-based theory, such as Locke’s, but also on republican or virtue based theory that otherwise seem incompatible.

My central contention, in brief, is as follows: The synthesizers have more (Pocock) or less (Bailyn) confused political thinking at these two levels and construed lines of thought that differed in level as though they were at the same level and opposed to one another… Most of what is currently discussed as classical republicanism is political thought at the level of political science; most of what is discussed as liberalism is reflection at the level of political philosophy. Lines of thought at these different levels, as both Locke and Jefferson implied so clearly, do not necessarily conflict… Of course, they can conflict.83

In practical terms, what Locke says about the state of nature, natural rights, and revolution are examples of political philosophy. The particulars that follow from that philosophy—should the legislature be bi- or unicameral, should judges be appointed or elected, how shall public education be structured—are examples of science. Although philosophy will not typically provide a definitive answer to the political science questions, it does guide and limit the science: their ought to be some sort of legislature, judges need to be chosen in some way that is accountable to the public, and there needs to be some provision for educating future citizens.

Based on this, Zuckert goes on to argue for his amalgam thesis in Natural Rights Republic, where he seeks to reframe the debate. “Thus the question is not so much, is America liberal or Christian, old Whig or republican, as it is, how did the amalgam which swept up elements of all these traditions come to be, and just how do the various elements in the amalgam relate to each other?”84

83 We should recall that the “Pocock” to whom Zuckert refers here is the pre-afterword Pocock. By 2003 Pocock is closer to Zuckert’s position, though without his theory-practice terminology. See Pocock, Machiavellian Moment, 580.

84 Zuckert, Natural Rights Republic, 7.
In retrospect, this is the question that should have been asked from the start of the entire debate, and via the philosophy-science distinction, Zuckert has grounds on which to answer it. On historical grounds, it perhaps should have been obvious that research should take the combination of strands as a given; recall “Junius Americanus” declaring Locke’s preeminence. But this solution is also particularly useful for the present study because it explains how, today, the political arguments of American Christians can plausibly be both republican and Lockean. The amalgam thesis allows us to see how different strands relate in ways that sometimes lead to harmony, and sometimes to tension. “Although liberal modernity at bottom derives from a different impulse than classical antiquity or Christianity, and indeed opposes some aspects and version of both, it yet proved able to make peace with and indeed to assimilate important aspects of both.”85

One might raise the objection that by granting Locke’s philosophy the privileged place as the founders’ philosophy (for “philosophy,” in these terms, is more foundational than “science”) he has taken the debate full circle back to Hartz, rather than advanced it. In fact, Zuckert actually has fairly substantive historical evidence on his side, primarily from Jefferson but also from other founders, and even from the clergy of that period. Locke’s thought does appear to play a special role in their thinking that republicanism does not. This would hold true even if there were little explicit evidence for his influence (of which there is plenty) because, as Paul Rahe notes, “Debts acquired at second-hand remain debts whether we are witting or not; Machiavelli influenced a species of

85 Ibid.
intellectual hegemony over republican thought in the eighteenth century exceeded by none except John Locke.”

We can readily see that Zuckert’s distinction, or something like it, is what Dworetz and the later Pocock were grasping for but never quite took hold of. Even Wood seems to have moved toward such a conclusion by the late 1980s, when he wrote that if “none of the historical participants, including the Founders, ever had any sense that he had to choose between republicanism and liberalism, between Machiavelli and Locke,” neither should we.87 Rahe’s massive study of republicanism also affirms modern republicanism’s affinity to liberalism rather than conflict with it, and Yarbrough (and others) draw on Rahe in seeing the American founding as liberal republicanism.88 In fact, reading the debate with the benefit of hindsight, it becomes clear that there have been voices along the periphery of the debate for some time who have made similar arguments. Jerome Huyler’s Locke in America concedes that while Locke’s philosophy was somewhat individualistic it is individualism of a sort that fits republicanism well, which Huyler argues is quite different from twentieth century notions of liberalism.89 John Diggins’ Lost Soul of American Politics shows that America’s Calvinist heritage


87 Quoted in Noll, America's God, 449.


was a kind of “republican check” on those aspects of Locke’s politics that would otherwise conflict with republicanism.90 Looking retrospectively, we can see how these confirm Zuckert’s eventual conclusion, but none of them quite satisfactorily articulates the ground by which differing strands were brought together.91 Zuckert shows why the founders did not have to choose between seemingly conflicting alternatives, and why we as interpreters should not suppose they did. But although the founders did not have to choose between republicanism and liberalism in the way that has often been supposed, they still had to choose on other points, such as how the two were to be related.

According to Zuckert’s interpretation, the fact that the founding philosophy is generally Lockean or liberal—his preferred phrase is “natural rights-based”—set certain limits and occasioned certain emphases. Thus, reason has a special precedence over revelation in politics, government is necessarily limited to securing rights (its ultimate goal cannot be the moral perfection or eternal happiness of its subjects), and so on. Noll’s definition captures the most important emphasis well: Locke “stressed individual reason as the key to well-grounded knowledge, personal rights as the most basic ingredients of a well-ordered state, and religious toleration as a prerequisite for a well-regulated social order.”92 These features will be visible in any plausibly Lockean regime. Yet there can be

90 Diggins, Lost Soul.

91 Perhaps the most creative suggestion is that the historiographical debate is confused because it overlooks that Locke’s harmonized republicanism and liberalism depends on his being a physician! The debate “has ignored the medical orientation which Locke brought to his political writings. Recognizing that Locke wrote within a medical paradigm, which he derived from Calvinist religious thought, permits us to see that Locke was working within a variation of republicanism and not in opposition to it.” Richard Nelson, “Liberalism, Republicanism and the Politics of Therapy: John Locke’s Legacy of Medicine and Reform,” Review of Politics 51, no. 1 (1989): 29.

92 Noll, America’s God, 565.
much variation from one natural rights republic to the next. A political system founded on such a philosophy would not necessarily be federal, for example, and need not even be democratic.

Though not often given to highlighting the significance of his work for contemporary disputes, Zuckert does so on this point. He acknowledges that tensions do persist within the amalgam and that “the ongoing debate about abortion and other ‘lifestyle’ issues at least in part reflects a similar disharmony among elements of the traditional amalgam.” In other words, there are gaps unresolved by the founding that are still with us today. We have seen that Zuckert’s amalgam theory provides the best model available at present for understanding these aspects of the founding.93 It is a model that itself realizes the inevitability of tension and the pressure among various strands to make peace with the others, sometimes, perhaps, even when making peace involves the compromise of otherwise deeply held commitments. As he summarizes, his work insists, on the one hand, on the differences between natural rights liberalism and these other positions, and it shows, on the other hand, how natural rights liberalism nonetheless was able to incorporate versions of them. My overall thesis is that the uniqueness of the American political tradition consists precisely in the unique amalgam so constructed. It is also my claim, only lightly developed here, that our understanding of the course of American political history is enriched not only by perceiving this amalgam but by perceiving the tensions that occur when various elements within the tradition pull away from each other.94

93 As I will discuss below, Zuckert’s model is not immune from critique. In particular, I find his attempt to employ theological concepts such as Luther’s two kingdoms and the Protestant doctrine of sola scriptura problematic. These do not undermine Zuckert’s solution as a whole, but show the need for further nuance. For a historical (rather than theological) critique of the amalgam thesis, see Mark A. Noll, “The Contingencies of Christian Republicanism,” in Protestantism and the American Founding, ed. Thomas Engeman and Michael Zuckert (Notre Dame: University of Notre Dame Press, 2004). Noll’s critique, like mine, is largely sympathetic.

94 Zuckert, Natural Rights Republic, 7-8.
My project builds upon Zuckert’s by similarly asserting the importance of perceiving the amalgam’s tensions but differs from him in two ways. First, I focus on how the tensions affect Christians living as citizens within a society founded in the confidence of the amalgam’s success. Second, by evaluating this amalgam theologically (rather than evaluating theology according to the amalgam, as Zuckert does), I approach the question from a more critical angle.

4.7. Republicanism: A Hinge-Point of Modern Politics & Political Theology

Just as Pocock and Dworetz—and Wood and Bailyn before them—grasped for but could not quite take hold of the above distinction, much recent Christian political theology can be seen as similar grasping. This question of how liberalism and republicanism relate must form a major part of any satisfactory account of political thought. Some awareness of this has already developed among political scientists and philosophers. But among theologians, awareness is currently more on the level of Pocock’s grasping: we have realized something important is at stake and some vital clues lie hidden, but their meaning lies just out of reach.

For political thinkers, the importance of the historiographical disputes has come to light via communitarian challenges to liberalism. This is especially clear in books like Sandel’s Democracy’s Discontent, which draws on the founding era to show that republicanism and liberalism need not conflict so long as liberalism is not defined by the early work of John Rawls. This debate as a whole is vitally important for understanding contemporary American approaches to politics. It is a debate with deep roots, touching on
the significance of the Enlightenment and modern philosophy generally, on the possibility of political life in pluralistic contexts, and—surprisingly often—on “the religion problem.”95 In other words, within contemporary political debate, theories of republicanism are a hinge-point upon which these other problems turn. The same is true for Christian political theology. But what makes it so? Why is republicanism a hidden key? And why has its significance been so often overlooked?

Alasdair MacIntyre provides some clues when considering the emergence of eighteenth-century interest in republicanism. Helpfully, given the above discussion, he does so with reference to both Machiavelli and Isaiah Berlin. As MacIntyre sees it, early modern moral thought shifted ethical thinking away from the consideration of virtue. To the extent virtue remained significant for society or for political thought it was instrumentalized. Society became “an arena in which individuals seek to secure what is useful or agreeable to them.” This excluded “any conception of society as a community united in a shared vision of the good for man (as prior to and independent of any summing of individual interests).” But such conceptions were not always thoroughly excluded, and republicanism is one notable attempt to restore virtue’s political relevance. MacIntyre writes:

Republicanism in the eighteenth century is the project of restoring a community of virtue; but it envisages that project in an idiom inherited from Roman rather than Greek sources and transmitted through the Italian republics of the middle ages. Machiavelli with his exaltation of civic virtue over both the Christian and the pagan virtues articulates one aspect of the republican tradition, but only one. What is central to that tradition is the notion of a public good which is prior to and

95 Indeed, one recent book argues that the relation between religion and politics is the problem with which Rawls is concerned. Daniel Dombrowski, Rawls and Religion: The Case for Political Liberalism (Albany: State University of New York Press, 2001). It is not implausible to see the communitarian-liberal debate of the past twenty years as originating in Rawls.
characterizable independently of the summing of individual desires and interests. Virtue in the individual is nothing more nor less than allowing the public good to provide the standard for individual behavior. The virtues are those dispositions which uphold that overriding allegiance.96

Virtue, as understood in eighteenth century republicanism, comes to mean the selfless regard for the good of the community. “Republicanism therefore represents an attempt at a partial restoration of what I have called the classical tradition.”97 Yet if the tensions that led thinkers away from virtue in the first place are recalled, it is easy to see why such self-sacrifice could seem problematic or even dangerous.

Berlin is one of the thinkers “who see in this republican commitment to public virtue the genesis of totalitarianism and even of terror.” It is, in part, his fear that an emphasis on positive liberty could threaten negative liberty that leads him to distinguish the two.98 MacIntyre writes: “The republican concept of liberty was Christian too: Cui servire est regnare says the prayer about God, or as the English version has it, ‘whom to serve is perfect freedom,’ and what the Christian said about God the republican says about the republic.”99

We can at once see both the reason for the Christian appeal of republicanism and the reason for fear of it, especially in increasingly pluralist contexts. Real freedom, says the prayer quoted by MacIntyre, is obeying God’s will. Can the same be said of

96 To be sure, MacIntyre speaks here in generalizations, not even accounting for the influence of natural rights thinking at that time.

97 MacIntyre, After Virtue, 237.

98 Berlin’s charge is not our concern here. It is worth noting that MacIntyre offers a brief but clear argument for why republicanism need not lead where Berlin fears it will. From MacIntyre’s perspective, it is the attempt to “reinvent morality on the scale of a whole nation,” not public virtue per se that could lead to totalitarianism.

99 MacIntyre, After Virtue, 236-237.
obedience to the state? It is in facing this dilemma in increasingly pluralistic contexts that liberalism gains appeal, for if the state can demand obedience to its conception of the good or virtue then it would seem to occasion the conflicts of loyalty between Christianity and republicanism that Machiavelli criticized—and that Berlin came later to associate with totalitarianism. But, conversely, if freedom is defined not as obedience to the state but rather as the pursuit of each individual’s own desires then pluralism occasions either potential conflicts between the desires of individuals or threatens to undermine civil stability when those desires are at odds with the common good. It is this dilemma that a certain form of liberal republicanism, which I have associated with Locke, appears to solve—and which many founding-era Christians and founders believed was successful. Yet as we have seen there is an inherent ambiguity in Locke’s solution because its theoretical commitments, that with which Locke was primarily concerned, can be applied to real-world politics in a variety of different ways.

Unfortunately, the ambiguities in Locke’s work are not always identified as such by the thinkers who invoke him. His system is thought to necessitate a fairly precise political program but, tellingly, there is much disagreement as to what that precise form is. This is a crucial clue in explaining why Pocock refuses to engage liberalism as a serious ideological or theoretical alternative to republicanism and why he derisively refers to the American affection for Locke as “liberal quasi-Christianity.” Those who conclude that the founding was liberal and therefore non-republican are taking Lockean politics to be more than a philosophical foundation; they take it to imply a full-fledged political science. This appears to be what many versions of Rawlsian liberalism contend, even if they do not always connect themselves to Locke.

By studying the liberal-republican historiographical debate in such detail, we may appear to have strayed far from our primary theological concerns. In the present section I
have been arguing that how liberalism and republicanism relate becomes of great
importance to how religious and civic life interact precisely because of republicanism’s
unique, even ambiguous, role within modern politics. This is MacIntyre’s point. Modern
republicanism became a vehicle by which Christians concerned by industrialization and
political innovation could promote certain characteristically Christian concerns. Yet
modern republicanism’s role is ambiguous in these political transformations because of
how it was often the promotion of an objective conception of virtue (especially when
religiously defined) that motivated liberal thinkers like Locke in the first place. Thus
what MacIntyre identifies as the Christian-republican conception of liberty appears, to
Berlin, to be a potential threat to liberty because it contains the seeds of totalitarianism.¹⁰⁰

With this background in place, we are now in a position to return to the American
founding. Those scholars who have considered the history of this period most carefully—
from Pocock to Wood, Zuckert to Rahe—all now affirm, in varying ways, that the
founding combined what otherwise seem to be district strands of thought. This is
especially significant for my project, because, as Noll shows, the founders’ solution
received support from diverse Christian groups. Though the different groups each may
have envisioned the American project slightly differently, there was at least a coherent
enough core around which they could agree. We can now turn to a more detailed
investigation of the place of religion in the founders’ thought. To do so, I first critically
examine Zuckert’s amalgam thesis in more detail, gleaning from it a general
understanding of what it means to claim that founding era Christians were influenced by

¹⁰⁰ This did not lead Berlin to consider “positive liberty” invalid or to say that it necessarily leads
to totalitarianism. Rather, it has the possibility of doing so and yet it is a valid form of liberty. His
conclusion is that the two liberties are inevitably in tension.
Locke. I also identify what I see as problems in Zuckert, showing that his amalgam thesis at points overstates the tension founding-era Christians faced in appropriating Lockean political thought.

4.8. The Two Foundings: Continuity and Amalgamation

Because Zuckert provides the most coherent, systematic explanation of how liberal and republican politics came to be combined in early America I will in this section refer primarily to his work on the founding. His work is also the most relevant because it focuses, as I do, on Locke. He presents his conclusions quite effectively by comparing America’s two foundings: the Puritan and Pilgrim founding of the 1620s and the

101 Because this section draws primarily on Zuckert, and because my interest is primarily theological, a word is perhaps in order about Zuckert’s dependence on Leo Strauss’s thought—because of how Strauss distinguished between philosophy and theology. Although Zuckert departs from Strauss’s controversial interpretation of Locke as a closet Hobbesian, he still shares with Strauss a dichotomy in which philosophy is based on “reason,” theology is based on “revelation,” and there is little or no room between. Thus those theologians who allow reason to guide their interpretation of Scripture or doctrine are really philosophers and therefore not theologians.

I am sympathetic to Strauss’s notion that Jerusalem and Athens will not (at least not in this age) see a final reconciliation. However, to label as insincere or less than forthcoming all those Christians who hold otherwise is inadequate—both on the facts and as a hermeneutical strategy. For “those Christians who hold otherwise” is a group that includes not only harmonizations between reason and revelation of the liberal Protestant sort (including Locke) but also of the Thomist sort. Just as the Straussian interpretation holds that Locke is really a philosopher and therefore not a theologian, Strauss says the opposite about Aquinas. He writes, “The ultimate consequence of the Thomistic view of natural law is that natural law is practically inseparable not only from natural theology—i.e., from a natural theology which is, in fact, based on belief in biblical revelation—but even from revealed theology. Modern natural law was partly a reaction to this absorption of natural law by theology.” Strauss, *Natural Right and History*, 164.

This is clearly too rigid a dichotomy; both Locke and Thomas were both philosophers and theologians and influenced their readers as such. Abandoning this dichotomy would still allow Strauss and his followers to pursue (if they wished) their more interesting charge, which is that attempts to relate philosophy and theology are misguided—i.e., Locke is a bad theologian for giving reason too prominent a role and Aquinas is disloyal to true philosophy for reading the Bible as authoritative.

revolutionary founding of 1776. Each of these has its representative texts, which allow for fruitful comparison. The Mayflower Compact reveals the Pilgrims’ vision of politics and America, just as John Winthrop’s famous sermon “A Modell of Christian Charitie” reveals the Puritan vision, most memorably via Winthrop’s depiction of America as a city set upon a hill. The Declaration of Independence depicts the mind of the later founders.\footnote{Or so Zuckert argues. Whether the Declaration is mere “glittering generalities” or, in Emerson’s words, “blazing ubiquities”—or whether it even can be said to represent the founders’ thought is a complex question. As Zuckert effectively puts it, when Abraham Lincoln described the Declaration as the golden apple within the Constitution’s silver frame, he did not have to contend with Charles Beard’s \textit{An Economic Interpretation of the Constitution}—but we do now. I will not rehearse Zuckert’s arguments here, but I believe he gives sufficient warrant for reading the Declaration as representative in this way. See Zuckert, \textit{Natural Rights Republic}, 13-16. On balance, Lincoln and Jefferson tended to emphasize the Declaration, whereas Madison, Hamilton, and Adams seem preferential to the Constitution. See Diggins, \textit{Lost Soul}, 4.}

Other scholars have followed this approach and have come to a variety of conclusions about the degree of “continuity” we can find between the earlier two texts and the latter one. Those who advocate strong continuity suggest that the Declaration is fundamentally a restatement of Puritanism.\footnote{See Willmoore Kendall and George Wescott Carey, \textit{The Basic Symbols of the American Political Tradition} (Baton Rouge: Louisiana State University Press, 1970).} Thomas Pangle argues against continuity on the grounds that “there are not even expressions in the Bible for ‘republic,’ ‘democracy,’ ‘human rights,’ or ‘natural rights.’”\footnote{Thomas Pangle, \textit{The Ennobling of Democracy: The Challenge of the Postmodern Era} (Baltimore: Johns Hopkins University Press, 1992), 97.} Others argue for some mixed continuity, either holding the Declaration is a secularized statement of Puritanism, or that the Declaration eclectically mixes earlier traditions, including Whig and Puritan thought.\footnote{For secularization, Donald S. Lutz, \textit{The Origins of American Constitutionalism} (Baton Rouge: Louisiana State University Press, 1988), Edmund S. Morgan, \textit{Puritan Political Ideas: 1558-1794, American Heritage Series}; (Indianapolis: Bobbs-Merrill, 1965). For eclectic, Bailyn, \textit{The Ideological Origins of the American Revolution}.}

\footnote{102 Or so Zuckert argues. Whether the Declaration is mere “glittering generalities” or, in Emerson’s words, “blazing ubiquities”—or whether it even can be said to represent the founders’ thought is a complex question. As Zuckert effectively puts it, when Abraham Lincoln described the Declaration as the golden apple within the Constitution’s silver frame, he did not have to contend with Charles Beard’s \textit{An Economic Interpretation of the Constitution}—but we do now. I will not rehearse Zuckert’s arguments here, but I believe he gives sufficient warrant for reading the Declaration as representative in this way. See Zuckert, \textit{Natural Rights Republic}, 13-16. On balance, Lincoln and Jefferson tended to emphasize the Declaration, whereas Madison, Hamilton, and Adams seem preferential to the Constitution. See Diggins, \textit{Lost Soul}, 4.}

\footnote{103 See Willmoore Kendall and George Wescott Carey, \textit{The Basic Symbols of the American Political Tradition} (Baton Rouge: Louisiana State University Press, 1970).}

\footnote{104 Thomas Pangle, \textit{The Ennobling of Democracy: The Challenge of the Postmodern Era} (Baltimore: Johns Hopkins University Press, 1992), 97.}

these interpretations is inadequate. There is more continuity than Pangle allows, but not so much as others allege.

According to Zuckert, in the years leading up to and during the American Revolution, Puritan and Protestant thought became “Lockeanized.” That is, it came to accept positions that would seem to place it deeply at odds with itself. For example, in period sermons, the purposes for which government exists are increasingly said to be what Locke (and others, to be sure) say they are—rather than what John Winthrop or the Mayflower Compact said. Also, nature’s God is invoked as an alternative to the biblical God invoked by the Puritans. In addition, there is an increasing presumption in favor of liberty, compared to the Puritan ambivalence toward it. But how, Zuckert asks, can we explain that Protestants were able to assimilate this thought into their theological framework?

Zuckert’s claim is that it started with Martin Luther—or, at least, Luther’s theology can help us understand the development of Puritan doctrine. Luther (as well as Calvin, a more direct influence on the Puritans) employed the doctrine of two kingdoms in their political theologies. By distinguishing the Kingdom of God, in which Christians participate qua Christians, from the Kingdom of the World, in which all humans participate qua humans, Luther laid the groundwork for the later amalgam. According to Zuckert, although Luther had insisted that both kingdoms were divinely ordained and both subject to Scripture’s authority, in mid-eighteenth century America, Scripture’s authority in the worldly kingdom came to be replaced by the authority of reason. This
then is the amalgam: Christian theology incorporates a Lockean approach to politics by fitting it into the Luther’s distinction of two kingdoms.106

As a historical point, there are some problems with Zuckert’s depiction of Lutheranism and especially with *sola scriptura*, which he defines as “the notion that the truths about religion, including one’s religiously underwritten duties in the political sphere, must be garnered from scripture alone. Such was surely Martin Luther’s position.”107 This makes it sound as though *sola scriptura* is a doctrine about the sources of religious knowledge, which it is not. Rather it is a statement about the relative authority of various sources. It is a limit not on the use of pagan or non-Christian ideas, but on the role of tradition.

On the one hand, this need not overly concern us, for Zuckert is not writing a Lutheran theology. On the other hand, this falsely creates the impression of a heightened tension between revelation and reason that we have no reason to suppose the Puritans themselves perceived. Just as Zuckert correctly argues that the founders did not face a rigid choice between liberalism and republicanism, neither did they face a choice between revelation and reason of the sort Zuckert describes. Despite this, overall Zuckert provides what is in principle a sound explanation of developments in Protestant thought in the years leading up to the Revolution. With this framework in place, we can ask what specific changes occurred over these years.

106 There is actually a third strand to the amalgam, by which Zuckert shows continuity and discontinuity between Burkean and Whig thought and the Declaration, though I leave this aside.

107 Zuckert, *Natural Rights Republic*, 156.
The Declaration, according to Zuckert, can be summed up in the six claims it asserts as self-evident truths. (1) All men are created equal, (2) and are endowed by their Creator with certain inalienable rights. (3) Government is instituted to secure those rights, and (4) it derives its power to do so from contract. (5) There is a right to alter or abolish governments that become destructive of the ends for which they exist, and (6) to institute a new government.\textsuperscript{108} For our topic—that of investigating how the Lockean concern for rights relates to republican conceptions of government, and how this relates to Christian political theology—the most significant of these is the third: what are government’s legitimate goals and limits? Also significant is the question of how we come to know the truth of what the Declaration argues.

