

Is Locke a Libertarian?

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In the basement of the Cato Institute, the preeminent libertarian think tank in the world, one finds twenty-four black-and-white portraits of great thinkers arranged chronologically. The very first one is a reprint of Sir Godfrey Kneller's portrait of John Locke. Locke is cited more than any other philosopher in Robert Nozick's *Anarchy, State, and Utopia*, generally considered to be the foundational text of modern libertarian political theory.¹ Murray Rothbard, one of the most influential libertarian thinkers, praises "the great libertarian political theorist John Locke," while Friedrich Hayek, who is greatly admired by libertarians, claims to find in Locke the origins of "the true individualism" he defends.² All in all, as David Boaz writes in *The Libertarian Reader*, Locke may be regarded as "the principal architect" of libertarianism.³

Conservatives increasingly agree. Two of the most prominent thinkers on the contemporary right, Patrick Deneen and Yoram Hazony, have written scathing indictments of what they call Lockean liberalism but in effect describe as libertarianism. In *Why Liberalism Failed*, Deneen criticizes Locke for ushering in "anthropological individualism and the voluntarist conception of choice."⁴ In *The Virtue of Nationalism*, Hazony condemns Locke's *Second Treatise* for its "rationalist view of human political life that has abstracted away every bond that ties human beings to one another other than consent."⁵ Locke, in this view, is a libertarian in all but name since he makes unfettered individual choice the highest good.⁶ Given Locke's profound influence on the American founding and the modern world more generally, his relationship to libertarianism is of more than mere academic concern.⁷ A careful analysis of this question can shed light on whether certain important post-Lockean libertarian developments—applauded by some,

deplored by others—necessarily flow from his premises. Although the literature on Locke is voluminous, scholars have not directly addressed this question.

At first glance, one does indeed find much in Locke's political writings that accords with libertarianism, broadly defined as a political theory that posits that consenting adults should generally be free to do whatever they want and that the government (if there is to be one) should generally be limited to preventing aggression.⁸ Libertarianism, as its name indicates, is a philosophy of liberty, and Locke is nothing if not a philosopher of liberty. He teaches that men are, by nature, in "a state of perfect freedom" in which they possess "an uncontrollable liberty" to dispose of their "person or possessions."⁹ Like libertarianism, Locke's political teaching emphasizes rights over duties and the individual over the community.¹⁰ Both also affirm the concept of self-ownership.¹¹ Locke teaches that "every man has a property in his own person" (II 27) and is, in fact, "absolute lord of his own person and possessions" (II 123), while Rothbard makes self-ownership "the fundamental axiom of libertarian theory."¹²

Turning from the individual to the state, Locke concludes that "government has no other end but the preservation of property" (II 94). The state exists to secure the property of the people (which includes their lives and liberty), not to improve their character—or as libertarians would say "to legislate morality." Libertarians would agree with Locke that laws "attempt, so far as they can, to protect the property and health of subjects from force or fraud on the part of others, not from neglect or waste on the part of the owner."¹³

The libertarian reading of Locke, though clearly buttressed by many passages in the *Second Treatise* and a *Letter Concerning Toleration*, must, nonetheless, account for the many other passages that cannot readily be reconciled with libertarianism, however one may define it. Locke, for example, restricts voluntary emigration, defends mandatory conscription, imposes far-reaching restrictions on private behavior, beliefs, and speech, and limits divorce. These are not fringe remarks found in unpublished manuscripts or occasional tracts but important political teachings articulated in some of

his most famous published works. Almost all libertarians would categorically reject them. Some of these Lockean positions are in fact so far removed from their worldview that libertarians do not even bother considering them.

Locke, then, is not a libertarian. As this essay will argue, not only does he grant several important broad powers to the state that go well beyond what any libertarian would countenance, but the Lockean and libertarian political projects are animated by different ends. Libertarians aim to emancipate individuals from coercive strictures, whereas Locke aims to preserve mankind and thus recognizes binding positive duties to prevent the needless deaths of others. Locke does not just go beyond libertarianism; he contradicts it in several crucial ways.

There is, however, an undeniable libertarian flavor to Locke's thought, and it is reasonable to wonder whether he does not unwittingly pave the way for libertarianism. Libertarianism could ultimately be seen as an attempt to resolve the tension in Locke's political thought between his underlying theory of anthropological individualism and the significant powers he grants to the state to restrict individual freedom. Libertarianism is a likely result of Lockeanism, and although it fundamentally transforms Locke's political theory in ways that he would not countenance, it does so on the basis of certain premises he laid down.

The Antilibertarian Locke

Libertarians follow Locke in grounding membership in a political community in consent. Both would reject the claim that the accidents of birth forever bind a child to his parents' native land. Locke invokes "the law of right reason that *a child is born subject of no country or government*" (II 118, cf. II 73). He then, however, goes further than any libertarian would in denying those who explicitly choose to join a political community the right to leave it at will: "[H]e, that has once, by actual agreement, and any express declaration, given his consent to be of any commonwealth, is perpetually and indispensably obliged to be, and remain unalterably a subject to it, and can never be again in the liberty of the state of nature" (II 121).¹⁴ In this case, individual

consent, once given, is irrevocable—even *when one's own life is at risk*.¹⁵ Indeed, Locke clearly indicates that individual citizens may be called on to defend the political community. As he writes in the very opening of the *Second Treatise*:

Political power, then, I take to be a right of making laws with penalties of death, and consequently all less penalties for the regulating and preserving of property, and of *employing the force of the community*, in the execution of such laws, and in the defense of the commonwealth from foreign injury; and all this only for the public good. (II 3, emphasis added)

If the commonwealth has the right to employ the force of the community in its defense, then individual citizens have a duty to serve it.¹⁶ While the community could presumably be defended through voluntary conscription only, Locke specifies that in joining a political community, a man gives “a right to the commonwealth to employ his force, for the execution of the judgments of the commonwealth, whenever he shall be called to it” (II 88, cf. II 130). In certain cases, he may be called to risk his life for the commonwealth (II 139).¹⁷

Libertarians, by contrast, strongly oppose conscription. As Brennan explains in a passage in which he cannot bring himself to grant the state a power he deems permissible and even necessary *in extremis*:

Libertarians believe that military conscription is like a kind of slavery. . . . Many libertarians say they can at least imagine situations in which conscription could be justified. For instance, if we faced a dire existential emergency and conscription were the only solution, then perhaps conscription may be permitted. That said, even though we can imagine cases where conscription would be permissible, libertarians think we should forbid governments from conscripting citizens.¹⁸

Locke also recognizes broad governmental powers to restrict private behavior that does not immediately threaten the rights of others. In his *Third Letter for Toleration*, Locke affirms that it is “properly the magistrate’s business by punishments to restrain and suppress” what he calls “corrupt manners, and the debaucheries of life.”¹⁹ Magistrates should therefore use their power to impose “severities against drunkenness, lasciviousness, and all sorts of debauchery.”²⁰ Locke, in short, gives no liberty to license. Libertarians, by contrast, are in broad agreement that the state may not interfere with private activities that do not directly impinge on the freedom of others.

