



## Locke's Ciceronian Liberalism

Michael C. Hawley

To cite this article: Michael C. Hawley (2021): Locke's Ciceronian Liberalism, Perspectives on Political Science, DOI: [10.1080/10457097.2021.1897313](https://doi.org/10.1080/10457097.2021.1897313)

To link to this article: <https://doi.org/10.1080/10457097.2021.1897313>



Published online: 23 Mar 2021.



Submit your article to this journal [↗](#)



View related articles [↗](#)



View Crossmark data [↗](#)

---

## Locke's Ciceronian Liberalism

Michael C. Hawley

Department of Political Science, Duke University, Durham, North Carolina, USA

### ABSTRACT

Few features of John Locke's political thought have inspired more controversy than his doctrine of natural law. Although he bases his entire political project on it, Locke never completely elaborates the grounds and contents of the natural law in any of his published works. In this essay, I look to Locke's unpublished *Questions Concerning the Law of Nature*. I argue that, read in light of Locke's published works, the essay reveals the coherence of Locke's doctrine of natural law. I further argue that this natural law is almost certainly consciously adopted by Locke from Cicero (and Cicero's modern expositors, such as Hugo Grotius and Samuel Pufendorf). If persuasive, this argument helps to solve some of the problems of Lockean natural law, while also uncovering the unappreciated classical roots of Locke's liberalism.

### Introduction: The Conundrum of Locke's Natural Law

In *John Locke's Liberalism*, Ruth Grant writes that the single most unusual claim in her book is that Locke's political philosophy "can be read as a coherent, orderly demonstration" of an argument.<sup>1</sup> This position, that Locke intends his political theory to be a rational and rigorous deduction of conclusions from clear premises, places Grant's reading of Locke in opposition to some of the most influential interpretations of Locke's work. In particular Locke's explicit political philosophy has often been viewed as intentionally flawed or self-contradictory.

Particularly controversial in this regard is Locke's doctrine of natural law. In the *Second Treatise*, Locke seems to base the entire weight of his argument about natural rights, property, rebellion, and government by consent on a doctrine of natural law which is never explicitly laid out in the work. Locke refers to natural law almost immediately, in the first few lines of the first chapter. Reiterating his argument from the first treatise, Locke writes that Adam's heirs lacked a right to dominion over the world, and adds that even if they had such a right, there is "no law of nature nor positive law of God that determines which is the right heir in all cases"(II 1).<sup>2</sup>

Throughout the *Second Treatise*, Locke continues to appeal to the law of nature for his argument. It forms the basis for his claims about our rights, our

conduct in the state of nature, and the powers and purposes of government. Yet, nowhere in this work does Locke define the law of nature, or explain what it is, where it comes from, or how we know its content. He is equally unforthcoming in the *First Treatise*, where he also refers repeatedly (although less often than in the *Second Treatise*) to the law of nature. He identifies the law of nature with "the law of reason" (I 101), but this is hardly illuminating.<sup>3</sup>

The absence of a clear account of natural law seems to be a major problem for Locke (or at least for his readers), since his entire argument appears to rest on the content of this law. Grant is indeed right when she says that the *Second Treatise* functions as an orderly demonstration of an argument, moving logically from premises to conclusions. But how can a reader evaluate Locke's claims without access to the grounds of the premises of the argument? How do we know the natural law enjoins what Locke says it does?

For some readers, the solution to this problem is easy: we are not meant to take Locke's assertions about natural law at face value. For instance, Leo Strauss argues that Locke intentionally left tensions in his work that could only be resolved by abandoning natural law as chimerical. Strauss focuses in particular on Locke's claim that the natural law is supported by sanctions of reward and punishment in the afterlife for obedience and disobedience. Yet, Strauss points out, Locke acknowledges the insufficiency of reason to prove that an afterlife exists. Since the natural law

must be accessible to unaided human reason, Strauss argues Locke has on his own terms disproven natural law's existence.<sup>4</sup> Michael Zuckert goes further in identifying such apparent tensions in Locke's work. Zuckert resolves these tensions by arguing that Locke himself is leveling a sophisticated critique of natural law, particularly of the sort of doctrines advanced by Pufendorf and Grotius.<sup>5</sup>

Against such a reading, Grant argues that Locke's commitment to natural law is both sincere and fairly straightforward. According to Grant, we need only consult Locke's *Essay Concerning Human Understanding* to see that Locke believes human beings can naturally deduce their duties once they recognize the existence of God and themselves as his workmanship.<sup>6</sup> The fundamental component of natural law—self-preservation—is accessible to unaided human reason in a descriptive sense: all human beings do in fact seek to preserve their own lives. But, it also has normative weight: since God has created us with this drive to preserve ourselves, it must also be our highest end, as intended by our maker.<sup>7</sup>

Viewed in this way, Locke's argument in the *Second Treatise* is the straightforward deduction of conclusions from clear premises.<sup>8</sup> Grant argues that her reading must be “judged by whether the analysis provides a convincing explanation for the text.”<sup>9</sup> I believe that she does provide such a convincing explanation. But this approach is rather more inductive than deductive. Grant ably demonstrates how the various key features of Locke's political theory (natural rights, property, government by consent, right of revolution) can fit together without great tension or contradiction. But the puzzle of Locke's doctrine of natural law still remains. Grant tends to imply that idea that self-preservation and the duty to respect that right in others contains the bulk if not the whole of Locke's natural law doctrine. Yet, it is not clear from the *Second Treatise* or the *Essay* why Locke could believe that this (and this alone) is all human reason deduces about our fundamental duties.<sup>10</sup> Indeed, for someone who did tend to write in the deductive mode that Grant describes, it is odd that Locke would fail to adequately account for the law of nature in his greatest political work, given how central the concept is.

Some of Locke's contemporary readers were no less perplexed by his reticence to explain what he meant by “the law of nature,” than are many modern scholars. Some readers, professing a similar view to that held by Strauss and Zuckert, read Locke's *Treatises* (along with the *Essay*) and concluded that Locke was in fact following Thomas Hobbes. They could point to

passages in the *Essay* where Locke argues that our sense of right and wrong is determined by public approbation and blame, which obviously varies according to time and place (*Essay*, II.xxviii.13).<sup>11</sup> These readers charged him with transforming the law of nature into prudential calculation of self-interest, abolishing natural standards of right and wrong, virtue and vice. With respect to his argument in the *Essay*, Locke insists that readers misinterpreted his position. Locke claims that the passage shows where our ideas come from, not their correctness according to “the Law of Nature, which is that standing and unalterable Rule, by which they ought to judge” (*Essay* II.xxviii.11, note). But, despite these specific rebuttals about what his natural law is *not*, Locke nevertheless continued to refuse to offer a comprehensive positive account of precisely what natural law is or where it comes from.

