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Author(s): Francis Oakley

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LOCKE, NATURAL LAW AND GOD — AGAIN

Francis Oakley

Of the many *questiones disputatae* roiling the fast-moving waters of Locke scholarship, few have evinced a more persistent capacity to stimulate disagreement than the matter of his natural-law teaching — its status, significance, coherence, consistency. Almost half a century after Von Leyden made readily available in a printed edition the early *Essays on the Law of Nature*, sharply-conflicting assessments of that teaching continue to appear.¹ Since Curtis and Lamprecht focused attention on it in the first modern analyses of Locke's moral philosophy, debate over the nature of that teaching has been stubborn in its persistence. As a result, one is sorely tempted to indulge the gloomy conclusion that we are no closer to agreement now than we were in 1918 when Lamprecht framed his lucid and still valuable analysis.²

That temptation, however, is not one to which we should too readily yield. With the benefit of hindsight it is possible now to see that the publication of Von Leyden's edition (making available important materials from the Lovelace collection to which most earlier scholars had not had access) was indeed a turning-point in our understanding of the central position Locke's natural-law teaching occupied in his thought as a whole. Writing prior to that event, and without access to the Lovelace materials, Leo Strauss had found it possible to conclude that Locke 'cannot have recognized any law of nature in the proper sense of the term'. Less forgivably, even after examining the Lovelace materials and in the teeth of the textual evidence, he still stubbornly wondered if Locke did not really 'intend to follow the lead given by Hobbes and to replace the traditional natural-law teaching by a moral teaching which is grounded in the

¹ John Locke, *Essays on the Law of Nature*, ed. and trans. W. Von Leyden (Oxford, 1954); cf. the more recent translation of these essays in John Locke, *Questions Concerning the Law of Nature*, ed. and trans. Robert Horowitz, Jenny Strauss Clay and Diskin Clay (Ithaca and London, 1990). The conflicting interpretations are those of David E. Soles, 'Intellectualism and Natural Law in Locke's *Second Treatise*', *History of Political Thought*, VIII (1987), pp. 63–81; and W. Randall Ward, 'Divine Will, Natural Law and the Voluntarism/Intellectualism Debate in Locke', *History of Political Thought*, XVI (1995), pp. 208–18.

² Sterling P. Lamprecht, *The Moral and Political Philosophy of John Locke* (New York, 1918). The only previous monograph on Locke's ethics was that of Mattoon Monroe Curtis, *An Outline of Locke's Ethical Philosophy* (Leipzig, 1890).

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desire or instinct for self-preservation'.³ In 1960, Richard Cox blithely endorsed much the same point of view and, as late as 1967, Philip Abrams could indicate his own inclination to prefer it to the position staked out by Von Leyden.⁴ But while it is rare for major interpretations ever to be superseded in any definitive fashion, Strauss's viewpoint on this particular issue appears to have been at least as effectively sidelined in the subsequent scholarship as has the very different case argued in the same era by C.B. MacPherson.⁵

³ Leo Strauss, *Natural Right and History* (Chicago, 1953), pp. 202–51, at p. 220; Leo Strauss, 'Locke's Doctrine of Natural Law', in L. Strauss, *What is Political Philosophy? And Other Studies* (Glencoe, IL, 1959), pp. 197–220 (esp. pp. 204, 206, 214–15).

⁴ Richard H. Cox, *Locke on War and Peace* (Oxford, 1960), pp. 45–105, at pp. 88–9; John Locke: *Two Tracts on Government*, ed. Philip Abrams (Cambridge, 1967), Introduction, p. 108 n. 12.

⁵ C.B. MacPherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford, 1962). The body of scholarly literature addressing the natural-law issue in Locke has now become quite extensive. In addition to the works already cited, see J.W. Gough, *John Locke's Political Philosophy* (Oxford, 1950, 1956), Ch. 1; John T. Noonan, Jr., 'The Protestant Philosophy of John Locke', in *Philosophical Studies in Honor of . . . Ignatius Smith, O.P.*, ed. J.K. Ryan (Westminster, MD, 1952), pp. 92–126; John Wild, *Plato's Modern Enemies and the Theory of Natural Law* (Chicago, 1953), pp. 127–32; W. von Leyden, 'John Locke and Natural Law', *Philosophy*, XXXI (1956), pp. 23–35; John W. Yolton, 'Locke on the Law of Nature', *The Philosophical Review*, LXVII (1958), pp. 477–98; Charles H. Monson, 'Locke and his Interpreters', *Political Studies*, VI (1958), pp. 120–6; A.P. Brogan, 'John Locke and Utilitarianism', *Ethics*, LXIX (1959), pp. 90–1; Raymond Polin, *La politique morale de John Locke* (Paris, 1960), pp. 95–128; Raghuveer Singh, 'John Locke and the Theory of Natural Law', *Political Studies*, IX (1961), pp. 105–18; Martin Seliger, 'Locke's Natural Law and the Foundation of Politics', *Journal of the History of Ideas*, XXIV (1963), pp. 337–54; Michael Bertram Crowe, 'Intellect and Will in John Locke's Conception of the Natural Law', in *Atti del XII Congresso Internazionale di Filosofia, Venezia, 12–18 Settembre 1958* (Florence, 1961), pp. 129–34; James W. Byrne, 'The Basis of Natural Law in Locke's Philosophy', *Catholic Lawyer*, X (1964), pp. 55–63; Francis Oakley and Elliot W. Urdang, 'Locke, Natural Law, and God', *Natural Law Forum*, XI (1966), pp. 92–109; John Dunn, *The Political Thought of John Locke* (Cambridge, 1969), pp. 187–99; John Dunn, *Locke* (Oxford, 1984), esp. pp. 30–1, 58–62; Hans Aarsleff, 'The State of Nature and the Nature of Man in Locke', in *John Locke: Problems and Perspectives*, ed. John W. Yolton (Cambridge, 1969), pp. 99–136; A.W. Sparkes, 'Trust and Teleology: Locke's Politics and his Doctrine of Creation', *Canadian Journal of Philosophy*, III (1973), pp. 263–73; James O. Hancey, 'John Locke and the Law of Nature', *Political Theory*, IV (1976), pp. 439–55; Merwyn S. Johnson, *Locke on Freedom* (Austin, 1978), pp. 26–41; S.B. Drury, 'John Locke, Natural Law and Innate Ideas', *Dialogue*, XIX (1980), pp. 531–45; James Tully, *A Discourse on Property: John Locke and his Adversaries* (Cambridge, 1980), pp. 34–50; James Tully, 'Governing Conduct: Locke on the Reform of Thought and Behavior', first published in 1988 and reprinted in James Tully, *An Approach to Political Philosophy, Locke in Contexts* (Cambridge, 1993), pp. 179–241; G.A.J. Rogers, 'Locke, Law and the Laws of Nature', in *John Locke: Symposium Wolfenbuttel 1979*, ed. Reinhardt Brandt (Berlin and New York, 1981), pp. 146–62; John Colman, *John Locke's Moral Philosophy* (Edinburgh, 1983); David

In that subsequent vein of commentary many issues pertaining to Locke's natural-law teaching have been addressed, but two may be singled out as having been dwelt upon with the greatest degree of insistence. First, the matter of the relationship between the intellectualist/rationalist and voluntarist aspects of that teaching which, during Locke's own lifetime, had already drawn acerbic commentary from Thomas Burnet. On those aspects, early in the present century, Lamprecht had focused renewed attention, arguing that Locke 'vacillated between two theories of the relation of God's will to the moral law', according to one of which (the intellectualist) 'things are commanded or forbidden by God because they are right or wrong', while, according to the other (the voluntarist) 'they are right or wrong because God commands or forbids them'.⁶ Second, the matter of the relationship between Locke's intellectualism *and* voluntarism, on the one hand, and on the other the element of hedonism which became increasingly prominent in his thinking from the late 1670s onwards. With the second I will not be concerned here. Although some have portrayed the relationship in question as a tension-ridden one,⁷ Locke himself clearly did not think it was, firmly distinguishing between moral obligation and psychological motivation, between moral rectitude 'in itself' and the 'good' constituted by the pleasure and pain which 'either accompanies [the moral or immoral] action or is looked

Wootton, 'John Locke: Socinian or Natural Law Theorist', in *Religion, Secularization and Political Thought from Thomas Hobbes to J.S. Mill*, ed. James E. Crimmins (London and New York, 1989), pp. 39–67; Horowitz, 'Introduction' to John Locke, *Questions Concerning the Law of Nature*, ed. Horowitz *et al.*, pp. 1–28, 45–62; Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford, 1991), pp. 125–90; Michael Ayers, *Locke* (2 vols., London and New York, 1991), Vol. II, Part 2, 'God, Nature, and the Law of Nature', pp. 129–62; J.B. Schneewind, 'Locke's Moral Philosophy', in *The Cambridge Companion to Locke*, ed. Vere Chappell (Cambridge, 1994), pp. 129–225; Ian Harris, *The Mind of John Locke: A Study of Political Theory in its Intellectual Setting* (Cambridge, 1994), pp. 78–106; Stephen Darwell, *The British Moralists and the Internal 'Ought': 1660–1740* (Cambridge, 1995), pp. 23–52, 149–75. The quickening since the 1950s in Locke scholarship in general is dramatically evident in Roland Hall and Roger Woolhouse, *80 Years of Locke Scholarship: A Bibliographical Guide* (Edinburgh, 1983), which takes the story up to 1981. For a helpful collection of many of the crucial journal articles, see *John Locke: Critical Assessments*, ed. Richard Ashcraft (4 vols., London and New York, 1991). In the second volume, pp. 1–129, he reprints the articles of Von Leyden, Yolton, Seliger, Byrne, Oakley and Urdang, Sparkes and Drury listed above.

⁶ Thomas Burnet, [*First*] *Remarks Upon an Essay Concerning Human Understanding, in a Letter Addressed to the Author* (London, 1697), p. 6, where he needles Locke by asking him to clarify his position on the issue: 'You seem to resolve all into the Will and Power of the Law-Maker: But has the Will of the Law-Maker no Rule to go by? And is not that which is a Rule to his Will, a Rule also to Ours, and indeed the Original Rule?'; Lamprecht, *Moral and Political Philosophy of John Locke*, pp. 105–8.

