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LOCKE'S CONCEPT OF NATURAL LAW

*City University of New York*

PH.D.

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DAPHNE MCKINNEY  
1979

LOCKE'S CONCEPT OF NATURAL LAW

by

DAPHNE MCKINNEY

A dissertation submitted to the Graduate Faculty in Philosophy in partial fulfillment of the requirements for the degree of Doctor of Philosophy, the City University of New York.

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This manuscript has been read and accepted for the Graduate Faculty in Philosophy in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy.

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## Abstract

## LOCKE'S CONCEPT OF NATURAL LAW

by

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The thesis of this dissertation is that, for Locke, the essential characteristic of natural law is the end to be realized by adherence to this law: the preservation and welfare of mankind. I argue that this functional concept of natural law is the basis upon which Locke develops the key concepts of his political theory, and upon which he reconciles his 'voluntarist' view of law with his 'rationalist' theory of obligation. Contrary to the arguments of his modern critics, I show that Locke's voluntarism does not rest on any article of faith, and his rationalism is not restricted to what is demonstrable. In particular, I show that the original and primary concept of reason in Locke's epistemology, as well as in his ethical theory, is practical reason, and that Locke defines practical reason in terms of the function of natural law and attributes it to all those obligated by natural law, i.e., all adults, except the mentally retarded and the insane. Consequently, taken in itself and for the light it sheds on other aspects of his thought, e.g., his epistemology, Locke's concept of natural law is not to be dismissed as philosophically uninteresting.

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INTRODUCTION

The wide range of interpretations of Locke's Two  
Treatises on Government,<sup>1</sup> plus the publication of his Essays  
on the Law of Nature in 1954, and of his early political  
writings, Two Tracts on Government, in 1967, has led to a  
debate in recent years concerning Locke's theory of natural  
law. Even if it is not specifically mentioned, the issue  
which is ultimately responsible for much of the controversy  
is whether Locke's view of law was rationalistic or volun-  
taristic.

According to the rationalist or so-called 'intel-  
lectualist' theory of law, a law is binding because it is  
reasonable. A law is not the command of a sovereign but a  
rational principle and therefore obliges both ruler and  
ruled. This theory represented the view of Grotius who  
argued that principles of law have their own binding force  
because they are founded on reason. Natural law would,  
therefore, be valid even if God did not exist. Grotius's  
position was the logical culmination of the doctrine of the  
medieval Realists who derived natural law from God's rational  
nature, thus making it unalterable even by his own Will.  
In opposition to the medieval Realists, the scholastic  
Nominalists argued that an Omnipotent Being was not bound by  
any objective principles. The Nominalists stressed the

primacy of divine Will over Reason and conceived natural law as what God commanded: what was right and wrong was what God declared. The Nominalist doctrine led to the 'voluntarist' theory of law which identified law with a sovereign's command. In brief, the issue behind the 'voluntarist' and 'rationalist' dilemma is whether the essence of law is will or reason.<sup>2</sup>

In his early and later works, Locke adopts positions similar to both the 'intellectualist' and 'voluntarist' theories of law. On the one hand, Locke maintains that a law does not oblige unless it is moral and, since reason can discover what is right, rational. On the other hand, he states that a law is "the decree of a superior will" and that a law must have sanctions, "enforcements."<sup>3</sup> For example, he states in ELN that "not fear of punishment, but the rational apprehension of what is right puts us under an obligation," while maintaining in the same work that a law is "no law without a law-maker and law is to no purpose without punishment."<sup>4</sup>

Thus, the problem is whether Locke's rationalism or his voluntarism prevailed in his theory of law. Did Locke consider that a law is binding because it is moral? Or did he consider that a law is binding because of its sanctions or "enforcements"? Alternatively, did Locke hold that a law obliges because it is derived from a rational principle or because it is derived from an effective or "competent will"? Von Leyden and Mabbot maintain that Locke vacillated between these positions. Abrams dis-

agrees with this view and with Singh's and Laslett's that Locke was committed to a rationalistic position. Sympathetic to the arguments of Strauss, Cox and Wild, Abrams contends that Locke adhered in his later works to his early voluntaristic account of law. Abrams does, however, mention favorably Gough's suggestion, which neither develop, that Locke's aim was to reconcile the rationalist and voluntarist theories of law rather than to take sides.<sup>5</sup>

Despite their differences of opinion, Locke's modern interpreters by and large agree that both Locke's voluntaristic and rationalistic accounts of natural law are philosophically untenable.

The major criticism of Locke's voluntaristic account of natural law is that it rests on divine sanctions meted out in another life. Abrams and Strauss argue that natural law which, according to Locke, "willeth the peace and preservation of all mankind," does not govern the state of nature because, from Locke's account, the state of nature is not one of peace. If it were, men would not be driven to live in civil society. Therefore, Strauss concludes (and Abrams agrees), on Locke's arguments, natural law is not "effective in this world." As a result, Locke's theory of natural law "stands or falls by reward and punishments after death." And, Strauss points out, Locke refers to these sanctions as those of natural law. However, Strauss continues, since Locke states that belief in another life cannot be rationally justified, revelation is the only means

by which we know the sanctions of natural law. But, according to Locke, natural law is known through reason not revelation. Therefore, Strauss concludes, "[n]atural reason is unable to know the law of nature as a law. This would mean that there does not exist a law of nature in the strict sense."<sup>6</sup>

The major criticism of Locke's rationalistic account of natural law is that Locke confuses the necessity of moral obligation with that of a logical relation. Locke claims that morality is demonstrable and can be modelled on mathematics. As a result, according to Aaron and Von Leyden, Locke treats moral propositions as if they were of precisely the same kind as those of mathematics. Aaron concludes that Locke "neglects the fundamental difference between moral obligation and logical relation." Von Leyden concludes that Locke fails to distinguish between the necessity of moral obligation and "logical necessity."<sup>7</sup>

Aaron also points out that, in Locke's ethical theory, Locke's "rationalism"--his belief in a "science of morals," is difficult to reconcile with his hedonism. Von Leyden states that Locke's adherence to natural law, an "eternal and objective morality," is not easily assimilated to his definitions of moral good and evil in terms of pleasure and pain. Von Leyden observes that Locke emphasizes rewards and punishments in his theory of natural law as his hedonism develops. Laslett refers to Locke's scepticism in The Reasonableness of Christianity about the demonstrability of morality and to Locke's need to "supplement his rationalism

. . . with revelation." Both the emphasis on sanctions and the need for revelation in Locke's theory of natural law inherit Strauss's criticism given above.<sup>8</sup>

Lastly, Locke's theory of natural law has been criticized because of Locke's positions on how this law is known. Strauss argues that since Locke denies moral principles are innate, "the law of nature becomes known only through demonstration." However, Strauss continues, Locke states that the great majority of men do not have the intellectual acumen and leisure for such a feat of reasoning. Hence, natural law is not known by those who are "under" it. But, according to Locke, "nobody can be under a law unless it is promulgated to him." Therefore, Strauss concludes, natural law "is not a law in the proper sense of the term."<sup>9</sup>

Laslett contrasts Locke's unwillingness or inability "to demonstrate the content and existence of natural law" with "his °Locke's! willingness in the Treatises to take advantage of the belief in innate ideas and innate practical principles." The inconsistency between Locke's view of natural law in the Treatises and his denial of innate knowledge in ELN and Essay bears out, Laslett argues, his contention that Locke's political and philosophical work are not complementary.<sup>10</sup> He points out that "[t]he objective existence of a body of natural law is an essential pre-supposition of his [Locke's] political theory," yet the "Essay has no room for natural law," and ELN does not provide a doctrine of natural law capable of reconciling

Locke's theory of knowledge in Locke's Essay with the ethical doctrine of that work and of Two Treatises." <sup>11</sup>

The purpose of this dissertation is to show that, due to their neglect of certain important aspects of Locke's thought, Locke's commentators have misconceived his theory of natural law and that the remedying of this neglect results in a new interpretation of Locke's concept of natural law. In particular, Locke's commentators have misconstrued Locke's concept of reason by completely overlooking his pragmatism. A critical examination of their arguments will reveal their assumption that, for Locke, the exercise of reason is solely restricted to logical inferences. <sup>12</sup> However, such restriction deems reason to be the exclusive attribute of an intellectual elite. Locke not only denies such exclusivity but, as will be shown, defines reason and knowledge primarily in terms that are attributable to, and at the level of, all mature, responsible individuals. All those capable of fending for themselves, be they country wenches or logicians, can exercise reason. Indeed, it will be argued that in Locke's theory of knowledge, as well as in his ethical theory, reason and knowledge are originally and essentially practical: the primary function of reason and the reality or objectivity of human knowledge is determined by what is necessary for, and conducive to, the survival and welfare of mankind. Locke expresses this practical criterion as the purpose for which natural law is imposed or, alternatively, as the end to be realized by

adherence to this law.

Significantly, Locke's commentators have paid comparatively little attention to Locke's emphasis on the purpose of natural law and on its applicability to all human beings, except children, idiots and the insane. Yet, as will be shown, it is the practical criterion articulated in the purpose of natural law through which Locke interrelates man's hedonistic and rational natures and by which reason is attributable to all those obliged by natural law: all mature, responsible individuals. Furthermore, this criterion plays a definitive role in Locke's concepts of 'rights,' 'obligation,' and 'law' as their explication will reveal. By virtue of the fundamental role this criterion plays in Locke's psychological theory, in his empiricism and in his ethical and political theories, it will be argued that, for Locke, the individual's physical survival and welfare are ultimately dependent on adherence to natural law, that this law is operative during his lifetime, and that it is capable of being known by those on whom it is imposed--those capable of taking care of themselves, all adults, except the mentally retarded and the insane.

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On the basis of the arguments to support these claims, a new interpretation of Locke's theory of natural law will be given. I shall argue that the essential characteristic of natural law is, for Locke, the end to be realized by adherence to it. This characteristic is, as I will show, the basis of Locke's justifications of natural

law, justifications which are both voluntaristic and rationalistic, and of their interrelationship. I shall also show that Locke's voluntaristic account does not depend on any article of faith, e.g., existence after death; his rationalistic account is not dependent on the demonstrability of morality. In short, I shall argue that Locke's theory of natural law does not rest on religious beliefs nor on possible logical demonstrations. Consequently, taken in itself and for the light it sheds on other aspects of his thought, e.g., his epistemology, Locke's theory of natural law is not to be dismissed as philosophically uninteresting. The following outline of chapters will indicate the manner in which this thesis will be developed.

The first chapter rebuts the criticisms that have been lodged against Locke's voluntaristic and rationalistic views of natural law and his denial of innate knowledge. It is preparatory to the ones that follow in that the rebuttal of these criticisms pinpoints those aspects of Locke's thought, neglected by his interpreters, upon which Locke's theory of natural law will be developed.

This Chapter has three sections: the first shows that Locke's theory of natural law does not rest on sanctions meted out after death; the second shows that Locke does not make our knowledge of natural law dependent on its demonstration nor does he identify moral obligation with logical necessity; and the third argues that Locke's view of natural law in the Treatises is not inconsistent with his arguments against

innate knowledge in the Essay.

With respect to the first, I argue that (i) according to Locke's voluntaristic concept of law, the "effectiveness" of natural law is not dependent on men living peaceably without political authority;<sup>14</sup> and that (ii) according to Locke's doctrine of natural law, the necessity to live under government is a moral one. I also argue that, according to Locke's hedonism and his definition of happiness in terms of conformity to natural law, the sanctions of natural law are, for Locke, the painful conditions of want, rapine and force which occur when men do not live under government. Consequently, sanctions for non-conformity to natural law occur during man's lifetime. Thus, contrary to Strauss's conclusion, Locke's theory of natural law does not depend on sanctions after death. (See pages 3-4 above)

On the basis of these arguments and the rebuttal of other possible objections, I show that sanctions after death are superfluous to Locke's theory of natural law. I also show that Locke's own views question the necessary role of such sanctions in his moral theory insofar as (i) he in effect denies the demonstrability of immortality of the soul in the Essay; (ii) he considers resurrection an article of faith; and (iii) he ridicules the view that an individual's happiness is contingent on his religious beliefs. Finally, I point out that Locke's denial of the immateriality and, as a result, of the immortality of the soul had led him into a controversy, to which he was in principle averse, with

Stillingfleet, and had laid him open to religious censure.

From the discussion outlined above, I argue that Locke's references to sanctions after death in his doctrine of natural law were made for reasons of prudence.

In the second section I argue that Locke does not make our knowledge of natural law dependent on its logical demonstration. He never claims that moral obligation is contingent on such demonstration, nor that natural law is only applicable to an intellectual elite, to those capable of performing or understanding such a feat of reasoning. On the contrary, Locke maintains throughout his works that knowledge of moral law is accessible to all men, except children, idiots and the insane, and that all mature, responsible individuals are accordingly obliged by moral law. (In line with Locke's general usage, and unless otherwise stated or obvious from context, the terms 'man' and 'men' will refer to the human species, not the male gender.) Furthermore, I show that Locke does not identify the exercise of our rational faculty exclusively with logical inferences. On the contrary, he argues that man's knowledge cannot be restricted to what is logically demonstrated, nor can the attribute of reason be restricted to those capable of making logical inferences. Accordingly, I argue that Locke does not confuse the necessity of moral obligation with that of a logical relation.

The third section will show that Locke's view of natural law in the Treatises is not inconsistent with his

arguments against innate knowledge in the Essay. I argue that

- (i) the innateness of natural law implied in the Treatises and expressed in ELN is not meant in the sense against which he argues in the latter work and in the Essay--that our knowledge of this law or of anything else is possible without sense perception. Rather, it is meant in the sense that natural or moral law, the law appropriate to human nature (as physical laws are appropriate to physical objects) is not fictitious.
- (ii) Locke uses this latter sense of 'innate' or 'natural' with respect to our capacity for sense perception, (in particular for those perceptions which accompany almost all others, pleasure or pain), to our inclination to pursue pleasure and avoid pain, and to our rational faculty. These capacities, inclination and faculty, by which we acquire knowledge of physical and moral laws and on which our survival and welfare are contingent, are implanted in human nature, i.e., they are not dependent on our volition and cannot therefore be construed in any way as fictitious.

The second, third and fourth Chapters develop the points raised in the first in terms of the two aspects of Locke's thought which have been neglected or given scant attention by his interpreters: the purpose and applica-

bility of natural law. These Chapters show the definitive role the purpose and applicability of natural law play in Locke's concept of reason and of the knowledge it affords, and in his notions of obligation, rights and law. The joint task of the second and third Chapters is to show that, in his theory of knowledge as it is articulated in his various works, but particularly in the Essay, Locke employs two concepts of reason, or rather considers reason in a dual role. The first is that which Locke figuratively calls "native rustic reason,"<sup>15</sup> which is attributable at least to all mature, responsible individuals, which is defined in terms of the purpose of moral law, and which is inherently practical. The second concept or employment of reason is that which is manifested in logical inferences, which is only properly attributable to those who understand such inferences and which is 'theoretical' or, to use Locke's terminology in a related context to distinguish it from practical, may be called 'speculative.'<sup>16</sup> These two Chapters will show that the practical concept of reason is the original and primary one not only in Locke's ethical theory but also in his theory of knowledge. To this end, the second chapter will focus on Locke's hedonism and the third on his rationalism.

In Chapter II, I explicate the concepts involved in Locke's hedonism: 'pleasure' and 'pain,' 'desire,' 'volition,' 'freedom,' and 'personal identity.' Two main points emerge from this explication. First, according to

Locke, volition is determined by desire and is only attributable to 'persons,' i.e., those individuals who have "the use of Reason."<sup>17</sup> Thus, for Locke, volition, by its determinant, includes man's hedonistic nature, and, by its attribution, man's rational nature. Consequently, any concept of law attributable to Locke which is based on one aspect of man's nature must, by Locke's concept of volition, include the other. Second, the function of man's rational nature is, according to Locke, to realize the purpose for which his hedonistic nature was implanted: the survival and welfare of mankind. Consequently, for Locke, reason is inherently practical.

The third Chapter substantiates the second by showing the pragmatic aspects of Locke's concepts of reason and knowledge. The first section explains Locke's two concepts of reason and will initially examine those areas of Locke's theory of knowledge in which he identifies the exercise of reason with logical inferences--his classification of ideas and his resulting classification of knowledge as intuitive, demonstrative and probable. The second part of this section discusses those aspects of Locke's thought in which he objects to the restriction of reason to this limited role and in which he states or implies that the original and primary employment of this faculty is that characterized as above 'practical.' These aspects include his polemic against syllogism in his chapter on 'Reason'; his view of the primary role of reason in his chapter on

'Improvement of our Knowledge'; and his principle that particulars, ideas of particular things and particular affirmations or negations, are historically prior to the general or abstract ideas and maxims, respectively, which they exemplify. This principle is the one on which Locke's denial of innate knowledge depends and by virtue of which he employs the "historical, plain method":<sup>18</sup> in short, the principle on which his empiricism is based and developed.

In the second section of this Chapter, I critically discuss Locke's theory of the reality of ideas, i.e., the "conformity [of ideas] with the real being and existence of things."<sup>19</sup> I argue that Locke's two criteria for the reality of ideas, empirical verification and logical consistency of the constituents of complex ideas, are those of actual and possible perception. Since possible perception includes ideas of non-existing substances, fictitious entities, Locke's argument for the reality of ideas ultimately concerns actual perception which is, of course, compatible with his empiricism.

To account for the reality of ideas of perception, Locke invokes his causal theory of perception and the corpuscular hypothesis which it involves. I argue that neither fulfil Locke's purpose because of his denials that physical bodies are causally efficacious and that the existence of atoms is certain. However, I show that Locke offers an alternative explanation for the reality of our ideas of the physical world. This explanation does not

require certain knowledge of the origin of ideas to guarantee the non-fictional character of empirical knowledge. It holds that such knowledge and the ideas which it is about are real because the human species would not have survived if they were not. In other words, the reality of ideas of perception and of our knowledge of the physical world is defined by Locke in terms of the practical criterion expressed by him as the purpose of natural law: the preservation and welfare of all mankind.

I show that this conclusion is corroborated by Locke's examples of mathematical concepts given in his denial of innate knowledge, all of which are intended to justify his own empirical stance and all of which show that, for Locke, mathematical concepts are essentially a function of practical needs, not an intellectual exercise, since their use is not dependent on an awareness of their logical character. I argue that the same conclusion applies to moral concepts, which in turn justifies Locke's attribution of obligation not merely to an intellectual elite but to all mature, responsible individuals, those who are capable of taking care of themselves. In brief, both Locke's concepts of 'reason' and 'knowledge' are originally and primarily practical by virtue of the moral end which defines the function of the former and the reality of the latter.

The second and third Chapters show that the purpose or end of moral law plays a definitive role in Locke's concept of reason. The three sections of the

fourth Chapter shows its definitive role in Locke's concepts of 'rights,' 'obligation' and 'law,' respectively. The first section accomplishes this task by explicating Locke's concepts of 'property' and 'consent' (through which he develops his concept of rights) in terms of the moral determinant on both. This determinant is, or is derived from, the "Fundamental Law of Nature,"<sup>20</sup> that prescribing the preservation and welfare of all mankind. This law justifies the bestowal of rights on those on whom it imposes no obligation, e.g., children, and thereby the incommensurate relation between rights and obligation with respect to their applicability.

In the second section I show that, for Locke, moral and political obligation are correlated by virtue of the ends for which they are imposed. I show the part Locke's concepts of 'political or preceptive power' and 'prerogative' play in this correlation, and the resulting concept of 'obligation' in terms of the purpose of natural law. The emergent concept of law is discussed in the last section both with respect to the requirements Locke stipulates and the definition he employs. Locke states that a law requires an author, promulgation and enforcement.<sup>21</sup> I show that, on Locke's arguments, promulgation and enforcement are not sufficient to establish the authority of any individual or group nor his or their wishes as law unless these individuals rule by popular consent and unless they use their political power for the public good. (Since

Locke makes no distinction among the 'public good,' the 'general welfare,' and the 'public interest,' these phrases will be used by me interchangeably. <sup>22</sup>) On the basis of the arguments in this Chapter and in the preceding one, I show that, for Locke, every concept, issue or matter which involves the concept or title of law has a common thread: the purpose or function of natural law. Within this context I argue that Locke employs a functional definition of law because for him the true hallmark of law is the end for which it is imposed. Accordingly, it is concluded that, for Locke, the essential characteristic of natural law, the law to which all human law must conform if it is to have the status of law and oblige, is its purpose--the preservation and welfare of all mankind.

The fifth chapter shows, first, how the functional interpretation of Locke's concept of natural law, which emerges from the fourth chapter, is substantiated by the arguments given in the earlier ones. The second part discusses the problems which arise with Locke's theory of natural law, and shows that these problems are offset by his rationalism in general and his practical concept of reason in particular. Collectively, the five chapters show that Locke's theory of natural law, taken in itself and for the insights it provides on other aspects of his thought, is not philosophically insignificant.

Although reference will be made throughout this dissertation to Locke's published and unpublished writings,

the four main sources upon which I draw in presenting Locke's theory of natural law are his two early works, Tracts and ELN, and his later ones, Essay and Treatises. Locke's later works are better known than his earlier ones, primarily because the Tracts and ELN were not generally available until their publication in 1954 and 1967, respectively. 23 The following brief summary of the Tracts and ELN, and of their relation to his later works is intended to show that Locke's thought in his early works is essentially consistent with the views he expresses in his later writings.

In the Tracts, written in 1660, Locke defends the right of the magistrate (the legislative body) to pass laws on matters which are not morally obligatory, i.e., matters of moral and, in particular, religious indifference, such as ceremonial practices. Considerable civil unrest had resulted from those who challenged the magistrate's right to legislate on such matters. These opponents argued that by such legislation, the magistrate imposed practices which were offensive to the religious beliefs of certain sects and, as a result, attempted to force their proponents to act against their conscience. Furthermore, by such imposition, the magistrate acted against the law of scandal, the law given in the Scriptures by which we are prohibited at certain times from performing those actions, which though in themselves are not immoral, may encourage the ignorant who believe otherwise to follow suit, to act against their conscience and thereby to act immorally. 24

To counter these arguments, Locke denied that the judgments of men's consciences determined what is morally obligatory on the grounds that there was virtually nothing which such judgments, at one time or another, had not sanctioned. Furthermore, the anarchical consequences which result from placing the authority of men's consciences over that of the magistrate are, as had then been particularly evident, conducive to a state of war. Such a state was contrary to God's law that there be peace and "order, society and government among men." Hence, Locke argued, moral law determines that the magistrate has the exclusive right to decide which aspects of the community's life require regulation in order that the public good be preserved and to legislate accordingly. In short, the Tracts were written to defend the magistrate's right to legislate on morally indifferent matters because of the anarchical consequences the opposing view entailed.<sup>25</sup>

The Treatises were written twenty years later to counter the arguments of Filmer's Patriachia and to provide Shaftesbury with a contrary political theory with which to justify his Exclusion Bill. This Bill sought to exclude the monarchy from Catholic hands and thereby to obviate the threat of absolutism, or what was considered identical with it, tyranny.<sup>26</sup> Although both the Tracts and the Treatises were written to meet the political exigencies of their times, Locke did not consider in 1660 that tyranny was the moral antidote for anarchy, nor, twenty years later, that

anarchy was the moral solution to tyranny. Throughout his life Locke considered anarchy and tyranny as the twin "scourges of mankind"<sup>27</sup> and, as will be spelt out in detail, articulated their common remedy, political authority, in terms of the moral prohibitions against both.

To be sure historical circumstances play their part in Locke's political thought but only in providing perspective. In the 1660 work, Locke focuses on the obligation imposed by natural law in order to justify the necessity for, and rights of, political authority, and to show, accordingly, that anarchy is no moral alternative to government. In the Treatises, he focuses on the rights bestowed by natural law in order to argue that absolutism has no political authority, that it is "no Form of civil government at all."<sup>28</sup> Both works were designed to show that the source of all obligation and rights is natural law, and thus both works express, by virtue of their nature and purpose, Locke's concepts of obligation and rights in a political and moral context. Finally, as will be argued in Chapter IV, Locke's arguments on the jurisdiction of civil authority in the Treatises are compatible with those he gives in the Tracts, and his views on rebellion in his later political work are not inconsistent with those he expresses in the earlier one. In short, there are no essential differences between Locke's early and later political writings.

The eight essays of ELN were completed in the

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early 1660s, shortly after the Tracts were written, and are primarily concerned with two questions: how is natural law known and what is the nature of its obligation? The first essay is intended to show that natural law exists, and the second that the source of our knowledge of this law is sense perception, not inscription or tradition. The arguments of the second are developed in the next three essays, the tasks of which are to show, respectively, that knowledge of natural law is not innate, and that it is known by the "light of nature," sense perception and reason, not from the general consent of men. The tenor of these first five essays is such that Locke's objective appears to be not merely to show how knowledge of natural law is acquired but to vindicate empiricism.<sup>30</sup> Indeed, many of the arguments Locke gives in Book I of the Essay are reminiscent of those he gives in the first five essays of ELN.

The obligation of natural law is the subject of the sixth and seventh essays. In the sixth, Locke argues that natural law is binding on men and, for those, the majority, who are unfamiliar with moral law as revealed in the Scriptures, it is the sole source of civil authority. Locke's objective in the seventh--to show that the obligation of natural law is perpetual and universal--involves his distinction between what is morally necessary and what is morally indifferent. His arguments justifying this distinction are a repetition and elaboration on those he gives for this distinction in the Tracts and, as will be shown,

are questionable. Locke maintains this distinction in his later work, Essay,<sup>31</sup> but he does not attempt to justify it. In the seventh essay, as in the Treatises, natural law is shown to be binding on all those who are capable of knowing it, namely all men except children, idiots and the insane.

In the eighth essay, Locke denies that everyone's own interest is the basis of natural law. Briefly, Locke argues that the individual's interest, his happiness, can only be secured by conformity to natural law. Hence, "utility," what is in the interest of the individual, is not the basis of natural law but the consequence of obedience to it. And what the individual believes to be in his interest is not this source since such beliefs include judgments contrary to natural law, and actions based on such judgment ultimately realize conditions inimical to the agent's welfare.

These arguments in the eighth essay, as their explication in the following chapters will show, provide various insights into Locke's thought. For example: first, by these arguments, actions which conflict with natural law are not rational because their effects are ultimately incompatible with their motive which, generically, is the securement of the agent's survival and welfare, his happiness. The contrary is the case for actions, judgments and interests which accord with natural law. Thus, not only the empirical but the pragmatic aspects of Locke's theory of knowledge in the Essay find

expression in his early work in ELN.

Second, the hedonism of Locke's psychological and ethical theories in the Essay is anticipated by his arguments in the eighth essay of ELN and his earlier account in this work of man's natural instincts and inclinations and the duties he derives from them. Finally, Locke prefaces his arguments in the eighth essay with a reference to the "primary fundamental law which is the standard and measure of all other laws dependent on it."<sup>32</sup> He does not identify this law in this work. But from his arguments in the eighth essay and the duties he earlier derives from man's nature--those to preserve oneself and to live in society, in peace and harmony with one's fellows,<sup>33</sup> this law is the one Locke variously characterizes in the Treatises as "the law of Nature" and the "fundamental law of nature": the law which prescribes the preservation of all mankind. As will be shown, this law is the "fundamental" one because it expresses the end for which all moral precepts are imposed and because "no Human Sanction can be good or valid against it."<sup>34</sup>

ELN, as the Tracts, is concerned with the obligations imposed on us by natural law rather than, as the Treatises, with the rights it bestows on us. Nevertheless, in ELN, Locke gives a definition of right,<sup>35</sup> and although he does not elaborate on it in this work, this definition provides, as will be shown, a basis upon which his theory of rights is developed in the Treatises.

Although other continuities among Locke's two early

and two later works will be drawn in the Chapters that follow (e.g., Locke's epistemological justification in the Essay of the claim he firsts raises in ELN,<sup>36</sup> the demonstrability of morality), those outlined above are sufficient to show that there are no essential inconsistencies among the four main sources of this dissertation. Rather, in certain important respects, Locke's later works are a development of his early thought, and his early writings provide his justifications for his assumptions in his later ones. In short, the Tracts, ELN, Essay, and Treatises provide complementary aspects of Locke's theory of natural law. Consequently, in explaining Locke's arguments in one work, reference will frequently be made to those he gives in others, regardless of the timespan that separates the works in which they are presented.

Footnotes - Introduction

1. See, for example:
 

Cox, R.H., Locke on War and Peace (Oxford, 1960)

Gough, J.W., John Locke's Political Philosophy, Eight Studies (Oxford; 1950)

Kendall, W., John Locke and Majority Rule (Urbana, Ill: 1941)

Laslett, P., ed. John Locke, Two Treatises on Government, A Critical Edition (Cambridge: 1960), Introduction

Macpherson, C.B., "The Social Bearings of Locke's Political Theory" in Locke and Berkeley, A Collection of Critical Essays, ed. C. B. Martin and D. M. Armstrong (University of Notre Dame Press: 1968), p. 179 ff.

Monson, C., "Locke's Political Theory and its Interpreters" in Martin and Armstrong, Locke and Berkeley, p. 199ff

Ryan, Alan, "Locke and Dictatorship of the Bourgeois" in Martin and Armstrong, Locke and Berkeley, p.231ff

Strauss, Leo, Natural Right and History (Chicago: 1953) pp. 202-51

Vaughan, C.E., Studies in the History of Political Philosophy before and after Rousseau (2 vols; Manchester: 1925), Vol. 1., ch. 4.
2. Gierke, O. Von, Political Theories of the Middle Ages, tr. Maitland (Cambridge: 1934, pp. 172-3, note 256.
- Singh, R., "John Locke and the Theory of Natural Law," Political Studies, 1961, ix, 2, pp. 110-111
3. Locke, John, Essays on the Law of Nature, edited by W. Von Leyden (Oxford: 1954), pp. 173, 185
- Locke, John, An Essay Concerning Human Understanding, ed. John W. Yolton (2 vols. London and New York: 1965) I, ii, 12. All references to the Essay will be to edition unless otherwise stated.
- Locke, John, Two Treatises on Government, ed. P. Laslett (Cambridge: 1960), II, §6, 7, 12. All references to the Treatises will be to this edition.
4. ELN, pp. 185, 173
5. See:
 

Abrams, P., ed. John Locke, Two Tracts on Government, (Cambridge: 1967) Introduction, pp. 72, 80-81 p. 108, fn. 12, 109, fn. 20.

Gough, Eight Studies, p. 4-8

Laslett, Treatises, Introduction, pp. 94ff

Mabbott, J.D., John Locke (London: 1973), p. 105

Strauss, Natural Right, pp.202-5, 224-6

Leyden, W. Von, John Locke, Essays on Law of Nature, (Oxford: 1954) Introduction, pp. 56-7, 72

6. Abrams, 'Introduction,' Tracts, p. 108, fn. 12  
Strauss, Natural Right, pp. 224-6, 202-5  
Strauss, L., "Locke's Doctrine of Natural Law," American Political Science Review, 1958, p.496
7. Aaron, R.I., John Locke (Oxford: 1937), p. 264  
Von Leyden, Introduction, ELN, pp. 54-55
8. Aaron, John Locke, p. 257  
Von Leyden, Introduction, ELN, pp. 77, 71-72  
Laslett, Introduction, Treatises, p. 101
9. Strauss, Natural Right, pp. 225-26
10. Laslett, Introduction, Treatises, p.94-95, p. 315, fn. 34-35  
Cf. Gough, Eight Studies, pp. 20-21 and Aarsleff, H, "The state of nature and nature of man" in Yolton, Problems and Perspectives, p.110 ff.
11. Laslett, Introduction, Treatises, pp. 94-95
12. Laslett is a notable exception among Locke's commentators insofar as he interprets Locke's concept of reason in terms of culpability rather than intellectual capacity: "Strictly the non-rational man was not a man at all and Locke never denies that any individual can be rational according to his capacity, he only insists that he is blameworthy if he is not." (Introd., Treatises. p. 110, fn. 4). However, he restricts this interpretation to Locke's political work, Treatises, because of his view that Locke's political and philosophical work are irreconcilable. This irreconcilability is based in part on the inconsistency Laslett draws between Locke's view of natural law in the Treatises and his denial of innate knowledge in the Essay (Ibid., pp. 95-96), and in part on his joining Locke's other commentators in construing Locke's concept of reason in the Essay in terms of logical inferences (Ibid, p. 96). As will be shown in the chapters below, Laslett is wrong on both counts. Aarsleff also appears to be an exception. However, see Chapter I, p. , fn. 127
13. See Chapter IV, page 223-4, fn. 9
14. Strauss, Natural Right, p.224.  
See also Abrams, Introduction, Tracts, p. 108, fn. 12, who agrees with Strauss's position.
15. Essay, II, xvii, 6
16. See, Essay, I. ii, iii, iv
17. Essay, II, xxvii, 26; Treatises, II, §59-61

18. Essay, I, i, 1
19. Essay, II, xxx, 1
20. Treatises, II, §135.
21. ELN, p. 173; Essay, I, iii, 12; Treatises, II, §6, 136
22. See, e.g., Treatises, II, §163 in which Locke refers to the "good of the Community" as opposed "to a distinct and separate Interest [of the Prince]."
23. The historical data concerning the writing of the Tracts and ELN, and the probable reasons for these works remaining unpublished during Locke's lifetime, are outlined below.

Tracts. The Two Tracts on Government consists of two separate writings: one in English amounting to thirty-six manuscript pages and one in Latin amounting to eighteen manuscript pages. The English Tract is entitled: Question: whether the Civill Magistrate may lawfully impose and determine the use of indifferent things in reference to Religious Worship. The Latin Tract has the title: An Magistratus Civilis possit res adiaphoras in divine cultus ritus asciscere, eosque populo imponere? Aff: (Whether the civil magistrate may incorporate indifferent things into the ceremonies of divine worship and impose them on the people: Confirmed.) (Abrams, Introduction, Tracts, pp. 4, 210. See, also, Von Leyden, Introduction, ELN, pp. 22-23).

The Latin Tract was written at about the same time as Locke's early writings on natural law, 1661-62, since the draft version of the Latin work appears at the beginning of a notebook containing drafts of Locke's essays on natural law. The Latin Tract was written after the English Tract because Locke refers in the Latin work to the writings of Sanderson and Hooker, which he claimed not to know when he wrote the English Tract. Despite his aversion to scholastic methods and terminology, Locke uses both in the Latin work. Consequently, Abrams argues, this work was not intended for public consumption, but for an academic audience. Hence, Locke wrote it in Latin. (Abrams, op cit, pp. 16-17).

The English Tract was completed by December 11, 1660, since this is the date of a letter (to an unidentified correspondent) appended to this work. In the English Tract, Locke refutes point-by-point a pamphlet written by Edward Bagshaw, jun., published anonymously in Oxford on September 15, 1660, called The Great Question Concerning Things Indifferent in Religious Worship. Apparently, Locke intended to publish anonymously his refutation and entrusted the task to his close friend and

Somerset neighbor, Samuel Tilly. (Tilly had a manuscript copy of the English Tract during 1661-2, and there are two letters among Locke's papers from the publisher James Allestry to Tilly in May 1661 concerning the publication of the "treatise you left in my hand.") (Abrams, op cit, pp. 4-11; see, also, Von Leyden, op cit, pp. 23-24).

However, the English Tract was not published. Locke's decision not to publish was probably due to events then taking place, in particular, to Charles II's speech on May 8, 1661 in which he declared that the moderation of the previous months was to come to an end. By the summer of 1661, the government had imposed a "rigidly Anglican uniformity." Since the government had acted by imposing stringent measures, Locke probably felt that the publication of the English Tract would unnecessarily aggravate matters. This outcome and his distaste for controversy were probably the causes of his abandoning publication. (Abrams, op cit, p. 14)

It has been pointed out to me that Locke's reluctance to publish or circulate the Tracts may have been due to his friendship with Lady Masham, the daughter of the latitudinarian, Ralph Cudworth. A series of forty letters written by Lady Masham under the fictitious name of Philoclea are among Locke's collection of "so-called love letters," written and received during his early life at Oxford. (Von Leyden, op cit, p. 2). Lady Masham remained Locke's close friend until his death. (Aaron, John Locke, p. 43)

ELN. Rough drafts of six essays on natural law appear in a notebook belonging to Locke entitled Lemmata. Another notebook bearing Locke's initials and written in 1663, contains nine essays in Latin on the law of nature, the last six of which are more or less identical with those in Lemmata. At the end of the eighth essay, Locke wrote "Sic Cogitavit J. Locke 1663," and at the beginning of the ninth he wrote "Oratio Censoria Funebris '64." (Von Leyden, op cit, pp. 7-8). All nine Latin essays and their translations appear in ELN: Von Leyden has entitled the first eight "Essays on the Law of Nature" and the ninth "Censor's Valedictory Speech 1664." (ELN, pp. 107, 221).

From the documents among Locke's papers, it appears that the essays in the 1663 notebook were preparations for Locke's lectures on natural law at Oxford in 1664. At the end of 1665, Locke left Oxford and the essays were not mentioned again until the correspondence between Tyrell and Locke in 1687-92. (Von Leyden, op cit, pp. 12-13) In spite of Tyrell's encouragement, Locke never published the essays. Various reasons have been suggested by Von Leyden for Locke's failure to publish (Ibid., p. 14), some of which have been

challenged by other commentators. (See, for example, Gough, Eight Studies, p. 6). Two of Von Leyden's points are not controversial since they concern the mechanical difficulties involved in publishing the essays. First, Locke would have had the laborious task of translating the essays since it was the growing practice in the second half of the century to write in the vernacular rather than in Latin. Second, since much of what Locke wrote in the essays was incorporated in Book I of the Essay in his attack on innate ideas, Locke would have had to revise the essays by deleting those passages taken over into the Essay. These arduous tasks were surely sufficient to dissuade Locke from publishing his essays on natural law.

24. Abrams, Introduction, Tracts, p. 30  
Locke, John, Two Tracts on Government, ed. P. Abrams  
(Cambridge: 1967), pp. 210; 166, 236-38, 136-38.
25. Tracts, pp. 236-8, 136-38; 231-32 (Quotation); 223.  
'Preface to Reader,' Tracts, p. 117.
26. Laslett, Introduction, Treatises, pp. 43-44, 75
27. Tracts, p. 119
28. Treatises, II, §90
29. Von Leyden, Introduction, ELN, p. 11
30. Ibid., p. 58
31. Essay, II, xxvii, 15
32. ELN, p. 208
33. ELN, pp. 157-59
34. Treatises, II, §§7, 135
35. ELN, p. 111
36. ELN, p. 199

## CHAPTER I

CRITICISMS OF LOCKE'S THEORY OF  
NATURAL LAW AND THEIR REBUTTAL

Locke's critics have attacked his voluntaristic and rationalistic accounts of natural law, and, in view of his denial of innate knowledge in the Essay, his doctrine of natural law in the Treatises. This chapter will examine and rebut the arguments of Locke's critics. Furthermore, it will indicate those aspects of Locke's thought which have been neglected by his commentators. These aspects provide the basis upon which I develop Locke's theory of natural law. Consequently, this chapter will prepare the ground for the ones that follow.