Locke does not just restrict behavior, though; he also restricts beliefs and speech. In the *Letter Concerning Toleration*, he famously bans atheism (but not Catholicism, as is often mistakenly thought): “[T]hose who deny that there is a Deity are not to be tolerated at all.”²¹ Locke does so not on theological grounds but because he thinks atheists would not be bound by the agreements and oaths that are necessary for society to function.²² His prohibition extends further than is commonly thought. Locke bans not the promotion of atheism but atheists themselves. A Lockean regime could therefore presumably prosecute those who had expressed atheist views in private.

Even more shocking to our contemporary sensibilities, Locke also bans any “doctrines which are detrimental to human society and prejudicial to the good morals which are essential for the preservation of civil society.”²³ Although he says this while discussing the limits of religious toleration, the ban clearly applies to secular doctrines as well, since the threat to society comes from their effect on morals regardless of whether they are promulgated by a pastor, a teacher, or an artist. A Lockean regime could therefore invoke this principle to ban much of popular music since the 1960s (whose main themes are sex, drugs, and rebellion), all sexually provocative advertising, and many of the most popular television shows and movies of recent decades (which often endearingly depict lazy, sexually promiscuous, and rather amoral adults). A compelling case could in fact be made that libertarianism itself would be forbidden

in a Lockean society on the grounds that it promotes licentious behavior by refusing to forbid it. Such restrictions on the freedom of expression are, of course, anathema to libertarians, who have gone further than anyone else in staking out an absolutist position on free speech. Rothbard even rejects the concept of defamation on the grounds that reputation is a subjective idea “contained in the minds of *other people*” and thus not subject to control.²⁴

What we today might call Locke’s social conservatism is also apparent in his teaching on marriage. While Locke denies that marriage is necessarily permanent, he insists that parents are bound to remain married at least until the children can “shift for themselves” (II 83). The “assistance [that] is due” to a child “from his parents” is not only material, since divorced parents could readily provide housing, nourishment, and education for their children, but seems to encompass the kind of loving care one finds in a good home (II 80).²⁵ As such, spouses may divorce only after their children have reached maturity—that is, assuming they are “under no restraint of any positive law, which ordains all such contracts to be perpetual” (II 81).

Locke accepts that the government may forbid divorce altogether. A political community that did so would be going beyond what Locke thought is the necessary minimum to provide for children, but he does not declare all such positive laws illegitimate. A strictly Lockean society would, it is true, make an allowance for divorce, even while the children are in nonage if “natural right or the contract allows it” (II 82). Although Locke does not give examples of legitimate divorces, the appeal to natural right and the subsequent limit he places on the marriage contract—“as far as may consist with the procreation and bringing up of children” (II 83)—suggest that he may have in mind instances where one spouse threatens the life or security of another or of the children.²⁶ Indeed, the context for Locke’s discussion of the possibility of divorce is the reminder that “the power of the husband [is] so far from that of an absolute monarch” (II 82). A no-fault divorce regime this is not. Locke’s discussion of marriage—or “conjugal society,” as he calls it—subordinates the adults’ liberty to divorce to the well-being of children.

By contrast, the idea that coercive restrictions may dictate when spouses can divorce is so beyond the libertarian pale that the topic is never considered in the major works on libertarianism. In fact, libertarians cannot even agree on whether parents have a duty to provide for their children. Nozick, for example, calls into question Locke's approach, without, however, offering an alternative. Locke's argument, Nozick writes, "leaves unexplained why [the law of nature] requires the care *from the parents*, and why it isn't another case of someone's receiving 'the benefit of another's pains, which he had not right to.'"²⁷

In *The Libertarian Idea*, Jan Narveson devotes a short chapter to "The Problem of Children." He does not, however, resolve "the problem" as his discussion is confused and rather disturbing. Narveson cannot make up his mind on whether parents are free to kill their children. On the one hand, he says that "threats of force" against parents who kill their children are "[p]robably not" justified because the "hurt we feel upon seeing an infant killed is not injury to our bodies, but to our emotions." On the other hand, he writes that the "public interest in our fellows' welfare is sufficient to justify requiring parents to take proper and non-abusive care of their children."²⁸ Narveson seems to be torn between Robert Filmer and John Locke.

In the *Ethics of Liberty*, Rothbard argues that parents own their children. He recognizes that this is a special kind of property because children possess rights and may not therefore be harmed by their parents. Children, he asserts, are also free to run away at any age.²⁹ That said, children, being property, may be sold and traded in open markets. As Rothbard explains, "We must face the fact that the purely free society will have a flourishing free market in children."³⁰ What's more, while parents are forbidden from harming their children, they are under no duty to provide for them and may watch them starve or freeze to death:

The parent should not have a legal obligation to feed, clothe, or educate his children, since such obligations would entail positive acts coerced upon the parent and

depriving the parent of his rights. The parent therefore may not murder or mutilate his child, and the law properly outlaws a parent from doing so. But the parent should have the legal right not to feed the child, i.e., to allow it to die. The law, therefore, may not properly compel the parent to feed a child or to keep it alive.³¹

Not all libertarians who take a clear position on the matter go this far. Some simply follow Locke and argue that parents are bound to provide for their children. “Parents have positive duties to their children,” John Hospers writes, “but these duties were incurred when they decided to have the children.”³² Similarly, Tibor Machan argues that “because children have been invited into the lives of their parents, and because they *are* children and not adults (indeed, in the beginning, helpless infants), parents have committed themselves to provide for them.”³³ Regardless of whether Hospers and Machan or Rothbard and Narveson are more authentically libertarian, it is telling that the most basic of societal duties—namely, that parents should provide for their children—is unquestioned by Locke but very much disputed for libertarians.

The Emancipation or the Preservation of Mankind?

Locke extends legitimate state power well beyond what even the least minarchic libertarian would accept. Other examples could be adduced, but these sufficiently prove that although Lockeanism bears a certain resemblance to libertarianism, it is not libertarianism. This becomes even clearer when we go beyond particular powers Locke grants to the state and contrast the overall intentions of the Lockean and libertarian political projects.