⁷ e.g. Richard I. Aaron, *John Locke* (Oxford, 2nd edn., 1955), p. 257; Von Leyden, introduction to his edition of the *Essays on the Law of Nature*, pp. 71–3; Mabbott, *John Locke*, pp. 112–28.

on as a consequence of it'. Hence 'the punishments and rewards which God has annexed to moral rectitude or pravity as proper motives to the will' and the relationship of which to moral rectitude is one of complementarity rather than competition.⁸ The scholarship of the past quarter of a century has been marked by something of a burgeoning consensus to the effect that, in so arguing, Locke was not completely deluding himself.⁹

If it would be redundant, then, to dwell further on this latter issue, that is by no means the case with the prior matter of the relationship between the intellectualist and voluntarist strands in Locke's thinking. Here, although our understanding of his natural-law teaching has undoubtedly been advanced by the work of the past several decades, the progress made has been piecemeal rather than systematic, the territory legitimately won has not really been consolidated into any viable scholarly consensus, later contributors to the debate have not always paid adequate attention to (or even been aware of) the arguments of their predecessors and, as a result, in the more recent contributions a regrettable degree of intellectual slippage has sometimes been evident.¹⁰ It is to this particular issue, then, that I propose now to return; and in so doing I will take as my point of departure the shifting context and focus of the discussion surrounding it since the mid-1960s when, moved especially by the confusions we felt Strauss and Singh had sponsored, Elliot Urdang and I transgressed the traditional confines of medieval studies in order to insert ourselves into what was a quintessentially early-modern debate.¹¹

When we did so, the question which preoccupied most scholars attempting to assess the intellectualist and voluntarist strands in Locke's thinking appeared to be that of deciding whether (as with Strauss, Cox, Wild and Byrne)¹² he was

⁸ See especially his note on *Voluntas* (1693), Ms. Locke c. 28, fol. 114v, printed in *Essays on the Law of Nature*, ed. Von Leydn, pp. 22–3.

⁹ Thus Hans Aarsleff, 'The State of Nature and the Nature of Man in Locke', and Hans Aarsleff, 'Some observations on recent Locke scholarship', both in *John Locke: Problems and Perspectives*, ed. Yolton, pp. 99–136, 262–71, at pp. 127, 262–3; Tully, *A Discourse on Property*, p. 43; Tully, 'Governing Conduct', esp. pp. 201–8; Colman, *John Locke's Moral Philosophy*, esp. pp. 68–9, 235–6; Buckle, *Natural Law and the Theory of Property*, pp. 129–30, 146; Ward, 'Divine Will, Natural Law and the Voluntarism/Intellectualism Debate in Locke', pp. 213–16.

¹⁰ Thus, for example, in 1976 Hancey, 'John Locke and the Law of Nature', could still speak of 'the Traditional conception of the Law of Nature' (pp. 441, 447–8, italics mine) as if that tradition was a unified one, and in 1995 Ward, 'Divine Will, Natural Law and the Voluntarism/Intellectualism Debate in Locke', could write as if the voluntarism involved in the debate in question was limited to the matter of the *binding force* of the natural law and did not extend to its content.

¹¹ Oakley and Urdang, 'Locke, Natural Law, and God'.

¹² Strauss, *Natural Right and History*, pp. 202–57; Strauss, 'Locke's Doctrine of Natural Law', pp. 197–220; Cox, *Locke on War and Peace*, pp. 88–9; Wild, *Plato's Modern Enemies and the Theory of Natural Law*, pp. 127–32; Byrne, 'The Basis of Natural Law in Locke's Philosophy', esp. pp. 58–60. Note that even Colman, in his most

simply to be read out of 'the classical and Christian natural-law tradition' or, as with Singh (Curtis *redivivus*?), securely reinstated within it.¹³ That being so, and coming at the issue as we did from the direction, not of subsequent but of antecedent intellectual developments, we were at pains to stress two things. First, that it was simply improper to speak of any *single* 'classical and Christian' or even 'medieval' natural-law tradition which could then be contrasted with a 'modern' notion of natural law. On the contrary, in the later Middle Ages and persisting on into the sixteenth and seventeenth centuries there had been two main traditions of natural-law thinking. One of them was grounded in one or other form of ontological essentialism (or 'realism', to use the medieval term). The other was grounded in the type of theological voluntarism characteristic of William of Ockham (d.1349) and of his fourteenth- and fifteenth-century nominalist successors. Second, that the failure to appreciate that fact (or fully to understand what it entailed) had had the effect of impeding our understanding of Locke's own natural-law thinking which, we argued, could be most accurately understood as a pretty faithful continuation of the late-medieval voluntarist tradition.

In so arguing, we harboured no illusion that we were the first commentators on Locke to be aware of the fact that the medieval natural-law tradition had by no means been a homogeneous one.¹⁴ Nor, for that matter, were we to be the last.¹⁵ Among the earlier commentators, Curtis, Lamprecht, Gough, Von Leyden and Singh, for example, were all of them aware of the intellectualist-voluntarist split in that tradition. Unfortunately, however, most of them appear to have depended for their understanding of the issue upon one of the most frequently cited of Otto Gierke's lengthy footnotes;¹⁶ and though he did not

impressive *John Locke's Moral Philosophy*, can speak of 'the classical natural law tradition' and 'the classical natural law conception' (pp. 238 and 240) and can say that Locke 'could not be considered a natural law theorist if he maintained that the content of morality was . . . imposed by God upon man' (p. 240).

¹³ Singh, 'John Locke and the Theory of Natural Law', esp. pp. 111–12. Or, earlier on, Curtis, *An Outline of Locke's Ethical Philosophy*, p. 61: 'we may suppose that Locke's views on natural law were in general accord with those of Tully [i.e. Cicero]. And this we find to be the case . . .'. Or, later, Hancey, 'John Locke and the Law of Nature', pp. 447–8.

¹⁴ Gough, *John Locke's Political Philosophy*, p. 4; John Locke, *Essays*, trans. Leyden, pp. 51–60; Singh, 'John Locke and the Theory of Natural Law', pp. 110–12.

¹⁵ See Drury, 'John Locke, Natural Law and Innate Ideas', p. 542; Tully, *A Discourse on Property*, pp. 40–1; and Tully, 'Governing Conduct', pp. 201–6; Colman, *John Locke's Moral Philosophy*, p. 240; Ayers, *Locke*, Vol. II, pp. 131–4.

¹⁶ See Otto Gierke, *Political Theories of the Middle Ages*, ed. and trans. F.W. Maitland (Cambridge, 1900), pp. 172–3, n. 256, where he explains, helpfully enough: 'The older [scholastic] view, which is more especially that of the Realists, explained the *Lex Naturalis* as an intellectual act independent of Will — as a mere *lex indicativa* in which God was not lawgiver but a teacher working by means of Reason — in short, as the dictate of Reason as to what is right, grounded in the Being of God but unalterable

acknowledge the fact, Gierke had based his analysis of the scholastic authors he cites in that note, not (or so I would judge) on his own independent analysis of their texts, but rather on the somewhat tendentious characterization of their views to be found in the *De Legibus ac Deo Legislatore* of Francisco Suarez (d.1617). In that summation, Suarez had contrived to assimilate Aquinas' much more intellectualistic position to his own more juridical one, improperly ascribing thereby to the earlier Thomists the distinctly Suarezian teaching that the binding force of the natural law, though not its content, was to be ascribed to its legislation by the divine will.¹⁷ As a result, Gough, Von Leyden and Singh, in attempting to assess the precise balance of intellectualist and voluntarist elements in Locke's thinking and to appraise it in the light of earlier scholastic views, were operating perforce with a distorted understanding of those views.

All of this we pointed out in 1966, but so far as I have been able to ascertain, we did so to little or no effect.¹⁸ Many of the subsequent commentators address the issue with only the most glancing of references to the scholastic past¹⁹ or with really none at all, attempting instead to come to terms with Locke's seemingly conflicting statements in no broader a context than that provided by

even by him . . . The opposite position, proceeding from pure Nominalism, saw in the Law of Nature a mere divine Command, which was right and binding because God was the Lawgiver.'

¹⁷ Compare Gierke, *Political Theories of the Middle Ages*, pp. 172–3, n. 256, with Francisco Suarez, *De Legibus ac Deo Legislatore* (Coimbra, 1612), Lib. II, c. 6, reproduced in *The Classics of International Law: Selection from Three Works of Francisco Suarez, S.J.*, ed. James Scott Brown (2 vols., Oxford, 1944), Vol. I, pp. 119–29 (English translation at Vol. II, pp. 187–208). Cf. Oakley and Urdang, 'Locke, Natural Law and God', pp. 99–100.

¹⁸ Our article appears to have attracted no attention at all until 1983, when it was listed in Hall and Woolhouse, *80 Years of Locke Scholarship*. Even then, it appears to have had no impact on the continuing discussion of the relationship between the intellectualistic and voluntaristic strands in Locke's natural law teaching until 1988, when James Tully, citing it and the earlier works of mine on which it built, concluded that it had 'put past doubt' the fact that Locke considered 'both the obligation and the content of natural law' to be 'derived from god's will' — see Tully, 'Governing Conduct', p. 206, n. 104, and pp. 202–3, nn. 93 and 95. Cf. James Tully, 'Locke', in *The Cambridge History of Political Thought: 1450–1700*, ed. J.H. Burns and Mark Goldie (Cambridge, 1991), p. 625. In 1991 Ashcraft reprinted the Oakley–Urdang article in his *John Locke: Critical Assessments*, Vol. II, pp. 63–83.

¹⁹ Thus, for example, *John Locke: Two Tracts on Government*, ed. Abrams, pp. 80–1, where he too relies (as did Colman later) on what he calls 'Gierke's famous analysis of medieval theories of law' (i.e. the footnote); cf. Colman, *John Locke's Moral Philosophy*, p. 269, n. 6. See also Dunn, *The Political Thought of John Locke*; Dunn, *Locke*; Hancey, 'John Locke and the Law of Nature'; Sparkes, 'Trust and Teleology'; Drury, 'John Locke, Natural Law and Innate Ideas'; Darwall, *The British Moralists and the Internal 'Ought': 1640–1740*.

his own *oeuvre* taken as a whole or, at most, that constituted by the writings of his seventeenth-century contemporaries.²⁰ Others, properly recognizing the pertinence of scholastic antecedents, bring to their interpretative effort, nonetheless, a somewhat wavering understanding of the nature of the voluntarist tradition.²¹ None, to my knowledge, has attempted to bring into a meaningful configuration the newer perspectives generated by the advances evident both in recent Locke scholarship and in our knowledge and understanding of the nominalist thinkers of the fourteenth and fifteenth centuries.

In this essay, then, it is my purpose to try to remedy this last defect. So far as our understanding of Locke's natural-law teaching is concerned, scholarly developments in both fields manifest a happy degree of intellectual convergence that it is now time to explore, turning first to the Lockean texts themselves, and then to the pertinent scholarship. The texts — including those that most stubbornly resist interpretation — remain, of course, the same. But how we should look at them has in significant measure been changed by the scholarly advances of the past quarter-century.