James Tyrrell, Locke's friend, begged him repeatedly to respond to these charges, to explain what he meant by natural law, its relationship to divine law, and whether the divine rewards and punishments allegedly underpinning it could be demonstrated by the light of reason alone.<sup>12</sup> Locke's continued refusal to do so further perplexed Tyrrell, since Tyrrell appears to have closely read an unpublished manuscript by Locke devoted entirely to natural law. Tyrrell could not understand why Locke would not vindicate himself by publishing it. Nor did Locke explain his reasons for refusing. This work, which was only rediscovered and published in the mid-20<sup>th</sup> Century, was written in Latin and consists of a number of questions relating to the law of nature (and is now referred to under the title of *Questions Concerning the Law of Nature*), which Locke proceeds to answer in turn. In this essay, I propose reexamining this short work as a potential source of illumination for Locke's mature doctrine of natural law, especially when one reads it in light of Locke's other major works that touch on the subject (*The Second Treatise*, the *Essay*, etc.). I argue further that it reveals that Locke's doctrine of natural law was drawn almost wholesale from the philosophy of the Roman statesman and philosopher Cicero. I argue that Locke may not have felt it necessary to elaborate this doctrine any further in published writings in part because of how ubiquitous the doctrine had already become through other influential writers at the time (for instance Hugo Grotius and Samuel Pufendorf), rendering any great elaboration redundant. If persuasive, this argument will not only support Grant's claim that Locke's reliance on natural law is sincere, but it will explain why he might have thought it

reasonable to refrain from articulating a comprehensive account of the doctrine himself. Further still, it will also reveal the surprisingly classical roots of Locke's liberalism.

### Locke and "Tully"

In *Some Thoughts Concerning Education*, Locke makes a curious recommendation for the education of a young gentleman:

I know not whether he should read any other discourses of morality but what he finds in the Bible; or have any system of ethicks put into his hand till he can read Tully's Offices not as a school-boy to learn Latin, but as one that would be informed in the principles and precepts of virtue for the conduct of his life. (sec. 185)<sup>13</sup>

The near-total silence of scholars on the relationship between Locke and Cicero might lead a reader to assume that this passage is an aberration, and that Locke really did not mean to rank Cicero's *De officiis* next to the Bible as a moral instructor. Yet, Locke persists, both in private correspondence to friends and in other published works, repeatedly listing Cicero's work—and only Cicero's work—along with the Bible as the foundational texts for teaching morality or ethics (he uses the terms interchangeably in his recommendations).<sup>14</sup>

This fact is significant because, in a sense, Locke's entire political philosophy derives from his ethics. A methodological and ontological individualist, Locke treats political societies as the creations of consenting individuals, who form governments in order to vindicate the natural law that binds them *as* individuals and determines their duties and obligations to their fellows. Thus, all normative political questions depend for Locke, at bottom, on ethical questions. Taking Locke's claims about the nature of ethics seriously means that Cicero's philosophy might well be central to Locke's political project.

In fact, Locke's interest in Cicero at times seems to border on obsession. As mentioned above, few scholars take any note of this relationship.<sup>15</sup> Yet, it is valuable to note the ubiquity of Cicero's thought in the general intellectual atmosphere in which Locke was educated and later wrote. Numerous editions and translations of Cicero's work, especially of *De officiis*, were circulating in England (and across Europe) in the 17<sup>th</sup> Century, in numbers that continued to rise through the 18<sup>th</sup> Century. It was, as Marshall notes, "a basic text at schools such as Westminster and Eton, and at various Cambridge and Oxford colleges."

Locke's own education featured *De officiis* in its curriculum, and as a censor of moral philosophy at Christ Church, Oxford, he appears to have taught the text himself. Locke's friend John Toland describes it as a "common fashion at schooles" to begin the moral education of young gentlemen with *De officiis*.<sup>16</sup> In this respect, then, Locke's recommendation to start with Cicero in teaching ethics reflects his acceptance of a common educational practice.

Cicero's ideas featured prominently in many of the major works of political thought of Locke's era, including those Grotius and Pufendorf, who significantly influenced Locke. In exile in Holland, Locke found himself "living in an environment where Cicero's thought was as clearly at the center of moral discussion and of the conceptualisation [sic] of social relationships of friendship as it was in England."<sup>17</sup> Locke's intellectual companions, such as Toland and Jean Barbeyrac, acknowledge Cicero's ubiquity and praise his work profusely. Indeed, Neal Wood goes so far as to say that Cicero was to this early modern Europe "what Aristotle had been to the late medieval world of ideas: an inspiring, informative, and illuminating preceptor."<sup>18</sup>

Yet, even in a time and place in which Cicero's thought was widely available, Locke's deep interest in Cicero was unusual. By the age of nineteen, Locke was already peppering his personal correspondence with quotations from Cicero.<sup>19</sup> This tendency only intensified with maturity. Among Locke's friends in Holland was a Dutch bookseller and editor of an edition of Cicero's letters. Mitsis identifies in their correspondence "an escalating attempt on the part of both men to outdo each other both in their mastery of Ciceronian style and in the breadth of their Ciceronian references."<sup>20</sup> Marshall identifies a similar dynamic in Locke's letters to his closest Dutch friend, where both men conceptualized their relationship as one of Ciceronian *amicitia*.<sup>21</sup> In *Thoughts Concerning Education*, Locke makes a rule out of this habit, where he recommends that young men model their letters—in Latin or English—on "Tully's Epistles, as the best pattern whether for business or conversation" (sect. 189).

The contents of Locke's library reflect his interest; there we find more copies only of the Bible than of *De officiis*. Locke's library contains multiples editions of many of Cicero's other works, as well as volumes of Cicero's letters to his friends and family.<sup>22</sup> After Locke himself, no author's works are more represented in Locke's library than Cicero's.<sup>23</sup> Noting Locke's meticulous recording of his opinions of the

quality and value of these books, Mitsis writes: “the extent of Locke’s knowledge as well as his passionate interest in the details of various editions would, I think, be sobering to even the most bookish of contemporary classical scholars.”<sup>24</sup>

Locke’s published and unpublished works also show clear signs of his attitude toward Cicero. He chose for the frontispiece of *An Essay Concerning Human Understanding* a quotation from Cicero’s *De natura deorum*.<sup>25</sup> The epigraph for the *Second Treatise* comes from *De legibus*. An unpublished essay called “Venditio” on certain questions of commercial ethics is modeled overtly on a discussion from the third book of *De officiis*. Perhaps most telling is a discovery among Locke’s papers from the later part of his life: several pages on which Locke was working out an exact chronology of Cicero’s life and works. This is notable because Locke is known to have attempted such a project for only one other individual: Jesus Christ.<sup>26</sup>

At the very least, this evidence for Locke’s interest in Cicero makes all the more surprising the lack of attention this relationship has received from scholars. Because Locke is taken to be one of the quintessential early modern writers, part of a movement to break with classical political thought, it seems this clear connection is overlooked by scholars. Yet, it was not overlooked by his contemporaries. Toland writes: John Locke... must be confest to be the greatest Philosopher after Cicero in the Universe; for he’s throly acquainted with human Nature, well vers’d in the usual Affairs of the World, a great Master of Eloquence (Qualities in which the *Roman Consul excel’d*) ... his *Treatises of Government and Education*, not inferior in their kind to the divinest Pieces of Tully” (*Letter of 1699*). Thus, even before any analysis of Locke’s texts, it is clear from these biographical details that Locke was deeply engaged with Cicero’s thought, and that this engagement influenced not only his work as a scholar, but his social life as a person. It would in fact be far more surprising if this influence did not also extend to Locke’s political thought. Moreover, since Cicero was—among other things—a central figure in a tradition of natural law theories, it makes sense that he might serve as the source for Locke’s own doctrine of natural law.

