8

Locke's Early Writings

8.1 Independent Judgment of Conscience, Public Order and Public Interest

John Locke's early writings show his concerns divided between the reality of a multiplicity of political, moral and religious standpoints articulated often as individuals' consciences, and the public good and interest. He valued both viewpoints – diversity and unity – and wanted to retain them in his developing political theory.[1] Initially, he also ascertained the immense political and social tension that characterized the times. In the *Two Tracts on Government* (1660) and the *Essays on the Law of Nature* (1662–4) (or *Questions Concerning Natural Law*) he neither expressed clearly what he meant by the notion of conscience, nor seemed to have yet decided whether he had to dispense with it altogether. But what is plain is that for the sake of public order and public interest, in these texts the individual's judgment of conscience tends to be internalized and receives little independent space for operation with regard to both natural law and the secular law of civil society.

8.1.1 The Governance of 'Matters Indifferent'

In the *Two Tracts on Government*, comprising one English and one Latin text among Locke's unpublished papers, civil society is a public space in which matters become necessary by the power of the magistrate and his or her ensuing legislation. Many things *indifferent* – i.e. the magistrate's usual area of activity – thus become necessary. The context of Locke's interest in these ideas is a debate spanning decades on the topic of 'matters indifferent' or *adiaphora* that in the years immediately preceding his

[1] For the study of Locke's interest in diversity as a project of a natural history of 'man', see Carey, *Locke, Shaftesbury, and Hutcheson: Contesting Diversity in the Enlightenment and Beyond*.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

writing of the text had become particularized in details of worship and ceremonies, such as the use of surplice by the ministers, and the writings produced in its context.[2] At its heart was the question of whether matters of religious ceremony, considered to be morally indifferent, could be left to be decided according to one's conscience. The pamphlets that were written were divided between representatives of the Anglican Church that considered the issue of ceremonies to be confirmed, not decreed, by English law, and an amorphous group of Puritans, Independents and other Reformers that doubted their legality and even the appropriateness of positive law as a medium of intervention in such matters of conscience.[3] When in Oxford, Locke wrote a very close response to Edward Bagshaw's *The Great Question Concerning Things Indifferent in Religious Worship,* derisively referring to the 'patrons of liberty' and 'patrons of freedom' when addressing Bagshaw and his adherents.[4]

The lack, at the time, of an accepted unified authority in religious matters is evidenced in the fact that the contest of pamphlets turned into an effort to convince the adversaries of what was really necessary and what was not. Bagshaw employed a ubiquitous notion of 'necessity', meaning that the circumstances demanded a solution to the problem of jurisdiction about indifferent things. Some reform ought to be carried out, since many religious doctrines and their public status seemed doubtful at that point in time. The other camp considered instead the matter legally settled. Occasionally the pamphlets described 'necessity' as having theological content, referring to the idea that the

[2] Philip Abrams, 'Introduction' in John Locke, *Two Tracts on Government*, (Cambridge: Cambridge University Press, 1967), 1–111; Johann P. Sommerville, 'Conscience, Law, and Things Indifferent: Arguments on Toleration from the Vestiarian Controversy to Hobbes and Locke,' in Harald Braun and Edward Vallance (eds.), *Contexts of Conscience in Early Modern Europe, 1500–1700* (Houndmills: Palgrave Macmillan, 2004), pp. 166–179; Jaqueline Rose, 'John Locke, 'Matters Indifferent', and the Restoration of the Church of England' 48 *The Historical Journal* (2005). The debate had started almost a century ago with 'The Vestiarian controversy', or dispute over clerical dress, in the context of Puritans' attempts for reform and the response of the Anglican Church, see B. Usher, 'Participants in the vestiarian controversy (act. c. 1563–c. 1570).' *Oxford Dictionary of National Biography*. Retrieved 21 May. 2019, from www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-92778

[3] A chronological list of the main pamphlets intervening in the dispute, by Philip Abrams, in John Locke, *Two Tracts on Government*, Appendix II, p. 252.

[4] Edward, Bagshaw, *The Great Question Concerning Things Indifferent in Religious Worship briefly States and tendred to the Consideration of All Sober and Impartial men*, third ed. (London, 1660), Early English Books Online Text Creation Partnership, 2011, http://name.umdl.umich.edu/A29126.0001.001; Locke, *Two Tracts of Government*, p. 122; p. 128.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

doctrine of faith to be believed 'for necessity of salvation' ought not to be established by a public legislative authority.

Some, like the exposition to Parliament of 'divers ministers of sundry counties in England' but published under the name of Cornelius Burgess and entitled *Reasons Shewing the Necessity of Reformation of the Publick 1. doctrine, 2. worship, 3. rites and ceremonies, 4. Church-government and discipline*, denounced the abuse of authority when 'indifference' became 'necessary' by command of just authority.[5] Since the spiritual law gave liberty in such things, the text highlighted, among many other issues, the danger for consciences in determining 'things of this nature for Publick use in the Administration of Publick Ordinances'.[6] In *No Necessity of Reformation of the Publick Doctrine of the Church of England*, John Pearson responded that the public law was only confirming, not establishing the truth of the doctrines of religion and other matters. Anticipating an argument repeated later, in the Restoration years, Pearson stressed the original separation of Church and State:

> that the Articles made in K. *Edward* 6. time were *not ratified by Parliament,* it no way opposeth them who thinke our Articles established by Law: because no man imagines that our Articles were under the Consideration of any Parliament in the days of *Edward* 6.[7]

The newly named chaplain to Charles II in Ordinary, Henry Savage, wrote in *Reasons Shewing that there is no need of such a Reformation of the Publique Doctrine* that things indifferent had been made necessary by 'the intervention of human authority'. Aware of the turmoil this entailed, he pointed out that if the key questions to be answered in respect of the Church, doctrine, liturgy, rites, ordination, episcopacy and discipline were to be 'set aside till men be agreed, we must never expect any whilst the world stands'.[8] In *Some Necessity of Reforming the Publick Doctrine of the*

[5] Cornelius Burgess, *Reasons shewing the necessity of reformation of the publick 1 doctrine, 2. worship, 3. rites and ceremonies 4. Church-government and discipline, reputed to be (but indeed, not) established by law. Humbly offered to the serious consideration of this present Parliament. By divers of sundry counties in England* (London: Printed by Ja. Cottrel., 1660), Early English Books Online Text Creation Partnership, 2011, http://name.umdl.umich.edu/A77860.0001.001

[6] Burgess, *Reasons shewing the necessity of reformation of the publick,* p. 38.

[7] John Pearson, *No necessity of reformation of the publick doctrine of the Church of England*, (London: Printed by J.G. for Nathaniel Brooke, 1660) Early English Books Online Text Creation Partnership, 2011, http://name.umdl.umich.edu/A53894.0001.001, p. 26. The point that this would become a common argument in the period of the Restoration in Collins, *In the Shadow of Leviathan,* p. 38.

[8] Henry Savage, *Reasons shewing that there is no need of such a reformation of the publique 1. Doctrine. 2. Worship. 3. Rites & Ceremonies. 4. Church-Government. 5. Discipline. As it is pretended by reasons offered to the serious consideration of this present Parliament, by divers*

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

Church of England, William Hamilton responded shrewdly that Pearson had responded to the 'ministers of sundry counties' as a theologian, while they were writing to the Parliament on the point of 'publiqueness, and authority'.[9] Finally, Bagshaw contributed to the debate, also from a theological perspective, this time on the Puritan side.

Locke, or perhaps one of his patrons, rightly ascertained the danger of *The Great Question* with regard to political stability, for Bagshaw's text is a well-balanced and pious defence of freedom of conscience in matters indifferent and could well have tilted the balance in the opposite direction. The issue would finally be decided two years later through the intervention of the Lord Chancellor, the Earl of Clarendon (1609–1674), and of Parliament, which enacted new legislation.[10] A Whiggish perspective would tend to portray the moment in the early Restoration period in which Locke wrote his *Tracts* as being like a romance between Charles II and his people that ended in 1662 with the monarch's 'succumbing' to the Anglican Church in the Act of Uniformity.[11] Within this contextualist interpretation, Locke was still enchanted when he wrote about his conviction that supremacy in government is necessary and that chaos would result from freedom in respect of indifferent things.

ministers of sundry counties in England (London: Printed for Humphrey Robinson,1660). Early English Books Online Text Creation Partnership, 2011, http://name.umdl.umich.edu/A94222.0001.001, p. 17.

[9] 'To all which you answer nothing, but that the Doctrines of that Article, *as considered in themselves,* are *undoubted truths:* Which is true enough, but nothing to Rhombus, as we have often said. For the Ministers speak of the *doubtfullness* as proceeding from their *too great generality,* and *unfitness* to exclude errors by; and of their *doubtfullness* of *publiqueness,* and *authority'*. William Hamilton, *Some necessity of reformation of the publick doctrine of the Church of England. Or a modest and brief reply to Dr Pearson's modest and learned, No necessity of reformation of the publick doctrine of the Church of England. Directed to Dr Pearson himself* (London: Printed for John Sherley1660), Early English Books Online Text Creation Partnership, 2011, http://name.umdl.umich.edu/A45377.0001.001, p. 13.