I

Curtis and Singh somehow contrived to stitch together from disparate statements strewn across Locke's works what they took to be a consistently intellectualist theory of natural law. But few today, I suspect, would be inclined to challenge the claim that it is, rather, the voluntarist strand that figures most prominently and most persistently in his texts taken as a whole. Certainly, it is the strand that is interwoven throughout his thinking. It emerges in the second of his early *Tracts on Government* (1660–2) and in his *Commonplace Book* (1661), occupies a prominent place in his *Essays on the Law of Nature* (1660–4), continues on through the *First* and *Second Treatises of Government* (1689–90),

²⁰ Thus Parry, *John Locke*; Soles, 'Intellectualism and Natural Law in Locke's *Second Treatise*'; Harris, *The Mind of John Locke*; Ward, 'Divine Will, Natural Law and the Voluntarism/Intellectualism Debate in Locke'; Horowitz, 'Introduction' to John Locke, *Questions Concerning the Law of Nature*, ed. Horwitz *et al.*, esp. pp. 10–28.

²¹ That is in some measure true even of the fine analysis of Tully, *A Discourse on Property*, p. 41, where he incorrectly asserts that the Ockhamists believed 'natural laws' to be 'imperatives *accepted on faith*' (italics mine), and of Ayers, *Locke*, Vol. II, pp. 190 and 196, where running together the orders of creation and redemption, and perhaps unconscious of the fact that the late-medieval preoccupation with the implications of the divine omnipotence had found expression in more than one particular theology of justification, he appears incorrectly to assume that what he calls a 'strong, seriously meant voluntarism' must necessarily go hand-in-glove with a staunchly Calvinistic doctrine of election. In any case, theories of natural law pertain to the realm not of *revealed* or *dogmatic theology*, but to that of *natural theology*. On all of which, see the brief discussion in Francis Oakley, *The Western Church in the Later Middle Ages* (Ithaca and London, 1979), pp. 133–48.

the *Essay Concerning Human Understanding* (1690) and the paper *Of Ethics in General* (containing material Locke withheld from the *Essay* when he published it), and is still present in *The Reasonableness of Christianity* published in the last decade of his life.²² It is to the divine will that these texts trace the natural law no less than the divine (positive) law, distinguishing the former from the latter by virtue of the fact that God makes it known to us, not by divine revelation, but by the light of nature.²³ To the fact that it is, indeed, a disclosure of that divine will (which binds ‘of itself and by its intrinsic force’) natural law owes its obligatory force, for it is ‘the decree of a superior will, wherein the formal cause of a law appears to consist’.²⁴ Further than that, it is from the declaration of the same omnipotent will, which ‘delimits the obligation and the ground of our obedience’, that the very nature and content of the natural law’s precepts and prohibitions derive.²⁵ If Locke does not hesitate himself to refer to that law as the ‘law of Reason’ or to equate it with ‘Reason, the common Rule and Measure God hath given to Mankind’ or implanted in us,²⁶ he is at the same time careful to insist, defining natural law again as the ‘decree of the divine will’, that it is

less correctly termed by some people the dictate of reason [*dictatum rationis*] since reason does not so much establish and pronounce this law of nature as search for it and discover it as a law enacted by a superior power and implanted in our hearts. Neither is reason so much the maker of that law as its interpreter, unless, violating the dignity of the supreme legislator, we wish to make reason responsible for that received law which it merely investigates; nor indeed can reason give us laws, since it is only a faculty of our mind and part of us.²⁷

²² *John Locke: Two Tracts on Government*, ed. Abrams, pp. 220–2; *Essays on the Law of Nature*, ed. Von Leyden, esp. Essays I, IV and VI, pp. 111–13, 151, 185–7; *First Treatise of Government*, §§86 and 166, *Second Treatise of Government*, §135, in *John Locke: Two Treatises of Government*, ed. Peter Laslett (Cambridge, 1988), pp. 205, 261–2, 358; *An Essay Concerning Human Understanding*, ed. Peter H. Nidditch (Oxford, 1975), I, ii, §§6, 12 and 18, II, xxviii, §§5 and 8, pp. 351–2; *Of Ethics in General*, printed in Lord King, *The Life of John Locke* (2 vols., London, new edn., 1830), Vol. II, pp. 130–1, 133; *The Reasonableness of Christianity*, in *The Works of John Locke* (10 vols., London, 10th edn., 1801), Vol. VII, p. 144.

²³ ‘Second Tract on Government’, in *John Locke: Two Tracts on Government*, ed. Abrams, p. 222; *Essays on the Law of Nature*, ed. Von Leyden, Essay II, pp. 132–3; Essay VI, pp. 186–7.

²⁴ *Essays on the Law of Nature*, ed. Von Leyden, Essay VI, pp. 186–7; Essay I, pp. 110–13. Cf. Locke’s *Common-Place Book*, in King, *Life of John Locke*, Vol. II, p. 94.

²⁵ *Essays on the Law of Nature*, ed. Von Leyden, Essay VI, pp. 185–7.

²⁶ *Second Treatise of Government*, ed. Laslett, §§6, 10–11, 56, pp. 271, 273–4, 305.

²⁷ *Essays on the Laws of Nature*, ed. Von Leyden, Essay I, pp. 110–11, where Locke has just defined natural law as ‘the decree of the divine will discernible by the light of nature and indicating what is and what is not in conformity with rational nature, and for

If such, then, were the only ‘intellectualist’ texts with which Locke confronts the would-be interpreter of his natural-law thinking, his credentials as a thorough-going voluntarist could hardly have been drawn seriously into question. But they are not, of course, the only such texts and problems begin to emerge as soon as the interpretative action moves from the human side of the equation to the divine.²⁸ For it is at that point that some of Locke’s own statements signal the pertinence of the question that Thomas Burnet put to him so forcefully after the publication of the *Essay Concerning Human Understanding*, but to which Locke vouchsafed no clear reply. If moral good and evil are grounded in the precepts of the divine law, what then, Burnet asked, is the ultimate ground of that law itself? Can it really be ‘the Arbitrary Will of God’ rather than ‘the intrinsick Nature of the Things themselves?’. Locke, he charged, seemed ‘to resolve all into the Will and Power of the Law-Maker’. But, then, has the Will of the Law-Maker no Rule to go by? Is not that which is a Rule to *his* Will, a Rule also to Ours and indeed the Original Rule?²⁹

The question was a good one, and it is a fact that scattered across Locke’s works are remarks which could conceivably be read to suggest that God’s will was indeed subject to some such ‘Original Rule’. He more than once spoke, after all, of natural law as being an ‘eternal law’ and insisted that its obligations were ‘so great, and so strong’, that in the case at least of ‘*Grants, Promises and Oaths*’ ‘*Omnipotency* itself can be tyed by them’.³⁰ ‘That unlimited power’, or so he says elsewhere, ‘cannot be an excellency without it be regulated by wisdom and goodness’.³¹ Indeed, ‘we might say that God himself *cannot* choose what is not good; the freedom of the Almighty hinders not his being determined by what is best’.³² The ‘eternal law of right’ being ‘holy, just and good’, it is not open to abrogation or repeal ‘whilst God is an holy, just, and righteous God’.³³ For ‘this law does not depend on an unstable and dangerous will, but on the eternal order of things’. It is ‘a fixed and permanent rule of morals’, proclaimed by reason and ‘firmly rooted in the soil of human nature’.

this very reason commanding or prohibiting’. Cf. *ibid.*, Essay VII, pp. 198–9, where he speaks again of the conformity or harmony between natural law and man’s rational nature.

²⁸ In contrast to the position we took in 1966 (see Oakley and Urdang, ‘Locke, Natural Law, and God’, p. 96), I would now judge that it is only when Locke addresses the divine side of the question and evokes (if only indirectly and by implications) the old question of the primacy of will or reason in God that such problems do emerge.

²⁹ Burnet, [*First*] *Remarks Upon an Essay Concerning Human Understanding*, p. 6.

³⁰ *Second Treatise of Government*, §195, ed. Laslett, pp. 395–6. Cf. *First Treatise of Government*, §6, ed. Laslett, p. 144, where he refers to ‘Promises and Oaths, which tye the infinite Deity’.

³¹ King, *Life of John Locke*, Vol. I, p. 228 (entry under Sunday, August 7, 1681).

³² *Essay Concerning Human Understanding*, II, xxi, §49, ed. Nidditch, p. 265.

³³ *The Reasonableness of Christianity*, in *The Works of John Locke*, VII, pp. 111–12.

Only if human nature itself were to be changed could it be ‘altered or annulled’.³⁴

So presented, such texts would certainly appear to suggest the need to insert some sort of rationalistic qualification into what has otherwise to be acknowledged as the controlling voluntarism of Locke’s natural law thinking; and that is, in effect, precisely what scholars like Lamprecht and Von Leyden have long insisted. But the fleeting and fragmentary nature of the statements involved, as well as Locke’s manifest uneasiness with any probing discussion of the divine nature,³⁵ suggest the wisdom of refraining from conceding the point until the texts in question have been appraised more fully, and in a threefold context. First, that provided by the works in which they themselves appear. Second, and more broadly, that constituted by Locke’s thinking taken as a whole (theological as well as ethical, ontological as well as epistemological) and by the intellectual currents prevailing in his lifetime. Third, and most challenging of all, that provided by the long and tense history of Christian attempts to harmonize, and in moral philosophy as well as ontology, the conflicting implications flowing from the disparate notions of the divine embedded in the biblical and Greek philosophical patterns of thought. It is to an exploration of that threefold context that I propose now to turn, beginning with the last and most general and ending with the first and most particular.

II

There can be few developments in the history of philosophy more tangled and complex than the movement of ideas in late antiquity that had culminated by the fourth century CE in the NeoPlatonic patterns of thought encountered by St Augustine in what he was wont to call ‘the books of the Platonists’.³⁶ Among other things, this movement had involved a persistent tendency to understand the mysterious Demiurgos of Plato’s *Timaeus* not as a mythic symbol but literally as a World-Maker, to conflate him with the Transcendent Unmoved Mover of Aristotle’s *Metaphysics* — the final and highest good whom he himself called ‘god’ — and to treat Plato’s eternally subsistent Ideas or Forms not as independent entities but as thoughts or ideas *in the mind* of the supreme God resulting from that conflation. Thus emerged the notion of a transcendent God, at once the Highest Good to which all things aspire, the First Cause to which all things owe their being, the Supreme Reason from which all things derive their order and intelligibility and, increasingly (for NeoPlatonism was

³⁴ *Essays on the Law of Nature*, ed. Von Leyden, Essay VII, pp. 198–9.

³⁵ I am referring to Locke’s *Examination of Malebranche’s Opinion of Seeing All Things in God* and the related *Remarks Upon Some of Mr. Norris’s Books*, works in which Locke is forced, of necessity, to direct some attention to Malebranche’s discussion of the divine ideas. On which, see Oakley and Urdang, ‘Locke, Natural Law, and God’, pp. 107–9.

³⁶ e.g. *Confessiones*, VII, 9, 20, 21.

no less a path of salvation than a philosophy), the object of a lively devotional sentiment.