### **The Second Treatise and Cicero’s Natural Law**

Before examining Locke’s unpublished *Questions Concerning the Law of Nature*, it is necessary to glean what we can from Locke’s *Second Treatise*. Locke

begins his most detailed discussion of the law of nature in the second chapter of the *Second Treatise*, simultaneously with his introduction of the state of nature. According to Locke, we can only understand the true nature of political power if we “consider what state all men are naturally in, and that is a state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave or depending upon the will of any other man”(II, 4) Human beings are thus naturally equal to each other in the sense that there is no “subordination or subjection” between any of them (II 4). All powers and claims human beings naturally have with respect to each other are reciprocal. The most prominent of these reciprocal powers is the right to enforce the law of nature by punishing those who violate it. This law wills “the peace and preservation of all mankind” It forbids us from harming the “life, health, liberty, or possessions” of anyone without provocation, and commands us to preserve ourselves, and—where this is not threatened—to preserve others as well (II 6,7).

There are a few immediately striking features of this law of nature, which Locke claims is somehow identical with the law of reason. First, although Locke does not define the law in any further detail, nor explain how we come to know it, it is clear that this law bears almost no resemblance to Aristotelian natural law. There are no inherent ends, no *telos*. This law is much more like a law in the ordinary sense: it commands and prohibits certain actions and behaviors and is backed by the threat of punishment and the promise of reward. Moreover, this law denies natural slavery and instead vindicates natural liberty and equality. It is equally clear that this law differs significantly from Hobbes’ account of the same topic—even if both do posit natural human equality. For Hobbes, our equality rests on our mutual ability to kill each other (*Leviathan*, ch. 13).<sup>27</sup> In contrast, Locke grounds natural equality in our equal human dignity as creations and possessions of God: “for men, being all the workmanship of one omnipotent and infinitely wise maker ... whose workmanship they are, made to last during his not one another’s pleasure... furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such subordination among us” (II 6). This difference from Hobbes forms an important explanation for why the commonwealths of Locke and Hobbes diverge so greatly in their characteristics. For Hobbes, our natural equality is a dumb fact, a practical rather than moral constraint. As a result, it raises no problem for Hobbes if



his proposed political solution limits liberty and abolishes equality—that is in fact very much the point of Hobbes' leviathan. Locke's position places great normative weight on our equality and liberty, and thus any decent political arrangement will have to somehow justify itself against this standard.

In all of these respects (as well as identifying natural law with reason), the content of Locke's law of nature seems closely to resemble the Cicero's natural law doctrine. For Cicero, too, natural law is identical with rationally deduced morality:

Law (*lex*) is the highest reason (*ratio summa*), innate in nature, which commands what is to be done and prohibits the opposite. This same reason, when it is established and perfected in the mind of a human being, is law... If this has been expressed properly—and indeed I think that it basically has been—it is necessary to seek the beginning of justice in law. For that [law] is the force of nature, it is the mind and reason of the wise person, the standard of justice and injustice (*Leg.* 1.18-19).<sup>28</sup>

Cicero's natural law is not an Aristotelian logic of natural ends. Rather it too is like ordinary law in that it commands and forbids actions. These commands are deduced by unaided human reason which recognizes the general orderliness of the universe and the existence of a supreme creator who must will that orderliness. The rest of natural law is a working out the specifics of that creator's will as it applies to rational creatures. According to Cicero, human beings are by nature free and equal, and there is no such thing as natural slavery (*Leg.* 1.29). Cicero thus does not find the origins of political society in natural relationships of superiority and domination, as Aristotle does in the *Politics*. Instead, he sees political societies arising out of commonly shared human wants, answering both the corporeal and rational desires of our nature. First, political life is necessary to secure essential bodily needs. The natural world is at once bountiful and niggardly to human beings. The rest of creation (plants, animals, and inanimate objects) exists for human use and consumption (*Leg.* 1.25). But, in comparison to the animals, which the earth nourishes lavishly with food, we human beings "supply ourselves with food barely—or not even barely—with great labor" (*Fin.* 2.111).<sup>29</sup> Although the earth produces much that makes human life possible and even pleasant, human beings could not enjoy those fruits without cooperation (*Off.* 2.12-13).<sup>30</sup>

Thus, human association is necessary in part because human beings are not naturally equipped to survive or thrive without cooperation. Our rational

and corporeal qualities combine to produce a third reason for associating: property.

Commonwealths and states were set up in large part so that people could hold onto what is their own. For, while human beings were originally led by nature to congregate, nevertheless they first sought protection in cities with the hope of safeguarding their property. (*Off.* 2.73)<sup>31</sup>

Cicero does not believe that private property exists by nature; the natural world was created for humanity's use and belongs—at least originally—to all humanity in common (*Fin.* 3.57, *Off.* 1.21). Individuals and groups have carved out pieces of this common stock for themselves by various means: occupation of vacant territory, conquest, agreement, lot, etc. (*Off.* 1.21).

This last reason indicates that Cicero's reasons for the value of human association by no means imply that human beings have always lived in political groups or that they are naturally political. Cicero describes human beings as originally living in what we would now recognize as the state of nature. Cicero claims that "once, before there was any natural or civil law established, men wandered in a haphazard way over the land, holding just that property which they could either seize or keep by their own personal strength and vigor, by means of wounds and blood" (*Pro Sestio* 42).<sup>32</sup> Cicero does not present a full theory of how humans escaped this state of nature, but he asserts that, to be legitimate, it must have been a product of human agreement (*Rep.* 1.39).

From even this cursory glance, we can see strong affinities between Locke's and Cicero's political doctrines. Still, all of these claims about freedom, equality, and justice advanced by Locke depend on his assertion that they are supported by the law of nature—a law of nature he still has not adequately explained or defined. This lack of explanation motivates my turn to Locke's unpublished *Questions*.

### **The Natural Law of the Questions**

It is hazardous to attempt to interpret an author in light of unpublished writings—after all, writings often go unpublished for a reason. Nevertheless, this particular work was clearly more than an idle essay for Locke. He produced three copies of the manuscript, and even used an amanuensis to prepare a more polished version, which Locke himself then carefully read over and edited. According to Jenny Strauss Clay, the treatment of these manuscripts suggests the strong possibility that Locke—at least for some period—

intended to publish the work. For these reasons, it seems legitimate to look to these *Questions Concerning the Law of Nature* for clarity about Locke's views on the concept.