[10] Clarendon said in Parliament that there was the need for 'some law, that may be a rule to that indulgence, that under pretence of liberty of conscience men may not be absolved from all the obligations of law and conscience'. Quoted in Abrams, 'Introduction' in John Locke, *Two Tracts of Government*, p. 36. Despite Clarendon's attempt that a moderate standpoint prevailed, according to Ian Harris more than nine hundred clergymen not using the *Book of Common Prayer* were ejected from their positions as a consequence of the Act of Uniformity. Harris, *The Mind of John Locke*, p. 70. About the moderate position of Clarendon see Paul Seaward, 'Edward Hyde, first earl of Clarendon (1609–1674), Politician and Historian' (2008, October 04). *Oxford Dictionary of National Biography*. https://doi-org.libproxy.helsinki.fi/10.1093/ref:odnb/14328

[11] Goldie, 'Priestcraft and the Birth of Whiggism', p. 224.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

8.1.2 *Locke's* Tracts on Government *and Judgment about Necessary Things*

Regardless of passing political sentiment, *The Tracts* show the very first stages of Locke's lifelong investigation of public order, articulated as an early study of how secular law contributed to it. Order and peace were grounded in law, in what God in his infinite wisdom 'hath made necessary', which in Locke's *Tracts on Government* had little reference to defending the position of the Church of England. That necessity referred to magistracy according to the natural constitution of the world as God had established it. The focus of Locke's discussion therefore turned to describing the scope of magistracy. Once matters such as customs or education were decided by the magistrate, individuals could not invoke independent judgment of conscience, despite the fact that those matters had been indifferent before the law or ordinance was enacted. If this were not the case, the reach of the magistrate's power would be minimal.[12] The space for intervention of the magistrate could touch every indifferent aspect of civil society and, once encroached upon, any issue could become necessary. In effect, it was unavoidable that the magistrate governing civil society through law will touch upon issues of conscience. 'Tis is true', noted Locke quoting Bagshaw, '[*who would have his conscience imposed upon*] and

> tis as true, who would pay taxes, who would be poor, who almost not be a prince? And yet these (as some think them) burdens, this inequality, is owing all to human laws and those just enough, the law of God or nature neither distinguishing their degrees not bounding their possessions.[13]

The problem with individual conscience was that there were as many consciences as there were citizens. If the magistrate must please every individual, he or she must simply have 'not a power to make laws but worlds'.[14] Someone, thought Locke, had to produce the 'circumstantial determinations' about a matter that has become necessary and the law-maker was 'judge alone of that necessity', not the conscience of each individual.[15] Therefore the possibility of making an independent judgment

[12] Locke, *Two Tracts on Government*, p. 129.
[13] Locke, *Two Tracts on Government*, p. 138.
[14] Locke, *Two Tracts on Government*, p. 137.
[15] Locke, *Two Tracts on Government*, p. 147; 149. In the question of 'matters indifferent' Jaqueline Rose argues that Locke deliberately failed to distinguish between ecclesiastical and secular authority, thus 'refraining from distinguishing a particular role for the clergy', Rose, 'John Locke, 'Matters Indifferent', and the Restoration of the Church of England', p. 617; p. 621.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

of conscience about outward things opposing the magistrate must be excluded in public matters that have become necessary by the latter's activity. For the young, virtuous and conforming Locke, the public activities in which the magistrate engaged were good, since they corresponded to the rational magistrate acting within order, established by God for the public good.

> Whereas the magistrate commands the obedience of the outward man by authority settled on him by God and the people, wherein he is not to expect immediate inspirations but is to follow the dictates of his own understanding, and establish or alter all indifferent things as he shall judge them conducing to the good of the public.[16]

Public activities of the magistrate were also broadly conceived:

> all indifferent actions, of whatsoever sort they may be, lie under the power of him to whose discretion are delivered the liberty, fortunes and the life itself of every subject.[17]

Locke's early authoritarianism seemed far from his later political principles of limiting government to the preservation of a set of material or outward tenets that he subsumed under the title of 'Property': 'Life, Liberties and Estates'.[18] However, close inspection reveals that even his mature political works make it clear that the first thing individuals do upon entering into civil society is to place their possessions under 'the Jurisdiction of the Government'.[19]

Perhaps the *Tracts* betray an early conservative standpoint, or possibly simply a lack of technique.[20] Locke could not see *yet* how individuals' obedience to their conscience was compatible with securing peace, order and the necessities of the nation – all of which were matters of the utmost concern to him in this period of his life and which he considered to be envisaged in the divine design.[21] From the beginning of his political works and,

[16] Locke, *Two Tracts on Government,* p. 150.
[17] Locke, *Two Tracts on Government*, p. 230.
[18] Locke, *Two Treatises of Government*, II § p. 123.
[19] Locke, *Two Treatises of Government*, II § p. 120.
[20] I tend to agree with Ian Harris that Locke had early on the vision, but initially he lacked the technique, Harris, *The Mind of John Locke,* p. 14. About conservativism, see Abrams, who writes that the *Two Tracts* are 'in every sense profoundly conservative works.' Philip Abrams, 'Introduction' in John Locke, *Two Tracts of Government*, p. 4.
[21] All historical evidence points to the sincerity of Locke's statement in the Preface of the *English Tract*: 'As for myself, there is no one can have a greater respect and veneration for authority than I. I no sooner perceived myself in the *world* but I found myself in a storm, which hath lasted almost hitherto, and therefore cannot but entertain the approaches of a calm with the greatest joy and satisfaction'. Locke, *Two Tracts on Government,* p. 119.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

as we will see in the next chapters, until the end of it, Locke was equally concerned with (a) individual interest and public good, (b) with the difficulty that individuals experienced in being fair towards others, and thus (c) with the ensuing impossibility of order without the objective application of authority and power. In his realistic portray of Locke, John Dunn approached this idea in more controversial terms, writing that despite the fact that he understood some of Hobbes's claims, Locke's lifelong nightmare was to be taken as a Hobbist. In turn, Jeffrey Collins describes the charges of Hobbism, in particular in natural law, and his slow detachment of Hobbes's ideas on sovereignty.[22] In the early *Two Tracts* he proposed to achieve a balance between individual and public interest through the activity of the prudent magistrate(s):

> And hence rises one of those necessities of government – that since men were not like (being favourable judges in their own cause) to be well satisfied with the equity of others, and would be ready to judge that others made use of their liberty, to their prejudice with neglect of this rule of equity, it was requisite to settle a peace and society amongst men that they should mutually agree to give up the exercise of their native liberty to the disposure and prudence of some select person or number of men who should make laws for them which should be the rule of their actions one towards another and the measure of their enjoyments, but this by the by.[23]

Famously Locke based the need for magistracy on God, as he tended to do in respect of almost everything that he found good or important in politics, society and philosophy – except, interestingly, money.[24] However, his was not the late medieval idea of the divine right of kings, but the (Aquinean, and also Boylean) conception of what individuals understood rationally to be necessary on the basis of how God had constituted the world.[25] Magistracy, like other human affairs 'squared the economy of the world' designed by God.[26] The early writings expressed the view that no explicitly divine command

[22] Locke's 'Hobbist nightmare' in Dunn, *The Political Thought of John Locke,* p. 81; Collins, *In the Shadow of Leviathan,* pp. 315–359.

[23] Locke, *Two Tracts on Government*, p. 138.

[24] More about this in ch. 11 and see Locke, *Two Treatises of Government, II* §46, §46, §50.

[25] The argument of design is dealt with extensively from its theological perspective in James Tully, *A Discourse on Property. John Locke and His Adversaries* (Cambridge: Cambridge University Press, 1980), p. 38.

[26] Some 'presumptuously' complained that God had not put human affairs in the right posture, Locke, *Two Tracts on Government*, p. 136. The centrality of God in Locke's politics was proposed first by Dunn, *The Political Thought of John Locke,* and also later by Harris, *The Mind of John Locke;* by Timothy Stanton, for instance in Timothy Stanton, 'Authority and Freedom in the Interpretation of Locke's Political Theory' 39 *Political Theory* (2011), 6–30

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

based on the Bible should be expected since 'the light of nature' instructed human beings 'in the necessity of laws and government and magistrate with power over them'.[27] That was in Locke's view the will of God, and if at some point God's will changed so that the result was 'either [to] abolish magistracy or restrain its power from things of the sanctuary', magistracy would become also 'needless'.[28] In the meantime, obedience to the magistrate and, quite literally, respect for the rule of law, was due when legislating about indifferent things so that one was 'therefore not left free':[29]

> God wished there to be order, society and government among men. And this we call the commonwealth. In every commonwealth there must be some supreme power without which it cannot truly be a commonwealth; and that supreme power is exactly the same in all government, namely legislative.[30]

The single issue excepted from the power of the magistrate was religion, which was in Locke's view not a matter of indifference. Since individuals were not masters of religion, it was *not* among the things that they surrendered to the jurisdiction of the magistrate. And since the activity of the legislator constituted only '[o]rdinances of men and the products of their authority', they did not impose on conscience.[31]

However, in the English Tract conscience was '*opinion* of the truth of any practical position, which may concern any action as well moral as religious, civil as ecclesiastical regarding truth';[32] whereas magistracy 'with no commission to examine the hearts' meant governance of outwardly

and by Paul Bou-Habib, for instance in Paul Bou-Habib, 'Locke, Natural Law and Civil Peace: Reply to Tate' 16 *European Journal of Political Theory* (2017). A response to Stanton with regard to this reading, by John William Tate, 'Locke, God and Civil Society: Response to Stanton' 40 *Political Theory* (2012), pp. 222–228, and the reply by Stanton, 'On (Mis) interpreting Locke: a Reply to Tate', 40 *Political Theory* (2012), pp. 229–236. Famously, on the face of some of Locke's materialist principles, Leo Strauss argued that Locke was being deceitful when insisting about God as the foundation of morality, society and politics, Leo Strauss, *Natural Right and History* (The University of Chicago Press, 1953). Seemingly following Strauss in this point is Horwitz, 'Introduction' in John Locke, *Questions Concerning the Law of Nature*. My reading aims to make sense of God's foundational position in Locke's thinking, together with some of his materialist tenets. A comprehensive appraisal of Locke's writings and life, makes the argument of conceit untenable.