In light of this development, it is easy enough to comprehend how St Augustine, following the trail blazed by Philo Judaeus and later broadened by the Greek Fathers of the Church, was able to engineer in a fashion that proved to be definitive for Latin Christian philosophy the further conflation of the NeoPlatonic God — the God of the philosophers, as it were, in its final and most developed version — with the biblical God of Abraham, Isaac and Jacob, the personal God of power and might who not only transcends the universe but also created it out of nothing. In so doing, by agreeing with Philo, the Neo-Platonists and many of his Christian predecessors that the creative act was indeed an intelligent one guided by Ideas of the Platonic mould but ideas located now in the divine mind, he responded to the Greek concern to vindicate philosophically the order and intelligibility of the universe. By virtue of his authority, then, he secured for the doctrine of the divine Ideas an enduring place in Christian philosophy and theology.

That very doctrine witnesses, however, to the severe internal tensions that Augustine's synthesis involved. In the historic encounter between the Greek philosophical tradition and religious views of biblical provenance, the great stumbling block had been (and necessarily remained) the difficulty of reconciling the personal and transcendent biblical God of power and might, upon whose will the very existence of the universe was contingent, with the characteristically Greek intuition of the divine as limited and innerworldly and of the universe as necessary and eternal — or, to put it somewhat differently, with the persistent tendency of the Greek philosophers to identify the divine with the immanent and necessary rational order of an eternal cosmos.³⁷ Those tensions mounted in the course of the twelfth and thirteenth centuries, when Augustine's treaty had, as it were, to be renegotiated and a far more difficult accommodation reached with full-scale philosophical systems of Arab–Aristotelian amalgam. Asserting not only the eternity of the world but also its necessity, those systems confronted Christian scholastic thinkers with the picture of a determined world in which everything had to be what it was and which permitted no room for the play of free will in either man or God. Not even the subtle philosophical and theological diplomacy of an Aquinas proved capable of convincing his more conservative contemporaries that such an accommodation was truly possible without the abandonment or radical modification of beliefs so fundamental to Christianity as to be non-negotiable. Edging beyond the hallowed 'negative way' of attempting to come to terms with the divine nature,³⁸ Aquinas argued

³⁷ For a discussion of this point and its implications, I venture to refer to the essays gathered together in *Creation: The Impact of an Idea*, ed. Daniel O'Connor and Francis Oakley (New York, 1969).

³⁸ The way pursued by such influential Christian thinkers as the anonymous author whom we know as Pseudo-Dionysius and his ninth-century translator, John Eriugena,

that by extrapolating from our human knowledge of created things and by recourse to an analogical use of terms, it was possible without equivocation to predicate of God such positive attributes as intelligence, wisdom and goodness. Bolder in his rationalism than many of his more conservative contemporaries, he set out, by blending Aristotelian and Augustinian notions (including the doctrine of the divine ideas), to demonstrate that God's creative act was not only a free but also a rational one, thus vindicating the order, rationality and intelligibility of the universe. Assuming the primacy of reason over will not only in man but in God, he regarded what in later parlance would be called the (moral) natural law and the (physical) laws of nature in comparatively 'Greek' fashion as both of them the external manifestations of an indwelling and immanent reason. Thus he spoke of an 'eternal law' that orders to their appropriate ends all created beings, irrational no less than rational, and defined that law as 'nothing other than the idea of the divine wisdom insofar as it directs all acts and movements' and governs 'the whole community of the universe'.³⁹

It was the advantage of this way of looking at things that it enabled one to regard the whole of being, the realm of nature no less than that of man, as in its own fashion subject to the norms of the same eternal law. The correlative disadvantage, however, was that that subjection to law could arguably be taken to extend to God himself, thus threatening his freedom and omnipotence. For the eternal law is nothing other than one aspect of the divine reason itself, and in God reason is prior to will. It would appear, therefore, that the old discord between Greek and biblical notions of the divine, far from being resolved in the new accommodations spawned by the theology of the schools, was simply transposed into another key, reappearing at the level, as it were, of the divine psychology. With Aquinas' doctrine of eternal law, the tensions involved had for some not only survived but been intensified to breaking point.

During the century following his death in 1274, then, many of the rationalistic commitments characteristic of Aquinas and of those who trod in his footsteps were called into question — among them the priority accorded to the divine intellect over the divine will and the confidence in the capacity of analogical reasoning to cast a conceptual net really capable of encompassing in a meaningful commonality of discourse the natures of both God and man and bridging the gulf dividing the infinite from the finite.⁴⁰ The inclination now was to take

as also by such Jewish thinkers as Avicbron (d. ca.1058) and Maimonides (d.1204). In accordance with that approach to the knowledge of the divine, we cannot aspire to know what God *is*. The best we can hope to do is to struggle through to a knowledge of what he is *not*. There is a lucid account of the degree to which Aquinas edged beyond that position and of what his doctrine of analogy involved in Brian Davies, *The Thought of Thomas Aquinas* (Oxford, 1993), pp. 58–97.

³⁹ *Summa theologiae*, Ia IIae, qu. 91, art. 1 and 2; qu. 93, art. 1.

⁴⁰ For a detailed and carefully nuanced discussion of the issues embedded in this shift, see Marilyn McCord Adams, *William Ockham* (2 vols., Notre Dame, 1987), Vol. II, pp. 903–1010.

the divine omnipotence as the fundamental principle, to accord to the divine will the primacy in God's workings *ad extra*, and to understand the order of the created world (both the moral order governing human behaviour and the natural order governing the behaviour of irrational beings) no longer as a participation in a divine reason that is in some measure transparent to the human intellect, but rather as the deliverance of an inscrutable divine will. The hallowed doctrine of the divine ideas came now under challenge,⁴¹ and with it the epistemological realism and the whole metaphysics of essences in which it was embedded, as well as the affiliated understanding of the universe as an intelligible organism penetrable by a priori reasoning precisely because it was itself ordered and sustained by an indwelling and immanent reason. The tendency, therefore, was to set God over against the world he had created and which was constantly dependent upon him, to view it now as an aggregate of particular entities linked solely by external relations, comprehensible (and, if God so chose, capable of existing) each in isolation from the others and, as a result, open to investigation only by some form of empirical endeavour.

With its characteristic linkage of an emphasis on the divine omnipotence and a concomitant understanding of the natural law as imposed by the divine will with a commitment to ontological particularism, epistemological 'nominalism' and a species of methodological empiricism, this tendency became dominant among the scholastic thinkers affiliated with the late-medieval nominalist school. Despite its diversity, that school still drew its basic inspiration from the philosophical and theological writings of William of Ockham (d.1349). In relation especially to ethical and legal issues, its guiding principles found a particularly powerful and influential expression in the thinking of Pierre d'Ailly (d.1420).⁴² Moved in this, it may be surmised, by Suarez's listing of the leading late-medieval voluntarists, it was at both of these men, along with Andreas de Novo Castro (b.ca.1340), that Ralph Cudworth, the Cambridge Platonist and a

⁴¹ Though respect for the authority of St Augustine softened the impact of this challenge. Thus William of Ockham was careful to retain the *language* of the traditional doctrine even while emptying it of its traditional content. If we are to speak of the divine ideas we must remember that we are speaking, not of any universal ideas, but merely of the ideas which God has of actual or possible individual creatures. See William of Ockham, *Scriptum in librum primum Sententiarum (Ordinatio)*, I, dist. 35, qu. 5, esp. art 3; ed. G.I. Etzkorn and F.E. Kelley (New York, 1979), pp. 485–507. The whole question is devoted to the matter.

⁴² For a fuller discussion of their views, see Francis Oakley, 'Medieval Theories of Natural Law: William of Ockham and the Significance of the Voluntarist Tradition', *Natural Law Forum*, VI (1961), pp. 65–83; Arthur S. McGrade, *The Political Thought of William of Ockham: Personal and Institutional Principles* (Cambridge, 1974), pp. 173–96; Francis Oakley, *The Political Thought of Pierre d'Ailly: The Voluntarist Tradition* (New Haven and London, 1964), pp. 163–97. D'Ailly's discussion in his *Sentences* of the nature and grounding of law and of its various modalities is extensive enough to constitute almost a 'treatise on law' in its own right.

contemporary of Locke's, pointed an accusing finger when he signalled his alarm about the re-emergence in his own day of the voluntarist ethic 'promoted and advanced by such as think nothing so essential to the Deity as uncontrollable power and arbitrary will', and teaching 'that there is no act evil but as it is prohibited by God, and which cannot be made good if it be commended by God. And so on the other hand as to good.'⁴³

The bluntness of that accusation notwithstanding, it should be noted that it would be easy enough in the cases of both Ockham and d'Ailly, to conclude (as Shepard, Lewis and Sabine did) that 'Occam [and, *we* may add, d'Ailly] held to the time-honored ancient and medieval tradition of eternal, immutable principles of nature discoverable by the use of reason'.⁴⁴ All one would have to do, would be to adopt an interpretative stance akin to that used by Singh in his approach to Locke, to respond disproportionately to their more practical evocations of the authority of natural law, and to focus too exclusively on texts that appear to smack of intellectualism. Thus it is indeed the case that, according to d'Ailly, morally correct action is nothing other than action in conformity with 'the dictates of reason' and 'the light of natural reason',⁴⁵ and, according to Ockham, that no act is 'perfectly virtuous unless it is elicited in conformity with right reason' — indeed, beyond that, unless 'the will through that act wishes that which is dictated by right reason because it is dictated by right reason'.⁴⁶ To follow the dictate of right reason is nothing other than to obey the

⁴³ Ralph Cudworth, *Treatise Concerning Eternal and Immutable Morality*, Bk. I, chs. 1 and 3, in Cudworth, *The True Intellectual System of the Universe*, ed. Thomas Bird (2 vols., New York, 1838), Vol. II, esp. pp. 369–71. Interestingly enough, he links the reemergence in his own day of ethical voluntarism with the revival of 'the physiological hypotheses of Democritus and Epicurus' (i.e. forms of atomism) and with their successful application 'to the solving of some of the phenomenon of the visible world' (i.e. contemporary scientific endeavour). Cf. Suarez, *De Legibus ac Deo Legislatore*, Lib. II, c. 6 (in *The Classics of International Law*, ed. Brown, Vol. I, p. 121), where, along with Jean Gerson, he too lists Ockham, d'Ailly and Novocastro as the representative exponents of the voluntarist position.

⁴⁴ Max A. Shepard, 'William of Occam and the Higher Law', *American Political Science Review*, XXVI (1932), pp. 1005–23, and *ibid.*, XXVII (1933), pp. 24–38, where he adds that 'no really essential difference exists between Occam and Aquinas on this point, and that it is on the whole erroneous to extend the nominalistic–realistic schism to embrace their respective theories of natural law'. These articles and their findings are commended by Ewart Lewis, *Medieval Political Ideas* (2 vols., London, 1954), Vol. I, p. 334 n. 32, and George H. Sabine, *A History of Political Theory* (New York, revised edn., 1958), p. 306.