The end goal of libertarianism is rather clear: to maximize individual liberty in all realms. Libertarians believe that man is by nature a sovereign, independent, and free individual who ought therefore to be given the maximum latitude to live out his life as he sees fit, free from the arbitrary coercive restrictions of others—the state in particular. Every individual should be free to fashion and refashion himself into anything he well pleases, subject only to the

requirement that he not interfere with the equal liberty of others to do the same. As Morris Lipson and Peter Vallentyne remark, “It is quite clear that, for libertarians, considerations of autonomy serve to ground the right- and wrong-making features of acts, rather than the good-making features of them.”³⁴

Libertarians, of course, will not deny that liberty may be used to one’s own detriment or that there may be a hierarchy of goods. They merely claim that as libertarians their concern lies not with advising individuals on how to exercise their liberty but only in ensuring that they be free to do, say, and think what they want. The libertarian project is limited to emancipating individuals from coercive strictures on their behavior. Once this is accomplished—either by abolishing the state altogether or by reducing it to its core minimal functions—then libertarianism refuses to guide the choices of individuals.

The simplicity of the libertarian project accounts in no small part for its appeal. Every issue is reduced to a simple consideration: Does it enhance or restrict the liberty of the individual? As a result, libertarianism appears free from the ambiguities that plague all other political theories. Although not all libertarians are consistent in applying the libertarian logic, a great many are. In their retelling, all political philosophy is reducible to the choice between liberty and slavery.³⁵

Libertarianism’s main appeal, though, lies in the absolute liberty it confers on individuals to do as they please, without any necessary consideration for the greater good or the well-being of others. Libertarianism holds out the promise of complete liberty for each individual. It never ceases to remind us that “every individual has a realm over which he or she is the absolute monarch” and that no one else has any claims whatsoever to our labor and property.³⁶ Beyond the minimal duties of forbearance, this political theory absolves us of any positive duties toward others. Libertarianism appeals to the unruly nature of man that chafes at being bound and yearns to have its way. While not all libertarians are anarchists, libertarianism has a pronounced anarchist bent.³⁷ It dreams of a world in which we will *not* be governed. Libertarians

are divided on whether such a world is within reach, but they agree that one should try to approximate it by liberating individuals from as many government constraints as possible. At its core, libertarianism is deeply suspicious of, if not hostile to, government.

The Lockean political project obviously overlaps to a considerable extent with the libertarian one. It is undeniable that Locke, in his political writings, is encouraging us to think of ourselves more as free rights-bearing individuals and less as community members entangled in a complex web of relations that oblige us to one another. In the *Two Treatises* and *A Letter Concerning Toleration*, Locke is trying to disentangle the individual from the three authoritative communities that have, throughout the ages, laid claim to his person, his goods, and his soul: the patriarchal family, the commonwealth, and the church. In contradistinction to those who view the individual as being naturally and permanently enmeshed in hierarchical families, political communities, and religious congregations, Locke claims that the individual, and by extension all that belongs to him, are prior by nature to them. Locke aims to liberate the individual from blind subjection to authority. In this sense, Lockeanism obviously has close affinities with libertarianism. For both Locke and libertarians, the free individual, endowed with rights, stands front and center. Both will scoff at the claims of monarchs, fathers, and priests who would simply coerce people's beliefs and actions or merely demand blind submission.

These similarities, though important, conceal a profound difference in motivations. For Locke, the attempt to disentangle the individuals from the family, the church, and the commonwealth is not in the service of merely maximizing individual liberty but is part of a broader project aimed at preserving mankind. The overarching goal of Locke's political project is captured by what he calls "the fundamental law of nature": "the preservation of mankind" (II 135, cf. II 16, II 134, II 183). In *Some Thoughts Concerning Education*, he asserts that "the preservation of all mankind, as much as in him lies" is "every one's duty and the true principle to regulate our religion, politicks, and morality."³⁸ As he explains in his fullest elaboration of what the law of nature commands in the *Second Treatise*:

Every one, as he is bound to preserve himself, and not to quit his station willfully, so by the like reason, when his own preservation comes not in competition, 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, the liberty, health, limb, or goods of another. (II 6)³⁹

Libertarianism, of course, is not inimical to the preservation of mankind. Far from it. In fact, it proscribes aggression and requires that the rights of all be respected. Mankind, however, will be preserved only to the extent that individuals are to refrain from aggressing. By contrast, Locke goes beyond mere forbearance and recognizes a binding positive duty “to preserve mankind,” which seems to mandate actively preventing the needless deaths of others.⁴⁰

Locke, it must be admitted, does not develop this idea or even clearly state it as we have. In fact, nowhere in his writings does he properly develop his teaching on the positive duties we owe one another.⁴¹ In the Lockean regime, it is not other-regarding duties but good government and the plenty generated by “established laws of liberty to secure protection and encouragement to the honest industry of mankind” (II 42) that will be the *primary* means of allowing all to provide for themselves and thus to preserve mankind. Still, the recognition of a positive duty to prevent others from dying needlessly is a perfectly reasonable inference from the law of nature’s command to preserve mankind. Locke could have framed the law of nature in strictly negative terms (e.g., “Refrain from harming mankind”), yet he repeatedly invokes the positive commandment to preserve mankind.

This duty, it is true, is subject to three important qualifications. It applies only after our own self-preservation is secure.⁴² In the Lockean state of nature, a condition that is “full of fears and continual dangers” (II 123) in which men are “needy and wretched” (II 37), the duty to preserve mankind will not translate into much help toward others. In fact, the law of nature will more often than not be invoked to kill those who appear to threaten us.⁴³ The law of

nature also merely commands us to preserve others (i.e., to prevent them from dying). We have no responsibility beyond that to ensure that they possess “the conveniences of life” (II 44), to say nothing of the many entitlements provided in modern social democracies. Last, the duty applies only *in extremis*, in life-or-death situations when the person at risk has no other recourse and is truly helpless. It does not, in other words, relieve others from the responsibility they have to provide for their own preservation.

That said, in a prosperous society—that is, the kind of society that successfully implemented Locke’s principles—the law of nature would require some sort of a very limited welfare state whose aim is to prevent unnecessary deaths.⁴⁴ In his “Essay on the Poor Laws,” for example, Locke explains that “[e]very one must have meat, drink, clothing, and firing. So much goes out of the stock of the kingdom, whether they work or no.”⁴⁵ Should “any person die for want of due relief in any parish in which he ought to be relieved, the said parish [should] be fined according to the circumstances of the fact and the heinousness of the crime.”⁴⁶ It is thus a heinous crime to allow someone to die for want of the basic necessities of life. A Lockean society could also reasonably enact “duty to rescue” laws that would punish those who failed to help those in danger (so long as they did not have to endanger their own lives in doing so).