Prior to examining the arguments of Locke's critics, it will be necessary to state Locke's views on natural law as expressed throughout his works. In the Tracts, Locke identifies natural law in the following way:

The divine law is that which, having been delivered to men by God, is a rule and pattern of living to them. And according as it becomes known by the light of reason which is natural and implanted in man, or is made manifest in divine revelation, it is in turn divided into natural and positive law. And each of these I describe under the same head as 'moral' since each is exactly the same in content and matter and they differ only in promulgation and the clarity of their precepts.<sup>1</sup>

Thirty years later in the Essay, Locke similarly states that divine law, the "only true touchstone of morality," is "the law God has set to the actions of man whether promulgated to them by the light of nature or the voice of revelation."<sup>2</sup>

He makes the same point, in virtually the same language, in his early work on natural law, ELN. Here, he adds that natural law is the primary source of moral obligation for the majority of men because "definite knowledge of divine revelation has not reached them, [and consequently,] they have no other law both divine and binding by its very nature,<sup>3</sup> than natural law."

According to Locke, obligation is the "binding force" of law, and all obligation is moral because the "binding force of [human] law is dependent on natural law."<sup>4</sup> In the Tracts, Locke states that all obligation is "plainly divine" because all laws "except for the divine, . . . do not bind men by virtue of their own innate force but by virtue of some divine precept on which they are grounded."<sup>5</sup> He makes the same point in his later political work, Treatises:

. . . Municipal Laws of Countries, . . . are only so far right, as they are founded on the Law of Nature, by which they are to be regulated and interpreted,<sup>6</sup>

and in ELN:

. . . positive civil laws are not binding by their own nature or force or in any other way than in virtue of the law of nature . . . Thus, without this law [natural law] rulers can perhaps by force and with the aid of arms compel obedience but put them under obligation they cannot . . .<sup>7</sup>

In ELN, Locke stresses that "the basis of obligation is in both cases [natural and positive divine law] the same, i.e. the will of a supreme Godhead."<sup>8</sup> However, what God wills is rational because Locke also states in this work that "a rational apprehension of what is right puts us under an obligation."<sup>9</sup> In this vein, Locke describes the law of nature as

. . . the decree of the divine will discernible by the light of nature and indicating what is and what is not in conformity with a rational nature, and for this very reason commanding or prohibiting.<sup>10</sup>

He later adds:

. . . [the law of nature] is a fixed and permanent rule of morals, which reason itself pronounces and which persists, being a fact so firmly rooted in the soil of human nature. Hence human nature must needs be changed before this law can either be altered or annulled. There is in fact a harmony between these two, and what is proper for a rational nature, must needs be proper for ever, and the same reason will pronounce everywhere the same moral rules.<sup>11</sup>

These quotations from ELN indicate the possibility, which will be examined in Chapter V, that Locke followed Grotius in holding that natural law obliges whether or not God exists and, consequently, whether or not it expresses His Will. What is relevant here is that, so far, Locke holds that natural law obliges because it is what "reason" or a "rational nature" apprehends as right. (See pages 35 ff. below)

In ELN, Locke identifies a rational nature as that possessed by all mentally competent adults--those individuals obligated by natural law:

Since . . . all men are by nature rational, and since there is a harmony between this law and the rational nature, and this harmony can be known by the light of nature, it follows that all those who are endowed with a rational nature, i.e. all men in the world, are morally bound by this law.<sup>12</sup>

.....

There is no reason that we should deal with the case of children and idiots. For although the law [of nature] is binding on all those to whom it is given, it does not, however, bind those to whom it is not given, and it is not given to those who are unable to understand it.<sup>13</sup>

Twenty years later in his political work, Treatises, Locke similarly identifies a rational nature as that belonging to all those whose rational faculty has developed or has not been impaired, i.e., all men, except children, idiots and the insane.<sup>14</sup> All mature, responsible individuals are obligated by natural law (referred to in the Treatises, as the "Law of Reason").<sup>15</sup> Only these individuals have the "Liberty to dispose of [their] . . . Actions and Possessions according to [their] . . . own Will," within the compass of law, be it "Natural or Civil," because they alone are capable of knowing these laws.<sup>16</sup> Finally, in the Essay, as Chapter II will show, Locke's concept of 'person'--an agent who is rational and hence obligated by law--is applicable to all adults who can be held responsible for their actions.

Thus, for Locke, reason, or rather the exercise of it, is attributable to all those who are capable of "understanding" natural law and who are, therefore, obligated by it, namely, all mature, responsible individuals.

To summarize. Moral law is divine law, which is

either positive or natural. Positive divine law is that revealed in the Scriptures. Natural law has the same author and the same content as positive divine law: the two laws differ only in the means by which they are known. Natural law is known by the "light of nature," which Locke defines as reason and sense perception, whereas positive divine law is known by "supernatural" means, by divine revelation.<sup>17</sup>

All obligation is moral because human laws do not bind unless they conform to moral law. Natural law is the primary source of moral obligation because the majority of men are unfamiliar with, or do not subscribe to, Judeo-Christian beliefs.

Natural law is what is morally obligatory which, in turn, is what reason or a rational nature apprehends as right. For Locke, a rational nature is attributable to all those who are capable of knowing natural law and who are, therefore, obligated by it, namely, all men except children, idiots and insane. Consequently, knowledge of natural law and the reasoning by which it is acquired is at a level attributable to all mature, responsible individuals.

Thus, at least with respect to law, Locke's rationalism is in terms of the reasoning abilities of all men, except children, idiots and the insane. His rationalistic view of law--a law is no law unless it is moral and hence rational--is to be read accordingly.

Although Locke held that it is "not fear of punishment, but a rational apprehension of what is right

[which] puts us under an obligation,"<sup>18</sup> he does not consider that laws are merely rational principles. Throughout his works, Locke maintains that laws must have sanctions. He states in ELN that:

. . . there is no law without a law-maker, and law is to no purpose without punishment . . .<sup>19</sup>

in the Essay:

For since it would be utterly in vain to suppose a rule set to the free actions of man without annexing to it some enforcement of good and evil to determine his will, we must, wherever we suppose a law, suppose also some reward or punishment annexed to the law.<sup>20</sup>

and in the Treatises:

For the Law of Nature would, as all other Laws that concern Men in this World, be in vain, if there were no body that in the State of Nature, had a Power to Execute that Law, and thereby preserve the innocent and restrain offenders . . .<sup>21</sup>

With respect to natural law, Locke frequently cites as its sanctions those revealed in the Scriptures: the "rewards and punishments, of infinite weight and duration, in another life."<sup>22</sup>

Thus, in addition to holding a rationalistic view of law, Locke also has a voluntaristic one. A law is the command of a superior will, a law-maker, but a command is not a law unless it is enforced. A superior will must not only be rational, it must also be effective.<sup>23</sup> Consequently, "enforcements" are essential to Locke's voluntaristic view of law: a law to be law must have sanctions.

Locke's commentators also tend to relate Locke's voluntarism with his emphasis on sanctions in his theory of

law and his doctrine of natural law. Aaron states that for Locke "there is no law without a lawgiver, a being who has the power to punish those who disobey."<sup>24</sup> Von Leyden identifies Locke's allegiance to a voluntarist theory of law with Locke's view that natural law obliges because it is "a set of commands proceeding from the will of God."<sup>25</sup> He later adds that Locke emphasizes "rewards and punishments as the enforcements of God's will" with the "growth of his hedonistic theory," and that Locke appears to accept the position that the sanctions annexed to a moral precept "were a necessary condition for its validity."<sup>26</sup> Abrams states that Locke has a voluntaristic conception of law because "[f]or Locke, . . . the defining characteristic of law is its derivation from a competent will, an 'efficient' cause."<sup>27</sup> Later, in his discussion of Locke's "voluntarism" in his later works, Abrams argues that if Locke says little of natural law in the Essay, "it is surely because he now knows he could find no way of equipping it with those substantial sanctions that are the 'true nature of law' and follow from the immanence in law of a known legislative will" (my emphasis).<sup>28</sup> Abrams agrees with Strauss's account of Locke's doctrine of natural law in which Strauss states that, for Locke, "in order to be law, the law of nature must have sanctions."<sup>29</sup>

However, Locke's commentators do not hold the above interpretation of Locke's rationalistic view of law because they relate Locke's rationalism in his ethical

theory with his claim that morality is demonstrable. For example, Singh argues that "universality and strict intellectual necessity are the hall-marks of knowledge as Locke conceived it." Therefore, Singh concludes, "Locke's theory of natural law must be viewed in light of his firm conviction that a demonstrative science of ethics is possible."<sup>30</sup> Strauss states that, for Locke, "the law of nature becomes known only through demonstration."<sup>31</sup> Abrams identifies Locke's "rationalist notion of law" with "a possible law of nature," which he, in turn, identifies with "the possibility of a quasi-mathematical demonstration of morality, a Euclidean morality in which obligation would be implicit in the process of knowing."<sup>32</sup> Laslett states that, with the exception of the Treatises in which Locke "take[s] advantage of the belief in innate ideas and innate practical principles," man's rights and duties were, for Locke, the "product of ratiocination and therefore fixed and definite, capable of entering into a mathematically demonstrable morality."<sup>33</sup> Finally, as indicated earlier, in their criticism of Locke's rationalist ethics and his rationalist doctrine of natural law, Aaron and Von Leyden accuse Locke of confusing the necessity of moral obligation with logical necessity.<sup>34</sup>

In brief, commentators of Locke's theory of natural law do not interpret Locke's rationalism in terms of the reasoning powers of all mentally competent, sane adults, but in terms of the intellectual abilities required for

logical demonstration. As Chapter III will show, Locke's rationalism includes both these interpretations because Locke employs two concepts of reason in his theory of knowledge: that attributable to all mature, responsible individuals and that manifested in logical inferences. Thus, I interpret Locke's rationalism in its broadest sense, i.e., to include his two concepts of reasons. All references to Locke's rationalism, apart from those of his commentators where reason is restricted to logical inferences, should be read accordingly.

According to my interpretation of Locke's rationalism, natural law, as the moral law discovered by reason and not by revelation, is the law capable of being known by all men, except children, idiots and the insane. This capability does not deny the possibility that morality is demonstrable, but, by the same token, it does not restrict our knowledge of natural law to its logical demonstration, nor does it restrict the exercise of reason exclusively to logical inferences.

Bearing the above discussion in mind, we now turn to the criticisms of Locke's voluntaristic and rationalistic accounts of natural law. With respect to Locke's voluntarism, Strauss (and Abrams, who agrees with Strauss's arguments<sup>35</sup>) criticises Locke's theory of natural law in the following ways:

- (i) According to Locke, natural law is known by "the light of nature, that is without the help of positive revelation." Furthermore, for Locke,

natural law, "in order to be law, . . . must have sanctions." Natural law which "willeth the peace and preservation of all mankind" will only be "effective in this world" if men live peaceably in a state of nature. Natural law does not govern the state of nature because it is not one of peace: if it were, men would not be driven into civil society. Natural law is not, therefore, "effective in this world."<sup>36</sup> Hence, Locke's theory of natural law "stands or falls by rewards and punishments after death," yet for Locke, "the natural light is unable to establish that there is a life after death. This state of things is obviously fatal to natural law."<sup>37</sup>

- (ii) Locke's state of nature would be one of peace if the law of nature were known by those who were under it. Locke implies in the Treatises that moral principles are innate but this implication contradicts his arguments in the Essay against innate knowledge. Hence, "the law of nature becomes known only through demonstration." But Locke denies that the great majority of men have the intellectual acumen and leisure for such a feat of reasoning. Consequently, natural law is not known by those who are in a state of nature. However, according to Locke, "nobody can be under a law unless it is promulgated to him." There-

fore, the law of nature does not govern the state of nature. Hence, it "is not a law in the proper sense of the term."<sup>38</sup>

The following sections of this Chapter will rebut the above criticisms and those tied in with the second--the criticism of Locke's rationalistic account of natural law and Laslett's charge of inconsistency--by showing:

- A. Locke's theory of natural law does not depend on divine sanctions meted out after death.
- B. Locke does not claim that our knowledge of natural law is dependent on its demonstration nor does he identify moral obligation with logical necessity.
- C. Locke's view of natural law in the Treatises is not inconsistent with his arguments in the Essay.

- A. Locke's theory of natural law does not rest on sanctions meted out after death

According to Strauss, if Locke's theory of natural law is not to rest on sanctions after death, it must be "effective in this world." If it is not "effective in this world," it is not a law. Strauss argues that Locke's doctrine of natural law entails:

- (i) natural law is only a law if men live peaceably in a state of nature; and
- (ii) natural law is no law because men are driven into political society by the non-peaceful conditions  
39  
of a state of nature.

As I will show, Strauss's arguments are untenable.

On the one hand, Strauss states that, for Locke, natural law "in order to be law, . . . must have sanctions." On the other, his arguments entail that natural law is only "a true law" for Locke if sanctions are not necessary. To wit: Strauss argues that natural law which "willeth the peace and preservation of all mankind" cannot be "truly a law" unless the state of nature were "a state of peace, goodwill, mutual assistance and preservation."<sup>40</sup> In other words, natural law would only be a law if there were no breaches of it. However, if there were no breaches of natural law, sanctions would not be required. Natural law would not be required as law.<sup>41</sup>

Strauss also states that the state of nature would be one of peace if those who lived in it were "under" the law of nature. But, he argues, for Locke, no individual is "under" a law he does not know, and the "law of nature can only be known through demonstration."<sup>42</sup> The next section will show that Locke does not make knowledge of natural law dependent on its demonstration. The important point here is that, according to Strauss, Locke's state of nature would be one of peace if those in it knew natural law. Therefore, knowledge of natural law would be sufficient for compliance to it. Again, natural law would not require sanctions. Natural law qua law would not be needed.

Thus, Strauss cannot claim that, according to Locke's concept of law, natural law would only be law if the state of nature were exclusively one of peace, and, at the

same time, maintain that, for Locke, natural law, to be law, must have sanctions.

Strauss's contention that the existence of natural law is dependent on the state of nature being solely one of peace is prompted by certain passages in the Treatises. Locke states that the "State of Nature has a Law of Nature to govern it, which obliges everyone."<sup>43</sup> Later, in a passage from which Strauss quotes, Locke contrasts a state of nature with a state of war:

And here we have the plain difference between the State of Nature, and the State of War, which however some Men have confounded, are as far distant, as a State of Peace, Good Will, Mutual Assistance, and Preservation, and a State of Enmity, Malice, Violence, and Mutual Destruction are from one another.<sup>44</sup>

Strauss's claim that natural law is no law unless the state of nature were one of peace is equivalent to Locke's position here: the state of nature is 'governed' by the law of nature, and, in view of its distinction from a state of war, it is restricted to one of peace. But by this restriction, Locke casts the state of nature as an ideal society:

Men living together according to reason, without a Common Superior on Earth, with Authority to judge between them is properly the State of Nature.<sup>45</sup>

To live "according to reason" is, for Locke, to live according to natural law. Consequently, the state of nature here is an ideal condition in which men at all times act rationally and, therefore, morally.

However, by casting the state of nature in terms of an ideal society or, which is equivalent, by holding that

natural law only "governs" if the state of nature is solely one of peace (i.e., if there are no infringements of it), Locke denies his own distinction between a principle and a law and, as a result, his requirement that a law, to be law, must have "rewards and punishments."

According to Locke, a law is distinct from a principle because the former has sanctions, "enforcements."<sup>46</sup> If natural law is to be a law and not merely a principle, then its enforcement, and therefore its infringement, must be possible. In an ideal society, such infringement would not occur. Consequently, Locke's distinction between natural law qua law and qua principle is a moot one, and natural law's status as law is, therefore, questionable. To express the point in another way, if all men acted at all times rationally, there would be no need for law, political or moral. This conclusion does not deny that men would think or act according to principles but only that principles do not constitute law. If Locke were to argue otherwise, he could not maintain the claim he makes throughout his works that sanctions are an essential characteristic of law (see page 35 above).

In short, Strauss cannot claim that, for Locke, natural law is no law unless the state of nature is exclusively a state of peace without denying his own assertion that Locke's concept of law is voluntaristic. And Locke cannot restrict the state of nature, and the law which "governs" it, to one of peace, and maintain at the same time

that a law, to be law, must have "enforcements."

However, Locke did not intend to restrict the state of nature to one of peace. As I will show, such restriction would be contrary to the purposes of the work in which his account of the state of nature mainly appears, namely, the Treatises.

Locke had two main aims in writing the Treatises. The first was to show that no individual or group has an inalienable right to political office, and that individuals only have a right to this office if they have popular consent to their holding it. The second aim, which is related to the first, was to show that civil authority cannot be arbitrarily exercised against the property, including the life, of subjects. In the Tracts, Locke similarly favors the popular consent theory with respect to the rights of individuals to political office. Thus, in both the Tracts and in the Treatises, at least insofar as Locke subscribes to the popular consent theory, Locke posits a state of nature prior to the nomination of the magistrate or legislature or prior to the establishment of a constitution whereby the means of such nomination is ensured.<sup>47</sup>

Although Locke suggests in the Treatises that the state of nature was an historical event preceding the formation of political societies,<sup>48</sup> his arguments, given the purposes of the Treatises, do not rest on its historicity.

For these purposes, the state of nature is invoked by Locke in his arguments for the establishment of political authority, his popular consent theory,<sup>49</sup> and for the dissolution of government whether it be by conquest or by rebellion. By such invocation, the essential characteristic of a state of nature is the absence of political authority. Or, as Locke expresses the point, "Want of a common judge with Authority, puts all Men in a State of Nature."<sup>50</sup> Since the establishment of political authority is to remedy the "inconveniences" of a state of nature and to "avoid [a] State of War,"<sup>51</sup> the state of nature is not necessarily one of peace and harmony. Nor can it be characterized as such by conquest and rebellion, the two other occasions for which Locke invokes a state of nature.<sup>52</sup> This is not to say, of course, that a state of nature is necessarily co-extensive with a state of war, but only that it includes a state of war.

Thus, for Locke, the state of nature refers to those conditions holding among men in which the only law in being is natural law, that is to say, when political authority, is absent. This view of Locke's state of nature includes a state of war, be it international or civil or, as Locke also cites, between individuals who live in political society but where circumstances prohibit the appeal to civil authority, e.g., in cases of self-defence. It also includes the state of peace between nations, between individuals of different nationalities and between individuals before the establish-

ment of a government or constitution, or before the establishment of a new one (since political authority requires that its office be acquired peaceably, by majority consent and not by force (see pages 190 ff., below). In short, Locke's state of nature as the "[w]ant of a common judge with Authority" includes all those instances Locke cites in which the only law operative is natural law.<sup>53</sup>

According to Locke's account of the state of nature, natural law is in being or operative in a state of war as well as a state of peace. If natural law were restricted to a state of peace (as Strauss claims it must be if it is to meet Locke's voluntaristic concept of law), there would be no "Right of War" against an aggressor, i.e., the right of self-defence. Subjects would not have the right to rebel when the magistrate abuses his authority, and countries would not have the right to wage a defensive or "just" war against foreign aggression. To deny that natural law is in existence in a state of war would be to defeat in one swift blow the position the Treatises were intended to justify. Furthermore, the appeal to natural law in the Treatises is made not only to justify in certain circumstances the instigation of war, e.g., rebellion,<sup>55</sup> but its continuance. For on a strict reading of Locke's account of an unjust conquest, a state of war by the victims against the victors--the aggressors--is not only morally permissible but obligatory. Hence, by Locke's own arguments, natural law is still operative in a state of war.

This conclusion is borne out even in the section of the Treatises in which Locke contrasts a state of nature with a state of war. At the end of this section, he states:

Want of a common Judge with Authority, puts all Men in a State of Nature: Force without Right, upon a Man's Person, makes a State of War, both where there is, and is not a common judge.<sup>57</sup>

According to this quotation, the essential characteristic of a state of nature is the absence of political authority, not peace and harmony because a state of war can occur in a state of nature. However, the occurrence of a state of war, whether in civil society or in a state of nature, does not imply the absence of natural law. For immediately prior to the above quotation, Locke states that "a Man [has] the Right of War . . . against an aggressor." And for Locke, as will be explained in detail in Chapter IV, without natural law there are no rights.

Locke's contrast of a state of nature with a state of war is incompatible with his view that a law must have "enforcements" (see page 43, above). It is also incompatible with his account of the state of nature, in general, and his references to it concerning rebellion and a just or defensive war, in particular. As a result, it is contrary to the purposes of the work, Treatises, in which it appears, and, therefore, it should be dismissed.

. Strauss's claim that Locke's concept of natural law fails to meet Locke's notion of law unless the state of nature is a state of peace, is untenable. This claim does

not follow from, but is contrary to, Strauss's assertion that Locke's concept of law is voluntaristic. Furthermore, since Strauss's claim is equivalent to Locke's position when he contrasts a state of nature with a state of war (see page 42, above), it too is incompatible with Locke's views on the "Right of War," and, therefore, with the aims of the Treatises.

Thus, according to Locke's doctrine of natural law, the existence of natural law qua law is not dependent on men living peaceably in a state of nature. Consequently, Locke's assertion that men are driven into political society by the "inconveniences" of a state of nature does not entail the conclusion of his critics, i.e., that natural law is no law (see page 40, above). Indeed, as I will show from Locke's arguments, natural law which "willeth the peace and preservation of all mankind" requires that men live under government.<sup>58</sup> Furthermore, I will similarly show that the sanctions for failing to meet this moral requirement are the painful conditions which occur when natural law is breached. In brief, I will show that, according to Locke's writings, the sanctions of natural law occur in this world. Therefore, contrary to Strauss's conclusion, Locke's theory of natural law does not rest on sanctions meted out after death.

Although, by Locke's arguments, a state of nature is morally permissible (see page 46, above), it does not follow that its continuation is necessarily similarly permissible for it would either be a state of war or a state of peace

lacking political authority. The latter would be permissible if all men were guided by their reason at all times. But, as argued above (see pages 42-43, above), if this were the case, law would not then be necessary. Locke's experience and readings on distant societies, both historically and geographically, had led him to conclude that the prevailing characteristics of human behavior were partiality or being biased by one's own interests, and, as a result, reliance on arbitrary opinions and prejudices. This view, expressed in the Tracts, is reiterated throughout Locke's works.<sup>59</sup> As a result of this tendency in human nature, if men live in a state of nature, i.e., if political authority is absent, the situation is, or becomes, a state of war.

As early as the Tracts, Locke states that the two "smartest scourges" of mankind are anarchy and tyranny.<sup>60</sup> In the Tracts, Locke is explicit on the remedy for anarchy and its "confusion" and "disorder": "God wished there to be order, society and government" among men.<sup>61</sup> According to Locke, moral laws prescribe what is morally necessary.<sup>62</sup> Since moral laws express God's wishes, the necessity to live under government is a moral one. Locke's concept of obligation, the "binding force" of law,<sup>63</sup> will be explicated in Chapter IV. Here it is sufficient to say that, for Locke, whatever is morally necessary is morally obligatory. Hence, men are morally obligated to live under government.

In the Treatises, Locke states that anarchy

results in "Confusion and Disorder . . . and that therefore God hath certainly appointed Government to restrain the partiality and violence in Men." <sup>64</sup> And, for Locke, what God, the author of natural law, appoints is what natural law prescribes. Thus, in both the Tracts and the Treatises, the "proper" and moral remedy for anarchy is government.

However, Locke is not saying that the moral necessity to live under government is a moral obligation to live under tyranny, the absolute rule of an individual or individuals. On the contrary, in the Tracts, Locke does not advocate the "oppression" of tyranny as a remedy for the "disorder" of anarchy.<sup>65</sup> And in the Treatises, Locke stresses that absolutism, like anarchy, is "no Form of Government at all."<sup>66</sup> According to Locke's political theory, to be discussed in detail in Chapter IV, government is only established when political office is acquired by, or held with popular consent, and when political power is exercised for the purposes for which government is instituted, namely the "Publick Good."<sup>67</sup> (In keeping with Locke's usage of the terms 'government' and 'authority,' the phrases 'political authority,' 'civil authority' and 'government' will be used interchangeably.) Conquest, usurpation, and tyranny do not create or constitute government: they continue a state of nature. But, Locke argues, they, in particular tyranny or absolutism, "are much worse than the State of Nature or pure Anarchy: the inconveniences being all great

and as near, but the remedy farther off and more difficult." <sup>68</sup>  
 In short, for Locke, the moral remedy for anarchy and tyranny is the establishment of political authority. But in the case of tyranny, the remedy may first require war, rebellion.

In the Treatises, Locke states that the purpose of natural law is the preservation and welfare of all mankind. The establishment of political authority is required by natural law because its absence is, or results in, a state of war. <sup>69</sup> Locke is not claiming that all social interaction among men requires the establishment of a supervisory authority. All nations are in a state of nature, and since Locke gives no arguments prescribing the contrary, such a state is not in his eyes contrary to natural law. Locke's major concern is intragroup rather than intergroup relations and the necessity for government, given men's partiality and the intimacy of communal ties for the former.

To be sure, it is, for Locke, the conditions resulting from the absence of political authority--the "inconveniences of a state of nature," as he puts it in the Treatises, and the "Furies, War, Cruelty, Rapine, Confusion, etc.," as he describes them in the Tracts--rather than the moral obligation to live under government that drive men into political society. <sup>70</sup> But the painful consequences of the absence of government and the resulting motivation to live under it both demonstrate the efficacy of the author of natural law, God.

According to Locke's hedonism, which will be discussed more fully in Chapter II, "[t]hat which is properly good or bad is nothing but barely pleasure and pain," and "happiness, . . ., in its full extent, is the utmost pleasure we are capable of, and misery the utmost pain."<sup>71</sup> The capacity to feel pleasure and pain, and the "desire for happiness and an aversion for misery" are implanted in human nature by our Creator, God. If this were not so, Locke argues, the species would not have survived.<sup>72</sup> God is the author of natural law, the purpose of which is the preservation and welfare of His creation, man. The painful conditions, the want, rapine and force, which arise when the purpose of natural law is thwarted, are, qua painful, the sanctions for failing to conform to God's wishes. Want, rapine, force occur when political authority is absent. Thus, the painful conditions which arise in a state of nature demonstrate the efficacy of natural law, of God's will, in this world.

This conclusion is borne out by Locke's definition of happiness in ELN:

. . . the observance of this [natural] law gives rise to peace, harmonious relations, friendship, freedom from punishment, security, possession of our property and--to sum it all up in one word--happiness.<sup>73</sup>

Locke's argument that what is useful and beneficial to the individual can only be realized through actions that conform to natural law, and that beliefs to the contrary are irrational will be discussed in the next chapter. What is relevant

here is that observance of natural law is necessary for the preservation and welfare of all men, i.e., for the fulfillment of the purpose of natural law. Furthermore, since Locke's definition of happiness is in terms of conformity to natural law, the sanctions for non-observance of this law are the contraries of the ingredients to man's happiness. The contraries are the "Furies, War, Cruelty, Rapine, Confusion, etc."<sup>74</sup> which result when political authority is absent. Thus, the sanctions of natural law are the painful conditions that occur when natural law which "willeth the peace and preservation of all mankind" is breached.<sup>75</sup>

To summarize. According to Locke's voluntaristic concept of law, the existence of natural law is not dependent on men living peaceably in a state of nature. (See pages 47-48, above.) According to Locke's doctrine of natural law, the necessity to live under government is a moral one because the state of nature is, or becomes a state of war. Contrary to the arguments of his critics (see pages 38-39, above), Locke's assertion that the "inconveniences" of a state of nature drive men into political society is not fatal to his concept of natural law because this assertion does not entail the non-existence of natural law. Locke's hedonism and his definition of happiness in terms of conformity to natural law show that, for Locke, the sanctions of natural law are the want, rapine and force which occur when men do not live under government. Consequently, natural law is

"effective" or enforced in this world because the sanctions for non-compliance occur during men's lifetime. Therefore, contrary to Strauss's conclusion, Locke's theory of natural law does not "stand or fall" on rewards and punishments in another world.<sup>76</sup>

Nevertheless, there is a problem with Locke's doctrine of natural law which, although Strauss does not raise it, might support his conclusion. The purpose of natural law, and hence of all moral prescriptions and prohibitions, is the preservation and welfare of all mankind. Suicide, or any act whereby the individual jeopardizes his life for purposes other than self-defence or the defence of others is morally culpable.<sup>77</sup> The objection may be raised that at least in this respect, Locke would have to appeal to sanctions after death for, if these were lacking, suicide is non-punishable. And if this were so, neither the preservation of oneself nor, which depends on it at least in part, that of the species is morally required.

In the remainder of this section, I will show that this objection is an untenable one, and that sanctions after death are superfluous to Locke's theory of natural law. Furthermore, I will argue that the alleged necessity for these sanctions in Locke's moral theory is questioned by Locke's views on life after death and on the role of religious beliefs in man's happiness.

Although Locke states in the Treatises that suicide is against moral law, he does not elaborate on how this moral prohibition is to be enforced. And in ELN, he

argues that "since man is very much urged to this part of his duty [to preserve himself] by an inward instinct, and nobody can be found who does not care for himself or disowns himself, and all direct perhaps more attention to this point than necessary, there is no need for me here to admonish." 78

It is interesting to note that Locke does not state that suicide is non-rational; nor does he appeal to sanctions after death for suicide which, given the above objection, would be particularly appropriate. With respect to the first point, since self-preservation is a duty, it is prescribed by the law which is applicable to all those who have the use of their rational faculties, all except children, idiots and the insane. Consequently, on Locke's arguments, for suicide to be considered as necessarily non-rational, the duty to preserve oneself would have to be rendered void. As to the second point, although Locke does not in any of his works appeal to sanctions after death with respect to suicide, he equally does not state the alternative, i.e., that the sanction for suicide or suicidal attempts is their consequence, death or the resulting injury. If he had thrown caution to the wind and offered in this work, or in any other, an alternative which would question the punishments after death demanded by Christian beliefs for suicide, he would have undoubtedly become embroiled in a controversy even greater than that occasioned by his arguments against the demonstrability of the immateriality of

the soul and, thereby, against its immortality.<sup>79</sup>

In view, therefore, of the absence of an appeal by Locke to sanctions after death when they would have been particularly appropriate and his renowned reputation for caution, which Yolton goes so far as to label "neurotic,"<sup>80</sup> the following conclusion may justifiably be drawn. Given the strength of the instinct for self-preservation and man's hedonistic nature, death, and the painful consequences of want, rapine and force, which result from infringement of natural law, are its sanctions. And it is, for Locke, these sanctions rather than the prospect of those after death which, if anything, urge men to live under law and to meet their moral and political or civil obligations.

Furthermore, punishments after death are superfluous with respect to Locke's theory of natural law for the following reasons. First, as argued above (see pages 53-54), sanctions occur during man's lifetime when natural law is transgressed. Second, sanctions after death are not required by the purpose of natural law since the preservation and welfare of the species is not in any way dependent on the career of its members after death. Finally, Locke considers sanctions after death ineffectual for breaches of natural law. The rewards and punishments meted out in another life are revealed in the Scriptures. However, according to Locke, the Scriptures have not been available to the majority of men. And even those who are familiar

with Christian beliefs do not necessarily subscribe to them. And, Locke points out, those that do subscribe to the Christian faith rarely consider sanctions after death as possible consequences of their actions because they, like the majority of men, are preoccupied with the earthly concerns of securing their own physical welfare and that of their families.<sup>81</sup>

Although Locke does not say so, while such preoccupation diminishes the prospect of sanctions after death and thereby the efficacy of natural law insofar as it rests on them, it reinforces the purpose of this law and thereby the efficacy of those sanctions which arise during man's lifetime. In brief, for Locke, the purpose of natural law renders sanctions after death redundant in his theory of natural law.

Moreover, Locke's own views on man's existence after death and the role religious beliefs play in man's happiness provide grounds for questioning the allegedly necessary role of such sanctions in his moral theory. Locke's views on life after death rests in no small measure on his denying the demonstrability of the immateriality of the soul. In his First Letter to Stillingfleet, he states:

. . . I grant I have not proved, nor upon my principles can it be proved, i.e. demonstratively proved, that there is an immaterial substance in us that thinks. Though I presume from what I have said about the supposition of a system of matter thinking ([Essay] Book IV, ch. x, Sec. 16) (which there demonstrates God is immaterial) will prove in the highest degree probable, that the thinking substance in us is immaterial. But your lordship thinks not probability enough; . . . and seems to conclude it demonstrable from principles of

philosophy. That demonstration I would with joy receive from your lordship or anyone else. For, though all the great ends of morality and religion are well enough secured without it, yet it would be a great advantage of our knowledge in nature.<sup>82</sup>

If the immateriality of the soul is incapable of demonstration, then the immortality of it, i.e., as an immaterial substance, is incapable of demonstration.

However, Locke does not consider that this conclusion jeopardizes the "great ends of morality and religion," and in the Essay he states why this is so:

All the great ends of morality and religion are well enough secure without philosophical proofs of the soul's immateriality; since it is evident that he who made us at the beginning to subsist here as sensible intelligent beings and for several years continued us in such a state, can and will restore us to the like state of sensibility in another world and make us capable there to receive the retribution he has designed to men, according to their doings in this life.<sup>83</sup>

It follows from the above quotation that the "great ends of morality" do not require immortality of the soul as an immaterial substance because these ends are secured by the resurrection of the individual as a sentient being. And from Locke's language, resurrection, unlike its alternative, immortality of the soul, has the merit of being "evident." However, while Locke is at least consistent with respect to the enforcement of natural law in that it is realized by the same means after death as it is during one's life--by the capacity to experience pain implanted in us by God, his argument that resurrection is "evident" contradicts his own principles. For while resurrection is not, of

course, contingent on the soul's immateriality, it is by no means evident in the sense of being logically necessary, since its denial is conceivable. Nor is it similarly necessary from Locke's arguments for the existence of God as Creator of man and all natural things.<sup>84</sup> No future and therefore non-existent state can be demonstratively proved from an existent one. Furthermore, the demonstration of the existence of an Omnipotent being shows only that God 'can' resurrect, not that He 'must' do so, for the latter places limitations which deny his Omnipotence.<sup>85</sup>

Finally, on Locke's principles, resurrection is not even probable. It cannot be empirically verified, that is to say, it has not been so verified nor can it be considered a viable hypothesis, since no experiments can be done to substantiate it. Furthermore, it is not granted by the rule of analogy, "the great rule of probability" in things which are "not under the reach of our senses," and which, therefore, "are incapable of testimony."<sup>86</sup> Resurrection is not analogous to anything experienced except what is claimed by miracles. And a miracle, which Locke defines in his Discourse on Miracles as "a sensible operation which being above the comprehension of the spectator, and in his opinion is contrary to the established course of nature, is taken by him to be divine,"<sup>87</sup> is subject to the strictures Locke gives in the Essay in his polemic against 'enthusiasm,'

religious fanaticism or superstition of various kinds. Reason and Scripture are, he argues, our only guides because neither are the result of our own persuasion. If an event cannot be accommodated by reason, e.g., miracles, the only alternative for its authenticity is the Scriptures. In short, resurrection is nothing more than an article of faith of Christianity.<sup>88</sup>

The Essay, to a comparatively large extent, is devoted to giving an epistemological justification for the demonstrability of morality. Furthermore, in this work Locke ridicules the view that an individual's happiness is contingent on his exposure to certain religious beliefs because such beliefs are the only avenue to moral laws.<sup>89</sup> It is not surprising therefore that Locke does not develop his argument in the Essay that resurrection is the basis on which morality is secured.

To be sure, in ELN Locke cites immortality of the soul as a means by which natural law is enforced:

Even if God and the soul's immortality are not moral propositions and laws of nature, nevertheless they must be necessarily presupposed if natural law is to exist. For there is no law without a law-maker, and law is to no purpose without punishment.<sup>90</sup>

However, this reference to the immortality of the soul appears as an interjected afterthought. Its context is a lengthy account noting the variety of ethical values among the world's peoples. Furthermore, Locke does not elsewhere in ELN make reference to, let alone give any arguments for, the immortality of the soul. Nor again, is the absence

of such arguments surprising since the primary purpose of ELN was to show that moral law was accessible to man by the light of nature, by sense perception and reason, and not merely through revelation. For Locke, natural law is binding on all men, regardless of their religious beliefs, because it is accessible by the light of nature. Natural law is the primary source of moral obligation because "since the definite knowledge of a divine revelation has not reached them [the majority of men], they have no other law, both divine and binding by its very nature, than natural law."<sup>91</sup>

In both ELN and Essay, Locke's reference to sanctions after death and their bases, immortality of the soul and resurrection, respectively, is brief. He gives no elaborative argument for immortality in ELN, and his short argument for resurrection in the Essay is incompatible with the principles of his theory of knowledge in this work. In both cases, ELN and Essay, such references were counter to the purposes of the work in which they appeared: a philosophical justification of moral law and an epistemological one for the demonstrability of morality, respectively. And lastly, Locke's denial of the demonstrability of immortality of the soul occasioned by that of its immateriality laid him open to religious censure.

In view of these points, and the arguments given earlier by which sanctions after death were shown to be superfluous to Locke's theory of natural law, the following

conclusion may justifiably be drawn. Locke's references in his theory of natural law to rewards and punishments in another life were made as prudent gestures to religious beliefs because of their efficacy, politically and otherwise, at the time, and to avoid, in view of his aversion to it, the controversy that their absence would entail. This is not to say that Locke's theory of natural law dismisses the possibility of sanctions after death nor that it denies the prospect of them as morally efficacious for those, including Locke, who subscribe to the religious beliefs which countenance them. Neither point is incompatible with the above arguments which show only that Locke's theory of natural law does not rest on such sanctions.

The first basis of the criticism of Locke's voluntarism with respect to natural law--the alleged reliance on sanctions after death, is therefore untenable. It remains to be shown that its second basis, which involves the criticisms of Locke's rational justification of natural law and Laslett's charge of inconsistency, is equally untenable.

- B. Locke does not make our knowledge of natural law dependent on its demonstration nor does he identify moral obligation with logical necessity

Locke is seen by his critics as citing two ways by which natural law is known: (i) it is known through demonstration, and (ii) it is "writ in the Hearts of all Mankind."<sup>92</sup> Strauss, along with Laslett, claims this latter way

contradicts Locke's argument in the Essay in which he denies that our knowledge of moral principles, or indeed of anything else, is innate. Laslett's response to the problem will be discussed in the following section. Strauss concludes that "the law of nature becomes known only through demonstration."<sup>93</sup>

However, Strauss points out that in The Reasonableness of Christianity Locke states:

The greatest part of mankind want leisure and capacity for demonstration . . . . And you may as soon as hope to have all the day-laborers and tradesmen, the spinsters and dairy-maids, perfect mathematicians, as to have them perfect in ethics in this way.<sup>94</sup>

Strauss argues that since the law of nature is not promulgated to such individuals, it is not promulgated in the state of nature. However, according to Locke, no-one is under a law unless it is promulgated to him. Consequently, those in a state of nature are not "under" the law of nature. The state of nature is not one of peace because those in it are incapable of knowing natural law. Therefore, natural law is not "effective" in the state of nature which, according to Locke, it governs. Hence, Strauss concludes, natural law is no law.<sup>95</sup>

The previous section has shown that Strauss's argument is untenable because it entails that, for Locke, knowledge of natural law is sufficient for compliance to it, and the existence of natural law is dependent on men living peaceably in a state of nature. According to Strauss, both

conclusions follow if natural law is to meet Locke's concept of law, i.e., that a law to be law must have sanctions.