The Declaration’s claim that government is limited to rights securing depends upon its prior assertion of natural equality. Because no one is born subject to another, government may abridge freedom only in areas over which the subjects have relinquished freedom (or which they could rationally be expected to do so). This reveals that the assertion about natural equality is implicitly one of those places that the founders fairly directly side against a republican tenet: being created equal means, says Zuckert, that “human beings … are not naturally political.”\textsuperscript{109} He is worth quoting at length on the implications this holds:

The Declaration unequivocally asserts that the purpose of government is the securing of rights, and only the securing of rights… Only the rights of others are a proper boundary and limit on rights… We need not pursue here the implications

\textsuperscript{108} Ibid., 18.

\textsuperscript{109} Ibid.
of this orientation to rights in the limited character of the government, in the essentially secular character of the society, in the primacy of the private sphere—in short in the liberal polity that would result. The Declaration’s rights doctrine empowers such features of liberalism as individualism, constitutional government, privatism, and the embrace of the idea that liberty, not virtue as such (the good state of the soul of the individual), not salvation, and not glory form the legitimate end of the liberal state. Political life conducted under the auspices of the rights philosophy is in principle open to the potentially varied and variable goals of its citizens; within limits about which neither the founders nor we have arrived at a consensus…

Thus the “liberalism” of the Declaration places certain limits on government but is not wholly determinative. We should by now expect this to be the case, given the distinction we saw in Zuckert, Pocock, and Wood between political philosophy and political science. A liberal polity will exclude, as Zuckert says, the state acting to secure its citizens “virtue as such,” but this leaves much open ended. The Declaration’s ends for government are precisely those described by Locke in his *Letter Concerning Toleration*:

> The commonwealth seems to be to be a society of men constituted only for the processing, preserving, and advancing of their own civil interests. Civil interests I call life, liberty, health, and indolence of body; and the possession of outward things, such as money, land, houses, furniture, and the like.

The Declaration’s continuity with Locke is obvious. But what of its relation to the documents of the earlier founding?

### 4.8.2. The First Founding: Mayflower Compact, 1620, and Winthrop Sermon, 1630

Regarding the purposes of government, the Declaration contrasts sharply with both the Mayflower Compact and Winthrop’s sermon. The Pilgrims formed their civil community for four purposes: “(1) for their better ordering and preservation … (2) the

---

110 Ibid., 26-27.

glory of God; (3) the advancement of the Christian faith; (4) the honor of king and country.” As Zuckert points out, the Compact makes clear that “the secular is for the sake of the sacred,” all the more so because the first of these purposes is instrumentalized to the latter three.\footnote{112} Not only is there no mention of rights, the Compact lacks any theoretical apparatus for limiting the government’s scope so as to avoid conflicts of religious and civil loyalty. The same is true of Winthrop’s sermon, as well as Winthrop’s own later political activities. He states clearly the importance of Christian love and right doctrine to political life; indeed, the goal of politics appears to be service to God. He even sought to restrict immigration to those who affirmed Puritan doctrine.\footnote{113} Perhaps most dramatically at odds with the Declaration’s basis in equality, the opening line of his sermon emphasizes human inequality and natural aristocracy due to God’s providence: “in all times some must be rich, some poor, some high and eminent in power and dignity; others mean and in subjection.”\footnote{114}

Much the same contrast between the earlier and later foundings can be seen by comparing their sources for knowledge. Even if Zuckert’s version of \textit{sola scriptura} overstates the difference, it is clear that if the Declaration is a theological document in any sense, it is a work of natural theology. Its god is “nature’s God.” The Puritan and Pilgrim texts are explicitly Christian and their political visions are expressly biblical. Zuckert further emphasizes this by showing how Jefferson seems to have doubted the Bible’s authority, a fact that for Zuckert reveals the distance Jefferson’s Declaration has

\footnotetext{112}{Zuckert, \textit{Natural Rights Republic}, 132.}

\footnotetext{113}{Ibid., 134-139.}

\footnotetext{114}{John Winthrop, “A Modell of Christian Charity” in Morgan, \textit{Puritan Political Ideas}, 76. I have slightly modernized spelling for readability.}
from the Puritan’s. In his *Notes on the State of Virginia*, Jefferson argues that there could not have been a universal flood of the sort depicted in Genesis because there is too little water in the world. Zuckert then concludes,

Jefferson thought it quite likely that there were ‘partial deluges’ in the Mediterranean region, and these were probably the basis for Hebrew and Greek ‘traditions’ about a flood. Jefferson thus demotes the Bible to the level of a ‘tradition,’ one with a character and authority no different from other ancient traditions. Like those other traditions, it is of questionable authority.\(^{115}\)

This view is reflected, Zuckert claims, in the relative significance given to the Bible in the Declaration and the Puritan texts. This is an unfortunate overstatement; it is one of those places where Zuckert exaggerates the discontinuity of the foundings.

It certainly is possible that the Bible was not authoritative for Jefferson, but Zuckert’s line of reasoning is premised on too broad a dichotomy between revelation and reason. Why can a tradition not be authoritative? Further, why would a scientific observation, such as Jefferson’s about water, threaten the Bible’s authority rather than simply lead him to read that passage figuratively? Without saying so, Zuckert is arguing that figurative interpretations *de facto* make the Bible non-authoritative. However, beginning with the earliest church fathers, Christian biblical interpretation does not suppose this to be case, whatever certain modern day Christian creationists say to the contrary.

What this means is not that the amalgam thesis is wrong, but that the move from the biblical reasoning so prevalent in the Puritans to the natural theology of the Declaration is more fluid. The Bible’s role in American political thought does shift from the 1620s to 1776, but it is better explained as a movement from one interpretive

\(^{115}\) Zuckert, *Natural Rights Republic*, 59.
framework to another, recognizably Lockean, political reading of the Bible. This is consistent with Zuckert’s own evidence and with the work of the many other scholars who have documented Locke’s importance to founding-era Christian clergy. As but one example, Diggins mentions that the Reverend Jonathan Mayhew regularly quoted “the incomparable Locke” to conclude his sermons.\textsuperscript{116} To be sure, a move toward a Lockean reading of Scripture also entails certain commitments about how reason and revelation relate to one another and how each function politically, but this is something different than a move \textit{from} Bible \textit{to} reason.

4.8.3. Lockeanized Protestants: Abraham Williams’ Election Sermon

This becomes clearer when we engage particular period sermons in detail, as Zuckert does with Abraham Williams’ oft-cited Election Sermon delivered to the General Assembly of Massachusetts in 1762.\textsuperscript{117} In the sermon we find “all the Lockean theses familiar from the Declaration.” This is a telling point given how long before the Revolution it was preached and how it was not even directly on the topic of

\textsuperscript{116} Diggins, \textit{Lost Soul}, 33.

\textsuperscript{117} Williams’ sermon is helpful because it is an almost archetypal blending of Locke and Scripture, but this does not answer the further question of whether such blends were representative across the spectrum of Christian churches of the period. Williams’ church may have been more liberal than most and, indeed, the congregation split not long after Williams’ death when a subsequent minister embraced traditional Calvinist doctrine. The congregation that remained behind become Unitarian, but records indicate that the majority of the congregation followed the conservative minister in departing. Where Williams would have sided is speculative, but the congregation did at least represent a diverse range of Puritan thought, from traditional Calvinist to borderline deist or Unitarian. (Jennie Valentine, letter to author, 24 April 2006; brochure, “First Church of Christ in Sandwich: Meeting House of the Puritans”). Historians such as Mark Noll have argued that conservative or evangelical churches amalgamated ideas differently than Williams. Noll concludes, however, that this provides only “an alternative rather than a contradiction of Michael Zuckert’s” thesis. Noll’s reading provides a greater space for distinctively \textit{Christian} republicanism but “not to the exclusion of Lockean emphases.” Noll, \textit{“The Contingencies of Christian Republicanism,”} 247.

276
independence. As Zuckert correctly argues, the sermon is a prime example of thoroughly
Lockeanized Protestantism, including many paraphrases of passages from Locke’s works,
especially the Letter Concerning Toleration. Yet the way Williams freely uses Lockean
concepts alongside distinctly Christian concepts seems to belie Zuckert’s presentation of
a move from scripture to reason as political authorities. The two coexist. Thus Locke is
paraphrased alongside ubiquitous scriptural quotations. Within the space of two pages,
Williams can state that human society is necessarily unequal (because, as in Winthrop, it
is a body whose members are “subservient”) and also declare “all men being naturally
equal.” Similarly, he can argue that we must each dutifully maintain our own stations
because “the public Peace and Welfare is best secured and promoted” by this, while at the
same holding that “the end and design of civil Society and Government … must be to
secure the Rights and Properties of it’s [sic] members.” Zuckert even quotes that
sentence, but excludes its conclusion, which is perhaps the most “amalgamating” passage
in the entire sermon:

… in the Apostle’s words, that Men may lead quiet and peaceable Lives in
Godliness and Honesty (I Tim. 2.1), i.e., that they may be secure in the Enjoyment
of all their Rights and Properties righteously acquired … and that Men may
peaceably practice Godliness—may worship & serve the supreme being, in the
Way they believe most acceptable to him, provided they behave peaceably, and
transgress nor the Rules of Righteousness in their Behavior towards others.119

Here we see an almost word-by-word blending of what Zuckert distinguishes as scriptural
and Lockean reasoning. The apostle Paul is quoted, but is read (‘i.e.’) to be affirming
rights-securing as the purpose of civil authority. Yet Godliness and worship are also

(Indianapolis: Bobbs-Merrill, 1762), 332-334.

119 Ibid., 335-336.
goals. Yet further, the Godliness that is to be advanced is whatever each individual believes will please God. But further still, worship practices are limited; they cannot violate right “Behavior towards others.”

Zuckert is not unaware of these passages. On his account, I have merely identified one of those areas where ministers “add elements to Locke of a loosely Christian character.” Most notably, “they attended much more to scriptural passages and argumentation.” If Zuckert’s amalgam account is right, then the scriptural citations are more or less aberrations, because the true political authority (for these Lockeanized Protestants) should be reason and not revelation. Unsurprisingly, that is what Zuckert argues when faced with the passages I have just quoted. These are sermons after all; thus the frequent biblical citations are unsurprising. And at any rate, “as Protestants devoted to scriptura, if not sola scriptura, they needed to give some account to themselves and their congregations of how the political and moral principles they were taking over from Locke cohered with the touchstone of their faith.”

While it is true that “all the clerics use scripture far more than Locke had done,” Zuckert’s claim about genre of sermons cuts both ways. If the use of the Bible in sermons is partially explained by sermons being expositions of scripture, then Locke’s lack of scriptural references in the Second Treatise is similarly unsurprising. The absence there of an extended reflection on Romans 13 is not perhaps as significant as Zuckert suggests. What about Locke’s commentaries and theological treatises, such as his

---

120 Zuckert, Natural Rights Republic, 176. Two areas besides Scripture that Zuckert mentions are the minister’s greater emphasis on divine providence and the necessity of sound religious practice for healthy politics.

121 I concede that while the absence is unsurprising, it is telling—all the more so given the prevalence of Scripture in the First Treatise. Interestingly, Zuckert was himself the first to study this aspect.
Pauline commentaries and *Reasonableness of Christianity*? In those texts the frequency of scriptural citations is not unlike that of the Americans’ sermons.

Despite this, Zuckert is adamant that while Protestant politics were Lockeanized, the reverse is not true.

What is most remarkable, however, about the clerical modifications is how shallow they are, how little they really change or add. It would not be correct to say they are merely rhetorical, but it would be incorrect to say that Lockean doctrine is substantially Christianized…

In a sense, Zuckert has it exactly right: there is little in the American sermons that Locke would have objected to, while there is much that would seem foreign to first generation founders such as Winthrop. We can therefore conclude that Zuckert’s amalgam metaphor captures the situation better than arguments emphasizing strong continuity between the two foundings. It is also superior to arguments for eclectic continuity, which portray the founders as using Christian arguments one day and Lockean arguments the next, with some Whig ideas thrown in during the evenings. Sermons such as Williams’ show the ingredients in the amalgam were more fully joined than that.

Yet as we reflect on Zuckert’s comments, he is also arguing that Locke and Christianity are *not* fully joined. He sees the scriptural references more as a veneer placed over Locke’s *Second Treatise* and *Letter Concerning Toleration*. Not “merely rhetorical,” he says, but almost. This should not surprise us. After all, that is what an amalgam is.

---

122 Zuckert, *Natural Rights Republic*, 176. Two areas besides Scripture that Zuckert mentions are the minister’s greater emphasis on divine providence and the necessity of sound religious practice for healthy politics.
4.8.4. The Amalgam Reconsidered: John Locke and the Philosopher’s Stone

The apparent aim of the amalgam metaphor is to correct historical interpretations that overemphasize either discontinuity or continuity. The amalgam provides a picture by which we can better imagine the blending and mixture of ideas. One of the interesting things about metaphors is that they sometimes reveal more even than their authors intend. Much of the rhetorical power of Locke’s politics lies in his state of nature. The same could be said of John Rawls’ veil of ignorance and the apocalyptic parable with which MacIntyre opens *After Virtue*. Especially in scholarly work, when used to convey complex concepts, metaphors can outrun their referents and take on lives of their own.

The term “amalgam” originally referred to *mercurial alloys*: metals mixed with mercury to make them more malleable or plastic. As a verb, amalgam means, “to soften (or dissolve) by combination with mercury.” So, a gold amalgam can be more easily shaped to the needs or whims of the designer than can pure gold. But amalgams are not perfect blends. For example, they usually have two melting points, one for each of the combined elements. Chemically, this is because the two metals do not actually bond together into a single new metal; they remain two substances. Whether this deeper meaning of the metaphor was intended, it is instructive.

As in the term’s original use, Zuckert’s amalgam is not a perfect blend. Christian concepts are present but are decisively shaped—and become more shapeable—by the Lockean admixture. In the process, Locke’s thought is only superficially Christianized. It retains all of its own properties, and its own melting point. Can we then conclude that the

---


280
gold of God’s revealed truth was combined with the philosopher’s sliding, slippery quicksilver? Or is this an overly cynical interpretation?

It is not as though the idea had never occurred to Locke. Alchemy was one of his hobbies after all, and he ponders how an alchemist would approach the Bible. “An alchemist,” he writes, “shall reduce divinity to the maxims of his laboratory, explain morality by sal, sulphur, and mercury, and allegorise the scripture itself, and the sacred mysteries thereof, into the philosopher’s stone.”124 Is this what Zuckert believes has happened in the American amalgam? Does his thesis, read carefully, depict Locke as the alchemist whose philosophy is a stone to transmute Scripture into something more malleable?

An Alchemic Amalgam does fit with Zuckert’s observation that the clerical modifications to Locke were remarkably shallow. How else, for example, could Williams’ sermon exegete Romans 13 diametrically opposed to Luther’s interpretation unless something had been added to their doctrine that softened it? Yet the Christians involved never seem to have understood themselves in the terms Zuckert supplies for them. There were, of course, Christians both in America and England for whom Locke’s work was a poison to be feared, but for sympathizers his thought was no more mercurial than Luther’s or Calvin’s reflections on Scripture had been to their followers.

124 John Locke, Of the Conduct of the Understanding, ed. F. W. Garforth (New York: Teachers College Press, 1966), 72. Coincidentally (one presumes) Locke reflected at length on gold and its purity, because it was his standard example in the Essay Concerning Human Understanding by which he denied the notion of real essences: “The ring I have on my finger is forwardly, by most men, supposed to have a real essence, whereby it is gold; and from whence those qualities flow which I find in it, viz. its peculiar colour, weight, hardness, fusibility, fixedness, and change of colour upon a slight touch of mercury. This essence, from which all these properties flow, when I enquire into it and search after it, I plainly perceive I cannot discover” (2:31.6).
Zuckert’s interpretation seems to originate in his strong distinction between politics based on reason versus that based on revelation. For the Declaration of Independence, he writes, “Politics rests on ‘truths,’ not on blood, tradition, custom, or habit. It rests on ‘held truths,’ implying an element of reflection and thought. They are accessible to human beings as such, not to a charmed circle of believers, graced with divine grace.”¹²⁵ If Williams’ sermon is to be our guide, this presents the alternatives far more rigidly than those involved experienced them to be.

Yet it cannot be denied that the appropriation of Locke is, as Zuckert argues, remarkably shallow. Rarely do they address the historical innovation of their exegesis; this seems to be what John Wesley was pressing for, at least implicitly, in his cautionary letter on the eve of the Revolution.¹²⁶ They do often seem oblivious to how much their interpretation differs from earlier ones. On this point, Zuckert is on the mark. He observes, the Bible and the Declaration “tell or rest on different narratives of the nature and destiny of humanity, for the Declaration presents a short history of mankind parallel to the history of mankind presented in the Bible but makes significant changes in it.”¹²⁷ The biblical narrative begins in surplus and security. The Declaration’s Creator provides equality and, by extension, rights, but securing those rights is left to human activity and their contracting together to form a government.

In reviewing the debate about the political theory of America’s founders, I have sought to provide a framework within which the founders’ relation of religious and civic

¹²⁵ Zuckert, *Natural Rights Republic*, 128.


¹²⁷ Zuckert, *Natural Rights Republic*, 128.
life makes sense. Zuckert’s is the best explanation among the available alternatives: the
founding is strongly, even decisively, influenced by Locke, but Locke is read in such a
way that he is made compatible with other forms of thought. We can therefore see that
clearly Lockean texts, such Jefferson’s and Madison’s, in many cases do not decide
questions one way or the other. Rather, they provide a framework within which questions
may be answered, but to which multiple answers can plausibly be given. It is therefore
unsurprising that attempts to resolve contemporary disputes by recourse to the founders
end in stalemate. It also reveals why debates over which founders are authoritative is
misplaced. The less orthodox Jefferson still shared the broad framework of the slightly
more orthodox Madison and the (by comparison) downright pious Washington.

Yet as we have seen, Zuckert’s model does not posit a true combination of
ingredients. He supposes a kind of alchemic amalgam in which Locke softens the rigid
statements of Scripture, forming them into a substance that more easily serves the needs
of the designer. This is what Zuckert’s amalgam thesis, at its heart, seems to contend. But
this does not account for the dynamic interplay of theological and non-theological
sources in the minds of Christians of the period. Williams’ sermon did not take Locke as
an alternative to biblical political theology, but a manifestation of it. The question raised
by Zuckert’s analysis is whether Locke’s political theology is even plausibly faithful to
traditional Christianity, or if it is necessarily a subversion of it. For many of the American
Christians involved in the debates first hand, Locke did not appear subversive. Instead he
was read as a valuable source for theological reflection, even if not strictly orthodox at all
points. The study and appropriation of his work by American Christians was theological.
4.9. Conclusion

Having reached the end of our historical study, we now begin a difficult transition: from Locke, through the American founding, to today’s political debates. The end of this chapter marks a transition in our archeological excavation of cultural memory. The next chapter examines a number of contemporary Christian political thinkers in light of this archeological practice. What have we unearthed so far? Locke’s role as liberalism’s founder and his influence on America has made his philosophy a backdrop to subsequent thinking on religious and political life in America. This is especially the case because of the rhetorical importance of appeals to the founding in contemporary arguments.

The elements of Locke’s thought that are of the most relevance are brought into relief by recalling the example with which I concluded the first chapter: homosexuality and the law. On the one hand, laws against privately-conducted sexual practices would appear to violate the central tenets of the modern, liberal politics with which Locke is so closely associated. On this account, banning such acts would seem to be like banning a particular mode of worship. But on the other hand, how can we be so sure that such acts are like worship rather than, say, like perjury or theft? Those who raise this question believe that permissiveness in private sexual practices is but an example of how modern politics tends toward moral permissiveness generally, which, they believe, will undermine social stability itself. If we move sexual acts from the realm of the legislatable to the unlegislatable, are we not on an inevitably slippery slope toward a society in which the government can make no determinations of justice?

Our treatment of this examined J. Budziszewski, a Catholic political philosopher who argues the latter of these positions on homosexuality. He also provides an interpretation of Locke compatible with his conclusions about homosexuality. He holds
that Locke’s law of nature is an objective moral order that specifies a moral good for all humans. Violations of this order are not merely private, for they have social consequences. By citing a variety of medical and sociological statistics, Budziszewski provides evidence that he believes would warrant certain laws concerning homosexuality. Thus the law need not be indifferent to such practices the way it presumably must be regarding, say, whether men remove their hats in church.

What are the essential tenets of Locke’s thought that help us think through such disputes? Most fundamental is the divide between religious and civil spheres of influence, for this is the distinction by which it becomes possible to say “Such-and-such is like idolatry and therefore is not subject to civil law.” This distinction does not, of course, originate with Locke, but for contemporary American politics Locke provides the definitive statement of the distinction. In addition, what is characteristically Lockean about today’s understanding of this distinction is the ability to neatly categorize acts into one or the other type based on their bearing on individual rights as well as Locke’s confidence that this reconciles church with state, Christian with citizen, precisely by distinguishing the two.

As we saw in our study of the Letter, the distinction is based on the different ends for which he says church and state exist. Civil law ought only to secure rights; ecclesial law ought only to secure a happy afterlife. Yet drawing this distinction can be a tricky task. Though civil and religious thought can be distinguished along these lines, moral thought involves both and therefore they are indirectly connected. In addition, there are situations in which an act that would otherwise be “indifferent” from the perspective of civil law becomes subject to sanction because it indirectly or ultimately threatens the government’s rights-securing task.
Locke argues further than not only does this “division of labor” distinguish the realms within which types of law are binding, the nature of the case makes this distinction necessary. It could not be otherwise. The goal for which government exists is provided by the social contract, which cannot reasonably be based on anything but the securing of individual rights. Government cannot exceed this limit and legislate on religious questions because religious life is subject to widespread disagreement and there is no infallible authority to adjudicate these disagreements. Though no one is infallible on religious questions, we can be sure indubitably that religion demands sincerity of belief; coercing belief would thus be self-defeating.

The rights to be secured by government are chiefly the three “property” rights, life, liberty, and possessions (property, for Locke, being a term that covers all three, for each person owns his or her own self). These are subjective, negative rights and they impose correlative moral duties of restraint on others. This means that they are more like spheres of immunity, rather than rights only to objectively good actions. However, the fact that they are limited by others’ rights means that they are not unlimited immunities. That is, they are limited by the consideration of the good in a certain respect. The statement of rights and their correlative duties comprises for Locke a law of a nature, though he is not a natural law thinker in the traditional sense. As we saw, he denies that it is knowable via innate ideas and he rejects reasoning based on “nature,” arguing that ethics is a theoretical or geometric science. Despite this, politics demands going beyond “pure” ethical reasoning. Here, the observations of the senses and even the conclusions of what we would today call the social sciences can play a role.

Although Locke’s law of nature is knowable apart from revelation, this does not make Scripture or Christ’s moral teaching superfluous. In this sense at least, Locke was not a Deist. In principle, humans might have learned the complete moral law, but only by
Christ presenting it in a single place and by attaching eternal sanctions to it, can the moral law be known fully. Christ brings together what was previously known only in part. In this way, Christian ethics is superior to that of philosophers, magistrates, and priests. Retrospectively, however, Christ’s teaching may be less than strictly necessary. Even a political philosopher, thinks Locke, is capable of fitting together a puzzle once he has seen it assembled.

Despite the clarity of Locke’s solution, it is also open to multiple interpretations at many points, some of which I have just highlighted. Although it can shape how we reason about questions like homosexuality and the law, it rarely offers a definitive conclusion because, provided the right sociological evidence, the verdict could go either way. In the opening chapter I mentioned Mark Souder, the congressman who affirmed the founders’ solution to the “religion problem,” but revealed quite clearly that he did not understand the founders: for example, he did not know what the phrase natural law meant. Whether Souder knows it or not (apparently he does not), by affirming the founders’ solution he has committed himself to a particular interpretation of their thought and, by extension, to a particular interpretation of the Lockean thought—but he has done so implicitly, even subconsciously. Many, but by no means all, contemporary Christian thinkers writing for a popular audience are similarly unaware of how their affirmation of the founders implies a certain interpretation.