In the *Second Treatise*, Locke recognizes “health” as one of those things that “tends to the preservation of life” (II 6). A wealthy Lockean society with modern medicine would therefore have to provide free emergency health care for the indigent who are in danger of dying, as well as life-saving drugs to those who cannot afford them. While such measures might be costly, they could not be said to jeopardize the self-preservation of the other members of society. Libertarians, it goes without saying, adamantly oppose any kind of a welfare state because they do not recognize any binding positive duties.⁴⁷

The positive duty to preserve others is also evident in Locke’s discussion of the rights of conquerors in a just war. While the conquerors are entitled to take from the property of the vanquished

“to make reparations for the damages received” (II 182), they must leave enough to provide for their wives and children who “made not the war nor assisted in it” (II 183). The conquerors have duties to the innocent: Not only must they not harm them, but they must give up what they are rightfully owed if not doing so would lead to the death of the conquered women and children.⁴⁸ For Locke, unlike the libertarians, property rights are set aside when lives are at stake.

To be sure, Lockean man, like libertarian man, is not at the service of his fellow man. For the most part, his duties are limited to not harming others. The reasonable and sober Locke—*le sage Locke* as Rousseau and Voltaire both called him—does not, however, apply this principle blindly to all cases. He makes allowances for the extreme cases when lives are in jeopardy—for example, for those “in extreme want” who have “no means to subsist otherwise” (I 42). In these cases, the law of nature, he implies, imposes on us a positive duty to preserve others, either by letting them take from our plenty or by coming to their rescue. Libertarians, by contrast, make no such allowances. In their “insistence on complete ideological purity,”⁴⁹ they must dissolve even the minimal Lockean ties that bind us to our fellow man. By the admission of one of its own exponents, “libertarianism remains a radical theory.”⁵⁰

Locke's Proto-Libertarianism?

Such marked divergences between Lockeanism and libertarianism do not, however, settle the matter. One could argue that while Locke clearly recognizes certain positive duties and imposes certain limits on the non-injurious exercise of liberty, he does not have a firm basis, *on strict Lockean grounds*, for doing so. Deneen, for example, argues that Locke's principles of individual right conflict with his teaching on the family.⁵¹ This implies that Locke's writings contain non-Lockean elements that a faithful adherence to his principles demands be purged. Locke may well have been an inconsistent Lockean.

This, in turn, opens the possibility that libertarians are the consistent Lockeanes. Libertarians would then be purging Locke's thoughts of its contradictory elements by bringing out the

libertarian implications of his teaching. As Tibor Machan and Douglas Rasmussen argue, “Libertarians would maintain that they are carrying out to its rational implications the political ideal . . . found in the political, legal and economic works of John Locke, Adam Smith, and other classical liberals.”⁵² Libertarianism, in this reading, is Lockeanism come of age. Locke himself may not have been a libertarian, but he should have been had he properly thought through his foundational principles.

Such claims require us to identify what is the ultimate foundation of Locke’s political teaching. This is by no means an easy matter as scholars remain deeply divided on the ground of Locke’s philosophy. For the Cambridge school, Locke is a Christian political thinker whose premises are anchored in biblical revelation.⁵³ In *Natural Right and History*, Leo Strauss argued for a Hobbiist Locke for whom self-preservation is paramount. Some of Strauss’s students have notably broken with him, including Thomas G. West, who argues that “the real ground of Locke’s teaching is found in his understanding of the conditions of human happiness,” and Steven Forde, who reads Locke as a natural law thinker, albeit of a new transcendent kind.⁵⁴ Whatever disagreements they may have, the Straussians have convincingly demonstrated that Locke *fundamentally* and *intentionally* broke with scriptural orthodoxy, however broadly defined, on several important points, thereby making the Cambridge view no longer tenable.⁵⁵

To identify Locke’s foundational principles, it is helpful to break down his political teaching into its constitutive elements. Following Locke’s lead and the order in which the argument of the *Second Treatise* unfolds, one can identify three core components. Locke begins with free, independent, rights-bearing individuals who can “order their actions and disposes of their possessions and persons as they think fit” (II 4). He then imposes on them a law of nature that constrains how they may in fact dispose of their property and act vis-à-vis one another. Locke then builds a political teaching whose salient feature is government based on the consent of the people whose aim is to preserve their “lives, liberties, and estates” (II 123). This third element includes the various powers

that Locke entrusts to the government, several of which were discussed earlier.

Seen in this light, the libertarian modification of Locke becomes evident. The libertarians accept the Lockean account of man, but they replace his law of nature with some version of the nonaggression principle and construct a political teaching that retains the Lockean requirement for consent while considerably paring back the functions of the state (some going so far as to abolish it altogether).⁵⁶ Libertarians are Lockeans only in the first sense. They reject the other two constitutive components of Locke's political teaching. The crux of the matter, then, is to determine whether their nonaggression principle and night-watchman state are more consistent with the nature of man, as they and Locke both understand it, than Locke's own law of nature and commonwealth.

Man, according to Locke, is by nature in a "state of perfect freedom" (II 4) in which he possesses "an *uncontrollable* liberty to dispose of his person or possessions" (II 6, emphasis added). He is in a "state also of equality . . . without subordination or subjection" (II 4) in which he is "independent" (II 6). In short, each man is fundamentally "master of himself and proprietor of his own person" (II 44).⁵⁷ While it is true that the state of nature can accommodate families and communities, the individual is the fundamental ontological building block of the Lockean system.⁵⁸ His being is prior, by nature, to any association or community. We children of the Enlightenment can have a hard time grasping how radical a premise this is. It breaks not just with the ancients, who subordinate the individual to the political community, but also with the Bible, which subordinates him to the family and tribe—to say nothing of God. It also attacks the commonsense view of man as we see him everywhere in the world, emmeshed in hierarchical communities and dependent on others in myriad ways. Lockean man, by contrast, stands alone and must be "driven into society" (II 127, cf. II 77). He is not antisocial, but not naturally sociable either.⁵⁹

If one begins from such a premise, as Locke and the libertarians do, should not one conclude that neither the Lockean law of

nature nor the libertarian nonaggression principle can logically be imposed on such radically free and independent individuals? Is not the Hobbist position—each man may do anything he deems necessary to preserve himself as there are no “notions of Right and Wrong, Justice and Injustice”—in fact the consistent one?⁶⁰ If we are, at root, independent of one another—or as Nozick writes “different individuals with separate lives”—then why should we care about anyone else?⁶¹ Why should we refrain from harming them, much less be bound to prevent them from dying?⁶² After all, the self, as Locke understands it, is fundamentally “concern’d for it *self*”: “Happiness and Misery being that, for which everyone is concerned for *himself*.”⁶³ The radically free and independent individual may just prove to be too radical a foundation on which to build a moral edifice.