[27] Locke, *Two Tracts on Government*, p. 170.

[28] Locke, *Two Tracts on Government*, p. 136.

[29] Locke, *Two Tracts on Government*, p. 122.

[30] Locke, *Two Tracts on Government*, p. 232.

[31] Locke, *Two Tracts on Government*, p. 139.

[32] Locke, *Two Tracts on Government*, p. 138 (emphasis mine). Here Philip Abrams notes the similarity with Hobbes' notion of conscience in the *De Corpore*, p. 138.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

indifferent things. Matters such as 'theft and chastity' were 'necessary and oblige conscience' even when the magistrate remain silent: the magistrate did not need to invent new laws in those natural law matters, but only declare and enforce the old.[33] While spiritual matters were not within the proper realm of the magistrate, human legislation could not, nonetheless, avoid touching on their substance.[34] Hence, Locke challenged Bagshaw to show 'where civil things end and spiritual begin'.[35]

A slightly more sophisticated definition of conscience appeared in the Latin Tract, in which Locke distinguished four categories of law: (1) Divine, including natural and positive law: whatever that law reaches is 'always and everywhere necessarily good or evil'; (2) human law, whose proper matter constituted things indifferent that became necessary when legislated upon; (3) the law of charity, that made necessary things left indifferent by God and magistrate; and (4) the category encapsulated in the following words:

> Besides the above-named laws there remains the other called monastic or private, which a man imposes on himself and by a new, superinduced obligation renders necessary things hitherto indifferent and not bound by previous laws. And this law is twofold, either of conscience or of contract. The law of conscience we call that fundamental judgment of practical intellect concerning any possible truth of a moral proposition about things to be done in life. For it is not enough that a thing may be indifferent in its own nature unless we are convinced that it is so.[36]

It is worth noting how, unlike Ralph Cudworth, Locke pointed to 'conscience' as early as the *Tracts* only with regard to his definition of a private law. As it was dependent on our convictions anyone could extend the law of his or her conscience beyond the human law and natural law and impose further obligations on oneself – obligations that the thing 'in its own nature' may not demand from conscience. However, in this context, the areas or subject matters of the different laws appear well delimited, at least in his theoretical definition.[37]

[33] Locke, *Two Tracts on Government*, p. 223.
[34] Locke, *Two Tracts on Government*, p. 145.
[35] Locke, *Two Tracts on Government*, p. 138.
[36] Locke, *Two Tracts on Government*, p. 224.
[37] In this regard, I see things different than Timothy Stanton who writes that in the *Two Tracts* Locke was still simply following Robert Sanderson – although, as exposed in this chapter, he was also following Sanderson. As this and other passages show Locke presented in his first political tracts already original ideas, precisely about his reworking of the notion of conscience. See Timothy Stanton, 'Freedom of Conscience, Political Liberty and the Foundations of Liberalism', p. 148.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

In his study of Locke's thought, Ian Harris writes that the philosopher devised a notion of civil order in which it was possible to 'distinguish two distinct spheres' and 'conscientious attacks on the civil order in the name of worship were spurious'. Harris also notes that reason had an intellectual authority for Locke, which he stressed in his *Essays on Natural Law* through the possibility of it attaining certainty. In a civil society in which 'conscience could expect to be informed by reason' or 'Scripture interpreted in reasonable terms', Locke's solution, as outlined in his *Essay on Toleration*, was that conscience and civil order could be reconciled.[38] I follow a different line of argument from Harris and would stress that Locke reconceptualized conscience from the beginning. However, I believe that Harris and I are in agreement as regards the basic premise that Locke's delimitation of the spheres of action demanded the sacrifice of fundamental epistemological, moral and ecclesiastical principles.[39] Locke could work out that reconciliation of the claims of civil order and conscience only at the expense of delivering a new understanding of conscience, as we will see in this chapter. A conscience informed by reason – and in a sense subjected to reason – was no longer the watchdog and guardian of reason cherished by Christian tradition.[40]

In sum when thinking of public society, conscience and reason, Locke argued that questions concerning necessity of salvation were a matter of private conscience on which the magistrate could not impose any obligation. On any matter of outwardly indifferent things (moral, religious, civil and ecclesiastical) on which magistrates judged it necessary to act, they simply acted within their jurisdiction. Conscience was to be dealt with

[38] Harris, *The Mind of John Locke,* p. 76.

[39] Since 'to turn this argument into a resolution of the problem implied ignoring questions about truth and the nature of the church.' Harris, *The Mind of John Locke,* pp. 60–77; p. 123.

[40] M. V. Dougherty summarizes Aquinas doctrine, which may serve as representative of that tradition and be conveniently noted here: The formation of conscience depends directly from God and from the knowledge of God's law which also avoided malformation of conscience. Individuals operated the innate principle of practical reasoning that 'good is to be done' when the concrete situation arose; and they did so, helped by the illumination of the synderesis or light of nature. M. V. Dougherty, *Moral Dilemmas in Medieval Thought. From Gratian to Aquinas*, (Cambridge: Cambridge University Press, 2011), pp. 13–40; p. 33, and on Aquinas, pp. 124–159. In his *Mirror of Conscience* St. John Capistran (1385–1456) who studied law with Pietro degli Ubaldi and theology with Bernardine of Siena, stressed that one needed to act always according to one's conscience, and when every other external source seems to contradict one's conscience, hence indicating an erroneous conscience, the ultimate and supreme guide for conscience was to pray to God with faith for the necessary wisdom, Ioannes Capistranus, *Speculum Conscientiae. Tractatu universi Iuris* (Venice: F. Ziletti, 1584), p. 328.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

sensitively, particularly where scrupulous consciences were concerned, but the magistrate ought not to listen to scrupulous people.[41] Everyone had to obey when the legislator rationally ascertained that a certain regulation was necessary – that very regulation transformed an indifferent matter into a *necessary* one.[42] At any rate, the area of public reason that the magistrate deemed necessary did not overlap with the area of conscientious salvation that the individual understood to be necessary. In turn, individual conscience had no 'authority' in the public realm. Conscience was rather the shrine in the depths of the soul where the individual met with her God.[43]

Throughout the *Two Tracts* the main philosophical technique employed by Locke is a rather simple classification of a matter as necessary or not in a determined space: the outward space of the public or the inner space of the individual's conscience. He defined what he meant by 'necessary' in the English Tract:

> I answer: That things may be necessary, (i) in their own nature and so are all comprehended within the law of God; (ii) *ex suppositione*, as being the means to some requisite end, so meat is necessary to him that would live etc, such were the things here – and so things indifferent may become necessary before they are enjoined and oblige the prince before they are commanded the people, and such a necessity (which I say still the magistrate is judge of) is sufficient for their imposition.[44]

Put briefly, something that was necessary followed the design of God, nature and causal reasoning – and it is noteworthy that Locke employs the example of meat, which constitutes a natural necessity that the sovereign himself must respect. As we saw in Chapter 3, the main arguments of Hobbes's *Leviathan* is that beyond matters of survival the sovereign was the only judge of 'the necessity' of anything. Locke still argued that the magistrate was the ultimate judge, albeit that he differed from Hobbes in identifying the necessity of the nature of things as an expression of the will of God, and teleological necessity *ex suppositione* as in principle above the reasoning of the magistrate, who nevertheless remains the judge of it.

Locke's theoretical project on government and his first publication on political theory ambitiously resulted in a threefold plan: to delimit the proper activity of the magistrate to indifferent things, that were

[41] Locke, *Two Tracts on Government,* p. 138.
[42] Locke, *Two Tracts on Government,* p. 221.
[43] 'And this is why God so frequently and so particularly claims the heart and spirit for himself, and calls the mind and the inner depths of the soul shrines dedicated to his worship, and requires a spirit obedient to himself as if it were the only worshipper that he prizes.' Locke, *Two Tracts on Government,* p. 211; p. 213.
[44] Locke, *Two Tracts on Government*, pp. 150–151 (notes omitted).

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

nevertheless often rational matters, while in moral matters the magistrate was only declaring the old (natural) law; to further and encourage the disappearance of private spiritual conscience from debates on civil society; and to suggest the idea of a space for civil society, a public reason, between the workings of both government and individual conscience. Before turning to this last aspect as it appeared in his subsequent writings on natural law, I will comment briefly on the manner in which Locke dealt with the moral dilemmas that emerged in the period.