It may be that Locke chose not to publish because he found that he could not resolve some of the very problems identified by critics of his doctrine. But, it is also possible that Locke had more benign reasons for not publishing. It may be that Locke felt the job of explaining natural law had already been adequately done. In *Thoughts Concerning Education*, immediately after recommending Cicero's "Offices" as the basic text (with the Bible) for educating a young man, he writes:

When he has pretty well digested Tully's *Offices*, and added to it, *Puffendorf de Officio Homini & Civis*, it may be seasonable to set him upon *Grotius de Jure Belli & Pacis*, or, which perhaps is the better of the two, *Puffendorf de Jure naturali & Gentium*; wherein he will be instructed in the natural rights of men, and the original and foundations of society, and the duties resulting from thence. This general part of civil-law and history, are studies which a gentleman should not barely touch at, but constantly dwell upon, and never have done with (*Thoughts*, sec. 186)

Striking about this passage is that Locke connects Cicero with Grotius and Puffendorf and lists these three as the teachers both of individual duty and of the principles of political society. Grotius and Puffendorf are quite explicit in their own works that their natural law doctrines are drawn primarily from Cicero. For them, too, natural law contains the key Ciceronian points discussed above.<sup>33</sup> Grant points to the same passage as evidence that Locke saw his project in the *Second Treatise* as the same as that undertaken by Grotius and Puffendorf,<sup>34</sup> which would be very telling. When we examine Locke's unpublished *Questions Concerning the Law of Nature*, we find very close similarities between it and the accounts found in Grotius' and Puffendorf's work. More importantly for our immediate purpose, we find its argument compatible with arguments made in Locke's published works. For this reason, it makes sense to use it to help us shed light on the greatest lacunae of the *Second Treatise*: what the natural law is and how we come to know it.

The fact that the *Questions Concerning the Law of Nature* went unpublished is not the only feature that makes the work hard to interpret. The manner in which Locke writes also makes the task difficult. Unlike most of Locke's other works, the *Questions* does not take the form of a straightforward, linear argument. It more closely resembles scholastic writings, in which questions are put forward and answers

in the form of contending arguments are produced. Occasionally, Locke will refute one argument only several "questions" later, which can make it difficult to determine whether any particular argument is Locke's final position. Nevertheless, a relatively coherent account of natural law can be drawn out of the work.

Locke's first question: "is there given a rule of conduct or a law of nature?" seems to get straight to the heart of the matter.<sup>35</sup> In his framing of the question, Locke implies that for him, the law of nature is identical to a universal rule of conduct.<sup>36</sup> Locke explains that such a rule has been referred to in different terms, all of which Locke finds acceptable, if properly construed. Cicero's formulations feature prominently in the vocabulary Locke uses: the law of nature is known as the "morally upright" (*honestum*), or as "right reason" (*recta ratio*).<sup>37</sup> In the latter case, Locke specifies that this cannot mean simply the faculty of the mind by which we speak and calculate, but rather "definite practical principles from which flow the sources of all virtues... what is rightly deduced from these principles is properly said to conform to right reason" (Q 1, folio 11).<sup>38</sup> This description fits with Locke's claims in other works, that the reason he endorses is not substantive (in the way that Plato's reason establishes ends for human life), but rather deductive, proceeding from established premises to draw correct conclusions (*Essay* II.i.34).<sup>39</sup> Finally, Locke gives his most comprehensive definition of natural law: "a law which each individual can discover by that light alone which is in us implanted by nature; to which too he ought to show himself obedient in everything... demanding a rational account of his duty; and this is that famous precept 'live according to nature' which the Stoics urge upon us" (Q1, folio 11).<sup>40</sup>

Locke finds this last Stoic definition most satisfactory, and uses it to distinguish natural law from any natural right: "for right [*ius*] consists in the fact that we have free use of something, but law [*lex*] is that which either commands or forbids some action" (Q1, folio 11). Locke explains that this law is not a "dictate of reason," (as Grotius puts it at *De Jure* I.1.10), because reason does not lay down the law, but merely discovers it. In this correction, Locke follows Cicero rather than Grotius' innovation. His definition recalls Cicero's discussion in *De legibus*, where he too defines law as "right reason in commanding and forbidding" (*Leg.*1.23, 1.33). The obligatoriness of the law derives both from the fact that its dictates are consonant with our rational nature *and* the fact that they are simply commanded by God.

This dynamic—that natural law expresses both what is conformable to us as reasoning beings and what is ordered by God—seems to be at the bottom of Locke’s rationalism. It is how Locke resolves the tension between theistic and rational morality. The ultimate moral claims on us have a kind of double grounding: one deriving from our reason, the other from divine command. As we go along, we will also see that this relationship can also help us to understand how Locke is able to describe obedience to natural law as both something in our self-interest and as something which trumps our self-interest.

Having established what natural law is, Locke then must prove its existence and account for how we know it. Locke explains that the “natural” feature of natural law means that it must be perceivable by human beings on their own, that is: without hearsay or special revelation. In this way, Locke distinguishes natural law from divine positive law (the spoken commands of God that one might find in the Bible and which most of us can only know through the testimony of others)—but not, of course, from divine law simply: both natural law and divine positive depend on God’s rewards and punishments for their sanction. To know such rules as law, Locke follows the definition of Grotius and Pufendorf and insists that law must be the knowable (not necessarily *known*) will of a superior and the rewards and punishments for obedience must also be knowable, since no one can obligate us without first having power over us (Q1, Q8). So, we find three simple requirements for any true law: the authority of the lawgiver, the content of the law itself (what it commands and prohibits), and punishments.

Locke considers a number of accounts to prove the existence and knowability of the law, including Aristotle’s intrinsic ends, Grotius’ appeal to universal human consensus, and the Christian idea of an innate conscience. He rejects all of these. Locke’s critique of innate ideas, the same in the *Questions* and in the *Essay*, rules out any natural human conscience. Our ideas of right and wrong are taught to us by others; they are not innate. Locke refutes Aristotle and Grotius together by pointing out that an empirical look at human behavior reveals no such universal rules of behavior or ends. This refutation very faithfully replicates Cicero’s own examination and rejection of relativism in *De legibus* 1.42, and 2.13.<sup>41</sup>

But, this raises a difficulty, which Locke acknowledges: if, in order to be binding, the law of nature must somehow be promulgated to mankind, how is it that the vast majority of humanity seem ignorant of

all or at least some of it? Locke explains that the law of nature is in this respect like the principles of geometry. We do not need to rely on hearsay or revelation to understand the relationship of sides and angles in a triangle, yet few people have actually figured those truths out for themselves. As Locke puts it, using yet another analogy:

Good, rich veins of gold and silver lie hidden in the bowels of the earth, and moreover arms and hands and reason, the inventor of machines, are given to men, with which they can dig them out. Yet from this we do not conclude that all men are wealthy. First they much gird themselves for work and that wealth which has been hidden in the darkness must be excavated with great labor. It does not offer itself up to the idle and indolent (Q 2, folio 34).

For Locke, our vices—particularly our laziness and myopic concern for our narrow self-interest—prevent most of us from even bothering to try to figure out the true law of nature, contenting ourselves at most with what others tell us is right and just.