Locke, it is true, asserts that the law of nature, whose existence is “certain” (II 12), does constrain the “uncontrollable liberty” (II 6) of man. The law of nature, like all laws, is binding by virtue of having been promulgated by a divine lawmaker who enforces it with rewards and punishments in this world and the next (since many of its violations obviously go unpunished).⁶⁴ The “true nature of all law,” Locke explains in *An Essay Concerning Human Understanding*, is to have “some reward or punishment annexed to that law,” distinct from the natural consequences that result from actions.⁶⁵ Without enforcement, a law is “but empty talk, without force, and without influence.”⁶⁶

The problem for Locke, as scholars have long since noted, is that while he can prove the existence of “a GOD” or “a Deity,” he never proves the existence of the providential God who upholds the law of nature or that men have an immortal soul.⁶⁷ Although he does not admit this failure in the *Essay*, it is readily visible and he admits it in his first letter to the bishop of Worcester.⁶⁸ Without the help of positive revelation, reason, by Locke’s own admission, cannot establish the existence of a providential God who enforces the law of nature. Therefore, the law of nature, insofar as it is a law, is not natural—relying as it does on premises that cannot be discovered through reason alone—and insofar as it is natural, it is not a

law, since it lacks a proper enforcement mechanism. With Strauss, we “thus arrive at the conclusion that Locke cannot have recognized any law of nature in the proper sense of the term.”⁶⁹

Michael Zuckert accepts this conclusion but claims that Lockean self-ownership must, in theory, lead to the recognition of a duty to respect the ownership claims of others: “So far as we recognize our claims to life, liberty and property as resting on our self-ownership, we are logically (if not practically) impelled to grant or recognize the same claim in other persons.”⁷⁰ The Lockean self is thus bound to uphold the no-harm principle. He is subject to a “duty or quasi-duty of forbearance from gratuitous harm.”⁷¹ Zuckert, however, hesitates and calls forbearance only a “quasi-duty.” Indeed, the Lockean self cannot, by reason alone, conclude that it will *never* benefit him to harm an innocent person. As a self-interested being, he may in fact conclude that it is in his self-interest to harm another if he can avoid punishment, especially if he cannot, by reason alone, establish the existence of a just God.

Locke never states these conclusions. In fact, he conceals them by anchoring his teaching in the law of nature. Given his failure to establish the existence of such a law, however, one wonders whether it was not bound to be a matter of time until it decayed to the point of being abandoned by those he influenced, like the libertarians. But libertarians’ own version of the law of nature, the nonaggression principle, suffers from the same problem. One cannot simply establish, through reason alone, that radically free individuals are bound to respect the rights of others. If Locke is an inconsistent Lockean, then libertarians are also inconsistent libertarians. Both want an effective rational law to hem in the freedom of a being who they claim is, by nature, completely free and independent.

Turning to their respective political teachings, libertarians exploit a tension in Locke’s social contract theory to restrict the powers of the state well beyond what Locke thought proper. The tension, not to say the paradox, in Locke may be stated as such: While individuals form political communities to secure their own rights, the necessities of the political community may occasionally

require the rights of some individuals to be restricted and, even at times, sacrificed. While the political community is clearly a means to the end of securing individual rights and not an end unto itself, it will at times impinge on the rights of some to better secure the rights of all. The means must occasionally trump the ends.

There are two distinct poles in Locke's teaching on government: the rights of the individual and "the necessity of the commonwealth and the public good" (II 222).⁷² The latter are not simply reducible to the former, and Locke distinguishes them throughout his political writings. For example, in *A Letter Concerning Toleration*, he writes:

By general consent, greed is a sin, so is not helping others in need, so are idleness and many other things of that sort; but who has ever held that a ruler should punish them? Even in the places where they are regarded as sins, they are not condemned by law and legally suppressed, and the reason is that *they do no damage to other people's possessions nor disturb the public peace*. Laws everywhere are silent about liars and perjurers, except in certain cases in which the issue is not an oath before God or the immorality of the action but *an attempt to do harm to the commonwealth or a neighbour*.⁷³

Seeing that the public good is not reducible to the protection of the rights of every last individual, Locke recognizes that the former will occasionally trump the latter. Thus, in the *Second Treatise*, when he reformulates the law of nature in a political context, he writes that "the first and fundamental natural law which is to govern even the legislative itself is the preservation of the society and, *as far as will consist with the public good*, of every person in it" (II 134, emphasis added). This important qualifier, which makes clear that in certain instances the common good may demand that some individuals not be preserved, is repeated throughout the *Two Treatises* (I 92, II 88, II 135, II 159, II 171).

The most striking example, as discussed, is Locke's defense of conscription, but the liberty of citizens may also be restricted in any number of other ways when the common good calls for it. In *A Letter Concerning Toleration*, for example, Locke limits how citizens may dispose of their cattle after a plague has decimated herds: "But in a situation where it would be for the good of the country to avoid all slaughter of cattle in order to rebuild herds decimated by disease, it is clear that the ruler might forbid all his subjects to kill calves for any purpose."⁷⁴ While the example is a narrow one, it is revealing. No one's rights would be violated if an epidemic decimated all the commonwealth's cattle, but the common good would suffer. The common good is therefore not reducible to merely securing the rights of all citizens. Thus, when the common good calls for it, restrictions may be placed on the non-injurious exercise of individual rights.⁷⁵ As Locke explains, "[T]he end of government [is] the good of the community"—not of every last individual that composes it (II 163).

Libertarians, by contrast, home in on this tension between the rights of the individual and the common political good and resolve it either by subordinating the former to the latter or, in the case of the anarcho-libertarians, by doing away with the state altogether. For libertarians, individuals and their rights are inviolable. They may not, as Nozick explains, "be sacrificed or used for the achieving of other ends without their consent. Individuals are inviolable."⁷⁶ If the only reason we even have a government in the first place is to protect our rights, then how could that government legitimately infringe on these very rights? How could the political community demand that its citizens risk their lives on its behalf when they joined it only to preserve their lives? In short, libertarians deny that individuals should serve what they created to serve them.

Locke might retort that because individuals consented to establish a government in the first place, they then consent to the actions it will need to take to preserve the political community. At one point, he in fact equates the consent of individuals with "the consent of the majority, giving it either by themselves or their representatives chosen by them" (II 140). This makes sense in any

number of trivial matters not involving their lives, liberty, and property, but it is not a tenable argument when the very object for which they formed a government in the first place is at stake. How can Locke expect citizens to violate “the fundamental, sacred and unalterable law of self-preservation for which they entered into society” (II 149), for example, by responding to the call to serve and risking their lives in battle?