So that we as observers can better understand differences in Christian political thought, and so that those of us who are Christians can understand ourselves better, I next present these differing interpretations as a typology of Christian political arguments. I choose a representative thinker for each of the positions and correlate them to the three levels of Christian critique of liberalism that I have already identified. And thus our practice of archeology will help us map the landscape as it lies today. We will see how
the artifacts we have unearthed are still the building materials of today’s political
theologies. While we cannot examine each brick in every building, we will see in a fresh
light the shape of the skyline.
CHAPTER 5: 

JOHN LOCKE’S AMERICA 

POLITICAL THEOLOGY IN THE TWENTY-FIRST CENTURY

5.1. Introduction

What Locke offers in his attempted reconciliation of religious and civic life is a relatively recent innovation, and a remarkable one. As a classic history of the ancient city shows, worship of local gods was intimately tied to citizenship:

The citizen was recognized by the fact that he had a part in the religion of the city, and it was from this participation that he derived all his civil and political rights. If he renounced the worship, he renounced the rights… At Athens, one who did not take part in the festivals of the national gods lost the rights of a citizen. At Rome, it was necessary to have been present at the sacred ceremony of the lustration to enjoy the political rights. The man who had not taken part in this—that is to say, who had not joined in the common worship and the sacrifice—lost his citizenship until the next lustration. If we wished to give an exact definition of a citizen, we should say that it was a man who had the religion of the city.¹

Christianity in some ways held out hope of eliminating this unification of citizen and believer, of God and city, but in other ways it deepened the tension. While the Christian God is universal and not the deity of any particular city, this made it possible for Christians *qua* Christians to be disloyal citizens, for their highest loyalty lay outside, or perhaps above, the city walls. As Machiavelli observed, even the particular virtues

embraced by Christians seemed to undermine their loyalty. It is this conflict that modern politics appears to resolve. The most extended and influential statement of that solution is found in the work of John Locke.

Recent work in political theology, notably the perspective led by “Traditionalists” such as Stanley Hauerwas, has called this solution into question, believing it to be a false resolution. From this perspective, the purported solution is alluring but precisely for this reason, it is also dangerous and threatens to deform the church. Others such as Jeffrey Stout have responded to the Traditionalists in an attempt to show that political liberalism does not pose the threat to the church that they suppose. My project has something to say to both. While Stout’s main emphasis is on whether the Traditionalists affirm or reject engagement with liberal politics, I believe the most important question is how different Christians understand and interpret liberalism, especially the question of whether liberalism succeeds or fails in resolving of civic and religious loyalty, as Taylor describes. I argue that the key positions among today’s Christians can be best understood by what they would say in response to Locke’s harmonization. It is in this sense that Locke’s work is a hermeneutic for reading contemporary Christian political arguments.

The question of how religion relates to political liberalism has received a remarkable amount of attention in the past decades. For the theologians involved in this debate, it is essential that Christians reflect theologically on liberal theory if they are to understand their relation to it. I am in effect agreeing with these theologians, but I am emphasizing that this must be done particularly. On religious questions, America’s is not a generic liberalism (if there such a thing); it is a characteristically Lockean liberalism, and even its departures from him are often shaped by their relation to him. An excessively theoretical and insufficiently historical study of liberal theory tends to overlook how political thought demands engagement with the particular discourse that
has rhetorical weight in a given context. The foregoing chapters have provided a detailed examination of religion’s place in Locke’s political theory. Because of Locke’s importance to the American founders and to the liberal tradition generally, such an investigation is necessary background for political theology in the American context. It is because of the dominance of political liberalism that Christians today must reckon with Locke’s abiding influence.

This reckoning may take a variety of forms. It may accept much of what Locke writes or it may reject it. It could, for example, show that although Locke founds liberalism and influences the early America, that tradition has since evolved and Locke is mitigated (or exacerbated, take your pick) by later theorists such as Mill, Kant, or Rawls. Alternatively, it might argue that Locke’s influence in America is mixed with other voices, such as the Puritans (and their Calvinist theology) or Emerson, Whitman, and Dewey (and their democratic vision). But wherever it leads, the reckoning must be made.

In the present chapter, I begin that reckoning. My goal is to show how certain of today’s most important, most influential, or most vocal Christian political perspectives can be better understood if we pay careful attention to how their political theologies interpret (often implicitly) the Lockean solution upon which American political liberalism is based. Because I investigate how others relate to Locke, and how their political arguments are influenced by the broad contours of his solution, this will be a “second-order” reckoning. In this sense my project is a prolegomenon to future political theologies.

5.2. Locke and Today’s Christian Critiques

I began chapter 1 by referring to Jeffrey Stout’s critique of Christian Traditionalists in Democracy and Tradition. In a way, parts 1 and 2 of Stout’s book are

291
also prolegomena, for they seek to demonstrate to certain Christians that their critiques of liberalism are misguided or overstated. Having realized this, Stout hopes, they can then begin their own theological projects anew. In Wolterstorff and Hunsinger, Stout even provides exemplars that he hopes the Traditionalists will emulate.

To compare my project to Stout’s, I think that his predominate, almost exclusive, focus on Christian Traditionalists can distort the picture. When considering Christianity’s relation to political liberalism, the more important focus is how various political theologies respond to liberalism’s purported harmonization of Christian and civic life, and how that reconciliation shapes arguments in American politics today. It is for this reason that I began chapter 1 by identifying three different “levels” of the Christian critique of liberalism. The Traditionalists represent one of these levels, but they are not the only one.

While my project should not be taken as a response to Stout, it may be helpful to describe how and why it differs from his. There are three ways in which I hope to capture important details that his approach obscures. First, Stout—as well as the Traditionalists themselves—tend to rely on “minority reports” in defining liberalism. My focus on liberalism’s founder avoids this, but it does not thereby exclude the minority reports. Having carefully examined Locke, it then remains open to others to qualify or restate his American influence. In a symposium on his book, Stout opens the door to this when he briefly discusses the meaning of America being a “democratic republic” by reference to the Constitution, Bill of Rights, and Philip Pettit’s book on republicanism. He does not
pursue this line further because, as he quite reasonably points out, “I am not a political theorist by trade.”

Second, my typology helps us see that Stout misidentifies certain thinkers as Traditionalists: Neuhaus remains very far from Hauerwas. Third, it is not clear that the Traditionalist viewpoint is as pervasive among Christians as Stout believes. Recall that Stout is afraid the Traditionalists’ influence in seminaries will trickle down to churches and will incite a Christian exodus, threatening democracy itself. But why is Stout not similarly concerned with, say, the Hassidic Lubavitcher movement, which is arguably more illiberal than Christian Traditionalism? It ultimately comes down to raw numbers. There simply are not enough Lubavitchers for them to pose the same sort of political threat that Stout fears from Christian political withdrawal.  

But if this is the case, it is vital to ensure, on Stout’s own grounds, that the most politically influential are engaged. Except within a certain academic subculture, I think Hauerwas’s influence is much less than Stout believes, and even in those seminaries where he is commonly studied, his rhetoric is greatly watered-down by the time it reaches the pulpit. The other levels of Christian critique I identify are arguably much more influential on a popular level.

To put it as clearly as possible, the goal of this chapter is to put the following question to a variety of contemporary Christian political thinkers: does the American political system, particularly as understood in the founders’ appropriation of John Locke, provide a viable third way between the ancient alternatives and, if so, how is that

---


resolution interpreted? The selection of thinkers to whom I put this question is far from comprehensive of the American church, but I believe they are fairly representative. I hope to prompt each of them to reflect on certain problems that my analysis identifies and, potentially, to clarify or restate their positions. In a subsequent Conclusion, I reflect on the implications of these different answers for different fields of thought: for the so-called culture wars, for liberal political theory, for Traditionalist political theology, and so on.

My analysis in this chapter is arranged around the three possible answers given to the above question: Locke’s solution fails, Locke’s solution succeeds, Locke’s solution succeeds in principle but needs amendment. We can best understand what is at stake in these differing answers by reference to an important passage in Thomas Pangle’s *The Spirit of Modern Republicanism*, which is a study of how Locke and republicanism interact in the thought of the founders.

Recall O’Donovan’s observation, quoted in chapter 1, that Christians anticipate tension between their civic loyalty and their higher loyalty to God. This much they share with Plato, O’Donovan says, who shows by Socrates’ death that the higher loyalty to truth sometimes leads unavoidably to martyrdom. To this we can now add Pangle’s comment, which locates Locke within the terms of O’Donovan’s “dilemma.”

The great difference between Locke’s situation and that of Socrates and Plato would appear, then, to be that Locke lives under the dispensation of a religion that is hospitable to reason and philosophy. Or is the difference not rather this: that Christianity, while it is not, nevertheless *can be made*, more hospitable? And is this difference due to Christianity or to Locke? Is the difference between Locke’s and Socrates’ situation not that Locke is more politic, a greater *political* philosopher—that he vastly surpasses the ancients in his understanding of how to
According to Pangle, Locke does resolve the tension between the city and the Christian. But he does so only by being “more politic,” that is, by manipulating and transforming religion. In the remainder of the book, Pangle argues that the American founders embraced this transformation; this is why their spirit is one of modern republicanism. But how should we evaluate this transformation?

For the Traditionalists, and seemingly for Pangle himself, the transformation is a subversion of orthodox Christianity. The resolution succeeds only by altering Christianity to be what the rulers of the city would like it to be. In this sense, Pangle’s is a secular or philosophical statement of Cavanaugh’s theological critique of Locke: Locke’s is but a subtler leviathan. But unlike Cavanaugh, Pangle’s description is not an accusation. Though not uncritical of American politics, Pangle sees it as the founders’ genius that they used Locke to succeed where Socrates and Plato had failed. We can thus see that those theologians who offer thoroughgoing critiques of liberalism such as Hauerwas are not alone in how they understand liberalism’s relationship to Christianity—even if they do differ from Pangle in how they appraise that relationship.

---


5 Ernest Fortin—like Pangle, a student of Strauss—offers Pangle’s interpretation together with Cavanaugh’s appraisal: “I, for one, fail to see how anybody can come away from Spinoza’s *Theologico-Political Treatise* or Locke’s *Letter on Toleration* thinking that both books are nothing but a fresh version of what the Bible and Christianity had always taught.” Ernest L. Fortin, "The Regime of Separatism: Theoretical Considerations on the Separation of Church and State," in *Human Rights, Virtue, and the Common Good: Untimely Meditations on Religion and Politics*, ed. J. Brian Benestad (Lanham: Rowman & Littlefield, 1996), 12.
Were Pangle’s interpretation the only available, we might easily concede that American politics poses a challenge for Christians of the sort that Hauerwas and Milbank allege. But as we have seen, the issue is much more complex. Most significant is the claim that Locke’s theological arguments are deforming rather than reforming, for judging by his own testimony Locke seeks to save Christianity from where it has gone wrong. If this is true, Pangle has it backwards: it is not that Christianity is not hospitable but can be made such. Rather, Christianity is hospitable but has been made inhospitable by mistaken notions of its and government’s scope. In fact, rereading Pangle’s quote in light of this raises the question of whether this could not subtly be what Pangle has in mind. What does Locke manipulate, according to Pangle? Not Christianity per se, but “popular and priestly religion.” Perhaps this subversion is a theological victory for authentic Christianity. With the exception of the Traditionalists, this is essentially what many American Christians affirm, even if they do so unreflectively. And, even when they do not affirm this position in theory, their public political arguments are typically presented as if they affirmed this position.

Yet there are discernibly different variations of this argument among American Christians. Some maintain that Locke quite straightforwardly solves the dilemma. Others hold a more nuanced position, in which Locke’s theory needs to be corrected or, at a minimum, added to. To return to the metaphor of my opening chapter, Traditionalists reject liberalism root and branch. Other Christians reject only the branch, affirming the root of Locke and America’s founders. Still others would prune the branch and, to extend the metaphor, graft a new plant onto the Lockean root. In the subsequent sections, I examine representatives of each of these positions. What these perspectives share is the hope that the aspiration can be successful. The good Christian and the good citizen will always follow the same course.
The first contemporary type to be examined is the Traditionalist critique identified by Stout. The Traditionalists argue that political liberalism fails “root and branch.” Any remotely Lockean or liberal regime is inimical rather than favorable to Christian politics. Locke’s is a false third way. Because we have already encountered this argument, both in chapter 1 and via Stout’s critique, I will not rehearse it here. That leaves us with two contemporary critiques to be examined. Both of these types affirm Locke’s solution, either straightforwardly or with amendment. It is my argument that those who believe Christian and civic obligation can be harmonized in the American context affirm one of these two whether they know it or not.

5.3. Prune the Branch but Save the Root: Restore Locke’s Principles

My selected representatives for this position are political scientist Isaac Kramnick, historian R. Laurence Moore, and Episcopalian political philosopher, Thomas West. These thinkers are each influential within their own spheres, but they are far from the most important thinkers. I chose them not because of widespread popular influence or intellectual sophistication, but because they make their cases the most directly and with the greatest self-consciousness of Locke’s influence. Where these thinkers agree is in holding that Locke, especially as implemented by the American founders, solves the problem of religion and politics. The affairs of church and state can be divided according to their differing purposes and thus into their own appropriate spheres of influence. Where they disagree is in interpreting the solution as what I have labeled republican (West) or liberal (Kramnick and Moore). West critiques today’s liberalism for failing to be true to his republican interpretation of Locke, while Kramnick and Moore critique it for betraying their liberal interpretation of Locke. We have foolishly departed from Locke, they say, but the harmony can be restored if we return to him.
Despite the praise for Locke, it is important to recognize that none of these thinkers believe that America has fully achieved the harmonization in practice. America is not the city of God on earth. It is always theoretically open to critique. The issue is whether that critique calls the nation back to certain principles that, were they followed, would harmonize these loyalties. Locke himself seems to expect abuses of his solution. The key is that this indicates something has gone wrong “elsewhere in the system,” as it were. Not only is America imperfect, neither must these thinkers believe Locke to be infallible. They can believe aspects of his thought call for modification and yet still fit this position of my typology. It is therefore sometimes a subjective judgment as to whether a given thinker represents the second or third of my types.

5.3.1. Republican Interpretation: West

In his diverse writings, West shows himself to represent a perspective that most would associate with the so-called Religious Right. He is troubled by increasing acceptance of homosexuality in law and society, he opposes “the modern welfare state,” he would like to see greater governmental support for religion, and so on. His article, “John Ashcroft, Defender of Liberty for All,” reports that the former Attorney General distributes copies of West’s book on the founders to acquaintances who hold “revisionist” views of the founding. What West seeks to recover is a relation of politics and religion

---

6 At the outset of chapter 2, I discussed the different schools of Lockean interpretation, one of which is the students of Strauss (and their heirs). West is among them, but it should by now be clear that there is no simple uniformity among that school. Pangle, Fortin, and West, the three Straussians cited in the present chapter, reach three different conclusions on the central issues considered here.

that, in his terms, held sway after the death of Thomas More and before the 1960s.⁸ This is his way of saying he wants toleration without moral license and respect for conscience without privatization of religion. He finds what he is looking for in John Locke.

How does West justify contemporary political positions that many find to be in violation of the founders’ vision? It is my view that others who share West’s political vision—conservative evangelicals, for example—do so presuming an interpretation of the founders such as West provides, even if they do not explicitly articulate that interpretation themselves. The rhetorical indispensability of appeals to the founding on church-state questions presses them in this direction. In this section we will see how Locke must be interpreted to support this particular contemporary agenda.

West acknowledges that his wholehearted praise for Locke challenges conventional wisdom, even among some fellow conservatives: “The villain of the piece, for many, is John Locke, who happens to be the philosopher most admired by the American Founders.” This negative view of Locke is shared by thinkers as diverse as Robert Bork, Michael Sandel, and Alexander Solzhenitsyn. Sandel’s communitarian-republican critique traces “liberal neutrality” from Locke to Kant to Mill to Rawls, while Solzhenitsyn holds that Locke taught the modern world “that it is inconceivable to apply moral terms to the State and its actions.” West rejects this as an excessively liberal interpretation of Locke.

A very brief excursus on Rawls will help clarify West’s position. Rawls is a key figure here because his influential conception of political liberalism decisively separates

---

⁸ Thomas G. West, "Vindicating John Locke: How a Seventeenth-Century 'Liberal' Was Really a Social Conservative" (paper presented at the Witherspoon Lectures, Washington, DC, June 19 2001), n.p. This lecture has been published only online, thus I do not cite specific page numbers.
contested questions of the human good from politics. The liberal state must remain neutral with regard to the good. He argues for this by positing an “original position” from which citizens determine the rules for civil society behind a “veil of ignorance.”

9 Locke has his own original position, of course: the state of nature described in the *Second Treatise*. While different from that of Rawls we can see why some, such as Sandel, see the one as leading to the other. 10 Both limit the scope of legislation and political discourse by appeal to a situation within which we can know what all reasonable people agree upon. Religious tenets are often chief among the excluded topics. 11

Returning to West, he agrees with Sandel that Rawls is problematic because his conception of public reason excludes too much. They both believe Rawls eliminates from consideration many of the resources needed for sound political reasoning. But West and Sandel disagree about whether Locke leads inevitably to Rawls. 12 Given Berlin’s importance in chapters 1 and 4 above, we could also distinguish West and Sandel from

---


11 Equally disputed as Rawls’ relation to Locke is how he understands religion. His former student, Paul Weithman, labels a “canard” the claim that “Rawls supposes religious argument causes political instability.” Yet the prominence of “the religion problem” throughout Rawls’ writing suggests that the situation is more complex. It seems that it is the diversity of religious opinions in America that necessitates Rawls’ notion of public reason. Perhaps Weithman is right if he means that religion *per se* does not cause instability according to Rawls, but if religion *as it currently exists* threatens basic fairness, it is hard to see that the difference matters. See Paul Weithman, "Religion and the Liberalism of Reasoned Respect," in *Religion and Contemporary Liberalism*, ed. Paul Weithman (Notre Dame: University of Notre Dame Press, 1997), 19. John Rawls, "Commonweal Interview," in *Collected Papers*, ed. Samuel Freeman (Cambridge: Harvard University Press, 1999).

12 To be even more precise, they agree that Kant leads to Rawls but disagree about whether Locke leads to Kant.
Rawls by observing that Rawls decidedly favors Berlin’s negative liberty, whereas the others are equally concerned with positive liberty.\textsuperscript{13} According to West, Locke shows us how religion and government can happily coexist and does so in a way that issues in the sorts of politically conservative policies West embraces. How does he interpret Locke so as to conclude this?

West is committed to the view that “a natural law is the ground of a natural rights.”\textsuperscript{14} This law directs humans toward their proper end; rights are thus not spheres of immunity. As I concluded in chapter 3, this is a questionable interpretation of Locke but it is not a patently impossible one. West is quick to cite those passages in which Locke seems committed to this view. For example, Locke at one point defines law as “the direction of a free and intelligent agent to his proper interest.”\textsuperscript{15} In addition is the First Treatise passage in which Locke says that he “supposes” adultery, incest, and sodomy are sins because they “cross the main intention of Nature, which willeth the increase of Mankind.”\textsuperscript{16} West comments on this, “In other words, these things are ‘sins’ not principally because Scripture forbids them, but, as Locke implies, Scripture forbids them because the family is the best institution for producing nourishing, and educating children.”\textsuperscript{17}

\textsuperscript{13} In the section of A Theory of Justice entitled “The Concept of Liberty,” Rawls claims that he aims to “leave aside” the negative versus positive liberty debate and, indeed, even cites Berlin’s famous essay. Although he thus seeks to avoid Berlin’s categories, it is questionable whether he succeeds. Rawls, Theory of Justice, 176.

\textsuperscript{14} West, “Vindicating John Locke”.

\textsuperscript{15} Second, 57. West does not quote the remainder of this sentence, in which Locke seems to limit the scope of the law of nature to rights-securing. Law “prescribes no farther that is for the general good of those under that law,” which Locke has elsewhere suggested is the securing of individual, negative rights.

\textsuperscript{16} First, 59.

\textsuperscript{17} West, “Vindicating John Locke”.

301
West’s argument that duty grounds law (rather than vice-versa) is largely based on the passages where Locke discusses family life, notably chapter 6 of the *Second Treatise*. If rights are spheres of immunity, West asks, how is it that parents have duties to care for their children? Indeed, Locke explicitly states that a parent’s moral power “arises from that Duty,” rather than the duty deriving from the right. It takes little imagination to see how such interpretations serve the political policies of today’s social conservatives, such as conservative evangelicals and the Religious Right. West does not advocate a theocracy, but is able to provide reasons that coincide with the Bible’s teaching on morality. Without “family values,” the state ultimately cannot fulfill its mission of securing individual rights.

Those who oppose West’s interpretation, preferring a reading in which the law could not sanction sexual practices, would indeed face difficulty in refuting these passages. If there are natural duties not grounded in rights (such as parental duties), then Locke’s law of nature may be more comprehensive and may permit legislating duties beyond the mere protection of negative rights. However, West (unintentionally) provides a clue as to how this may not follow. He writes, “the children’s consent cannot be asked when they are generated.” This suggests that the parent’s duty actually derives from the child’s right, but because the child cannot exercise the choice to be generated or not, this is an exceptional or boundary case. As such, Locke’s law of nature may after all be simply a statement of negative rights (for which there are correlative, but not prior, duties), as we concluded in chapter 3.

---

18 *Second*, 58.

19 West, "Vindicating John Locke".
And if this is true, then West and his liberal opponent are back on the same
ground: what counts for or against the sort of socially conservative laws West advocates
is the sociological evidence. Does homosexuality or divorce threaten civil stability?
 Appropriately enough, West occasionally does cite such evidence, as when he writes,
“Mothers, not fathers, are most likely to abandon their husbands. (The great majority of
divorces today are initiated by women.)” West concludes, “Locke’s teaching on the
family would make him a ‘social conservative’ as that term is used today.”

When I first introduced the term republicanism back in chapter 1, I showed that
the term is often used confusingly by today’s writers. We saw that republicanism and
liberalism could be located on a spectrum, with a variety of combinations in between. I
labeled two of these Communitarian Liberalism and Perfectionist Liberalism. The above
paragraphs show the importance for distinguishing those positions. By arguing that
Locke’s rights are rights to objective goods (not spheres of immunity), West has created a
quite ‘republican’ version of Lockean, liberal thought. This is roughly what I called
Perfectionist Liberalism in chapter 1. But then, somewhat oddly, West proceeds to argue
as if he were a Communitarian Liberal as well, because he is willing to trace the
argument all the way back to the ground of protecting negative liberty rights. If Locke’s
rights are objective, it ought to be enough for West to demonstrate what those goods are,

20 Ibid. I find West’s reasoning here incomprehensible. He goes on to say that because more
women than men initiate divorces we can know that more women than men abandon their spouses. But
does that evidence not point toward the opposite conclusion? Given that a common cause for divorce is
spousal abandonment, the spouse filing for divorce is likely the abandoner rather than the abandoner.

21 The one place Locke’s view of family law would decidedly not fit today’s social
conservatives—which West curiously fails to mention—is that he advocates what would today be called
no-fault divorce, so long as any children of the union have their education and inheritance provided for.
Second, 81-82.
without needing to show that violating that objective right also threatens government’s ability to secure negative rights. This appears to be a point of confusion in West’s own thought.

We can thus see how Locke can be used to ground a generally contemporary social conservative agenda, but what of specifically Christian concerns? How does Locke’s system, as embraced by the American founders, reconcile the concerns of state and church? As West interprets Locke’s theology, he was writing to return Christianity to its authentic roots.

Locke was seeking to rectify an imbalance in the Christian world of his day—a focus on doctrine and ritual at the expense of moral conduct—an imbalance that most Christians today would agree was a serious problem. So important is this moral core of Christianity that government has an obligation to support it by laws—not because it is Christian, but because it is necessary for government to do its job well, to provide security for men’s lives and properties. Far from promoting religious indifferentism or relativism, as some readers claim, Locke’s Letter Concerning Toleration presents itself as affirming and renewing the moral core of the Christian life at a time when that core was in danger of being forgotten.

In other words, the Letter does separate religious and civic life, but it cannot excise morality and virtue from politics because they are needed for the government’s proper task. Given this, it is unsurprising that when West turns to Locke’s place in the founding, he observes—employing the categories examined in chapter 4, above—“the Founders saw their liberalism and republicanism as two sides of the same coin.” He is here saying that one can be a Lockean and a republican—and the founders were exactly that. By founders, however, he does not have in mind political leaders alone. He recognizes Locke’s influence among religious figures as well. He writes:

In colonial America, we see the success of Locke’s teaching, in religion no less than in politics. The transformation of public opinion in the years leading up to 1776 was not the result of a secular political theory divorced from Christian theology. Above all, the clergy of America, especially in New England, adopted Locke’s theology and taught it relentlessly… Men like Jefferson who considered
themselves Enlightenment rationalists probably had far less influence on the
general public than the multitude of now-forgotten preachers who taught that the
Bible teaches the same truth … that reason discovers on its own.  