⁴⁵ Pierre d'Ailly, *Questiones super I, III et IV Sententiarum* (Lyons, 1500), I, qu. 2, art. 2, M, f. 62v: 'per recte agere moraliter nihil aliud intelligo nisi agere conformiter dictaminis rationis'. *Ibid.*, *Princ in I Sent.*, L, ff. 23v–24v: 'prima principia moralia solum per sinderim et lumen rationis habita'.

⁴⁶ Ockham, *Super quatuor libros Sententiarum* (Lyons, 1495), III, 12 CCC: 'nullum actus est perfecte virtuosus nisi voluntas per illum actum velit dictatum a recta ratione propter hoc quod est dictatus a recta ratione'.

natural law, which he describes as ‘absolute’, ‘immutable, and admitting of no dispensation’.⁴⁷

Such formulations, however, serve only to mislead if one misses the fact that they are subject in the thinking of both men to a very important qualification. That qualification, which they signal by the employment of such expressions as ‘according to the laws ordained and instituted by God’, ‘given the divine ordination’, ‘by the ordained law’, ‘by the natural or naturally ordained power’,⁴⁸ reflects the insertion into their discussions of the moral order (as also, for that matter, the order of physical nature and the order of salvation) of a crucial scholastic distinction that enjoyed an extraordinarily persistent career from the beginning of the thirteenth century right down to the early years at least of the eighteenth. The distinction in question was that between God’s power understood as absolute and as ordained (*potentia dei absoluta et ordinata*), and it was deployed in an effort to vindicate the freedom and omnipotence of God while at the same time affirming the stability of the particular order he has freely chosen to institute.⁴⁹ In the wake of the particular formulation it received at the hands of Duns Scotus (d.1308), that distinction came to be understood by some (not least among them d’Ailly and Suarez) as envisioning the possibility that God’s absolute power, by virtue of which he can do

⁴⁷ Ockham, *Dialogue*, I, vi, cap. 100; printed in *Monarchia S. Romani Imperii*, ed. Melchior Goldast (3 vols., Frankfurt, 1611–14), Vol. II, p. 629, l. 45: ‘utens naturali dictamine rationis, hoc est utens jure naturali’. Cf. *Dialogus*, III, ii, I, cap. 10 (*ibid.*, Vol. II, p. 878, ll. 27–31, and III, ii, III, cap. 6 (*ibid.*, p. 932, l. 65): ‘quia jure naturale est immutabile primo modo et invariabile et indispensabile’.

⁴⁸ Thus William of Ockham, *Quodlibeta septem*, Quodl. VI, qu. 1, art. 1, ed. Joseph C. Wey (New York, 1980), p. 586; William of Ockham, *Scriptum in librum primum Sententiarum (Ordinatio)*, Prol., qu. 7, ed. Gedeon Gál and Stephen Brown (New York, 1967), pp. 187, 197, 202, 205; Pierre D’Ailly, *De libertate creaturae rationalis*, in Jean Gerson, *Opera omnia*, ed. Louis Ellies Dupin (6 vols., Antwerp, 1706), Vol. I, p. 632; P. D’Ailly, *De Trinitate*, in Gerson, *Opera omnia*, ed. Dupin, Vol. I, p. 619; P. D’Ailly, *Sent.* I, art. 2 JJ, f. 96r; and P. D’Ailly, *Sent.* IV, qu. 1, art. 2 J, f. 188v.

⁴⁹ Since the 1960s this distinction has become the subject of a voluminous scholarly literature. Of recent years at least four books have made it the exclusive focus of their concern — see Francis Oakley, *Omnipotence, Covenant, and Order: An Excursion in the History of Ideas from Abelard to Leibniz* (Ithaca and London, 1984); Eugenio Randi, *Il sovrano e l’oralogiaio: Due immagini di Dio nel dibattito sulla ‘potentia absoluta’ fra XIII e XIV secolo* (Florence, 1987); William J. Courtenay, *Capacity and Volition: A History of the Distinction of Absolute and Ordained Power* (Bergamo, 1989); Lawrence Moonan, *Divine Power: The Medieval Power Distinction up to its Adoption by Albert, Bonaventure, and Aquinas* (Oxford, 1994), this last now providing the best account of the emergence of the distinction in the early thirteenth century. There is a good, recent synoptic account in Gijsbert van der Brink, *Almighty God: A Study of the Doctrine of Divine Omnipotence* (Kampen, 1993), pp. 68–92. For an instance of the use of the distinction as late as the early eighteenth century, see Samuel Willard, *A Compleat Body of Divinity* (Boston, 1726), qu. 4, sermon XXII, p. 70, col. 2, the terms used being ‘unlimited and absolute Power’ and ‘ordinate Power’.

anything that does not involve a formal contradiction, is a potentially active power whereby he can contravene (and *has* actually contravened) the laws — moral, natural, salvational — which he has by his ordained power in fact established.⁵⁰ But it is now generally accepted that in its inception, and as formulated by such thinkers as Aquinas, the distinction did not involve any understanding of the absolute power as a presently active one. Instead, it was taken to refer to God's ability in principle to do many things that he does not in fact choose to do. It referred, that is,

to the total possibilities *initially* open to God, some of which were realized by creating the established order . . . [with] . . . the unrealized possibilities . . . now only hypothetically possible. Viewed another way, the *potentia absoluta* is God's power considered absolutely, . . . without taking into account the order established by God. *Potentia ordinata*, on the other hand, is the total ordained will of God, the complete plan of God for his creation.⁵¹

That is the meaning later attached to it, and with admirable concision, in the theological textbook that enjoyed so wide a circulation in Locke's own lifetime — *The Marrow of Sacred Divinity* by William Ames.⁵²

Whether the earlier or the later meaning was attached to it, the pertinence of the distinction to the status of the divinely-established order is not in doubt. Its impact was such as to underline the contingency of that entire order while at the same time affirming its *de facto* stability. That impact was two-fold precisely because it inserted, side by side with the Old Testament vision of Yahweh

⁵⁰ For this development (which is not really germane to Locke's thinking) reference may be made to Oakley, *Omnipotence, Covenant, and Order*, pp. 52–9. In 1961 and 1966 I took this later usage to reflect the controlling meaning of the distinction throughout its history and attributed it (incorrectly), therefore, to Ockham. See Oakley, 'Medieval Theories of Natural Law', pp. 71–2; Francis Oakley, 'Christian Theology and the Newtonian Science: The Rise of the Concept of the Laws of Nature', *Church History*, XXX (1961), pp. 435–57, at pp. 439–40, 443–4; Oakley and Urdang, 'Locke, Natural Law and God', pp. 101–2. Although there are some 'Scotistic' hesitations in Ockham, his usage of the distinction is by and large aligned with Aquinas' 'classic' version. For which, see Courtenay, *Capacity and Volition*, pp. 119–23; and Adams, *William Ockham*, Vol. II, pp. 1186–1207 (a detailed analysis more sensitive to the Scotistic elements in Ockham's usage than is Courtenay's).

⁵¹ Thus William J. Courtenay, 'Nominalism and Late Medieval Religion', in *The Pursuit of Holiness in Late Medieval and Renaissance Religion*, ed. Charles Trinkaus and Heiko A. Oberman (Leiden, 1974), p. 39.

⁵² William Ames, *The Marrow of Sacred Divinity*, Bk. I, ch. 6, §§16–20, in *The Marrow of Theology*, ed. John D. Eusden (Boston, 1968), p. 93: 'The absolute power is that by which God is able to do all things possible though they may never be done', while 'the ordained power is that by which he not only can do what he wills but does actually do what he wills'. First published as *Medulla theologica* in Amsterdam in 1623, the book went through twelve reprintings in the Latin edition, a Dutch translation (1656) and, between 1638 and 1643, three printings of the English translation — see *The Marrow of Theology*, ed. Eusden, pp. 1–3.

as a God of power and might, another fundamentally biblical theme — that of God's covenant and promise. The only force capable of binding omnipotence without thereby denying it is, after all, the omnipotent will itself. Conversely, if that will were somehow incapable of binding itself it could hardly be regarded as truly omnipotent. While God cannot be said to be bound by the canons of any merely human reason or justice, he is certainly capable by his own free decision of binding himself to follow a certain pattern in dealing with his creation, just as an absolute monarch can similarly bind himself in his dealings with his subjects. Nor is that analogy an improper or misleading one. It is a commonplace in the medieval texts themselves.⁵³ Thus the biblical God who knows, of course, no absolute necessity has freely chosen to bind himself by a hypothetical necessity (*necessitas ex suppositione; necessitas consequentiae*, what Chaucer accurately designates in the *Nun's Priest's Tale* as a 'necessitee condicionel') — an 'unfailing necessity appropriate to God', as one nominalist theologian put it, 'because of his promise, that is, his covenant, or established law [*ex promisso suo et pacto sive statuta*]'.⁵⁴

The impress of this covenantal way of thinking is evident in what Ockham and d'Ailly have to say on a broad array of issues, from the order of (physical) nature, via that of salvation, to that of the moral life. Thus, for Ockham, 'evil is nothing other than the doing of something opposite to that which one is obliged to do', and it is God, free himself from all obligation, whose will is the source of that obligation.⁵⁵ Robbery, adultery, hate of God even — all such vices could be stripped of their evil and rendered meritorious if they were to 'agree with the divine precept just as now *de facto* [i.e. *de communi lege*, by God's ordained power] their opposites agree with the divine precept'.⁵⁶ If such

⁵³ There is a good example in one of the sermons preached by the late-medieval scholastic, Gabriel Biel. See his 'On the Circumcision of the Lord' (ca.1460), translated in *Forerunners of the Reformation: The Shape of Late Medieval Thought*, ed. Heiko A. Oberman (New York, 1966), pp. 165–76. For instances of the use of the royal/papal analogy to illuminate the *potentia dei absoluta/ordinata* distinction, and the use, in turn, of that distinction by canon, civil and early-modern prerogative lawyer, to illuminate the nature of imperial, royal and papal power, see Francis Oakley, 'Jacobean Political Theology: The Absolute and Ordinary Powers of the King', *Journal of the History of Ideas*, XXIX, 3 (1968), pp. 323–46; and Oakley, *Omnipotence, Covenant, and Order*, pp. 55–6, 92–118.

⁵⁴ Robert Holcot, *Super libros Sapientiae* (Hagenau, 1494), lect. 145B; I cite the translation in *Forerunners of the Reformation*, ed. Oberman, p. 149. Cf. Geoffrey Chaucer, *The Nonne Preestes Tale*, in *The Canterbury Tales* (Oxford and London, 1906), p. 259. For the covenantal theme in late medieval theology in general, see Berndt Hamm, *Promissio, Pactum, Ordinatio: Freiheit und Selbstbindung Gottes in der scholastischen Gnadenlehre* (Tübingen, 1977).