Locke might say that the powers citizens grant to the state are absolutely necessary to preserve the political community. A commonwealth that cannot conscript citizens to defend itself from attack or that will not censor immoral doctrines that undermine the very bases of communal life is bound to perish, through either conquest or moral degeneracy. A Lockean could justly conclude that a political community organized on strictly libertarian grounds would not last long. And yet Locke embraces a rather radical anthropology that makes it difficult to command the obedience of citizens in certain regards. One is left to wonder whether his reasonable arguments on behalf of imposing civic duties and limiting personal freedoms would not fail to convince those who remain enamored with the boundless freedom—the “uncontrollable liberty”—of man in the state of nature (and who downplay, if not ignore, the terrible aspects of man’s natural condition).

Locke, in sum, was not a libertarian. He did not intend to build a libertarian commonwealth and would surely denounce the libertarian misappropriation of his political teaching through a selective reading of his works. Locke does, however, unwittingly invite the libertarian reinterpretation of his politics. He often sounds like a libertarian, in particular in the *Second Treatise*. Locke’s concern with the preservation of others, though present throughout his writings, is nevertheless rather muted. The emphasis is on the individual, his rights, and his liberty. His duties and the limits that the community may place on the exercise of his liberty are for the most part either mentioned in passing or must be inferred from the text. Although Locke’s overarching political project is to preserve mankind, he does not expound at

length on the duties we have toward our fellow man. Instead, he never tires of reminding his readers of the centrality and primacy of *self*-preservation. He also fails to prove the existence of the natural law that forces us to at least have some regard for the well-being of others.

Ultimately, libertarianism is likely one long-term result of Lockeanism, though not the only necessary one. Libertarianism exploits the undeniable tension in Locke between his anthropological individualism and his particular teaching on the commonwealth.

Notes

1. Robert Nozick, *Anarchy, State, and Utopia* (Basic Books, 1974).
2. Murray N. Rothbard, *An Austrian Perspective on the History of Economic Thought*, vol. 1, *Economic Thought Before Adam Smith* (Ludwig von Mises Institute, 2006), 313. Cf. Rothbard, *For a New Liberty: The Libertarian Manifesto*, rev. ed. (Libertarian Review Foundation, 1985), 3; Friedrich A. Hayek, *Individualism and Economic Order* (University of Chicago Press, 1958), 4.
3. David Boaz, *The Libertarian Reader* (The Free Press, 1997), 123. Cf. Tibor R. Machan, who speaks of “Lockean libertarianism” in “The Nonexistence of Basic Welfare Rights,” in *Liberty for the Twenty-First Century: Contemporary Libertarian Thought*, ed. Machan and Douglas B. Rasmussen (Rowman & Littlefield, 1995), 209.
4. Patrick Deneen, *Why Liberalism Failed* (Yale University Press, 2018), 32 and 37.
5. Yoram Hazony, *The Virtue of Nationalism* (Basic Books, 2018), 31.
6. See also Pierre Manent’s treatment of Locke in *The City and Man*, trans. Marc A. LePain (Princeton University Press, 1998).
7. For Locke’s influence on the American founding, see Steven M. Dworetz, *The Unvarnished Doctrine: Locke, Liberalism, and the American Revolution* (Duke University Press, 1990). For his influence on the modern world, see Lee Ward, *John Locke and Modern Life* (Cambridge University Press, 2010).
8. While there are different strands of libertarianism and pronounced disagreements among libertarians—most notably over whether there should even be a state—the broad contours of the libertarian family of thought are nevertheless discernible. Its two salient characteristics are a strong commitment to individual liberty in all realms (with all that entails—namely, minimal, if not nonexistent, restrictions on what

consenting adults can do; and minimal, if not nonexistent, binding positive duties to help others) and a concomitant deep distrust of coercive state power (with some going so far as to embrace anarchy, or as they call it, anarcho-libertarianism). For a useful overview of the libertarian lay of the land, see Jason Brennan, Bas van der Vossen, and David Schmidtz, “Introduction: Respecting and Caring,” in *The Routledge Handbook of Libertarianism*, ed. Brennan, van der Vossen, and Schmidtz (Routledge, 2018), xvi–xx. Contributors to the volume mostly ignore left-libertarianism and so will I as it remains a marginal current of thought within libertarianism. Left-libertarians, in any case, explicitly reject the Lockean theory of appropriation of the commons through labor.

9. John Locke, *Second Treatise*, secs. 4 and 6, in *Two Treatises of Government*, ed. Peter Laslett (Cambridge University Press, 1960 [1690]). Hereafter in notes and text simply *Treatise I* or *II*, followed by section number. I have occasionally modernized spelling.
10. It should be noted, however, that the “rights-talk” is virtually absent from two of his other major nontheological works, *An Essay Concerning Human Understanding* and *Some Thoughts Concerning Education*.
11. Not all strands of libertarianism ground themselves in self-ownership. The economic approach to libertarianism is utilitarian and generally eschews the language of rights. See, e.g., Ludwig von Mises, *Liberalism: The Classical Tradition*, ed. Bettina Bien Greaves (Liberty Fund, 2005). Although Mises claims the mantle of classical liberalism rather than libertarianism, he is rightfully claimed by libertarians today as he grants broad liberty to the individual and severely restricts the reach of the state.
12. Murray N. Rothbard, *The Ethics of Liberty* (NYU Press, 1998), 60. Cf. John Hospers, “What Libertarianism Is,” in *The Libertarian Alternative: Essays in Social and Political Philosophy*, ed. Tibor R. Machan (Nelson Hall, 1974), 6; Stephan Kinsella, “What Libertarianism Is,” in *Property, Freedom, and Society: Essays in Honor of Hans-Hermann Hoppe* (Ludwig von Mises Institute, 2011), 184.
13. Locke, *A Letter Concerning Toleration*, in *Locke on Toleration*, ed. Richard Vernon, trans. Michael Silverthorne (Cambridge University Press, 2010 [1689]), 17–18.
14. Contrast with Murray N. Rothbard, “Robert Nozick and the Immaculate Conception of the State,” *Journal of Libertarian Studies* 1, no. 1 (1977): 45: “A basic fallacy is endemic to all social contract theories of the State, namely, that *any* contract based on a promise is binding and enforceable.” See also Rothbard, *The Ethics of Liberty*, 137: “[E]very