What is that truth? What does the Bible teach that reason also discovers? For political
purposes, Locke’s answer is fairly straightforward. Reason, by way of its reflection on
the state of nature, reveals our basic natural rights. Civil law should prohibit those acts
that threaten rights. This included for Locke what would today be criticized as
“legislating morality.” As Locke writes in the Letter, “No opinions contrary to human
society, or to those moral rules which are necessary to the preservation of civil society,
are to be tolerated by the magistrate.”

From this it follows for West that “there is no right of free speech, or free exercise
of religion, if it undermines the moral conditions of society.”

On the one hand, surely
Locke would not dispute West’s interpretation. Locke’s rights are inalienable but not
unlimited. On the other hand, it is not always so easy to determine what are among
society’s “moral conditions,” a fact of which Locke was aware. The Letter as a whole can
be seen as making the case that a great number of the things previously assumed to be
among society’s moral conditions were not. Recalling our earlier example, Locke is eager
to point out that a great many of the things thought to be like theft are actually like
idolatry, and therefore not legislatable.

West’s reason for putting it the way he does is that he thinks Locke’s conclusions
have been extended too far from their starting point. Locke was right to show that it

22 West, “Vindicating John Locke”.

23 Letter, 89. This is the only instance I am aware of where the Popple translation of the Letter
differs substantively from the Latin. A more literal reading would be “good morals” rather than “moral

24 West, “Vindicating John Locke”.

305
would not cause society to crumble in the face of diverse eucharistic practices but we cannot conclude the same about, say, homosexuality. West is perfectly clear about whether he believes Locke’s principles lead toward Rawls: “Although Locke defends toleration, he did not mean that government should be neutral on religion.”

Taking Locke narrowly, there is no doubt that West is correct. After all, Locke was no disestablishmentarian, let alone an advocate of the First Amendment. And yet West does underestimate how Locke’s principles could lead in different directions given different conditions. West is right when he says, “Clearly, Locke would have no objection to government promotion of any religion that teaches tolerance, obedience to government, the obligation of parents to children, the evil of homosexuality, incest, and no-fault divorce…”25 But what West ignores is that neither would Locke object to the opposite teaching on homosexuality, incest, and divorce so long as sociological evidence indicated those acts did not threaten civil society.26

Up to this point West has provided an interpretation of Locke that keeps contemporary political concerns front and center, yet does not delve deeply into the theoretical underpinnings. How does he understand Locke’s moral theory? How does this fit in the history of political thought? In other articles, he answers these questions. Rejecting interpretations in which Locke’s rights are grounded in ownership (either divine ownership or, as in Zuckert’s interpretation, human self-ownership27), West argues that Locke’s moral theory “has a ‘utilitarian’ foundation.”

25 Ibid.

26 Not to mention that Locke in effect embraces no-fault divorce. See footnote 21, above.

27 He rejects the former because Locke never provides a proof of God’s existence; he rejects the latter because he believes it cannot account for Locke’s affirmation of parental duties.
Locke is still in the tradition of Plato, Aristotle, Cicero, Aquinas, Hobbes and most other major philosophers preceding Kant. Locke shares what Kant called the “eudaimonism” of that tradition, which Kant rejected… (“Eudaimonism” is “happinessism”—the view that the ultimate ground of morality and political right is human well-being.) That is, in this fundamental respect, Locke is closer to the classics, who also grounded natural right in a “utilitarian” way. In the end, according to this tradition, what is right is right because it is useful for human well being.28

This would appear to be a baffling conflation of utilitarian, modern natural rights, and classical virtue theories—which it is. But this in itself is telling, for West’s “republican” interpretation depends upon establishing Locke’s continuity with the philosophers of the ancient republics.29

From West’s perspective, Locke, Hobbes, and all of these other thinkers agree that nature is a moral standard—and that this standard is happiness. If we take this claim together with Locke’s observation that different things make different people happy, it would seem West’s interpretation leads us to moral relativism. The conclusion seems unavoidable when we recall the Essay’s famous “relish” passage:

Hence it was, I think, that the philosophers of old did in vain enquire, whether *summum bonum* consisted in riches or bodily delights, or virtue, or contemplation. And they might have as reasonably disputed, whether the best relish were to be found in apples, plums, or nuts; and have divided themselves into sects upon it… So the greatest happiness consists in the having those things which produce the greatest pleasure, and in the absence of those which cause any disturbance, any pain. Now these, to different men, are very different things.30

---

28 There are two versions of the article in which West argues this. The first is Thomas G. West, "Nature and Happiness in Locke," *Claremont Review of Books* 4, no. 2 (2004). However, that version is abridged at certain points, so I will refer to the version published online: Thomas G. West, "Nature and Happiness in Locke (Unabridged)," *Claremont Review of Books* (April 19, 2004).

29 Jefferson produced a similar list, stating that the Declaration of Independence is based on “the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, &c.” It is worth noting who is included in West’s list that is absent from Jefferson’s. Letter from Thomas Jefferson to Henry Lee (May 8, 1825) in Thomas Jefferson, *Writings*, ed. Merrill D. Peterson (New York: Library of America, 1984), 1500.

As he does in most of his writings, Locke here derides the ancient philosophers for what he sees as their foolishness. If Locke is the intellectual heir and proponent of Plato, Aristotle, and Aquinas, it is difficult to imagine who West believes Locke is here rejecting. Setting this aside, he clearly rejects the notion that Locke is a relativist. West writes: “there is no single path to what Locke calls ‘real happiness’ for everyone.” Nonetheless, “Locke does not mean that one can (to use the words of the U.S. Supreme Court) ‘define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.’”

What does Locke mean? Although in fact our minds lead us to seek different goods, we must discipline our one desires so that we pursue the highest good. “Locke insists that we “suit the relish of our minds to the true intrinsic good or ill that is in things.”

West believes this constitutes an effective rejection of the more “liberal” interpretations of Locke, within which rights are spheres of immunity rather than powers correlative to duties. He summarizes the implications of his view as follows:

If Locke’s teaching is as radical as Zuckert says it is, then perhaps the historicism and liberalism of our time grew out of the founding principles, as natural consequences of Locke’s doctrine of self-ownership and willful conquest of nature. But if I am right about the real roots of Locke’s moral philosophy, then the founding is built on much the same sound philosophical ground that one finds in the great tradition going back to Socrates. This would help to explain why America has lasted so long and has done such a good job providing its citizens

31 West, "Nature and Happiness." On the Supreme Court reference, see section 2.6, above.

32 Ibid. I will not press West’s interpretation further on this point, but he does rather quickly run into difficulties. He attempts to argue that what Locke means in the relish passage is not that there is no *summum bonum*, but that there are two: one for “bees” and one for “beetles.” The former find happiness in the studious life, while the latter pursue sensual pleasures. According to West, Locke elsewhere identifies a third type of human (thus, one assumes, necessitating a third *summum bonum*), the “gentleman” who finds happiness in honor. “These three,” says West, “correspond to the three kinds of human beings discussed by Aristotle his *Nicomachean Ethics*."

308
with the blessings of liberty. It would also help us to think through the kinds of political and moral agenda that America will need if it is to continue to enjoy those blessings.

In other words, America flourished because, thanks to Locke, it has pursued liberty bounded by a law of nature that demands civic virtue, traditional family structures, traditional sexual norms, and so on. America succeeds because it is a Lockean republic.

This reveals how West harmonizes Locke and republicanism, but what of Christianity? As we saw in chapter 1, Taylor and Arendt suggest that Christianity and republicanism are by nature at odds with one another. And as we learned from Noll in chapter 4, Christians as recent as John Wesley said much the same. What is the source of Christianity’s rapprochement with republicanism? Fortunately, West has a response. Helpfully, it is situated within the same historical narrative invoked by Taylor and Arendt.

West begins with Machiavelli’s charge: is not Christianity a threat to good citizenship because it embraces sacrifice and love of enemies? Christianity “subordinates the earthly fatherland to the heavenly fatherland and thus subordinates the power temporal to the power spiritual.” How then can West respond to this charge that pits Christianity against republicanism, which he wants to unite? To a large extent, he concedes the point.

Much of what Machiavelli wrote about Christianity was true in his day. It did, as he charged, make men weak in this world… It celebrated feminine qualities at the expense of manliness and spiritedness. It undercut men’s loyalty to their countries by insisting that their higher loyalty was to the Church of Rome.

33 To be sure, the meaning of the term had begun to shift by Wesley’s time, thus he is not perhaps identifying quite the same dichotomy as do the others.
If this is true, West admits, “Christianity is utterly incapable of supporting the cause of political liberty or even the cause of justice on earth.” Why? Christians could not be good citizens because Christianity would be hostile to “the qualities that make men strong and free, such as courage, cleverness, deceptiveness, and in general the ability to destroy one’s enemies, and because of its preoccupation with doctrinal purity, humility, and self-sacrifice at the expense of self-assertion, pride, and common sense.”

Fortunately, says West, Machiavelli “pointed the way to a different understanding of Christianity—a superior understanding, in the opinion of American Christians from around 1700 to well into the twentieth century.” Republicanism is therefore not at odds with republicanism, but only with a false interpretation of Christianity. West identifies three changes that made it hospitable to citizenship. These changes explain the remarkable shift Noll describes in pre-revolutionary Christians’ appraisal of republicanism, and they are incorporated most fully in Locke. As West puts it, “There were three important changes in the self-understanding of Christians in colonial America that prepared the way for the success of democracy in America. Taken together, these changes convincingly answer the critique of Rousseau and Machiavelli.”

The first change West identifies is Protestantism’s increased focus on individual responsibility. He supports this by reference to Puritanism’s focus on individual accountability before God, but he could as easily have referred to similar arguments made by the Protestant Reformers. His concern is that for a religion to be compatible with good citizenship, it can recognize no authority between the believer and God.

34 Thomas G. West, "Christianity, War, and America," Claremont Institute (September 16, 2001).
The second change was “the Protestant embrace of warlike manliness.” He contrasts the responses of two Puritan pastors to a bloody attack by Native Americans on colonists in 1675. Increase Mather attributed the attack to the colonists’ sins: “ill entertainment,” “apostasy,” “heresies,” and so on. He called for “a day of public humiliation, with fasting and prayer.” Another Puritan pastor, Samuel Nowell, also attributed the attack to sin, but the remedy was not humility: “Instead, he speaks of the need to cultivate the art of war.” As Nowell says, “Frequent trainings for the instructing of men in military discipline that they may be ready and expert for war, is a commendable practice, yea a duty which God expecteth…” It is clear which response West believes is necessary if Christianity is to be reconciled with good citizenship. “It was Nowell’s view, not Mather’s, that won out among New England Puritans in the succeeding years. From then on, Christian piety in America was no longer a merely private relation between the individual and God. It became inseparable from patriotism and military valor.”

The third and final change is the increasing affirmation by Protestants, Catholics, and Jews alike of the following claim: “God favors those political regimes that are built on a foundation of freedom,” including religious toleration. This is not “a secularization of religion but the opposite: a sacralization of what had previously been held worldly and low.” West concludes his narrative with a notion distinctly reminiscent of The

---

35 Although West’s changes are characteristically, even stereotypically, Protestant, he includes a section on Aquinas, seeking to that the “Protestant embrace” of war was, indeed, an ecumenical affair.

36 Lest his readers attribute the anti-Catholic spirit of earlier writers to West, he emphasizes that he does not share their prejudices: “With regard to the supposedly mindless deference of Catholics to priestly authority … my own personal observation is that the most serious Catholics today are those who share the manly spirit of the Protestant Reformation.”
Reasonableness of Christianity: in the past, these changes “had been neglected, in part because of deliberate misinterpretations of Christian doctrine by power-seeking priests in alliance with oppressive kings and nobles.”

This list of changes, together with West’s decidedly republican interpretation of Locke, provides a clear statement of how Christianity and Lockean republicanism can be harmonized—of how the potentially conflicting loyalties of church and state can be united. As we saw, West does so in a way so as to support a politically conservative agenda. It is part of my argument that when contemporary Christians who share West’s position on the ideological spectrum engage in political arguments, they take on West’s theoretical framework and historical interpretations.37

Those who share West’s political agenda are pressed toward these interpretations not only by the importance of rhetorical appeals to the founders, but also by their own vision of reconciling Christian faithfulness and American patriotism. And yet the ability to invoke the founding solution as a kind of icon makes it possible for them to avoid ever mentioning this framework, without even being aware of what West makes so explicit. Via West we can see clearly that even the most controversial Religious Right positions do not necessarily reject liberalism. They need not be theocrats, nor even “Traditionalists.”

37 To be sure, they need not agree with West at every point. There is room for diversity within his position. For example, among most conservative evangelicals one finds more emphasis on morality as divine command rather than as (in West’s terms) utilitarian. This reading is not impossible given the emphasis by many recent scholars on Locke’s Calvinism. And yet such an interpretation could itself prove problematic to the stability of the solution, because it raises the specter of relativism suggested by Locke’s “relish” quote.

In technical terms, an evangelical interpretation is more likely to be voluntarist. It should not be surprising that Locke can be read as both for and against voluntarism. As J.B. Schneewind argues, our distinction of those terms today originates partly in Locke but it is anachronistic to expect him to fit into one or the other of our categories. On the whole, I find Grant’s interpretation of Locke’s voluntarism more balanced than Schneewind’s. See Grant, John Locke’s Liberalism, ch. 1, J.B. Schneewind, The Invention of Autonomy: A History of Modern Moral Philosophy (Cambridge: Cambridge University Press, 1998), ch. 8.
Seeing this is essential for those who seek to engage them politically. But it is essential for conservative Christians themselves to realize this, and this for two reasons.

First, making arguments within West’s republican-Lockean framework, unaware of that framework, is deeply problematic. It is one thing to appeal to “public arguments” which one knows one’s audience will find convincing. It is another thing altogether when those public arguments are not situated within a coherent framework. They have heretofore been able to avoid comprehensive theoretical answers because the founding is invoked as a symbol or icon. It would be much better for all involved if they developed a comprehensive position. For example, do they accept a distinction between secular and religious justifications for law, such that they would withdraws demands for laws against homosexuality should the sociological evidence against it be refuted? Or is such a refutation necessarily impossible, or would they continue to press for such laws absent sociological evidence on, say, biblical grounds?

Second, accepting West’s position implicitly obscures where it, and Locke’s own work, is theologically problematic. For example, West is correct that Locke’s solution depends upon religious authority being limited to the individual conscience, and there is plenty in Locke’s own writings—not least of which is his refusal of toleration to Catholics—to support this. This is true not only in preferring a very low ecclesiology, but also in emphasizing hermeneutical principles that reject communal reading of Scripture in favor of private interpretation. All of these theological positions are now characteristic of conservative evangelicals in America to the point of being a stereotype. It is not impossible that there is some connection, that the pressure to harmonize religious and

38 This is what we observed in Representative Mark Souder’s confused reply to William Galston’s question about natural law in chapter 1.
civic loyalty has triggered the theological changes. There is increasing concern among certain evangelicals about the tendency to replace fidelity to one’s church with patriotism, and this suggests that these trends have not gone unnoticed. What remains unclear is whether the theological changes—a higher ecclesiology, more communal readings of Scripture—can be effected without a radical rethinking of Locke’s solution, if not an outright rejection. The preceding chapters certainly suggest not.

5.3.2. Liberal Interpretation: Kramnick & Moore

Like West, Kramnick and Moore are critics of contemporary liberalism. They believe it has departed from its authentic principles and by doing so has necessitated a crisis of religion in civic life. The harmony could be restored if we returned to the founding principles, especially as described by Madison, Jefferson, and Locke. Unlike West, they believe such a restoration will lead to a much lesser political role for religion. Just as West’s interpretation leads him to policies associated with the Religious Right, and the Republican Party generally, Kramnick and Moore’s leads them to support characteristically Democratic policies. If West’s work could serve the agenda of the Christian Coalition, Kramnick and Moore’s would be popular with the American Civil Liberties Union. They would restore the reconciliation of civic and religious loyalties by pruning the branch of politicized religion and nurturing the root of religious privatization. I consider them much more briefly than I did West, simply because their position is so familiar.

39 There are many such examples, ranging from the popular and activist to the scholarly. For the former see Jim Wallis, God's Politics: Why the Right Gets It Wrong and the Left Doesn't Get It (San Francisco: HarperSanFrancisco, 2005). A historically-focused example of the latter is Nathan Hatch, The Democratization of American Christianity (New Haven: Yale University Press, 1989).
Unlike the others examined here, Kramnick and Moore do not write explicitly as Christians. In fact, they remain silent about their religious affiliations, if any. But they are careful to argue that their vision of a secular state is one that Christians have embraced in the past and ought to do so again. In their words, “Our intention is not to marginalize religion… Many members of the clergy are also concerned about the way that religion is being cynically employed to serve a narrowly defined, partisan agenda.”40 Both authors are professors at Cornell University, and Kramnick has elsewhere published on the republican-liberal historiographical debates.41 They identify themselves as “Jeffersonian separatists” and have written a self-described “polemic,” entitled *The Godless Constitution*, against what they see as the dangerous injection of religion in American politics.42 Kramnick describes their argument in an interview:

[The religious right’s] crusade is to refound the nation, as they insist the men at the Constitutional Convention had intended, as a Christian state charged to carry out God’s work on earth… It is a challenge based on historical nonsense and one that dangerously misrepresents the American political tradition. More people need to realize that the history they’re being fed by the religious right is wrong.43

Just as with West, these authors believe that the matter can be settled on historical and interpretive grounds: if we read Locke and the founders rightly, we will see how church and state once related harmoniously—and how far some have departed from that solution.


41 Kramnick was cited above, see chapter 4, note 60


43 Goetz, "Authors Argue."
To invoke the book’s subtitle, their “moral defense of the secular state” displays all of the characteristic elements we have come to expect from the Christian critique of liberalism: a claim of Locke’s preeminence for the founding and the belief that Locke’s solution represents an almost eschatological moment within human history. In addition, their argument displays those features unique to this level of critique and to this position on the ideological spectrum. As a “liberal” interpretation of Locke, Kramnick and Moore show that Locke resolved church-state conflict by rigidly distinguishing the two, which they see as endorsed by Jefferson. And as befitting this level of critique (prune the branch but save the root) they argue that Locke’s solution needs little, if any, amendment. I will consider these points in order.

First, on the question of the founding, Kramnick and Moore repeatedly emphasize Locke’s importance generally and Locke’s influence on Jefferson in particular. They call the Declaration “pure Locke.” Indeed, it “reads like a paraphrase of Locke’s influential Second Treatise of Civil Government.”44 Though Kramnick’s book on eighteenth-century republicanism shows him to be aware of the founding’s complexity, he here subscribes wholly to the Hartzian thesis, quoting Hartz’s claim that Locke “dominates American political thought as no thinker anywhere dominates the political thought of a nation.” Thus, they maintain that Locke’s influence is exerted not through Jefferson alone. “All the important figures of the founding generation, including John Otis, John and Samuel Adams, James Madison, Thomas Jefferson, Patrick Henry, and Benjamin Franklin, were disciples of Locke.”45

44 Kramnick and Moore, Godless Constitution, 74, 72.
45 Ibid., 72-73. As would be expected, Pocock is positively merciless in his review of Kramnick’s earlier book, criticizing in particular Kramnick’s overemphasis on Locke. J.G.A. Pocock, "Review of
Not only is Locke’s influence predominant, his solution represents a quasi-eschatological moment in the history of human politics. They write, “Two thousand years of thinking about politics in the West is overturned in Locke’s writings… This is a critical turning point in Western culture.” Such a radical solution was needed because of the horrors of what came before: “Millions of Europeans had died in the two centuries of religious wars between Protestants and Catholics that following Martin Luther’s break from Rome that began in Wittenberg, Germany in 1517.” 46

Second, the heart of Locke’s solution lies in a rigid wall of separation between “private” and “public” spheres of life. To their credit, Kramnick and Moore actually make a point of offering a more nuanced public-private distinction than positions such as the early Rawls and the pre-2003 Richard Rorty. Indeed, Kramnick and Moore claim to be “sympathetic in broad terms” with Stephen Carter’s *Culture of Disbelief*. 47 Nonetheless, they affirm all of the following statements—which Rawls and Rorty would also support: “our politicians are wrong to discuss their views of God,” “clergy have no business backing what candidates they will,” and “voters should never choose among candidates based on their religious beliefs.” 48 They believe these positions are necessary to prevent an undoing of the eschatological innovations that initially saved us from wars of religion—and they believe this solution is traceable directly to John Locke.


46 Kramnick and Moore, *Godless Constitution*, 73-76.


48 Ibid., 176.
From their perspective, Locke’s great innovation was how he reconstructed the public-private distinction so as to redefine both church and state. They thus affirm what we learned from Locke’s *Letter* in chapter 2, but present this as a radical departure from what went before: “No longer does government nurture or educate its subjects in the ways of virtue, or preside over the betterment or improvement of men and society. No longer does government defend and propagate moral and religious truths…”\(^4^9\) This summary of Locke’s liberal politics is at once perfectly plausible and grossly oversimplified. Kramnick and Moore are of course correct that Locke’s politics constrains government’s role so as to avoid certain sorts of disputes. But does this mean it may not seek to improve society? The ways in which it can or cannot are specifiable in Lockean terms only by reference to rights, which Kramnick and Moore fail to mention. Instead, they argue that Locke’s public-private allows him to redefine the state’s role as based on a secular rather than Christian conception of law. They write:

> Pushed aside was the Christian conception of law as a worldly injunction requiring virtuous and moral living, ultimately traceable to God’s own standards of right and wrong. For Locke and for the secular liberals who wrote the American Constitution, “laws provide simply that the goods and health of subjects be not injured by the fraud and the violence of others.”\(^5^0\)

But this, in its way, is (almost) as naive as West’s argument for Locke being a traditional Christian theologian. Was the position that Locke opposed *the* Christian conception? As we saw, Locke takes great pains to present his argument as the authentic Christian conception and the opposing position as only falsely Christian. They continue:

\(^4^9\) Ibid., 73.
\(^5^0\) Ibid., 77-78.
This is a critical turning point in Western culture as liberal ideology… The entire definition of what is public and what is private is being changed… What a revolution the liberals achieve in insisting that matters of religious conviction are not public and political matters but private and personal ones.  

Naturally, this affects how Christians understand the role of the church. Not only must the state’s role be limited, the church’s must as well. According to Kramnick and Moore, Locke’s solution was to emphasize how the church was but one of many voluntary associations, “like social clubs, Masonic lodges, and trade associations.”

Third, Kramnick and Moore emphasize the viability of Locke’s solution and downplay the need for amendment. The successful harmonization of Christian and civic life is in principle achievable through Locke himself, provided we return to him. They do concede the need for subtle developments to his thought, but these simply affirm his own best insights—doing what Locke would have done were he only able to see more clearly. Kramnick and Moore’s genealogy is simple: Jefferson (and the founders generally) follow Locke, correcting his blind spots. There is no need for an additional or amalgamating political theory, be it republicanism or something else. So, when Jefferson famously writes, “It does me no injury for my neighbor to say there are twenty gods, or no God. It neither breaks my leg nor picks my pocket,” Kramnick and Moore can conclude, “The lineage is direct.” Of course, we can still detect subtle modifications. For example, “Jefferson faulted Locke, however, for extending religious freedom only to Protestant dissenters and not to Catholics and nonbelievers, ‘but where he stopped short, we may go on.’”

---

51 Ibid., 75.
52 Ibid., 77.
53 Ibid., 87.
54 Ibid., 92.
Taken as a whole, Kramnick and Moore provide an argument that quite remarkably mirrors West’s. Locke is important to each, and both defend him against his critics. They also believe that the correct interpretation of Locke can harmonize religious and civic concerns, so as to avoid religious conflicts. Both also argue that Christianity had to change to make this possible. For example, recall West’s claim that Christianity had to embrace “warlike manliness” and Kramnick and Moore’s claim that Locke replaced the Christian conception of law. But based on these comparisons, the arguments appear to be parallel, rather than mirror images. What separates them is how they support conflicting positions on the ideological spectrum, and how they use divergent interpretations of Locke in support.

West’s “republican” reading of Locke supports politically conservative policies by emphasizing the need for civic virtue and a substantive conception of the common good. Kramnick and Moore’s “liberal” interpretation supports the opposite policies by emphasizing the need to disentangle politics from the conceptions of virtue that West believes are so indispensable. From their perspective, the very problems that Locke sets out to solve are undermined by interpretations such as West’s.