How then, should we reason rightly to understand the natural law? For Locke, all knowledge derives from sense experience, and knowledge of the natural law is no different. Locke begins with a relatively orthodox proof of the existence of God: the orderliness of the universe, the need for a first cause, and the fact that we are not the makers of ourselves leads us to recognize that there must be “some superior authority to which we are rightly subject, god, that is who holds over us a just and ineluctable power, who as he thinks proper [can raise us] to the heights of blessedness or thrust [us] down into wretchedness and punishment. From this ... acknowledge of a legislator, or some superior power, to whom we are necessarily subject” (Q 5, folio 56).<sup>42</sup> Locke has thus established the first of the three requirements for natural law: naturally accessible knowledge of the lawgiver and the lawgiver’s authority.

So, for Locke, reason establishes the essential criteria for a natural law: the existence of a superior, *capable* of rewarding and punishing us for obedience or disobedience to his will. Next, it is still necessary that reason also tell us what the divine will is. In language almost identical to that deployed by Grotius and Pufendorf, Locke argues that the same features in the observable world that point toward God’s existence illustrate also his will. Since God does not create idly, we must be intended to use our faculties—especially reason—for God’s glory (Locke does not specify quite what this would entail, expressing his hope that there would be some later opportunity to discuss it). But, we certainly recognize ourselves as God’s creation and



therefore God's property, with an attendant duty to ensure our own preservation and even flourishing (Q 5, folios 60-61). Our own strongest natural impulses reinforce this same sense—and once again, God's command and our rational self-interest coincide. This view corresponds closely to Cicero's portrayal of the situation in Scipio's Dream at the end of *De Re Publica*: there Scipio is shown the universe as governed and ordered by the supreme deity—a deity who serves as the sovereign of the universal cosmopolis “of gods and men,” providing the ultimate grounding for our duty to our fellow rational creatures (*Rep.*, bk. 6).

For Locke, we would likewise recognize that God has also created all other human beings and endowed them with reason, too. They are therefore the property and creation of God as well as we. Just as we are compelled to preserve ourselves as God's property, so too ought we preserve others whenever doing so does not conflict with our primary duty to ourselves. As a result, the first command of natural law with respect to others is the Ciceronian imperative to preserve human sociality: “[man] is impelled to form and preserve a union of his life with other men, not only by needs and necessities of life, but [also] ... by a certain propensity to enter society, and is fitted to preserve it by the gift of speech and the commerce of language” (Q5 folio 61). Such a view precisely follows Cicero's account in *De officiis* of our duty derived from nature to preserve human sociality. There too, Cicero bases the duty upon our capacity for speech and reason, which compel us to associate both to acquire necessities of life and because we have a spontaneous desire for fellowship (*Off.* 1.12). Locke also echoes Cicero's claim that the sovereignty of God over all of us places us in a community of law with all other rational beings, united in our shared capacity for reason, and our shared subjection to the Creator (*Leg.* 1.22-23, *De finibus* 285).

This position places Locke in the Ciceronian camp *against* Aristotle and the Aristotelian natural law tradition. Aristotle's claim that we are political animals is a consequence of his argument that the city is natural. This he shows by arguing that the city achieves the end at which other associations aim: self-sufficiency.<sup>43</sup> The Lockean-Ciceronian position holds that society forms only partly to satisfy natural needs, we also desire company for its own sake.<sup>44</sup> We are in that sense naturally *social*, but precisely because we can gain some measure of self-sufficiency and even society without establishing political communities, we are not naturally political. Political life comes to be through contingent circumstances and human will.<sup>45</sup>

Drawing this theory of natural law from the *Questions* allows us to see Locke's apparently abrupt pronouncements on the content of the natural law in the *Second Treatise* in a new light. We find the content of the natural law there completely compatible with the content of it found in the *Questions*. This fact alone is strong evidence treating Locke as earnest in his discussions of the natural law. More importantly, we can now understand the reasoning whereby Locke arrives at his claims about what the natural law entails. What appears in the *Second Treatise* as a series of bald assertions about the content of natural law's commands does have a theoretical grounding. Moreover, the strong resemblance of Locke's reasoning in the *Questions* to the natural law theories of Grotius, Pufendorf, and Cicero—coupled with Locke's recommendation of those writers in the *Essay*, among other places—might explain why Locke felt it unnecessary to run through the argument again in the *Second Treatise*. Anyone who had been educated in the Ciceronian tradition and had read its works (or anyone who had taken Locke's advice and mastered Cicero, Grotius, and Pufendorf) would see immediately why human beings have obligations to preserve themselves and others. The sheer ubiquity of the works of Cicero, Grotius, and Pufendorf among Locke's audience might well have made this assumption reasonable for Locke. His readers would likewise be expected to see immediately how our common condition as God's creations subject to his sovereignty means that there is no natural cause for any of us to rule another—thus grounding our freedom and equality in the same source.

### The Problem of Punishment

But, Locke's formulation seems to leave out the final component necessary for establishing the validity of natural law: the matter of rewards and punishments. Skeptical readers can point to Locke's statement in the *Essay* that God has the power to uphold “divine law” with “Rewards and Punishments, of infinite duration, in another Life” (*Essay* II.xxviii.8), and connect it with Locke's statements elsewhere in the *Essay* and in *The Reasonableness of Christianity* where he claims that reason cannot establish the existence of an afterlife.<sup>46</sup> If our unaided reason cannot establish the rewards and punishments attendant on the natural law, it would seem that it no longer qualifies as natural law (since all law must be backed by sanction), and Locke's project of establishing a normative ground for

politics accessible to all regardless of denomination has failed.

But in fact, Locke explicitly denies that sure *knowledge* of rewards and punishments in the afterlife is necessary for the viability of natural law as law. While Locke insists that our reason must be able to establish on its own the existence of the lawgiver and the content of his will, the epistemological task for reason is considerably more modest when it comes to the rewards and punishments attendant on the law. Here it is not necessary to prove that those rewards and punishments *will* in fact occur, only that they *might*: “the rewards and punishments of another life, which the Almighty has established as the enforcements of his law, are of weight enough to determine the choice, against whatever pleasure or pain this life can show, *when the eternal state is considered but in its bare possibility*, which nobody can make any doubt of” (*Essay* II.xxi.70, emphasis mine).<sup>47</sup> This is not an underhanded attempt to move the goalposts. If one were to make the *certainty* of reward and punishment a requirement for true law, then not only natural but all civil laws would fail the test.<sup>48</sup> After all, even in a well-governed commonwealth, a criminal can at most *expect* that he will be caught and punished. But he does not know for certain. This does not undermine civil law’s claim to validity. Furthermore, given that Locke believes reason *can* establish the existence of God and discover what he wills for man, it seems not merely possible, but even very probable that God would reward those who obey and punish those who do not.