- man has the right to change his mind at any time over the disposition of his body and will.”
15. The people, as a whole, of course, always retain their collective right to revolution.
 16. Cf. Locke, *Some Thoughts Concerning Education*, in “*Some Thoughts Concerning Education*” and “*Of the Conduct of the Understanding*,” ed. Ruth W. Grant and Nathan Tarcov (Hackett, 1996), 7: “I think it every man’s indispensable duty to do all the service he can to his country; and I see not what differences he puts between himself and his cattle, who lives without that thought.”
 17. It is true, as Ruth Grant points out, that “Locke nowhere systematically treats the question of a soldier’s duty” (*John Locke’s Liberalism* [University Press of Chicago, 1987], 131n43). Locke does, however, insist that soldiers and citizens have duties, and his discussion of federative power reveals his appreciation of the importance of foreign policy, and hence, of the permanent possibility of war (II 143).
 18. Jason Brennan, *Libertarianism: What Everyone Needs to Know* (Oxford University Press, 2012), 95–96. Cf. David Boaz, *Libertarianism: A Primer* (The Free Press, 1997), 76; Rothbard, *The Ethics of Liberty*, 81.
 19. Locke, *A Third Letter for Toleration*, in *The Works of John Locke in Nine Volumes*, vol. 5, 12th ed. (London: Rivington, 1824), 416. Cf. Locke, *Letter Concerning Toleration*, 31.
 20. Locke, *A Third Letter for Toleration*, 469.
 21. Locke, *A Letter Concerning Toleration*, 37.
 22. Locke, *A Letter Concerning Toleration*, 37.
 23. Locke, *A Letter Concerning Toleration*, 35.
 24. Rothbard, *The Ethics of Liberty*, 126.
 25. In *Some Thoughts Concerning Education*, Locke gestures toward what we might today call complementarity, the idea that mothers and fathers have different parenting styles that complement one another (sec. 4).
 26. Peter C. Myers, *Our Only Star and Compass: Locke and the Struggle for Rationality* (Rowman & Littlefield, 1998), 205.
 27. Nozick, *Anarchy, State, and Utopia*, 289, citing II 34.
 28. Jan Narveson, *The Libertarian Idea* (Broadview Press, 2001), 274.
 29. Rothbard, *The Ethics of Liberty*, 103.
 30. Rothbard, *The Ethics of Liberty*, 103.
 31. Rothbard, *The Ethics of Liberty*, 100.
 32. Hospers, “What Libertarianism Is,” 12.
 33. Tibor R. Machan, *Libertarianism Defended* (Routledge, 2006), 218. Cf. Brennan, *Libertarianism*, 39.

34. Morris Lipson and Peter Vallentyne, "Libertarianism, Autonomy, and Children," *Public Affairs Quarterly* 5, no. 4 (1991): 348n3. Cf. Robert Nisbet, "Uneasy Cousins," in *Freedom and Virtue: The Conservative/Libertarian Debate*, ed. George W. Carey (University Press of America, 1984), 50: "I would hazard the guess that for libertarians individual freedom, in almost every conceivable domain, is the *highest of all social values*—irrespective of what forms and levels of moral, aesthetic, and spiritual debasement may prove to be the unintended consequences of such freedom."
35. Kinsella, "What Libertarianism Is," 184: "Libertarians believe in *self*-ownership. Non-libertarians—statists—of all stripes advocate some form of slavery."
36. Narveson, *The Libertarian Idea*, 9.
37. Wenzel calls the stateless vision of the anarcho-capitalists "deeply inspiring." Nathan Schlueter and Nikolai Wenzel, *Selfish Libertarians and Socialist Conservatives?: The Foundations of the Libertarian-Conservative Debate* (Stanford University Press, 2016), 72.
38. Locke, *Some Thoughts Concerning Education*, sec. 116. That is not to say that Locke's political project aims at nothing beyond mere preservation. For Locke's concern with promoting the conditions of human happiness, see Thomas G. West, "The Ground of Locke's Law of Nature," *Social Philosophy and Policy* 29, no. 2 (2012): 1–50.
39. It is true that Locke merely refers to "the right," and not the duty, "to preserve mankind" two paragraphs later (II 8). Locke says that man "may bring such evil on any one that hath transgressed that law"—not that he must. But that is because the priority of self-preservation takes precedence over the duty to preserve others. To couch it in the imperative might suggest that we must preserve others without concern for our own security, a position that Locke denies.
40. I will set aside, for now, the foundational question of whether Locke ultimately proves the existence of his law of nature and take it up in the concluding part of this essay.
41. As Forde concludes, "In the final analysis, so far as I can tell, Locke does not provide us with any systematic account of how 'justice' and 'charity' relate to one another." Forde thinks that Locke is reluctant to promulgate "a strong duty to charity" because it might "stigmatize the acquisitive drive upon which the machinery of the general good depends." Steven Forde, *Locke, Science, and Politics* (Cambridge University Press, 2014), 184 and 177.

42. Straussians tend to make too much of what is ultimately a rather obvious and noncontroversial point: We are allowed to defend ourselves and are not required to die on behalf of others. As Forde notes, it "would take an extreme moralist indeed not to admit this proviso," in Steven Forde, "The Charitable John Locke," *Review of Politics* 71, no. 3 (2009): 435n16. Forde identifies similar provisos in Cicero, Grotius, and Pufendorf.
43. Patrick Coby, "The Law of Nature in Locke's *Second Treatise*: Is Locke a Hobbesian?," *Review of Politics* 49, no. 1 (1987): 11: "The second law of nature is about killing."
44. Cf. Michael Zuckert, *Natural Rights and the New Republicanism* (Princeton University Press, 1994): "The implication . . . under conditions of modern economy is a modest welfare—or better, security—state, one that guarantees a job for all, or, that failing, subsistence" (271).
45. Locke, "An Essay on the Poor Law," in *Locke: Political Essays*, ed. Mark Goldie (Cambridge University Press, 1997), 189. Cf. Locke, *Some Considerations of the Consequences of the Lowering of Interest and Raising the Value of Money*, in *The Clarendon Edition of the Works of John Locke: Locke on Money*, vol. 1, ed. Patrick Kelly (Oxford University Press, 1991), 220: "Common charity teaches, that those should be most taken care of by the law who are least capable of taking care of themselves."
46. Locke, "An Essay on the Poor Law," 198.
47. Rothbard, *The Ethics of Liberty*, 101: "It is a philosophical fallacy to maintain that A's needs properly impose coercive obligations on B to satisfy these needs." Cf. Hospers, "What Libertarianism Is," 12; Narveson, *The Libertarian Idea*, 40.
48. Strauss is unfair to Locke on this point in *Natural Right and History* (University of Chicago Press, 1953), 242n119. If the conquerors are on the verge of starvation, then of course their right to self-preservation trumps that of the conquered people. This is no indictment of Locke. It is merely a restatement of the principle that we are not obliged to die on behalf of others.
49. Randy E. Barnett, "The Moral Foundations of Modern Libertarianism," in *Varieties of Conservatism in America*, ed. Peter Berkowitz (Hoover Institute Press 2004), 51. Barnett says this of Rothbard, but it very much captures the ideological temperament of many libertarians.
50. Narveson, *The Libertarian Idea*, xii.