8.1.3 *Moral Perplexity Erased*

Another method by which to explain how Locke faced the controversy over indifferent matters and proposed a solution to it entails investigating the issue in terms of the problem of moral perplexity being erased from political theory.[45] Through recourse to a civil magistracy whose laws were described as exclusively dealing with outward matters, and by declaring an internalized private law of conscience, Locke discarded the understanding of the controversy as a moral dilemma, which was at the core of Bagshaw's argument.[46]

In his edition of the *Two Tracts on Government*, Philip Abrams remarks that Locke's argumentation passed over the more theologically oriented definitions of conscience available in his time.[47] He would have aimed at avoiding that type of specific theological debate in order to focus instead on questions of political authority. However, his discussion of passive and active obedience makes it obvious that morality was at the heart of his outlook, no matter how hard he tried to circumvent theology and moral

[45] It is not unfair to suggest that Luther's fundamental challenge to authority in the name of conscience provided a useful background for Locke and many others to understand the type of revolts that might occur against the sovereign of the commonwealth if given sufficient space. See on Luther's challenge to the 'fundamental criterion' of the authority of the Church. Popkin, *The History of Scepticism,* pp. 3–16.

[46] One could find 'many' who were 'utterly unsatisfied with the Lawfulness' and convinced of 'the uselesseness' of many or most 'Ceremonies', 'Whose consciences, how erroneous soever, yet are to be tenderly and gently dealt with; lest by our Rigid commanding what they can by no means comply with, we bring them, unto that dangerous Dilemma, either of breaking their Inward Peace and Comfort, by doing outwardly, what they do not inwardly approve of: or else of running themselves upon the Rock of Poverty and Prejudice, by disobeying what is commanded.' Edward, Bagshaw, *The Great Question Concerning Things Indifferent in Religious Worship,* p. 12.

[47] Abrams in Locke, *Two Tracts on Government,* note 138. For the complex position of Hobbes see Stanton, 'Freedom of Conscience, Political Liberty and the Foundations of Liberalism', pp. 141–147.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

philosophy. It also shows Locke's early strategy of pointing to the authority of the magistrate as willed by God. Locke defined the power of the magistrate as regulatory and coercive. An active obedience corresponded to the former, and a passive obedience to the latter. The subject was bound by the law 'whether just or unjust' and must passively endure it because a private citizen could never 'oppose the magistrate's decree by force of arms'.[48] The distinction was taken directly from Robert Sanderson – who evidently flirted with Hobbesian principles – without acknowledgement.[49] Sanderson summarized a very long explanation with the following axiom: 'It is alwayes necessary therefore to be subject, but not alwayes necessary to obey'.[50] If the matter was 'unlawful' the magistrate sinned 'in commanding', but neither the magistrate's sin nor his or her bad faith freed the individual from the obligation to passively obey the positive law. For, Locke wrote, the measure of obedience lay not in the magistrate's intention, but in 'his expressed will, which establishes obligation'.[51] Only if the substance of the law was unlawful – that is to say, contrary to the law of God – was the subject discharged from the obligation of active obedience.

Notwithstanding his avoidance of a direct discussion on conscience, Locke dealt substantively with a case of perplexity that affected many individuals throughout the Restoration period in England – we have seen, for instance, that Benjamin Worsley's nonconformism led to the collapse of his very successful political career in 1673. As the Puritans and Independents described their case, in opposing conformity with Anglican religious ceremonies they were protecting the liberty of their consciences – which dictated that they must disobey. Therefore, to avoid the moral conflict between disobeying their consciences or disobeying the human law (ecclesiastical and secular), they proposed further reform of the laws. If, in line with the position of the official Church, there was no need for the law to be reformed, the Puritans were in a situation of perplexity, having to choose between two evils: either to violate their conscience or to violate the law.[52]

[48] Locke, *Two Tracts on Government,* p. 221.

[49] In his writings of the late 1640s Sanderson seems to be aware of Thomas Hobbes *De cive*; that Locke borrowed from Sanderson was already noted by von Leyden, 'Introduction' in John Locke, *Essays on the Law of Nature*, and Stanton, 'Freedom of Conscience, Political Liberty and the Foundations of Liberalism'. Jaqueline Rose even writes that on certain points of the *Two Tracts* 'Sanderson could justly have sued for plagiarism', Rose, 'John Locke, "Matters Indifferent" and the Restoration of the Church of England', p. 614.

[50] Sanderson, *Several Cases of Conscience Discussed in Ten Lectures,* p. 198–199. See also ch. 5.

[51] Locke, *Two Tracts on Government,* p. 221; Sanderson, *Several Cases of Conscience Discussed in Ten Lectures,* p. 157.

[52] As Edward Bagshaw wrote, see note 46.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

The diffusion and ultimately erasure of moral dilemmas from political theory and theology had already, at this point, a very long history. As explained by M.V. Dougherty a rationalist shift had occurred in canon law and theology from Gratian to the Glossators of the *Glossa ordinaria*. The issue of perplexity is portrayed in distinction 13 of the *Decretum*, where Gratian declares that no dispensation is permitted from natural law, 'except perhaps when one is compelled to choose between two evils'. The rationalist *Glossators* instead viewed moral dilemmas as merely epistemological problems and not as moral entanglements: they constituted *a failure to understand* that characterized situations in which individuals regarded themselves as being in a dilemma, and perplexed by it, when in reality they were not.[53] Perplexity was more the result of negligence and lack of reasoning than a situation of future moral growth in which the individual faces a new moral challenge. Rationalist canon lawyers thus produced a type of reasoning that aimed at blocking situations of perplexity, transforming them into epistemological conundrums in need of external guidance. However, the opinions in play multiplied along with the development and production of moral guiding works. In the effort to overcome the numerous subtleties of the moral casuists, this rejection of perplexity would continue in Jean Barbeyrac's early eighteenth century account of the 'Science of Morality' and its demand for moral certainty.[54] It would do so, of course, within the ideology provided by the metaphysics of necessity of mechanistic philosophy described in Chapters 2 and 3:

> it may sometimes fall out, that for want of Care or Attention, we may, in some uncommon Cases, not know how to apply them (the Rules of Conduct); or cannot methodically demonstrate the necessary Connexion of some remote Consequences, with the first Principles of Morality.[55]

In opposition to the rationalist tendency to distrust bemusement in respect of (moral) knowledge, Vasilis Politis and Constance Blackwell

[53] The *perplexitas* of Gregory's 'moral entanglement' was subsumed, via the Glossator's apparent *perplexitas* of lack of understanding into 'moral confusion', and thus into situations in which an agent faced with 'moral uncertainty' needed the assistance of a (probable) authority. For the content of this paragraph see, Dougherty, *Moral Dilemmas in Medieval Thought. From Gratian to Aquinas*, pp. 13–40; p. 33; pp. 198–203.

[54] 'A Man before he can arrive at this State of Doubt and Perplexity, so as to be at a loss which side of the Question to take, in Points relating to this own Conduct; must first have negligently over-look'd Maxims, so clear, as to be self-evident; and so easy, as to be obvious in every Case of Practical Duty.' Barbeyrac, 'An Historical and Critical Account of the Science of Morality', p. 8.

[55] Barbeyrac, 'An Historical and Critical Account of the Science of Morality', p. 10.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

view the *aporie* or perplexity as an important element since Aristotle in helping to achieve knowledge of reality by means of a voyage of personal discovery.[56] Blackwell writes that in translations of metaphysics employed in the fifteenth and sixteenth centuries *aporia* was given a meaning that more properly reflects that of *dubito*, and thereby the meaning of Aristotle's project of discovery of knowledge through puzzlement was also modified.[57]

In legal works, the notion of perplexity during the Renaissance had become independent of the thinking of theological and canon lawyers and of moral discussion, which included factors such as the deceiving devil and the malformed conscience.[58] Legal discourse nevertheless suffered from the same multiplication and diversity of opinions among lawyers that made sceptics like Montaigne despair of the prospects of there being any certainty about justice.[59] This tradition transformed perplexity into a methodological theme of legal reasoning that, in effect, involved an attempt to avoid *non liquet* in the application of the law. Gottfried Wilhelm Leibniz's anti-humanist text *Casibus Perplexis in Jure*, published in 1666 crystallized the

[56] Following Vasilis Politis, Constance Blackwell reads chapter III of Aristotle's *Metaphysics* defining the *aporie* or puzzlements as a means to reach the knowledge of being in metaphysics. Aristotle wanted in that chapter 'to orient the reader of the *Metaphysics* through the *aporeo* towards a voyage of personal metaphysical discovery.' In a truly complex manner, it is the *aporie* itself, what gives orientation to the knowledge seeker. "Those who search without first engaging with *aporiai* are like people who don't know where they need to be going; moreover, they do not even know whether or not they have found what they are searching for. For the end [of a search] is not clear to such a person, but it is clear to the person who has first raised *aporiai*." (995a 34–b 2)' Aristotle quoted in Vasilis Politis, *Routledge Philosophy Guide to Aristotle and the Metaphysics*, (London and New York, 2004), p. 65; Blackwell, 'Aristotle's Perplexity becomes Descartes's Doubt'.