However, as argued above (see pages 41-43, above), neither of these conclusions follows from, but is contrary to, Locke's voluntaristic view of law. This section will show that Strauss's argument is untenable because Locke does not make knowledge of natural law dependent on its demonstration.

Locke states in the Essay that "the greatest part of mankind, having much to do to get the means of living [are] not in a condition to look after those learned and labored inquiries..."<sup>96</sup> While granting the great differences among men with respect to their degrees of intellectual powers, he denies that such differences condemn the bulk of mankind to "no other guide but accident and blind chance to conduct them to their happiness and misery." However, this conclusion follows, Locke continues, unless it is granted that "God has furnished men with faculties sufficient to direct them in the way they should take if they will seriously employ them." No man, he adds, is so enslaved to the immediate concerns of life that he has no time to devote to matters which concern his summum bonum.<sup>97</sup>

This argument is ambiguous. Although Locke grants considerable differences in intellectual acumen among men, the context of his argument and his language suggest that such a difference does not render the bulk of mankind incapable of knowing or mastering 'proofs,' i.e., those that

are "in being or might be procured" such as those with respect to morality. The impediment to such acquisition by man in general is not that the majority have limited intellectual powers but that, whether poor or wealthy, they are intellectually lazy and too preoccupied with the immediate concerns of life to devote time to such efforts.<sup>98</sup> Thus, in the Essay, the want of proofs is not dependent on the lack of intellectual acumen, but on the lack of disposition to acquire them. In Reasonableness of Christianity, however, Locke reverses his position, but in a way more radical than that attributed to him by Strauss. He does not despair that the majority are prohibited from becoming perfect in ethics because of their inability to master proofs of demonstration; he now doubts that morality is capable of demonstration.<sup>99</sup> Perfection in ethics, insofar as it rests on demonstration, is therefore not merely lost to the intellectually dull but to the elite as well.

However, such loss does not prevent our knowledge of natural law. The theme of the first five essays of ELN is not that natural law can be known by demonstration, but that it can be known by the light of nature, sense perception and reason. Admittedly, Locke states in the seventh essay that:

In fact it seems to me to follow just as necessarily from the nature of man that, if he is a man, he is bound to love and worship God and also to fulfil other things appropriate to his nature, as it follows from the nature of a triangle that, if it is a triangle, its three angles are equal to two right angles.<sup>100</sup>

According to this quotation, man's duties qua duties follow "necessarily" from human nature, and this necessity is analagous to that in mathematical proofs. Thus, this quotation can be considered as an example of Locke's later contention that morality and mathematics are analagous because both are capable of demonstration.

However, the possible demonstration of morality can hardly be considered as Locke's answer to the question to which his first five essays were addressed. When Locke states that natural law is capable of being known by means other than revelation, it is not his intention that this capability be read in terms of some future possible event. For this would entail that, apart from the limited few who are familiar with, and embrace, a Judeo-Christian religion and are thereby obliged by the moral laws as revealed in the Scriptures, no-one is morally culpable nor will be until the body of laws that constitute natural law have been demonstrated and, of course, until such demonstration is understood by those to whom this law applies. Even if morality had been demonstrated, the acceptance of this logical proof without understanding it would be a "matter of belief."<sup>101</sup> But, for Locke, natural law only obliges those who are capable of knowing or understanding it. And the thrust of Locke's argument in ELN and Essay, as in the Treatises, is that moral law is capable of being known and understood by everyone who has the use of his rational powers, provided

they be exercised. Hence, moral law is binding on all men, except children, idiots and the insane.

This point is equally applicable to the criticism of Locke's rationalistic justification of natural law: his alleged identification of the necessity of moral obligation with logical necessity.<sup>102</sup> As shown above (page 49), according to Locke, what is morally necessary is what is morally obligatory. Hence, a moral necessity is a moral obligation. As also shown above (pages 36-37), Locke's commentators in general relate Locke's rationalism in his ethical theory to his claim that morality is demonstrable. Accordingly, in charging that Locke treats moral necessity as a logical one, his critics assume that for Locke natural law is rational because it is demonstrable. But this assumption, and the conclusion drawn from it, is erroneous because it makes the obligation of natural law contingent on its demonstration, and hence limits moral obligation to those capable of performing or understanding such a feat. To be sure, Locke identifies natural law as the law of reason, and it is precisely because of this characteristic that natural law is applicable to the human species, to all those whose rational powers have developed and who have control of them. And Locke is quite specific in both ELN and the Treatises as to who are exempted from natural law: children, idiots and the insane.<sup>103</sup> But if moral necessity

is a logical one, nearly all men are exempted from natural law. For, as Locke points out, the vast majority of men do not have the intellectual acumen to make the logical distinctions and inferences required in demonstration.

Those who place such emphasis on the demonstrability of morality in Locke's theory of natural law have confused Locke's arguments concerning man's knowledge of this law with those concerning a possible theoretical explanation of it. To argue that man does not know moral laws until they have been demonstrated is analagous to arguing that man could not know a square before Euclid, or that he was unaware of the consequences which befell an unsuspected object before Newton. If this were so, man's survival, let alone improvement of his earthly lot, would not have been possible. Since, according to Locke, the purpose of all moral prescriptions is to secure the preservation and welfare of all mankind, Locke would hardly maintain that knowledge of these prescriptions, natural law, was dependent on their logical demonstration.

As the result of the above confusion, Locke's critics have limited Locke's concept of knowledge to what is logically necessary--to those propositions whose denials state or imply a contradiction, and his concept of reason or the rational to logical inferences. They have therefore overlooked Locke's chapter on "Reason" in the Essay and his sarcastic answer to those who confine reason to such a

sophisticated role: "God has not been so sparing to men, as to make them barely two-legged creatures, and left it to Aristotle to make them rational."<sup>104</sup> The critics have ignored Locke's First book of the Essay, and Chapter vii of the Fourth, which are intent on showing that our knowledge is not dependent on general maxims nor, therefore, on the theorems derived. Consequently, they have dismissed his empiricism, since the arguments Locke presents in Book I, and repeats in Book IV, are integral to his empirical stance: that all sense perception is of particulars, and our knowledge of particulars is historically prior to our knowledge of general concepts and general principles or maxims which perception exemplifies.<sup>105</sup> Significantly, among the examples which Locke employs to buttress his arguments are those designed to show that individuals, such as a "country wench," know how to calculate even if they cannot define or articulate the mathematical concepts and axioms which such calculations instance.<sup>106</sup> And it is equally significant that when Locke refers to the limited number of mathematical concepts of primitive people, he does not consider the limitation the result of their reasoning abilities but of their unsophisticated life style.<sup>107</sup> Therefore, if Locke does not consider that our knowledge of mathematics, the model for morality, is dependent on its demonstration, he surely does not consider that our know-

ledge of natural law is so dependent.

These fundamental aspects of Locke's thought are sufficient to dispel the view that Locke relegates reason to the sophisticated role it plays in demonstration, and, as a result, limits man's knowledge to what has been logically demonstrated. Admittedly, Locke's use of the phrase 'rational knowledge' is misleading. However, such use is confined to his classification of knowledge as intuitive, demonstrative, and probable, and to his resulting distinction between intuition, reason, and judgment.<sup>108</sup> This classification and distinction arise, as Locke puts it, at the philosophical level, as opposed to the civil level, of discourse, and the signification of words at the former is, he points out, very different from that at the latter.<sup>109</sup>

While Locke undoubtedly considers that philosophical inquiries add to man's knowledge, he does not intend to argue that they constitute it (thereby denying the two levels of knowledge implied by the two levels of discourse). Nor, as is evident by the examples cited earlier, does Locke argue that theoretical explanations or logical proofs are the basis of man's knowledge (thereby confusing man's knowledge with a philosophical justification of it). He never states or implies that an individual does not know, for example, the physical law 'fire burns' unless he knows the higher laws of physics and biology which attempt to

explain it, or can give an epistemological justification of it and knows, therefore, such distinctions as those between what is logically necessary and what is empirically verifiable. Hence, it cannot be justifiably argued that Locke's concepts of knowledge and reason are defined exclusively in terms of logical necessity.

The above points and arguments will be developed in Chapter 3, chiefly to show that for Locke, man's knowledge, and the faculty by which it is acquired, reason, are originally and primarily concerned with the practical matters of man's physical survival and welfare. What is of relevance here, however, is that Locke does not limit our knowledge of natural law to a possible theoretical justification of it nor the exercise of reason to logically necessary inferences. Consequently, Locke does not make our knowledge of natural law dependent on its demonstration, nor does he identify the necessity of moral obligation with that of a logical relation. Thus, this section, together with the arguments given in the preceding one, has shown that Strauss's criticism of Locke's voluntarism with respect to natural law is unfounded. This section has also shown that the criticism of Locke's rationalistic account of natural law is untenable.

C. Locke's view of natural law in the Treatises is not inconsistent with his arguments in the Essay against innate knowledge

Apart from demonstration as the means by which we know natural law, Laslett, along with Strauss, charges that in the Treatises, Locke claims that our knowledge of natural law is innate.<sup>110</sup> Laslett cites the following two passages in support of the charge:

. . . the great Law of Nature, Who so sheddeth Man's blood, by Man shall His Blood be shed . . . [is plainly] writ in the Hearts of all Mankind. . . .<sup>111</sup>

and

. . . for though it would be besides my present purpose to enter into the particulars of the Law of Nature and its measures of punishment; yet it is certain that there is such a Law, and that too, as intelligible and plain to a rational creature, and a Studier of that Law, as the positive laws of Commonwealth, nay plainer.<sup>112</sup>

As Laslett correctly points out, "the objective existence of a body of natural law is an essential pre-supposition of [Locke's] political theory." Yet, he argues, it is "always besides [Locke's] present purpose to demonstrate the existence and content of natural law." Given Locke's inability or unwillingness to perform such a feat, Locke avoids the dilemma for his political theory in the Treatises, according to Laslett, by stating that it is "intelligible and plain to all rational creatures" and is "writ in the Hearts of all Mankind." Hence, Laslett concludes, Locke's view of natural law in the Treatises contradicts his arguments in the Essay against innate moral principles in particular and innate knowledge in general.<sup>113</sup>

Now, first, we need to complete the second quotation by the continuing passage, omitted by Laslett, in which Locke contrasts natural law with "phansies [sic] and intricate contrivances of man following contrary and hidden interests put in words; there so truly are the great part of Municipal laws of countries which are only so right in that they are regulated and interpreted by natural law."<sup>114</sup> By such a contrast, natural law is "plainer" than civil law because the former is not the result of man's imagination but of what all men can discover by their rational faculty. Locke's "present purpose" is not therefore to claim the certainty of the content of natural law but of its existence. If Locke does not elaborate on his "present purpose," it is because he has already done so in ELN. Locke's arguments for the existence of natural law in this work are not referred to by Laslett, which is surprising since Locke concludes from these arguments that natural law is innate.<sup>115</sup>

Thus, secondly, to rebut Laslett's criticism and to put the above passages quoted from the Treatises into their proper context, we need first to consider Locke's argument in ELN for the innateness of natural law, the same work in which he argues at length that our knowledge of this law is not innate.<sup>116</sup>

In ELN Locke states that all societies have a notion, even if incorrect, of right and wrong. Such notions

and the resulting judgments of conscience whereby praise and blame are attributed to one's actions would not be possible without natural law. On the basis of this and other arguments, Locke concludes natural law exists: "it is not written but innate, i.e. natural."<sup>117</sup>

This conclusion does not contradict Locke's arguments both in ELN and the Essay against innate knowledge provided it is read within the context of his arguments in ELN, which are consistent with his empiricism in this work and the Essay, that the "secret and hidden laws . . . appropriate to the nature" of things which God has created, physical and moral laws, are discovered by reason on the basis of sense experience.<sup>118</sup> Within such context, moral and physical laws exist: they are not products or figments of men's minds but that which reason "search[es] for" and "discovers".<sup>119</sup> Thus, when Locke concludes from his arguments for the existence of natural law that natural law is innate, the innateness attributed to this law signifies its objectivity: it is not a fiction. The second quotation cited above from the Treatises should be read accordingly.

For Locke, it is the 'light of nature,' sense perception and reason,<sup>120</sup> by which the content of natural law is known. It is not known by conscience because, as Locke continually points out throughout his works,<sup>121</sup> there is virtually nothing that men's consciences, like his traditions,

have not at some time or another sanctioned. Nevertheless, although men's consciences and his notions of right and wrong, which even if incorrect, all men possess, are not a means by which the content of moral law is known, they are, for the reasons given above, a means by which we know it exists. They tell us at most that there is a law, not what it commands.

Locke's argument cannot be dismissed on the ground that he gives no justification for its premise: all men have notions of right and wrong, even if incorrect ones, and thereby consciences. As will be more fully discussed in Chapter 3 on Locke's correlation of language and rationality,<sup>122</sup> man's capacity for language distinctively characterizes his nature not only as a social being but, by virtue of it signifying the presence of abstract ideas, also as a rational one.<sup>123</sup> Language itself is not possible unless there is at least a minimal degree of peaceable behavior, of social and harmonious intercourse among men, and therefore minimal adherence to natural law. Consequently, Locke's claim that all men have a notion of right and wrong is not without foundation. Furthermore, as shown above, Locke's theory of knowledge does not require that either our ideas or our knowledge about them are dependent on our being able to theoretically justify either. Our ideas, for example of 'fire' and of 'murder' and our knowledge of physical and moral laws which express these ideas and which are so intimately involved with our survival, are not dependent on such

justification.

The moral law Locke singles out as "writ in the Hearts of all Mankind" is "the great Law of Nature, Who so sheddeth Mans [sic] Blood, by Man shall his Blood be shed."<sup>124</sup> Locke later refers to this law in the following way:

For by the Fundamental Law of Nature, Man being to be preserved, as much as possible, when all cannot be preserv'd, the safety of the Innocent is to be preferred.<sup>125</sup>

Accordingly, Locke argues that man has the right of defence,<sup>126</sup> "the Right of War, . . . against an aggressor." The moral law on which this right is based is one which, Locke would argue, all men have considered in light of their own experience within society and the safety of their own being. Hence, this moral law is as "certain" and as "intelligible and plain to all rational creatures" as, for example, the physical law 'fire burns.'<sup>127</sup>

Thus, Locke's claim in the Treatises that moral laws are "writ in the Hearts of all Mankind" does not imply that they are innate in the sense against which Locke argues in the Essay:

[S]ince no proposition can be innate unless the ideas about which it is be innate, this will be to suppose all our ideas of colours, sounds, tastes, figure, etc., innate, than which there cannot be anything more opposed to reason and experience.<sup>128</sup>

Furthermore, Locke does not imply in the Treatises that what is "certain," and "plainly writ" or "intelligible and plain to all rational creatures" is what has been logically demonstrated, let alone will be demonstrated.

And, as the previous section has shown, Locke does not argue otherwise in the Essay. Indeed, the moral end to be achieved by conformity to natural law, to which Locke refers in the above quotation as the "Fundamental Law of Nature, Man[kind] . . . to be preserved," requires that knowledge of natural law not depend on intellectual skills which, according to Locke in the Essay, the vast majority of men do not possess.

In brief, Laslett's charge that Locke's view of natural law in the Treatises is inconsistent with his denial of innate knowledge in the Essay, is untenable. Furthermore, Locke does not claim in any of his works that our knowledge of the existence and content of natural law is acquired by logical proofs. Thus, contrary to Laslett's view, the "objective existence of a body of natural law" does not depend for Locke on the "demonstration of its existence and content."<sup>129</sup>

However, Laslett raises another point to show the disparity between Locke's thought in the Treatises and that in the Essay. Laslett states in his footnote to Section 86 of the First Treatise:

Preservation of oneself and all mankind is a natural law, perhaps the natural law, here presented as a "principle of Action" implanted by God. This would seem to contradict chapter III of Book I of the Essay, headed "No Innate Practical Principles," but the language here is very close to the exception he makes (1894, I, 67) ["Nature, I confess, has put into man a desire of happiness and an aversion to misery: these indeed are innate practical principles . . . ."]<sup>130</sup>

Laslett is incorrect in identifying the law he cites with the "Principle of Action" to which Locke refers in the passage footnoted:

For the desire, strong desire of Preserving his Life and Being have been planted in him by God, as a Principle of Action by God himself, . . .<sup>131</sup>

This 'principle of action' expresses only the self-preservation instinct; it says nothing of the preservation and welfare of others, of all mankind. Furthermore, or rather as a result, Laslett is incorrect in identifying this law with the innate principles to which Locke refers. These innate principles, as Locke points out later in the same passage cited by Laslett from the Essay, are principles

. . . which (as practical principles ought) do continue constantly to operate and influence all our actions without ceasing: these may be observed in all persons and all ages, steady and universal; but these are inclinations of the appetite to good, not impressions of truth on the understanding.<sup>132</sup>

Moral laws are not "inclinations of appetite."

Locke specifically makes the point a little later:

Principles of actions indeed there are lodged in men's appetite, but they are so far from being innate moral principles that if they were left to their full swing they would carry men to the overturning of all morality.<sup>133</sup>

The natural law Laslett cites, or indeed any other, cannot be identified with the innate principles or inclinations to which Locke refers. To be sure, the "inclination of appetite"--the desire for happiness, along with the instinct of self-preservation and the capacity for pleasure and pain are implanted in us by God to realize his purpose, pre-

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 servation and welfare of all mankind. However, while these implantations are necessary for the fulfillment of this moral end, they are not sufficient. Reason is also required because, as Locke continues in the passage cited by Laslett, it is by reason that man knows his moral duties:

. . . Reason . . . could not but teach him and assure him that pursuing the natural Inclination he had to preserve his being, he followed the Will of his Maker and therefore had a right to those Creatures . . . that were necessary or useful to his Being.<sup>135</sup>

Locke similarly argues in the eighth essay of ELN, which will be more fully explained in the next chapter, that reason dictates that what is useful and beneficial to the individual can only be realized by conformity to natural law; that such conformity not only secures the welfare of the individual but of others as well, and that therefore, what jeopardizes the general welfare threatens the individual. On such arguments, he concludes that (i) utility, what is useful and beneficial to the individual, is not the origin of, but a consequence of obedience to natural law, and (ii) that it is not opposed to the interest of others, the general welfare.<sup>136</sup> Neither conclusion holds if the principles of action Locke cites in the First Treatise, the instinct for self-preservation, and in the Essay, the desire for happiness, are taken in themselves as moral principles. Moral prescriptions are, as Locke puts it in the First Treatise, "dictates of . . . Reason," not inclinations of appetite.<sup>137</sup> The apparent contradiction Laslett draws be-

tween the passage he cites in the Treatises and the one to which he refers in the Essay, cannot therefore be substantiated.

Furthermore, as discussed above (pages 43-44), for Locke, "rules or laws," unlike principles, have sanctions or "enforcements."<sup>138</sup> Locke's principles of action are propositions about what universally characterizes the motivation of men's actions. But, according to Locke, laws are commands, and commands, unlike propositions, "are not capable of truth and falsehood." Furthermore, propositions, such as 'it is our duty to preserve ourselves,' are "incapable of being assented to as true unless we know what duty is." But, Locke argues, "what duty is cannot be understood without a law, nor a law without a law-maker, or without reward and punishments."<sup>139</sup> Consequently, according to Locke's voluntaristic view of law, as well as his rationalistic one, a principle of action is not in itself a moral prescription.

Second, although Locke's language is misleading, the "innate principles" he cites in the Essay are not an exception, as Laslett alleges, to his denial of such principles. The desire for happiness and the self-preservation instinct are innate in that they are implanted by God; they are principles of action because they have been constantly "observed" in people's behavior.

As innate inclinations and instincts, the desire for happiness and the instinct for self-preservation,

are, according to Locke, the result of divine volition. They, as well as the capacity for sense perception and the faculty of reason, by which we know moral and physical laws, and on which, Locke points out, our survival and welfare depend, are implanted by God in human nature. They are not therefore dependent on our volition.<sup>140</sup> And, as will be shown in Chapters II and III, according to Locke, what is not dependent on our volition is not fictitious. In short, when Locke uses the term "innate," be it with respect to natural law or to the capacities, inclinations, instincts and faculties which make up human nature, it signifies what cannot in any way be construed as fictitious. This conclusion will be substantiated in Chapter III by a critical analysis of Locke's arguments concerning the reality of ideas and of our knowledge.

As principles of actions, the desire for happiness and the instinct for self preservation are, for Locke, what has been observed in all men. Consequently, Locke's principles of action are not innate in the sense against which Locke argues in the Essay--that our knowledge of anything is possible without perception. Therefore, Laslett's allegation that Locke's principles of actions are an exception to his denial of innate principles is untenable.

To conclude, this chapter has shown that the criticisms discussed of Locke's theory of natural law are

untenable because their authors have overlooked or paid scant attention to key aspects of Locke's thought. The following chapters will develop Locke's theory of natural law in terms of these and other neglected areas of Locke's thought.

Footnotes - Chapter I

1. Tracts, p. 222
2. Essay, II, xxvii, 8
3. ELN, p. 123, 189
4. ELN, pp. 191 ff., 189
5. Tracts, p.226
6. Treatises, II, §12
7. ELN, p. 119
8. ELN, p. 189
9. ELN, p. 185
10. ELN, p. 111
11. ELN, p. 199
12. Ibid.
13. ELN, p. 203
14. Treatises, II, §60
15. Treatises, II, §57
16. Treatises, II. §§59, 60
17. ELN, pp. 123, 147
18. ELN, p. 185
19. ELN, p. 173
20. Essay, II, xxvii, 6
21. Treatises, II, §7
22. Essay, II, xxviii, 8. See, also, Essay, I, iii, 5, 6; ELN, p. 173; The Reasonableness of Christianity . . . edited, abridged and introduced by I. T. Ramsey (California: 1973), pp. 70-71. All references to Reasonableness of Christianity will be to this edition.
23. By virtue of Locke's rationalistic view of law, a "superior will" (ELN, p. 113) is also rational.

24. Aaron, R.I., John Locke, (Oxford: 1937), p. 226
25. Von Leyden, "Introduction," ELN, p. 51
26. Von Leyden, op cit, p. 71
27. Abrams, "Introduction," Tracts, p. 72
28. Abrams, op cit, p. 88
29. Abrams, op cit, p. 108, fn. 12; Strauss, Natural Right, p. 222
30. Singh, R., "John Locke and the Theory of Natural Law," Political Studies, ix, 2 (1961), p. 109
31. Strauss, Natural Right, p. 225
32. Abrams, op cit, pp. 89, 90
33. Laslett, ed., Treatises, II, §12, fn. 34-35  
"Introduction," Treatises, p. 96
34. Aaron, John Locke, p. 264  
Von Leyden, "Introduction," ELN, p. 55
35. Abrams, op cit, p. 108, fn. 12
36. Strauss, Natural Right, pp. 202, 222-5
37. Strauss, "Locke's Doctrine of Natural Law," American Political Science Review (1958), p. 496
38. Strauss, Natural Right, pp.225-6
39. Strauss, op cit, pp. 223-25
40. Strauss, op cit, pp. 222-24
41. It has been pointed out to me that if everyone knows natural law and its penalties, and, as a result, observes natural law, there would be no breaches. Consequently, it does not follow that if there were no breaches of natural law, sanctions would not be required. However, by the word "sanctions," Strauss means what Locke calls "enforcements," i.e., not merely the attachment of penalties to law, but the dispensing of them if laws are transgressed. If knowledge of a law and its penalties were sufficient for compliance, it would not need to be enforced. To say that the law still has 'sanctions' is equivalent to saying that a law is a law even if it is not enforced. Locke does not hold this (see, e.g., Treatises, II, 7) nor does Strauss interpret him otherwise.

42. Strauss, op cit, p. 225
43. Treatises, II, §6
44. Treatises, II, §19
45. Ibid.
46. Essay, II, xxviii, 6; I, iii, 13-14.  
See, also, pages 34-5 above
47. Treatises, II, §§134, 135; Tracts. p. 231
48. Treatises, II, §§101-103
49. See, e.g., Treatises, II, §104
50. Treatises, II, §19
51. Treatises, II. §§13, 21
52. Treatises, II, §§91, 175-6, 211
53. Treatises, II, §§19, 21, 184, 14, 15, 243
54. Treatises, II, §§19, 16-17
55. Treatises, II, §226-28. Locke defines the term 'rebel' as one who acts contrary to his political trust. Thus, when the people 'rebel' against the abuse of authority, it is not they but the abusers who are rebels.
56. Treatises, II, §§175-76. See, also, II, §20
57. Treatises, II, §19
58. Treatises, II, §7
59. Tracts, pp. 121, 146, 210-11, 217-8  
ELN, p. 141, 165, 169-77  
Essay, I, iii, 9  
Treatises, II, §13  
John Locke, Some Thoughts concerning Education, abridged and edited by F. W. Garforth (New York: 1964) p. 45  
Reasonableness of Christianity, p.57  
'Of Conduct of the Understanding,' The Works of John Locke.  
10 Vols. (London: T. Tegg & Co., 1823, reprinted Aalen, Germany: Scientia Verlag Aalen, 1963) Vol. 10, pp. 228, 234-5, 244-7. All references to Locke's Works will be to this edition.
60. Tracts, p. 119

61. Tracts, pp. 118, 119, 223
62. Tracts, pp. 231-232
63. ELN, pp. 191 ff.
64. Treatises, II, §13
65. Tracts, p. 119
66. Treatises, II, §90
67. Treatises, II, §§3, 135
68. Treatises, II, §§20, 175-76, 197-98, 135, 199, 225
69. Treatises, II, §§7, 16, 135, 13
70. Treatises, II, §13; Tracts, p. 118
71. Essay, II, xxi, 62, 42
72. Essay, II, vii, 2, 3, 4; I, iii, 3
73. ELN, p. 215
74. Tracts, p. 118
75. Treatises, II, §7
76. Strauss, Natural Right, p. 223  
Strauss, "Locke's Doctrine of Natural Law," p. 496
77. "Every one as he is bound to preserve himself, and not to quit his Station wilfully, ought he, as much as he can, to preserve the rest of mankind, and may not unless it be to do Justice on an Offender, take away, or impair the life, or what tends to the Preservation of the Life, Liberty, Health, Limbs or Goods of another." Treatises, II, §6
78. ELN, p. 159
79. See pages 57-58, above
80. Yolton, "Introduction," Essay, p. ix, fn. 1
81. See, in particular, Essay, II, xxi, 45, 46; IV, xx, 2.
82. 'A Letter to the Right Reverend, Edward, Lord Bishop of Worcester,' Works, Vol. 4, p.33
83. Essay. IV, iii, 6

84. ELN, pp. 151-7; Essay, IV, x
85. In an analagous context, Gough states that this objection is a trivial one for Locke. (Gough, op cit, p. 7). However, Locke employs this objection in his argument in support of his position that the soul's immateriality cannot be demonstratively proved in which he states: "I see no contradiction in it that °God! shall, if he please, give systems of created senseless matter . . . some degrees of perception and thought. . ." and in which he questions the conclusion "Omnipotence itself cannot give perception and thought to a substance which has the modification of solidity." Essay, IV, vii, 6.
86. Essay, IV, xv, 4; xii, 13; xvi, 12 - chapter heading, Vol. 2, p. 129.
87. 'A Discourse on Miracles,' Works, Vol. 9, p. 256.
88. Essay, IV, xix, 16; Reasonableness of Christianity, pp. 34, 47.
89. Essay, IV, xx, 3.
90. ELN. p. 173
91. ELN, p. 189
92. Treatises, II, §11
93. Laslett, "Introduction," Treatises, pp. 94-95; II, §11, fn. 34-35  
Strauss, Natural Right, p. 225
94. Reasonableness of Christianity, p.66
95. Strauss, op cit, pp. 225-6
96. Essay, IV, xx, 2
97. Essay, IV, xx, 3; See also 'Of the Conduct of the Understanding,' Works, Vol. 3, p. 207
98. Essay, IV, xx, 2-4
99. Reasonableness of Christianity, p. 60 "Tis too hard a task for unassisted reason, to establish morality in all its parts, upon its true foundations, with a clear and convincing light." See also pp. 61 and 63.
100. ELN, p. 199
101. ELN, pp. 177-79

102. Von Leyden, "Introduction," ELN, p.55  
Aaron, John Locke, p. 264
103. ELN, p. 203; Treatises, II, 60
104. Essay, IV, xvii, 4
105. Essay, I, i, 15; xi, 9; IV, vii, 11,
106. Essay, IV, xii, 3
107. Essay, II, xvi, 6
108. Essay, IV. xvii, 14, 17
109. Essay, III, ix, 3, 15
110. Strauss, Natural Right, p. 225  
Laslett, "Introduction," Treatises, pp. 94-95;  
Treatises, II, §12, fn. 34-5
111. Treatises, II, §11
112. Treatises, II, §12
113. Laslett, op cit, pp. 94-5; II, §12, fn. 34-5
114. Treatises, II, §12
115. ELN, p. 117
116. ELN, pp. 137 ff.
117. ELN, p. 123; 117-8
118. ELN, pp. 115, 117
119. ELN, p. 111
120. ELN, p. 147
121. See, e.g. Tracts, pp. 137-138, p. 172. Ms. Essays  
concerning Toleration c.28.Fol. 24, quoted by Abrams  
in "Introduction" to Tracts, p. 102; Essay, I, ii, 7-9.
122. ELN, p. 157; Essay, III, i, i; II, xi, 9-13
123. Essay, II, xi, 10-11. See Chapter II, fn. 32, below
124. Treatises, II, §11
125. Treatises, II, §16

126. Treatises, II, §§16, 19
127. See Aarsleff, 'The state of nature and the nature of man,' in Yolton, Problems and Perspectives, p. 133  
Aarsleff makes a similar point but does not develop it.
128. Essay, I, ii, 18
129. Laslett, "Introduction," Treatises, pp. 94-95
130. Laslett's citation (1894, I, 167) refers to John Locke, An Essay Concerning Human Understanding, ed. A.C. Fraser (2 Vols; Oxford: 1894). The appropriate quotation asserted after this citation is from this edition published by Dover Publications Inc., (New York: 1959), I, ii, 3.
131. Treatises, I, §86
132. Essay, I, ii, 3
133. Essay, I, ii, 13
134. Essay, I, iii, 3; II, vi, 3-4
135. Treatises, I, §86
136. ELN, pp. 205, 207, 215. See Chapter II, pages 124-26. Locke gives the term 'utility' two significations. Locke's commentators have interpreted his arguments as an indictment of utilitarianism by identifying his concept of 'utility' with one of the significations he gives the term.
137. Treatises, I, §56
138. Essay, II, xviii, 6; see pages 34-35, above
139. Essay, I, iii, 12
140. Essay, I, iii, 3; iv, 23; II, vi, 3-4

## CHAPTER II

## LOCKE'S HEDONISM

According to Locke's voluntaristic concept of law, a law is the expression of a "superior will."<sup>1</sup> A superior will must at least be effective because, according to Locke, a law is no law unless it has sanctions. Locke's modern commentators share this interpretation of Locke's voluntarism, and some, notably Von Leyden, relate Locke's hedonism to his emphasis on "rewards and punishments as enforcements of God's will." (See Chapter I, pages 35-36, above). However, none have attempted in this connection to explicate Locke's concept of volition.<sup>2</sup> This neglect is unfortunate because Locke relates volition to both man's hedonistic and rational natures. As this Chapter will show, according to Locke, volition is determined by desire and is only properly attributable to 'persons'--those individuals who have and can use their rational faculty. Furthermore, Locke's concept of person shows, on examination, what constitutes, in Locke's view, a rational judgment, and rational actions and interests.

By neglecting Locke's concepts of 'volition' and 'person,' his critics have overlooked the interdependent relation Locke sees between, on the one hand, man's hedonistic and rational natures and, on the other, the purpose

for which they were both implanted, and the concept of reason which emerges therefrom. This chapter will remedy this neglect by explicating the concepts involved in Locke's hedonism: 'pleasure' and 'pain,' 'desire,' 'volition,' 'freedom,' and 'personal identity'.

Locke gives two definitions of pleasure and pain:

By pleasure and pain, I would be understood to signify whatsoever delights or molests us whether it arises from the thought of our mind or anything operating on our bodies.

.....

By pleasure and pain, I must be understood to mean of body or mind, as they are commonly distinguished, though in truth they are only different constitutions of the mind, sometimes occasioned by disorder in the body and sometimes by thoughts in the mind.<sup>3</sup>

Both definitions are consistent with Locke's arguments that the ideas of pleasure and pain are simple and unanalyzable and therefore cannot be created by the mind. They are distinctive in that they are among the few simple ideas which are received both through sensation and through reflection.<sup>4</sup> The second passage, however, more accurately represents Locke's thought in that it characterizes pleasure and pain as "different constitutions of the mind" no matter what their source.

As will be more fully discussed in the next chapter, according to Locke's corpuscular theory and causal theory of perception, secondary or sensible qualities, as different modifications of the primary qualities of atoms, are real and exist in bodies. However, as sensations, colors, etc.,

secondary qualities do not exist in physical objects. Alternatively, sensible qualities are powers of material substances, whose effects, sensations, are immaterial. Our sensations of warmth, color, pain etc. are not, therefore, in any material substance: they are neither in an external material object nor are they in our own body. Admittedly, Locke claims that sensations are "the increase and diminution of the motion of the minute parts of our bodies, caused by the corpuscles of any other body."<sup>5</sup> However, despite Locke's use of the term 'sensation' to denote the process (or part of it) as well as its effect, according to his arguments, sensation is not the interaction of the atoms of one body on those of our own but the immaterial effects caused by this interaction, i.e., the ideas produced by the motion or impulse of this interaction which is conveyed from the sense organs to the brain.<sup>6</sup> Consequently, pleasure and pain, regardless of their cause, are "different modifications of the mind."

As will also be shown in the following chapter, Locke employs his corpuscular theory and his causal theory of perception in his arguments for the "reality" of knowledge, i.e., for the "conformity" of our ideas "with the real being and existence of things."<sup>7</sup> According to Locke's theory of knowledge, the premise of his corpuscular theory, the existence of atoms, is not certain but only, by the rule of analogy, probable. Locke's causal theory of perception rests on the

causal efficacy of bodies, or rather their atoms. But Locke denies that material objects have causal or active power. However, as will be shown, apart from these two theories, Locke offers an alternative explanation for the "reality" of ideas and knowledge of the physical world, one that does not require certain knowledge of the origin of these ideas to guarantee the non-fictional character of empirical knowledge--namely, that such knowledge and the ideas which it is about are real because the human species would not have survived if they were not. This explanation is particularly appropriate to the ideas of pleasure and pain for Locke states:

. . . it has pleased our wise Creator to annex to several objects and to the ideas which we receive from them, as also to several of our thoughts, a concomitant pleasure . . . [and] designing the preservation of our being, has annexed pain to the application of many things to our bodies to warn us of the harm they will do, and as advices to withdraw from them. (My emphasis)<sup>8</sup>

Thus, the simple ideas of pleasure and pain, as with other simple ideas, are non-fictional because they are not created by the mind, and because no matter what their origin or means of production, they enable us to secure our survival and welfare.

All sensations as "different constitutions of the mind" belong to its passive aspect--passive in that the mind does not create them. This characteristic of pleasure and pain, together with Locke's assertion that almost all our ideas are accompanied by those of pleasure and pain, is the

basis on which he relates the passive aspect of the mind to the "passions," the modes of pleasure and pain:

Pleasure and pain and that which causes them, good and evil, are the hinges on which our passions turn. And if we reflect on ourselves and observe how these, under various considerations, operate in us, what modifications or tempers of mind, what internal sensations (if I may so call them) they produce in us, we may thence form to ourselves the ideas of our passions.<sup>9</sup>

Although Locke only lists ten passions (love, hatred, desire, joy, sorrow, hope, fear, despair, anger and envy), he admits that his discourse on the passions is by no means comprehensive. He adds that he might have given other modes such as pain of hunger and thirst and pleasure of music, etc.<sup>10</sup> Two points arise from Locke's short chapter on the modes of pleasure and pain.

First, the modes which Locke states he might have given are those of sensation and reflection. According to Locke's account of the natural and conventional association of ideas, the modes of pleasure and pain of sensation are "natural"; those of reflection are "conventional."<sup>11</sup> That is to say, in sensation, the connection or association of the ideas of pleasure and pain with others ideas is imposed on the mind, whereas, in reflection, the ideas of pleasure and pain are associated by the mind itself. Thus, the modes of pleasure and pain from reflection are created by the mind, yet they, as with the other modes or "internal sensations," belong to the passive aspect of the mind and are not created by it.<sup>12</sup>

Second, Locke refers to the ten modes he lists as 'passions,' the "instances of modes of pleasure and pain resulting in our mind from various considerations of good and evil." However, he considers desire, "the uneasiness a man finds in himself in the absence of anything whose present enjoyment carries the idea of pleasure with it" the primary passion because it is the "chief, if not the only, spur to human industry and action," or what amounts to the same thing "it determines the will in regard to our actions."<sup>13</sup> Thus, on the one hand, 'desire' as a passion is the result of effects with respect to which the mind is passive. On the other hand, 'desire' as the motivation of all actions manifests the active, causal power of the mind.<sup>14</sup>

Both the above points raise a problem which requires clarification and resolution since it is responsible, as we will see, for Locke's failure to distinguish clearly between perception and reason and, as a result, between desire and volition, between 'self' and 'person,' and between good states or experiences and good actions. While all of these concepts are attributable to man, it is only the latter of each conjunct which uniquely characterizes man as a rational being rather than merely a conscious sentient being. The problem is Locke's failure to maintain consistently his distinction between the passive and active powers of the mind; its root is his ambiguous use of the term 'perceiving'.

On the one hand, Locke distinguishes perception from thought in that the latter signifies an "operation of the mind" whereas the former is "for the most part, only passive." Perception and "having ideas" is, Locke states, the "same thing." On the other hand, in his chapter on modes of thinking, he cites the mode of sensation, one which would surely apply to perception if Locke intended perception and thinking to be considered as separate phenomena. Furthermore, in his chapter on 'Simple Ideas of Reflection,' of which the idea of perception is one, he states that "perception or thinking" is one of the "great and principal actions of the mind" and in other contexts that "perceptivity" or understanding is "the power of perception or thinking."<sup>15</sup> In these contexts, perception and thinking signify an action or operation of the mind.