51. Patrick Deneen, "A House Divided: Peter Lawler's America, Rightly Understood," *Perspectives on Political Science* 37, no. 3 (2008): 150: "Lockeanism assumes, but cannot explain, the existence of families and the necessary self-sacrifice that accompanies the role as parents." Therefore, "an ever more Lockean society would result in fewer families and fewer children."
52. Machan and Rasmussen, eds., introduction to *Liberty for the Twenty-First Century*, 3.
53. Diego Lucci, *John Locke's Christianity* (Cambridge University Press, 2020); Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke's Political Thought* (Cambridge University Press, 2002); John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government"* (Cambridge University Press, 1969).
54. West, "The Ground of Locke's Law of Nature," 2; Forde, *Locke, Science, and Politics*.
55. Ross J. Corbett, "Locke's Biblical Critique," *Review of Politics* 74, no. 1 (2012): 27–51; Robert Faulkner, "Preface to Liberalism: Locke's *First Treatise* and the Bible," *Review of Politics* 67, no. 3 (2005): 451–72; David Foster, "The Bible and Natural Freedom in John Locke's Political Thought," in *Piety and Humanity: Essays on Religion and Early Modern Political Philosophy*, ed. Douglas Kries (Rowman & Littlefield, 1997), 181–212; Michael S. Rabieh, "The Reasonableness of Locke, or the Questionableness of Christianity," *Journal of Politics* 53, no. 4 (1991): 933–95.
56. The anarcho-libertarian belief in the possibility of doing away with the state altogether does point to a fundamentally different and rosier view of humanity. While Locke recognizes that it may be possible in certain narrow cases for individuals to live together "according to reason, without a common superior on earth with authority to judge between them" (II 19), he generally thinks the state of nature will be a state of war (II 123).
57. Locke, it is true, also claims that man, being "the workmanship of one omnipotent and infinitely wise Maker," is also "his property" (II 6), but the subsequent exception to the ban on suicide for slaves captured in a just war (II 23) cannot be reconciled with the claim of divine workmanship, thereby revealing that it is not the true ground of Locke's philosophy. See Zuckert, *Natural Rights and the New Republicanism*, 241–46, for the best discussion of the question of suicide in Locke.

58. Andrzej Rapaczynski, *Nature and Politics: Liberalism in the Philosophies of Hobbes, Locke, and Rousseau* (Cornell University Press, 1987). Ruth Grant, who is otherwise critical of the concept of Lockean individualism and thinks it is “an unfortunate term” that falsely implies atomization, does nevertheless recognize this basic point. See Grant, “Locke’s Political Anthropology and Lockean Individualism,” *Journal of Politics* 50, no. 1 (1988): 50.
59. Zuckert, *Natural Rights and the New Republicanism*, 286.
60. Thomas Hobbes, *Leviathan*, ed. Edwin Curley (Hackett, 1994), chap. 13, sec. 13.
61. Nozick, *Anarchy, State, and Utopia*, 30.
62. Locke’s invocation of the authority of the teaching of “the judicious Hooker” regarding “the obligation of mutual love amongst men” (II 5) cannot be reconciled with Locke’s own teaching on justice. As W. D. J. Cargill Thompson concludes, “Locke’s political philosophy [is] essentially incompatible with Hooker’s,” in “The Philosophy of the ‘Politic Society’: Richard Hooker as a Political Thinker,” in *Studies in Richard Hooker*, ed. W. Speed Hill (Case Western Reserve University Press, 1972), cited in Zuckert, *Natural Rights and the New Republicanism*, 363.
63. Locke, *An Essay Concerning Human Understanding*, bk. 2, chap. 27, secs. 17 and 18.
64. Locke, *An Essay Concerning Human Understanding*, bk. 2, chap. 27, sec. 8.
65. Locke, *An Essay Concerning Human Understanding*, bk. 2, chap. 28, sec. 6; cf. I.3.12.
66. Locke, *The Reasonableness of Christianity, As Delivered in the Scriptures*, in *Writings on Religion*, ed. Victor Nuovo (Oxford University Press, 2002), 176.
67. Locke, *An Essay Concerning Human Understanding*, bk. 4, chap. 10, secs. 1 and 7, emphasis added; Thomas L. Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (University of Chicago Press, 1988): “[T]hat proof does not so much as mention heaven, hell, the immortality of the soul (or the self), or divine judgment or punishment of any kind, and utterly fails to establish the omnipotence of the god in question” (198).
68. Locke, *A Letter to the Right Reverend Edward, Lord Bishop of Worcester, Concerning Some Passages Relating to Mr. Locke’s Essay of Human Understanding. In a Late Discourse of His Lordship’s, In Vindication of the Trinity*, in *The Works of John Locke in Nine Volumes*, vol. 3, 53–54. See also his refusal to respond to his friend James Tyrrell’s

- questions on the issue, discussed in Robert Horowitz's introduction to Locke's *Questions Concerning the Law of Nature*, trans. Horowitz, Jenny Strauss Clay, and Diskin Clay (Cornell University Press, 1990), 19–26.
69. Strauss, *Natural Right and History*, 220. Cf. Pangle, *Spirit of Modern Republicanism*, 201.
 70. Zuckert, *Natural Rights and the New Republicanism*, 285–86.
 71. Zuckert, *Natural Rights and the New Republicanism*, 278; cf. 367n31.
 72. Throughout the *Second Treatise*, Locke speaks of “the public good of society” (II 135, cf. II 3, II 89, II 137, II 159, II 163, II 165, II 222), and, in *A Letter Concerning Toleration*, he calls the public good the “end and measure of legislation” (23).
 73. Locke, *A Letter Concerning Toleration*, 28, emphasis added; cf. 31.
 74. Locke, *A Letter Concerning Toleration*, 26. Earlier he also said that the magistrate could pass a law compelling infants to be washed in water if it “helps to cure or prevent some disease to which infants are liable” (23).
 75. How to deal with such difficult cases is of course a tricky matter and hence best left to the prudential judgment of statesmen. This explains the importance that Locke ascribes to prerogative power in chapter 14 of the *Second Treatise*.
 76. Nozick, *Anarchy, State, and Utopia*, 31. He does raise the interesting question of whether individual rights “are absolute, or whether they may be violated in order to avoid catastrophic moral horror,” only to admit that it is a question “I hope largely to avoid” (30n). Nozick does recognize that some forms of risky behavior that potentially threaten the rights of others may be banned, so long as those prohibited from engaging in them are compensated. He does not, however, discuss a scenario like the one envisaged by Locke, where behavior that does not immediately threaten anyone's rights may nonetheless be justly forbidden.