It may seem as though all of this is contradicted by a striking statement Locke makes in the *Reasonableness of Christianity*. Speaking of the classical philosophers (including “Tully”) who attempted to establish the moral law on the basis of reason alone, Locke says:

Those just measures of right and wrong, which necessity had anywhere introduced, the civil laws prescribed, or philosophy recommended, stood on their true foundations... But where was it that their obligation was thoroughly known and allowed, and they received as precepts of a law; of the highest law, the law of nature? That could not be, without a clear knowledge and acknowledgment of the law-maker, and the great rewards and punishments, for those that would, or would not obey him (para. 243)

Read in isolation, this passage seems to contradict Locke’s claims in the *Essay*, suggesting now instead that sure knowledge of the afterlife is necessary for obedience to the divine law. But, in fact, as Locke continues, it becomes clear that he is not setting out a

rigorous epistemological standard for the law of nature, but rather talking about the practical and historical challenges of making the great mass of people actually obey the moral law. “Thoroughly known and allowed” here refers to the general practice of mankind and not to rare philosophic exceptions. Indeed, in the previous paragraph, Locke had reaffirmed the existence of the natural law, despite admitting that no philosopher before Christ had managed to get it exactly right. Locke claims that the real problem with the natural law (and hence also the real reason for the needfulness of Christianity) is that even a completely sound proof of the natural law will not succeed in making most people obey it: “The greatest part of mankind want leisure or capacity for demonstration; nor can carry a train of proofs... And you may as soon hope to have all the day-labourers and tradesmen, the spinsters and dairy-maids, perfect mathematicians, as to have them perfect in ethics this way. Hearing plain commands, is the sure and only course to bring them to obedience and practice” (*Reasonableness*, para. 246). In other words, revelation and the certainty it provides about reward and punishment are not strictly necessary to the establishment of natural law as a binding standard; but they are necessary to make most people actually obedient to their moral duties. It is thus possible to harmonize Locke’s apparently contradictory claims in *Reasonableness* and the *Essay* while also preserving intact his logic of natural law.

So now, according to Locke, we can say that the coherence of natural law would collapse only if reason could disprove the “bare possibility” of an afterlife of reward and punishment, which Locke quite plausibly denies that reason is capable of doing. Locke explains the purely naturalistic, hedonic logic of this claim: “he that will allow exquisite and endless happiness to be but the *possible consequence* of a good life here, and the contrary state *the possible reward* of a bad one; must own himself to judge very much amiss” if he does not conclude that he ought to choose virtue (*Essay* II.xxi.70, emphasis mine). Locke here follows the logic of Pascal’s Wager, he elaborates that reason alone is sufficient to show that the as long as infinite happiness and infinite suffering in the afterlife are *possibilities*, they should rationally outweigh any earthly pleasure or pain. The worst-case scenario for a good man (no afterlife and thus no sensation after death at all) corresponds to the best-case scenario for the villain (his alternative being an eternity of punishment). Given this, reason can confidently commend the life of virtue on hedonistic grounds, no matter

whether the earthly rewards and punishments favor a life of vice.<sup>49</sup>

Yet, Locke is not prepared to concede even on this last point. According to him, the balance of pleasure and pain—even if one only considers consequences in this life—favors obedience to the natural law (*Essay* II.xxi.70). The just profit more often than the wicked. The natural law thus *is* backed by sanction we can see with our own eyes.

Locke's elaboration on the rewards and punishments attendant on obedience to the natural law goes even further. Here it is necessary to return again to the *Questions*. In his final question, Locke chooses the same target as Cicero often does: Carneades. Using language taken almost verbatim from Cicero (and copied by Grotius), Locke attributes to Carneades the view that all decisions should be referred to the immediate self-interest of the individual agent.<sup>50</sup> Locke denounces this view, even though it might seem conformable to his own hedonic position.

In his rejection of Carneades, Locke clarifies that he does not mean that the natural law and private interest are opposed to one another—in fact the law is the “greatest defense” of the private good of individuals (Q12, folio 107). Locke asserts that “nothing is as conducive to the common advantage of the individual, nothing so protective of the safety and security of men's possessions, as the observance of the law of nature” (Q12, folio 108). The *general following* of the law of nature is in our interest because human cooperation and society can only persist if people deal fairly with each other. Without the natural law to provide a stable standard, our conceptions of virtue and vice would disintegrate, and there with our ability to live together (Q1, folio 20). Developing an argument that is prominent in the *Second Treatise*, Locke insists that we are liable to be biased judges in our own case—that in many individual instances, we would be tempted to violate the law of nature. But, if people generally followed this principle, human society would become impossible and all the benefits we accrue from it would be lost. The immediate gain of violating the law of nature is thus outweighed by the high costs of making our “immediate” self-interest our standing rule of action.

In this, Locke seems to follow Cicero closely. In *De officiis*, Cicero argues that, after the divine, the greatest benefactors of man are other men (*Off.* 2.10). Nearly all of the good things of this life come into being because of human society. For this reason, violating the natural law for our own short-term benefit harms us more generally because it undermines “the

common life and fellowship of men.” It would be as if “every limb of the body thought it could profit by seizing the strength of its neighbor; necessarily the body as a whole would weaken and perish” (*Off.* 3.21). For his part, Locke brings Cicero himself into the argument, asserting that if we accept the Carneadean alternative, we must judge that Catiline “was a True Born son of nature and, since he invaded Rome, he was more deserving of empire over the world than Tully who defended it” (Q12, folio 112).

From this discussion, we see that Locke does believe that there are at least some very obvious this-worldly rewards for obedience to the natural law that can be discerned by unaided reason. Thus, “the rightness of an action does not depend on interest, but interest follows from rectitude” (Q12, folio 119). Punishments are discernable as well, at least on the level of society (the collapse of cooperation harms everyone). But, it is still not quite clear whether there is any rationally deducible punishment in this life for the individual for breaking the natural law. After all, I can easily see how I benefit from a society in which people respect each other's rights and property, but that does not give me a reason to do the same if I believe I could gain by being the only violator.

On this point, the *Second Treatise* offers an answer. Immediately after summarizing the law of nature, Locke discusses who will enforce the law of nature and punish offenders: other human beings.

And that all men may be restrained from invading others rights, and from doing hurt to one another, and the law of nature be observed, which willeth the peace and preservation of all mankind, the execution of the law of nature is, in that state, put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree, as may hinder its violation: *for the law of nature would, as all other laws that concern men in this world 'be in vain, if there were no body that in the state of nature had a power to execute that law, and thereby preserve the innocent and restrain offenders* (II 7, emphasis added).

Locke here responds to the critique above about the absence of specific, worldly punishment for violations of the natural law. He acknowledges that the law of nature *would* be “vain” without punishment, and offers each person's own jealous defense of his own interest as the source of that punishment. As we are all God's property, one can see how God's authority as lawgiver can be credited behind such sanctions. It seems that Locke's natural law does indeed satisfy the third and last requirement of a true law.