This is emphasized by a new chapter Kramnick and Moore added to the second edition of their book. That chapter opens, “Seldom has the wall of separation between church and state seemed so fragile as in the America of George Walker Bush.”55 The authors argue that while the earlier manifestations of the religious right, such as the Moral Majority and the Christian Coalition, have largely faded from public view, their cause has been embraced by the President himself. To compete, Bush’s presidential

55 Ibid., 178.
election opponents such as Al Gore and Joseph Lieberman were forced to mention God as often as possible on the campaign trail: “13 times in 90 seconds,” they snidely report about Lieberman, “One hopes the Guinness Record people were nearby.” Such injection of religion into political debate rips apart Locke’s solution at its seams, and turns Christianity into worship of a city god. What Kramnick and Moore ignore at this point is how often Locke mentions God; more times, no doubt, than Lieberman and Gore combined. For it is precisely because of this—because of how Locke’s position is open to multiple interpretations—that makes “the America of George Walker Bush” a historically plausible expression of a Lockean founding.

Being sensitive to the multiple possible interpretations would not necessitate that Kramnick and Moore ultimately side with West’s view of how church and state ought to be related—far from it. But it is necessary that they be sensitive to it, and aware of it. They must acknowledge more fully that their Jeffersonian vision of a secular state does not pit Locke and the founders against, say, George Bush or Jerry Falwell. Rather their vision and Bush’s and Falwell’s and West’s represent varying interpretations of how a Lockean solution ought to be applied to twenty-first century politics. Perhaps Kramnick and Moore’s opponents offer implausible interpretations of Locke and the founders’ vision, but it should be engaged as such, rather than as a wholesale violation of it.

Because Kramnick and Moore do not write from a religious perspective, evaluating the theological implications of their position is slightly speculative—but only slightly. What Kramnick and Moore present so polemically, and in such detail, pervades many mainline liberal Protestant churches as a kind of reigning orthodoxy, though

56 Ibid., 182.
usually with less historical sensitivity. Kramnick and Moore are perhaps extreme in
their praise of Locke; more common among liberal Protestants is the argument that
Locke’s separation arguments are broadly correct but that his concepts of contract and
property lead to economic injustice.

An excellent example is the work of Presbyterian theologian Mark Lewis Taylor.
His own anti-Bush polemic, *Religion, Politics, and the Christian Right*, argues that
Lockean liberalism has been undermined by the “anti-liberal modernism” of “Straussians
… [and] neocons in the Bush regime.” These groups join hands with the “Christian
Right,” linking their politically conservative policies with a certain brand of conservative
Christianity. From Taylor’s perspective, this threatens what was valuable in the founding
and leads to the corruption of both Christianity and government. A much less polemical
argument for essentially the same position is found in the work of Robert Audi, a United
Methodist. What is significant in all of these positions is the degree to which they must
take on the Lockean and Jeffersonian presuppositions embraced by Kramnick and Moore.

---

57 As anecdotal evidence, the endorsements on the back cover of *Godless Constitution* include
*Christian Century*.

58 Mark Lewis Taylor, *Religion, Politics, and the Christian Right: Post-9/11 Powers and
American Empire* (Minneapolis: Fortress, 2005), 85. For Strauss’s views, he depends rather heavily on
Martin’s, 1997), John A. Murley and Kenneth L. Deutsch, eds., *Leo Strauss, the Straussians, and the
American Regime* (Lanham: Rowman & Littlefield, 1999), Gordon S. Wood, "The Fundamentalists and the

59 Though far too polemical, Taylor’s book is interesting in one way that it departs from the
standard narrative of the founding usually offered by his fellow mainline liberal Protestants, as well as
Kramnick and Moore. Taylor places relatively little emphasis on the more well known founders, such as
Washington, Jefferson, and John Adams, instead identifying a tradition of revolutionary prophecy in
figures such as Samuel Adams. See Taylor, *Religion, Politics*, ch. 6.

60 See Audi, *Religious Commitment and Secular Reason*, Robert Audi, "The Separation of Church
Perhaps most troubling is how this demands that believers distinguish their public from private selves and, perhaps by consequence, the sources of moral knowledge that inform their lives as citizens.

The problem that such presuppositions pose for religious believers have been the subject of much recent study. Kramnick and Moore’s separatist position depends upon what many believers perceive as a relinquishment of personal integrity: the private-public split of which they speak. In Kramnick and Moore (as in Jefferson) this is recognizably and even explicitly Lockean. But it is also a particular interpretation and extension of Locke, one that shares much with Rawls. A number of philosophers have identified the problems Rawls’ project poses for Christians who seek to integrate their public and private selves.61 For such writers, religious believers are unfairly burdened by Rawlsian versions of Lockean-Jeffersonian separatism. In addition, numerous liberal theorists (identified below) have questioned the neutrality premise that seems essential to Kramnick and Moore’s position. To be sure, Kramnick and Moore’s position is not as one-dimensional in this regard as either the early Rawls or the early Rorty, it is clear that they cannot sidestep the pitfalls as easily as they suggest.

We can see the pitfalls by attention to the disputed points of interpretation in Locke’s solution. Are Locke’s rights spheres of immunity, or rights to an objective good? From Kramnick and Moore’s perspective, they must be spheres of immunity, because conceptions of the objective good are often derived from religious sources and must be excluded.62 In addition, whatever political ethics can be discerned from Scripture, these

---

61 For example, see the work of Weithman, Wolterstorff, Quinn, and Chris Eberle.

62 It is of course open to Kramnick and Moore to argue that secular conceptions of the good are acceptable, while religious ones are not. Rawls avoids such a distinction because it seems to unfairly target religious reasons.
must be superfluous to additional secular sources, which are the only sources permitted in public debate. Such theological commitments are fairly typical of liberal Protestant positions such as Taylor’s and Audi’s. Unfortunately, it is not always clear whether the willingness to separate Scripture from political ethics and the negative-liberty conception of rights, actually represent the considered theological position, or the politically expedient one. In other words, this position depends upon the possibility of separating theological ethics and political ethics in a particular way. However, the viability of that separation depends itself on other theological commitments, which may in turn have been shaped \textit{a priori} by the need to embrace Locke’s solution.

This is not necessarily a paradox, but it does point to a serious theological difficulty. It puts in rather vivid terms the question posed by Pangle: is contemporary American Christianity hospitable to reason and philosophy? And if it was naturally inhospitable, what allowed it to become hospitable? Pangle asks bluntly: “is this difference due to Christianity or to Locke?” Was the change due to authentic theological development or to Locke’s ability “manipulate and transform popular and priestly religion so as to open it to enlightenment and rationality?”\textsuperscript{63} Do the points of agreement between the above thinkers and Locke show that they were \textit{subject to} his manipulation? Or are they and Locke co-workers, revitalizing Christianity and saving it from corruption? Because of how the influence is exerted implicitly, and often for extra-theological reasons, the answer is not clear.

\hspace{1cm} \footnotesize{\textsuperscript{63} Pangle, \textit{Modern Republicanism}, 196. The connection to O’Donovan is further emphasized by relate their perspectives to (or against) Hannah Arendt’s conception of classical republicanism. See chapter 1, footnote 29, above, and Pangle, \textit{Modern Republicanism}, 49-61.}
5.4. Prune the Branch, Graft on a New Plant: Amend Locke

Although I have sought to portray the representatives of the above level of critique positively, it should be apparent that both its republican and liberal variants display a certain theological naiveté. We can easily identify points at which traditional Christian theology would question West’s explicitly Machiavellian political theology, as well as in Kramnick and Moore’s Jeffersonian theology. It is therefore unsurprising, and indeed something of a relief, to find sophisticated engagements of Locke, the American Founding, and contemporary church-state issues that display greater nuance. On a minimal level, it is one of my goals to press contemporary Christian political theologies away from the above level of critique (West and Kramnick) and toward this level, even though I identify problems with both.

The representatives of this level believe that Locke’s solution, taken on its own, poses certain theological problems. It tends to be overly individualistic, it increases secularization, it has little place for the common good, it can be used to support relativism about the human good, and—Locke’s protestations to the contrary—it can make Scripture a superfluous source of moral knowledge. As we have seen, Locke is exposed to each of these charges, yet fans of Locke like West and Kramnick are not without arguments in his defense. My concern here is not to launch a quest for the historical Locke, but rather to show the differing interpretations that support the Lockean solution.

My representatives for the current level believe Locke’s solution needs to be modified if it is to reconcile civic and religious loyalties. He goes too far in certain directions or he lacks certain other resources. Without amendment, he cannot provide a viable third way for Christian citizenship. The first interpretation of this position is represented by the Catholic writers Michael Novak and Richard John Neuhaus. (To show
that this level of Catholic critique is not tied to the right-leaning politics of these thinkers, I conclude this section by mentioning other Catholics who use Locke in similar ways but are less politically conservative.) The second position studied in this section is represented by Nicholas Wolterstorff and John Witte, who argue that possible Lockean pitfalls are mitigated by his Calvinist sources and America’s Puritan heritage. In comparison to Neuhaus and Novak, Wolterstorff and Wolterstorff are closer to the political left, yet I still describe their position as a “republican” interpretation of Locke because they both affirm substantive conceptions of the good in politics and reject a privatization of religion in favor of state neutrality.

Our investigation of this level of critique differs slightly from the second level. Approaches like West’s and Kramnick’s that are more positive on Locke’s solution can focus almost exclusively on Locke, needing only to show that the American founders more or less embraced him. The present level does not focus as exclusively on Locke, but directs its attention both to Locke and the “amalgam” studied in chapter 4. Thus Novak and Neuhaus support the founding solution insofar as it mixed republicanism together with Locke’s liberalism. This is even clearer in Wolterstorff and especially Witte who embrace the founding insofar as it is of Puritan, rather than exclusively Enlightenment, origins. For these reasons, we should expect our engagement with these thinkers to include less direct scrutiny of Locke’s texts and more study of how Locke is situated in the founding.

This section differs from the previous one in another way: it has no liberal representative. The comparison of West and Kramnick would leave us to expect a similar pattern here, but this section contains two “republican” positions and no “liberal” representatives. On a basic level, this simply reveals a terminological complexity that plagues all contemporary discussions of liberalism—because of how the term can refer
both to the political left and to right and left interpretations of Locke’s politics. If we take liberal to simply mean “left of the Republican party,” then the liberal representative is not missing: it is found in Wolterstorff and Witte, both of whom are to the left of Neuhaus and Novak on most policy questions. Yet this is not for the most part how I have been using the term liberal. When contrasted with republican (rather than with conservative), liberal emphasizes a politics that has less of a place for substantive statements of the good and a greater place for governmental neutrality toward the good. On that spectrum, Wolterstorff and Witte’s interpretation is clearly republican and not liberal.

The fact that I do not include a liberal interpretation should not lead us to the conclusion that such a position could not exist. It is based rather on the fact that no currently important or interesting Christian voices advocate such a position, and this in itself is an interesting statement about contemporary theology and liberal theory. In chapter 1, I described what such a position would argue: today’s liberalism ought to more thoroughly embrace the notion that the government must be neutral on disputed moral or religious questions. This may well represent the view of many lay Christians in America, particularly mainline Protestants. It is precisely against such a view that Hauerwas’s anti-liberal arguments are aimed. Yet there are few Christian scholars presently arguing, against Hauerwas, that an early Rawlsian concept of justice is a good idea for Christians. On the one hand, this shows the importance of Hauerwas’s arguments. Such views among the laity should not be left unexamined. On the other hand, this partially confirms Stout’s charges that Hauerwas sometimes argues against chimeras. We might conclude from the absence that Hauerwas has simply been effective: he has persuaded his enemies. There may be some truth to this conclusion, but a more likely explanation can be found in observing larger trends in liberal theory, trends which are reflected among political theologians and Christian ethicists.
The notion that liberal politics ought to be grounded in neutrality has, quite simply, fallen on hard times. It is increasingly common for liberals to reject the possibility of a neutral liberalism in favor of unapologetically embracing certain virtues such as tolerance, listening, and respect for personal autonomy. Liberalism cannot pretend it can do without such commitments, including inculcating those virtues through public school curricula. Arguments roughly along these lines are made by Stephen Macedo, Michael Sandel, William Galston, and many others.64 In Macedo’s typically bold words, they seek “liberalism with spine.” One particularly remarkable sign of the larger shift is Richard Rorty’s change of mind in which he rejected his earlier insistence for the exclusion of religious arguments from politics.65 This shift appears to be reflected among Christian ethicists as well. In the late 1990s, Timothy Jackson argued for a more religiously inclusive liberal theory than Rawls’ in an article he titled “The Return of the Prodigal.”66 I am not sure liberalism is a prodigal son, nor am I sure who Jackson


presumes to be the father running to meet it, but at least according to Jackson, liberalism may be on its way home. A final part of the explanation for the lack of interesting voices displaying this position is methodological. I have been pressing for historical studies, against merely theoretical studies. Others have observed the seeming aversion among current liberal scholarship for the sort of careful, exegetical analysis that I want to encourage. In the words of one political scientist, “Contemporary liberals usually do not offer such extensive, textual justifications.”67 This may provide clues about why there is no important liberal interpretation to be examined in this section.

5.4.1. A Catholic Republican Interpretation: Neuhaus & Novak

This is not Neuhaus’s first appearance in our study. I noted in chapter 1 that Stout had mistakenly labeled him a Traditionalist. I argued that this was a symptom of Stout’s excessive focus on Traditionalism as a category, which prevented him from distinguishing a neo-conservative like Neuhaus from a modernity critic like MacIntyre. At points, Stout appears to be aware of this. Regarding Neuhaus he writes:

He is a lieutenant in the culture wars, with a zeal for fighting it out in the ideological trenches. If he is nostalgic, it is not for medieval theocracy, but for a relatively recent past, when American leaders and intellectuals were nearly unanimous in affirming the need for Christian faith as a source of virtue and solidarity in democratic political community.68

67 The author mentions a select number of writers that he sees as exceptions, including Robert Audi. Lorenzo, "Tradition and Prudence," 257n22. See also Audi, "The Separation of Church and State and the Obligations of Citizenship."

68 Stout, Democracy and Tradition, 107.
This sounds so unlike how Stout defines the other Traditionalists that it is difficult to see how he ever came to link them together. Setting this aside, this does seem a fair description and one that Neuhaus could accept.

Neuhaus’s brand of conservatism also displays a recognizable similarity to many of the more vocal religious voices of the culture wars. West’s is the simplest, most direct statement of the position, yet his Christianity is so harmonized with Locke that it is unclear why religion should have a greater public role. Why would it be needed when the moral law is so obviously known by reason (and sociological evidence) alone? Conservative Christian culture-wars arguments commonly invoke concepts such as “biblical values,” “family values,” “biblical worldview,” and so on. Recall D. James Kennedy’s statement that “Christians have a right to reclaim America because the nation was founded by Christians.” Their need to do so suggests that West’s picture may be too simple. But how does the introduction of “biblical values” and the like fit within a Lockean relation of church to state?

Kennedy and his conservative colleagues are not interested in an established church or an end to the separation of church and state (as they understand it). Even a quick glance over the brochures and mission statements of organizations such as Focus on the Family and the Family Research Council makes this clear.69 What they do seek is an increased role for the traditional morality that they find in the Bible and which was dominant in America until (in their timeline) the 1960s. What that often looks like,

---

69 As, indeed, we should expect. Even if the phrase “separation of church and state” has been criticized by religious conservatives for what it has come to mean, the idea behind it is historically important to “free churches” (i.e., baptist polity). See Philip Hamburger, Separation of Church and State (Cambridge: Harvard, 2002). Hamburger’s historical study of the doctrine is controversial, but he does give extensive attention to baptists who are significant because of their polity, their minority status at the founding, and their ancestral relation to contemporary evangelicals.
practically speaking, is an argument for republican politics. As we have seen, this is not necessarily at odds with Locke. As we shall see, this argument is well represented by Neuhaus and Novak.

Before beginning our investigation, two caveats are in order. First, I treat Neuhaus and Novak together because of their similarity of conclusions and similarity of theological presuppositions; they are both Catholic neo-conservatives. This should not be taken to mean they do not disagree.\(^7\) I include Novak because he is the clearest on where Locke fits into his perspective, and Neuhaus because of his references to republicanism. Second, Neuhaus (perhaps more so than Novak) is careful to emphasize the depth of the tension between Christianity and citizenship. Note for example his references to Eusebius in his most famous work, *The Naked Public Square*. Eusebius believed that the kingdom of God had been established on earth with Constantine’s conversion. Augustine showed with his two cities that this was not so. It therefore seems he rejects the possibility of a final resolution to the loyalty problem: “Since membership in the *civitas* cannot be given highest priority, there can be conflicts of allegiance.”\(^7\) This acknowledgment of tension is much to be admired in Neuhaus. And yet in the years since writing *Naked Public Square*, as Neuhaus has grown increasingly critical of religion’s position within American life, he has perhaps ironically grown less Augustinian and more Eusebian. Rather than reinforce his belief that Augustine was right, the culture wars seem to make Eusebius’ vision all the more attractive. But Neuhaus, like most conservative culture warriors, does not seek a Constantinian marriage of church and state. He sees the two

\(^7\) See for example Neuhaus’s brief critique of Novak in Neuhaus, *Naked Public Square*, 121.

\(^7\) Ibid., 74.
loyalties as best reconciled in America’s founding, in Locke supplemented by civic republicanism.

The outlines of Neuhaus’ political and theological perspective are well known. Objecting equally to the Moral Majority (the original Religious Right) and to mainline Protestantism, Neuhaus seeks a third way. He writes, “A dilemma, both political and theological, facing the religious new right is simply this: it wants to enter the political arena making public claims on the basis of private truths. The integrity of politics itself requires that such a proposal be resisted.” But the situation is little better for the opposing Christian position: “The official social and political positions of the United Methodist Church are not discernibly different from those of the more leftward planks of the Democratic party platform.” Both positions, in their very different ways, reinforce the naked public square: a political arrangement in which morality itself, because it is tied to religion, is evacuated from politics. What alternative does Neuhaus propose?

The public role of religion … will be decided by religion’s ability to help reconstruct a “sacred canopy” for the American experiment… whether it is called the Judeo-Christian ethic, or Christianity, or the operative social values, or a civil religion, it is the dynamic of religion that holds the promise of binding together (religare) a nation… Religion is in the meaning business.73

The need to reconstruct a sacred canopy provides a clue about Neuhaus’ approach. At some point in the past, America’s public square was not naked. Christians must seek to recover that if religion is to play its proper role and if the civic and religious duties of Christian citizens are to be compatible. He emphasizes this when he later responds to Christians who say that they are critical of America in order to be patriotic. “We are not

72 Ibid., 34-36.
73 Ibid., 60.
anti-American but pro-American, they say.” Neuhaus’s response is revealing. He does
not criticize their policies or theology. Rather, he objects, “its proposals are in dramatic
discontinuity with anything that is historically identifiable as American.”74 Yet he does
not want to prevent political criticism, for “one can love the American promise and be
repulsed by all that at present contradicts that promise.” The question is whether the
proposals are in continuity with what he, following John Courtney Murray, calls “the
American proposition.”75

Murray is a hugely important figure for contemporary Catholic politics and is the
subject of an intense custody battle between those who would invoke him for liberal and
conservative causes. Despite Neuhaus’s admiration for him, he wants to avoid one of
Murray’s missteps: “Murray looked to the mainstream Protestant tradition as an essential
ally. He may have been disappointed in that hope…”

Recall the incident of the Lutheran theologian from Germany who spent the day
with a group of Methodist ministers discussing various world and domestic
problems… “They kept talking about what ‘we’ had to do, how ‘we’ should
repent, and how ‘we’ must set things right. It was puzzling because most the time
I couldn’t tell who they meant by ‘we.’ Did they mean we Methodists, or we the
Christian church, or we Americans? But I finally saw that the ‘we’ is
interchangeable. Methodist, Christian, American—they are all the same thing!”
Therein lies both the strength and weakness of the mindset of mainline
Protestantism.76

---

74 Ibid., 69, emphasis added.

75 Ibid., 70-71. The pages where Neuhaus argues this are instructive, especially given the rhetoric
of his more recent arguments against judges “legislating from the bench.” It is interesting to compare his
critique of “revolutionary” language here with his use of it in Richard John Neuhaus, The End of

76 Neuhaus, Naked Public Square, 201, 212.
Yet two decades after this was written, it is remarkable how well it now applies to
conservative evangelicalism—not to mention how well, according to his critics, it would
apply to Neuhaus himself. Nonetheless, Neuhaus’ point is that Murray wrongly placed
his hopes in mainline Protestants. Neuhaus believes we can be more faithful to Murray’s
vision by also being more faithful to a certain interpretation of America’s founding
amalgam, and by doing so we can re-clothe the public square.

Neuhaus provides the following account of the founding. The American founders
taught a “tradition of Enlightenment liberalism.” This presumably refers to Locke.
However, “founders such as Madison and Hamilton were aware of the limitations of the
formal liberalism they propounded. They knew there was another tradition that spoke of
‘republican virtues’ and thought it very much the business of government to cultivate
such virtues.” He defines this other tradition as follows:

Compared to the instrumental cast of liberal thought, with its affinity for
mechanical metaphors of social life, the republican tradition has seen politics as
essentially the application of prudence, an understanding that relies on a sense of
practical reason missing from the liberal idea of rationality. Civil republican
thought derives from the political philosophy of classical antiquity, was
developed by the medieval Christian concern for individual dignity and universal
participation… As a tradition, it differs strongly from liberalism in its emphasis
on the values of politics as moral cultivation of responsible selves.

This is the ground of Neuhaus’ historical reading of the American founding. Christianity
can be successfully united with citizenship in America, so long as America is faithful to
its founding vision of republicanism amalgamated with liberalism. As he says, the
founders knew the limits of Enlightenment liberalism. Republicanism was the bearer of
religious values for this period. This is what has been lost; this is what makes the public
naked. Without its recovery, Christians cannot be good citizens for they are forced to
excise their most important sources of political thought from their politics. In the
following passage Neuhaus makes the connection between early American religious life
and republicanism explicit. Notice that even though the above passage states that republicanism “differs strongly from liberalism,” the two were not incompatible in American history, just as we observed via Zuckert and Pocock in chapter 4.

The peculiarity of the development of liberalism in America gives a unique texture to American liberal political thought. Because liberal ideas of politics became significant during the same revolutionary struggle against an identified despotism that also brought civic republicanism to the fore, liberalism in America had to absorb into its outlook a number of republican concerns. In addition, the unique religious climate of America meant that biblical religious language and organizations played an early role which reinforced rather than opposed the emerging political culture, so that American liberalism, unlike European forms, has not usually been hostile to religious teaching and practice. Still, religious language on the national political level has frequently served as a substitute for explicit republican language, diluting republicanism's coherence as an alternative to liberalism. 77

This analysis leads Neuhaus to a number of observations, which provide his own typology. First, in its purest form American liberalism excludes religion as much as is possible. “The perdurance and pervasiveness of religion is an embarrassment.” Neuhaus does not name them, but we can identify Richard Rorty and the early Rawls as examples. Second, religion is “tolerated” in politics, but is as much as possible limited to non-governmental institutions such as “churches, families, voluntary associations, and the like.” Clearly, Locke belongs here. Neuhaus finds this approach attractive; “its terrible flaw, however, is that it draws an unsustainable line between public and private.” 78

77 Both of the above block quotations are from Ibid., 136., quoting Sullivan, Reconstructing Public Philosophy, 21. Sullivan’s book is significant for a number of reasons. Neuhaus’s half-dozen or so references to it do not reflect its vital importance to his position. In addition, William Sullivan is better known recognized as the third partner in “Bellah, Madsen, Sullivan, and Swidler”—the four authors of Habits of the Heart. Sullivan supplies the historical grounding for Bellah’s civic religion. The introduction to Reconstructing Public Philosophy cites most of the historians from my chapter 4: Bailyn, Wood, Hartz, Pocock, and so on.