⁵⁵ William of Ockham, *Questiones in librum secundum Sententiarum (Reportatio)*, qu. 3–4; ed. Gedeon Gál and Rega Wood (New York, 1981), p. 59.

⁵⁶ Ockham, *Reportatio*, II, qu. 15; ed. Gál and Wood, p. 352: 'dico quod licet odium dei, furari, adulterari et similia habeant malam circumstantiam annexam et similia de

a possibility would appear to contradict Ockham's emphasis on right reason, it has to be recognized that there is nothing final about right reason, which he clearly subordinates to the divine will. Only 'by the very *fact that the divine will wishes it*', he says, does 'right reason dictate what is to be willed'.⁵⁷ Only 'in the presently prevailing order' (that established by God's ordained power) is an act's conformity with right reason a necessary condition for its being 'perfectly' or 'intrinsically and necessarily virtuous'.⁵⁸ Only in that presently prevailing order, then, is it possible to speak of the natural law as being absolute, immutable and admitting of no dispensation.

Similarly d'Ailly, though at somewhat greater length. While he insists that 'in God it is the same to will and to understand'⁵⁹ and that the divine will and intellect can be distinguished neither really nor formally, he also insists that to say that we can distinguish by reason between the divine will and intellect, though not literally true, can be regarded as the abbreviated expression of something true. For 'these terms [will and intellect], standing for the same thing, have diverse and distinct ideas [*rationes*] corresponding to them in the [human] mind'.⁶⁰ To speak as he does, then, of the divine will as the first 'uncreated' or 'eternal' law or as 'the first law in the genus of obligatory law (just as it is 'the first cause in the genus of efficient causes')'⁶¹ is simply, he says, to echo 'the way of speaking of the saints and of the learned'. In accordance with that way of speaking, it is more appropriate to regard the divine will than the divine intellect as obligating law, since the divine will is the effective cause of things, whereas the divine intellect is not, in that whatever that will decrees actually comes to pass, but not whatever that intellect comprehends.⁶² That obstacle disposed of, then, and attaching obligation solely to precepts and prohibitions and not to such ancillary signs of the divine will as counsel or permission,⁶³ d'Ailly distinguishes from the divine will (which is itself the first obligatory law) those created laws, divine and natural, which are the signs by which the dispositions of that obligating will are made known to us. What distinguishes

communi lege quatenus fiunt ab aliquo qui ex praecepto divino obligatur ad contrarium: sed quantum ad omne absolutum in illis actibus possunt fieri a deo sine omni circumstantia mala annexa. Et etiam meritorie possunt fieri a viatore si caderent sub praecepto divino, sicut nunc de facto eorum opposita cadunt sub praecepto.'

⁵⁷ Ockham, *Ordinatio*, I, dist. 41, qu. unica; ed. Etzkorn and Kelley, p. 610: 'Sed eo ipso quod voluntas divina hoc vult, ratio recto dictat quod est volendum.'

⁵⁸ Ockham, *Sent.* III, 12 CCC. The qualifying phrases are 'stante ordinatione quae nunc est' and 'stante ordinatione divina'.

⁵⁹ D'Ailly, *Princ. in I Sent.*, R, f. 26r: 'cum in deo sit idem esse velle et intelligere'. Cf. *Princ. in II Sent.*, F, f. 28(B)r.

⁶⁰ D'Ailly, *Sent.* I, qu. 6, art. 2, L, f. 97r.

⁶¹ See, e.g. D'Ailly, *Princ. in I Sent.*, D, f. 21r, and J, f. 23r; *Princ. in II Sent.*, J, f. 29r.

⁶² D'Ailly, *Princ. in II Sent.*, G, f. 28[B]v.

⁶³ D'Ailly, *Utrum Petri Ecclesia lege reguletur*, in Gerson, *Opera omnia*, ed. Dupin, Vol. I, p. 663.

the natural from the divine is the fact that whereas in the case of the latter the signs which make known the divine will are 'supernatural and supernaturally given' and contained, either 'explicitly or implicitly . . . in the Divine Scriptures', in the case of the former those signs, either directly or via subsequent investigation 'by the light of natural reason', are 'naturally possessed'.⁶⁴

Presupposed throughout this discussion of the moral order (no less than in his parallel discussion of the natural order and its physical laws) is the crucial and familiar distinction between God's power as absolute and ordained. If in the natural order presently prevailing 'every secondary cause . . . produces its effect *ex natura rei*', we must never forget that that secondary cause is itself a cause not because of the nature of things but 'solely because of the will of God' who, in choosing *de potentia ordinata* to limit himself to producing some natural effect by means of a secondary cause, 'not only produces that effect, but also makes the secondary cause to be the cause of that effect'.⁶⁵ Being himself 'the first cause in the genus of efficient causes', he could of his absolute power produce that effect directly and without recourse to any secondary cause. Just as, for example, and there being no contradiction involved, he could produce in us an intuition of a non-existing object;⁶⁶ and being similarly 'the first obligating law in the genus of obligating law', he could likewise by the absolute power oblige a rational creature directly by himself and without recourse to the sort of created law via which, of his ordained power, he limits himself in imposing such an obligation.⁶⁷ Indeed, the prescriptions of such created laws being radically contingent, he could *de potentia absoluta* make it meritorious to hate God, since he can do anything that does not involve a contradiction, and since acts are good and just or bad and unjust not of their own intrinsic nature or essence but simply because God has enjoined or forbidden them.⁶⁸

⁶⁴ D'Ailly, *Princ. in I Sent.*, K–L, ff. 23v–24r; *Tractatus de ecclesiastica potestate*, in Gerson, *Opera omnia*, ed. Dupin, Vol. II, p. 930.

⁶⁵ D'Ailly, *Sent.* IV, qu. 1, art. 1, E, f. 185r: 'Prima [propositio] est quod quodcumque deus facit aliquem effectum mediante causa secunda, ipse non solum facit illum effectum, sed etiam facit causam secundam esse causam illius effectus'; *ibid.*, F, f. 185v: 'Sequitur octava propositio quod licet omnis causa secunda proprie dicta causet effectum ex natura rei, tamen quod ipsa sit causa proprie dicta non est ex natura rei quia solum ex voluntate dei.'

⁶⁶ D'Ailly, *Princ. in I Sent.*, K, f. 23v; *Sent.* I, qu. 3, art. 1, M, f. 72v.

⁶⁷ D'Ailly, *Princ. in I Sent.*, K, f. 23v.

⁶⁸ *Ibid.*, H, f. 22v; *Sent.* I, qu. 14, art. 3, T–U, f. 174v; Andreas de Novo Castro, *Primum scriptum Sententiarum* (Paris, 1514), Dist. 48, qu. 1 and 2, fols. 251r–262r, though he does not develop any fully-fledged theory of natural law, does commit himself (as Cudworth suggests) to an ethical voluntarism aligned with that of Ockham and d'Ailly and supported by a similar invocation of the dialectic of the *potentia dei absolutalordinata*. For a useful brief discussion, see Leonard A. Kennedy, 'Andrew of Novo Castro, O.F.M. and the Moral Law', *Franciscan Studies*, XLVIII (1988), pp. 28–39.

III

If, then, one is properly to understand what the late-medieval nominalist (or voluntarist) theologians have to say about the natural law and the moral order (no less than what they have to say about physical law and the natural order or, for that matter, about justification, the sacraments, and the order of salvation), it is necessary to recognize the crucial role played in their thinking by the distinction between God's power as absolute and ordained. Or, put differently, by the dialectic of omnipotence and covenant.⁶⁹ Elsewhere I have argued that the same covenantal tradition is similarly the appropriate context in which to attempt an understanding of the physicotheological views espoused in Locke's own lifetime by such luminaries of the new scientific thinking as Walter Charleton, Robert Boyle and Sir Isaac Newton himself.⁷⁰ Margaret Osler has recently (and forcefully) argued a similar case in relation to Pierre Gassendi, and it should be recalled that Cudworth linked the re-emergence in his day of theological and ethical voluntarism with the contemporaneous revival of the type of Epicureanism which Gassendi and Charleton espoused.⁷¹ The intimacy of Locke's intellectual affiliations with both Boyle and Gassendi having long been remarked,⁷² it will be my purpose now to urge the pertinence of that same covenantal context to the attempt to resolve the difficulties in Locke's natural-law thinking. If much of the commentary focused on that topic does little to encourage such an interpretative approach, its promise is signalled indirectly,

⁶⁹ These interconnections are all discussed in Oakley, *Omnipotence, Covenant, and Order*.

⁷⁰ See Oakley, 'Christian Theology and the Newtonian Science'; and Oakley, *Omnipotence, Covenant, and Order*, pp. 67–92.

⁷¹ Margaret J. Osler, *Divine Will and the Mechanical Philosophy: Gassendi and Descartes on Contingency and Necessity in the Created World* (Oxford, 1994). She aligns Boyle, Charleton and Newton with the distinctive 'style of science' characteristic of Gassendi and reflective of the 'epistemological and metaphysical assumptions' linked with the late-medieval nominalist or voluntarist theology. '[T]heological language . . . [may have] . . . dropped out of scientific discourse', she concludes (p. 236), but 'contemporary styles of science are historically linked to the dialectic of the absolute and ordained powers of God.' Cf. Cudworth, *Treatise Concerning Immutable Morality*, Bk. I, chs. 1–3, in Cudworth, *The True Intellectual System of the Universe*, Vol. II, pp. 367–83.