[57] Blackwell, 'Aristotle's Perplexity becomes Descartes's Doubt', p. 232.

[58] In between Gratian and the Glossators, Aquinas asserted that giving a certain supposition, one may be perplexed. For instance, a previous bad deed, a theft, might put an individual in a situation of perplexity, in which he or she might be unable to restore the goods without causing a bigger harm (perplexity *secundum quid*). But God never permitted individuals to be in a situation of pure perplexity (perplexity *simpliciter*). This did not mean that an individual could not suffer from dilemmas due the activity of the devil or to a malformed conscience. As noted above, individuals operated the innate principle of practical reasoning that 'good is to be done' when the concrete situation arose; and they did so, helped by the illumination of the synderesis or light of nature. However, if one did not know the law of God, the synderesis was not enough. And an apparent moral dilemma might ensue from a malformed moral conscience. Dougherty, *Moral Dilemmas in Medieval Thought,* pp. 124–159.

[59] On the narrowing notion of perplexity among lawyers in the Renaissance, on Montaigne and Leibniz, see Stéphan Geonget, *La notion de perplexité a la Renaissance* (Genève: Roz, 2006), p. 57, and generally ch. 1.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

issues in play during the period and offered solutions as to the method by which the judge could apply the law in cases of apparent impossibility due to the conflicts of laws in relation to contingent facts. One can always decide in doubts about the law by having recourse to the mind of the legislator, wrote Leibniz.[60] The tendency in the seventeenth century seems to have been to throw into the lap of the sovereign whatever puzzlements of (moral) knowledge, and trust that he or she would have greater insight into the matter. In this regard, Hobbes's *Leviathan* captures the mood of the times.

Timothy Stanton discusses how Robert Sanderson had preached against the obstinacy of one who voluntarily remains, due to 'his own error', in a situation of 'fearful perplexity'.[61] The context of that discussion of perplexity is a critique of political subjection in a situation of doubtful conscience, and it appears in the fourth sermon, preached to clerics in 1634, of a large collection of his homilies.[62] The issue under discussion was whether one should participate in what one considers to be an unjust war. Sanderson advised obedience to the Prince 'for conscience sake'. If an individual had already passed judgment in his or her own conscience against it, Sanderson wrote that that matter had become unlawful for the individual. 'Yet let him know thus much withal', added Sanderson dramatically 'that he sinneth too in disobeying the Magistrate'.[63] In agreeing that, for the sake of the Commonwealth, the prince's command took priority over individual conscience, Sanderson's conclusion supported a prevailing contemporary trend in the theory of the state and in moral theology.[64] However, for a casuist and a preacher responsible for guiding consciences, his position was remarkably emphatic.

[60] Gottfredus Guilielmus Leibnüzius *Disputatio inauguralis de casibus perplexis in jure*, (Lipsiensis, JU. Bacc, Georgi Hagen, Universitatis Typogr., 1666) p. 5; p. 31. That this text is the end of the evolution of perplexity in law, in Geonget, *La notion de perplexité a la Renaissance.*

[61] See Stanton's discussion that takes another path in Stanton, 'Freedom of Conscience, Political Liberty and the Foundations of Liberalism', p. 140.

[62] Robert Sanderson, 'The Fourth Sermon' in *XXXVI Sermons*, Isaac Walton (ed.) (London: Printed for B Tooke and others, 1689), Early English Books Online Text Creation Partnership, 2011 http://name.umdl.umich.edu/A62128.0001.001 pp. 59–78.

[63] Sanderson, 'The Fourth Sermon', p. 74.

[64] The matter was not original since Pope Hadrian VI, Domingo de Soto and Hugo Grotius had contributed to the discussion on doubtful conscience when going to war. One of the main concerns in Grotius's *De Iure Praedae* appears to be that of how to reduce this type of lingering doubt about the justice of the war in the subjects' conscience, that is to say, in the minds of those actually involved in fighting in a war: 'those persons who are bound by the law of a state'. On this issue, Grotius followed the lead of the Spanish scholastics, especially the Salamancan theologians Vitoria and Domingo de Soto who had refuted

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

For the sceptical Locke, on the other hand, moral perplexities about the practice of moral good in political action reflected ignorance about how politics work. In contradistinction to Hobbes, who stated that the will of the prince contained the will of the subjects, Locke did not deny diversity.[65] He borrowed much from Sanderson's analysis of the formation of conscience for his future project of reason, and in particular the latter's advice to an individual to the effect that conscientious action should involve '[examining] well the Principles and Grounds of his opinion'.[66] However, he evidently disagreed with Sanderson's resolute guidance of other people's consciences. In the *Two Tracts*, Locke's proposal was instead to leave conscience aside from political discourse. He blocked the appearance of moral dilemmas and boldly confronted the issue of perplexity in relation to nonconformism as a problem to be solved through a new political theory. As described earlier, he established a clear distinction of three realms in the *Two Tracts on Government*: matters indifferent that, when legislated by the magistrate became necessary; moral natural law dictated by God and nature that the magistrate only confirmed; and individual conscience about one's spiritual concerns. If these three realms were distinct, neither moral dilemma nor perplexity existed for non-Anglican Protestants. If they discovered that their individual consciences dictated something opposite to the law, as clearly happened in respect of religious ceremonies, Locke argued that they did not need to put away conscience for the sake of authority. That was not what conscience was about: conscience was a private law, and what the magistrate legislated were outward actions of the public realm, either confirming matters of natural law or indifferent ones.

the opinion of the Dutchman Adrian Florisz (tutor and regent of the Emperor Charles V), later Pope Hadrian VI. In cases where subjects suffered from moral doubt about the legitimacy of a command, Florisz had defended that the decision of the individual subject prevailed, regardless of the consequences. Narrowing down the question to soldiers, Soto rejected this ample leeway for disobedience on the ground of the danger of dissolution of the commonwealth. Hugo Grotius, *Commentary on the Law of Prize and Booty* ed. with and Introduction by Martine Julia van Ittersum (Indianapolis: Liberty Fund, 2006), p. 67; On Florisz and Soto, see Rudolf Schüssler, *Moral im Zweifel. Die scholastische Theorie des Entscheidens unter moralischer Unsicherheit* v. I (Paderborn: Mentis, 2003), pp. 132–143, especially, p. 141; on Florisz and Grotius, see also Merio Scattola, 'Law, War and Method in the Commentary on the Law of Prize by Hugo Grotius', in *Property, Piracy and Punishment: Hugo Grotius on War and Booty in De Iure Praedae – Concepts and Contexts*, Hans W. Blom (ed.) (Leiden, Boston: Brill, 2009). This information is taken almost verbatim from Garcia-Salmones, 'The Impasse of Human Rights', p. 543.

[65] Skinner, 'Hobbes on Representation'; Carey, *Locke, Shaftesbury, and Hutcheson: Contesting Diversity in the Enlightenment and Beyond.*

[66] Sanderson, 'The Fourth Sermon', p. 72.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

This crude solution involving the delimitation of different realms did not relieve Puritans' feelings. Moreover, it proved to be historically unsatisfactory since it did not match the reality of conflict between conscience and conformism and the numerous objections made following the enactment of the Act of Uniformity. The name of the Act is in itself telling. External activity and conscientious decisions on spiritual matters touched one another as a matter of course and were sometimes in violent opposition to one another. To assert that the magistrate embodied the public reason was thus not a solution that Locke entertained for long, since uniformity or conformity of action was against one of the two principles of enhancing public order and cherishing individual conscience that seem to have founded his political ideas from the beginning. It is therefore extremely paradoxical that 'conscience', as a notion of political theory, would be the casualty of his own political writings. But the *Tracts* provided Locke with a good start in terms of thinking about perplexity in politics and looking for ways to search for a new notion of the public in a divided Commonwealth.

The discovery of the Chapel Hill manuscript in 2016 has been interpreted along the lines of Locke's commitment, earlier than it was thought, around 1667 to more toleration.[67] However, Locke's goal, as also interpreted by J. C. Walmsley and Felix Waldmann remained unchanged: 'to ensure the moral conduct of a political subject'.[68] After the *Two Tracts* the time had come to explore the next candidate to embody the public reason: natural laws.

8.2 Undoing Conscience

8.2.1 No Innate Principles

In a series of disputations on the law of nature written probably between 1662 and 1664 Locke next divided an individual's moral faculties between reason, which operated on the basis of external sensorial data; and conscience, understood in an even more restricted sense than in the *Tracts*. His clear rejection of the existence of innate principles in human nature can be seen as early as in the *Essays on the Law of Nature*. Timothy Stanton takes the view that Locke's design in denying innateness in respect of conscience was to

[67] 'Locke asks whether "religion" as legislated by the magistrate should extend "any farther then a beleife of god in general. but not of this particular worship."' Context and analysis of the manuscript and Locke's quote, in J. C. Walmsley and Felix Waldmann, 'John Locke, Toleration, and Samuel Parker's *A Discourse of Ecclesiastical Politie* (1669): A New Manuscript', *Modern Intellectual History*, (2021) 1–36, p. 16.