Once again, the sure knowledge of punishment for any particular violation does not seem to be a

requirement of legitimate law for Locke. It is enough that humans generally do avenge wrongs done to themselves and tend also to want to restrain those who wantonly harm others as well. Locke uses a Ciceronian analogy in relation to this punishment. Cicero had likened those who violate the rules of justice by using force to beasts, who only appear as men and have in fact placed themselves outside of the community of human beings (*Off.* 1.105, III.82; *Leg.* 1.30). So, Locke says about an aggressor: “having quitted reason, which God hath give to be the rule betwixt man and man, and the common bond whereby human kind is united into one fellowship and society... so revolting to his own kind to that of beasts by making force, which is theirs, to be his rule of right, he renders himself liable to be destroyed”(II 15).<sup>51</sup>

Locke’s logic thus far conforms closely to Cicero’s claims in Book 1 of *De officiis*. There, Cicero asserted that the two principles of justice were that no one should harm anyone else unless provoked by wrongdoing, and that one should respect the property of others (*Off.* 1.21). When we are provoked by wrongdoing, we are entitled to deal out punishment to the offender sufficient enough to restrain them and to deter others from following his example (*Off.* 1.33). Locke echoes this language, saying the that right of punishment extends “to that degree, and with so much severity, as will suffice to make it an ill bargain to the offender, give him cause to repent, and terrify others from doing the like” (II 8). With this final addition, Locke appears to have established the grounds for his understanding of the law of nature and resolved the remaining issue of the *Questions*—punishment.

The final picture resembles very closely the Ciceronian version of natural law. Although, like Grotius and Pufendorf, Locke expands and systematizes the role of the divine power standing behind the law beyond anything Cicero had done. Recalling Locke’s own recommendations about teaching duty through *De officiis* and the Bible, we might see that Locke’s natural law theory consists of Ciceronian moral philosophy supported by a more overtly monotheistic natural theology.

## Property

One of the more controversial of Locke’s conclusions from his natural law premises is his defense of the right to property. Locke and Cicero share a great deal, but thematically, their concern for property and its relationship to the ends of political life may be the most obvious and striking of their commonalities.

Both face the same theoretical conundrum. Both assume that, as Cicero puts it: “no property is originally private by nature” (*Off.* 1.21). In Locke’s words, God “has given the earth to men in common” (II 26). Yet, both not only accept the natural justice of holding private property, but both go so far as to conclude that the protection of property is a primary goal of political society. In Cicero’s words, “political communities and commonwealths were established particularly so that people could hold on to their property, true: nature first guided human beings to congregate, but it was in hope of protecting their possessions that they sought the protection of cities”(*Off.* 2.73). In noticeably similar terms, Locke writes: “the great and chief end, therefore, of men’s uniting into commonwealths, and putting themselves under government, is the preservation of their property”(II 124).<sup>52</sup>

Thus, both Cicero and Locke begin from the same premise and arrive at the same somewhat counterintuitive conclusion. Cicero never presents a single unified argument to account for the *just* development of private property. Locke does. Although he depends on elements of Ciceronian logic throughout, he nevertheless offers a far more systematic account that achieves a major theoretical objective of Cicero’s political thought, which Cicero himself never quite managed.

To explain the origins of property, Cicero uses the Stoic analogy of the theater: “just as, though the theater is a public place, yet it is correct to say that the particular seat a man has taken belongs to him, so in the state or in the universe, though these are common to all, no principle of justice militates against the possession of private property” (*Fin.* 3.67). Thus for Cicero, no particular person is originally by nature the owner of a particular piece of property. But the natural law permits and encourages people to carve out property from the common store, which is then theirs by natural law. Yet Cicero never explains how particular property justly comes to belong to particular individuals—how we each get a particular seat, as it were. Here, Locke develops the Ciceronian framework beyond anything Cicero himself achieved.

Locke’s account of the origins of property is one of the most famous aspects of his political thought, and has been covered extensively by other scholars.<sup>53</sup> It is not my intent to add anything substantially new to the content of that scholarship. The purpose here is to show how Locke begins from Cicero’s principles and reaches Cicero’s conclusion by a new route—a route that depends on a number of Ciceronian insights. Locke accepts the view of Cicero that the world originally belonged to humanity in common. Locke



explicitly rejects the Grotius-Pufendorf solution, that there must have been some tacit agreement among human kind to allow the divvying up of the earth.<sup>54</sup> If such a universal agreement were necessary from the start, mankind would have starved (II 28). Instead, Locke argues that the principle of self-ownership (or self-usufruct, as God is truly our owner) is sufficient to explain just appropriation from the original commons. Since we already have property in ourselves, the mere act of mixing that property with something previously unowned makes it ours. Locke admits some initial limitations to this right: our duties to avoid waste and to refrain from disadvantaging anyone else (by leaving “as much and as good” for others). These limitations, however, flow from the first insights of natural law: that the earth is the property of God, who has given it to all humanity in common (so we must not harm it by wasting its fruits), and that all other humans are likewise subjects of God (so we must respect their interests as well).

The intuitive logic of Locke’s argument relies on a view of the world which Cicero regularly emphasized. Cicero interprets the natural world as simultaneously bountiful and barren. On one hand, the entire earth exists for human benefit and consumption, and much that is useful can be extracted from it (*Leg.* 1.25). On the other hand, while other animals naturally acquire with relative ease all their basic necessities of life, we humans “supply ourselves with food barely—or not even barely—with great labor” (*Fin.* 2.111). The earth is perhaps best described as *potentially* abundant, and can be made *actually* abundant only through the application of human reason and industry.

Locke expresses a similar view when he argues that uncultivated land produces one-tenth or even one-hundredth of what could be produced once it is cultivated by human industry (II 40). Our reason provides us with this ability to make land far more productive: “God gave the world to men in common... he gave it to the use of the industrious and the rational... not to the fancy or covetousness of the quarrelsome and contentious” (II 34). The multiplying effect of human labor on the productivity of land helps Locke once again reconcile individual self-interest with our duty to preserve our fellows. Locke explains:

he who appropriates land to himself by his labor, does not lessen, but increase the common stock of mankind: for the provisions serving to the support of human life, produced by one acre of enclosed and cultivated land, are (to speak much with compass) ten times more than those which are yeilded by an acres of land... lying waste in common. And therefore he

that encloses [ten acres] may truly be said to give ninety acres to mankind (II 37)

By applying our reason and industry to serve ourselves, we have in fact created a surplus that benefits the rest of humanity. In this way the collective ownership right of humanity over the world is not destroyed by individual appropriation, it is enhanced. The introduction of money by the tacit consent of all allows individuals to acquire and produce far more than they need without violating the prohibition on waste, and only intensifies the effect of this dynamic. Producers thus become benefactors of the community.