The reason for Locke's ambiguous use of the term 'perceiving' is that he describes perception as "the first faculty of the mind exercised about our ideas," and includes within this faculty, both thinking "where the mind is active" and perception "where the mind is only passive."<sup>16</sup> Thus, both the ability to think about our ideas and our capacity to receive them are treated as one and the same phenomenon. Furthermore, since Locke uses the term 'faculties' and 'operations' interchangeably, 'operation' it seems is the blanket term for both faculties and capacities as well as passions.<sup>17</sup> Thus, understanding, which Locke defines as

the faculty or power of perception encompasses both the passive and active aspects of the mind.<sup>18</sup>

The problem is to determine precisely what is for Locke the active power of the mind. In his chapter xxi in Book II of the Essay on 'Power,' he states that actions, of which there are two sorts, motion and thinking, are only attributable to those who originate them and Locke argues, such origination is, on empirical grounds, only attributable to volitional beings.<sup>19</sup> Consequently, when Locke describes thinking as the active power of the mind, it denotes mental processes, the exercise of which is originated by the mind (e.g., reasoning, judging, etc.) and, as such, is dependent on our volition.<sup>20</sup> On the other hand, when Locke uses the term 'thinking' with respect to the passive power of the mind, it includes perception and the mental operations involved in "having ideas," i.e., the mental processes of discerning, comparing, compounding and abstracting by which the mind distinguishes between its ideas and creates complex and abstract ones.<sup>21</sup>

Locke's analysis of ideas in terms of their materials, the simple ideas of sensation and reflection and the above mental processes will be discussed in more detail in the next chapter. What is significant here is that although the mental processes listed above can be brought into play at the reflective level, and, as such, are dependent on our volition, they are also involved at the pre-reflective

level in perception and conception. At this level, they are not dependent on volition. Hence it does not follow that, for Locke, what is created by the mind is necessarily dependent on volition. Such dependence arises only at the reflective level in, for example, the creation of fictitious ideas such as a golden mountain. Consequently, in reading Locke, a distinction must be made between, on the one hand, 'what is created by the mind' and, on the other, 'what is dependent on volition.' These phrases are not interchangeable because Locke does not consider them as necessarily co-extensive.

We can now say of the modes of pleasure and pain of reflection that, for Locke, these ideas, among others, are created by the mind but, since they are not dependent on volition, they evidence the mind's passivity. Similarly, according to Locke, as the following explication of his concept of desire will reveal, the desire for happiness, which is the motivation of all men's actions, belongs to the passive aspect of the mind because it is not dependent on man's volition.

As mentioned above, Locke lists 'desire' among the modes of pleasure and pain. He states that

For whether we call it satisfaction, delight, pleasure happiness, etc., on the one side, or uneasiness, trouble, pain, torment, anguish, misery etc., on the other, they are still but different degrees of the same thing and belong to the ideas of pleasure and pain, delight or uneasiness.<sup>22</sup> (My double emphasis)

According to this passage, desire is a mode of pain insofar as Locke defines it as the "uneasiness a man finds in himself"<sup>23</sup>

in the absence of anything he considers good or pleasurable. However, Locke states that this "uneasiness" is not only due to the absence of pleasure but also to the anticipation of pain.

Pain has the same efficacy and use to set us on work that pleasure has, we being as ready to employ our faculties to avoid that as to pursue this . . .<sup>24</sup>

Thus, in Locke's view, the absence of pleasure or the anticipation of pain causes desire or uneasiness. In the above quotation, the opposite of "uneasiness" is the mode or degree of pleasure, satisfaction. Therefore, satisfaction is the cessation or absence of uneasiness.<sup>25</sup>

In brief, according to Locke's concept of desire, for all men, desire is an "uneasiness," a certain degree of pain; for all men, the satisfaction of one's desires, the cessation of uneasiness, is pleasurable; and for all men, the cause of this cessation is the securement of what the individual thinks is good or pleasurable.

Locke is a hedonist: what is good is pleasurable.

He states

. . . we must remember that things are judged good or bad in a double sense.

First, that which is properly good or bad is nothing but barely pleasure or pain.

Second, but because not only present pleasure and pain but also that which is apt by its efficacy or consequences to bring it upon as at a distance is a proper object of our desires and apt to move a creature that has foresight, therefore things also that draw after them pleasure and pain are considered as good and evil.<sup>26</sup>

Locke recognizes that what is good or pleasurable and evil or painful is relative to the individual.<sup>27</sup> However, this relativity only extends to particular objects of desire. In Locke's view, all men have a "desire for happiness and an aversion for misery," and all men have the instinct for self-preservation.<sup>28</sup> Therefore, for Locke, the preservation of oneself and the securing of one's welfare is generically the object of man's desires. And indeed, Locke does not deny that self-interest is the motivation of all men's actions.<sup>29</sup> However, as will be explained later, self-interest is only rational if men conform to natural law because, Locke stresses, such conformity is necessary to secure the preservation and welfare of the individual, i.e., his happiness:

. . . the observance of this [natural] law gives rise to peace, harmonious relations, friendship, freedom from punishment, security, possession of our property and--to sum it all up in one word--happiness.<sup>30</sup>

Thus, according to Locke, man's desires, which are the motivations of their actions, are egoistic because generically the motive is self-interest; they are hedonistic because "[a]ll men desire happiness," which "in its fullest extent . . . is the utmost pleasure we are capable of."<sup>31</sup>

Locke's concept of desire is hedonistic in two senses: the object of desire is what the individual thinks is good or pleasurable; the fulfilment of desire results in the cessation of "uneasiness"--satisfaction or pleasure.

On the one hand, the two are separate because Locke does not argue that the object of desire is the cessation of uneasiness, but what causes this cessation--the possession of what the individual thinks is good or pleasurable. On the other hand, both the object and satisfaction of desires are pleasurable. Therefore, both contribute to the individual's happiness, and, as a result, both are part of his desire for happiness.

In the Essay, Locke states

Nature . . . has put into men a desire for happiness and an aversion to misery: these indeed are innate practical principles which (as practical principles ought) do continue constantly to operate and influence all our actions without ceasing: these may be observed in all persons and all ages, steady and universal; but these are inclinations of appetite to good, not impressions of truth on the understanding.<sup>32</sup>

According to this passage, "a desire for happiness and an aversion to misery" are the cause of all men's actions. As argued earlier (see Chapter I, pages 78-79, above), these "innate practical principles" do not express moral prescriptions, but "inclinations of appetite to good." Since, in Locke's view, what is good is nothing more than pleasure,<sup>33</sup> these "inclinations" are to pursue pleasure and to avoid pain. Furthermore, according to Locke, these inclinations are not dependent on our volition but have been implanted in human nature by our Creator, God, in order to secure the preservation and welfare of mankind.<sup>34</sup>

For Locke, the avoidance of pain is a necessary condition for man's happiness. Consequently, the desire for

happiness includes the desire to avoid pain--the "aversion to misery." Since Locke states that desire "determines the will in regard to our actions,"<sup>35</sup> all desire is, in Locke's view, a desire for happiness. And a desire for happiness, according to Locke, is implanted in human nature by God. Consequently, for Locke, desire qua desire is not dependent on our volition and, as a result, belongs to the passive aspect of the mind. As I will show, this conclusion follows also from Locke's concept of volition.

Locke uses the terms 'choosing' and 'preferring' to signify both desire and volition:

I have endeavoured to express the act of volition by choosing, preferring, and the like terms, that signify desire as well as volition, for want of other words to mark that act of the mind whose proper name is willing or volition.<sup>36</sup>

To show the distinction between desire and volition, Locke gives various examples all of which are intended to show that although we may desire something, we can act contrary to such desire.<sup>37</sup> Nevertheless, given Locke's claim that desire determines the will in all its actions, his examples do not show a distinction between desire and volition, but rather one between competing desires. The former distinction, as we will see, is not easy to elicit from Locke's arguments.

Locke makes the following points concerning volition. First, he states that the will, the power of volition, is "conversant about nothing but our own actions."

Second, it is only applicable to those actions we are capable of undertaking, not for those for which we are physically unequipped, e.g., flying unaided. And third, although physical conditions may handicap those actions we are capable of executing, they do not determine in any way our volition, our choice or preference. Locke accordingly concludes that the voluntary is not opposed to necessity but to the involuntary, our own movements or conditions which are not dependent on volition, e.g., circulation of blood, palsy etc.<sup>38</sup>

By this distinction between action and movement or between voluntary and involuntary actions, actions but not movements are determined by desire. Locke does not therefore by his distinction between voluntary and involuntary actions draw one between volition and desire.

Locke further states that "agents that have no thought, no volition at all, are in everything necessary agents."<sup>39</sup> All inanimate objects are "necessary agents" in that they do not originate their movements, but what is the status of species other than man? While an animal's circulation of blood is not determined by his desire, his foraging for food is so determined. Consequently, the latter is 'voluntary,' the former 'involuntary,' or, alternatively, by such foraging an animal acts rather than merely moves. As such, he has volition, and given Locke's interchangeable use of the terms 'perception' and 'thought,' thought as well: consequently, an animal is not a "necessary

agent." Hence, Locke's concept of a "necessary agent" is only applicable to inanimate objects: it does not therefore permit a distinction between desire and volition.

Locke also states that:

. . . in an agent, capable of volition, when the beginning or continuation of an act is contrary to the preference of the mind, [it] is called compulsion; when the hindering or stopping of any action is contrary to his volition, it is called restraint. (My double emphasis)<sup>40</sup>

He adds elsewhere that:

. . . to avoid multiplying of words, I would crave leave here under the word action to comprehend the forbearance too [as well as its execution] of any action proposed.<sup>41</sup>

In line with Locke's use of the term 'action,' and similarly to avoid multiplying of words, the term 'compulsion' will be used by me to signify the execution or forbearance of any action contrary to the will of the agent, i.e., to include both compulsion and restraint as Locke defines them.

Furthermore, since Locke does not explicitly make a distinction among physical and psychological compulsion and physical and psychological restraint, the term 'compulsion' will be used by me to signify, unless otherwise stated, both types of duress and restraint. As such, compulsion is when a volitional agent is unable to act freely or, alternatively, freedom is the absence of compulsion.

The examples Locke gives and his resulting definition of freedom are in terms of the absence of physical restraints. To wit, he argues that a man is free to leap twenty yards from a cliff, not because he has the power to do the contrary

action, leap twenty yards into the sky, but because he is free to leap or not to leap. If he is held back from such action by a greater force than his, he is no longer free. Similarly, a man enclosed in a twenty foot prison is free to walk from the north side twenty feet southwards because he can walk or not walk it. He is not, however, at liberty to do the contrary, walk twenty feet northwards. In this, then, Locke concludes, "consists freedom, viz., in our being able to act, or not to act as we shall choose or will."<sup>42</sup>

However, if freedom is defined purely in terms of the absence of physical restraints or constraints, it is attributable to animals as well as man. So far, as we have seen, volition, by Locke's distinction between action and movement or between voluntary and involuntary, signifies what is determined by desire and, as such, is attributable to all conscious sentient beings, including those other than man. (As will be shown below, pages 115 ff., for Locke, consciousness is attributable to all beings capable of sense perception, memory and desires.) Hence a distinction can still not be drawn between desire and volition.

While Locke would not quarrel with the attribution of freedom, as the absence of physical restraints or constraints, to animals, he would quarrel with such attribution insofar as freedom signifies the absence of psychological restraints. Only man, according to Locke, has the "power to suspend" the satisfaction of his desires.<sup>43</sup> This power, Locke continues, is the source of man's liberty and freedom in that by it he can deliberate on the consequences of the

gratification of his desires and those of alternative actions, and thereby act according to his choice or will, rather than as an automaton.<sup>44</sup> Locke's concept of 'freedom' has

therefore two aspects. First, it signifies the absence of compulsion, both physical, and by the power to suspend the gratification of our desires, psychological. By the absence of inner compulsion, effected by this power, we are free to act according to our own determination. And, secondly, freedom signifies the ability to determine our own actions, to act according to our choice or will.<sup>45</sup> These two aspects are related in that our freedom to determine our own actions is contingent on our freedom from compulsion, physical or psychological.<sup>46</sup>

By the power to suspend the gratification of his desires, man is not compelled by his instincts or condemned to be a slave to his desires.<sup>47</sup> This power is not attributable to any other species, nor strictly speaking to children, nor particularly the mentally impaired. Locke's arguments do not deny the efficacy of psychological constraints or compulsion but such efficacy only renders children and the mentally impaired non-culpable. Non-compulsive actions are therefore only attributable to those who have the use of their rational faculty. Such individuals alone are able to act according to their choice.<sup>48</sup>

A distinction can now be drawn between desire and volition. Although Locke states 'choosing' or 'preferring'

denote both volition and desire, these terms have a wider extension for Locke when they denote desire than when they denote volition. Desire is attributable to all conscious sentient beings and, as a result, includes the 'choices' or 'preferences' indicated by their behavior. Volition, on the other hand, is only attributable to those who have and can use their rational faculty and, as such, includes only those choices or preferences which are, or could be made, after deliberation, after the exercise of reason. Animals do not have a rational faculty, a major sign of which is language and the abstract ideas it expresses. The reasoning ability of children has not developed, and that of the mentally deficient and the insane is impaired.<sup>49</sup>

Thus, for Locke, the defining characteristic of volition is its attribution to all men except children, idiots and the insane. As such, it identifies one important aspect of Locke's concept of reason: those who have and can exercise their faculty of reason and thereby acquire knowledge. These individuals are not an intellectual elite. They are all adults whose rational faculty is developed and has not been impaired, namely, all those individuals Locke identifies as 'persons'.<sup>50</sup> Apart from this point, Locke's concept of volition is significant in that it accommodates, by its determinant (desire), man's hedonistic nature, and by its attribution (to 'persons') his rational one. These two aspects of man's nature cannot, therefore, be properly considered apart from each other and,

one might add, any concept of law that is based on one must, by Locke's concept of volition, accommodate the other.

Now, Locke's concept of volition only identifies rational agents, namely, those individuals who have and can employ their rational faculty. It does not go further than this and identify what would be, for Locke, a rational action, a rational judgment on which such actions would be based, or a rational interest which would motivate them. This information emerges from Locke's concept of 'person.' Before explicating this concept, however, there are certain points concerning Locke's account of volition and freedom which require clarification.

As pointed out earlier in this Chapter (see page 98, above), for Locke, the phrases 'created by the mind' and 'dependent on volition' are not interchangeable. Conception, and the processes involved, reflect the mind's creativity, but such creativity is not dependent on volition, it is not determined by desire. Insofar as the mind's creativity is not dependent on volition, it belongs to the passive aspect of the mind, understanding, not to its active, causal power. Consequently, for Locke, what is created by the mind and what is dependent on volition are not necessarily coextensive. The problem created by confusing the two is compounded by Locke's tendency to treat the phrase 'what is dependent on volition' as signifying both 'what is determined by desire, action' and 'what is

capable of being determined by deliberation.' The two phrases are not interchangeable because of Locke's distinction between desire and volition.

Locke similarly uses the term 'freedom' to signify 'the absence of physical restraints,' 'the absence of compulsion' and the 'power to act according to our own determination.' The first but not the second does not require the absence of psychological constraint (described above, page 106); the third is the same, given Locke's distinction between desire and volition, as the power of volition, the will. The three are not therefore interchangeable.

Due to Locke's casual use of the terms 'volition' and 'freedom' in his arguments involving each and both in his chapter on "Power" in the Essay, the major source of the above discussion, he fails to maintain consistently the distinctions which he himself draws and which his arguments entail.

For example, Locke goes to considerable length to emphasize that the will, the power of volition, is not an agent in itself but a power or faculty of an agent and as such is part of its nature. Consequently, Locke argues, it is improper to speak of a free will: freedom is the attribute of an agent not a power. And, Locke adds, it is equally improper to say the will is free, that man can forbear volition: he can choose to do something or not to do it, but he must necessarily do either one or the other. Hence, he cannot choose not to choose. Locke accordingly

concludes that the will is one power or ability and freedom is another.<sup>51</sup>

Now, insofar as Locke defines freedom as the absence of compulsion, there is no distinction between a voluntary action and a non-compulsive one. Accordingly, there is no distinction between volition and freedom in that both give rise to the same quality of an action or, rather, the condition of its author, a condition characterized by the absence of compulsion, physical or psychological. In what sense, therefore, can Locke claim freedom is a power of an agent and, if so, as a power distinct from the will? First, as the absence of physical restraint, freedom is not a power of an agent; as the absence of psychological constraint, it is similarly not a power, although admittedly its source is--the power to suspend the gratification of our desires. But this power is the will, since its instigation is an act of will. Freedom as the 'power to act according to our own determination' is, as pointed out above, the same (given Locke's distinction between volition and desire) as the power of volition, the will. Second, as noted above, Locke uses the term 'volition' to signify (i) 'what is determined by desire' and (ii) 'what is, or could be, determined by our own deliberations.'" Insofar as Locke distinguishes will and freedom as different powers, he identifies volition with the first and freedom with the second signification. But Locke's distinction between volition and desire does not

permit this identification (see page 107, above). Hence there is no distinction, as Locke claims, between will and freedom as distinct powers.<sup>52</sup> The problem does not arise provided the various significations Locke gives these terms are kept distinct.

Another problem is generated by Locke's treating, as interchangeable, the phrases 'what is determined by desire' and 'what is determined by our own deliberations'. Locke's identification of volition with the latter, as a result of his distinction between desire and volition, casts volition in terms of mental actions, and such actions, as we have seen, are dependent on the power to suspend the gratification of our desires. However, the exertion of this power is an act of volition.

The problem is not resolved by the distinction between mental actions and physical ones, i.e., between actions of the mind where the effects are immaterial such as deliberating, etc. and actions which involve the body, whose effects are physical in some sense, e.g., eating or not eating.<sup>53</sup> First, this distinction does not invalidate the arguments given above that, for Locke, volition is only properly attributable to a rational agent. Volition is only attributable to those who are able to perform mental actions, those who possess mental powers or faculties whose operation is instigated by the mind, i.e., those who are

capable of deliberation and have and can exercise their rational faculty. Physical actions (as for all actions) include, according to Locke, the execution and forbearance of actions proposed, and such execution and forbearance, if it is voluntary as opposed to compulsive, is only attributable to rational agents.

The exertion of the power to suspend the gratification of our desires, since it permits the possibility of mental actions, deliberating etc., is not itself a mental action but, insofar as actions include their forbearance, a physical one. However, the exertion of this power could be, and invariably is, the result of deliberating on the consequences of gratifying our desires and of alternative courses of actions. It is therefore the result, not the cause of mental actions.

Locke's work, Some Thoughts on Education, throws some light on this question. In this work, Locke states that the desire to possess and to dominate are the predominate characteristics of early life. Learning self-control is as much a part of the educative process as learning one's numbers; it is primary in that the absence of it, e.g., eating too many apples or non-discriminately picking up objects, a hot or sharp one, is hazardous to the child's safety and welfare.<sup>54</sup> Acquiring self-control, the power to suspend the gratification of our desires, is, in Locke's view, part of the maturing process. All mature,

responsible individuals, those who are capable of taking care of themselves, have this power even if they do not exert it and do not deliberate on alternative courses of actions, i.e. do not exercise their rational faculty. Insofar as they have this power, they have the capacity to deliberate, and as such are rational agents. They are capable of acting rationally, 'naturally'.<sup>55</sup> Thus, for Locke, this power is primary, for even if its possessor does not exercise it, and does not thereby use his reasoning powers, he is still, according to Locke, a rational agent, a 'person'.

The circularity involved in Locke's arguments is due, on the one hand, to his general statement that the will is conversant about nothing except our actions, and, on the other, to his attempting to define volition, and its power, the will, in terms of types of actions, mental and physical, and making one the condition of the other.

Nevertheless, despite the confusion generated by Locke's casual use of terms, the above discussion has shown that, on Locke's arguments, volition is only properly attributable to those who are capable of acting according to their own determinations, who can act in ways other than those compelled by instinct and immediate desires. Consequently, volition is a key concept in Locke's concept of reason in that it identifies those who have and can exercise

their faculty of reason, the individuals Locke identifies as 'persons'. In order to determine what, for Locke, constitutes a rational judgment, action, and interest, we need to examine his concept of person.

Unfortunately, Locke tends to confuse this concept with that of 'self,' the subject of thought. This tendency, as we will see, is yet another consequence of Locke's failure to maintain consistently his distinction between the active and passive powers of the mind. However, Locke does make a distinction between the concepts of 'person' and 'self' and it is one he must uphold if he is to characterize human nature as uniquely rational.

Locke states that the identity of man consists in "nothing but a participation of the same continued life, by constantly fleeting particles of matter, in succession vitally united to the same organized body." This definition, Locke continues, is applicable to animals, and it is a reformulation of the one he gives for the identity of plants-- "the organization of matter into one coherent body partaking of one common life." The definitions Locke gives here concern only the physical identity of animate beings since they are applicable to all such beings and not merely man. Locke adds, however, that what makes the same man, physical identity, does not make the same person, personal or self-

identity.<sup>56</sup>

In one place, Locke defines self as that "conscious thinking thing . . . which is sensible and conscious of pleasure and pain and capable of happiness and misery and so is concerned for itself as far as that consciousness extends." As shown above, according to Locke, we are passive with respect to pleasure and pain, and 'passive agents' with respect to our desire insofar as desire is an innate inclination (see page 102, above). Thus, Locke's statement: ". . . happiness, the unavoidable concomitant of consciousness: that which is sensible or conscious of pleasure and pain desiring that that self that is conscious should be happy" is applicable to all those that have perceptions and memory, to animals as well as man. Locke would not disagree with this conclusion for he credits animals with "sense and memory."<sup>57</sup>

Consequently, the 'self' which Locke defines above is that which is the subject of thought (i.e., what Descartes might call the pre-reflective cogito), one which is evident in all conscious existence and which is also attributable to species other than man. To be sure, the term 'thinking' in the above definition questions this attribution. But, as shown above, Locke uses the term 'perception' and 'thought' interchangeably, and sense, memory and desires, which Locke attributes to animals, presuppose on his arguments a self which is the subject of them. It does not follow of course

that animals are necessarily conscious of themselves, that a reflective self is attributed to them, but it does so follow from the above arguments that a pre-reflective one, one which is the subject of perception, of consciousness, is so attributable.

In terms of the above definition, consciousness is being defined in terms of the passive power of the mind, or rather of certain of its passive powers, perception and memory. While man possesses such powers, they are not, of course, the ones which uniquely characterize him--namely, the active, causal powers of the mind. These powers are, however, captured by Locke's definition of 'persons,' those individuals who are "intelligent agents, capable of a law, and happiness and misery . . . [who are] concerned and accountable," and who "own and impute to themselves past actions, on the same ground and for the same reason, as present ones." Locke prefaces his definition by saying 'person' is "a forensic term appropriating actions and their merits."<sup>58</sup> From the definition and its preface, 'person' refers to the 'accountable' self, the reflective cogito. Such reference presupposes the pre-reflective cogito, the self or subject of consciousness, perception and thought, but by the same token it is distinguished from it. For Locke, 'self' as the subject of perception is attributable to all conscious sentient beings. 'Person' is only attributable to those who can act according to their own deter-

minations, to those who have the "power to suspend" the gratification of their immediate desires, and can therefore act in ways other than those compelled by instinctual needs, i.e., volitional beings. Such beings or individuals are those that have a rational faculty and can employ it. All such individuals, all men except children, idiots and the insane, are therefore capable of living rationally or, as Locke expresses it, capable of living under law. In short, for Locke, to live rationally is to live under law: actions which conform to law are rational, as are the judgments on which they are based and the desires which motivate them.

Before turning to Locke's arguments which substantiate and develop this conclusion, it is first necessary to discuss an outcome of Locke's tendency to confuse the concepts of 'person' and 'self' as illustrated in the following quotation:

. . . to find wherein personal identity consists, we must consider what person stands for: - which I think is a thinking intelligent being, that has reason and reflection and can consider itself as itself, the same thinking thing in different times and places; which it does only by that consciousness which is inseperable from thinking and, as it seems to me, essential to it: it being impossible for anyone to perceive without perceiving that he does perceive. When we see, hear, smell, taste, feel, meditate or will anything we know that we do so. Thus it is always as to our present sensations and perceptions, and by this everyone is to himself that which he calls self: it not being considered in this case whether the same self be continued in the same or divers substances. For since consciousness always accompanies thinking, and it is that which makes everyone to be what he calls self, and thereby distinguishes himself from all other thinking things; in this alone consists personal identity; i.e. the sameness of a rational being. And as far as this

consciousness can be extended backwards to any past action or thought, so far reaches the identity of that person; it is the same self now it was then; and it is by the same self with this present one that now reflects on it that that action was done.<sup>59</sup>

In the above quotation, Locke fails to distinguish the 'accountable' self, the self of action which he elsewhere identifies as 'person', from the 'unaccountable' self. The unaccountable self is the subject of consciousness and of experience. It is not only attributable to all responsible adults, but also to those who either do not have a rational faculty, species other than man, or whose rational power is not yet developed, children, or is impaired (idiots and the insane).<sup>60</sup> Locke's failure to distinguish between the unaccountable self, which is the subject of thought, and the accountable self, which is the subject of actions, is not amiss insofar as Locke's definition of personal identity captures the active and passive powers of the mind. This failure is amiss, however, insofar as it confuses these powers, and thereby confuses perception with reason. Furthermore, as will be shown, it leads to Locke's confusing 'good' experiences with 'good' actions.

The term 'person' denotes not only an intelligent agent capable of law who is therefore accountable for his actions, but also, as in the case of other sentient beings, a being capable of happiness and misery. Locke states that:

Happiness, then, in its fullest extent, is the utmost pleasure we are capable of and misery the utmost pain . . . and what has an aptness to produce pleasure in us is that we call good and what is apt to produce pain in us we call evil . . .<sup>61</sup>

Pleasure and pain are perceptions; they, and happiness and misery, as "utmost pleasure" and "utmost pain" refer to our susceptibilities. Thus, here, good and evil refer to the quality of an experience or of an anticipated experience. However, as earlier pointed out, (page 91, above), this quality is, for Locke, one which accompanies all perceptions and experiences and which is not dependent on our volition. Consequently, we are not accountable for 'good' or 'evil' experiences, but only for the actions which occasion them. Thus, by failing to maintain consistently the distinction between the passive and active powers of the mind, Locke confuses his concept of 'perception' with that of 'reason,' and in turn his concept of 'self' with that of 'person.' As a consequence, Locke confuses good or pleasurable experiences, which qua pleasurable are in principle attributable to any sentient being, with good or moral actions which qua moral are only attributable to rational ones. He does, however, recognize elsewhere the distinction between good or evil experiences and good or evil actions.<sup>62</sup>

Locke's concept of person, as shown by its explanation above, uniquely characterizes man's rational nature in terms of (i) his volitional nature, which is only present in those who have and can employ the faculty of reason; (ii) the actions of such individuals, and (iii) law, which is the standard by which these actions are evaluated and by which their authors are held accountable. This point is brought out in Locke's definition of moral relation:

. . . the conformity or disagreement men's voluntary actions have to a rule to which they are referred and by which they are judged of; . . .<sup>63</sup>

To be sure, Locke cites three rules or laws, divine, civil, and that of opinion and reputation, all of which bestow rewards and punishments, for, respectively, conformity to, and infringement of, them.<sup>64</sup> However, not all three are necessarily 'laws'. First, it should be noted, as mentioned earlier (see Chapter I, pages 30-31, above), that Locke distinguishes divine law from natural law, not by virtue of their content which is the same, but through the means by which they are known. Divine law is known by revelation; natural law is known by the "light of nature," sense perception and reason.<sup>65</sup> Second, Locke distinguishes between the above types of law in the Essay on the basis of their authors: the same basis on which he classifies laws in the Tracts as divine or moral law and human law--political or civil, and private or contractual.<sup>66</sup> Laws and practices which are instigated by man--civil law, private law, law of opinion (social values)--are historically determined in that these laws and values are not operative at all times.<sup>67</sup> Divine law, on the other hand, has no such determinant because it is instigated, not by man, but by his Creator, and because it is therefore applicable to man qua man (all those capable of using their reason), not qua individual, group or community.<sup>68</sup>

Finally, as Locke intended to show by his classification of authors in the Tracts, all obligation is "plainly

divine" or moral.<sup>69</sup> Divine or moral law which is the "true touchstone of moral rectitude" is also the touchstone of obligation, and obligation is, for Locke, the binding force of law.<sup>70</sup> Consequently, unless human laws (be they civil or political, the law of opinion or reputation, private or contractual, as Locke variously refers to them) conform to moral law, they do not oblige and hence lose their status as 'law' whether or not rewards and punishments are imposed respectively for compliance with, and infraction of, them. Locke's concept of 'obligation' and 'law' will be more fully discussed in Chapter IV. What is relevant here is that when Locke states that a person is "an intelligent agent capable of living under law," this capability, given the source and applicability of obligation, is to live under moral law. Thus, the correlation between living rationally and living under law entailed by Locke's concept of 'person' is, in effect, between living rationally and living under moral law. Actions are therefore rational insofar as they conform to moral law, as are the judgments on which these actions are based and the desires or interests which motivates them. Locke gives arguments in the Essay and ELN to substantiate and develop this conclusion.

According to Locke, the misery and pain which results from men's actions is not due to choice, since all men seek their own happiness, but to wrong judgments: judgments based on ignorance, inadvertance, but mainly on

errors committed either in comparing present with future pleasures and pains or in failing to consider the latter. These errors, according to Locke, are due to man's pre-occupation with the immediate concerns of life rather than with the overall ones which determine the condition and quality of man's existence.<sup>71</sup> In the Essay, Locke admittedly refers to man's "eternal state" and the prospect of divine rewards and punishments in man's reckoning of his long-term advantage and happiness.<sup>72</sup> However, as pointed out in the previous chapter, while such prospects may have played an important personal role for Locke, sanctions after death are not essential to Locke's theory of natural law, and reference to them was in all probability made to avoid controversy and religious censure. Furthermore, as already shown in the previous chapter, in his arguments in the eighth essay of ELN, Locke accounts for the efficacy of natural law in terms of sanctions which arise during man's lifetime. As we will see, Locke's account of the 'rationality' of natural law also emerges from these arguments.

Locke does not quarrel with the premise, nor do his arguments entail its denial, that all men as well as other living creatures are driven by an innate impulse to seek their own interest. What he disputes is the conclusion drawn from it that either there is no natural law or, if there is, it is irrational insofar as to be heedful of the advantage of others is to do harm to oneself.<sup>73</sup> This

conclusion presupposes, respectively, that self-interest is incompatible with natural law or that the welfare of others excludes that of ourselves. Locke's arguments against both these presuppositions are briefly as follows.

First, self-interest is what is useful and beneficial to the individual, namely, "peace, harmonious relations, freedom from punishment, possession of property, to sum it up in a word--happiness." The individual's happiness can only be realized by conformity to natural law. Hence, self-interest is not the origin of, but a consequence of obedience to, this law.<sup>74</sup> Secondly, since the motive of all actions is the desire for happiness (see page 102, above), actions which do not conform to natural law are incompatible with their generic motive. Thus, on Locke's arguments, individuals who believe that it is not in their interest to obey natural law entertain an unreasonable belief, i.e., one not in accordance with reason, because actions based on such beliefs produce conditions which are contrary to those by which their self-interest, their happiness, can be secured.

On the basis of the above arguments and others, Locke concludes that self-interest and natural law are not opposed, because without observance of natural law, it is impossible for an individual to be master of his own property and to pursue his own advantage. Thus, unless there is such a law and unless the individual conforms to it, what is in his interest is incapable of being realized. Further-

more, self-interest is not opposed to the public welfare. Conformity to natural law not only secures the welfare of the individual but that of others as well, and what jeopardizes the general welfare endangers the individual's interest. The claim that it is "folly" to be heedful of the interests of others because "to be mindful of the advantage of others is to do harm to oneself," is therefore mistaken.<sup>75</sup> On the contrary, it is irrational to be unheedful of these interests, since our own are thereby ultimately threatened.

Thus, although all men desire happiness, the conclusion that either there is no law, or that, if it exists, it is irrational because it enjoins mutually exclusive actions and sentiments, does not hold. On both counts the contrary is the case.

In giving the above arguments, Locke employs the term 'utility' in two ways: to signify 'what each individual judges to be to his advantage' and 'what is useful and beneficial to the individual.'<sup>76</sup> In terms of its latter signification, 'utility' can only be realized by conformity to natural law; in terms of its former, 'utility' is not necessarily in accord with natural law. Locke's arguments in ELN and the Essay do not deny that our judgments and deliberations are in terms of what we think is conducive to our happiness. But, for Locke, the individual's happiness, 'what is useful and beneficial to him,' can ultimately only

be realized by conformity to natural law, since the "fraud, violence, hatred, robbery and murder," the want, "rapine," and force<sup>77</sup> which result from its transgression jeopardize his survival and welfare. If the individual thinks otherwise, if 'what he judges to be to his advantage,' conflicts with natural law, such judgments are not rational because actions based on them are ultimately incompatible with their motive which, generically, is 'what is useful and beneficial to the individual'--the securement of the agent's survival and welfare, his happiness. It is important to keep distinct the two ways in which Locke employs the term 'utility'. His commentators have interpreted Locke's arguments in the eighth essay of ELN as an indictment of utilitarianism by ignoring one of these ways.<sup>78</sup>

For Locke, judgments in accord with natural law are rational ones, and actions based on them are accordingly rational, as are the interests or desires that motivate these actions. The contrary is the case for judgments which conflict with moral law. Alternatively, rational interests or desires are those that are in accord with moral law because the preservation and welfare of the individual, what is in his interest, is contingent on adherence to this law. Actions which result from such interests and the judgments they evidence are accordingly rational. The rational principle of action is therefore the moral one prescribing the preservation and welfare of the species

since whatever is conducive to this end is conducive to the welfare of the community and the happiness of the individual.

To summarize briefly: rational beings are those who have the faculty of reason, who are capable of using it and who thereby are capable of acting according to their own determination, i.e. volitional beings. All such individuals are those capable of taking care of themselves, of securing what is useful and beneficial to themselves and thereby of living under moral law, namely, all mature responsible individuals or, as Locke calls them, 'persons'.<sup>79</sup> The actions of such individuals are irrational if they do not conform to natural law because they are ultimately incompatible with their motives, the instinct for self-preservation and the desire to improve one's lot. (See pages 101-02, 125, above.) Since whatever jeopardizes the general welfare ultimately threatens the individual's, whatever is conducive to the former is conducive to the latter. Consequently, the rational principle of action is the moral one prescribing the preservation and welfare of the species, of one's fellow man, in particular those with whom we have intimate ties, members of our community. Unless there is conformity to this moral law, the instinct for self-preservation and the desire for happiness cannot be realized. (See pages 101, 123, above.)

Two points emerge from this chapter. First, Locke's concept of reason is practical and is defined in

terms of what is conducive to the preservation and welfare of the species. The preservation and welfare of the species is the purpose for which the faculty of reason, as well as the capacity for sense perception, the instinct for self-preservation, and the inclination to pursue pleasure and to avoid pain, were implanted.<sup>80</sup> Second, for Locke, reason is attributable to all 'persons,' to all who are capable of living under, and thereby are obligated by natural law: those who Locke identifies in ELN and the Treatises as all men, except children, idiots and the insane, not as an intellectual elite. Both these points will be substantiated in the following chapter on Locke's rationalism.

Footnotes - Chapter II

1. See, e.g., ELN, pp. 111-13
2. Abrams states that, for Locke, the defining characteristic of law is "its derivation from a competent will, an 'efficient cause'." However, while his proceeding discussion has much to say about Sanderson's concept of law and Aristotle's concept of efficient cause, Abrams makes no mention of Locke's concept of volition, or its power, the will.
3. Essay, II, vii, 2; xx, 2
4. Essay, II, ii, 2; ix, 1; vii, 1
5. Essay, II, viii, 21
6. See, e.g., Essay, IV, ii, 11
7. Essay, II, xxx, 1; "Our knowledge . . . is real only so far as there is a conformity between our ideas and the reality of things." Essay, IV, iv, 3
8. Essay, II, vii, 3, 4
9. Essay, II, xx, 2, 1, 3
10. Essay, II, xx, 18
11. See Essay, II, xxxiii, 5, 6
12. Essay, II, xx, 3; II, xii, 1
13. Essay, II, xx, 18, 6; xxi, 31
14. Essay, II, xx, 3; xxi, 2, 72;
15. Essay, II, ix, 1; i, 9; II, xix, 1; II, vi; xxi, 75-see also II, ix, vi.
16. Essay, II, ix, 1. See, also, II, xix, 1-3
17. Essay, II, i, 4; xi, 4
18. Essay, II, i, 25, II, vi.
19. Essay, II, xxi, 4; 74

20. Essay, II, xix, 4; xi.  
It should be emphasized that it is the exercise of these mental processes, not the processes themselves which are dependent on our volition. The faculty by which we judge, reason, etc. as our capacity to feel pleasure and pain, are innate, i.e., according to Locke, they are a part of human nature, and are not, therefore, dependent on our volition.
21. Essay, II, xix, 4. See, also, Chapter III, page 138, below
22. Essay, II, vii, 2
23. Essay, II, xx, 6
24. Essay, II, vii, 4
25. Locke states that desire is also "stopped or abated by the opinion of the impossibility or unattainableness of the good proposed, as far as the uneasiness is cured or allayed by that consideration." Essay, II, xx, 6
26. Essay, II, xxi, 61
27. See, e.g., Essay, II, xxi, 55
28. Essay, I, iii, 3; ELN, p. 159
29. ELN, p. 207
30. ELN, p. 215. See, also, ELN, p. 207; Essay, II, xxi, 34
31. Essay, II, xxi, 68, 43
32. Essay, I, ii, 3
33. Essay, II, xxi, 61
34. Essay, II, xxi, 34
35. Essay, II, xxi, 31
36. Essay, II, xxi, 30
37. Ibid.
38. Essay, II, xxi, 30, 15, 11.
39. Essay, II, xxi, 13
40. Ibid.

41. Essay, II, xxi, 28
42. Essay, II, xxi, 27
43. Essay, II, xxi, 47
44. Ibid.
45. Essay. II, xxi, 48, 71
46. Cf., Berlin, Isaiah, Two Concepts of Liberty, (Oxford: 1958)
47. Essay, II, xxi, 49
48. See fns. 49, 50 below
49. Essay, II, xi, 10-13. Stillingfleet according construes that, for Locke, the distinction between man and animals is that the former, but not the latter, have abstract ideas. Locke strongly objects to this construal. His point is only that language and the abstract ideas it expresses is a sign of the presence of a rational faculty and that the absence of the former denotes that of the latter. He is not therefore resting his distinction between man and animals on this sign alone. As shown above, pages 105-06, this distinction, for Locke, rests on man, but not animals, having the "power to suspend" the gratification of their desires whereby they can act according to their own determinations rather than according to their instinctual drives, i.e. as a volitional agent, a 'person'.
50. 'Person' is an individual capable of living under law. Locke identifies such individuals in ELN and Treatises as all mature, responsible individuals, i.e., all men except children, idiots and insane. ELN, p. 203; Treatises, II, §60. See also pages 116 ff., above.
51. Essay, II, xxi, 19, 21, 23, 16
52. Although he claims the will and freedom are distinct powers, the following definitions he gives illustrate his difficulty in upholding this claim. "Volition it is plain, is an act of the mind knowingly exerting that dominion it takes itself to have over any part of the man, by employing it in, or withholding it from, any particular action." (My emphasis) He later states that the will, which is the power of volition, "signifies nothing but a power or ability to prefer or choose" (my emphasis). Freedom, he points out, "may be attributed to the power that is in a man to produce, or forbear producing, motion in parts of his body by choice or preference" (my emphasis). Essay, II, xxi, 15, 16, 17. Given the above definitions, the power to which freedom is attributed is the will.

Mabbot, in his explication of Locke's concept of freedom states that the basic freedom is not that of acting on a fair examination of good or evil but that of being able to suspend the activity of any desire and to do the examination required." John Locke, p. 67. This ability is not, however, freedom but its source. Furthermore Mabbot's conclusion that "Locke is a psychological determinist whose specific explanation of human action is egoistic hedonism" (p.66) is based on one of the significations that Locke gives to volition--what is determined by desire; it ignores that which distinguishes man from "brutes" and by which Locke distinguishes 'desire' from 'volition'; namely 'what is capable of being determined by deliberation.'