[68] Walmsley and Waldmann, 'John Locke, Toleration, and Samuel Parker's *A Discourse of Ecclesiastical Politie* (1669)', p. 16.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

avoid, in those early works, any notion of the idea of law being based on conscience.[69] The *Essays* contain a series of disputations on natural law, which probably originate from Locke's teaching and are written in the old scholastic style. Wolfgang von Leyden discovered them among the papers contained in the Lovelace collection in the early 1940s.[70] Locke did not consider that innateness works well in reality and therefore he devised a naturalist epistemic certainty for the law of nature, which was still rudimentary, though also original. It was important for his political theory that in the *Essays on the Law of Nature* he also denied that practical moral judgment about one's interest, when the occasion arises, could be a source for the law of nature.

The novel solutions adopted in the *Essays* reflect, again, both worry and his commitment in relation to the multiplicity of consciences. That was articulated as the absence of innateness, meaning crudely that your conscience is your opinion, and his view that it is impossible to judge what is in the self-interest of someone else, or in other words, that your opinion ought to be respected after all. His theory in the *Essays on the Law of Nature* therefore extended well beyond the mere separation between civil and religious or ecclesiastical matters in politics. For in declaring that practical judgment about one's interest was illegitimate to found a public sphere Locke was identifying and disarming the very core of conscience in natural law. Natural law, he thought, must be somewhere else, not in conscience.[71] A conception of 'conscience' that, as he saw happening, leads to systematic preference for private interest was no longer politically useful.[72] Locke's

[69] 'The effect of this suggestion was to expunge from the idea of conscience any notion of law. In Locke's subsequent writings conscience featured as a mental capacity which pronounced judgment upon actions by acquitting or condemning them, but which did not itself legislate.' Stanton, 'Freedom of Conscience, Political Liberty and the Foundations of Liberalism', p. 149.

[70] There have been so far two editions of these disputations, and the title given to them has been a matter of some debate. Wolfgang von Leyden termed them *Essays*, while Robert Horwitz, Jenny Strauss Clay and Diskin Clay classified them rather in the genre of *quaestiones disputatae*. The name of *Essays* is, however, the most used by scholars. I have quoted generally from the Horwitz, Clay and Clay edition that adopt a more literal approach in the translation, which is helpful for my purposes of identifying key notions, as will become clear in this section. von Leyden, 'Introduction', John Locke, *Essays on the Law of Nature*; Horwitz, Strauss Clay, and Clay in John Locke, *Questions Concerning the Law of Nature*.

[71] In this sense, see Paul Bou-Habib on the argument that Locke was searching for a common public reason already in the *Essays on the Law of Nature*, Bou-Habib, 'Locke, Natural Law and Civil Peace: Reply to Tate'.

[72] Cfr. James Tully that sees Locke's and other contemporaries' rejection of the notion of conscience on the grounds that it was too radical or too submissive to authority, James Tully, *An Approach to Political Philosophy: Locke in Contexts* (Cambridge: Cambridge University Press, 1993), p. 180.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

misgivings about moral and political theories founded on self-interest revealed his early novel focus on public interest and human necessities. In view of what he described in his early writings on the law of nature as the scarcity of goods in nature and the covetous nature of human beings, he did not regard self-interest as a viable political principle.[73]

In respect of the period between the *Essays on the Law of Nature* and the *Two Treatises of Government* Peter Laslett and John Dunn emphasized the important biographical factor of Locke moving away from Oxford and its academic life, to Exeter House and the Shaftesbury circle of politics and public life.[74] My argument in this section is that the key biographical factor that marked Locke's intellectual life in Oxford was his encounter, as early as 1658, with the fascinating influence of Robert Boyle and his constellation of scientific and theological ideas, especially the method of reasoning from nature's design, more visible in the *Essays* than in the *Two Tracts*.[75]

Against all tradition, Locke declared that the witness of conscience was no rational proof of the existence of a divine power that presided over the

[73] James Tully, *A Discourse on Property: John Locke and his Adversaries* (Cambridge: Cambridge University Press 1980), p. 102.

[74] Dunn, *The Political Thought of John Locke*, p. 27.

[75] Peter R. Anstey gives this earlier date of Boyle and Locke meeting on the basis of entries of that year in Locke's medical notebook. Anstey, 'Boyle's Influence on Locke', p. 40; von Leyden, mentions the meeting, however, he did not mention Boyle as an influence in his learned introduction to the *Essays*. von Leyden, 'Introduction', John Locke, *Essays on the Law of Nature*, p. 11. Noting the important influence of Robert Boyle see in particular, Carey, *Locke, Shaftesbury, and Hutcheson: Contesting Diversity in the Enlightenment and Beyond* and Ben-Chaim, *Experimental Philosophy and the Birth of Empirical Science.* Samuel Pufendorf's *Elementa Jurisprudentia* (1660) whose copy Locke had in his possession, and was considered by von Leyden a clear inspiration to the disputations, appears to be a text very different in principle, tone and form. The *Elementa* is composed by juridical definitions, seemingly written for consultation of statemen, a text, indeed of civil and international law. Pufendorf acknowledged his debt to Grotius and Hobbes. Despite very broad general themes common to natural lawyers of seventeenth century, such as the discussion of the place of self-interest or the question of sociability in natural law, it suffices to note that the law of nature is for Pufendorf 'the dictate of reason', which Locke explicitly rejected: 'Less accurately, it seems to me some say it is a dictate of reason; for reason does not so much lay down and decree this law of nature as it discovers and investigates a law which is ordained by a higher power'. Locke, *Questions Concerning the Law of Nature,* p. 101. Pufendorf, however, like Locke noted that 'the state of need of human life' prompts the union with other human beings. But that is something that Hooker, had also pointed out. See Samuel von Pufendorf, *Two Books of the Elements of Universal Jurisprudence* (1660) William Abbott Oldfather trans. 1931; revised by Thomas Behme. With an Introduction by Thomas Behme (ed.) (Indianapolis: Liberty Fund, 2009), p. 206; p. 213; for the point on Hooker, see Horwitz, 'Introduction', p. 15. Hanna Dawson has studied in detail Pufendorf's and Locke's naturalism in later works in, Hanna Dawson 'The Normativity of Nature in Pufendorf and Locke', 63 *The Historical Journal* (2020), pp. 528–558.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

world.[76] That was unconventional, but quite logical in the context of his overall argument. In the first disputation, 'Is there a Rule of Morals, or Law of Nature Given to Us? Yes', Locke announces what would be the very Boylean foundation of his doctrine of natural law. We cannot doubt the existence of God – the fact that 'someone presides over the world' – on the grounds of the marvellous design and 'constant course of nature'.[77] No matter how uncertain, there was 'nothing in this world' that did not acknowledge 'fixed laws which are suited to its own nature'.[78] Therefore, through reason working on physical things through the senses, human beings arrived at the knowledge of God and his works.[79] The question Locke asked next was whether human beings could be the only creature without a law and jurisdiction, something he denied:

> This law of nature can, therefore, be so described [as a law] because it is the command of the divine will, knowable by the light of nature, indicating what is and what is not consonant with a rational nature.[80]

While in the *Two Tracts* an individual's conscience tends to be regarded as a spiritual sphere and a private form of law specific to the individual, in the *Essays on the Law of Nature* the very notion of conscience is contested. The denial of innate principles of speculative thinking and practical morality constituted Locke's decisive theoretical move in the English context to undo the conception of conscience as being what naturally leads human beings towards good and against evil.[81] Differently, Locke's

[76] Locke, *Questions Concerning the Law of Nature,* p. 163.

[77] 'For he has commanded the heavens to turn in their perpetual revolution, the earth to abide in its place, the stars to shine, has fixed limits to the unruly sea itself, has prescribed for every kind of plant the manner and season of its germination and growth; and all creatures in their obedience to his will have their own proper laws governing their birth and life'. Locke, *Questions Concerning the Law of Nature,* p. 95. See John Dunn that in Locke's design of an ethic, 'the touchstone which he set up was always the relation between Creator and created', Dunn, *The Political Thought of John Locke,* p. 26, and generally.

[78] Locke, *Questions Concerning the Law of Nature,* p. 96.

[79] Colman terms this natural law, perceived through the senses, empiricist natural law, John Colman, 'Locke's Empiricist Theory of the Law of Nature' in Peter R. Anstey (ed.) *The Philosophy of John Locke: New Perspectives*, (London and New York: Routledge, 2003), pp. 106–126.

[80] Locke, *Questions Concerning the Law of Nature,* 101; The grounds of our obligation 'because He wills', and the extent of our obligation was delimited by 'the declaration of his will'.

[81] John W. Yolton noted in his classic *Locke and the Way of Ideas* that Locke was not altogether original since the seventeenth century had witnessed some critique to naïve forms of innatism, as Yolton's review of the state of the matter shows. However, when his denial of innatism appeared developed in the *Essay of Human Understanding* Locke was breaking new ground as an epistemologist and moralist. Yolton, *Locke and the Way of Ideas*, pp. 26–71.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

proposal is then to study the design of God as expressed in the rational nature of a human being. Hence Locke obscured the role of conscience in grounding the morality of human nature, the traditional role of conscience as the discoverer of the law of nature, witness of God's voice and so on.