78 Neuhaus, Naked Public Square, 137.
Neuhaus believes the republican tradition he identifies above serves as an alternative to these two alternatives, the Rawlsian and the Lockean. America’s Christian republican heritage provides a way for religion to enter the public square, as Neuhaus believes it must. Unfortunately, most Christians, he believes, have accepted the Rawlsian or Rortian program of secularization. Recalling the passages quoted above from O’Donovan, Taylor, and Pangle, Neuhaus quotes Arendt to show that this thoroughgoing secularization is inattentive to the depth of the conflict between politics and religion or philosophy. She writes: “The hostility between philosophy and politics … has been the curse of Western statecraft as well as of the Western tradition of philosophy ever since the men of action and the men of thought parted company—that is, ever since Socrates’ death.” Neuhaus invokes Arendt in order to argue that Christianity has just as good a claim to ground politics as do the classics. “Both Aristotle and Paul … are religious.” Preferring the former over the latter “cannot provide a public philosophy that is democratically legitimate” because, as a point of history, it is “the Judeo-Christian” rather than “the classical” that informed America’s founding. Neuhaus thus presses for republican values—which he says were the founding-era bearers of religious values—to be reintroduced in public life. They provided America’s now-missing sacred canopy.

This much shows how Neuhaus reconciles civic and religious loyalties: a mediating public philosophy that is not explicitly theological provides room for religion in politics. Unfortunately, Neuhaus never provides a systematic explanation of how this fits into the founders’ vision. They depended on Enlightenment liberalism and Christian republicanism, but how did they relate they two? How were they made compatible? We

79 Ibid., 139-140. The Arendt quote is from Hannah Arendt, On Revolution (New York: Viking, 1963), 318.
saw that West provides a historical narrative within which Christianity accepts three
types of change that culminate in the union of good citizenship and faithful Christianity. Though
Neuhaus provides no such explanation himself, Michael Novak does. Fortunately for our project, he does so with careful attention to Locke.

To restate my earlier caveat, my linking of Neuhaus and Novak should not erase their differences. Nonetheless, they clearly do share the same position within my typology: the American experiment successfully reconciled Christianity and public life by amalgamating Lockean liberalism, republicanism, and Christianity.

Novak presents the founding as “two wings,” his metaphor for how politics and religion come to be harmonized in America: “On two wings the American eagle rose into the sky. On plain reason and humble faith.” He argues that today’s writers “clip the second wing.” They do not believe faith is essential for American life. In contrast, Novak provides extensive quotations from the founders seemingly affirming the opposite, always within the republican discourse advocated by Neuhaus above. In short, “Virtually

80 Michael Novak, On Two Wings: Humble Faith and Common Sense at the American Founding (San Francisco: Encounter Books, 2002), 27. Because my focus is on Novak’s interpretation of Locke, for the most part I set aside an important, but deeply troubling, aspect of Novak’s project. I cannot ignore it completely, however. Novak describes the faith of the American founders as “Jewish Metaphysics.” It is not clear that what he means by this is distinguishable from deism, but I think his intentions are laudable. Given eighteenth-century Christianity’s almost Marcionite aversion to the Old Testament, Novak seeks to emphasize Christianity’s dependence on God’s covenant with the people of Israel. Unfortunately, in Novak’s hands, this disintegrates into gross supercessionism. First, it obscures the anti-Semitic prejudices that, much to Christianity’s shame, were not uncommon in that era’s theology. We should be grateful for the exceptions but must be honest that the exceptions often confirm the rule. Better to be forthcoming about the moral failures of the past than to obscure them by claiming the founders espoused “Jewish Metaphysics” (or sometimes “Hebrew Metaphysics”—Novak uses the terms interchangeably seemingly unaware that there may be a difference). Second, when founding-era clergy, and Novak following them, refer to the United States as “God’s American Israel,” they violate the Hebrew Bible’s vision, turning their own nation into a kind of messiah, the bearer of God’s salvation. Such American messianism was not uncommon at the founding, but we should not pretend it is Jewish. See Nathan Hatch, The Sacred Cause of Liberty: Republican Thought and the Millennium in Revolutionary New England (New Haven: Yale University Press, 1977).
all the founders of the American Republic believed mightily that of all the philosophies and religions, the Jewish and Christian Religion is the best foundation for republican institutions.”81 If this is so, how could we ever have come to believe otherwise? As Novak asks, “Why do scholars today clip the second wing?” Part of the explanation is to be found in John Locke.

We saw that Neuhaus recognizes the potential tension between republicanism and Enlightenment philosophy such as is represented in Locke. Locke’s theory of rights, lacking innate ideas or an objective human good, could threaten to undercut some of the presuppositions about virtue and the political life upon which republicanism depends. Novak responds to this by two lines of attack: Locke was not the anti-Christian philosopher that some take him to be, but his influence on the founding was, at any rate, mitigated. As he somewhat cryptically puts it, “It is less true to say that America was Lockean … than that Locke was American.”82

What he seems to mean by this statement is that whatever Locke’s own views, his work did not appear to the founders to be incompatible with Protestantism. We observed as much in chapter 4, such as in Abraham Williams’ sermon. After considering the assertion by “some followers of Leo Strauss … that Locke used conventional Christian language in order to subvert it,” Novak responds that “it is equally legitimate to hypothesize that many in the founding generation used Lockean terms for Christian purposes.” In other words, the founders subverted Locke back to traditional Christianity. Thus “the content which at least some of the founders gave to the term [natural rights]

81 Novak, On Two Wings, 33.
82 Ibid., 7.
had more to do with what they learned from the Bible than with the content Locke gave to it.”

But surely the picture is not so simple as Novak would here lead us to believe. As we also saw in chapter 4, Locke’s influence extended to shaping how the founders and clergy interpreted Scripture. If they then sought to subvert Locke back to Scripture, but their reading of the Bible was Lockeanized, is not their de-subversion back to something new? Novak’s reasoning misses a crucial step. This is clearer when he quotes a sermon by the Unitarian Jonathan Mayhew in which Mayhew says that Americans learned to think about liberty from the Bible. But where, one wonders, did Americans learn to read the Bible?

Overall, Novak’s view of Locke is ambivalent. He recognizes a greater possibility for tension than West and Kramnick, yet he believes the founding solution is still successful. For example, recall that West interprets Locke as consistent with the natural law tradition of Plato, Aristotle, Cicero, Aquinas, and Hobbes. Novak says something similar, but subtly different: “The founders use Locke’s terms in more traditional ways, consistent with Hooker and Sidney, even Cicero, Seneca, and Aristotle.” Locke belongs in this genealogy but only vicariously. The founders make him part of the tradition for their own de-subversion of the Enlightenment. When they use the term law of nature, “they are not abandoning their Christian beliefs as Hobbes certainly did and Locke may have.”

---

83 Ibid., 180n34.
84 Ibid., 32.
85 Ibid., 36.
To this point, Novak seems skeptical of Locke and eager to emphasize the founders’ re-Christianization of his philosophy. But elsewhere he argues it is a mistaken interpretation to conclude that Locke needs to be de-subverted. For example, he insists that we must not overlook “the testimony of John Adams, Benjamin Rush, Alexander Hamilton, John Dickinson, and others of the founders, whose views on the course of natural rights are far more religious than those of Locke (narrowly interpreted).”86 But if Locke is not as religious as these founders when interpreted narrowly, should we conclude that interpreted properly, he is religious? Again, when Novak writes, “Lockean interpreters may have been nudging the country down the winding road to Gomorrah,” the blame would seem to fall on the interpreters, not on Locke.87

The central issue is the founders’ theory of rights, for which Novak considers three possible interpretations. He does so because he realizes that if he is to vindicate the founders’ solution as an authentic third way to relieve the ancient conflict between city and believer, their theory of rights cannot be at odds with Christianity.

Novak asserts, “the moral reasoning behind natural rights … is based upon a special concept of human dignity.” From where does this dignity derive? The first possible interpretation is provided by John Adams in both religious and philosophical terms. Religiously, humans possess dignity because they are “among the works of God.” Philosophically, dignity is found “in the constitution of the intellectual and moral world.” The second interpretation is that of Walter Berns: “The origin of free government in the modern sense coincides and can only coincide with the solution of the religious problem,


87 Novak, *On Two Wings*, 180n33.
and the solution of the religious problem consists in the subordination of religion.” The third is that dignity is found in equality following Zuckert’s interpretation of the Declaration via the Lockean state of nature.  

Clearly, Novak wants to reject Berns’ interpretation so as to vindicate Adams’ religious view. But Novak is also sympathetic to Zuckert’s interpretation, or at a minimum, he realizes he must come to terms with Zuckert. He essentially seeks to modify Zuckert’s interpretation by two observations. First, “before signing the Declaration of Independence, Congress added two further references to God, using names dear to the biblical tradition, ‘Supreme Judge’ of our consciences and ‘divine Providence.’” Second, Madison’s argument for religious liberty in the Memorial and Remonstrance provides an example of a theological argument for a particular natural right.

In light of this, Novak appears to be claiming that the founders’ natural rights were Christian because they took the unchristian argument of the Lockean Jefferson, connected it to certain names for God, and added Madison’s argument from religious duty. What this recipe produced, implies Novak, is Adams’ religious interpretation of human dignity in which we have rights because we are “the works of God.” Yet as Novak proceeds, he appears to be saying something different. Locke, and the Enlightenment generally, did not need these additions. They were already essentially Christian and the additions help us realize this. For example, Novak writes, “To the extent that the

---

88 Ibid., 78-79. Zuckert’s interpretation of the Declaration is summarized in 2.7.1, above.

89 Ibid., 80. It would take further evidence for Novak’s claim to be convincing that these terms are “dear to the biblical tradition” or that they add anything substantive to Jefferson’s original draft of the Declaration.
Enlightenment depends upon the principle of ‘created equal,’ it depends upon Jewish metaphysics and Christian faith.” Also, after quoting the workmanship paragraph of the *Second Treatise*, he concludes, “In those days, faith permeated philosophy and lifted it above its own limitations.”90

Novak then proceeds to summarize Zuckert’s “two foundings” argument, but does so for different ends than Zuckert.91 He grants that there is a lack of continuity between the Puritan and Enlightenment foundings, but attributes this to problems specific to Christians of the Reformation. “In form, substance, and language, the Declaration seems to break from the Protestant past… The question of development between 1620 and 1776 appears in a quite different light to Catholic thought.”92

This Catholic interpretation of the founding is necessary (again displaying his ambivalence to Locke by the change in tone) because of “the very flatness and insipidity of Locke’s ethical vision.” This allows Novak to supply a “religious interpretation of the founding,” by which he means a specifically Catholic interpretation. First, “this Republic rested upon the classical activities of reflection and choice—the very guts of the Thomistic vision of liberty.” Second, “this Republic took flight upon a relation between faith and reason that is quite congenial to Catholics, less so to many Protestants.” “Third, this Republic is open to the transcendent God.” Fourth, “American political culture

90 Ibid., 81-82.

91 See 2.7, above.

92 Novak, *On Two Wings*, 83-85, emphasis added. In support of which Novak cites the second-most-famous Lord Acton quote: Thomas Aquinas was “the first Whig.”
respects something like a Catholic vision of the proper religion between the natural
virtues and grace. Gratia non tollit sed perficit naturam, runs the Thomistic proverb."^93

To support this Catholic interpretation, Novak cites the affection of John
Courtney Murray and Jacques Maritain for America’s political tradition.^94 I above
observed Murray’s importance to contemporary Catholic political thought as
conservative and liberal Catholics alike invoke him as an authority. His most famous
work addresses specifically Locke and the American founding.\(^{95}\) Maritain is similarly
important for his religious theory of democracy.\(^{96}\) The role these thinkers play for
Neuhaus and Novak is now apparent. America’s founding solution is problematic insofar
as it departs from traditional teaching on natural law or rights in favor of a non-
republican Lockean theory ("Locke narrowly interpreted"). Protestant missteps such as
separating reason from nature and sola scriptura led to this. Novak and Neuhaus thus cite
Murray and Maritain to show that the American solution is redeemable. We need no long
hold to the notion that the only good state is the Catholic state.

Yet it is not clear that Neuhaus and Novak can justify the sort of conservative
politics they endorse via these thinkers. In other words, Maritain’s qualified endorsement
of American democracy comes with the assumption that it poses a kind of critical

^93 Ibid., 91-92. What is the aspect of American political culture that exhibits “the Thomistic
proverb”? It is the nation’s honor of civic virtues “without ceasing to honor prayerfulness and piety.” I am
not sure where this is found in American political culture, unless Novak is referring to the church-
government distinction of Locke’s Letter.

^94 Ibid., 85.

^95 Murray, We Hold These Truth: Catholic Reflections on the American Proposition, chs. 12-13.

^96 Jacques Maritain, Christianity and Democracy (New York: Scribner's, 1944), Jacques Maritain,
Man and the State (Chicago: University of Chicago Press, 1951). See also the bibliography of secondary
sources in Brian Stiltner, Religion and the Common Good: Catholic Contributions to Building Community
challenge to the founders’ solution. As Novak himself observes, Maritain once wrote, “neither Locke nor Jean-Jacques Rousseau nor the Encyclopedists can pass as thinkers faithful to the integrity of the Christian trust.” 97 But given such an unqualified condemnation, how do we redeem the American founding? Novak believes Maritain was insufficiently informed on the America. Perhaps he could have would have been positive otherwise. For example, Novak offers an apology for Maritain’s use of the term “workers”: this simply means “the poor,” and Maritain was unfortunately using “the vulgar Marxism current at the time.” Maritain came to politics too late in his life to fully appreciate the importance of the insights of modern economics. Further, “Maritain never grappled with such classics of American political economy as The Federalist, his fellow Frenchman Alexis de Tocqueville’s Democracy in America, or the writings of Abraham Lincoln.” 98 In short, Novak’s criticism of Maritain is that he is not American enough. But if this is so, how does he pose the sort of challenge to the founding that Novak had earlier claimed necessary?

In a phrase employed by both Novak and Neuhaus, America makes Christianity hospitable to good government by supplying a framework of ordered liberty. In historical terms, what they are referring to is republicanism. In the terms of contemporary liberal theory, they seek Lockeanism without Rawlsianism: classical liberalism without neutrality. 99 As the above pages show, they interpret the founding in a way that displays


99 Which, I suppose, is about as good a definition of neo-conservatism as one could hope for.
the harmony between Locke and republicanism, a harmony that they believe has been lost but which can be recovered.

Based on that interpretation, their reasoning runs as follows. A regime that is purely neutral or entirely procedural would pose grave conflicts of loyalty for the Christian citizen. Such a regime, for example, would demand legalized abortions whenever there is a plurality of opinions in society about the status of the fetus, and would require that those who oppose abortion not criminalize it until that plurality is replace by consensus. Yet Neuhaus believes this is an untenable position for a Christian. If that is how one conceives of citizenship, the “good Christian” cannot follow the same course as the “good citizen.” What is interesting about Neuhaus’s position—the reason it possesses a level of sophistication absent from West, for example—is its acknowledgement that this is a not implausible extrapolation from the Lockean theory of the founders. They believe it is a wrong extrapolation, of course, but they admit its legitimate place within the liberal tradition. You can get from Locke to Rawls. On a certain reading of Locke, one might conclude that “at the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.”

This recognition of tension leads to some of Neuhaus’s most valuable insights. For example:

---

100 This appears to be Rawls’ view. See John Rawls, Political Liberalism, Paperback ed. (New York: Columbia University Press, 1996), 243n32. Rawls later expands on this in order to respond to Michael Sandel’s charge that his position would not allow him to side with Lincoln against Douglas in their slavery debates. Interestingly, Rawls defends his position in part by appealing to John Courtney Murray’s essay on contraception in We Hold These Truths. See Rawls, "The Idea of Public Reason Revisited," 605-610.
[My concern with the Christian Coalition] is the conflation of Christian faith and political agenda. I have even spoken at the annual “Road to Victory” conference at the Coalition. I pleaded that, while there may be some welcome achievements from time to time, Christians are called to walk not the road to political victory but the way of the cross.101

Within the current liberal framework, Christians should be grateful when their religious convictions align with successful public policy. But they should certainly not expect this. They should not, in short, expect the sort of resolution of civic and religious life that Taylor suggests the American founders thought they had achieved.

However, Neuhaus often appears to be saying something quite different. He appears sometimes to believe that this tension only exists given the wrong interpretation of the founding. So long as the founders’ public philosophy supplements their Lockean liberalism, Christian faithfulness does align with American citizenship. Just as Neuhaus makes this argument via a republican read of the founding, Novak draws similar conclusions with his Catholic interpretation of the founding. Loyalties are reconciled so long as the founders’ (unwitting?) Thomism supplements their Lockean liberalism.

This level of republican critique against liberalism avoids certain of the theological pitfalls associated with West’s position. Religious authority need not be as individualistic, for example. Yet it has its own pitfalls, the most serious of which is its tendency to instrumentalize religion. The republicanism of the founding consistently makes religion a tool to support a certain political arrangement. This is apparent in the republican civil religion affirmed by Neuhaus in Naked Public Square and it is explicit in Novak’s interpretation of the founding. Novak even praises the quasi-Lockean (but

wholly instrumental) preamble that was added in an unsuccessful attempt to secure passage of Patrick Henry’s bill.\textsuperscript{102}

On reflection, perhaps this is but perhaps a subtler form of West’s arguments supporting religious doctrine with sociological evidence. The republicanism that saves Locke from Rawlsianism turns out to value religion for its social utility. Novak actually considers this charge and responds as follows:

Once when I was teaching for a semester at the University of Notre Dame, I noted posters advertising for student volunteers to give up their summers to help poor villagers put up housing in Central America. Designed by the university’s chaplain’s office, the largest lettering on some of the signs announced that such volunteering would be: THE BEST INVESTMENT YOU EVER MADE… Thus do chaplains even today present the act of generosity, solidarity, and pursuing the common good as an act of self-aggrandizement.

Facing a rugged, unsettled wilderness, the first Americans had much to accomplish, and little time to waste… No wonder the \textit{useful} gained value in their eyes, and seemed very near to the \textit{true} and the \textit{good}.\textsuperscript{103}

What Novak’s example overlooks, indeed obscures, is that such conflation of the useful and the good can alter one’s view of the good. This is especially true in a political context, where the contribution of religion to rights-securing is not an \textit{additional} reason to admit it to the public sphere. It is a necessary reason, without which its political role is unjustified. Even if the Notre Dame students responding to the posters have a miserable time in Central America, their time there is still justified by the houses they construct.

But from the political framework of the founders that Novak has endorsed, the utilitarian benefit is the only one under consideration. For Novak’s analogy to be effective, he

\textsuperscript{102} Novak, \textit{On Two Wings}, 40-41. This amendment to Henry’s bill was described above, 2.1.

\textsuperscript{103} Ibid., 102-103.
would need to show that the founders had a stronger conception of the common good than most readers detect in them, or in Locke.

More gravely from a theological perspective is how valuing religion for its utility shapes believers, churches, and even theologians. On this point, Pangle is precisely on target when he shows the influence of Locke in the founders’ “eclipse of the intellectual virtues” and their praise for the active virtues.¹⁰⁴ It would be difficult to dispute that American theology and church-life has not been shaped by this instrumentalization. Paul Griffith’s argument on the distinction between civil and sacramental marriage is a helpful example of problems that can arise from the type of reasoning Novak endorses. It is precisely by trying to make civil marriage law mirror sacramental law, when doing so fully is impossible, that has led lay Catholics to equate their definition of sacramental marriage with that of the civil law.¹⁰⁵

A final potential question to be put to this position is whether it maintains the tension that their Catholic heroes, such as Murray and Maritain, perceived in America. Maritain, as we saw, is faulted for not being American enough. Murray does speak of a “public philosophy” in language very much like Neuhaus, but whether this should lead to Neuhaus’s conservative politics is a matter of much dispute among Catholics. An interesting way to evaluate this question is by reference to the work of Brian Stiltner, who also seeks to bring Maritain and Locke together. Rather than make America hospitable for Christians via a republican public philosophy, he does so via common good theory, which he argues serves as a bridge between liberalism and communitarianism. Stiltner’s

¹⁰⁴ Pangle, Modern Republicanism, chs. 8-9.

argument is more theoretically sophisticated than Novak’s or Neuhaus’s. It also differs from their approach, and from my own, in that he focuses less on America’s founders and more on contemporary liberal theorists such as Rawls and Sandel. Yet his careful treatment of Locke shows that he is historically sensitive in a way that other liberal theorists sometimes fail to be.

When Stiltner writes of liberalism and communitarianism (which he links via common good), he roughly has in mind what I have been calling liberalism and republicanism. His interpretation of Locke rightly rejects the oversimplified libertarian view. He writes:

Locke’s political thought is committed to a substantial common good, based on the notion of trust as the foundation of civil society. Locke’s liberalism has both strong communal and strong egalitarian aspects… On the other hand, there are time-bound and problematic parts of Locke’s liberalism that require corroboration and supplementation.106

Stiltner is certainly right to reject a libertarian interpretation. Indeed, the republican interpretation can legitimately go even further in this direction. Yet Stiltner’s focus on trust and common good as central to Locke appears surprising in light of our own investigation. He concludes, “In his view of trust as the basis of society, Locke comes closer to the philosophy of Thomas Aquinas than to that of Calvin.” Thus, he defines common good in Locke: “The common good is a social consensus in favor of a democratic form of government, constitutional protection of individual liberties, and social norms such as toleration and honesty.”107 While this is a not implausible read of

106 Stiltner, Religion and the Common Good, 18, 23.

107 Ibid., 23. Our focus has not included a detailed examination of the common good in Locke, but a brief comment on Stiltner’s linking him with Aquinas. Locke almost entirely avoids the phrase common good. Except for when quoting other thinkers (Cumberland, Hooker), he uses it only once in his published works, where he equates it with the government’s responsibility to “secure every one’s property, by
Locke’s theory, should it not strike us as odd that such a definition does not even mention rights? None of this necessarily makes Stiltner’s interpretation invalid. Yet the concept of rights is indispensable in understanding Locke, including what he means by the common good. From Locke’s perspective, when there is a dispute about what the common good consists of, the only available standard for common good is individual rights.

Our primary interest in Stiltner is how, despite sharing all of the key ingredients with Novak, he arrives at a different end product. They both combine a “republican” Locke with Maritain, and they do so self-consciously as Catholics. Yet, as is well known, Novak’s (and Neuhaus’s) opinions on specific policies align with the characteristic religious conservative positions: opposition to abortion and gay marriage, generally supportive of free market capitalism, and so on. In this regard, their position on the ideological spectrum is not significantly different than Thomas West’s. By contrast, Stiltner’s position is less overtly conservative, especially on economic issues. Arguing against Ralph McInerny and Novak, respectively, he writes, “Maritain is neither the strong critic of liberalism suggested by some conservative Catholic interpreters nor the

providing against those three defects” of the state of nature (Second, 131). His preferred phrase is public good, which in the Latin Letter appears as publicum commodum rather than Aquinas’s bonum commune. Locke’s use of the phrase as the standard of lawmaking (only that which serves the public good may be a law) may be one of those cases where he depended upon the ambiguity of the phrase in the minds of his readers.

Though absent from this definition, Stiltner of course mentions rights elsewhere. It appears that he is at pains to avoid even a hint of the proto-capitalist Locke. As if to confirm this, he even seeks to soften the individualistic implications of Locke’s statements about the origins of money.

For example, see the remarkable interview in which Stiltner more or less “repents” for originally supporting the second Iraq war. Kim Lawton, “Interview with Brian Stiltner,” Religion and Ethics Newsweekly, 24 March 2006, episode no. 734 (http://www.pbs.org/wnet/religionandethics/week930/interview4.html).
champion of liberal capitalism that Catholic neoconservatives might want him to be."110

The reason Stiltner can arrive at a different conclusion given such a similar starting point
as Novak seems to lie in how Stiltner allows Maritain’s critical distance to American
politics to stand, while Novak criticizes Maritain’s lack of familiarity with the
founders.111 This is emphasized nicely by how Stiltner emphasizes Maritain’s friendship
and correspondence with Chicago neighborhood activist Saul Alinsky.112 Stiltner’s
politics are thus closer to someone like David Hollenbach than Novak or Neuhaus.113

What is worth noticing for our purposes is that positing a Lockean solution to the loyalty
problem cuts across the political and the ecclesiological spectrums.