See also Polin, 'Locke's concept of freedom' in Yolton, 1969 Polin identifies Locke's concept of freedom with freedom of judgment (p. 17). However, he claims that "[t]he metaphysical and even theological dogma of eternal salvation constitutes indeed the foundation and the right justification for the existence of freedom. Moreover, it is the consideration of eternal salvation, of eternal happiness, which makes actual freedom possible. Through faith in eternal happiness our freedom acquires the power of suspending our desires, of interrupting the determination of the will produced in us by the flight and disappearance of everything present and immediate." (p. 4) The 'power of suspending our desires' is not a power freedom acquires but its source. Furthermore, on Polin's argument, freedom is contingent on Christian beliefs. The ability to act according to our determination is therefore an illusion if we do not subscribe to such beliefs since without them we have not acquired the ability to suspend the satisfaction of our desires. In short, no-one is capable of acting rationally unless he is a Christian. Such conclusion is contrary to Locke's concept of 'person' those individuals who have and can use their rational faculties and who have the power to suspend the gratification of their desires, all men except children, idiots and the insane.

It is significant that although Polin relates freedom to law, in particular to the "end of law" (p. 7), he nowhere mentions the purpose or end of natural law which Locke spells out in the Treatises, II, §§16, 135.

53. See, e.g., II, xxi, 68.  
The term 'action' comprehends its forbearance as well as its execution. See page 104, above.
54. Some Thought concerning Education, pp. 45, 64, 133.
55. See Essay, II, xxi, 71.

56. Essay, II, xxvii, 5-7
57. Essay, II, xxvii, 17, 26; II, x, 10.
58. Essay, II, xxvii, 26.
59. Essay, II, xxvii, 9
60. See fn. 58 above and "A Defence of Mr. Locke's Opinion concerning Personal Identity," Works, Vol. 3, pp. 179-80; 189. After citing definition of 'person' in the Essay, Locke adds: "And thus sameness of persons stands to denote, not what constitutes the same rational agent, though it always is predicated of such, but we consider his rationality so far only as it make him capable of knowing what he does and suffer and on what account, and thereby render him amenable to justice for his behavior..."
61. Essay, II, xxi, 42
62. See, e.g., Essay, II, xxvii, 5
63. Essay, II, xxvii, 4
64. Essay, II, xxviii, 8, 9, 10; 6.
65. Tracts, p. 222; ELN, pp. 187, 123
66. Essay, II, xxviii, 3, 4, 8, 9, 10; Tracts, p. 222
67. Tracts, p. 226
68. ELN, p. 193
69. Tracts, p. 226
70. Essay, II, xxviii, 8. See, e.g., ELN, p. 181.
71. Essay, II, xxi, 67, 64.
72. Essay, II, xxi, 70
73. ELN, p. 205
74. ELN, p. 215
75. ELN, p. 207, 205
76. ELN. p. 207, 215
77. ELN, p. 213; Tracts, p. 118.

78. See, e.g., Von Leyden, 'Introduction,' ELN, p. 73
79. See, Chapter IV, fn. 9, pages 226-27, below.
80. See, Essay, II, xxi, 34.

## CHAPTER III

## LOCKE'S RATIONALISM

Locke's rationalism in his ethical theory and in his doctrine of natural law has been related by his modern commentators to his claim that morality is demonstrable. As a result, his commentators assume that, for Locke, the exercise of reason is restricted to logical inferences.<sup>1</sup> (See Chapter I, pages 36-37, above). However, the previous Chapter has shown that Locke does not consider the faculty of reason to be the exclusive attribute of an intellectual elite, of those capable of making such inferences. Consequently, his concept of reason cannot be cast exclusively in terms of logical inferences. Indeed, as will be shown, in his theory of knowledge, Locke employs two concepts of reason or, alternatively, considers reason in a dual role. The first is the practical concept which emerged from the previous chapter, which Locke figuratively calls "native rustic reason,"<sup>2</sup> and which is attributable to all mature responsible individuals. The second is 'theoretical' or, to use Locke's terminology to distinguish it from 'practical,' 'speculative' reason. Theoretical reason is that which is manifested in logical inferences and which is only properly attributable to those who understand such

inferences.<sup>3</sup>

The purpose of this chapter is to show how these two concepts of reason are employed in Locke's theory of knowledge and why the original and primary role of practical reason is not only required for Locke's ethical theory and consequently for his theory of natural law but also for his empiricism. To this end, the chapter will have two parts: the first on Locke's two concepts of reason, the second on his arguments for the reality of knowledge. Both sections will show that, by virtue of his empiricism, Locke's concepts of reason and of knowledge are defined in terms of the practical criterion expressed in the purpose of natural law.

#### A. LOCKE'S TWO CONCEPTS OF REASON

##### 1. Theoretical Reason

The aim of this section is to show that Locke's concept of theoretical reason emerges from his distinction between intuition, reason, and judgment, which in turn results from his classification of knowledge as intuitive, demonstrative, and probable. Locke's distinction between these three types of knowledge is based on his classification of ideas. The first task, therefore, will be to explicate briefly Locke's classification of ideas.

According to Locke, all knowledge is about ideas, of which there are two main types: simple and complex. Simple ideas are unanalyzable and indefinable (except

ostensively), they cannot be created by the mind, and they are received through two sources, sensation and reflection. Complex ideas are combinations of ideas. They are formed by combining various simple ideas, or complex ideas made up of simple ones, into a single idea. Locke classifies complex ideas according to whether these combinations are determined by the mind or by an external pattern, an archetype independent of the mind's operations. If an external pattern is imposed, the resulting complex idea of substances is "inadequate" and cannot be defined exhaustively by enumerating its constitutive ideas. Since precise definitions cannot be given of these ideas, the relations among them cannot be demonstrated. If the mind determines the pattern, the resulting complex idea of modes or relations is "adequate" and can be exhaustively defined by enumerating its constituents.<sup>4</sup>

Modes are either simple or mixed. Simple modes are variations or combinations of the same simple idea united into a single idea (e.g., 2 (1 + 1)). With respect to simple ideas received through sensation, Locke distinguishes between the simple ideas of primary qualities of bodies, e.g., bulk, figure, number, situation, motion and rest, and the simple ideas of secondary or sensible qualities, e.g., blue, sweet, soft, etc. Insofar as modes of simple ideas of primary qualities are considered in themselves, as complex ideas whose combinations are determined by the mind and not by an external pattern and which do not therefore refer to

the existence of material objects, precise definitions can be given of them and relations among them demonstrated. Modes of simple ideas of sensible qualities, e.g. variations of shade, are rarely distinguished by different names from the simple ideas of which they are variants and are not therefore susceptible to definition. However, since such modes are variations and, therefore, are determined by the mental operation of "comparing," they, as well as any other ideas of relations, are in principle capable of being exhaustively defined.<sup>5</sup>

Mixed modes are ideas of human behavior, including those concerning man's moral life. Several of Locke's examples, e.g. running, could also be applied to other animate beings. He does not discuss this application presumably because mixed modes are restricted to those beings which possess a mind as well as a body, and because of the difficulty of accounting for the lower species in terms of his concept of mind, or rather of its distinctive qualities, thinking and volition.<sup>6</sup>

Locke's accounts of complex ideas whose pattern is determined by the mind, i.e., ideas of modes and relations, overlap.<sup>7</sup> However, by virtue of their subject matter, Locke's categories of ideas are distinct, particularly those of simple and mixed modes. His analogy between mathematics and morality rests on their demonstrability, not their subject matter.

There is one further point regarding Locke's classification of ideas. It is, he argues, beyond human capacity to have and retain distinct ideas of all particulars. Consequently, although our knowledge is about ideas, it is chiefly about abstract ones. General or abstract ideas are the result obtained by the mind from omitting the differences between ideas of particulars and uniting the similarities into a single idea. Such ideas, ideas of kinds or sorts, include not only complex but also simple ideas. There is no incongruity in a simple idea being, on the one hand, abstract, the result of the mental operations of discerning, comparing, abstracting and compounding, and, on the other, simple because the criteria of unanalyzability or ostensive definition still apply.<sup>8</sup>

In line with his classification of ideas, Locke classifies knowledge according to the mental operations by which it is acquired: intuition, reason and judgment. Intuitive knowledge is the basis of all knowledge in that its propositions express the distinctness of our concepts.<sup>9</sup> Our knowledge is enlarged by the inferences of reason, demonstration, and by our judgments of what we observe, probabilities. Demonstrative knowledge concerns those ideas for which precise definitions can be given, i.e., modes and relations. Probable knowledge concerns those ideas for which such definitions cannot be given because their pattern is imposed on the mind, i.e., ideas of substances.

In this context, Locke confines the use of the term 'knowledge' to demonstration and to intuitive knowledge because of their logical certainty. Probability does not afford such certainty since judgment is not based on logical inference but on frequent observation. Locke similarly confines the term 'reason' or 'rational' to logical inferences because intuition is non-discursive and judgments are probable.<sup>10</sup>

The foregoing concerns general knowledge, propositions about general or abstract ideas. Although Locke distinguishes such knowledge from our knowledge of the existence of things, he classifies the latter in virtually the same way as the former: knowledge of our own existence is intuitive, that of God's existence is demonstrative, and that of the existence of physical objects' is sensitive, based on actual sense perception. Locke states that although sensitive knowledge is not "so certain as our intuitive knowledge or the deductions of reason employed about clear abstract ideas, it deserves the name of knowledge." His comparison of sensitive knowledge with general intuitive and demonstrative knowledge is in terms of their certainty, since the latter make no existential claims. Furthermore, in line with Locke's principle that only particulars exist, this comparison emphasizes not only the distinction between particular propositions concerning the existence of physical objects, and universal propositions regarding their nature, but also that the latter do not properly deserve the title

'knowledge'. As Locke puts it:

. . .we may take notice that universal propositions of whose truth or falsehood we can have certain knowledge concern not existence, and further, that all particular affirmations or negations would not be certain if they were made general are only concerning existence, they declaring only the accidental union or separation of ideas in things existing which in their abstract natures, have no necessary union or repugnancy.

This lack of "necessary union and repugnancy" prompts Locke to state elsewhere that "[e]xperience here must teach me what reason cannot. . . ."11

It is apparent from the above that, apart from his own noted exception, sensitive knowledge, Locke again confines the use of the term 'knowledge' to what is logically certain, and that of 'reason' or 'rational' to logical inferences. For Locke, this limitation on the use of these terms arises only in "philosophical" discourse which expresses "the precise notion of things, and . . . in general propositions certain and undoubted truths."<sup>12</sup> However, Locke does not intend to define knowledge and reason solely in terms of their philosophical usage. On the contrary, in his chapter on 'Reason' he objects to such a narrow construal of these terms.

## 2. Practical Reason

Most of Locke's chapter on 'Reason' is in effect a polemic against syllogism as the proper instrument of reason and knowledge. Locke does not deny that all right reasoning may be reduced to syllogistic form because of the latter's logical character. However, he does deny that reason and

the knowledge it affords are restricted to that manifested in and by syllogistic argument. If this were so, Locke points out, none were capable of using their reason before Aristotle and few after him. As he somewhat sarcastically adds: "God has not been so sparing to man to make them barely two-legged and left it to Aristotle to make them rational." This remark is double-edged for it not only ridicules restricting rationality to logicians, but is in support, as indeed is Locke's polemic against syllogism in general, of his position that the distinction between kinds of existing substances ('natural kinds') is empirical and that, consequently, we cannot have logically certain knowledge of the nature of any existent, i.e., what kind of thing it is. In line with this position, Locke concludes that "the great mass of knowledge which lies yet concealed will be opened up by native rustic reason (as it has formerly done)" rather than by the deductions of logicians.<sup>13</sup>

In his chapter on the 'Improvement of Knowledge' Locke raises similar arguments but with one significant addition. Having argued that our knowledge of substances, specifically material ones, is through observation and experiment, he continues that although such means do not permit natural philosophy to be a science (because they do not afford logically certain knowledge of the physical world), they are sufficient "to draw advantages of ease and health and thereby increase our stock of conveniences for this life." And, as examples of significant contributions

to, or improvement of, our knowledge, he cites the discoveries of the properties of iron and quinine and the invention of the printing press and compass.<sup>14</sup>

The picture which emerges is that "native rustic reason" is that by which man understands and interacts with his environment, that it is practical insofar as it is the means by which his survival and welfare are secured, and that it is not the exclusive attribute of those whose intellectual powers enable them to understand logical distinctions and inferences. If not from its function and attribution, the mass of knowledge Locke attributes to "native rustic reason" is sufficient to indicate its primary role in Locke's theory of knowledge.

This primacy is, however, indicated in another, more fundamental way--namely, by Locke's "historical, plain method," or rather by the principle on which this method rests. This principle is that particulars are historically prior to the generalities they exemplify. Thus, the ideas of particular things are historically prior to the abstract and general ideas which the former exemplifies. (For example, the idea of an individual man as opposed to the abstract idea 'man'.) Similarly, particular and less general affirmations or negations are known before, and are not dependent on our knowledge of, the universal principles which they exemplify. (For example, 'blue is not red' and 'if each hand holds four shillings and two are taken from each, the left and right hands will hold the same amount of

money' as opposed to the maxims they exemplify, the law of contradiction and the principle 'equals from equals leaves equals', respectively.)<sup>15</sup>

Locke employs the "historical plain method" to show that knowledge is initially gained by experience and by practice. He describes this acquisition in the following ways. First, he states:

The senses at first let in particular ideas and furnish the yet empty cabinet; and the mind by degrees growing familiar with some of them, they are lodged in the memory, and names got to them. Afterwards the mind proceeding further, abstracts them, and by degrees learns the use of general names.<sup>16</sup>

Thus, Locke continues, a child "knows" before it can speak the difference between the ideas of sweet and bitter, as it "knows," when it can speak, that wormwood and sugar plums are not the same thing. This knowledge is not dependent on knowing the law of contradiction. Knowing that sweet is not bitter, that white is not black, etc., is dependent on having the ideas of sweet and bitter, white and black, etc. Knowing that "it is impossible for the same thing to be and not to be" is dependent on having the two abstract ideas of impossibility and identity.<sup>17</sup> Both items of knowledge are intuitive, that is to say, "the mind perceives the agreement or disagreement of two ideas immediately by themselves, without the intervention of any other."<sup>18</sup> But, for Locke, knowing that sweet is not bitter, etc. is historically prior to, and independent of, our knowing the logical principle by which all ideas are formally distinguished.

Second, Locke continues, "a child knows not that three and four are equal to seven til he comes to be able to count to seven, and has got the name of equality."<sup>19</sup> (My emphasis) In Some Thoughts on Education, Locke elaborates on this statement:

Arithmetic is the easiest and consequently the first sort of abstract reasoning which the mind commonly bears or accustoms itself to . . . [A child learns arithmetic by] do[ing] something in it every day till he is the master of the art of numbers.<sup>20</sup>

. . . . .  
 . . . practice begets habits in them [children] which, being once established, operate of themselves easily and naturally without the assistance of memory.<sup>21</sup>

Consequently, for Locke, arithmetic is learnt by practice and the knowledge acquired is prior to, and not dependent on, logical proofs by which mathematical truths are demonstrated.

The historical priority of particulars is essential to Locke's empiricism in that it is the basis of his arguments against the possibility of innate knowledge, i.e., that knowledge is possible without sense experience.<sup>22</sup> And Locke undoubtedly considers the denial of innate knowledge and the arguments he gives in support of such denial as a necessary justification of his empiricism, for he not only devotes Book I of the Essay to the task but frequently repeats his arguments in different contexts.<sup>23</sup> What is significant here is that the above examples, as well as others that Locke gives in the employment of his "historical, plain method" concern either the way infants and children come to understand their environment, or the way in which

men conduct their everyday affairs. As a result, the historical priority of particulars, the principle on which Locke's plain, historical method rests, sets the stage for his empiricism in the context of "native rustic reason," not in the context of speculative reason, since logical inferences only arise with general affirmations and negations. And, indeed, such a context is essential to Locke's denial of innate knowledge, since the thrust of his arguments is that children, primitives, and indeed the majority of men do not know those principles, or have all those ideas which are allegedly innate.<sup>24</sup>

Locke elsewhere refers to the level of discourse at which men conduct their everyday lives as "civil," and distinguishes it from "philosophical" discourse which is "to convey precise notions of things and to express in general propositions certain and undoubted truths."<sup>25</sup> It is evident that these two levels are correlated with the two concepts of reason articulated above: the "civil" with "native rustic reason," which is inherently practical, and the "philosophical" with theoretical reason, which is restricted to logical inferences.

The basis of Locke's distinction between civil and philosophical discourse is that between man's knowledge and various levels of theoretical explanations of it, although Locke excludes natural sciences because they are not demonstrative. It is in the philosophical context that Locke identifies knowledge and reason with logical inferences.

Theoretical explanations, however, involve principles and distinctions which, as Locke's own arguments against innate knowledge indicate, are not known by the majority of men, are not involved in their reasoning nor, consequently, in the knowledge afforded by it. Locke's theory of knowledge is concerned with man's knowledge, its origin, scope and extent. It cannot therefore be limited to that which is the subject of philosophical discourse and which is only attributable to an intellectual elite, a limitation which necessarily follows if knowledge is defined in terms of logical inferences. Furthermore, such limitation is in direct conflict with Locke's chapter on 'Reason' in which, as indicated above, he denies that reason and knowledge are the exclusive attributes of logicians.

To be sure, Locke does not draw the line distinctly between man's knowledge and a philosophical account of it. Consequently, the restrictions he imposes on 'reason' and 'knowledge' by his classification of knowledge and that of ideas on which it rests has encouraged the mistaken view that 'reason' is restricted to logical inferences and 'knowledge' to demonstration--the predominant view of the commentators, given their arguments, of Locke's theory of natural law.<sup>26</sup> But, as has been shown from Locke's polemics against syllogism and innate knowledge, the knowledge which Locke is accounting for is that by which all men come to understand and interact with their environment. Locke's principle of the historical priority of particulars,

on which his empiricism rests, accounts for man's knowledge in terms of the rational powers of all men and not merely the intellectually sophisticated. The concept of reason which emerges here is the same as that which, as shown in the previous chapter, emerges from Locke's hedonism.

Reason is attributed to all mature, responsible individuals, and its function is "to draw advantages of ease and health and thereby increase our stock of conveniences for this life."<sup>27</sup>

In short, the original and primary concept of reason, both for Locke's moral theory and for his empiricism, is that which is attributable to man qua man, which is the means by which the survival and welfare of the species is secured, and which is therefore inherently practical.

The above discussion has shown, first, that Locke's two concepts of reason are in terms of two functions: the theoretical one of logical inferences and the practical one expressed in the purpose of natural law; and second, that it is the practical concept or function which is required for Locke's empiricism and moral theory. The following discussion will show that Locke attempts to give a theoretical explanation of the reality of what we perceive in terms of his causal theory of perception and his corpuscular hypothesis, and of possible perception in terms of the requirement of logical consistency with respect to our ideas and our assertions about them. However, as will be shown, for Locke, by virtue of his empiricism, it is the practical criterion expressed in the purpose of natural law which

establishes the reality of both what is perceived and what is conceived.

#### B. THE REALITY OF KNOWLEDGE

Locke's arguments for the reality or objectivity of knowledge, as those for his classification of it, are in terms of the ideas it involves: simple ideas, and the various types of complex ones. Locke defines real ideas as those which "have a conformity with the real being and existence of things,"<sup>28</sup> and states with respect to the reality of the basic constituents of knowledge, simple ideas, that:

. . . simple ideas, which since the mind as has been shown, can by no means make to itself, must necessarily be the product of things operating on the mind in a natural way and producing therein those perceptions which by the Wisdom and Will of our Making they are ordained and adapted to. From which it follows that simple ideas are not fictions of our fancies, but the natural and regular production of things without us, really operating upon us, and so carry with them all the conformity which is intended or which our states require; for they represent to us things under those appearances which they are fitted to produce in us; whereby we are enabled to distinguish the sorts of particular substances to discern the states they are in, and so take them for our necessities and apply them to our uses. . . . Thus the idea of whiteness or bitterness as it is in the mind exactly answering that power in any body to produce it there, has all the real conformity it can or ought to have with things without us. And this conformity between our simple ideas and the existence of things is sufficient for real knowledge.<sup>29</sup>

I have quoted this passage in its entirety to show the steps and progression in Locke's arguments, and the two determinants, the theoretical and practical, for the reality of simple ideas: simple ideas "conform to the existence of

things" because, theoretically, they are the effects of such existents, and because, practically, they are the means whereby our welfare is secured. Before elaborating on either, however, there are two general points which require mentioning.

First, Locke's arguments for the reality of simple ideas are in effect arguments for the reality of our knowledge of the external world. They are only applicable to simple ideas of sensation, not to those of reflection. Furthermore, by virtue of the function of simple ideas in distinguishing between sorts of particular substances, these arguments also concern the reality of our complex ideas of kinds of existing physical objects, of natural kinds, or of the regularities and uniformities in nature. In short, they concern the reality of what is perceived, of actual perception. Second, Locke's renowned use of the term 'idea' is illustrated here:<sup>30</sup> Simple ideas as effects of sensation are ideas of particulars, of sense data, but his example 'whiteness' and 'bitterness' are simple abstract ideas, i.e., general ideas which represent the particulars that exemplify them. The qualities attributable to, for example, a piece of gold are those it has in common with other pieces. As such, the simple ideas of yellow, hard, etc., are, on the one hand, the effects of sensation, of perceiving a particular piece of gold. On the other, these ideas are abstract because they represent not only the qualities of this piece at one particular time, but at other

times too, and because they also similarly represent the qualities of other pieces of gold, that is, they represent "constant similar effects." And it is on the basis of this similarity that one kind of existing physical object is distinguished from another or, alternatively, that we know the nature of a particular thing, what kind of thing it is. Hence, insofar as simple ideas distinguish between sorts of existents, and thereby tell the nature of particular ones, they are abstract ideas.<sup>31</sup>

Bearing this in mind, we now turn to the quotation. In order to show that, on Locke's arguments, our knowledge of the physical world is ultimately dependent on God's will and that its reality is defined in terms of His purpose, our preservation and welfare, it is necessary to discuss the reasons for, and the connection between, the various points Locke makes in the above quotation for the reality of simple ideas. He states that these ideas (i.e. of sensation):

- (i) are not fictitious, created by the mind, because they are effects of physical objects;
- (ii) they are "ordained and adapted" to our mind by our Creator; and
- (iii) they are those "appearances of things" appropriate for us because we are thereby able:
  - a) to distinguish between particular sorts of physical objects, and, as a result,
  - b) to secure our physical welfare.

The first task is to show that, by virtue of Locke's empiricism, simple ideas are ultimately effects of divine volition.

Early in the Essay, Locke distinguishes between three types of qualities of physical objects:

- (i) primary qualities, which are utterly inseparable from body, i.e. solidity, extension, figure, motion and rest;
- (ii) secondary or sensible qualities, such as color, smell, taste, etc., and
- (iii) tertiary qualities--the powers that enable a body because of the constitution of its primary qualities to make a change in the primary qualities of another so that it appears differently to us, for example, sun has the power to blanch wax, fire to make lead fluid, etc.

Locke states that primary qualities alone may be called real and original because, respectively, it is inconceivable, logically impossible, to have a concept of matter without them and, on his corpuscular theory, all perceived qualities of a body are the effects of the different constitution and configuration of the primary qualities of its insensible parts.<sup>32</sup> Although the attribution of primary qualities to atoms is on the same basis as that to sensible bodies, namely, logical necessity, the existence of atoms is not certain but probable. For Locke states that the existence and nature of objects outside the realm of experience, e.g.

those too small or too remote to be accessible to perception, is probable if they are analagous to those we have experienced. Thus, the existence of atoms, insensible particles, is not certain as is that of physical objects we actually perceive but, by the rule of analogy, the "great rule of probability" when experience cannot be our guide, merely probable.<sup>33</sup>

Secondary and tertiary qualities do not inhere in bodies. They are powers, dependent on the primary qualities of bodies, to effect changes. Locke does not in the rest of the Essay, except in one instance, raise his early distinction between secondary and tertiary qualities but rather includes the latter with the former, partly because both are powers of bodies dependent on the different modification of the primary qualities of atoms, and partly because he expresses tertiary qualities in terms of the effects of secondary ones, e.g. 'heat' upon wax and lead whereby they become blanched and fluid.<sup>34</sup>

Although it is logically impossible to have a concept of matter without its primary qualities, we cannot on such basis demonstrate the particular character of the primary quality of an existing or non-fictitious thing: perception is required to determine a body's particular shape, size, etc. Ideas of a body's particular shape, size, color etc., sense data, are the effects of the different modifiations of the primary qualities of its atoms. Ideas of primary qualities are distinct from secondary and

tertiary because they "resemble" their cause whereas there is no such resemblance between ideas of secondary and tertiary qualities and the powers that cause them.<sup>35</sup>

To be sure, Locke states that all simple ideas are real because they are either "exact resemblances" or the "constant effects" of what they represent.<sup>36</sup> However, the resemblance Locke draws between ideas of primary qualities and their objects is based on the logically necessary attribution of primary qualities to matter--a basis which does not permit any existential claims because perception is still required to determine an object's particular shape, size, etc. And since these ideas of particulars are, on Locke's principles, historically prior to, and the origin of, the simple abstract ideas of primary qualities, 'shape,' 'size,' etc., the criteria for the reality of ideas of primary qualities is the same as other simple ideas of sensation, namely, constant effects. In other words, for Locke, all simple ideas conform to the existence of things because they are the "constant effects" of what they represent but, for the reasons stated above, some (ideas of primary qualities) resemble what they represent, whereas others (ideas of secondary qualities) do not.

Now while Locke grants that we can have a conception of how primary qualities of a body can change those of another because there "seems to be some connection," he adds that we cannot discover nor by any means conceive any connection between the primary qualities of a body (or

rather its atoms) and the sensations or perceptions it produces.<sup>37</sup> The connection Locke grants in physical change is not, however, a causal one.

By his definition of tertiary qualities, their distinction from secondary ones is that the latter produce sensations or perception in us, the former produces changes in objects perceived by us, i.e. as they appear to us. In other words, the efficacy attributed to secondary and tertiary qualities as powers is, respectively, the production and change of simple ideas through sensation.<sup>38</sup> However, simple ideas qua simple cannot be changed in the sense of altered or modified but they can be succeeded. Hence, it is the succession of simple ideas which is responsible, at least partially, for our idea of physical change.<sup>39</sup> Although the connection which Locke grants in physical change is based, at least in part, on the succession of simple ideas resulting from physical objects undergoing change, he does not grant causal efficacy to the physical objects which occasioned such change. He explicitly states the contrary in his analysis of causation, the origination of motion and thought.

On empirical grounds, Locke argues that voluntary actions are the only manifestations of causal efficacy and can only be attributed to agents capable of thought. Bodies are not perceived to originate motion but to communicate it. Locke calls this communication of motion "impulse." Consequently, although bodies have passive power, the power

to undergo change, they have not active or causal power, the power to effect change.<sup>40</sup> As pointed out above (page 152), the powers of physical objects are dependent on the different modifications of the primary qualities of its atoms. But Locke does not argue that the power to effect such modifications is a primary quality and thereby is attributable to matter. On the contrary, neither the cohesion of matter nor its impulse can be explained in terms of that which presupposes them, i.e., the primary qualities of solidity, extension, motion and rest. Both cohesion and impulse are accommodated by Newton's concept of gravity and Locke concurs with Newton that gravity is the result of divine volition. Thus the power to effect different modifications of primary qualities of atoms, and thereby the ideas of sensation is, for Locke, ultimately dependent on God's will.<sup>41</sup>

To summarize briefly: Locke gives two criteria for the reality of simple ideas, 'resemblance' and 'constant effects'. Resemblances rests on the logically necessary attribution of primary qualities to matter, which necessity, as we have seen, does not permit any existential claims, and on the corpuscular hypothesis which only permits, by the rule of analogy, the probable existence of insensible particles. The reality of simple ideas does not therefore depend on their resembling the things they represent: they are real and, therefore, "conform to the existence of things" (i.e., of particulars, since only particulars exist) because they are the constant effects of what they represent, the

qualities of bodies. However, the reality of simple ideas cannot rest on the causal efficacy of bodies because Locke, by his own arguments, denies that bodies possess such efficacy.

Since simple ideas are not created by the mind and since, on Locke's analysis of causation, causal efficacy which is not dependent on finite volition is dependent on God's, then the reality of simple ideas is ultimately dependent on God's agency. And it is on this basis that Locke can argue the second point in the above quotation-- that simple ideas are "ordained and adapted to our mind" by our Creator because the author ultimately of the basic constituents of knowledge and of the mind that receives them is one and the same.

However, simple ideas are "appearances of things appropriate for us" not merely because Locke's arguments entail the above joint authorship but because they are the means by which we distinguish between particular kinds of physical objects and thereby satisfy our physical needs.

In short, on Locke's arguments, the theoretical determinant for the reality of simple ideas, "constant effects," reduces to their being ultimately dependent on God's volition; the practical one to their being the means by which His purpose is fulfilled, the survival and welfare of the species. However, it is the practical determinant which establishes the reality of simple ideas because this determinant is in terms of what they represent, the qualities of bodies, material substances, rather than the ultimate

effects of an immaterial agency, God.

The above arguments and conclusions are corroborated by Locke's account of the complex ideas of substances, specifically material ones.

All complex ideas have ultimately simple constituents and all simple ideas are ideas of qualities. We cannot, therefore, have a clear and distinct idea of substance because we can only perceive its qualities, not that to which they belong. However, it is inconceivable, logically impossible, for there to be qualities without that which they qualify; hence, Locke concludes, "we suppose them existing in and supported by some common subject."<sup>42</sup>

The supposition of a substance to which qualities belong and inhere is a logically necessary one for Locke because he considers a purely qualitative existence as logically impossible. As he states in his Third Letter to Stillingfleet:

You yourself . . . conclude that there is substance, because it is a repugnancy to our conceptions of things that modes should subsist by themselves; and I conclude the same thing, because we cannot conceive how qualities should subsist by themselves.

. . . . .

The idea of substance is clear and distinct to have its agreement with actual perception but yet is so far obscure and confused . . . we necessarily come short of certainty.<sup>43</sup>

In other words, although actual perception is sufficient to establish with certainty the existence of particular physical objects<sup>44</sup> (because Locke considers a purely qualitative existence as logically impossible), we cannot similarly know their nature because there is no

logically necessary connection between their co-existing qualities. And since we cannot know their nature for certain, we cannot similarly know the distinctions between natural kinds, species and genera, i.e. the distinctions between kinds of physical substances are not logical ones.

It is on this basis that Locke claims that our knowledge of kinds of existing objects or, alternatively, of the regularities and uniformities of nature, is not logically certain but probable, because it is dependent on observation and experimentation. And, as mentioned earlier, although observation and experiments do not give us certain knowledge of anything, they are sufficient for us to "draw advantages of ease and health and thereby increase our stock of conveniences for this life."<sup>45</sup>

To summarize, according to Locke's own principles, the existence of atoms is not certain but, by the rule of analogy, only probable. (See pages 151-52, above) Furthermore, Locke denies that physical bodies are causally efficacious. (See pages 154-56, above). Consequently, Locke's causal theory of perception falls down insofar as it rests on the causal efficacy of bodies and on his corpuscular theory. However, apart from these two theories to which Locke conjointly appeals in his argument for the reality or objectivity of our knowledge and ideas of the physical world, he offers an alternative explanation, one that does not require certain knowledge of the origin of the ideas of the physical world to guarantee their non-fictional character--namely, what we

perceive is real because the species would not have survived if it were not so. This practical determinant is not only in terms of the rational powers of all men, and not merely those who have the intellectual powers to know the nature of logical distinctions and inferences, and to know the sophisticated distinction between logical and empirical truths. While to be sure, the practical determinant for the reality of ideas involves, as do the others, that our ideas of the physical world are not created by the mind, it does not require that a logical or empirical explanation be given for an alternative origin in order to establish their reality. For by the practical determinant, no matter what be the nature of physical existents or the cause of the ideas which represent them and their qualities, our ideas, as "appearances" of things "ordained and adapted" to our minds, conform to "the existence of things" because the human species would not have survived if they did not.

Two points arise from this discussion which require mention. First, Locke's account of the reality of complex ideas of substances is focussed (as is his account of the reality of simple ideas) on those ideas received through sensation, ideas of material objects and their qualities. He does in this context raise the complex idea of 'man' but he does not, of course, consider man as purely material. Man is composed of mind and body. As indicated above (page 139), our knowledge of the existence of material objects is by actual perception. Locke does not account

for our knowledge of immaterial objects in the same way. His argument for knowledge of our own existence is in terms of his concept of 'self' and Locke does not identify self with the mind, or immaterial substance.<sup>46</sup> He does not discuss the reality of the idea of self nor that of God presumably because he considers that his arguments for the existence of these two particular things is sufficient to show that our ideas of them are not fictitious.<sup>47</sup> In any case, Locke's discussion of the complex idea of 'man' in the context of the reality of ideas and of knowledge is of the species not the individual. Furthermore, since his arguments concerning the complex abstract idea of man are designed to show that the distinction between natural kinds is empirical, not logical,<sup>48</sup> the arguments and conclusions given above with respect to the reality of other ideas of sensation, of what is perceived, are applicable to the idea of 'man' as well as to other natural kinds.

Second, for Locke, perception involves certain logical inferences and distinctions. What are perceived are qualities and their co-existence. Qualities are necessarily properties of that which they qualify. Their co-existence testifies to the existence of a particular individual substance which exemplifies the kind of substance which has the same properties. Although the distinction between kinds of substances is not logically necessary in the sense that properties of substance can be demonstrated, our ideas of them and of anything else are logically distinct insofar

as they are "not precisely the same," i.e., insofar as we have a plurality of ideas.<sup>49</sup> Without the distinction between ideas (i.e., a plurality) and the logically necessary attribution of qualities to substances, the distinction between particular kinds of existing substances would not be possible and, as a result, our physical welfare would not be secured. This is not to say, of course, that one is aware of such logical distinctions and inferences but only that Locke's analysis of perception requires it. Perception or thought (as indicated earlier, Locke uses these terms interchangeably) needs not only the materials of knowledge, sense data, but also the organizing and synthesizing this data into cognitive entities--a task which Locke assigns to 'reason' in ELN and to the mental operations of discerning, comparing, compounding and abstracting in the Essay.<sup>50</sup> Consequently, for Locke, the logical distinctions and inferences required by perception are not consciously made, but are revealed by analysis to be part of the thought process. They do not therefore invalidate Locke's position in his Chapter on 'Reason' that knowledge is not restricted to logical inferences nor is it, therefore, the exclusive possession of logicians.

Although the focus of the foregoing discussion has been on Locke's arguments for the reality of simple ideas, these arguments, as we have seen, concern the reality of our knowledge of the external world. They involve not only the

simple ideas of sensation, but our complex ideas of kinds of existing substances--in short, the reality or objectivity of sensation, of what we perceive. Bearing this in mind, we now turn to Locke's account of the reality of all complex ideas.

In his chapter on 'Real and Fantastical Ideas,' in Book II of the Essay Locke states that all complex ideas are real, conform to the existence of things, provided there is no logical inconsistency or contradiction among their constituents and, in the case of substances, that the combination of their constitutive ideas has been perceived. When these conditions are not met, the resulting ideas are "fantastical"; consequently, ideas of imagination, whose constituents are logically consistent, refer only to ideas of substance which have not been empirically verified, e.g., a golden mountain. While, therefore, perception in the case of substances determines the reality of their corresponding ideas, logical consistency is sufficient to determine the reality of all other complex ideas. It should be noted that Locke's account of ideas of fictitious substances does not exclude the logical possibility of their being perceived, provided, of course, that the constituents of these ideas are logically consistent. It is not therefore surprising that Locke uses the terms 'perception' and 'thought' interchangeably (see Chapter II, pages 96-97, above), and does not clearly distinguish between perception and conception.

because, whether perception is actual or possible, the resulting idea must be conceivable. This is not to say that Locke denies we have ideas which, on analysis, show that their constituents are logically inconsistent. For Locke, these ideas are truly fictitious because they do not and cannot represent anything, the perception of which is even logically possible.<sup>51</sup>

Locke's account of the reality of knowledge in Book IV of the Essay is in line with the above. First, by intuitive knowledge, all ideas, including those of substances, are real provided they are sufficiently distinct and their constituents are logically consistent. Intuitive knowledge only refers to the reality of ideas qua ideas not to what they represent since it includes complex ideas of fictitious substances. Secondly, since the reality of demonstrative knowledge ultimately depends on the logical consistency of its claims, then, on Locke's arguments, it too only refers to the reality of ideas qua ideas not to what they conform to.<sup>52</sup> If this is not so, if it is interpreted as making any existential claims about the world, then the distinction between logically consistent abstract ideas of existing physical objects and of fictitious ones cannot be upheld. This latter distinction (and the reality of probabilities on which it is based) depends on actual perception not on the logical consistency of its constituents. If logical consistency is taken as a sufficient criterion of the reality

of ideas, Locke must grant that logically consistent abstract complex ideas of fictitious substances are real, i.e., they "conform to the real existence of things". Since he does not permit this, the criterion of logical consistency refers to the reality of ideas qua ideas not to what they represent. Locke would not disagree with this conclusion because he states that "complex ideas of modes and relations are original and archetypes, not copies, nor made after the pattern of any real existence to which the mind intends them to be conformable," that they "have no other reality but what they have in the minds of men [and that] there is nothing more required to these ideas to make them real but they be so framed that there be a possibility of existing conformable to them."<sup>53</sup> Complex ideas of modes and relations are "framed" to meet this possibility, the possibility of perceiving what they represent, if their constitutive ideas are logically consistent.

However, Locke states that ideas are real if they "conform to the existence of things." Thus, on the one hand, possible perception of what they represent is not sufficient to determine the reality of ideas because it includes those of logically consistent complex abstract ideas of fictitious substances; on the other hand, it is sufficient for the reality of complex ideas of modes and

relations.

Locke's arguments for the reality of our ideas and knowledge about them is in terms of perception, actual and possible. He defines possible perception in terms of what is conceivable, the logical consistency of our ideas and our assertions about them. However, on Locke's empiricism, actual perceptions, what is perceived, are historically prior to, and required for the instigation of, mental processes involved in conception, i.e., to what is conceivable. Furthermore, what is conceivable includes logically consistent abstract ideas of fictitious substances. These ideas, unlike similar ones of real or existent substances, are fictitious because what they represent has not been actually perceived. Consequently, Locke's arguments for the reality of our ideas and our knowledge about them rests ultimately on actual perception, which is, of course, compatible with his empiricism. However, as we have seen, Locke's justification of the reality of what is perceived, actual perception, does not rest on his causal theory of perception nor on the corpuscular theory it involves but on the practical criterion expressed in natural law.

Thus, both the reality of what is perceived and of what is conceived, given the historical priority of the former and its role in the latter in distinguishing between logically consistent abstract ideas of fictitious substances and of real ones, is determined by the above practical criterion.