Both Aquinas and Locke regarded virtue as being the aim of moral life, and in both cases the law of nature responded to the nature of human beings, making them happy if they complied with it and miserable if they did not. However, in Aquinas's work, the theological obligation of natural law arises from the participation of human beings' reason in the eternal reason of God. In respect of this idea, Aquinas was, after all, developing Aristotle's theory of light in mind – that 'non-human element in us: mind, which is divine', as we saw in Chapter 5.[82] In Locke's *Essays*, the obligation to obey natural law arises from a debt from 'the right of creation'.[83] Unlike Aquinas, Locke argued human beings' independency from God as a metaphysical question; God and human beings occupied separated and disconnected worlds. The result of Locke's erasure of conscience, both as guidance for life and morality and as a divine element in human beings, resulted in his law of nature being startlingly naturalist and also in his remarkably naturalist epistemology. The naturalism arises since Locke's light of nature is acquired only by the force of nature (*naturae vi*) and humanity's 'sagacity' through the senses.[84] Furthermore, Locke's concern was to deal with human beings as also within the jurisdiction of the law of nature, together with the rest of the creatures. The new naturalist moral natural law is thus the core difference between Locke and Boyle, and how the former tempered the latter's utopianism.

Naturalism is therefore Locke's answer to the much quoted query from his friend Gabriel Towerson of All Souls in a letter of 1661 addressed to Locke: 'I would willingly know of you whether you think the law of nature can be evinced from the force of conscience in those men who have no other (divine) rule to square their actions by'.[85] In the disputations on the

[82] Aristotle, *The Nichomachean Ethics*, Book VI; Lear, Aristotle. *The Desire to Understand*, p. 146.

[83] Aquinas, *Summa theologiae* I, q. 12.2; Cornelio Fabro, *La nozione metafisica di partecipazione secondo S. Tommaso d'Aquino*, (Roma: Edivi 2005). How Aquinas's idea of participation in the divine reason was understood by English seventeenth century moralists in Horwitz discussion, Horwitz, 'Introduction' in Locke, *Questions Concerning the Law of Nature,* p. 13.

[84] Locke, *Questions Concerning the Law of Nature,* p. 120. To Richard Tuck's argument that Locke's theory of obligation is very loose may be noted that rather than about a theory of obligation Locke writes about a moral theory of body. Tuck, *Natural Rights Theories,* p. 169. See also similiarities with Albert the Great in the section 5.2.2. on the importance of body.

[85] Abrams, 'Introduction' in John Locke, *Two Tracts of Government*, pp. 11–15.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

law of nature, Locke answers Towerson's question partially in the negative, since the light of nature derived 'from the force of nature', and not from 'the force of conscience', whereas in principle it was accessible to everyone who put in the necessary effort to do so. In Locke's teaching role at Oxford, it would have been odd to ignore the notion of conscience altogether in lectures on the law of nature. However, the few clues Locke provided indicate that in his understanding conscience had little relation to the law of nature. He added that 'we would not want this (the light of nature) to be understood as some kind of light internal to human being, implanted by nature' (*non … a natura insita*).[86] Instead, he meant 'the kind of truth whose knowledge man can, by the right use of those faculties with which he is provided by nature, attain by himself and without the help of another'.[87]

Inscription, therefore, was not the origin of the knowledge of the law of nature, as he also forcefully, almost aggressively, argues in the third *quaestio* entitled 'Is the Law of Nature inscribed in the minds of men? It is not'. In that text, Locke concluded 'that no principles, either practical or speculative, are inscribed in the souls of men by nature'.[88] Famously this idea is the linchpin of Book I of *An Essay Concerning Human Understanding* and it is remarkable that Locke deduced much of the reasoning of this third disputation from the brutish quality of the 'barbarous and rude peoples', as well as from children.[89] Already, therefore, in the *Essays on the Law of Nature* Locke employed cultural variation to undermine innate principles by means of his biased reading of the fashionable natural history of human beings as expounded in travel literature.[90]

8.2.2 Common Necessities and Not Interest

In the *Essays,* the knowledge produced through the law of nature was *necessary* knowledge. The law of nature was perpetual and universal, binding

[86] Locke, *Questions Concerning the Law of Nature,* pp. 118–119.

[87] Locke, *Questions Concerning the Law of Nature,* p. 119. Later he defined 'the light of nature' as the mutual aid of 'reason and sense', p. 153.

[88] Locke, *Questions Concerning the Law of Nature,* p. 139; p. 151.

[89] Locke, *Questions Concerning the Law of Nature,* p. 144; p. 145; p. 147.

[90] The peoples in Brazil and Saldanha Bay did not acknowledge a God, as Locke noted in Locke, *Essays on the Law of Nature,* pp. 173–175. But according to the same travellers, they, the Caribbeans, the much cited Tupinamba in Brazil, and other groups that Locke incorporated to his list with the years, showed other signs of recognition of divinity, such as fear of supernatural powers or desire for a place in after life. Locke's reading was thus biased, consistently neglecting the parts in which the travellers described aspects of the customs that affirmed a Stoic understanding of human nature, see these ideas in Carey, *Locke, Shaftesbury, and Hutcheson: Contesting Diversity in the Enlightenment and Beyond,* especially ch. 3.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

'throughout all ages and over the entire globe'. It 'would be necessary for human nature to change before this law could either change or be abrogated'. It 'necessarily' followed 'from the nature of a man', as it followed from 'the nature of a triangle that its three angles are equal to two right angles'. These ideas about the epistemic certainty obtained through the law of nature did not amount to moral determinism. A large element of Locke's argument resides in the contention that knowledge of natural law requires each *individual* to look for it and then choose freely whether to obey it. Locke regarded the argument as to the disadvantage that would ensue in the absence of the law of nature. There would be 'no religion, no society among men, no faith'. All human beings had the duty to investigate the law of nature, since to 'surrender' to the morals of others or be 'driven athwart [from reason] by their passions' was like closing one's eyes while crossing a road – one would not be better off if one were blind.[91]

By the law of nature, all human beings are friends among themselves and are united by common necessity.[92] Adopting a modern idiom, Wolfgang von Leyden translated *communi hominum necessitate* as 'common interests', and thereby situated Locke in the natural law tradition of interests that without a doubt the philosopher was attacking in the *Essays*.[93] The more literal 'common human necessity' rendered in the latest translation makes it easier to follow the argument.[94] Since Locke regarded the principle of 'common necessity' as grounding both positive agreements (together with interests) and the bond established by the law of nature, the accuracy of the translation is vital. As he wrote in the *Essays* the consensus of mankind could first be divided into 'positive consensus and a natural consensus'. The first happened 'when some common necessity or advantage draws men to it (*communi hominum necessitate, et commodo*)'. However, unless the argument made by some (Hobbes) prevailed that 'in the state of nature war is common', Locke took the view that 'by the law of nature all men should be friend of one another and joined together by a common necessity (*communi necessitudine conjunti*)'.[95] In this paragraph,

[91] Locke, *Questions Concerning the Law of Nature,* p. 227; p. 229; p. 231; p. 233.
[92] 'ex lege naturae omnes homines inter se amici sint, et communi necessitudine conjunti'. Locke, *Questions Concerning the Law of Nature,* p. 174.
[93] The first translator of the *Essays* noted that he had preferred to adopt modern idioms, except when the argument required otherwise, von Leyden, *Essays on the Law of Nature*, p. 91; p. 161.
[94] On his choice for a literal translation see, Diskin Clay, 'Translator's Introduction' in Locke, *Questions Concerning the Law of Nature,* p. 88.
[95] Locke, *Questions Concerning the Law of Nature,* p. 174.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

we see Locke hesitating between the accuracy of Hobbes's description of the state of nature at war and his own proposal of a more peaceful one.

The remarkable last essay is entitled 'Does the private interest of each individual constitute the foundation of the law of nature? It does not'. Instead, the *Essays* propose the naturalist bent towards necessity in human beings that the law of nature followed. In his preference for the notion of common 'necessities' over each individual's interest as the foundation of natural law, Locke reinforced both the naturalism of his law of nature and the activity of reason as the means of discovering natural law – nothing was left to the unpredictable and uncertain interests of individuals. He accordingly declared that necessities were the main principle that united society, together with a certain natural social inclination. He did not find it important to dwell on necessities but took them as a given:

> Then, [he perceives that he is] impelled to form and preserve a union of his life with other men, not only by the needs and necessities of life (*vitae usu et necessitate*), but [he perceived also that] he is driven by a certain natural propensity to enter society and is fitted to preserve it by the gift of speech and the commerce of language.[96]

Necessities and a certain sociability were the origins of society. It was, however, not lacking in importance that in Locke's view 'necessities' had an exclusively *unifying* effect among human beings, while interests had a divisive effect – exactly the contrary may be equally plausible.[97] This can be explained by observing how 'necessities' could be predicated on each individual and on all individuals in a continuum. Instead, individuals seeking their own interest would consistently oppose the common interest and common good. At any rate, this is the way in which Locke employed the terms. On that ground, the concept of necessities offered a much better basis for theorizing on the notion of the public.

Moreover, individuals' judgments on their particular interest did not amount to a necessary judgment in naturalist terms. He reformulated the utilitarians' claim that 'each individual is free to judge by himself what would be of advantage to himself (*utile ipse*) [simply] as

[96] Locke, *Questions Concerning the Law of Nature,* p. 169. As scholars have noted already, Locke's duty of human beings to the Creator is also formidable. Human beings were subjected to Him, by 'supreme right and supreme necessity' (*summa necessitate*).