In terms of evaluating Stiltner’s project, the fact that he lets stand Maritain’s
critical purchase on America could alleviate some of the theological problems identified

110 Stiltner, Religion and the Common Good, 86.

111 Though as Stiltner points out, Novak in one place concedes, “I would be delinquent if I did not
at least mention that the consonance (and serious disagreements) between Hayek’s work and such works of
Jacques Maritain as Man and the State and The Person and the Common Good cry out for systematic
attention.” Novak, Free Persons and the Common Good, 86. For a more rigorous attempt to examine where
economic theories such as Locke’s, Hayek’s, and Aquinas’s align and diverge see Mary L. Hirschfeld,
"Standard of Living and Economic Virtue: Forging a Link between St. Thomas Aquinas and the Twenty-

112 Stiltner, Religion and the Common Good, 125-126. Alinsky is no friend to the economic theory
of Novak and is frequently critiqued in Neuhaus’s monthly editorial in First Things (see issues 33, 66, 92,
95, 122, 154). Interestingly, when Stout challenged Hauerwas to prove he was not a sectarian by
identifying actual political approaches with which he was sympathetic, Alinsky was among the first names
he mentioned.

113 Hollenbach himself could have served as an interesting representative within this chapter were
his treatment of Locke not so brief. Although his work is primarily theoretical rather than historical, I
believe it does depend on implicit historical premises, and the occasional places he mentions the historical
figures are clues to this. What he says in those places is wonderfully characteristic of the ambivalence
toward Locke and the American founders that we have seen throughout this third level of critique. For
example, “This is not to make a revisionist historical claim that Locke or Jefferson held the view of rights
proposed [by the U.S. bishops. But they ought to have].” David Hollenbach, "A Communitarian
Reconstruction of Human Rights: Contributions from Catholic Tradition,” in Catholicism and Liberalism:
Contributions to American Public Philosophy, ed. David Hollenbach and R. Bruce Douglass (Cambridge:
Cambridge University Press, 1994), 139.
above with Neuhaus and Novak. Yet precisely insofar as he avoids those problems—insofar as he lets the Maritainian tension stand—he risks pulling apart an interpretation of Locke that had sought to please everyone, but may ultimately please no one. This is a concern expressed by Jean Porter in her review of Stiltner’s book:

> There is another difficulty, however, with this approach, considered specifically as a third alternative to liberalism and communitarianism: Stiltner seems to assume that Maritain’s approach will be attractive to proponents of both positions, because it offers something for each; but to this reviewer it seems at least as probable that this synthetic approach will offer something to alarm and offend each, without reassuring either.114

Such are the pitfalls of this third level of critique.

5.4.2. A Reformed Republican Interpretation: Wolterstorff & Witte

Just as Novak and Neuhaus mitigate the problematic aspects of Locke and the founders’ politics via the Catholic tradition, Wolterstorff and Witte do so via the Reformed tradition. I include both thinkers rather than just one because they complement each other so nicely: Wolterstorff provides careful, analytical study of Locke, while Witte’s work focuses on Calvinist Puritan voices in the founding. They also have surprisingly similar opinions on many specific political questions. Further, they both see the concept of rights as invaluable for the Christian tradition and invoke this regularly in their work. They were both educated in the Dutch Reformed tradition at Calvin College. Though both remain theologically conservative, they are generally (though not always) to the political left of many of their fellow conservative believers. But as with Novak and

---

Neuhaus, we should be careful not to make too much of their similarities; I consider them together because they fit a single type, but no doubt they disagree at points.

Wolterstorff and Witte are interesting and important for yet one further reason. As I have been arguing throughout, Christians—as well as outside observers of Christianity—could gain special insight into today’s political theologies by understanding those theologies as premised upon different interpretations of Locke’s reconciliation of Christian and civic loyalty. The Traditionalists reject the possibility of Locke’s success out of hand, though they do so by interpreting Locke as either a pseudo-Hobbes or a proto-Rawls. The other positions considered above affirm this possibility to varying degrees and with varying emphases. Witte, but especially Wolterstorff, are more attentive to the theological pitfalls of Locke’s solution than the other non-Traditionalists. Novak and Neuhaus’s mitigation of Locke’s influence via public philosophy, Maritain, and Catholic thought generally tends to be nominal. But Wolterstorff and Witte’s mitigation of Locke via Puritanism, Abraham Kuyper, and Reformed thought generally is more substantive and presses them slightly closer to the Traditionalists.

Indeed, Wolterstorff’s Christian critiques of liberalism have elicited censure from some of his fellow philosophers. The fear is that he is too disparaging of, in Philip Quinn’s wonderful phrase, “Johannine liberal theory”—that is, the liberalism of John Locke and John Rawls. As Quinn puts it, “According to Wolterstorff, many Christians cannot be good liberals if being a good liberal involves accepting the practical consequences of these theories.” Wolterstorff’s concern is that insofar as liberalism

maintains what he calls its *independent-basis* position, it treats Christian citizens unfairly by requiring them not to base their political action (speech, voting, and so on) on religion. All citizens must “base their political debate in the public square, and their political decisions, on the principles yielded by some source *independent of* any and all of the religious perspectives to be found in the society.”\(^{116}\) Rawls argues for this via his concept of public reason; for Locke it is an epistemological constraint. But this is unfair, says Wolterstorff, and “let it be added that I am not unique in my refusal on religious grounds to divide my life into secular and religious components.”\(^{117}\) Wolterstorff provides a forceful argument against the notion that Christians must not use religious reasons within politics. Not only forceful, but also in at least one case successful: it was in part his argument that prompted Rorty’s change of mind on this question.\(^{118}\)

How did Locke’s attempt to harmonize Christian and civic obligations lead to a proposal that, at least from Wolterstorff’s perspective, does the opposite? “The irony, of course, is that a doctrine born out of religion should be turned by Rawls and his cohorts against that which gave it birth!”\(^{119}\) In his book on the *Essay*, Wolterstorff argues that this originated in the epistemological constraints Locke placed on certain beliefs, especially on those of “maximal concernment,” which are primarily religious and political beliefs. On such matters, everyone is obligated to do her best to uncover the truth. This is what

---


\(^{117}\) Ibid., 176.


\(^{119}\) Wolterstorff, "Why We Should Reject," 168n5.
Locke has in mind with his common phrases such as “getting to the things themselves” and “listening to the voice of Reason.” We may not simply accept what others tell us. Locke’s proposed epistemological practice “circumvents tradition.” But this requirement did not always make things unacceptable for the Christian in Lockean politics:

As long as the Lockean practice was widely thought to yield a substantial rational religion, along with rational evidence for the reliability of the Christian scriptures, American religious leaders were relatively content with liberalism. That was the situation throughout the nineteenth century. It was when skepticism on those scores began to spread—impelled especially, in my judgment, by the emergence of Darwinian evolutionary theory and the rise of biblical criticism—that tensions began to mount between religion and political liberalism.\(^{120}\)

One gets the impression that even though these “religious leaders” initially accepted the Lockean solution, Wolterstorff would have disliked it from the beginning. Certainly he does not reject out-of-hand Darwin or biblical criticism. What Christians are to make of these particular developments, or whether Wolterstorff is correct in connecting them to the gaps in Locke’s solution, need not overly concern us. All of this could easily lead to the conclusion that Wolterstorff is thoroughly opposed to Locke’s solution. Liberalism is unfair to Christians. Locke “circumvents tradition” and demands we do the same. Consider the final page of his book on Locke.

Locke’s proposal will not do. Our problems with traditions remain, however. Traditions are still a source of benightedness, chicanery, hostility, and oppression. And our moral, religious, and even theoretical traditions are even more fractured today than they were in Locke’s day. In this situation, examining our traditions remains for many of us a deep obligation, and for all of us together, a desperate need. But we shall have to acknowledge what the thinkers of the Enlightenment would have found appallingly unpalatable; namely, that examination of tradition can take place only in the context of unexamined tradition, and that in our examination, our convictions as to the facts are schooled by our traditions. The thinkers of the Enlightenment hoped to bring about a rational consensus in place

\(^{120}\) Ibid., 170.
of fractured tradition. That hope has failed. In my judgment it was bound to fail; it could not succeed.

Perhaps good Christians cannot be good liberals. Ought I not to have located Wolterstorff with the Traditionalists above? But Wolterstorff, it turns out, is no Traditionalist.

Following the above paragraph he ends the book with one final thought.

Yet we must live together. It is to politics and not to epistemology that we shall have to look for an answer as to how to do that. “Liberal” politics has fallen on bad days recently. But to its animating vision of a society in which persons of diverse traditions live together in justice and friendship, conversing with each other and slowly altering their traditions in response to their conversation—to that, there is no viable alternative.¹²¹

To liberalism, or at least to a certain vision of it, there is no alternative—for we must live together.

Wolterstorff’s ambivalent support for liberalism proceeds along two lines. First, he detects even within Johannine liberalism (or, at least within the First John) genuinely Christian insights. One of his chief objections to separating religious and political life is that it threatens the weakest members of society. Scripture’s relentless prophetic voice on behalf of the poor ought to inspire the Christian to be such a voice toward her own government. He describes how he typically argues for this in conversation: “Then I will move on to the Christian tradition, where I will highlight a large number of ringing passages about the rights of the poor qua poor. I will observe that the tradition was still alive in John Locke—where I, at least, would have expected it to be dead. (See his Second Treatise, 135).”¹²² Wolterstorff is reassured by this paragraph from the Second

¹²¹ Wolterstorff, Ethics of Belief, 246.

¹²² Wolterstorff, "Why We Should Reject," 163. If he is surprised that Locke maintains a tradition that demands duty toward the poor, what did he expect Locke to look like? He tells us plainly: “I submit that the domestic ideology of the Reagan ‘revolution’ has been Lockeanism in as pure a form as we are likely to see in practical politics.” Nicholas Wolterstorff, "Has There Been a Reagan Revolution in Theology?" Christian Century 105 (1988): 284.
Treatise because he discerns in it a positive duty of the better-off toward the poor, where, he says, he would have expected to find only a negative right.123 This is indicative of a larger characteristic of liberalism, one that Wolterstorff believes Christians have good reason to support: liberalism is committed to avoiding “the great evil of having one’s personhood seriously attacked or invaded.”124 Such examples from within Johannine liberalism mitigate those points at which Wolterstorff finds it troubling.

Second, the liberalism now dominant in America is a distorted, overly secularized version of the tradition. Even our history of liberal political thought is an overly secular narrative. For example, it de-emphasizes the Puritan voices of the founding in favor of “the Virginians.” States such as Massachusetts, and leaders such as Adams, related religion to government differently than did the Jefferson and Madison. Wolterstorff believes a more helpful reconciliation of church and government could be found in those more moderate voices. From Wolterstorff’s perspective the person who best represents that alternative tradition, however, is not from Massachusetts, Virginia, nor even America. It is the Dutch theologian and prime minister Abraham Kuyper.

We can understand Kuyper’s appeal for Reformed thinkers such as Wolterstorff not only because of his Calvinist theology, but also because of the context in which he

123 He discusses this in more length, and in comparison to Aquinas and John Chrysostom, in Nicholas Wolterstorff, "Has the Cloak Become a Cage? Charity, Justice, and Economic Activity," in Rethinking Materialism: Perspectives on the Spiritual Dimension of Economic Behavior, ed. Robert Wuthnow (Grand Rapids: Eerdmans, 1995).

thought and wrote. Adams may have been a helpful alternative to Jefferson among the founders, but his context was much less pluralistic than today. The gaps in the Lockean solution had not appeared in his time. Once they did, says Wolterstorff, the secular statement of the Lockean solution became dominant. Kuyper took this pluralism for granted and did not seek to avoid it. Given this, Kuyper’s starting point is not so different from that of the two Johns:

Accordingly, as with John Locke in the late seventeenth century and John Rawls in the late twentieth, one of the fundamental questions around which Kuyper’s thought … revolved was this: how can people of diverse worldviews, religious and otherwise, live together in peace and justice within the same polity?

Unlike Locke and Rawls, Kuyper’s answer to this question did not involve trying to find some body of principles that as a totality is ample for settling at least the basic political issues that confront us… Kuyper broke at this point with classic liberal theory.\(^{125}\)

The precise ways in which Kuyper broke with liberal theory are too complex to describe here.\(^{126}\) Our concern here lies with the two insights for which he is most famous today: sphere sovereignty and worldview.

Early in his career as a pastor, Kuyper concluded, “the essence of the authentic Calvinist tradition was not so much a body of theological doctrine as a certain Weltanschauung, a world-and-life view… Calvinism is a world-and-life view in competition with other such views.” Such a worldview was especially at odds with modern politics.

---

\(^{125}\) Wolterstorff, "Abraham Kuyper," 299.

\(^{126}\) Among the most interesting is Kuyper’s view of shared learning within the academy, which Wolterstorff contrasts to the “Lockean picture of the academy,” showing Kuyper to be in certain respects proto-postmodern. Also interesting is how Wolterstorff says Kuyper modifies Augustine. What Wolterstorff says here shows that his own analysis of Augustine may have changed from what he wrote in Wolterstorff, Until Justice and Peace Embrace, ch. 1.
Given Kuyper’s understanding of the character of their religion—not just theological convictions but a “comprehensive perspective,” to use John Rawls’s phrase—what was required was not just the relatively narrow space necessary for freedom of conscience and worship, but the much broader space necessary for them to live out their world-and-life view.127

This does not lead Kuyper to reject the basic freedoms associated with the liberal polity, but it does lead him to reject classical liberal theory. Essential to the Calvinist political worldview was Kuyper’s doctrine of sphere sovereignty. He taught that the various expressions of human life—art, business, technical skill, family, trade unions, and so on—each belong to its own sphere, and that sphere possesses authority to command within its own domain. The state is also a sphere and legitimately exercises authority within but not beyond its domain. Unlike Locke’s distinction between religious and civic life, Kuyper’s spheres are organic; one assumes that their domains of authority will vary at points. Thus there is no possible definition available in advance that defines a sphere’s domain.

Thus described, Kuyper would appear to pose a strong rebuke of the attempt by Locke and the American founders to harmonize religious and civic loyalties. However, Kuyper’s attitude toward America is complex and disputed. He toured the country and spoke often about its politics. His most famous lectures were given not in Amsterdam, but at Princeton. He saw his own political views as directly opposed to the French Revolution, but praised the American. And yet he had nothing but harsh words for Jefferson, whom he saw as too fond an admirer of the French Revolution.

This ambivalence toward America has led a number of American Christians, including Wolterstorff, to appropriate Kuyper as response to overly Lockean-Jeffersonian

politics. The appeal Kuyper holds for certain politically conservative Christians should be obvious. The notion of worldview is essentially a public philosophy, such as that invoked by Neuhaus, under a different name. The fact that Kuyper’s thought also defines the family as a sovereign sphere is doubly attractive for those concerned with the decline of “family values.” Indeed, there is an entire Christian subculture built around how the concept of worldview is the key to understanding and “winning” the culture wars. Wolterstorff invokes Kuyper for a different political end, but the inspiration is similar. In today’s terminology, what Kuyper provides via worldview and the spheres is a thicker concept of the good with which liberal theory can operate. For Kuyper’s more politically conservative American fans, he provides precisely what Maritain and republican public philosophy provide to Novak and Neuhaus: an amendment to Locke that makes the founders’ solution successful.

As mentioned above, Wolterstorff lets a greater tension stand between the citizen and the Christian, and thus he is careful not to imply that a Kuyperian state would be fully successful in reconciling loyalties. However, his hesitancy is very much in the minority among those who invoke Kuyperian themes within American politics. Curiously, this highlights one further similarity between the different appropriations of Kuyper (by Calvinists) and Maritain (by Catholics). As we saw, Novak implicitly criticizes and even tries to explain away Maritain’s use of Marxist language. Kuyper used

such language too, perhaps more so. In one place Wolterstorff lists a series of quotes from Kuyper that, were the reader not told in advance, would most likely be mistaken for passages from a twentieth-century liberation theologian, or even Marx himself.\textsuperscript{129} Wolterstorff provides these quotes not as an apology, but as marks in Kuyper’s favor.

What can we conclude from Wolterstorff’s appeal to Kuyper and his analysis of Locke? As I remarked above, it could easily appear that Wolterstorff belongs with the Traditionalists on the ground that his criticism of liberalism is too strong. “Yet,” he says, “we must live together.” Liberalism’s animating vision is the only available alternative for political life. Wolterstorff believes the Christian can take hope in American liberalism because of its historical connection to Calvinist thought via Puritanism. A Kuyperian rather than a Johannine liberalism is one the Christian may embrace. As if to emphasize this, and to distance himself from one Traditionalist in particular, he describes Kuyper’s view of citizenship as follows. It is clear that it is a view Wolterstorff shares.

Christians are not resident aliens vis-à-vis the government of Holland or the United States; they do not carry green cards. They are citizens; they carry passports. Christians have dual citizenship. They are all, in the modern world, citizens of some state and also citizens of the institutional church. In Kuyper’s own words, “It is one and the same I who is a citizen of the country and a member of the church.”\textsuperscript{130}

We must be clear that in saying this Kuyper was not affirming the grand reconciliation of loyalties that Locke believed he had found. Neither is Wolterstorff. And yet when Kuyper comes to America—when he is invoked as part of a “search for an American public philosophy” (as the title of one book puts it), and when his spheres become “mediating

\textsuperscript{129} Wolterstorff, “Abraham Kuyper,” 297. This does not make Wolterstorff a liberation theologian. See the chapter “Lima or Amsterdam” in Wolterstorff, \textit{Until Justice and Peace Embrace}.

\textsuperscript{130} Wolterstorff, “Abraham Kuyper,” 307.
structures” to buttress civil society—that is very often what he becomes. Christian and civic loyalties can be harmonized if Locke is amended with Kuyper. What are the problems in Locke that Kuyper is employed to overcome?

To American Christians who would invoke Kuyper today, Locke fails for his too libertarian liberty. Kuyper’s followers, as well as Kuyper himself, see Locke’s rights as closer to the “liberal” (or in Kuyper’s terms, Enlightenment) interpretation. They are areas of immunity that prescribe duties only of restraint. This is insufficient, for a healthy civil society depends upon a broader set of duties. Locke is also believed to need amendment for the too thin pattern of reasoning he allows to political thought. For good Calvinist reasons, Kuyper could agree with Locke that there are serious problems with natural law reasoning that presumes an objective *summum bonum* knowable by all. If we limit political reasoning to principles that *all* reasonable people will affirm, Locke’s rights and contract is what we would expect to result. But Kuyper rejects this limitation. Politics requires not a contract among humans, but a covenant between humans and God. Included in this for Kuyper would be his sovereign spheres. They are an essential part of political reasoning. By limiting political reasoning to only two spheres—the individual and the state—Locke has cut off from access too much that is needed.

In principle, some of what Kuyper wants to add to the Lockean solution could be gained without reaching too far outside that solution. As we have seen, republican interpretations of Locke find room within his work for broader duties on the ground that such duties are *ultimately* required to secure rights at all. Nor would those historians who emphasize Locke’s Calvinist heritage be surprised to see Locke’s politics as covenantal. However, for the most part this is not the interpretation offered by Kuyper or his followers. They take a different path. *Locke is amended by emphasizing the Puritan role in defining American liberty.* To examine this, we can now turn from Wolterstorff’s
analysis of Locke and Kuyper, to Witte’s placement of the two within early American history.

According to Witte, Kuyper admired America for its “ordered liberty” and “ordered pluralism.” For such praise Kuyper sounds at points remarkably like a Protestant Tocqueville. The emphasis on order protected America from an excessively “liberal” liberty. Unfortunately, Kuyper thought that the “Calvinist origin and orientation of the American experiment was in danger of being lost on America, and needed to be restored if America was to live up to its promise.”\(^{131}\) Thus we can see that Kuyper was himself a Christian critic of liberalism, calling it back to its true Puritan roots. As Witte concedes, “Kuyper’s insistence that Puritan Calvinism was the driving intellectual force of the American experiment is vastly overstated.”\(^{132}\) Granting that, Witte does his best to bolster what he sees as correct in Kuyper’s assessment.

As we move into Witte’s argument, we must be clear about the role Kuyper plays for him. Kuyper is not essential to Witte’s larger claims; he is an exemplar. He represents a perspective that Witte would affirm even independently of him. Kuyper is one manifestation of what should be a more common mode of thought, if only we were attentive enough to discern it. That perspective runs basically as follows, and it is Witte’s career project to elucidate its differing facets. As we should by now expect, it takes the form of a historical narrative.


\(^{132}\) Ibid., 251.
By attention to the relation of law and religion in history, we can discern “a distinctive Western legal tradition—rooted in the ancient civilizations of Israel, Greece, and Rome.” This tradition is brought into focus when history is viewed though “the binocular of law and religion.”

This Western legal tradition was nourished for nearly two millennia by Christianity and for more than two centuries by the Enlightenment… The precise shape and balance of the Western legal tradition at any period has been determined, in part, by the Western religious tradition.

Four major religious shifts have led to significant shifts in the legal tradition: the Christianization of Rome, the papal revolution of the eleventh to thirteenth centuries, the Protestant Reformation, and the Enlightenment.\(^\text{133}\) Especially since the Enlightenment, however, we have failed to attend to the interaction of law and religion, which is unfortunate as each could learn from the other and both are ill served by ignorance of the relation. “Though these recent secular movements have removed most traditional forms of religious influence on Western law, contemporary Western law still retains important connections with Christian and other religious ideas and institutions.”\(^\text{134}\) The primary vehicle through which this tradition has been spread is the language of *rights*. That is its native language.

But what of law and religion *in America*? “The Puritan, evangelical, Enlightenment, and Republican traditions together helped to forge America’s essential rights and liberties of religion.” With regard to religious liberty, America’s history “was driven by competing Protestant and Enlightenment understandings of church and

\(^{133}\) Witte, *God's Joust*, 8.

\(^{134}\) Ibid., 26.
The Christian background is at least as influential in early America as secular sources and an awareness of this fact ought to be recovered. Again echoing Kuyper, its genius is in danger of being lost if the Christian contributions to it are disregarded. The problem is exacerbated by “liberal individualism, the regnant political philosophy of our age.” On this point, he says, Rawls and Nozick agree, “government should be morally neutral, showing no preference among competing concepts of the good.” This commitment to neutrality is one of liberalism’s “vices” and underlying it is moral relativism.

The key American figures in recovering a prior, healthier liberalism are the Puritans, with their covenant-based politics, and John Adams as a counter-example to Jefferson. The Puritans’ Calvinist theology envisioned politics as a covenant between humans and God. Though ecclesial and civil power were distinguished, religion had a strong public presence. Adams praised Puritan thought against the “ridicule” and “ribaldry” of the “new lights” of his day. For Adams, the Puritans represented a happy blending of religious liberty and a moderate governmental promotion of religion. Adams believed that religious and civic life could be harmonized within a framework of “one public religion” that tolerated diverse “private religions.” Both Adams and Puritans demonstrate that, on church-state issues, the founding was closer to republicanism than typically assumed.

---

135 Ibid., 27.
136 Ibid., 289-290.
138 Witte, God's Joust, 157.
This, then, is Witte’s argument. The tradition of Western law and religion achieves the greatest coherence when it attends to the contributions of each. Thinkers such as Kuyper saw this, and the tradition was alive in the political thought of Adams and the Puritans. Witte even expresses hope for a renaissance when he observes similar arguments in a series of recent Supreme Court opinions by Clarence Thomas.¹³⁹

Where does Locke fit into this picture? Locke is a republican too—of a sort. Though he carefully distinguishes civic and religious domains in the *Letter*, “Locke did not press this thesis to radical conclusions.” He assumed law would generally reflect “conventional Christian beliefs and practices.” Nor did he oppose a limited establishment.

Locke strengthened these qualifications even more in his theological writings—arguing in his volumes, *The Reasonableness of Christianity, Essays on the Law of Nature*, and *Thoughts on Education* for the cogency of a simple biblical natural law and endorsing in his several commentaries on St. Paul’s epistles the utility of a moderate Christian republicanism.¹⁴⁰

To be sure, Locke was first and foremost an Enlightenment thinker, and Witte always acknowledges as much. Yet he also seeks to show Locke’s continuity with the Reformed teachings of his day. He did, after all, write the *Letter* in Amsterdam! Protestant and Enlightenment thinkers both transmitted and translated Locke views of church and state as part of the American experiment. Thus, in spite of the strands in Locke that made him appear attractive to later “Enlightenment” liberals, from Jefferson to Mills to Rawls, there are also strands that rightly made him attractive to Protestant and republican liberals.