At this juncture, it will be helpful to summarize the main points of this chapter. Locke has two concepts of reason or rather considers reason in a dual role: theoretical and practical. The former emerges from his distinction between intuition, reason and judgment entailed by his classification of knowledge as intuitive, demonstrative and probable. This classification, in turn, is the result of his classification of ideas as adequate and inadequate. Adequate ideas are indefinable or capable of being exhaustively defined, i.e., simple ideas and complex ones of modes and relations, respectively. Inadequate ideas are not capable of precise definition, i.e., complex ideas of substances.<sup>54</sup> The latter, practical reason, emerges from:

(i) Locke's empiricism, his denial of innate knowledge, and the principle on which it rests (the historical priority of particulars); (ii) his denial that reason is restricted exclusively to logical inferences and that this faculty and the knowledge it affords are the exclusive attributes of logicians; and (iii) his view that man's knowledge and the great mass yet to be revealed will be acquired by 'native rustic reason,' the means by which man's survival and the improvement of his lot are secured.

By using the term 'reason' to denote both concepts or employments, Locke confuses the two, and ends up in positions which contradict his own empirical stance. This confusion and result is particularly evident in his arguments

for the reality of ideas and our knowledge about them. Locke recognizes that the reality of actual perception, of what we perceive, is determined by the practical criterion expressed in the purpose of natural law. However, he invokes his causal theory of perception and corpuscular hypothesis and the criterion of logical consistency to account for the reality of knowledge, none of which fulfil his purpose in that they are incompatible with his empiricism--the first two cannot fulfil the task because of Locke's denials that physical bodies are causally efficacious and that the existence of atoms is certain, the last is not sufficient to distinguish fictitious ideas from real ones.

What is compatible with Locke's empiricism is that both the ideas received through sensation and the mind that receives them have ultimately the same author. And it is by virtue of this joint authorship that our ideas as "appearances" of things, "ordained and adapted" to our mind, "conform to the existence of things."<sup>55</sup> Such appearances are "sufficient for real knowledge" because they are the means by which we are able to understand and interact with our physical environment, and thereby to secure our survival and welfare--to fulfil God's purpose. Thus, on Locke's empiricism, the reality or objectivity of our knowledge of the physical world is determined by the practical criterion that if such knowledge and the ideas it involves were not real, the species would not have survived let alone prospered.

This conclusion is corroborated by Locke's examples, referred to in Chapter I, to show that mathematical knowledge is not dependent on knowing its logical character. To wit, a country wench knows how to calculate even though she, and indeed the majority of men, are unaware of the mathematical principles and axioms which her calculations exemplify. The same point applies to Locke's other example of American Indians who can reckon well to twenty but who cannot count to 1,000, not through lack of intelligence but because their unsophisticated life style does not require such knowledge.<sup>56</sup> Locke is not, of course, suggesting that even though the Indians can reckon well in their limited way, they are aware that the truth of their reckonings is logical as opposed to empirical, any more than is the majority of those who have a wider variety of concepts. The pervasive theme which emerges from Locke's examples, all of which are given to deny innate knowledge and to justify his own empirical stance, is that mathematical concepts are essentially a function of practical needs, not an intellectual exercise, since their use is not dependent on an awareness of their logical character. Consequently, as with simple ideas and complex ones of existing substances, mathematical ideas are real, they "conform to the existence of things," because they enable us to understand the physical world and thereby to satisfy our needs. Thus, in accounting for man's understanding and interaction with his physical

environment, Locke's concept of reason emerges as originally and essentially practical.

The same applies to Locke's account of man's understanding and interaction with his social environment. But to see, how, and why, Locke consistently views reason as inherently practical, we need to examine his correlation between language and reason.

As shown earlier (page 136, above), Locke distinguishes between two types of complex ideas. According to Locke, in the case of ideas whose combinations are not determined by the mind, "inadequate" ones, the association of ideas is "natural," i.e., ideas of substances. For all other complex ideas, "adequate" ones, the association is "voluntary" (in the sense that their archetype or pattern is not imposed by an external agency) and "conventional." It is conventional because although these complex ideas are voluntary collections of ideas, these collections are not arbitrary but must conform to the common usage of the linguistic term which signifies them if men are to communicate their thoughts.<sup>57</sup>

Locke repeats in the Essay his early position in ELN that we are endowed by God with the capacity for language in order to equip us for the tendency or inclination God has also implanted in us to live in society.<sup>58</sup> This capacity is responsible for much of human knowledge because the bulk of it is about general or abstract ideas. Although Locke does not deny the possibility of such ideas without terms to signify them, the omission is an inconvenience and a

handicap because the extent of human knowledge would be severely limited and its growth negligible if there were no terms by which to signify and to communicate our ideas.<sup>59</sup>

In line with this thought, Locke distinguishes man from other animals in that the latter do not have general or abstract ideas because they do not have the capacity for language.<sup>60</sup> Language is therefore conjointly restricted to those who have the faculty of reason (since reasoning is primarily about abstract ideas and hence is almost impossible unless our ideas are signified by terms) and to those who have a natural tendency to live in society, namely man.

Without society or at least the tendency to live in it, language, as the means by which we communicate our thoughts, would serve no real purpose and its possibility would be questionable.<sup>61</sup> Both in his early and later years, Locke maintains that there can be no agreement among men and hence no form of society or convention unless men keep their promises and act peaceably.<sup>62</sup> Language and the knowledge it expresses would not therefore be possible unless there were at least minimal adherence to these precepts. In short, Locke's correlation of language and reason, by virtue of the social aspect of the former and the minimal adherence to moral precepts it presupposes, casts all ideas of man's behavior, 'mixed modes,' and man's faculty of reason in terms of the practical criterion these principles embody, namely, their purpose, the preservation and welfare of the

species. Thus, both with respect to man's understanding of, and interaction with, his physical and social environments, the faculty of reason is inherently practical: it is to fulfil the purpose for which it was designed and for which it was implanted by our Creator, God. This conclusion is clarified by the following analogies indicated by Locke's arguments for his empiricism.

An individual knows from his experience the physical laws, 'fire burns,' and 'fire warms' and the pleasurable and painful consequences which can result from such matters of fact. Indeed, a single experience is sufficient in the case of some individuals to know these qualities of 'fire' and to attribute the same qualities to other similar objects, e.g. a glowing ember. This knowledge is possible even though such individuals cannot give a sophisticated description of these physical objects because they are ignorant of those physical laws which attempt to account at a higher level for such effects, those of physics and biology. The knowledge of such individuals is analagous to that given earlier of the country wench who knows her numbers and what is a straight line and a square even if she cannot give a definition of these concepts and is unaware of Euclidean geometry. Her knowledge is sufficient for her needs as the above individual's knowledge of fire is sufficient to secure his preservation and comfort.

Similarly an individual, by virtue of his linguistic and therefore social nature, knows on his own experience and

on the testimony of others what constitutes a state of war and peace, and knows or can conceive of the relations among men which give occasion to acts conducive to both. He knows, for example, what constitutes 'murder' and 'theft' and the jeopardy to his life and property caused by those who attempt such acts, even if precise definitions of these crimes elude him. Such knowledge is sufficient for him to know the precepts those concepts entail and that their guidance is required for peaceable and harmonious relations among men, and therefore for his own well-being, as his knowledge of 'fire' and the physical laws which express this concept is sufficient for his survival and welfare.<sup>63</sup>

The level of knowledge to which these analogies refer, and the use of reason by which it is acquired, accommodates the abilities of ordinary men and not merely those of an intellectual elite. As such, it accommodates Locke's claim that natural law is capable of being known by those to whom this law applies: all men, except children, idiots and insane, i.e., all those who are capable of looking after themselves. In short, the concept of reason which has been articulated in this chapter as the one required by Locke's empiricism is the same as that which emerged from the previous chapter: it accommodates both the attribution of reason to those morally obligated and the 'rationality' of natural law in terms of its purpose.

This is not to say that the two concepts of reason

spelt out are mutually exclusive. The way in which man understands his physical environment does not exclude a theoretical explanation of it, provided by, for example, Newton in his Principia. Consequently, it does not follow from the arguments given in this chapter that morality is incapable of demonstration and that, therefore, Locke's claim cannot be upheld.<sup>64</sup>

Both this chapter and the preceding one have shown that the function of reason is to realize the purpose for which it was implanted and, as such, is inherently practical. This chapter has also shown that, for Locke, causation which is independent of finite volition, e.g. gravity, and the uniformities and regularities of nature by which knowledge of physical laws is possible, are the result of divine volition. Although such laws are basically propositions expressing qualities and dispositions of bodies, e.g. fire burns, food nourishes, etc., they are also implicit commands, 'avoid fire,' 'eat,' etc. Knowledge of them is attained through the exercise of the innate faculty of reason and the materials of sensation. Observance of them is maintained through the innate capacity to feel pleasure and pain, the innate disposition to pursue the former and avoid the latter, and the ideas of pleasure and pain which accompany almost all our perceptions. For Locke, whatever is innate is implanted by God and ideas of sensation are, as we have seen, ultimately the effects of God's agency. (See page 155, above.)

Since non-observance of physical laws results in death or discomfort, observance of natural laws, whether physical or moral, is conducive to the preservation and welfare of mankind.

Thus, in terms of the arguments given in this chapter and the preceding one, Locke's account of physical and moral laws, and of man's hedonistic and rational natures, gave him a metaphysical basis, compatible with his empiricism, justifying a view of the universe governed by divine laws, accessible to reason, with sanctions effective during man's lifetime for their transgression. As will be elaborated upon in the next chapter, it is by virtue of their author, their accessibility to reason, the painful consequences which arise when they are ignored or crossed, and the purpose they share with moral laws, that physical laws earn the title 'law.'

In conclusion, this chapter and the preceding one have shown the definitive role the purpose or end of natural law plays in Locke's view of human nature: it defines the end for which man's rational and hedonistic natures were endowed to realize. It is by virtue of this function that, for Locke, the faculty of reason is inherently practical and that actions, the judgments on which they are based, and the interests which motivate them are rational if and only if they conform to natural law. Just as these last two chapters

have shown that Locke's concept of reason and knowledge are defined in terms of the purpose of natural law, the following chapter will show the similarly definitive role this purpose plays in Locke's concepts of rights, obligation and law.

Footnotes to Chapter III

1. Laslett, in certain contexts, and Aarsleff are exceptions. However, see, Introduction, page 26, fn. 12 above.
2. Essay, IV, xvii, 6
3. Essay, I, ii, iii, iv, in particular I, ii, 2.
4. Essay, IV, i, 1; III, iv, 7; xi, 21; II, ii, 2; xii, 1; xxxi, 3, 6; III, xi, 15.
5. Essay, II, xii, 5; viii, 23; xxxii, 17; xi, 4; IV, ii, 13.
6. Essay, II, xxii, 1, 10; xxiii, 18. See Chapter II, p. 107, above.
7. Essay, III, v, 16. Locke is ambiguous on the nature of ideas of relations. In II, xii, 3 and II xxv, 11, these ideas are considered complex, but in II, xxvi, and II, xii, 1, Locke implies that they are a group of ideas wholly distinct from simple and complex ones. In any case, ideas of relations and modes are the results of the mind's operations, comparing and compounding, II, xi, 4, 6.
8. Essay, II, xi, 9; III, iii, 1, 2, 8,; iv, 2, 7; xi, 14.
9. Essay, IV, ii, 1
10. Essay, IV, xvii, 17; iv, xiv, 3; IV, xv, 1  
Locke's characterization of judgment as 'probable reasoning' in his heading of IV, xvii, 16 (Vol. 2, p. 130) indicates that even here he uses the term 'reason' in a somewhat loose way.
11. Essay, IV, ix, 1, 2; xi, 2; xi, 3 (Quotation); III, iii, 1; IV, ix, 1 (Quotation); IV, xii, 9 (Quotation)
12. Essay, IV, ix, 35
13. Essay, IV, xvii, 1-4; III, vi, 11; IV, xii, 9; xvii, 6.  
Quotations IV, xvii, 4 and 6 respectively.
14. Essay, IV, xii, 9, 10(Quotation), 11, 12.
15. Essay, Introduction, 2; III, iii, 7; IV, vii, 9, 11 (see also 4 and 6)
16. Essay, I, ii, 15

17. Essay, I, ii, 15; I, iv, 3
18. Essay, IV, ii, 1
19. Essay, I, ii, 16. See, also, Essay, I, ii, 17-18
20. Some Thoughts on Education, p. 217
21. Some Thoughts on Education, pp. 91-92
22. Essay, I, ii, 14, 15, 16.
23. See, e.g. Essay, IV, vii.
24. Essay, I, ii, 5, 27; iii, 10, 13; iv, 2-3, 13-17.  
IV, ix, 1.
25. Essay, II, ix, 3.
26. See Chapter 1, pages 36-37, and fn. 1 above
27. Essay, IV, xii, 10. See page 141, above.
28. Essay, II, xxx, 1.
29. Essay, IV, iv, 4. See also, II, xxx, 2; III, xxxii, 14.
30. Ryle identifies five ways in which Locke employs the term *idea*: (1) to denote condition in which mind may be the occasion of a perception; (2) to denote an image or picture in the mind's eye; (3) to denote an act of thinking; (4) to denote a concept; and (5) to denote the object of thought (e.g., space itself as opposed to the concept of space). 'John Locke on Human Understanding' in John Locke - Tercentenary Address (Oxford: 1933), reprinted in Locke & Berkeley, A Collection of Critical Essays, ed. C. B. Martin and D. M. Armstrong (University of Notre Dame Press: 1968), pp. 17-20
31. Essay, II, xxxii, 14, 15, II, xxx, 2.
32. Essay, II, vii, 9-14.
33. Essay, IV, xvi, 12. See section heading for quotation, Vol. 2, p. 129.
34. Essay, II, viii, 9-10, 23-25; II, xxiii, 9; II, xxi, 1.
35. Essay, IV, iv, 12 (see also, IV, iii, 24; IV, vi, 13); II, viii, 15.

36. Essay, II, xxx, 2.
37. Essay, IV, iii, 13
38. See, e.g. Essay, II, xxi, 1.
39. This point is consistent with Locke's account of the relation of cause and effect, and the example he gives of it:

...finding that the substance wood, which is a certain collection of simple ideas so called, by the application of fire is turned into another substance, called ashes, i.e. another complex idea, consisting of a collection of simple ideas quite different from that complex idea which we call wood, we consider fire, in relation to ashes, as cause, and the ashes as effect. So that whatever is considered by us to conduce or operate to the producing any particular simple idea, or collection of simple ideas whether substance or mode, which did not before exist, hath thereby in our minds the relation of a cause, and so is denominated by us. (Essay, II, xxvi, 1)

40. Essay, II, xxi, 2, 4, 5, 72, 73; See also, II, xxiii, 17
41. Essay, II, xxiii, 23, 27.

"But the coherence and continuity of the parts of matter, the production of sensation in us of colors and sounds, etc., by impulse and motion, nay, the original rules and communication of motion being such wherein we can discover no natural connection with any ideas we have, we cannot but ascribe to the arbitrary will and good pleasure of the wise Architect." Essay, IV, iii, 29.

Some Thoughts on Education, p. 213. Locke states here that gravity is dependent on divine volition.

Issac Newton, 'General Scholium,' Mathematical Principles of Natural Philosophy, translated by Andrew Motte and revised by Florian Cajori (Chicago: 1952, reprint of University California Press: 1934), pp. 369-372.

In 1688 Locke reviewed Newton's Principia in Jean Leclerc's Bibliothèque Universelle et Historique, Vol. 8, pp. 437-451

- Axtell, J. "Locke's Review of the Principia," Notes and Records of the Royal Society of London 20, 1965, pp. 152-161. Axtell states that "Obviously Newton's Principia played an important role in Locke's attempts to supersede Cartesian epistemology, based upon intuitionism [innate ideas] by his own." p. 156.
42. Essay, II, xxiii, 4.
  43. Works, Vol. 3, pp.
  44. Essay, IV, xi, 1, 9
  45. Essay, IV. xii, 9, 10; xiv, 2-4; xv, 4.
  46. Essay, II, xxvii, 12, 17, 19. See, also, Chapter II, pages 115-17.
  47. Essay, IV, ix, x.
  48. See, e.g. Essay, III, vi, 32, 33, 39; IV, v, 13-16  
See, Chapter II, page 114, above. Locke distinguishes 'same man' from 'same person' on the basis that the former concerns only physical identity.
  49. See page 158, above, and Essay, IV, i, 4; IV, ii, 1 (Quotation).
  50. ELN, pp. 147, 149. Essay, II, xi, in particular 14-15.  
See, also, Essay, IV, i, 3-5.
  51. Essay, II, xxx, 1, 4-5
  52. Essay, IV, i, 4; iv, 5-6.
  53. Essay, II, xxi, 14 (Quotation); II, xxx, 4 (Quotation);  
See also, II, xxxii, 17.
  54. Essay, II, xxxi, 1, 2, 3, 6, 12-14.
  55. Essay, IV, iv, 4; II, xxx, 1
  56. Essay, IV, xii, 3; II, xvi, 6. See, Chapter I, page 69, above
  57. Essay, II, xxxi, 13, 6, 3; II, xxxiii, 5, 6;  
III, ii, 2, 6, 8. See, also, Chapter II, page 103, above for Locke's use of the term "voluntary".
  58. ELN, p. 157. Essay, III, i, 1.

59. Essay, III, iii, 2-4; IV, v, 3-5.
60. Essay, II, xi, 10-11. See, also, Chapter II, p. 130, fn.49, above.
61. See. Seliger, M., "Locke, Liberalism and Nationalism," in John Locke: Problems and Perspectives, ed. J. W. Yolton (Cambridge: 1969): For Locke, "common language is a prerequisite for men to live together as a nation . . . in a self-sustaining political system which has its form of government and its governors determined by consent."
62. ELN, p. 213; 'Morality' written in Locke's last years and quoted by Gough, Eight Studies, pp. 8-9
63. See Chapter I, pages 76-77, above.
64. Although, as will be shown in Chapter V, pp. 239 ff., below Locke's theory of natural law cannot itself easily accommodate this claim.

## CHAPTER IV

## RIGHTS, OBLIGATION AND LAW

Apart from their neglect of Locke's concept of volition, his commentators have paid little or no attention to the role played in Locke's concept of law by the purpose of natural law, by the moral end to be realized--the preservation and welfare of the species. This neglect is unfortunate on two counts. First, as shown in the previous Chapter, this moral end plays a definitive role in Locke's view of human nature in that it establishes the interrelationship between man's hedonistic drives and his reason by defining the function of the latter in terms of the purpose for which the former were implanted. Consequently, any concept of law which is attributed to Locke and which is based on his view of human nature must reflect this interrelationship and that which determines it. Second, as will be shown in this chapter, this moral end plays a similar role in Locke's concept of 'rights,' 'obligation,' and in the emergent one of 'law'

Locke employs Hooker's definition of law in the two places in which he gives one, Tracts and ELN.<sup>1</sup> (See page 216, below) He does not in either place elaborate on Hooker's definition. Instead, in his early works, he

develops his concept of law in terms of its 'binding force,' the obligation it imposes. In his later works, specifically the Treatises, he focuses on the rights it bestows. Both political works are designed to show that the source of all obligation and rights is natural law. Thus both works express, by virtue of their nature and purpose, Locke's concepts of obligation and rights in a political and moral context.

As will become evident, Locke defines all rights in terms of the obligation imposed by the purpose of natural law. Although his concept of 'law' is thus logically prior to that of 'obligation,' which in turn is similarly prior to that of 'rights,' for purposes of explication these concepts will be discussed in the reverse order to their logical one.

### Rights

In ELN, Locke states that "right is grounded in the free use of a thing."<sup>2</sup> He does not elaborate on this statement either with respect to 'right' nor on the concept it involves, 'freedom.' However, in his immediately preceding work, Tracts, Locke argued that although we are not free to make judgments nor to perform those actions which are contrary to natural law, we are free to do both with respect to those matters which fall outside the purview of natural law, morally indifferent matters, except where prohibited by civil law. Here, we are free to disagree with the law (and thereby retain liberty of judgment), but we are morally prohibited from acting against it (and thus

lose our liberty of action).<sup>3</sup>

In his early works, as in his later ones, Locke does not stray from the position that what is in accordance with natural law is in accordance with reason, and conversely. Consequently, if man's liberty is limited by natural law and what this law authorizes, civil law, it is also limited by his reason. But Locke has no intention of arguing that to be ruled by one's rational judgments is an abridgement of one's freedom. In the Treatises, he remedies the problem by distinguishing between liberty and licentiousness. Here our freedom to act is contingent on our freedom from duress which can only be secured if there is conformity by ourselves and others to natural law. Liberty is not therefore the freedom to do as one pleases, because the latter permits actions which infringe natural law and which results in conditions which prohibit our freedom to act according to our choice. Liberty is not, therefore, coextensive with licentiousness but with rational judgments and actions, that by which it is secured. It is this concept of liberty, that which excludes licentiousness and which is "preserved and enlarged" by natural law, to which Locke refers in the Essay when he identifies the source of all freedom as the "power to suspend" the gratification of desires, and when he states "without liberty, the understanding would be to no purpose, and without understanding liberty (if it could be) would signify nothing."<sup>4</sup>

Locke's distinction between liberty and licentious-

ness in the Treatises is analagous to that in ELN between 'what is in the interest of the individual' and 'what the individual believes is in his interest.' The former kind of interest, like liberty, can only be realized by conformity to natural law; the latter, like licentiousness, includes beliefs which conflict with this law. As shown in Chapter II (page 123, above), insofar as beliefs conflict with natural law, they are irrational in that they are opposed to what is in the individual's interest. And, as also shown in this Chapter (page 124, above), although Locke makes the above distinction in ELN, he confuses it by using the term 'utility' to signify both forms of interest. Similarly by failing to distinguish between liberty and licentiousness in his early work, Locke uses the terms 'freedom' and 'liberty' to signify both. Both distinctions must be maintained, however, if the theme of the last essay in ELN is to be preserved: that the individual's happiness, in which his freedom plays no small part, can only be secured if he thinks and acts rationally, i.e., in accordance with natural law.

In light of the above, Locke's early statement in ELN that "right is grounded in the free use of a thing" can be rewritten, without loss of meaning, as 'right is grounded in the use of things permitted by natural law'; the latter phrase avoids the problems generated by Locke's casual use of the terms 'freedom' and 'liberty'.

In the Treatises Locke develops this reformulation

and expresses his distinction between liberty and licentiousness through his account of property and its moral determinants. Locke states that the "Lives, Liberties and Estates . . . I call by the General Name, Property."<sup>5</sup> However, in his chapter on "Property," he elaborates on this definition:

. . . every Man has a Property in his own Person.  
 . . . The Labour of his Body, and the Work of his  
 Hands, we may say are properly his. Whatsoever then he  
 removes out of the State that Nature hath provided, and  
 left it in, he hath mixed his Labour with, and joyned  
 to it something that is his own, and thereby makes it  
 his Property.<sup>6</sup>

Thus, Locke's concept of property includes the use of our body, our liberty, and the products of our labor. The moral limitation on the use of our body is that we cannot destroy ourselves nor violate the property of others. We are not morally entitled by our labor to more natural resources (wild fruits and animals, land) than is sufficient for our needs unless the surplus of our labor is transformable into a non-spoilable medium, e.g., money, gold. Both limitations are moral ones by virtue of the purpose of natural law, preservation of all mankind: this purpose can countenance neither suicide, murder, theft, nor the denial of natural resources for one man's survival through the waste of such resources by another.<sup>7</sup> Liberty is similarly limited and for the same reason: we are not free to do as we please, since such freedom would permit the infringement of natural law, of destroying our own life and violating the property of others. It is within this context that Locke distinguishes liberty from licentiousness. If these moral limitations

are transgressed, the right to property is forfeited for this right is an empty one unless it includes the right to protect property, to take the life, liberty and possessions of those who violate or attempt to violate the property of others, i.e., the right, in the absence of political authority, to enforce natural law and thereby to impose sanctions.<sup>8</sup>

Locke states that children, due to their immaturity, and the mentally retarded and ill, due to their impairment, are incapable of acting rationally. Thus, on the one hand they cannot forfeit the right to property because they cannot be held responsible for their actions; on the other, they cannot have jurisdiction over their property because they cannot take care of themselves. In other words, the young, the mentally retarded and the insane have a right to life and the means to sustain it. However, since they are incapable of acting rationally, they do not have a right to liberty. It is this right and its basis, the ability to act rationally, by which, according to Locke, we have the right of jurisdiction over our own property and, if parents, over our young until maturity, for life if they are mentally retarded. We lose this right if we lose our ability to act rationally, if we become insane; we forfeit it if we do not exercise this ability, if we act contrary to natural law.<sup>9</sup>

The right of jurisdiction over those who are incapable of looking after themselves is contingent on the fulfilment, by those who hold this right, of their moral obligation to preserve and secure the welfare of their

charges. Admittedly, Locke has little to say on this subject with respect to the mentally retarded and the insane. However, Locke's arguments on parenthood in both the First and Second Treatises and his identifying parents as those who rear and educate the young--not those who merely gave birth to them--casts parental obligation in terms of the purpose for which it was imposed: the preservation of the species.<sup>10</sup> It is this purpose which gives those who are incapable of looking after themselves the right to be protected. Accordingly, it is by virtue of its purpose, the moral end to be realized, that natural law bestows rights on those on whom it imposes no obligation, e.g. children. and by which the resulting incommensurate relationship between rights bestowed and obligations imposed with respect to applicability is justified.

Thus, for Locke, the obligation imposed by the purpose of natural law determines the rights of life, liberty and possessions, the exclusion of those who are incapable of acting rationally from the second, and the grounds on which and by whom all three are forfeited. Furthermore, in the absence of political authority, this obligation bestows on all mature responsible individuals, who have not forfeited their right to property, the right to enforce natural law.

This obligation is also reflected in the kind or degree of sanctions which are to be imposed by the enforcement of natural law. In his account of a just conquest,

one in which the victor was not the instigator of war, Locke states that the victor has the right to take the lives of those that fought and to exact damages. He does not, however, have the right to take the lives of those who did not fight or who were otherwise inculpable. He does not have the right to exact damages to such a degree that the survival of the remaining population is jeopardized. And he does not have the right to perpetual sovereignty over the land or over the people.<sup>11</sup> Locke's denial of the right to perpetual sovereignty is to support his position in the Treatises that the establishment and maintenance of civil authority, of living under government and the acquisition of political power is not in any circumstances morally justifiable by force, not even by just conquest. This denial and all the limitations on sanctions are required in order that the purpose of natural law be fulfilled, that the preservation and welfare of all mankind be secured.<sup>12</sup> In short, for Locke, all the rights which are accorded to man in the absence of civil authority, natural rights, are bestowed by this purpose.

In Chapter I it was shown that Locke never relinquished his early view that a predominant characteristic of human nature is partiality. Due to this human tendency and the intimacy of communal ties, "chaos and intestine warre"<sup>13</sup> occur if there is no political authority, if the protection of men's property, their lives, liberty and possession is dependent on the exercise of their natural right to enforce

natural law. Since anarchy is inimical to the purpose of natural law, men are morally obliged to give up these rights, and to live under that whereby their property is better secured, to live under government.

Locke does not advocate any particular form of government but focuses instead on the two characteristics of political authority or government which distinguish it from rule by force, from usurpation and from despotism or tyranny, in particular, and from absolutism in general, that which is "no Form of Civil Government at all."<sup>14</sup> These two distinguishing characteristics or conditions of government are rule by popular consent and rule for the public good. Since the fulfilment of both these conditions meet the moral prohibitions against anarchy and tyranny, both are prescribed by natural law. Neither of these moral conditions is dependent on consent. (If they were, the people could in principle consent to tyranny, to rule by individuals who are not popularly elected or who do not govern for the common good.) This conclusion is borne out in ELN in which Locke goes to some length to show that consent, universal or otherwise, is not the source of natural law nor therefore of any of its prescriptions. For the purposes here, his argument is essentially that consent is the consequence not the origin of a rational judgment or an opinion, and opinions are not necessarily compatible with natural law.<sup>15</sup> Consequently, 'consent' is not in itself sufficient to establish any moral obligation.

As noted above, Locke uses the term 'utility' to denote both what is in the individual's interest and what the individual believes to be in his interest, and the term 'liberty' to exclude licentiousness and to include it. He similarly uses the term 'consent' in ELN to include both consent to rational and to irrational judgments and beliefs. In the Treatises, Locke distinguishes liberty from licentiousness by limiting the former to rational judgments. He similarly restricts 'consent' since, as will be shown, he defines it, by his arguments, in terms of the moral prohibitions against anarchy and tyranny. By such restrictions, the voluntary relinquishment of the natural right to enforce natural law, the two conditions of political authority, and the rights of this authority and of those under its jurisdiction are accordingly defined by the obligation imposed by the natural law prohibiting anarchy and tyranny: that prescribing the preservation and welfare of the species. All of the above becomes evident by the following explication of Locke's arguments concerning the two determinants of political authority: rule by consent and for the public good.

Rule by popular consent refers both to the consent of individuals to live under government and to their consent with respect to which individuals hold political office. According to Locke, rule by popular consent is operative if consent to live under government is unanimous and if individuals hold political office with majority support.<sup>16</sup> His arguments for both types of consent invoke the moral prohi-

bition against anarchy.

To wit, Locke states that consent to live under government is by declaration, by domicile or by both. If by declaration, consent is "express," if by domicile, it is "tacit". Those who hold political office and who have thereby given their express consent to live under government are prohibited from quitting their resulting obligation and, although Locke does not spell it out, morally prohibited from doing so since such quittance would dissolve, or impede, the maintenance of political authority.<sup>17</sup> Those who are not involved in the political process, who have not given their express consent, have given their tacit consent to live under government if they have not opted for the alternative: if they have not emigrated to vacuis locis, those areas which are not under the sovereignty of any political authority. This option requires some explanatory comment.

According to Locke, if an individual emigrates, he has the right to sell his property and take the proceeds with him but he does not have the right to exclude any property left behind from the jurisdiction of the country from which he emigrates.<sup>18</sup> Thus, first the individual is morally obliged either to live under government or to emigrate to areas in a state of nature--neither alternative prevents the establishment and maintenance of political authority and thus neither promotes anarchy. The right to rebel, as shown below, pages 209-210, is only invoked against tyranny which, for Locke, is no 'form of government at all,'

and which therefore has no political authority. If emigration to vacuis locis is not possible, the individual does not have the right to exclude himself or his property from the jurisdiction of the country in which he lives. Such exclusion would prevent the existence or continued existence of a Common-wealth, of political authority. It would continue or create a state of anarchy, and thus would be contrary to moral law. It is this moral prohibition which is the basis of Locke's assertion that those who are not members of the political community, aliens and tourists, are still obliged to obey the laws of the country in which they are present.<sup>19</sup> In short, it is the moral prohibition against preventing the establishment and maintenance of political authority which establishes the moral obligation to live under government. For if political authority (as opposed to anarchy and tyranny) is established, the individual's life and property are protected. Consequently, even if he does not have the means to emigrate or there are no areas in a state of nature, he suffers no harmful consequences. On the contrary, he is accorded those benefits lacking in a state of nature which is precisely the reason political authority is established and why it is morally required. Indeed, insofar as he is obliged to preserve himself and secure his welfare, he is obliged to live in such a manner where both may best be secured, under political authority and not outside it in a state of nature.

Thus, according to Locke's arguments, unanimous consent to live under government and its two forms, express and tacit, are all determined by the moral prohibition against anarchy. Fulfilment of the obligation imposed by this moral prohibition does not deny the voluntary relinquishment of natural rights, the absence of consent, provided that consent and freedom are limited to rational judgments and actions, those which are in accordance with natural law.

The same theme emerges from Locke's argument that individuals have title to political office if it is with majority support. Given men's partiality, if title to political office were dependent on unanimous consent, the nomination of political officers would not be possible. The right to political office by individual(s) therefore necessarily rests on majority consent, since the alternative, unanimous consent, is virtually unrealizable and, as a result, government would not be possible. Anarchy would result.<sup>20</sup> Locke admittedly does not spell out this conclusion with specific respect to the nomination of political officers. However, his arguments on majority consent should not be construed to read that government must morally consist of a majority, i.e., that democracy is the only legitimate form of government. Locke specifically states that by "Common-wealth," he does not mean a democracy or any form of government but "any Independent Community." Whether

the legislature consists of a majority as in democracy, a few as in oligarchy, or one, as in monarchy, be it hereditary or elective, all these forms of government are lawful provided the majority have consented to it--i.e., that those who have political office have the support of the majority. Thus, majority consent does not necessarily refer to a particular form of government, democracy, but rather to title to political office--what form of government is to be operative.

Locke does not specify whether this consent is express or tacit. However, he does indicate the nature of majority consent in another way: individuals have title to political office if the majority are satisfied with their government. Such satisfaction or consent is 'tacit' if they have not opted for the alternative, rebellion.<sup>22</sup> Again, this option requires some explanatory comment.

The problem which, as will be shown in the following section, runs through Locke's early and later political thought is how the exercise of political power can be evaluated in order to determine whether it is in the public interest. In the Tracts, Locke's arguments in effect are that, given men's partiality, such determination cannot be on a singular or individual basis, for if it were, government would not be possible. (See pages 205-07, below.) By the same token, in the Treatises, he argues (what he denies in the Tracts) that it cannot be at the discretion of

those who hold political power since this is in effect nothing more than absolutism which is, or soon degenerates into, tyranny.<sup>23</sup>

The problem is compounded in the Treatises by the magistrate's right of prerogative, the right of those who hold political power to transgress moral and civil laws if such transgression is in the public interest, i.e., to pardon criminals and to destroy an innocent man's property to prevent the spread of fire.<sup>24</sup> Locke attempts to resolve the dilemma by stating that "...if a Controversie arise betwixt a Prince and some of the people in a matter where the Law is silent and the thing be of great consequent, I should think the proper Umpire in such a Case should be the Body of the People..." i.e., the majority.<sup>25</sup> This impractical resolution has been earlier formulated to provide that if those who hold political office abuse their power to the extent that it affects the majority, rebellion by the people is not morally reprehensible.<sup>26</sup> Locke is admittedly evasive on the subject in that he does not specifically limit the right to rebel to the majority. However, he implies such limitation by saying:

Revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient Laws, and all the slips of human frailty will be born by the People, without mutiny or murmur.<sup>27</sup>

To be sure, Locke's language is descriptive rather than prescriptive. But given human frailty, if government

were dissolved on every slip, anarchy would prevail. While the moral remedy for anarchy is not tyranny, similarly that for tyranny is not anarchy. It is within the parameter of the moral prohibition against anarchy that Locke in effect argues that while the individual has the right of appeal if his rights are abused,<sup>28</sup> singular or infrequent abuses of political power are not sufficient to deny those who hold political power title to it. Locke glosses over this point by, on the one hand, stating that, in any case, the people will not rebel because of a particular injustice and, on the other, by confining the term 'rebellion' either to those who hold political office or to the people, as opposed to individual citizens.<sup>29</sup> If widespread abuse occurs, the people have the right and indeed the moral obligation, by virtue of the moral prohibition against tyranny, to rebel. Again, Locke glosses over this point in that by his arguments he assumes that rebellion in such instances will occur. For it is on this basis that he assumes that if rebellion has not occurred, the majority support, albeit tacitly, those who hold political power.

It is outside the scope of this dissertation to discuss the problem and ramifications of Locke's majority principle.<sup>30</sup> For purposes here, it is sufficient to note that (i) Locke so far essentially articulates his notion of consent, unanimous, majority, express and tacit within the context of the moral prohibition against anarchy; and (ii) that Locke's notion of consent, specifically majority con-

sent, is questioned by his major argument concerning the other moral determinant of political authority, rule for the common good.

To wit, in the Treatises, Locke argues that since God, not man, created the species, no man has the right to destroy God's work unless it is for his preservation or for that of others because such destruction is contrary to God's purpose.<sup>31</sup> Hence, the individual does not have the right of life and death over himself or over his fellows unless they use force for purposes other than defence. He cannot therefore morally invoke or voluntarily give others a right he does not possess.<sup>32</sup> In other words, suicide and 'consent to slavery' are for the same reasons, morally impermissible. Since the individual is therefore morally prohibited from putting his life and welfare in jeopardy, he is similarly prohibited from consenting to rule by force: to usurpation, the acquisition of political office without majority consent, and to tyranny or despotism, to the exercise of political power for purposes other than for the common good. The exercise of political power for the public good is realized by providing that which is lacking when all men exercise their natural right to enforce natural law: namely, impartiality with respect to competing interests, and the protection of life and property from those who use force for purposes other than defence, and from those individuals or countries who wage war. This characteristic of civil authority determines the civil rights of individuals: equal

and impartial treatment under the law and the protection of their natural right to life, liberty and possession, from those who would violate this right.<sup>33</sup>

Consent, unanimous, majority or otherwise, as so far defined (i.e. within the context of the moral obligation to live under government or, alternatively, of the moral prohibition against anarchy), is not sufficient to determine either the rights of political authority, or civil rights. If it were, the people, a majority, or the individual could in principle 'consent to tyranny' which is directly contrary to natural law and, incidentally, to the purposes of the Treatises.

Locke's difficulties lay not with the moral ends articulated in his characterization of political power and civil rights but with the means by which they were to be realized: how can the establishment of political authority, the means of acquiring and exercising political power, be characterized to exclude the element of force and the possibility of anarchy, and thus be consistent with moral law? His response to the problem was to show, first, that there is no inherent conflict between consent and obligation provided the former, as in the case of liberty, excludes irrational judgments and actions, those contrary to natural law.<sup>34</sup> Second, he develops this notion of rational consent by defining consent in terms of the moral prohibitions against anarchy and tyranny.<sup>35</sup> The inherent difficulty with

such definition was not a conflict between consent and obligation but between the moral obligations imposed by this definition. On the one hand, the individual is morally prohibited from consenting to tyranny, to the abuse of his natural rights to life, liberty and possessions. On the other, by the prohibition against anarchy, he is in effect denied the right to rebel' if his rights are abused, i.e., to remove, by force if necessary, those in authority from political office, unless the majority suffers similar abuse and rebels.

In short, Locke's concept of consent and the problem that arises with it have the same origin--his negatively defining 'consent' in terms of the states which are inimical to the preservation and welfare of the species, anarchy and tryanny. Consequently, in view of this origin, one can at least conclude (and this is all the above was intended to show) that, as with natural rights, Locke attempts, by virtue of his concept of consent, to define the rights and lawful powers of political authority and civil rights in terms of the obligations imposed by or derived from the moral imperative embodied in the purpose of natural law: preservation and welfare of all mankind.

The foregoing discussion has not only shown the fundamental role this imperative plays in Locke's concept of rights but has also indicated this role in Locke's concept of obligation in that all the other moral obligations Locke

cites with respect to rights are all justified and hence derived from that imposed by this law. The following discussion of Locke's concept of obligation in his early and later works confirms and develops this conclusion. Because of this confirmation and because Locke's analysis of obligation appears in his early political works, the Tracts, it is first necessary to show briefly that although the above arguments have been drawn from the Treatises, they are compatible with Locke's thought in the Tracts.

Although Locke skirts the issue of natural rights in the Tracts, the basic natural right to property--life, liberty and possessions--and its protection are implied by his defining political authority in the same terms as those in the Treatises: by the two characteristics which distinguish political authority from anarchy and tyranny: rule by popular consent and for the common good.