⁷² Reference may be made back to Richard J. Aaron, *John Locke* (Oxford, 2nd edn., 1955), pp. 8–14, who concludes that if Locke 'is to be grouped with any European group we must follow Leibniz in grouping him with the Gassendists'. Cf. Thomas M. Lennon, 'The Epicurean New Way of Ideas: Gassendi, Locke, and Berkeley', in *Atoms, Pneuma, and Tranquillity: Epicurean and Stoic Themes in European Thought*, ed. Margaret J. Osler (Cambridge, 1991), pp. 259–71; and Lisa T. Sarasohn, *Gassendi's Ethics: Freedom in a Mechanistic Universe* (Ithaca and London, 1996), pp. 168–97.

nonetheless, by some recent studies concerned with his ontology, epistemology, natural and moral philosophy.⁷³

Thus while conceding that Locke clearly ‘disliked the language’ and methods of the scholastics, Milton has insisted that he ‘continued to be concerned with their problems’, that he worked ‘perhaps unconsciously’ within the late-medieval nominalist tradition and not against it, and that ‘neither this fact nor its consequences have been adequately understood’.⁷⁴ Among those consequences were the conclusions that Locke no less than Ockham or d’Ailly appears to have drawn from the preoccupation with the divine omnipotence that he shared with them — a particularist ontology, a nominalist epistemology, and a commitment to a form of empirical induction. Against Norris’s claim that universal natures exist in the ideas of God, Locke insisted therefore that, not simply created things, but ‘whatever exists, *whether in God or out of God*, is singular’ (italics mine), so that the universality of ideas ‘consists . . . only in representation, abstracting from particulars’.⁷⁵ God being able to do whatever does not involve a contradiction (a point Locke emphasizes especially in relation to natural phenomena),⁷⁶ and our knowledge of the contingent particularities of the created world thus depending, as it must, upon inductive generalization, of that world we can have no certain *knowledge*, only (in his terms) ‘judgment’ or ‘opinion’. Such natural phenomena as the laws governing matter and motion, though they have a ‘constant and regular connexion, in the ordinary course of Things’, lack the absolute necessity that pertains to mathematical propositions and have to be attributed ‘to nothing else, but the arbitrary Determination of that All-wise Agent, who has made them to be, and to operate as they do, in a way wholly above our weak Understandings to conceive’ so that

⁷³ See John R. Milton, ‘John Locke and the Nominalist Tradition’, in *John Locke: Symposium Wolfenbuttel 1979*, ed. Brandt, pp. 127–45; Rogers, ‘Locke, Law and the Laws of Nature’, pp. 146–62; Tully, ‘Governing Conduct’, esp. pp. 179–225; Ayers, *Locke*, Vol. II (Ontology), and esp. Part 2: ‘God, Nature and the Laws of Nature’, pp. 131–202; J.B. Schneewind, ‘Locke’s Moral Philosophy’, in *The Cambridge Companion to Locke*, ed. Vere Chappell (Cambridge, 1994), pp. 199–225. These studies mark a clear advance over the older and not very persuasive effort by Edouard Krakowski, *Les sources médiévales de Locke* (Paris, 1915).

⁷⁴ Milton, ‘John Locke and the Nominalist Tradition’, pp. 128–9.

⁷⁵ *Remarks upon some of Mr. Norris’s Books*, §§20, 21, 4; in *The Works of John Locke*, X, pp. 251, 257. Cf. *Essay Concerning Human Understanding*, III, iii, §1, ed. Nidditch, p. 409; ‘All Things that exist being Particulars . . .’ Elsewhere it should be noted, Locke does seem to wobble a bit on this issue. See below pp. 649–50 and notes 96 and 97.

⁷⁶ *Essay Concerning Human Understanding*, IV, iii, §6, and II, xiii, §§21–3, ed. Nidditch, pp. 541 and 176–8; *Journal*, entry for 9 July, 1676, Ms. Locke, f. 1, pp. 313–14, printed in *Essays on the Law of Nature*, ed. Von Leyden, p. 259; *Remarks upon some of Mr. Norris’s Books*, §10; *The Works of John Locke*, X, p. 253. Cf. the pertinent remarks of Ayers, *Locke*, Vol. II, pp. 150–3.

‘we cannot but ascribe them to the arbitrary Will and good Pleasure of the Wise Architect’.⁷⁷

All of which Rogers, whose concern unlike Milton’s is not with Locke’s nominalism but with his moral teaching, claims nonetheless to be directly pertinent to that moral teaching. Arguing that ‘it is probably impossible to overestimate the primacy of Locke’s theism for his whole account of the natural and moral order’, he insists that ‘only through an awareness of the interactions between epistemological, moral and theological viewpoints can we approach a proper understanding’ of what he has to say about natural law.⁷⁸ There is, in effect, a ‘symmetry’, at once both epistemological and ontological, ‘between Locke’s moral theory and his philosophy of science’, between his notions of natural law in the moral order and laws of nature in the physical world. For the two were ‘intimately connected’, sharing, as it were, a ‘common ancestry in the question of the relation between God and his universe’.⁷⁹ Both were grounded in the divine will. Both, therefore, were radically contingent. In both cases, accordingly, whatever stability was manifest in ‘the ordinary course of things’, there could be for Locke no question of their prescriptions or uniformities possessing any sort of absolute or unconditional necessity. At the same time the laws, both moral and physical, that God has chosen to ordain are more than fleeting contingencies. They are, indeed, *laws* and they guarantee or reflect the existence of an order in that they possess a conditional or hypothetical necessity⁸⁰ or, to evoke a happy formulation recently contributed by Michael Ayers and in relation to both the natural and the moral order:

The necessity of the law is *hypothetical but hard* [italics mine]: God was free to will what laws he liked in that he was free to create what things he liked, but in creating free and rational beings capable of pleasure and pain he *ipso facto* willed a certain law for those beings; just as, in choosing to create matter, he chose certain necessary laws of motion.⁸¹

This position is clearly in harmony with d’Ailly’s insistence that while it is the divine will that makes natural causes to be *causes*, they produce their effects at the same time, *ex natura rei*. It is equally in harmony with Ockham’s earlier insistence that while it is the divine will that is the source of obligatory moral precepts, nonetheless, in the divinely-ordained moral economy presently prevailing, our right reason dictates to us what it is that we must do if we are to

⁷⁷ *Essay Concerning Human Understanding*, IV, iii, §§28–9, ed. Nidditch, pp. 559–60. Cf. Milton, ‘John Locke and the Nominalist Tradition’, pp. 135–41; Ayers, *Locke*, Vol. II, pp. 150–3; Rogers, ‘Locke, Law and the Laws of Nature’, p. 153.

⁷⁸ Rogers, ‘Locke, Law and the Laws of Nature’, pp. 156, 147.

⁷⁹ Thus *ibid.*, pp. 154, 147; similarly Ayers, *Locke*, Vol. II, pp. 131–2.

⁸⁰ Rogers, ‘Locke, Law and the Laws of Nature’, esp. pp. 159–60; Ayers, *Locke*, Vol. II, pp. 163, 189–90.

⁸¹ Ayers, *Locke*, Vol. II, pp. 189–90.

act virtuously.⁸² That degree of harmony is such as to confirm the wisdom of keeping in mind, when one approaches the more troublesome of Locke's natural law texts, that dialectic of omnipotence and covenant in the absence of which the natural-law thinking of Ockham and d'Ailly would itself be open to accusations of incoherence no less worrying than those levied against Locke.

Though in company for that matter with Hobbes, Locke does appear to have been aware of the related scholastic distinction between what was sometimes referred to as the secret and revealed will of God (*voluntas dei beneplaciti et signi*),⁸³ he never to my knowledge explicitly invoked the absolute/ordained power distinction. But the currency of that latter distinction in his own day was so widespread among Catholics and Protestants alike as to suggest the likelihood of his being familiar with it.⁸⁴ Certainly, it would appear to be implicit in the language he used in the seventh of his *Essays on the Law of Nature* and in the very passage which must necessarily serve as the crux of any argument that attempts (as with Leyden) to prove that Locke wavered inconsistently between a voluntarist and intellectualist position. Or *a fortiori* of any argument that attempts (as with Singh) to establish in the teeth of all Locke's unambiguously voluntaristic statements that his natural-law teaching was *au fond* an intellectualist one.

In that seventh essay it is his purpose to respond to the objection that, given the degree to which men and nations differ about 'the law of nature and the ground of their duty' (some even lacking any sense at all of law or moral rectitude), one has to conclude either that there is no natural law whatsoever or that its binding force is by no means universal. In the teeth of that objection Locke is at pains to insist that the binding force of natural law is not only universal but also perpetual.⁸⁵ In connection with our present concern, however, what is most striking about the argument he advances in support of that contention is not what it says, but what it does *not* say. The strongest and most obvious card he could have played would have been to ground the universality and perpetuity of the natural law in the very being of its divine author. But that

⁸² See above, pp. 640–1.

⁸³ A distinction somewhat narrower than the absolute/ordained power distinction and one that dated back to the twelfth century. See the comment of Ian Harris on the matter in his *The Mind of John Locke: A Study of Political Theory in its Intellectual Setting* (Cambridge, 1994), pp. 316 and 390–1 n. 69. The text to which Harris refers is in *Essays on the Law of Nature*, ed. Von Leyden, Essay IV, fol. 60, p. 156. For Hobbes's usage, see *The Question Concerning Liberty, Necessity and Chance Clearly Stated and Debated Between Dr. Bramball, Bishop of Derry, and Thomas Hobbes of Malmesbury* (London, 1656), pp. 10–11, 78–9.

⁸⁴ For the early-modern usage of the distinction, see Oakley, 'Christian Theology and the Newtonian Science'; Oakley, 'Jacobean Political Theology'; Oakley, *Omnipotence, Covenant and Order*. I will return to the issue in an article forthcoming in the *Journal of the History of Ideas*.

⁸⁵ Essay VII, in *Essays on the Law of Nature*, ed. Von Leyden, pp. 190–3.

he conspicuously fails to do. Instead, he grounds it in the nature of man. ‘The bonds of this law’, he says, ‘are perpetual and coeval with the human race, beginning with it and perishing with it at the same time.’⁸⁶ Asserting thus the existence of a ‘harmony’ (*convenientia*) between natural law and man’s rational nature, he goes on then to elucidate that claim by asserting (as we have seen) that natural law does not ‘depend on an unstable and changeable will, but on the eternal order of things’. For ‘certain essential features of things are immutable, and certain duties arise out of necessity and cannot be other than they are’.⁸⁷

If one isolated that last statement and ignored Locke’s earlier alignment of the perpetuity and binding force of natural law with the historical existence of the human species, it would be easy enough to take him to be making more sweeping claims than he actually is. But thus far, in fact, his position would appear to be aligned more or less with that taken by Ockham when he spoke of natural law as being absolute, immutable and admitting of no dispensation. As with Ockham (or for that matter, with d’Ailly), what could well be taken to be a sweepingly intellectualistic statement⁸⁸ is subject to a crucial qualification. As with them, too, that qualification extends to the natural no less than the moral order. The necessity he has in mind, Locke goes on to make clear, is not an absolute but rather a contingent or conditional necessity, one that depends on the particular choice that God has made, one that reflects, therefore, the balancing of omnipotence with covenant or promise. ‘God *could have created* men’, he points out, ‘such that they would be without eyes and not need them.’ But he did not choose so to act. As a result, ‘so long as they [men] use their eyes and want to open them, and so long as the sun shines, they must of necessity come to know the alternations of day and night, be aware of the differences of colors’, and so on.⁸⁹ Similarly, ‘*since man has been made such as he is*, equipped with reason and his other faculties and destined for this mode of life, there necessarily results from his inborn constitution some definite duties for him, which cannot be other than they are’. If ‘this natural duty *will never be abolished*’, it is not simply because (being subject to it) ‘human beings cannot alter this law’, but also

because God certainly *would not wish to do so*. For since, according to His infinite and eternal wisdom, He has made man such that these duties of his necessarily follow from his very nature, He *surely will not alter* what has been made and create a new race of men, who would have another law and

⁸⁶ *Ibid.*, pp. 192–3.

⁸⁷ *Ibid.*, pp. 198–9.

⁸⁸ And, in fact, has been. See Singh, ‘John Locke and the Theory of Natural Law’, p. 112.