¹⁴⁰ Ibid.: 27.
This argument fits fairly typically with the pattern we have seen in other thinkers studied in my typology. Locke is interpreted as at least open to a republican interpretation, though as potentially too given to the excesses of the Enlightenment. If we emphasize those aspects of liberal thought preferred by thinkers such as the Puritans, Adams, and even Kuyper, we can rightly relate Christian and civic obligations. Witte’s argument is sophisticated, subtle, and well argued. Particularly interesting from our perspective is how his insistence on a single Western tradition of law and religion challenges a narrative such as Charles Taylor’s, in which religious and political life were in competition. This has the advantage of allowing Witte to paint a more nuanced portrait of the subjects we have been studying. However, it has the disadvantage of potentially glossing over important disagreements. Thinkers who have something at stake in seeing the Enlightenment as a decisive watershed in human history, either pro or con, may find this unsatisfactory. This is all the more important because some of the very thinkers that Witte invokes do not see Western thought as a single, evolving tradition. In other words, Witte’s vision of a single tradition is not shared by many of the American thinkers he locates within it. Locke, Adams, and Jefferson, and arguably the Puritans, all portrayed the history of church and state as a great eschatological battle, of which they were the culmination.\footnote{141}

Bringing Wolterstorff back to the stage, he and Witte believe that if American politics are open to the religious believer—if good Christians are to be good liberals—the two must be related as in Kuyper’s thought. They believe that something of the

\footnote{141 It does not of course falsify Witte’s thesis if some of the thinkers he employs as evidence deny his thesis. Witte could respond that they were unaware of the role they played, and that the single Western tradition marches on in spite of their objections. Yet this is a curiosity Witte ought to engage.}
Kuyperian perspective can be found in certain founders, like Adams, who were able to share in the American founding without abandoning what was good in the Puritans in favor of what was bad in Locke. What they value in these thinkers, even in Locke when they can find it, are the common republican themes we have been tracing throughout our study. In concrete terms, this leads them to value a greater public role for religion, which for them translates to strong support for the disadvantaged as well as protection of the environment—issues which, for them, are closely tied to and supported by religious life.

Wolterstorff is also known for his strong opposition to the former regime in South Africa (significant because of his Dutch Calvinist heritage), as well as advocacy on behalf of Palestinians (significant because their plight is so often ignored by theologically conservative Christians). As we saw above, Wolterstorff believes there is a direct path that leads from Locke to Rawls, and that this threatens his ability to pursue these causes on a theological basis, which as a Christian he believes is their proper basis. Yet he also believes a counter-tradition might be cultivated, one already present in the non-Virginian founders, one that is more “republican” Lockean and less “liberal” Lockean.

The difficulty with the counter-tradition argument is this—again taking Kuyper’s as a model of the sort of challenges one would raise. Either the counter tradition will interpret Kuyper away from the founders, so that his thought becomes so foreign to their solution as to make it unacceptable as a “third way” of relating church and state. Or it will interpret Kuyper in line with the founders in which case we are back with all of the interpretive difficulties and “gaps” we have been studying throughout. We can discern from Kuyper’s criticisms of Locke and Jefferson how radical a challenge he believed his political thought posed to theirs. His worldview and sphere-based theology proceeds from a wholly different basis, with different presuppositions, and different patterns of reasoning. Alternatively, if we de-emphasize these critiques, calling to mind instead his
positive comments on America’s Puritan heritage, it does not seem relevantly different from other broadly republican interpretations of the founders. That is, it does not seem to avoid what Kuyper believed needed to be avoided in Locke. We can see this best in Witte’s appeal to John Adams.

Witte’s emphasis on Adams represents a common argument among certain Christians who share his “republican” interpretation of the founding. The Madison-Jefferson story of the founding is biased, they say, or at least over-emphasized. We must include the more traditionally Christian founders in the picture. Thus, Witte is eager to point out areas of Adams’ thought that highlight his differences from the Virginians. He argues, “For the first century and a half of the republic, it was Adams’ model of religious liberty more than Jefferson’s that dominated the nation—even, ironically, in nineteenth century Virginia.”

But as we saw in chapter 4, it is not clear that Adams differs from Jefferson more than superficially. Adams does differ from Jefferson in allowing for direct government support of religion, but he does so within a framework not altogether unlike Locke’s. So too with Madison and Washington: their disagreement over the support of military chaplains occurs within a Lockean framework. On balance, and on virtually all of the essential points, Adams is closer to Locke than the Puritans. The change that Witte dates

---

142 Novak does the same in an appendix to his book titled “The Forgotten Founders.” Novak, On Two Wings, 127-158. The Reformed historians Noll and Marsden have at points made similar arguments about the need for including overlooked voices from the founding, but they tend to provide more carefully nuanced retellings. See Mark A. Noll, George Marsden, and Nathan Hatch, The Search for Christian America (Westchester: Crossway Books, 1983).

143 Witte, God’s Joust, 249. What is the significance of a century and a half after 1776? That span takes us not to the 1960s—as many others making Witte’s argument date “the fall”—but to 1940, give or take a few years. The difference is because Witte locates the change in legal terms, notably with the Supreme Court’s decisions in Cantwell v. Connecticut and Everson v. Board of Education.
to 1940 is a change of a sort, but it is not a change from the anti-Lockean Adams to the Lockean Jefferson. It is rather a change from a more republican interpretation of Locke’s solution to a more liberal interpretation. And it is a not unpredictable change, given that it plays upon genuine gaps within Locke’s theory. America in 1940, with its greater pluralism and greater sensitivity to religious minorities, was quite different than in 1776. It is to be expected that differences in interpretation that had long lay unnoticed would rise to the surface. Even a brief examination of Adams suggests that he does not maintain the tension that Kuyper values between Puritan theology and Enlightenment philosophy.

On a certain level, Witte acknowledges the two founders’ similarities. He writes, “Both Jefferson and Adams were self-consciously engaged in a new experiment in religious liberty. Both started with the credo of the American Declaration…” Despite this similarity, Witte maintains that the two are substantively different. To reveal this, there are two types of arguments in Adams that Witte highlights. First, though his “Massachusetts experiment” granted private religious liberty, it also established a public religion for three purposes: ceremonial, moral, and institutional. The third was the most controversial because it allowed tax revenues to fund churches. The model is intriguing because it is one that Madison considered (and rejected) as an alternative to his and Jefferson’s. It is especially interesting because this is a model with which Kuyper would have been intimately acquainted.

Recall our treatment of Madison in chapter 4. After rejecting all previous historical attempts at reconciling church and state, Madison says, the Dutch tried something different: “Holland ventured on the experiment of combining a liberal toleration with the establishment of a particular creed.” Madison is not overly critical of
this experiment, but nonetheless “It remained for North America to bring the great & interesting subject to a fair, and finally to a decisive test.” At least in its outlines, Adams relates church and state more like Madison says the Dutch did. This, in its outlines, is Adams’ “mild and equitable establishment.”

The second type of argument Witte highlights in Adams is his apology on behalf of the Puritans against their Enlightenment critics.

Adams defended the “sensible” New England Puritans against those “many modern Gentlemen” of his day who dismissed them as bigoted, narrow, “enthusiastical, superstitious and republican.” Such “ridicule” and “ribaldry” of the Puritans, proffered mainly by the fashionable “new lights” of philosophy and politics, are “grosly injurious and false,” Adams retorted. Far from being narrow bigots, the Puritans were “illustrious patriots,” for they were the first “to establish a government of the church more consistent with the scriptures, and a government of the state more agreeable to the dignity of humane nature than any other seen in Europe: and to transmit such a government down to their posterity.”

The centerpiece of their system was the idea of covenant, which they used in both theological and sociological terms. … In his later writings, Adams came to see this Puritan covenantal theory of ordered liberty and orderly pluralism as a critical antecedent, analogue, and alternative to the Enlightenment contractarian theories of individual liberty and religious pluralism that were gaining prominence in eighteenth-century America.145

Though our study of Adams in chapter 4 was brief, it does place in doubt the argument Witte offers here. It is not at all clear that Adams actually saw the Puritans qua Christians as an alternative to Enlightenment theories. He valued the Puritans for their arguments in favor of liberty “erected on the simple principles of nature.” His references to their religion were often apologetic.

144 James Madison, letter to Rev. Adams (1832) in Wilson and Drakeman, eds., Church and State, 76.

145 Witte, God's Joust, 143.
Stepping back from Adams, what does this analysis mean for Witte’s republican interpretation of the founding? As we observed, emphasizing Kuyper’s critique of Lockean liberalism would make it difficult to reconcile him with Locke’s prevalence in the founding. Yet Witte’s proposed alternative—identifying a strand within the founding that has more sympathies for Kuyper’s critiques—now appears suspect. As Witte puts it, “Puritan constitutional ideas lived on among various Enlightenment Liberal and Civic Republican schools of political thought in the later eighteenth and nineteenth centuries.”146 But as we have seen, it is not clear that these are distinct strands, so much as varying interpretations of shared principles, which Adams labels “the simple principles of nature.” According to these principles, government may need to support religion if it is to accomplish its own secular goals (as in Adams), or government may need nothing more than a broad societal religiosity or public morality (as in Jefferson), but in either case religion’s public role is a tool of the government. It is instrumental.

The difficult task Witte has set for himself is to maintain the distinction of strands within founding thought—evangelical, republican, enlightenment, and so on—while also showing them all to be participants in “the Western tradition of law and religion.” But at some point it ceases to matter whether the Puritans are understood as proto-Lockeans or the Lockeans as Enlightened Puritans. Against Zuckert’s “two foundings” analysis, in which the Puritan’s politics is based on the Bible and Locke’s is not, Witte claims that the Puritans’ political covenant limited positive law to what could be derived from natural law.147 The problem is that the Puritans related scriptural reasoning to natural law very

---

146 Ibid., 166-167.
147 Ibid., 158-160.
differently than did Locke, a difference that is minimized by both Witte’s and Zuckert’s analysis.

Witte is correct when he observes, “The civic catechisms and canticles of our day still celebrate Thomas Jefferson’s experiment in religious liberty.”\(^{148}\) The contribution of the non-Virginian founders is often overlooked. But if we examine those other voices carefully and with reference to Locke, as we did with Adams, the differences seem relatively superficial. A “republican” interpretation of the founding solution would indeed be more open to, say, school prayer than would a “liberal” interpretation. But the difference is not as stark as this may at first appear, for both interpretations would be open to the voice of experience and sociological study in adjudicating their disagreement.

We can now conclude our examination of Wolterstorff and Witte. They argue that insofar as the founding is based on an interpretation of John Locke that leads to John Rawls, it will be problematic for good Christians to be good citizens. But they are not Traditionalists and they therefore argue that some measure of harmony can be secured for Christians in American politics if we attend to two points. The first is an important claim, but one they make sparingly: Locke was more indebted to Reformed theology than most interpreters assume. Second, the founding solution was less Lockean and more open to Calvinist insights than most assume. Had subsequent generations gone in a different direction, emphasizing their Puritan rather than Enlightenment heritage, religious and civic obligations might have been reconciled in a Kuyperian rather than a Rawlsian fashion.

---

\(^{148}\) Ibid., 243.
Wolterstorff and Witte’s work is consistently more careful and more sophisticated than any of the other representative thinkers in my typology. But as we have seen, their position is not without its problems. As with the other representative thinkers, I will briefly direct attention to some of the theological questions that their interpretation raises.

First, even the alternate account of the founding—the one excluded from “the civic catechisms of our day”—depends on certain theological presuppositions. It depends, for example, on reason, morality, and religion speaking with a single voice for all reasonable people. Adams seems to have believed, with Locke, that this could be guaranteed so long as priestly authority was excluded from the picture. The religious and moral pluralism of our day shows that they were wrong in this, for there is wide disagreement even among those who deny priestly or ecclesial authority. In addition, it raises the theological question of whether the church possesses teaching authority, and how that authority relates to government and to individual Christian citizens. Would Wolterstorff and Witte be as willing as Adams to reject this as “the monkery of priests”? Presumably not, but by this do they cut off for themselves the historical justification they had hoped to find in the overlooked founders?

Second, even if Adams allows a more prominent place for religion, it is still instrumental, or at the very least still justified instrumentally. What are the implications of arguing for religion’s public presence on grounds that may disappear in light of the latest sociological study? Kuyper’s spheres provide him a response, because it expands the type of reasoning beyond what is accessible to the social sciences. However one suspects that Adams would not have been open to such amendment, committed as he is to “the simple principles of nature,” by which he seems to mean only the types of reasoning Locke allows in politics.
Third, the very projects of advocating a republican founding and of appropriating Kuyper for America takes on a very different tone when in the hands of more popular writers. Wolterstorff and Witte possess a level of nuance when analyzing Kuyper that is missing in some of the others who use worldview as a weapon in the culture wars. This suggests that finding Calvinists among the founders, a difficult task in itself, is only half the battle. It is not enough to know if the founders were open to a more republican reading. We must also ask how advocating it will be shaped by today’s Christian citizens. Are they able to draw the distinctions upon which Wolterstorff and Witte’s qualified approval for the founders depends? If not, a republicanism that challenges Locke slips very quickly into an endorsement of Locke as a republican, and very quickly after that, into an affirmation of the theological premises on which his solution depends: individualized salvation, an uncritically modern reading of Scripture, and so on. Avoiding the pitfalls of popularization is a great challenge for the church’s lay education.

5.5. Conclusion

Typologies are often criticized for concealing normative claims within a forest of descriptive ones. This happens when an author oversimplifies perspectives to make certain choices unattractive, and clandestinely guides readers toward the author’s preferred type. My above typology is by no means immune to critique, but it does not fall into that trap. All of its positions are to be avoided.

Unlike some typologies, the purpose of mine is not to identify differences between seemingly similar choices. Rather, I demonstrate similarities where we are inclined to see only disagreement. There are essential similarities among perspectives as diverse as Jeffersonian separatism and the Religious Right, shared ground between even Wolterstorff and Neuhaus. Insofar as a position fits within my typology, I have sought to
call attention to its shortcomings. This does not mean that my typology leaves us unable to preference any one of my representatives over another. Wolterstorff and Neuhaus are obviously to be preferred over the altogether unnuanced West and Kramnick. But this is a difference of degree more than a difference of kind.

In the previous four chapters I sought to demonstrate the need for a certain kind of reckoning about how American Christians conceived of politics. Today’s Christian positions must be analyzed in light of Locke’s influence. This fifth chapter began that reckoning. How does Christian political theology look in such a light? This chapter responds by casting the light on four specific positions: liberal and republican supporters of Locke’s reconciliation of loyalties, as well as liberal and republican amenders of Locke’s solution.

My presentation intentionally leaves the ground open for these thinkers to respond, but I hope that they will see fit to do so in light of the issues I have raised. Perhaps they will argue on textual grounds that their interpretation of Locke definitely wins out against its rivals, and that I am wrong to concede the gaps. Alternatively they may argue on theological grounds that their interpretation is immune from the problems I identify, and that it somehow avoids the consequences which seem to follow. Or they may concede that the consequences do follow, but deny that they are problematic: perhaps, after all, salvation is entirely individual and otherworldly, and perhaps the Bible is superfluous for political ethics. It is these arguments that have so far been lacking, and it is these responses I hope to elicit.
CONCLUSION:

AUTHENTIC SUBVERSION

Merciful over all his works, with good
Still overcoming evil, and by small
Accomplishing great things, by things deemed weak
Subverting worldly strong

Paradise Lost

The first chapter of this study began with a discussion of liberalism’s “Contemporary Crisis.” The frequency with which books open this way has turned it into a cliché, but it was one I did not think I could avoid. A full embrace of the cliché would demand that I now conclude with a chapter entitled “Beyond the Culture Wars.” This temptation I will avoid.

My intent in this Conclusion is not to review the project. We already have a summary of sorts in the previous chapter, which applied the results of our study. Instead, I will return to the topic of the first chapter, reflecting on how it may look different in light of what we have learned. Is the action on stage any better illumined by the five spotlights I have shone on it?

I introduced my project in chapter 1 by showing how it differs from one of the more prominent recent discussions of religion and politics. According to Jeffrey Stout, what distinguishes different Christian political theologies is whether they are for or against democratic liberalism. But as we have seen this is too simple. This leaves too much of the stage in the dark—not to mention that it seems to miscast certain actors in the wrong roles. It misidentifies Neuhaus as a Traditionalist, leaves the most vocal
conservative Christians out of the picture entirely, and ignores those places that the Traditionalist critique has been on the mark.

It would be tempting to end here. After all, my typology is designed as a critique: it identifies problems but does not present a model to be followed. This too is a temptation I will avoid. It is fitting that I close by saying something positive about what I find on stage. Under these lights, is this play anything more than a comedy of errors?

It has its tragic elements to be sure, but it remains a comedy and one of its most comic moments may be this: were I to choose an exemplar to recommend, I would start exactly where Stout does, with Nicholas Wolterstorff. But now, in light of the preceding chapters, my recommendation should look quite different than it did when Stout offered it. For Stout, Wolterstorff is to be admired because of how he differs from the Traditionalists. I would recommend him because of what they have in common. To see the difference we need to be clear about what is right in the Traditionalist critique.

To many observers the Traditionalists propound a reactionary and dangerous critique of modernity. (Perhaps for this reason, many of the more foolish things written about them mirror almost exactly the more foolish things written about Leo Strauss, another allegedly dangerous modernity critic.) I believe that what actually lies at the heart of the Christian Traditionalists’ argument is a sense that the politics of the modern liberal state, especially America, is accompanied by a deep and powerful mythos. It produces its own rival doctrines of atonement, salvation, ecclesiology, and eschatology. In America, this mythos is often militaristic, materialistic, individualistic, and above all, nationalistic. (It is many other things as well, including many good things, but these are the sources of concern.)

Having seen the influence this force holds throughout American churches, the Traditionalists raise their guard. If the American mythos is so powerful that it can
supplant the church’s mythos, perhaps Christians should stay safely away. “Build a fence around the Torah,” as the rabbis say. The Traditionalists raise their guard—or the fence—even higher when they read early modern writers such as Locke. Here is the mythmaker caught in the act, subverting the Christian story for this-worldly ends.

If this is indeed at the heart of the Traditionalist argument, I believe they are profoundly right—even if it is oversimplified. Writing as a Canadian, I do experience American politics as pervaded by a remarkably powerful mythos, one so all-pervasive that it can be frightening. I think it is not a coincidence that when Pocock writes of Locke’s American influence he does so in religious terms, calling it “quasi-Christianity.” This is fitting; it is oddly religious. To pray for “those who are serving our country” is to pray for the United States military. Wolterstorff notices how this nationalistic mythos pervades education:

The ideology of the public schools became a religion of the democratic state, a religion whose object of veneration was American democracy. Repeatedly, it was preached that the main business of the schools was the inculcation of democratic values—whatever those might be. Thus, in a profound sense, American education began to resemble Marxist Russian education and Nazi German education and pagan Roman education. In all those cases a veneration of the state was the moving force in the educational system. Of course, different sorts of states were being venerated.¹

The common Traditionalist stories about American flags hung on church altars are not mere anecdotes. They point to something profoundly true. And if so, perhaps we ought to follow the rabbis’ warning: build the fence even higher.

The problem with this response is that it only increases the power of the myth. My response has been different; it is a form of demythologizing. We could even say that my

close textual study of Locke in chapters 2 and 3 are a demythologizing exegesis. For even though there is a powerful mythos surrounding contemporary American politics, examined up close, there is nothing mysterious about it. What created this myth is not unexplainable or incomprehensible. It is not something that must be fenced-off to be controlled. It was created by the very ordinary responses of Christians and others to a long history of complex political and social problems.

What difference might this make for today’s Christian political theologies? It suggests that it is possible to affirm both the Traditionalists’ legitimate concerns about the mythic forces underlying liberal politics and an awareness that those forces need not be overly feared. Unobserved, they are powerful. But because they have been little understood they have seemed more powerful than they are.

Perhaps surprisingly, it is here that I turn to Wolterstorff as a model. In chapter 1, I cautioned against accepting Stout’s recommendation of Wolterstorff. The reason is that even Wolterstorff’s politics were subject to the sort of subversion feared by the Traditionalists. I cited the example of Abraham Kuyper being misappropriated in this way. In chapter 5, I further warned of some of the pitfalls in Wolterstorff’s political thought, especially his arguments about religion and politics in the American founding era. What allows me to recommend Wolterstorff now?

In the instances cited above, Wolterstorff is writing a kind of Christian-liberal apologetic. He, and those following him, identify scattered instances, such as in Locke or John Adams, of what I have been calling ‘republican liberalism.’ But as I have tried to show, these arguments are fraught with difficulties. The reason I can recommend Wolterstorff is that he does not always write this way.

In light of my study, we can see that the most valuable aspects of Wolterstorff’s thought are those instances when he simply declines to justify his arguments in terms of
the founding or Locke. This does not mean he ignores their influence. In fact, sometimes he quite invokes Locke in just the way I have. For example, he refers to American evangelical education as “Christian Learning on Locke’s Model,” and even—as in my typology—provides an example showing that Baylor and Texas Tech universities are both fundamentally Lockean in their curricula, but draw on Locke differently. Though still engaging with thinkers such as Locke and the founders, where Wolterstorff is most valuable is where he does not try to show continuity with that tradition. This is clearest in his writing on “justice as shalom.” In such writings he does not shy away from active engagement in politics, whether community-based debates about public schools or global politics concerning Palestinian rights or the end to apartheid. But neither does he downplay the radical challenge the Christian conception of justice poses to its rivals. He writes:

The vision of human flourishing that underlies the biblical narrative … is what the biblical writers call shalom. Shalom is harmony and delight in all one’s relationships—with God, with other human beings, with culture, with nature, with oneself. Of course, those nice words, “harmony and delight in all one’s relationships” don’t give us much of a clue as to the character of the relationships involved in shalom. To get further, one has to steep oneself in the Bible; there one discovers the vision of human flourishing spelled out in great detail… What must immediately be added, however, is that in the biblical writings one finds a unique picture of the contours of justice—very different from the contours of the just society as described by Plato, by John Locke, and so on.3

This passage reveals three specific ways in which Wolterstorff’s approach is valuable for Christian political thought. It is based on a specific vision of the just society, is defined by Scripture, and recognizes its own uniqueness among alternative definitions of justice.

---


3 Wolterstorff, Educating for Life, 262.
The justice Wolterstorff advocates is not defined primarily in formal terms or principles, but through narrative. The stories that define shalom are presented in the Christian Scriptures, in particular in the Hebrew prophets and Torah. The depictions we find there are remarkably rich and particular: they embody a vision of the just society. “When you reap the harvest of your land, you shall not reap to the very corners of your field… You shall leave them for the needy and the stranger” (Leviticus 19:9-10). In the presence of shalom, “everyone shall sit under his own vine or under his own fig tree” (Micah 4:4). Because most of us no longer have corners in our fields and also have little desire to sit under fig trees, this means that the act of advocating justice depends primarily on an act of imaginative vision. It demands an affective attachment to the prophets’ and Torah’s own vision.

One of the goals of the preceding chapters has been to preserve in Christian thought a tension between shalom and alternative conceptions of justice—not because they are mutually exclusive but because they often overlap. For different reasons, Locke, the founders, and today’s Christians emphasize the overlaps. Whenever shared ground is discovered, the unfortunate tendency is to suppose the Christian contribution is superfluous. A Lockean reconciliation of Christian and civic loyalties depends upon this. The notion of shalom helps Wolterstorff, for the most part, resist this temptation because shalom is not subject to such reductionism.

Resisting this temptation is no easy task in John Locke’s America. “The church is the band of Christ’s followers. She is an alien presence within every nation and is called and committed to be God’s agent … for the institution of shalom.”

4 Ibid., 52.
that serves as a light to the nations is also an alien presence within them. To demand that the liberal state pursue shalom is subversive. But for Christians, this is authentic subversion.

Locke believed the conflict between religion and politics was the great stage drama of our time. He also believed that he could resolve this conflict by writing a final act. Even if Locke’s work is a subversion of Christianity, the conclusion he presents is a deeply attractive one. We can learn much from Locke; clearly we already have. With texts such as the *Letter Concerning Toleration*, Locke altered the roles into which we had been cast, shaping our characters for the better. Ultimately, however, Locke’s eschatology—the way he resolves the conflict on the stage—represents a false hope.

Where Locke’s proposed final act remains true to the Christian story is that it is comic, not tragic. There will be an ultimate resolution: a righting of wrongs, the unmasking of true identities, and the restoration of peace, of shalom. Christians do not believe the role in which they have been cast is a simple one, but they are confident that there is a plot—and that it is the director’s responsibility, not theirs, to produce the last act, bring down the curtain, and dim the stage.
BIBLIOGRAPHY


401