With respect to the second, in the Tracts, as in the Treatises, the exercise of political power is only lawful if it is for the public good.<sup>36</sup> As to the first, Locke states in the Tracts:

. . . all authority is held to come from God but the nomination and appointment of the person bearing that power is thought to be made by the people. Otherwise a right to govern will not easily be derived from paternal right nor a right of life and death from the popular.<sup>37</sup>

Locke's major concern here is not to become embroiled in a dispute between those who advocate parental right and those who advocate popular consent as the source of political authority, but merely to show that on both theories, the

true source of political authority is God. The above quotation should not therefore be read as though Locke were claiming the right to govern is derived from popular consent and that of life and death from paternal right. The source of these rights is not popular consent nor paternal right, but God's wish that there be "order, society and government among men," a moral prescription which, as shown earlier (see Chapter I, page 49, above), Locke justifies in the Treatises by the purpose of natural law.<sup>38</sup>

Locke similarly shows in the Treatises why neither the right of life and death nor the right to govern is derivable from paternal right or popular consent. Parents do not have a right of life and death over their children for essentially the same reason we do not have this right over ourselves: such a law would be contrary to the purpose of natural law. Consequently, the right of life and death cannot be derived from either parental right or popular consent.<sup>39</sup> If the right to govern were derived from paternal right, it would devolve on all fathers or parents which is, in effect, deriving it from popular consent. But the right to govern is not derived from popular consent alone for if it were the people could, in principle, consent to tyranny which, as shown above, is morally prohibited. However, Locke's stating that "the nomination and appointment of the person bearing that power is thought to be made by the people" shows his allegiance to the popular consent theory

of government insofar as this theory differs from the parental one in that title to political office is by public support not by royal birth.<sup>40</sup> Thus, in the Tracts, Locke favors the popular consent theory but avoids committing himself by not developing his arguments, as he does in the Treatises, to show, or rather to attempt to show, that rule by popular consent is a moral prescription.

### Obligation

By virtue of the common theme of both the Tracts and the Treatises, Locke defines obligation negatively in terms of the two states which are inimical to God's purpose: anarchy and tyranny. Moral and political obligation are correlated by virtue of the ends for which they are imposed in that given, on the one hand, man's social nature, and, on the other, his partiality, peace and harmony in the community is necessary if the end of natural law is to be realized. He thereby defines obligation positively in terms of the end for which all moral laws are imposed and for which civil authority is established: the preservation and welfare of all mankind. Locke develops this characterization of obligation in both the Tracts and the Treatises by his concept of 'preceptive power' in the former, of 'prerogative' in the latter work.

Locke's account of 'preceptive power' in the Tracts requires some prefatory remarks. As indicated earlier (see Introduction, pages 18-19, above), Locke's

purpose in writing the Tracts was to defend the magistrate's right to legislate on morally indifferent matters, in particular "indifferent things relating to religion," such as ceremonial practices. The anarchical consequences of the opposing view were contrary to God's law that there be "order, society and government among men" and that peace, concord and the public good be preserved. Locke accordingly concluded that moral law determines that the magistrate has the exclusive right to decide which aspects of the community's life requires regulation and to legislate accordingly. By virtue of this moral prescription, the exercise of this right by the magistrate transforms what was hitherto morally indifferent into something morally necessary and therefore morally obligatory.<sup>41</sup>

Indeed, Locke argues, to deny the magistrate's right to legislate on morally indifferent matters is, in effect, to deny him any legislative power since he does not legislate on moral matters but merely enforces them. Locke is not claiming that the magistrate has the right to impose laws on all indifferent matters. On the contrary "it is not lawful for [the magistrate] to bind all free and indifferent things and enclose them within the boundaries of law."<sup>42</sup> He merely argues that the magistrate has the exclusive right to decide which morally indifferent issues should be regulated. The right to regulate indifferent matters, to make laws, the right to enforce moral law and the right it entails--to impose sanctions for breaches of

moral and civil laws, are required to preserve the peace and the public welfare. Thus, first, these rights are 'rights' or lawful powers of the magistrate because they are the means by which God's command "to preserve the public good and keep peace and concord" is fulfilled. And, second, when the magistrate legislates on morally indifferent matters, these matters become, by virtue of the purpose for such legislation, morally necessary.

Locke distinguishes between the "material power" of the magistrate, which refers to those things he may lawfully or morally command, indifferent things, and "preceptive power" which refers to the command itself being law, i.e., that it is for the public good. It is the preceptive power of the magistrate which establishes all his rights, to legislate and to enforce moral laws and those he makes.<sup>43</sup> In other words, "preceptive power" in the Tracts is the same as that which, in the Treatises, Locke calls "political power" and which, by virtue of its moral determinant, is distinct from despotism.<sup>44</sup>

Locke accordingly argues that we are obliged to accept the magistrate's right to decide on what morally indifferent issues should be regulated but we are only 'formally obliged' to do so. That is to say, we are not free to act against his decision because, by virtue of his preceptive power, we would transgress moral law, but we are free to disagree with him since these decisions concern only

morally indifferent matters. By comparison, we are 'materially obliged' by moral law because we are neither free to act, nor to disagree with, moral prescriptions: our liberty of judgment and action is restricted on all morally necessary matters.<sup>45</sup>

Earlier, however, Locke has argued that the magistrate's rights to make and enforce laws, to regulate civil practices and to coerce obedience to civil and moral laws, imposes a double obligation on subjects: the obligation "to act" according to, and "to suffer", the magistrate's commands. A subject is under both forms of obligation in all instances except where the magistrate commands something which is in itself immoral, 'materially' unjust. In this case, a subject is not obligated to act according to such commands since he would thereby transgress moral law. By the same token, however, he is obliged to "suffer" them since the alternative, "force of arms," rebellion, is contrary to the moral requirement for peace and order.<sup>46</sup> Locke does not discuss how it is possible to "suffer" the magistrate's commands without acting in accordance with them. However, as we will see (page 207, below), without the distinction between the obligation to act and the obligation to suffer, Locke cannot uphold, even in a limited way, his definition of preceptive power.

When the magistrate's commands on morally indifferent matters are not for the public good, the subject is obligated both to suffer and to act according to them.

Locke's justification of this obligation is that the "intention of the magistrate cannot be known," and where the magistrate's commands are not 'materially unjust,' the magistrate's "expressed will... establishes obligation."<sup>47</sup> According to Locke here, we cannot determine whether the magistrate's command is for the public good because we do not know the magistrate's "intention". Locke does not elsewhere refer to 'intentions' to justify in any way the moral validity of an act. Earlier in the Tracts, Locke stresses that it is not actions, but the rules by which they are judged, which determine the moral quality of actions: ". . . precepts are the rule of our duty and not practice which is to be judged by them."<sup>48</sup> If Locke holds that intentions are involved in moral evaluation, then they are necessarily known, for otherwise acts cannot be morally evaluated. If, on the other hand, he holds that intentions do not in any way determine an act's moral worth, the magistrate's intentions are irrelevant to the obligation imposed by his command. In short, Locke's claim that intentions "cannot be known" entails either that actions cannot be morally evaluated or that intentions have no moral worth. Whether or not Locke was aware of this consequence, if this obligation is not upheld, if the magistrate's commands on indifferent things are in principle challengeable on the grounds that they are not for the public good, then his right to decide on them, to make laws, is for all intents

and purposes ineffective and, consequently, anarchy results.

In brief, Locke's analysis of all obligation is in terms of the 'preceptive power' of the magistrate in that (i) by such power morally indifferent matters become morally necessary ones: it creates obligation; (ii) its abuse does not nullify obligation which (iii) Locke justifies not, of course by the moral law by which he defines 'preceptive power'--to preserve the public good--but that prescribing 'peace and living under government,' i.e., that prohibiting anarchy. The problem with Locke's arguments is that the moral prescription for peace and government is not necessarily consistent with that for concord and the securement of the public good, since, by his arguments, the realization of the former is at the expense of the latter. As a result, Locke almost contradicts his definition of 'preceptive power'--almost in that by denying the obligation to act according to materially unjust laws, he salvages to a certain degree his definition. Nevertheless, the upshot of his arguments is that bad government is better than no government because the former is more conducive to the realization of moral ends, peace: the main deterrent to which for Locke at that time was anarchy.<sup>49</sup>

Locke is not however advocating acquiescence to bad government or to that which he describes in the Preface to the Tracts (in which the above account of obligation appears) as a scourge to mankind equal to that of anarchy:

tyranny.<sup>50</sup> If Locke's sympathies lay with absolutism, that the will of the magistrate is sufficient in itself to create obligation,<sup>51</sup> he would not have subscribed to the popular consent theory of government (see page 200-01, above), but to the theory attuned to absolutism, the parental right one. Furthermore, although Locke's major concern at the time was with the threat of anarchy, he did not consider that its remedy was that which he characterizes as an abuse of preceptive power not a definition of it.

In any case, through his concept of preceptive power in the Tracts, Locke defines all obligation in terms of moral ends to be realized, whether such ends be those entailed by his definition of this power--the securement of the public welfare, or those required by the moral prescription to live peaceably and under government. As such, Locke's arguments in the Treatises are not incompatible with, but rather a remedying of, those given in the Tracts. For in the Treatises, Locke derives all obligation from the "fundamental Law of Nature . . . the preservation of Mankind."<sup>52</sup> This law prohibits both anarchy and tyranny. Alternatively, this law morally justifies the prescriptions by which Locke variously defines preceptive power in the Tracts: those requiring 'peace and government' and 'concord and the securement of the public good.' Thus, in the Treatises, these moral prescriptions are reconciled (at least Locke attempts to reconcile them) rather than, as in the Tracts, counterpointed.

The immediate objections which come to mind are that, in the Treatises, Locke does not consider rebellion morally reprehensible nor does he invoke in this work the distinction between morally necessary and indifferent matters. This distinction is basic to the Tracts and crucial to Locke's notion of obligation in that work in that preceptive or political power transforms morally indifferent matters into morally obligatory ones. A critical discussion of this distinction will be given in the following Chapter (see pages 241 ff., below). What is of relevance here is that, as will be shown from the following examination of Locke's concepts of 'rebellion' and 'prerogative' in the Treatises, Locke's political theory in this work is not inconsistent with, but rather an attempt to remedy and develop his theory in the Tracts. In particular, in both works, all obligation is imposed and instigated for the realization of moral ends, which ends, however, are all derived in the Treatises from the end of natural law, the preservation of all mankind.

In the Treatises, Locke defines 'rebellion' as the abuse of political power. This abuse takes place when political power is given to, or taken by, those who do not have popular support, and when political power is exercised for purposes other than the protection of the lives and property of the members of the community. By such abuse, usurpation and despotism, government is dissolved and the

people have the right, and indeed on Locke's arguments, the moral obligation to establish a new government, and to employ such means as are necessary to realize this obligation. In short, the people have the right, by force if necessary, to overthrow tyranny, since this is no form of government and hence has no authority. In this sense, the people have the right to rebel or alternatively rebellion is, in these circumstances, morally permissible. However, as shown above, on Locke's arguments the right to rebel is strictly only invocable by the majority, if the abuse of political power affects them. Locke's implicit justification of this argument is essentially the same as that which he gives in the Tracts: if civil obligation were nullified on each and every abuse of civil authority or when the individual thought his rights were being abused, government would not be possible.<sup>53</sup>

In the Treatises, as in the Tracts, political power, by definition, is not despotic if it is exercised for the purpose for which it was instituted. However, in the former work, Locke determines such exercise in terms of the magistrate's intentions and ends up with the problem spelt out above, pages 206-7. In the Treatises, he attempts to remedy this problem by replacing this subjective determination by an objective one: the magistrate exercises his political power legitimately if the majority are not dissatisfied with it. Such determination is spared the unresolvable problem of determining the magistrate's in-

tentions and, given the necessity at times to put the individual and his property in jeopardy (in times of war or, to quote Locke's example, to destroy the property of individuals to prevent the spread of fire), of determining the abuse of civil authority in terms of individual complaints. In short, it eliminates the subjective element which, in view of man's partiality, is morally questionable. However, it inherits the problem articulated above by Locke's notion of majority consent in that, by it, the individual is denied, in effect, the right to rebel, to challenge the authority or title of those who hold political office, on the basis that his individual (as opposed to the majority) rights are abused. But this denial is contrary to, or at least not compatible with, the moral obligation not to 'consent to slavery.' Nevertheless, the moral prohibition against anarchy by which majority support, as a moral standard of consent, is essentially justified in the Treatises shows a continuity between Locke's thought in this work and his earlier one, Tracts.

Locke does not explicitly state in the Tracts that rebellion is morally permissible if the rights of the majority are abused, although he does consider in this work that tyranny, as well as anarchy, is a scourge to mankind. What he does deny in the Tracts is what he implicitly denies in the Treatises: that the authority of those who hold political office is not nullified by singular or infrequent

abuses of political power. Consequently, Locke's denunciation of tyranny in the Tracts and his concept of majority consent in the Treatises, show that his political thought in the Treatises is not inconsistent with, but rather a development of, that in the Tracts, and that the essential premises of both works are the moral prohibitions against those states (anarchy and tyranny) which are inimical to man's preservation and welfare.

The same conclusion applies to Locke's concept of preceptive power in the Tracts and that of 'prerogative' in the Treatises. By both, the exercise of political power is legitimate, moral, if and only if it is for the public good. However, they are distinct in one significant respect: prerogative gives the magistrate a right which he was morally prohibited from exercising in the Tracts, namely, to transgress moral laws. He has this right by the "Fundamental Law of Nature and the Government, viz. That as much as may be, all the Members of Society are to be preserved."<sup>54</sup> In other words, while preceptive power in the Tracts determines when morally indifferent matters become morally obligatory, prerogative in the Treatises determines when particular moral laws are not morally obligatory. The latter determination questions the former's basis (to which Locke makes no reference in the Treatises), namely, his distinction between morally necessary and indifferent matters. Whether or not Locke was aware of the problems with this distinction for

his concept of obligation, his concept of prerogative, as will be shown in the next Chapter (pages 239 ff., below), is difficult to reconcile with his claim for the demonstrability of morality, at least as far as his own ethical theory is concerned.

Be that as it may, it is the "fundamental law of Nature . . . the preservation of Mankind"<sup>55</sup> from which the moral prescription against anarchy (and thereby the obligation to live under government) and against tyranny (and thereby the moral obligation of government to secure and preserve the public good) are derived. Insofar as Locke variously justifies preceptive or political power in the Tracts by both obligations and defines political power and 'prerogative' in the Treatises in terms of the latter, both his concepts of preceptive or political power and prerogative show that it is the end of moral law which determines what is morally obligatory. Thus, in both works, Tracts and Treatises, all obligation is "plainly divine": it originates from the author of natural law and is ultimately defined in terms of the purpose of this law.<sup>56</sup>

### Law

Locke stipulates in various ways throughout his works three requirements of law: (i) a lawmaker, an authority, (ii) whose wishes are capable of being known, and (iii) of being enforced.<sup>57</sup> With respect to the first, Locke defines a law-maker as "some superior power to which [one] is rightly

subject."<sup>58</sup> By the word 'rightly,' Locke intends this definition to distinguish rule by law from rule by force: between the commands of a magistrate from those of a pirate or robber, between obedience by obligation and that by duress.<sup>59</sup>

The preceding section has shown that the two moral determinants which distinguish political authority from rule by force are rule by popular consent and for the common good. Insofar as political authority is established and maintained when these moral conditions are met, the basis of the magistrate's superiority, his authority, is that which imposes these conditions, natural law and its author God. Furthermore, as also shown in the previous section, since both conditions are moral by virtue of what they prohibit, anarchy and tyranny, both are determined by the law which prohibits these states, the law which expresses the purpose of natural law and thereby that of its author, God. This purpose is attributed to God as Creator: his creation, the species, man, is to be preserved, for otherwise it would be purposeless.<sup>60</sup> As mentioned earlier, Locke's arguments for the existence of God as Creator and his justification of the claim that 'creation is not purposeless' will be critically discussed in the next chapter. What is of relevance here is that by these arguments and assertion, the definition of law-maker is applicable to God, which was precisely Locke's intention: we are rightly subject to the superior power

which created us, God. Thus, Locke's definition of law-maker is compatible with the arguments given above that, for Locke, all obligation is 'plainly divine' and is defined in terms of what is required for, and conducive to, the realization of God's purpose, the preservation and welfare of the species.

With respect to the second and third requirements, promulgation and enforcement are not in themselves sufficient to qualify the author's wishes as law. Apart from the magistrate's office being held with majority support, Locke specifically states in the Treatises that the magistrate's wishes are law if and only if they are (i) expressed as promulgated standing rules which (ii) are both designed and enforced to secure the welfare of those to whom they apply.<sup>61</sup> The first prohibits arbitrary decrees, the second arbitrary power from the titles of law and law-maker, respectively. Locke justifies both conditions in the following way:

Thus the Law of Nature stands as an Eternal Rule to all Men, Legislators as well as others. The Rules that they make for other Mens Actions, must, as well as their own and other Mens Actions, be conformable to the Law of Nature, i.e. to the Will of God, of which that is a Declaration, and the fundamental Law of Nature being the preservation of Mankind, no Human Sanction can be good, or valid against it.<sup>62</sup>

In short, the purpose of natural law plays as definitive a role in the requirements Locke stipulates for law as it does in his concept of rights, obligation and, as shown in the previous Chapters, his view of human nature. The previous Chapter (pages 173-74, above) has also shown

that physical laws meet the second and third requirements Locke stipulates for law, that their author is God and that they share a common purpose with moral law. Consequently, by Locke's account of the requirements of law, the regularities and uniformities of nature have the status of 'laws'.<sup>63</sup> Thus, every concept, issue and matter which involves the concept or title of law has a common thread, the purpose or function of natural law. As will become apparent, given this common denominator, it is not surprising that Locke employs Hooker's definition of law in the two places in which he gives one, Tracts and ELN:

. . . some account must be given of laws, the general nature of which the learned Hooker describes, Book I, ch. 2, thus: 'That which doth assign the force and power, that which doth appoint the form and measure of working, the same we term a Law.'<sup>64</sup>

.....

For that which prescribes to every thing the form and manner and measure of working, is just what law is.<sup>65</sup>

Hooker's definition of law appears in the following passage from his work, Of the Laws of Ecclesiastical Polity:

All things that are, have some operation not violent or causal. Neither doth anything ever begin to exercise the same, without some fore-conceived end for which it worketh. And the end which it worketh for is not obtained, unless the work be also fit to obtain by it. For unto every end every operation will not serve. That which doth assign unto each thing the kind, that which doth moderate the force and power, that which doth appoint the form and measure of working, the same we term a Law. So that no certain end could ever be attained, unless the action whereby it is attained were regular; that is to say, made suitable, fit and correspondent unto their end, by some canon, rule or law. Which thing doth first take place in the works even of God himself.<sup>66</sup>

It is evident from the above passage that the essential characteristic of law for Hooker is the end for which it is imposed and that his definition of law is intended to capture this characteristic. As such, this definition of law captures:

- (i) Locke's concept of 'preceptive power' in the Tracts in that it is by virtue of the end to be realized by 'preceptive power' that morally indifferent matters are transformed into morally obligatory ones and that civil laws thereby oblige;
- (ii) his definitions of political power in the Tracts and the Treatises: that this power is political and not despotic if and only if it is exercised to realize the end for which political authority was instituted, the public good;
- (iii) his concept of 'prerogative' by which the magistrate has the right to act "without the prescription of law, and sometimes even against it"<sup>67</sup> if such action realizes the end for which political power is instituted, the public good; and
- (iv) the fundamental Law which Locke cites as the measuring rod by which all men's actions are morally evaluated in that it expresses the end for which all moral laws are imposed and from which they derive their obligation: God's will that mankind be preserved.

Admittedly, the last two are expressed in the Treatises in which Locke does not quote Hooker's definition of law. However, he does not give an alternative one and, significantly, in justifying his own views on natural equality, that all men "have one measure," natural law, Locke again appeals to the authority of Hooker.<sup>68</sup>

If one can take Locke at his word, he says (in the Tracts) that he considers that the differences in definitions of law by authorities on the subject are differences of expression, not of substance.<sup>69</sup> Be that as it may, the best explanation of why Locke employed Hooker's definition is that for both men the essential characteristic of law is the end to be realized by adherence to it.

This is not to say, of course, that the writings of other authorities on law, with whose work Locke was familiar, did not influence his thought. For example, there are several passages in ELN which appear to come from St. Thomas Aquinas's work, Summa Theologica.<sup>70</sup> Furthermore, Locke's paraphrase of Hooker's definition of law in ELN (see page 216, above) is similar to Aquinas's definition: "Law is a rule and measure of acts, by which man is induced to act or is restricted from acting; for lex (law) is derived from ligare (to bind) because it obliges (obligare)."  
However, for Aquinas, "law is in reason alone." He does not consider "reward" belonging to law, and sees "punishment"

as an "effect" of, rather than as a requirement for, law.<sup>71</sup> Locke, on the other hand, considers "rewards and punishments," as an essential requirement for law, and that a "requisite" of law is that "it is the decree of a superior will."<sup>72</sup>

Locke's only explicit reference to Aquinas in ELN is in the first essay. But the quotation he gives here concerning the subject matter of eternal law is not from The Summa Theologica, but is a paraphrase by Hooker of certain passages of this work.<sup>73</sup> As Von Leyden points out, although Locke's writings on natural law "betray a Thomist influence," it is difficult to determine whether or not Locke's scholastic notions were derived from secondary sources, such as Hooker or Suarez.<sup>74</sup>

Although Locke does not quote from Suarez, he possessed Suarez's work, Tractatus de Legibus ac Deo Legislatore, and there are passages in ELN which appear to come from this work.<sup>75</sup> Suarez maintains that Aquinas's definition of law places undue emphasis on reason, and that while reason plays its part in law, the obligation of law is essentially an act of will. Accordingly, Suarez defines law as "an act of a just and right will by which a superior will obliges an inferior to do this or that."<sup>76</sup> While Locke states in ELN that "it is the decree of a superior will wherein the formal cause of obligation appears to consist,"<sup>77</sup> his choice of a definition of law which does not emphasize the will as the source of obligation shows his reluctance to solely identify

his concept of law with a voluntarist position. In any case, as Von Leyden points out, to conclude that Locke's scholastic notions were derived from Suarez "is to minimize the effect that other thinkers who borrowed from the late Scholastics had on him."<sup>78</sup>

Abrams, and in particular Von Leyden, discuss the influences on, and sources of, Locke's views on law.<sup>79</sup> Abrams identifies Locke's concept of law with Sanderson's: "For Locke, as for Sanderson, the defining characteristic of law is its derivation from a competent will, an 'efficient cause'." And Hooker, Abrams adds, "explicitly rejects this voluntaristic conception of law."<sup>80</sup> Von Leyden sees Culverwel as the "chief intellectual force" behind Locke's thought. He points out that both Culverwel and Locke deny innate ideas and hence both hold that natural law is not imprinted in the minds of men; both men claim the demonstrability of morality; and both stress that natural law is not known by tradition. But the first and (if Von Leyden's list is in order of priority) major similarity between Culverwel and Locke is that "Culverwel was as emphatic as Locke in asserting that the formal obligation of laws does not lie in their inherent rationality but must be sought in a supreme will."<sup>81</sup>

While, as will be shown in the following Chapter (page 258), I agree with Abrams and Von Leyden insofar as moral laws are law, for Locke, by virtue of their origin in

God's will, I disagree with their dismissal of Hooker as a primary source of Locke's concept of law. To be sure, Von Leyden recognizes Hooker's contribution to Locke's thought because of the "Thomist influence" Locke's writings portray.<sup>82</sup>

However, he states:

A long paragraph in the first essay containing arguments to show that the general consent of men concerning moral principles indicates the existence of law was unmistakably inspired by Hooker. Since Locke, however, deleted this passage and expressed very different views on the matter in his fifth essay, Hooker's contribution to his thought cannot be regarded as decisive.<sup>83</sup>

Abrams makes the same point with respect to the Tracts. He refers to

. . . the interesting deletion from the Ms. of the English Tract, p. 18, of a passage on the law of nature in which Locke had come close to accepting the rationalist fallacy of Hooker (and Grotius) that the law of nature can be known from the general consent of men. In his Essays on the Law of Nature Locke formally denied this proposition.<sup>84</sup>

However, for Abrams, the crucial distinction between Hooker's and Locke's system of law is that the former's is "functional and teleological":

The passage from which Hooker's definition comes leaves no doubt that what demonstrates the existence of law for him, and is the true hallmark of law, is regularity of working in relation to some 'fore-conceived end'. But this is not the case for Locke.<sup>85</sup>

First, in particular, the four points spelt out above (page 217), and, in general, the definitive role the end of natural law plays in every aspect of Locke's thought which involves the concept and title of 'law' deny Abrams'

conclusion and the disparity he draws between Hooker and Locke. On the contrary, this role shows that Locke's system of law is "functional and teleological."<sup>86</sup>

Second, Hooker's concept of consent is not so different from Locke's. In the section immediately preceding that entitled 'Universal Consent a Test of Moral Goodness' Hooker distinguishes between two standards of moral goodness by the ways in which they are discerned: the first by knowledge of its causes, the second by observations of the things, by the "signs and tokens" that accompany it. The difficulties of this distinction aside, Hooker states that the only proper standard is the former, but due to the difficulty in acquiring it, the latter is (not should be) taken in its place. In this context he states "[t]he most certain token of evident goodness is, if the general persuasion of all men do so account for it." Since universal consent only "comprehendeth the signs and tokens of goodness" not its causes, Hooker is not saying that natural law is known through universal consent.<sup>87</sup> Nevertheless, since he grants 'signs and tokens' as means of discerning moral goodness, universal consent can be interpreted as a substitute for knowledge of natural law in much the same way as Locke's definition of 'virtue' and 'vice' in terms of the 'law of opinion and reputation' in the Essay was interpreted by his critics as substituting conventional values for moral goodness and evil. Locke's rebuttal that he was accounting

for the general signification of these terms not for the true touchstone of morality, natural law, captures the main theme of Hooker's account of universal consent.<sup>88</sup>

Furthermore, Hooker's argument that human laws "of what kind soever are available by consent" is almost the same as Locke's in the Tracts on the origin of political authority: if those who make laws have not "either by express commission immediately and personally received from God, or else by authority derived at the first from the consent upon whose persons they impose laws, it is not better than mere tyranny." Hooker, like Locke in the Tracts, opts for the second alternative by adding "Laws they are not therefore which public approbation hath not made so." He then distinguishes between two types of consent, express and implied, the latter being that which "long silence and custom have established."<sup>89</sup> Although they are not the same, Hooker's concept of consent (and its two forms, express and implied) is intended to serve the same function as Locke's concept of consent (and its two types, express and tacit): to signify the absence of force. As such, consent is a necessary condition for rule by law not, however, a sufficient one. What is consented to must be in accordance with natural law. Otherwise consent to tyranny would in principle be possible, and neither Hooker's nor Locke's concept of consent would serve the purpose for which it was intended. Thus, for Hooker and Locke, consent,

general or otherwise, does not in itself indicate the existence of law. The passage in the first essay of ELN, referred to by Von Leyden, is not, therefore, "unmistakenly inspired" by Hooker. Indeed, the authority to whom Locke refers in this passage is not Hooker, but Grotius.<sup>90</sup> And it is, I suggest, not Hooker, but Grotius, the other authority cited by Abrams, to whom Locke "had come close" in the passage deleted from the Tracts. (See page 221, above)

In short, it would be hasty to dismiss Hooker's influence on Locke on the basis of the former's notion of consent.

Third, Hooker's thought accommodates Locke's rationalism and his voluntarism. To wit, Hooker states that natural law is the "Law of Reason, as to contain in it all manner laws whereunto reasonable creatures are bound" and he identifies 'reasonable creatures' as all men except children, idiots and the insane. Locke concurs by quoting the relevant section from Hooker almost in toto.<sup>91</sup> For Hooker, as for Locke, "all men desire to lead in this world a happy life"; partiality is the predominant tendency in human behavior: "the greatest part of men are such as prefer their own private good before all things"; and all laws require penalties: "unto laws that men do make for the benefit of man it hath needed to add rewards...and punishments...[w]here as the generality is natural, virtue rewardable vice punishable." <sup>92</sup> The basis of the foregoing for Hooker,

as for Locke, is that all actions are determined by desire "seeing then that nothing can move unless there be some end, the desire whereof produceth unto motion"; and that those who are capable of voluntary actions, and who are therefore culpable and responsible for their actions, are those who have the use of their reason--"such action in men having attained to the use of Reason are voluntary," i.e. all men except children, idiots and insane.<sup>93</sup> And, with respect to the level of knowledge to which that of natural law refers, Hooker states (and Locke quotes in full):

. . . a Man may be said to have attain'd so far forth the use of Reason, as sufficeth to make him capable of those Laws whereby he is then bound to guide his actions; this is a great deal more easie for common sense to discern, than for any man by skill and learning to determine.<sup>94</sup>

Lastly, Locke's claim that morality is demonstrable is reflected in the following passage from Hooker:

Within the compass of which laws we do not only comprehend whatsoever may be easily known to belong to the duty of all men, but even whatsoever may possibly be known to be of that quality, so that the same be by necessary consequences deduced out of clear and manifest principles.<sup>95</sup>

In brief, whatever differences may exist between Hooker's and Locke's thought, including those which interpretations of Hooker's notion of consent may draw, they are not sufficient to dismiss Hooker as a primary source of Locke's concept of law.

Footnotes to Chapter IV

1. Tracts, p.221; ELN, p.117
2. ELN, p. 111
3. Tracts, pp. 238-39.
4. Treatises, II, §§6, 22, 57; Essay, II, xxi, 47, 67.
5. Treatises, II, §123
6. Treatises, II, §27
7. Treatises, II, §§6, 31, 37-8, 45-7.
8. Treatises, II, §§ 6-8; See also Essay, II, xxviii, 9. Locke refers to the "measures of punishment" prescribed by natural law, (Treatises, II, §12), and thereby suggests that punishment should be appropriate to the crime. However, the general thrust of Locke's arguments is that the kind or degree of punishment is determined, not so much by the nature of the crime, but by what is conducive to the public good and the "preservation of all." For example, according to Locke, I may kill a thief who attempts to rob me of my "Horse or Coat" because there is no time to appeal to "our Common Judge," civil authorities, and my life may be in danger. (II, §19). However, by Locke's concept of prerogative, discussed above (pages 212-13), a murderer may be pardoned "for the end of Government being the preservation of all, even the guilty are to be spared, where it can prove no prejudice to the innocent." (II, §159) See, also, Locke's notion of a just conquest discussed above (pages 187-88).
9. Treatises, II, §§60-1.  
It has been pointed out to me that, in certain passages in the Treatises, Locke suggests that servants and women are not capable of taking care of themselves. Laslett states that "Servants . . . we must not forget covered many now classified as industrial or agricultural workers, and that Locke and all his contemporaries looked upon them as under domestic authority is significant of very different social assumptions." (II, §85, fn. 9-18) These social assumptions are reflected in Locke's description of "a Master of a Family with all those subordinate relations of Wife, Children, Servants and Slaves united under the Domestick Rule of a Family." (II, §86). However, whatever the social and economic realities of his day, Locke does not consider servants and women incapable

of looking after themselves. First, for Locke, the differences in economic classes is due to the "differences in degrees of Industry." He states: "As different degrees of Industry were apt to give Men Possessions in different Proportions, so this Invention of Money gave them the opportunity to continue and enlarge them." (II, §48) Those who do not own land or capital are still capable of taking care of themselves because they can sell their labor "for Wages" as determined by "the Contract between 'em," i.e., Master and Servant. Furthermore, all contracts, "voluntary compacts," according to Locke, can "either by consent, or at a certain time, or upon Certain Conditions," be terminated. (II, §81). If Locke considered servants, male or female, as incapable of taking care of themselves, there would be no "compact" between Master and Servant, nor could the Master's authority be terminated by "consent." The same point applies to the "voluntary compact" between husband and wife. According to Locke, the moral obligation in the conjugal relation is for both husband and wife to support and care for their children. Once this obligation is discharged, husband and wife are not, in Locke's view, morally obligated to stay together. The arrangements, economic and otherwise concerning the marriage compact and its dissolution, insofar as it concerns the parties, not their offspring, are a matter of agreement, or "consent." Thus, whatever the social assumptions of Locke's day, on a strict reading of Locke, a man is no more morally obligated to support his wife (except in the discharge of his parental obligation or, in keeping with the moral obligation to keep one's promises, unless he has consented to do so) than he is morally obligated to support his children (male or female) once they "can shift for themselves" (II, §83). In short, for Locke, all adults, except the mentally retarded and the insane are capable of taking care of themselves.

10. Treatises, I, §§55-6, 100; II, §§55-6, 64-5, 182.
11. Treatises, II, §§177-80, 183.
12. Treatises, II, §§175, 182
13. Locke's 'Restoration Poem' quoted by Abrams, 'Introduction,' Tracts, p. 51
14. Treatises, II, §90
15. ELN, pp. 177, 167.
16. Treatises, II, §15, 95-7, 119.

17. Cf. John Dunn, 'Consent in the Political Theory of John Locke,' in Life, Liberty and Property, Essays on Locke's Political Thought, ed. Gordon J. Schochet (Wadsworth Publishing Co. Belmont, California: 1971), p.146. Dunn states that the denial of the natural right to emigrate to those who have given express consent "seems not to have any function in the structure of the theory."
- Cf. C. B. MacPherson, The Political Theory of Possessive Individualism: Hobbes to Locke, (Oxford: Oxford University Press: 1962), pp. 247-51. Macpherson holds that Locke's notion of express consent was designed specifically to exclude the propertyless class from the political process.
18. Treatises, II, §§119-121
19. Treatises, II, §122.
20. Treatises, II, §98.
- Cf. Willmore Kendall, John Locke and the Doctrine of Majority Rule, (Illinois Studies in Social Sciences, Vol. 26, No. 2 (1941) reprinted University of Illinois Press: Urbana, 1959, p. 114-6. Kendall tends in places to read Locke's majority principle as that of decision-making which is not Locke's intention since he is not advocating a particular form of government but only that the law-making body, be it comprised of a single individual, a few or the majority of citizens, have majority consent.
21. Treatises, II, §132-3
22. As such, I follow Simmon's characterization of Locke's 'tacit consent' as "silence and inactive consent expressed by the failure to do certain things." A. John Simmons, 'Tacit Consent and Political Obligation,' Philosophy and Public Affairs, Spring 1976, Vol. 5, No. 3, p. 279.
23. Treatises, II, §§90, 93, 168
24. Treatises, II, §159
25. Treatises, II, §242
26. Treatises, II, §§220, 224-5
27. Treatises, II, §225, see also II, §230.
28. See, Treatises, II, §§240, 242.

29. Treatises, II, §§230, 226-8, 242-3
30. For current literature and debate on Locke's notion of consent, see, E. F. Carritt, 'Political Obligation and Morality,' in Schochet, op cit; Dunn, op cit, Gough, Eight Studies, Chapter III; Kendall, op cit; Macpherson op cit; John Plamenatz, Consent, Freedom and Obligation, (Oxford: 1938); Hanna Pitkin, 'Obligation and Consent,' The American Political Science Review, LIX (1965), pp. 990-99; Simmons, op cit; Aldo Tassi, 'Locke on Majority Rule and the Legislature,' The Locke Newsletter, Summer 1973, No. 4, pp. 31-38.
31. Treatises, II, §6
32. Treatises, II, §§22, 23, 135.  
See, John Dunn, The Politics of Locke in England and America, (Cambridge: 1961): For Locke, "psychological acceptance of absolute power is morally more or less equivalent to suicide. Hence, no degree of psychological passivity on part of subjects can confer legitimacy upon power of absolute monarchy."
33. Treatises, II, §§124-131.
34. See, Dunn, "Consent in the Political Theory of John Locke," in Schochet, Life, Liberty and Property, op cit: "Consent for Locke is the rational consent of individuals which is limited by their own rights and the fundamental duty on which they rest, self-preservation." pp. 133, 134
35. See, Gough, Eight Studies, p.65 regarding the twin parameters of anarchy and tyranny within which Locke's notion of consent is expressed.
36. Treatises, II, 3; Tracts, pp. 212, 219
37. Tracts, p. 231
38. Tracts, p. 231-2; Treatises, II, §229.
39. Treatises, I, §70, 52-3; II, §170-2.
40. See, G. J. Schochet, "The Family and The Origins of the State in Locke's Political Theory," in Yolton, Problems and Perspectives: "Locke's departure from patriarchal tradition" lies in his "denial of natural origins of hereditary succession."
41. Tracts, p. 210; 166, 236-8; 136-8; 231-2; 223

42. Tracts, pp. 223, 219
43. Tracts, p. 219
44. Treatises, II, §3; Tracts, pp. 212, 219
45. Tracts, p.238. See page 182, above regarding Locke's notion of liberty here.
46. Tracts, p. 220
47. Tracts, pp.220-1
48. Tracts, p. 142
49. Several commentators ascribe a "definitely Hobbesian character" to Locke's early political writings because of the similarities in language between passages in the Leviathan and passages in the Tracts. It has also been alleged that Locke's description of the condition of men without government is "unmistakenly cribbed" from Hobbes's longer and more detailed account. (See discussion in Abrams, Introduction, Tracts, p. 75). However, for Hobbes:

The only way to erect such a common power [commonwealth] . . . is, to confer all the power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will, everyone one to his will . . . and therein to submit their wills to his will, and their judgments to his judgment. (My emphasis)

Thomas Hobbes, Leviathan, ed. Michael Oakeshott, (Collier Books, The MacMillian Co., New York: 1962), p. 132.