⁸⁹ Essay VII, in *Essays on the Law of Nature*, ed. Von Leyden, pp. 200–1 (italics mine).

moral rule, seeing that natural law stands and falls together with the nature of man *as it is at present*.⁹⁰

With this passage, understood thus as emphasizing the ultimate dependence on the divine will of the presently-ordained moral order, should also be aligned, I would argue, the interpretation of the difficult passage in *The Reasonableness of Christianity* to which we drew attention earlier and which has helped fuel the arguments of those who have urged the insertion of some sort of rationalistic qualification into Locke's overarching voluntarism.⁹¹ In that passage, it will be recalled, and in the context of a discussion of the order of salvation, Locke had spoken of 'that eternal law of right, which is holy, just, and good', as not being subject to abrogation or repeal 'whilst God is an holy, just, and righteous God, and man a rational creature'. He had gone on immediately to add that

the duties of that law, arising from the constitution of his very nature, are of eternal obligation; nor can it be taken away or dispensed with, without changing the nature of things, overturning the measures of right and wrong, and thereby introducing and authorizing irregularity, confusion, and disorder in the world.⁹²

As in the seventh *Essay*, the 'nature' being referred to here is clearly not the nature of God, but that of man as, by divine choice, he is presently constituted. Just as, in the world of nature and because it would involve no contradiction, God *could* in the absoluteness of his power and by one of those 'extraordinary effects [that] . . . we call miracles', 'put out of its ordinary course some phenomenon of this great world' or even 'create another world separate wholly from this',⁹³ so too by changing human nature itself, could he abrogate the natural law as it is presently constituted. But 'could' is not the same as 'will'. No contradiction, after all, is involved in omnipotency's choosing to bind itself. God is, indeed, a 'holy, just and righteous God', and, as in the *Two Treatises* Locke twice reminds those who seek to emancipate princes from the bonds of the law, God, his freedom and greatness notwithstanding, condescends to 'tye Himself with oaths and promises'.⁹⁴

⁹⁰ *Ibid.*, pp. 198–201 (italics mine).

⁹¹ See above, p. 632, and note 33.

⁹² *The Reasonableness of Christianity*, in *The Works of John Locke*, VII, pp. 111–12.

⁹³ See *Journal*, entry for 9 July, 1676, Ms. Locke, fol. 1, pp. 313–14, printed in *Essays on the Law of Nature*, ed. Von Leyden, p. 259. Similarly, the entry under Sunday, 18 September, 1681, printed in King, *Life of John Locke*, Vol. I, pp. 232–4, where he is discussing miracles.

⁹⁴ *First Treatise of Government*, §6, *Second Treatise*, §195; ed. Laslett, pp. 144, 395–6. The focus in these texts is, in fact, the subjection of *princes* to the law. God is no more than glancingly invoked by way of a comparison intended to drive home a political point. The covenantal reading of these fleeting allusions is mine.

IV

This covenantal reading of Locke's natural-law thinking draws sustenance, then, not only from our contemporary understanding of such pertinent late-medieval thinkers as Ockham and d'Ailly, but also from the current inclination of at least some Locke scholars to take more seriously than heretofore the need to probe his unexpected indebtedness to the scholastic past, to stress accordingly the interconnectedness among his theological, ontological and epistemological commitments, and, as a result, between his natural and moral philosophizing. So far as his natural-law thinking is concerned, the Locke who emerges is unquestionably and unqualifiedly a voluntarist. But he is a voluntarist of the late-medieval stamp whose emphasis on the divine omnipotence is so modulated as to accommodate a firm commitment to the existence of an order — natural, moral, salvational — seemingly intellectualistic in nature but actually grounded in the divine will, choice, promise and covenant. Not an emphasis on omnipotence, that is to say (and as the Third Earl of Shaftesbury appears to have suspected), that involves any divinely subversive, Cartesian transcendence of the principle of non-contradiction itself.⁹⁵

Some difficulties of course remain. They are not, I would judge, substantial enough to constitute any formidable impediment to the acceptance of the interpretation advanced in this essay. But as they may well suffice for some to generate an undertow of interpretative unease, I should like, by way of conclusion, to emphasize the degree to which they stem from the reticence and incompleteness of Locke's theologizing and from his seemingly instinctive impatience with any attempt to discuss the divine psychology.

First, it should be conceded that nothing has been said by way of affirming Locke's nominalism that can do anything more than *isolate* the passage in the *Essay concerning Human Understanding* in which, while insisting that our human reason can reach only to a knowledge of the 'nominal essences' of substances, he acknowledges that the knowledge of their 'real essences' is possessed certainly by God, perhaps also by angels.⁹⁶ Fraser interpreted that text as implying that 'the "real essences" incognisable at the side point of view of a finite intelligence, are fully known only at the Divine centre, or in Platonic language in the Divine Ideas', and, on its basis, Lovejoy even went so far as to venture the claim that 'in his epistemology he [Locke] was essentially a

⁹⁵ Shaftesbury appears simply to have assumed that the grounding of the distinction between good and evil in the determination of the divine will necessarily involved or presupposed a further commitment to the view that 'if each part of a Contradiction were affirm'd for Truth by the Supreme Power, they wou'd consequently become true'. *An Inquiry concerning Virtue, or Merit*, Bk. I, part 3, §2, in *The Third Earl of Shaftesbury, Characteristicks of Men, Manners, Opinions, Times* (3 vols., London, 1711), Vol. II, p. 50.

⁹⁶ *Essay Concerning Human Understanding*, III, vi, §§2–3, ed. Nidditch, pp. 439–40.

Platonist'.⁹⁷ If the latter claim is clearly idiosyncratic, the former is at least arguable; though arguable, it should be noted, only in relation to this particular text. Elsewhere, after all, Locke is insistent upon the form of nominalist particularism that would appear to be his controlling teaching.⁹⁸

Second, he is far from diffident about ascribing to God the attributes of wisdom and goodness. If the same can be said also of his late-medieval nominalist predecessors, they were unlike him in having discussed in depth and with no little precision what exactly was involved in predicating such recognizable human attributes of a transcendent divinity.⁹⁹ They were not prone, certainly, to slipping startlingly, as does Locke on one occasion, into speculating that 'God himself cannot choose what is not good' and that 'the freedom of the Almighty hinders not his being determined by what is best'.¹⁰⁰ But that speculation hinges on an acknowledgment of the perfection of the divine being; and it is preceded, it should be noted, by the cautious qualification that one might risk such a statement only 'if it was fit for such poor finite creatures as we are to pronounce what infinite wisdom and goodness could do'.¹⁰¹ That qualification is in direct continuity with the age-old and rueful preoccupation on the part of Christian theologians (pre-scholastic, scholastic and post-

⁹⁷ See Alexander Campbell Fraser's edition of the *Essay Concerning Human Understanding* (2 vols., Oxford, 1896), Vol. II, p. 58 n. 1. Arthur O. Lovejoy, *The Great Chain of Being* (New York, 1961), p. 360 n. 2 (cf. pp. 228–9); Singh, 'John Locke and the Theory of Natural Law', p. 111, makes much of Lovejoy's claim in his own, rather strained, effort to make something of an epistemological Realist of Locke. For a response, see Oakley and Urdang, 'Locke, Natural Law, and God', p. 106 n. 78.

⁹⁸ *Remarks upon some of Mr. Norris's Books*, §4, in *The Works of John Locke*, X, p. 251, where, in the general context of responding to Norris's discussion of the divine ideas and in specific response to his claim that 'all created things are individuals', Locke asks: 'Are not all things that exist individuals? If so, then say not, all created, but all existing things are individuals; and if so, then the having of any general idea proves not that we have all objects present to our minds. But this is for want of considering wherein universality consists, which is only in representation, abstracting from particulars.' Cf. *ibid.*, §§11–12, 20–1, pp. 253–4, 256–7, concluding with the statement: 'Whatever exists, whether in God or out of God, is singular.'

⁹⁹ For a detailed discussion of Ockham's position on the matter, see Adams, *William Ockham*, Vol. II, pp. 903–60 (a lengthy chapter devoted to 'Divine Simplicity, Divine Attributes, and the Meaning of Divine Names').

¹⁰⁰ *Essay Concerning Human Understanding*, II, xxi, §49, ed. Nidditch, p. 265. Cf. the entry for 7 August, 1681, in King, *Life of John Locke*, Vol. I, pp. 228–9: 'But yet that unlimited power cannot be an excellency without it be regulated by wisdom and goodness, for since God is eternal and perfect in his own being he cannot make use of that power to change his own being into a better or another state; and therefore all the exercise of that power must be in and upon his creatures, which cannot but be employed but for their good and benefit, as much as the order and perfection of the whole can allow each individual in its particular rank and station.'

¹⁰¹ *Essay Concerning Human Understanding*, II, xxi, §49, ed. Nidditch, p. 265.

scholastic alike) with the stringency of the limits that hem in our ability to make cognitively meaningful statements about the ineffable God;¹⁰² and it is characteristic also of Locke's theological temperament. 'To say that we partake in the knowledge of God or consult his understanding', he insists,

is what I cannot conceive for true. God has given me an understanding of my own; and I should think it presumptuous in me to suppose I apprehended anything by God's understanding, saw with his eyes, or shared of his knowledge. I think it more possible for me to see with other men's eyes, and understand with another man's understanding, than with Gods; *there being some proportion between mine and another man's understanding, but none between mine and God's.*¹⁰³

Hence his dismissive conclusion, when finally he was forced to focus on Norris's and Malebranche's discussion of the divine ideas, that it was only 'those who would not be thought ignorant of anything to attain it, make God like themselves'. Were not that the case, he adds, 'they could not talk as they do, of the mind of God, and the ideas in the mind of God, exhibitivive of all the whole possibility of being'.¹⁰⁴

Francis Oakley

WILLIAMS COLLEGE

¹⁰² A point on which A.P. Martinich has recently (and properly) insisted in relation also to Hobbes — see his *The Two Gods of Leviathan: Thomas Hobbes on Religion and Politics* (Cambridge, 1992), pp. 185–203.

¹⁰³ *Examination of P. Malebranche's Opinion of Seeing all things in God*, §52; in *The Works of John Locke*, IX, p. 251 (italics mine). Cf. *Some Thoughts Concerning Education*, §136, printed in *The Educational Writings of John Locke*, ed. James L. Axtell (Cambridge, 1968), p. 242: '... I think it would be better if Men generally rested in such an Idea of God, without being too Curious in their Notions about a Being, which all must acknowledge incomprehensible; ... And I am apt to think, the keeping Children constantly Morning and Evening to acts of Devotion to God, as to their Maker, Preserver and Benefactor, ... will be of much more use to them in Religion, Knowledge and Vertue, than to distract their Thoughts with curious Enquiries into his inscrutable Essence and Being.'

¹⁰⁴ *Remarks Upon Some of Mr. Norris's Books*, §11, in *The Works of John Locke*, X, p. 253.