[97] See about this type of thinking of 'uniting interests', Pierre Force, *Self-Interest before Adam Smith: A Genealogy of Economic Science* (Cambridge University Press, 2007); and how it would evolve see Albert O. Hirschmann, *The Passions and the Interests. Political Arguments for Capitalism before its Triumph,* with a Foreword by Amartya Sen and an Afterword by Jeremy Adelman (Princeton University Press 2007).

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

the occasion arises (*pro re nata*)', inquiring whether the search for self-interest was 'not only lawful (*licitum*) for him but even necessary (*necessarium*)'. His answer to this was as follows: 'This we deny.'[98] Locke's response to Carneades and his followers is possibly his most accurate moral portrait.[99] A realistic champion of duty living in a society obsessed with private wealth, who, more generally, viewed human nature as being infected with the vice of covetousness.[100] Instead, human life was 'full of duties', and many virtues amounted simply to helping others 'at one's expense'. Heroes gained their place in the stars not by virtue of 'monies piled up and acquired from all sources', but 'by toil, dangers, by generosity'. They had not pursued 'their own private gain, but the public interest (*utilitate publicae*) and that of 'the entire humankind' (*totius humani generis*)'.[101] Locating the basis of one's duty in avarice meant making an appeal to vice, while it was impossible that the law of nature would be concerned with the interest of each and every individual *at the same time*. He insisted that 'we deny that each individual is free to judge by himself what be of advantage to himself [simply] as the occasion arises'.[102] Self-love would later be described in an *Essay Concerning Human Understanding* as having often 'a great hand' in 'unreasonableness'.[103] Interest was not the measure of the rightness of an action, but its consequence. And that was good for the economy as well, since 'as virtue increases, so does wealth (*pecunia*) itself'.[104]

More pragmatically, 'nature' produced 'a fixed abundance of things for the benefit and use of men'. The products of nature were 'deliberately distributed' in a fixed manner, and not when peoples' avarice or needs increased. Empirically one ascertained that material things are limited: desires or needs might increase, but things would not increase:

[98] Locke, *Questions Concerning the Law of Nature,* p. 239.

[99] Locke is criticizing in the last question Carneades's argument that the law of nature is founded in self-interest. Locke, *Questions Concerning the Law of Nature,* 239.

[100] English society in the seventeenth century is depicted with greed as one of the most widespread vices by C. B. MacPherson, *The Political Theory of Possessive Individualism*; also in Istvant Hont and Michael Ignatieff, 'Needs and Justice in the *Wealth of Nations*: an Introductory Essay', p. 41; as a chaotic economy were sudden and widespread demand of credit lacked clear legal rules and moral check in Muldrew, *The Economy of Obligation.*

[101] Locke, *Questions Concerning the Law of Nature,* p. 240; p. 241.

[102] 'Verum negamus id cuique licere quod ipse pro re nata judicet sibi commodum fore' (Locke/ von Leyden 1954, p. 206); Locke, *Questions Concerning the Law of Nature*, 239. See Tully, *A Discourse on Property,* p. 46–48.

[103] Locke, *An Essay Concerning Human Understanding*, II, 23, §2., p. 394.

[104] Locke, *Questions Concerning the Law of Nature,* p. 243; p. 251.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

> Whenever either the desire or necessity (*aut cupido, aut necessitas*) for possessions increases among men, the limits of the world are not automatically extended. Food, clothing, adornment riches, and all other such goods of this life are placed in common. And whenever one man seizes for himself as much as he can, he takes away from another as much as he piles up for himself. Nor is it possible for anyone to grow wealthy except through someone else's loss.[105]

Years, later, in the *Two Treatises* Locke historicized the scarcity of goods as a consequence of the introduction of money. Before money was introduced, in early societies, there was plenty for all, who only took from nature what they needed. In his unpublished *Essays* concerning the law of nature, the presumption was not only that goods were restricted, but that a state of scarcity existed due to increasing needs and individuals' greed, which, importantly, ought not to be encouraged. A perpetual 'state of war' would necessarily follow from a law of nature based on self-interest.[106] It is perhaps no coincidence that where the immensely rich Boyle discovered abundance and plenty in nature, Locke the modest landowner saw measured quantities of goods proportionate to the needs of the people.[107] Given limited quantities, unlimited covetousness – which was assumed in theories concerning the basis of the law of nature in self-interest – was certain to generate extreme inequalities and shortage of necessities for many. That doctrine was in Locke's view incompatible with a 'sense of humanity' and 'concern for society':

> On this supposition, it follows, first that men are bound to something which cannot come about. For (in such a case) each individual is bound to secure and to possess the greatest possible supply of things useful to him. And so long as this is the case, it is necessary that as little as possible is left for another, since it is certain that no gain accrues to you which is not taken from another.[108]

This made it clear that if the law of nature were based on the judgment of each individual's interest it ought to be constantly violated: '[t]hat law whose violation is necessary cannot be the primary law of nature'.

Observed closely, Locke's denial that 'the standard of rightness is private interest (*utilitatem propriam*) and all duties of life are founded on it', did

[105] Locke, *Questions Concerning the Law of Nature*, p. 245.
[106] Locke, *Questions Concerning the Law of Nature,* p. 250.
[107] Locke, *Two Treatises of Government*, II § 32–33. On Robert Boyle and the principle of abundance in nature see ch. 6; and noting that in Locke's view 'Nature' was 'not a bountiful mother' since it required much effort to sustain the human life, Harris, *The Mind of John Locke*, p. 10.
[108] Locke, *Questions Concerning the Law of Nature*, p. 247.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

not signify a denial of the relevance of private interest. He rejected the claim that 'the common right [jus] of men and the private interest of each individual (*utilitas cujusque privata*) are things opposed to one another'. On the contrary, 'the law of nature is the greatest defence of the private property of the individual'.[109] He also stressed on several occasions that 'nothing was so conducive to the common advantage of the individual' and nothing 'so protective of the safety and security of men's possessions, as the observance of the law of nature'.[110] Locke denied, however, that each individual had the capacity to judge what was good for another individual. If the matter were left to individual assessment, other individuals would not obtain justice and fair treatment.[111] Thus was the question of how to channel self-interest into public interest broached in the *Essays on the Law of Nature*.

In the *Two Tracts*, Locke discarded private conscience as the foundation of public order. He concluded his *Essays on the Law of Nature* by denying that private judgment about one's advantage could be the foundation of public interest. Reason was considered to be a faculty of argumentation aided by the senses, and, in principle, not bound to individual conscience. Through reason, one could discover God's design for the world and for him or her as a rational being, which was what natural law amounted to.

Writing in the 1960s, Marie-Dominique Chenu pointed to the sceptical position held by Abelard (1079–1142) and to his proposal of a morality of intentions to signal the awakening of subjective conscience: 'The human being discovers herself as a subject.' ('L'homme se découvre como sujet'),[112] Imagining human beings as a 'great microcosmos', to be 'cleared from the morality of nature' became a revolutionary tool by which to move subjective creation of moral value to the forefront, at the expense of the objective order of things.[113] Locke seemed to be willing to undo this centenary

[109] Locke, *Questions Concerning the Law of Nature,* p. 237; p. 238–239.

[110] Locke, *Questions Concerning the Law of Nature,* p. 238.

[111] 'For no one can be a fair and just assessor of what is good for another, and under the guise of self-interest, you simply deceive the person to whom you claim the freedom to do what is useful.' *Questions Concerning the Law of Nature,* p. 239.

[112] M.-D. Chenu, *L'éveil de la conscience dans la civilisation médiévale*, Conférence Albert-Le-Grand, 1968, (Paris : Libraire J. Vrin, 1969), p. 15 (my translation). See also Jean Olivet, 'Abelardo', in Inos Biffi and Constante Marabelli (eds.) *Figure del pensiero medievale. La fioritura della diallettica X-XII secolo* (Milano: Jaca Book, 2005), p. 373.

[113] 'L'adaptation de l'examen de conscience, non seulement à la personnalité de chacun, mais aux divers états de vie et professions, représente un remarquable effort d'intériorisation, y compris dans la manière de juger les fonctions de la vie sociale, dans l'objectivité des relations humaines transformées par la société marchande nouvelle.' Chenu, *L'éveil de la conscience,* p. 45.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010

process of subjectivization through conscience and return to objective nature, albeit that in the process he passed through the separation of conscience and reason.

The main theoretical question ahead was that of how to outline the workings of individuals' reason in a manner capable of serving public conscience and achieving public advantage. My argument is that Locke's key notion in that process was that of 'necessities'. Chapter 10 analyses Locke's doctrine of necessities and Chapter 11 examines his ideas on money. Locke's early writings on money show that he continued to observe the issue of common necessities as crucial to achieving a sound understanding of how the state operates and that he astutely began to bridge the gap between theoretical notions of private advantage and public interest with the help of monetary scientific thinking. But before that I will expose in the next chapter the impact of Locke's studies of medicine in his biography and also the type of philosophy of necessities and needs and of utilitarian economics centred around the household characteristic of philosophers-physicians.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 17 Nov 2026 at 15:31:16, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009332149.010