Thus, Hobbes eliminates freedom of judgment as well as of action. However, although Locke states in the Tracts that we must obey the magistrate in all our actions, he holds that we retain our freedom of thought. For Locke, but not for Hobbes, freedom of judgment is inalienable. (See Abrams, op cit, p. 77, and pages 204-05, above)

50. Tracts, p. 231
51. Cf. Abrams, 'Introduction,' Tracts, p. 73.
52. Treatises, II, §135

53. See pages 203, 206-07, above.
54. Treatises, II, §§159, 160  
For example, by prerogative, the magistrate has the right to destroy an innocent man's property to prevent the spread of fire.
55. Treatises, II, §135
56. Tracts, pp. 226, 231-2; Treatises. II. §§229, 6. See also ELN, pp. 183, 187, 189.
57. Tracts, pp. 212, 222, 220; ELN, pp. 151, 173, 187; Essay, II, xxvii, 6, 8; Treatises, II, §§7, 134, 136.
58. ELN, p. 151
59. ELN, pp. 185, 189.
60. ELN, pp. 185; 153, 157.
61. Treatises, II, §§135, 136
62. Treatises, II, §135
63. See footnote 79, below.
64. Tracts, p. 221
65. ELN, p. 117
66. Richard Hooker, 'Of the Laws of Ecclesiastical Polity,' in The Works of that Learned and Judicious Divine Mr. Richard Hooker, with an Account of his Life and Death by Issac Walton, 1664. (2 Vols. Oxford, Clarendon Press: 1865). Book I, ii, 1 (Vol. 1, p. 148)
67. Treatises, II, §160
68. Treatises, II, §5
69. Tracts, p. 221
70. For example, Locke's account of man's disposition to "contemplate God's works" and to revere the Author, man's inclination "to live in society," and his "inward instinct" to preserve himself (ELN, p. 159) are among the "natural inclinations" to which Aquinas refers as the main precepts of natural law: to preserve oneself, to reproduce and to educate offspring,

to know the truth about God and to live in society.  
The Summa Theologica of Saint Thomas Aquinas, translated  
 by the Fathers of the English Dominican Province, (reprinted  
 and edited by University of Chicago, Great Book Series,  
 Chicago: 1952), Part I of Second Part, Q.94, Art. 2. See,  
 also, Von Leyden, 'Introduction,' ELN, p. 36

71. Summa Theologica, Part I of Second Part, Q.90, Art. 1;  
 Q.92, Art. 2
72. Essay, II, xxviii, 6; ELN, P. 173; pp. 111-13
73. Summa Theologica, Part I of Second Part, Q.93, Art. 4  
 paraphrased by Hooker in Polity, Book I, iii, 4.  
 See, ELN, pp. 116, fn. 3
74. Von Leyden, 'Introduction,' ELN, p. 36
75. Ibid.
76. Francisco Suarez, De Legibus, ac Deo Legislatore, translated  
 by G.L. Williams et al., (Classics of International Law,  
 Oxford, 1944).
77. ELN. pp. 111-13
78. Von Leyden, "Introduction," ELN, p. 37
79. Abrams, 'Introduction,' Tracts, pp. 67-81  
 Von Leyden, op cit, pp. 30-43
80. Abrams, op cit, pp. 72, 70
81. Von Leyden, op cit, pp. 42, 41, 40
82. Von Leyden, op cit, p. 36
83. Ibid.
84. Abrams, op cit, p. 82, fn. 13
85. Abrams, op cit, p. 69
86. For Locke, physical laws as descriptions or explanations  
 of the regularities and uniformities in nature, e.g.,  
 'fire burns,' 'food nourishes,' etc. are not teleological  
 in the sense the descriptions or explanations of physical  
 objects are in terms of some end or future state to be  
 realized. (See, Ernest Nagel, The Structure of Science,  
 (New York: 1961), on "Functional and Teleological  
 Explanations," pp. 23-24) However, for Locke, physical

laws qua laws are functional and teleological in the sense that, as laws, they express implicitly God's commands, 'avoid fire,' 'eat,' etc. and thereby his purpose: the preservation and welfare of all mankind. See pages 172-73, above

87. Hooker, Polity, Book I, viii, 2, 3, (Vol. 1, pp. 171-2)
88. Essay, II, xxvii, 10. Preface to 2nd Edition of Essay quoted fn. 1 to II, xxviii, 11 (Volton, Vol. 1, p. 298)
89. Hooker, Polity, Book I, x, 8 (Vol, 1. p. 191)
90. ELN, Notes A and B, Latin and English translation of passage deleted from first essay, pp. 282-283
91. Hooker, Polity, Bk. I, viii, 10 (Vol. 1, p. 179)  
I, vii, 4 (Vol, 1, p. 168)--see, Treatises, II, §60.
92. Hooker, Polity, Bk. I, x, 2 (Vol. 1, p. 185);  
I, x, 6 (Vol. 1, p. 189)
93. Hooker, Polity, Bk. I, vii, 1 (Vol, 1, p. 165);  
Bk, I, vii, 3 (Vol, 1. pp. 167-8); Bk, I, vi, 5 (Vol. 1  
p. 165)
94. Hooker, Polity, Bk. I, vi, 5 (Vol. 1. p. 165);  
Treatises, II, §61
95. Hooker, Polity, Bk. I, viii, 11 (Vol. 1, p. 181)

## CHAPTER V

LOCKE'S CONCEPT OF NATURAL LAW  
AND ITS PROBLEMS

What is lawful is what is necessary for, and conducive to, the preservation and welfare of all mankind; what is lawful binds or obliges because it expresses God's will. Thus, the essential characteristic of natural law (the law, according to Locke, to which all human laws must conform if they are to qualify as 'law') is its Author's purpose in imposing it. This interpretation of Locke's concept of natural law, which emerges from the previous chapter on Locke's concepts of 'rights,' obligation' and his use of Hooker's functional definition of law, is substantiated by the arguments given in earlier ones.

Chapters II and III have shown that, for Locke, the capacities, inclinations, instincts and faculties which comprise human nature have a common function: to realize the purpose for which they have been implanted by man's Creator, God. This function is the means whereby Locke relates the concepts involved in his voluntaristic and rationalistic views of natural law--'desire,' 'volition,' 'freedom,' and 'reason'. Thus, first, Locke's functional concept of natural law accommodates both his voluntaristic

and rationalistic accounts of natural law (which, by the lack of his arguments to the contrary, he did not consider mutually exclusive). Second, since the end envisioned by this functional view concerns the preservation and welfare of the species, mankind, man, sanctions after death are irrelevant to Locke's theory of natural law. This is not to say that the prospect of such sanctions is not morally efficacious, but only that, for Locke, the efficacy of natural law does not depend on this prospect because (i) natural law, by virtue of its purpose, is not concerned with the career of men after their death, (ii) the anticipation of their fate after death rarely affects men's behavior, and (iii) the basis of such anticipation, religious beliefs, is not one on which human happiness depends.

In Chapter I it was shown that these three points and Locke's arguments for the last two, are supported by his definition of happiness in terms of conformity to natural law and of the painful conditions which ultimately result from non-conformity, conditions which, essentially, are those that arise in any state which is, or which degenerates into, a state of war. It is, for Locke, these conditions which, if anything, induce men to behave morally themselves, to uphold the punishment of those who fail to do so, and thereby to realize the end for which all obligation is imposed, the preservation and welfare of mankind. Consequently, natural law is efficacious during man's lifetime:

it governs human existence by virtue of the end for which it is imposed and the painful consequences which arise during men's lifetime if the realization of this end is thwarted.

Thus, provided it is borne in mind that Locke considered the propositions 'God exists' and 'God's creation is not without purpose' as dictates of reason, not merely articles of faith (which provisos will be critically discussed below), failure to conform to natural law is not due to unfamiliarity with those religious beliefs which postulate sanctions after death, but to the failure to use, or to use properly, the faculty of reason. This conclusion is borne out by Locke's arguments, given in Chapter II, that actions based on what the individual believes to be in his interest, but which infringe natural law, ultimately bring about conditions which are not conducive to his survival, let alone welfare. Consequently, such actions are contrary to the individual's interest, his happiness, and hence are irrational.

Man's happiness is therefore contingent on the exercise of his rational powers, and on his conformity to natural law. These contingencies are related by the moral end to be realized by such exercise and conformity, since the function of man's reason is to secure his happiness, his preservation and welfare, which in turn can only be realized by adherence to natural law. Hence, Locke's correlation of natural law and reason--what conforms to natural law conforms to reason and conversely--is based on the moral end

which defines the function of both: the same basis on which, as shown in Chapter III, Locke ultimately rests his arguments for the reality of ideas and of our knowledge about them.

The data of knowledge, simple ideas, have ultimately the same author, God, as the mind that receives, organizes and synthesizes this data, both of which are designed by God for the same purpose: to enable his creation, mankind, to survive and prosper. Similarly, natural or moral law and the regularities and uniformities in nature, physical laws, are dependent on God's will as are the capacity for sense perception, including that for pleasure and pain, and the faculty of reason--the capacity and faculty God has implanted in human nature in order that these laws be known and observed and, as a result, that the preservation and welfare of His creation, man, be secured. As shown in Chapter III, it is this consequence which determines the reality of our ideas and of our knowledge about them, and which guarantees the objectivity of natural and physical laws, i.e., that these laws are not inventions of the mind, fictions, but are discovered and interpreted by man's reason on the basis of his perceptions.

Thus, both Locke's concepts of reason and knowledge are practical by virtue of the moral end which defines the function of the former and the reality of the latter. As such, as also shown in Chapter III, both are compatible

with Locke's empiricism: the historical priority of sense perception, of particulars; his denial of innate ideas or principles; his ridiculing the restriction of the exercise of reason to logical inferences, and its attribution to only those capable of making such inferences; and his consequent implied emphasis on "native rustic reason"<sup>1</sup> or the practical function of reason. It is this function of reason by which man understands, and interacts with, his environment, by which, according to Locke, a vast amount of knowledge has been acquired, and on which the improvement and enlargement of man's knowledge will primarily depend. Furthermore, this practical concept of reason is consistent with Locke's restricting the applicability of obligation, and the right of jurisdiction over oneself and over those who are incapable of looking after themselves, to those individuals who are capable of taking care of themselves. These individuals are capable of knowing what is necessary for such care, and hence are capable of knowing natural law. Locke identifies these individuals as having the "use of Reason"--not an intellectual elite but all adults, except those who are mentally retarded or insane.<sup>2</sup>

In brief, the functional interpretation of Locke's theory of natural law in terms of the end for which its Author, God, imposes it, is not only warranted by Locke's concepts of 'rights,' and 'obligation,' and his use of Hooker's definition of law, but by his theory of knowledge

and that of human behavior discussed, respectively, in Chapters III and II.

The problems with Locke's functional concept of natural law are (i) its inability to accommodate his claim that morality is demonstrable and (ii) its presuppositions, namely, Locke's arguments for the existence of God and his assertion that God's creation has a fixed aim, a purpose.

With respect to the first, although the two concepts of reason articulated in Chapter III and the two levels of knowledge to which they refer are not mutually exclusive, Locke's functional concept of natural law questions the expression of moral laws as universal formulae, the harmony of these laws in practice, and thereby the demonstrability of morality. In his early works, Locke considered all moral laws as harmonious with each other and did not recognize the possibility that conformity to one may entail the infringement of another--such possibility would, of course, question the harmony of moral laws in practice, and the demonstrability of these laws, asserted and implied, respectively, in ELN.<sup>3</sup> However, while maintaining the demonstrability of morality in his later years, Locke recognizes in the Treatises, through his concept of prerogative, the possibility that conformity to one moral law may entail the infringement of another. Such conflict, by Locke's examples of prerogative, arise in particular cases when certain moral laws can be transgressed if it is in the

public interest: pardoning an offender or destroying an innocent man's property to prevent the spread of fire.<sup>4</sup> In this respect, prerogative is analogous to Aristotle's concept of equity.

Locke was familiar with Aristotle's work, recommended Nichomachean Ethics to his students, and quoted, in ELN, from Book V in which Aristotle spells out his concept of equity.<sup>5</sup> For Aristotle, equity is distinct from law:

. . . the equitable is just, but not the legally just, but a correction of legal justice. The reason is that all law is universal but about some things it is not possible to make a universal statement which shall be correct.

. . . . .

And this is the nature of the equitable, a correction of law where it is defective owing to its universality.<sup>6</sup>

Thus, in Aristotle's view, equity is not law, but the rectification of law insofar as equity deals with those matters which fall outside the universal formulae of law. As Barker puts it, for Aristotle, "Equity is justice, but it is not law":

Law by its very nature, as a system of rules is general or universal; it cannot 'condescend upon particulars'. Equity has that grace of condescension.<sup>7</sup>

Locke, on the other hand, does not treat prerogative as a form of justice distinct from law. His functional view of law precludes this distinction, and accordingly, Locke defines both prerogative and civil law in terms of the moral law which prescribes the function of political power. Thus, on the one hand, Locke's functional view of law prohibits

the exclusion of prerogative from the scope of law; on the other, the 'condescending to particulars' and the moral transgression of natural law entailed by prerogative, question, respectively, the expression of natural law as universal formulae and the harmony of moral laws in practice.

This problem has its roots in Locke's early works. In the Tracts, the scope of law also includes particular circumstances. However, in this work, those circumstances relate to morally indifferent matters which through Locke's concept of preceptive power (which has the same moral determinant as that of prerogative in the Treatises--to preserve the public welfare) are transformed into morally necessary matters. (See Chapter IV, pages 203-04, above) Thus, in both works, the inclusion of particular circumstances within the scope of law is by the moral law which prescribes the function of civil law. However, in the Tracts, there is no conflict between moral laws, only between morally indifferent matters.

Locke initially distinguishes morally necessary or obligatory matters from indifferent ones as those, respectively, which are prescribed by natural law and those which fall outside its purview.<sup>8</sup> Such distinction cannot however accommodate the transformation of morally indifferent matters into morally necessary ones. In the Tracts and ELN Locke attempts to maintain this distinction and to accommodate this transformation by distinguishing between moral laws

whose obligation is absolute and those whose obligation is conditional and circumstantial, the former referring to morally necessary matters, the latter to morally indifferent ones.<sup>9</sup> By this distinction, all matters or things come within the scope of moral law but some, morally indifferent ones, only come under natural law's jurisdiction when circumstances deem appropriate. However, Locke's arguments fail because, as will be shown, those concerning conditional or circumstantial moral obligation (those referring to morally indifferent matters) are applicable to moral precepts whose obligation Locke contends is absolute and which, by comparison, refer to morally necessary matters. While such failure emphasizes Locke's functional view of law, it also emphasizes the problem generated by Locke's concept of prerogative--the inability of Locke's theory of natural law to accommodate his claim that morality is demonstrable.

As examples of the circumstantial character of certain moral precepts, Locke cites in ELN the duty to perform religious ceremonial practices (which practices, in the Tracts, are considered in themselves as morally indifferent) and that to be charitable. We are not continually obliged to fulfil either duty but only when circumstances deem appropriate--in the case of the latter, when our means permit and the recipient is worthy. Locke adds that the duty not to slander is similarly circumstantial or conditional in that it is contingent on our talking.

Similarly, as Locke points out in the Tracts, the duty to keep our promises is contingent on our making them. In the case of slander, Locke states that "the matter of the act [talking] is neither good nor bad, but the circumstances accompanying it are so determined." While this characterization may be debatable, all the examples Locke gives are those where moral precepts refer not to the matter or act, which is in itself morally indifferent, but to the circumstances which occasion or accompany it.<sup>10</sup>

By way of comparison, Locke cites the moral precepts prohibiting theft and murder which, as such, presumably do not refer to circumstances, and in which the matter or act is not morally indifferent.<sup>11</sup> Now the act involved in murder and theft is taking another's life or property, respectively. Locke would not, however, wish to argue that such acts are morally reprehensible if they were for self-defence: killing one's assailant or, to which Locke makes specific reference in the Essay,<sup>12</sup> taking or destroying his weapon, or if they were performed by civil authority in accordance with its duty to enforce moral law.

This point is implicitly borne out by Locke stating in the same context, that most moral precepts are founded on relations among men. For example, a subject is bound to obey his prince but not everyone is a subject; parents are bound to feed and rear their children but no-one is compelled to become a parent. Locke's point here is the

same as that for the examples he gives of moral obligation which is circumstantial: namely, that moral precepts oblige not the circumstances or relations to which they refer.<sup>13</sup> Whatever the historical antecedents of Locke's distinctions between different types of obligation, between morally necessary and indifferent matters, and their interrelationship may be,<sup>14</sup> his arguments for them do not hold up. Even if one grants Locke's conclusions that the obligation of natural law is perpetual and universal because the non-existence or end of the circumstances and relations to which moral precepts may refer does not nullify the obligation of these precepts, his distinction between morally necessary and indifferent matters cannot, on his arguments, be maintained. For, by his examples of both, moral precepts refer to circumstances and relations holding between men; alternatively, the matters or acts of all moral laws are in themselves morally indifferent.<sup>15</sup> Such reference accommodates the inclusion of particular circumstances within the scope of law but, by the same token, it questions the expression of moral precepts as universal formulae. Even if these circumstances could be stated in general terms, such formulations would not resolve the conflict created by Locke's concept of 'prerogative' whereby the magistrate has the right to act against moral law.

In short, there is an inherent conflict in Locke's view of natural law. Locke's claim that morality is

demonstrable (a claim which he attempts to justify in his theory of knowledge in the Essay and to realize in his last years<sup>16</sup>) entails that, in principle, we are capable of knowing with logical certainty what is morally obligatory. However, such certainty is precluded if moral laws are at variance with each other, either logically or in practice. Consequently, Locke's claim for the demonstrability of morality rests on his view of moral laws as a systematic body of prescriptions, each of which is logically consistent and harmonious in practice with the others. However, by his concepts of preceptive power and prerogative, Locke recognizes that circumstances play their part in determining what is morally obligatory and, as a result, the possibility of a conflict between moral laws is real.

Locke does not in his later works give an analysis of obligation, let alone one in terms of that given in the Tracts and ELN, the distinction between morally necessary and indifferent matters. He does cite in the Essay,<sup>17</sup> the distinction between good, bad and indifferent actions by reference to natural law but he does not dwell on this distinction and there is not, therefore, any clarification of the above problems generated by his arguments for it in the Tracts and ELN. The absence of this distinction in the Treatises is not surprising given the moral transgression of moral laws through the exercise of prerogative, including those which were characterized in ELN as absolute moral

prohibitions, e.g. taking or destroying an innocent man's property.

In the last essay of ELN, Locke states that:

...by the basis of natural law, we mean some sort of groundwork on which all other and less evident precepts of that law are built and from which in some way they can be derived, and thus they acquire from it all their binding force in that they are in accordance with that, as it were, the primary and fundamental law which is the standard and measure of all others laws dependent on it.<sup>18</sup>

Locke does not go on and tell us this "primary and fundamental law." His main purpose here is to show that utility 'what an individual believes to be to his advantage' is not the origin of natural law, and that 'what is useful and beneficial to the individual'--peace, friendship, property, freedom, security, etc., i.e., his happiness, is the consequence of obedience to natural law.<sup>19</sup> However, in the Treatises, Locke gives the law which is the measure of all others: God's wish that his creation, man, be preserved and prosper. This law is "fundamental" because it is the end for which all moral precepts are imposed to realize and because "no Humane Sanction can be good or valid against it."<sup>20</sup> However, while all moral precepts are designed according to, and derive their obligation from this fundamental law, it does not follow that they are all necessarily consistent with each other in practice. Locke's concept of prerogative shows otherwise and casts his notion of fundamental law in a way other than one as the basis for the logical derivation of all other laws, i.e., that this

law which prescribes the end to be realized by moral laws and, in particular, that intimately connected with it, that prescribing the function of civil law, are 'fundamental' in that they have moral priority if circumstances deem that they conflict with other moral precepts. Such moral priority emphasizes not the universal or absolute nature of law but the circumstances and relations holding between men which govern its applicability.<sup>21</sup> It questions the view of natural law as a body of moral prescriptions each of which is logically consistent and harmonious in practice with the others, and, as a result, the claim that morality is demonstrable.

In brief, a functional interpretation of Locke's concept of natural law is corroborated by (i) Locke's failure to substantiate his distinction between morally necessary and indifferent matters; (ii) his concepts of preceptive power and prerogative whereby, respectively, morally indifferent matters become morally obligatory and moral laws are morally transgressed; and (iii) the absence in Locke's work of a concept analogous to Aristotle's concept of equity. However, these three points make doubtful, if not impossible, the accommodation of Locke's claim that morality is demonstrable within the context of his own concept of natural law and, as a result, of his own moral theory.

This claim, as shown in Chapter III is not essen-

tial to Locke's theory of natural law insofar as our knowledge of this law, and hence its obligation, is not dependent on such demonstration. However, it is not to be lightly dismissed from Locke's moral theory. The diversity of opinion on what constituted the content of natural law played no small part in the controversy to which the Tracts were addressed and in Locke's denial throughout his works that men's consciences determine what is morally obligatory. Appeal to divine law, that revealed in the Scriptures, engendered rather than resolved dispute on the matter, since, as is particularly evident in the first of the Tracts, the multiplicity of interpretations of the Scriptures largely contributed to the controversy over what is morally obligatory and what is morally indifferent.

The resulting lack of certainty on what constitutes natural law was, if not the sole reason, an important one in prompting Locke to assert in ELN that whatever is in accordance with natural law is in accordance with reason and that men's duties follow from human nature as the properties of a triangle were derived from its nature.<sup>22</sup> The Essay bears out this conclusion. In this work, Locke complains that much of the controversy in the Schools is semantic, is due to the use of terms which either have no meaning or which disputants were unable to define:<sup>23</sup> the same work in which he argues that although moral concepts are highly complex, they are capable of being exhaustively defined and

thereby relations among them demonstrated.<sup>24</sup> In other words, the diversity of opinion and the resulting lack of certainty on what constitutes the content of natural law is in principle capable of resolution because morality is capable of demonstration.

However, while Locke's functional view of law gives flexibility to law in accommodating circumstances, it also gives a degree of arbitrariness to what is morally obligatory. For those laws which have moral priority and which are essential to Locke's view of natural and civil law, those prescribing their purpose--to preserve all mankind and the public welfare, respectively, lack specificity, are open to the most diverse interpretation and thereby engender, rather than resolve, controversy on what is morally obligatory. Thus, insofar as Locke's theory of natural law cannot accommodate the demonstrability of morality and, as a result, the possibility of a resolution of the controversy on what constitutes natural law, it is, by his own criteria, inadequate.

Locke's arguments to justify the basis of his theory of natural law, the existence of God and the end which He wishes realized, are problematic at two levels, at the philosophical and non-philosophical levels of knowledge. In ELN and the Essay, Locke gives a reformulation of Descartes' anthropological argument for the existence of God and, in the former work, argues that since "it is con-

trary to such great wisdom to work with no fixed aim," it follows that "he [God] has not created this world for nothing and without purpose."<sup>25</sup>

First, Locke's assertion in his anthropological argument of the existence of God that "man knows by an intuitive certainty, that bare nothing can no more produce any real being than it can equal two right angles"<sup>26</sup> does not demonstrate that every existent necessarily has a cause. As Hume points out, the fallacy of "the argument . . . of [Mr. Locke] to demonstrate the necessity of a cause" is that he presupposes nothing as a cause in order to prove that it is not a cause:

. . . when we exclude all causes we really do exclude them, and neither suppose nothing nor the object itself to be the causes of the existence; and consequently can draw no argument from the absurdity of these suppositions to prove the absurdity of that existence.<sup>27</sup>

Furthermore, as Hume also points out, no causal connection is a logically necessary one since the existence of an object without a cause is conceivable:

. . . all distinct ideas are separable from each other, and as the ideas of cause and effect are evidently distinct, 'twill be easy for us to conceive any object to be nonexistent this moment, and existent the next, without conjoining to it the distinct idea of a cause of productive principle. The separation, therefore, of the idea of a cause from that of a beginning of existence is plainly possible for the imagination; and consequently the actual separation of these objects is so far possible, that it implies no contradiction nor absurdity; and is therefore incapable of being refuted by any reasoning from mere ideas; without which 'tis impossible to demonstrate the necessity of a cause.

. . . . .

[Thus] the foregoing proposition [Whatever has a beginning has also a cause of existence] is neither intuitively nor demonstrably certain.<sup>28</sup>

Second, the possibility of something being created without any purpose in mind is not inconceivable nor can it be rendered as such with respect to God without limiting his omnipotence. This objection, in another context, has been considered by one commentator as a "'trivial" for Locke.<sup>29</sup> However, it is an objection Locke himself employs but, again, in another context.<sup>30</sup> In any case, Locke's assertion that God creates with a fixed purpose in mind presupposes the existence of God, as Creator, and Locke's questionable demonstration of God's existence.

In ELN, Locke offers an alternative argument for God's existence: "a powerful and wise Creator" is "undoubtedly inferred" from "the order, array and motion of [natural] objects," those of sense perception.<sup>31</sup> Locke elaborates on this 'undoubted inference' in the Essay. In his analysis of causation or 'power,' Locke restricts, on empirical grounds, the attribution of active power, that which originates motion and thought, to thinking and volitional agents.<sup>32</sup> Any movement, creation or change which is independent of finite volition is therefore the result of divine volition.<sup>33</sup> However, Locke's argument is subject again to Hume's criticism that the idea of causal or active power is no more empirically evidenced in actions or voluntary movements than it is in physical change.<sup>34</sup> Thus,

Locke's argument that God is the cause of natural creation and change because, on empirical grounds, causal or active power is only attributable to a thinking, volitional being, cannot be upheld. The existence of a "powerful and wise Creator" can no more be "undoubtedly inferred" from "the order, array and motion" of the physical world than it can be so inferred from the existence of a thinking, volitional agent, namely, man. (See page 250, above.)

There is one further argument Locke gives in ELN which deserves mention, partly because it emphasizes the problem inherent in all of Locke's arguments so far, and partly because it is relevant to a functional interpretation of Locke's concept of natural law. Locke states that by sense perception and reason, man is "disposed" to contemplate God's works, that by an "inward instinct" he is urged to preserve himself, and that by a "certain propensity of nature" aided "by the gift of speech and through the intercourse of language," man is inclined to live in society. Locke concludes that the respective duties, to revere God, to preserve oneself and to live in society and "to fulfil other things appropriate to a rational nature" follow from human nature as the properties of a triangle follow from its nature.<sup>35</sup> First, the last two duties Locke specifies are those required by the fundamental law to which Locke refers in the last essay of ELN and which he spells out in the Treatises: the preservation of all mankind. (See page 246,

above). Second, these duties and hence that prescribed by the fundamental law, as well as other 'less evident precepts,' are logically derivable from human nature.

Aside from the problem of the demonstrability of these duties, spelt out above, the derivation of moral precepts from a human or a rational nature, together with Locke's assertion that natural law is in accordance with reason and conversely, raise the possibility that God is an unnecessary entity in Locke's concept of natural law and, as a result, in his moral theory. To be sure, Locke derives the duty to revere God from man's 'disposition' to reflect on God's works, but the other two duties he specifies (and from which the fundamental law in the Treatises is derived), by virtue of their different origin, the instinct of self preservation and the social one, are independent of this 'disposition' and the duty derived from it. Significantly, in the last essay of ELN Locke harmonizes the instinct to seek one's own welfare with that to live in society, without mention of the duty to revere God, through his concept of utility or rational interest.<sup>36</sup> (See Chapter II, pages 124-25, above.) Furthermore, the 'disposition' resulting from sense perception and reason is directed primarily, on Locke's arguments, to understanding nature so that man's survival and welfare can be secured, not to contemplating nature's Author. (See Chapter III, pages 156 ff., above) Lastly, the inherent reasonableness of

natural law asserted by Locke's correlation of natural law and reason limits God's omnipotence: it entails that God, as author of natural law, acts from the necessity of reason.

However, it would be pointless at this stage to pursue the possibility of God's redundancy in Locke's moral theory because all Locke's arguments so far are at the philosophical level. Even if Locke's demonstration of God's existence, Descartes' anthropological argument, the 'undoubted inference' of this existence from nature, and the inconceivability of God creating without purpose were tenable, and even if moral duties and the purpose or end for which they are imposed were capable of being demonstrated from human nature, Locke's theory of natural law cannot rest on these arguments and assertions. For if it did, it would inherit the problem discussed in Chapter I: the obligation of natural law would not be imposed until the logical inferences involved were known and it would be restricted to those who were capable of making, or understanding, such inferences. But Locke does not make the obligation of natural law contingent on its demonstration and therefore on some future event. Furthermore, the applicability of obligation and Locke's concept of reason, spelt out in Chapter III, deny the restriction of obligation and of reason to an intellectual elite; place the level of knowledge of natural law at that at which all mature responsible individuals, those who are obliged by this law, are capable

of acquiring it, the non-philosophical; and define the means by which these individuals gain knowledge, reason, in terms of its original and primary role: its practical function to secure man's happiness.

As shown in Chapter II, in terms of this practical function, actions, and the beliefs on which they are based, are rational if they realize what is useful and beneficial to the individual; they are irrational if the converse holds. In ELN Locke expresses this point in terms of natural law: the individual's happiness, his security of person, property, freedom from duress, etc., is contingent on conformity to natural law; in the Essay, Locke elaborates on it by defining 'volition,' 'freedom' and thereby 'reason' in terms of the motivation of all actions: desire, the pursuit of pleasure or happiness and the avoidance of pain or misery. Accordingly, moral precepts, e.g. the duty to preserve one's self and secure one's welfare without endangering the life, liberty and property of others except for the purpose of defence, are reasonable because of the harmful consequences which ultimately result if they are transgressed. Thus, moral precepts have the voluntaristic as well as rational element which entitle them to the status of law.

The obvious objection to this characterization of moral laws is that it fails to capture one of Locke's requirements of law: that of an author. Its counter is that

this requirement is redundant in that this characterization meets Locke's assertion that what is in accordance with natural law is in accordance with reason. If what is reasonable and therefore moral does not coincide with God's will, natural law does not lose its efficacy. For if the contrary were the case, natural law would not be capable of being known except by revelation, and its obligation would be imposed only on those who were familiar with such revelation. As a result, Locke's theory of natural law (that this law is capable of being known by natural as opposed to supernatural means, by the light of nature, sense perception and reason, and that, therefore, its obligation is imposed on all mature, responsible individuals) would be felled in one swoop. Consequently, if, as Locke alleges, moral law coincides with God's will because he acts rationally, such coincidence is incidental to natural law. In short, Occam's razor deems God an unnecessary metaphysical entity in Locke's theory of natural law. Thus, the problem which arose at the philosophical level of knowledge remains at the non-philosophical or practical level: Locke's rationalism gives God at most a token role and one which limits His nature, His omnipotence. And even this token role is questionable, partly because Locke's arguments for the existence of God require an intellectual acumen above that required for knowing natural law, and partly because these arguments do not, on critical analysis, hold up.

It would be hasty to conclude that Locke agreed with Grotius, with whose work he was familiar, that natural law holds whether or not God exists.<sup>37</sup> In his early and later political works, as in ELN and in the Essay, Locke is unwavering in positing God as the source of all authority and obligation. And Locke's arguments concerning physical laws in general and causation in particular were not only to accommodate but to emphasize God's role in the physical world and in human knowledge. To be sure, in the Essay,<sup>38</sup> Locke puts limits on men's faith, but such limits were not to make faith irrelevant to human experience but to reconcile it with reason--a reconciliation on which he elaborates in his work, The Reasonableness of Christianity. But perhaps the most significant aspect of Locke's thought which bars comparison of his view of natural law with that of Grotius' is Locke's A Letter concerning Toleration in which he advocates tolerance of different customs and religious beliefs and sects in the political community, except Catholicism and atheism.<sup>39</sup> Locke justifies the exception of atheists on the grounds that they cannot be entrusted to keep their oaths, and without this trust, as Locke points out in ELN and Treatises, the bonds of society cannot be cemented.<sup>40</sup> In other words, for Locke, atheists are not capable of moral behavior since they do not recognize the Author of moral laws. While this conclusion is questioned by Locke's rationalism (even atheists, provided they act rationally,

behave morally), it emphasizes the basic tenet of Locke's moral theory: moral precepts are expressions of God's will. If God's existence is denied or questioned, then the rules dictated by reason and the end which their adherence realizes are not, respectively, expressions of God's will and purpose: for Locke, they lose their binding force and they become at best matters of prudence not of obligation.

It is possible that Locke's position on atheism in A Letter concerning Toleration and his arguments for God's role in his moral theory and in his account of the physical world and of human behavior and knowledge were token ones made by a cautious man, but this possibility seems unlikely.<sup>41</sup> And it is because of this improbability that Locke's theory of natural law again fails in terms of Locke's own criterion: to show that God is the source of all authority and obligation.

However, while Locke's rationalism in his theory of natural law renders God's role in it redundant, this redundancy salvages his theory from the failure of his arguments to prove the existence of its Author. Locke's arguments for natural law cannot therefore be dismissed as philosophically questionable on the grounds of this failure. Nor can they be dismissed as such on the charge that sanctions after death are a necessary prerequisite for the efficacy of natural law. This charge cannot be upheld for, as shown in Chapter I, Locke recognizes that such sanctions are articles of faith, compatible with reason in that they are logically

possible but, by the same token, they are not logically necessary. He defines man's happiness in terms of natural law without recourse to such sanctions. And he ridicules the notion that an individual's happiness is contingent on religious beliefs. Furthermore, Locke's concept of practical reason and its correlation with natural law characterizes moral precepts as reasonable because of the misery during men's lifetime which ultimately results from their transgression. As such the rationalist and voluntaristic aspects of Locke's concept of natural law are capable of being considered without reference to authorship of this law or to sanctions after death.

Neither of the problems spelt out above challenges the functional interpretation of Locke's concept of natural law given at the beginning of this chapter. Although this interpretation questions Locke's claim for the demonstrability of morality and, by Locke's own criterion, renders his theory inadequate, this inadequacy is incidental to Locke's theory of natural law because knowledge of this law is not dependent on its demonstration nor is its obligation postponed until, and restricted to those who understand, this demonstration. This conclusion is not the result of a functional interpretation of Locke's concept of natural law but of his assertion, which this interpretation accommodates, that all mature, responsible individuals are morally responsible. And the problem with Locke's arguments for the existence of

God is not peculiar to this interpretation. Again, this problem is incidental to Locke's theory of natural law insofar as God's role is made superfluous by Locke's rationalism in general, and by his practical concept of reason, in particular.

In summation, for Locke, the essential characteristic of natural law is the end to be realized by adherence to it. This characteristic is the basis on which Locke develops his concepts of 'obligation' and 'rights' in his political theory though his concepts of 'property,' 'consent,' 'preceptive or political power,' and 'prerogative.' And as shown by Locke's concepts of 'desire,' 'volition,' 'freedom,' and 'reason,' this characteristic is the basis of Locke's voluntaristic and rationalist views of natural law and of their interrelationship. Thus, Locke's functional concept of natural law is distinctive because he develops it through the key concepts of his political theory, and because he reconciles a voluntaristic view of law with a rationalist concept of obligation. This reconciliation is possible because, contrary to the arguments of his critics, Locke's voluntarism is not dependent on any article of faith, e.g., existence after death, and his rationalism is not restricted to what is demonstrable. While there are certain problems with Locke's arguments for natural law, they are such that his theory can be salvaged without recourse to religious beliefs, to a possible future event and to his questionable

arguments for the existence of God. Consequently, taken in itself and for the light it sheds on other aspects of his thought, e.g., his epistemology, Locke's concept of natural law is not to be dismissed as philosophically uninteresting.

Footnotes - Chapter V

1. Essay, IV, xvii, 6
2. Treatises, II, §61  
See, also, Chapter IV, fn. 9, pages 226-27, above
3. ELN, p. 199. ". . . the first example of Locke's celebrated contention that mathematics and morality are parallel in that they are both capable of demonstration." (Von Leyden, 'Introduction,' ELN, p. 54.)  
ELN, p. 213: "The duties of life are not at variance with one another..."
4. Treatises, II, §§159, 160
5. See, Von Leyden, 'Introduction,' ELN, p. 31, p.35, fn.3.  
ELN, p. 113
6. Aristotle, Nichomachean Ethics in The Basic Works of Aristotle, edited and with an introduction by Richard McKeon (Random House, New York: 1931, 21st printing, 1968), Book V, x, p. 1020
7. Ernest Barker, 'Appendixes' to The Politics of Aristotle (Oxford University Press: 1946, Galaxy reprint, New York: 1965), p. 368, fn. 1; p.367
8. Tracts, pp.222-3
9. ELN, pp. 193-97. See also, Tracts, p. 226.
10. ELN, pp. 193-197; Tracts, see, e.g., pp. 126, 239 regarding religious ceremonial practices, and pp. 225-26 concerning the duty to keep promises.
11. ELN, pp. 193-95.
12. Essay, II, xxviii, 16.
13. ELN, pp. 195-7
14. Von Leyden, ELN, p. 193, fns. 1,2; p.195, fns. 1,2; p. 197, fn. 1
15. Locke virtually makes this point in his chapter on moral relations in the Essay, II, xxviii, 14-16.

16. See Gough, Eight Studies, p. 8, fn. 2, and H. C. Blumenfeld, "John Locke, A Science of Ethics," unpublished Phd. dissertation (Columbia University: 1965), pp. 242 ff.
17. Essay, II, xxviii, 15. See also, R. I. Aaron & J. Gibb, An Early Draft of Locke's Essay, etc. [Known as Draft A] (Clarendon Press, Oxford: 1936), p. 199.
18. ELN, p. 205
19. ELN, pp. 207-215
20. Treatises, II, §7, 135
21. In his Journal of June 24, 1681, Locke contrasts 'physique, polity and prudence, which are not capable of demonstration with the truths of mathematics and morality.' Gough notes that "[t]his passage...makes clear that in Locke's view the law of nature, though it bulked more largely in the Second Treatise on Government than in any other of his published works, essentially belongs to morals rather than to politics. It was, in fact, the moral foundation on which the political superstructure was to be built, the moral criterion by which political action was to be tested." Gough, Eight Studies, p. 6, fn. 2. However, the moral criterion Locke gives in the Treatises, the fundamental law of nature, questions the contrast he draws in 1681. With respect to the other basis on which Locke implicitly distinguishes between 'prudence' and 'morality,' see page 258, above.
22. ELN, p. 199
23. Essay, III, x--on the 'Abuse of Words,' in particular Sections 6-14; 16; 20-21; 26, 28, 31 and 34.
24. Essay, III, ix, 6; III, xi, 15-17.
25. ELN, pp. 153, 157; Essay, IV, x.
26. Essay, IV, x, 3
27. David Hume, A Treatise of Human Nature, ed. Ernest C. Mossner (Penguin Books Inc. Baltimore: 1969), I, iii, p. 129
28. Hume, op cit, I, iii, p. 127. See, also, David Hume, An Inquiry concerning Human Understanding, edited Charles W. Hendel (Library of Liberal Arts, Bobbs-Merrill Co., Inc., Indianapolis, New York: 1955), Section IV, Part II.

29. Gough, Eight Studies, p. 5
30. Essay, IV, iii, 6.
31. ELN, p. 153
32. Essay, II, xxi, 4, 72, 73.
33. Essay, IV, iii, 28, 29  
Ganforth, ed., Locke, Some Thoughts on Education, p. 214
34. Hume, Inquiry, Section VII, Part I.
35. ELN, p. 157, p. 199
36. ELN, pp. 213-215.
37. Hugo Grotius, De Iure Belli ac Paci Libri Tres, translated F. W. Kelsey in The Classics of International Law, publication of the Carnegie Endowment for International Peace, no. 3, 1925), Prolegomena, §11.  
See also A. P. d'Entreves, Natural Law, (Hutchinson & Co. Publishers, Ltd., London: 1970), pp. 53-56.
38. Essay, IV, xviii
39. John Locke, A Letter concerning Toleration, ed. Charles L. Sherman (D. Appleton-Century, Inc. 1937) reprinted by University of Chicago Press, Great Book series, 54 Vols. Chicago: 1952), Vol. 35, pp. 1-22, in particular, p. 18
40. Locke, A Letter concerning Toleration, op cit, p. 18  
ELN, p. 213; Treatises, II, §§221, 222. See, also, Laslett, Introduction, Treatises, pp. 126-30
41. See, e.g., BL. Mss. c. 28, Fol. 141, paper entitled "Ethica B," John Locke's unpublished manuscripts, Lovelace Collection:

The foundation of all law is dependency. A dependent intelligent being is under the power and dominion of him on whom he depends and must be for the ends appointed by that superior being. If man were independent, he could have no law but his own will, no end but himself. If such a condition existed, man would be God to himself.

quoted by Blumenfeld, "Locke, A Science of Ethics," op cit, p. 174. According to Gough, "Ethica B" was written in Locke's last years, Gough, Eight Studies, p. 8, fn. 2.

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