The classical republican tradition is often viewed as essentially opposed to commerce.<sup>55</sup> As a result, Cicero might not appear as a likely source for Locke’s view that increasing wealth is a component of our duty.<sup>56</sup> Yet, Locke’s own papers suggest otherwise. Marshall points to one of the earlier references Locke makes to Cicero in his notes, taken from book 2 of *De officiis*, “which declared that it was ‘a duty to make money, but only by honorable means, and a duty to save and increase it by care and thrift’” (Marshall 1994, 300). Strauss points out that Locke’s illustration of the benefits of rationally directed labor and cooperation (from loaves of bread to ships, irrigation, buildings, trade, etc.) resemble strongly Cicero’s list of all the benefits of human cooperation in *De officiis*.<sup>57</sup>

Locke goes on to expand his understanding of property to include all of a person’s natural rights: “his property, that is, his life, liberty, and estate” (II 87). In bringing the ideas of property and rights closer together and in describing rights as something a person *owns*, Locke makes explicit and memorable something already present in the Ciceronian tradition. Grotius and Pufendorf write of rights as something an individual possesses. Cicero’s concept of rights also entails a sense of ownership, such that the rights citizens claim as part of the commonwealth are in a sense ownership rights. However, Locke’s language concerning rights in the *Second Treatise* places a new emphasis on this aspect. This emphasis comes at the expense of the other sense in which the Ciceronian tradition construes rights: as the manifestations of justly structured relationships. This is why Pufendorf denies that rights exist in the state of nature, because rights only make sense in relationships with other people. We see from his *Questions* that Locke himself largely agrees with this view of rights, deriving them from the natural law and from our insight that we and others are all connected as subjects of God. In other words, for Locke too rights make no sense except in relation to others. But once we recognize



that even in the state of nature humans are in relationship with each other and god, Pufendorf's objection is neutralized. This facet or grounding of rights is far less evident in (although, again, completely compatible with and in fact the grounds for) Locke's treatment of them in the *Second Treatise*, where they are introduced largely without the theoretical grounding provided in the *Questions*.

### Conclusion: Locke's Ciceronianism

From the forgoing analysis, we can see how deeply indebted Locke's project is to Cicero, and how much clearer certain ambiguities in Locke's thought become once we are aware of this relationship. At the core of Locke's political philosophy is a doctrine of natural law that is essentially drawn from Cicero. Cicero's natural law prioritizes freedom, equality, and security for human beings, and defends their right to acquire property. This natural law provides a standard outside of historical contingency to evaluate politics and to limit the just powers of government. It is not accidental that one of the early modern thinker most engaged with Cicero's thought elaborates a comprehensive account of just government, for which the primary end is to secure the rights of the individual against harm and interference. Locke draws out the latent liberal elements of Cicero's theory of duties to build his system of rights. In this way, Cicero provides much of the logic that guides Locke's political thought as well as the central normative and practical concerns that motivate it. For these reasons, I think Grant's initial claim is correct: Locke's commitment to the natural law is not chimerical, but is at the core of his political project. However, we can understand that natural law far better once we recognize Locke intends no great innovations in this area. Rather he sees himself profoundly indebted to the Ciceronian tradition of natural law.

### Notes

1. Ruth Grant, *John Locke's Liberalism* (Chicago: University of Chicago Press, 1987), 9.
2. References for the *Two Treatises* are drawn from John Locke, John R. Harrison, and Peter Laslett. 1971. *The Library of John Locke*. 2nd ed. (Oxford: Clarendon Press), but cited parenthetically.
3. In the *Second Treatise*, he says that reason "is that law" (II 6).
4. Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 9.
5. Michael Zuckert, *Natural Rights and the New Republicanism* (Princeton: Princeton University Press, 1994), 258–259.
6. Grant, *Locke's Liberalism*, 21–22.
7. *Ibid.*, 90.
8. *Ibid.*, 57.
9. *Ibid.*, 10.
10. Consider, for instance, all that Locke has to say about property.
11. Citations to the *Essay* are from John Locke and P.H. Nidditch, *An Essay Concerning Human Understanding* (Oxford: Clarendon Press, 1991).
12. See Robert Horwitz, Diskin Clay, Jenny Strauss Clay, and John Locke, *John Locke, Questions Concerning the Law of Nature, with an Introduction, Text, and Translation* (Ithaca: Cornell University Press, 1990), 20–29. Citations to Locke's *Questions* come from this edition. That contemporaries should have leveled these concerns certainly adds plausibility to the Strauss-Zuckert thesis.
13. Citations to *Thoughts Concerning Education* come from John Locke, Jean S. Yolton, and John Y. Yolton *Some Thoughts Concerning Education* (Oxford: Oxford University Press, 1989).
14. See John Marshall, *John Locke: Resistance, Religion and Responsibility*. (New York: Cambridge University Press, 1994), 301.
15. Two exceptions are Phillip Mitsis and John Marshall. Mitsis and Marshall concentrate on Cicero's relevance to Locke's social milieu and focus on Cicero's potential contribution to Locke's ethical and social thought. Mitsis draws out Locke's fascination with Cicero's view of praise and the role of social approval in teaching us moral virtue. Mitsis argues, however, that Locke's attraction to Cicero caused certain theoretical problems for Locke. According to Mitsis, Cicero's classical rationalism was ultimately incompatible with Locke's Christianity. In Marshall's view, Cicero was centrally important for how Locke thought about teaching the qualities of character proper to a gentleman. Marshall notes that Cicero may have been especially valuable to Locke because his work in reconciling the *honestum* and the *utile* proved to be of great help to Locke in his struggle to reconcile his hedonic premises about human motivation with our duty to do good to our fellows (Marshall *John Locke*, xvii). This last point is important and will be revisited below. Neither Mitsis nor Marshall delves much into the political dimension of the connection between Locke and Cicero.
16. Marshall, *John Locke*, 162.
17. Marshall, *John Locke*, 300.
18. Neal Wood, *Cicero's Social and Political Thought* (Berkeley: University of California Press, 1988), 1.
19. Phillip Mitsis, "Locke's Offices," in Jon Miller and Brad Inwood, ed. *Hellenistic and Early Modern Philosophy*, (Cambridge: Cambridge University Press, 2003), 52.
20. *Ibid.*, 53.
21. Marshall, *John Locke*, 300.
22. Laslett, *Library*, 108–9.

23. Or, possibly: the second-most, depending on how one counts entries. Compare (Mitsis 2003, 55) with (Marshall 1994, 301).
24. Mitsis, "Locke's Offices," 53. Mitsis also notes that Locke apparently so valued these possessions that "as an aged bachelor, Locke gave an expensive copy of *De Finibus* to his young sweetie."
25. Although it is beyond the scope of this essay to dwell on epistemology, Neal Wood is persuasive in suggesting that Locke's skepticism about human knowledge and preference for speaking in terms of probability is connected to Cicero's moderate skepticism. Wood, *Cicero's Thought*, 60.
26. Marshall, *John Locke*, 301; Mitsis, "Locke's Offices," 53.
27. Citation from Thomas Hobbes, *Leviathan 2<sup>nd</sup> Revised Edition*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1996).
28. Unless otherwise noted, translations of Cicero's *On the Republic* and *On the Laws* are drawn from Marcus Tullius Cicero, *De Re Publica, De Legibus, Cato Maior de Senectute, Laelius de Amicitia*, trans. J.G.A. Powell (Oxford: Oxford University Press, 2006).
29. Translation of *On Ends* are drawn from Marcus Tullius Cicero, *De Finibus Bonorum et Malorum*, trans. H. Rackham (Cambridge: Heineman Ltd., 1931).
30. Unless otherwise noted, translations of *On Duties* are drawn from Marcus Tullius Cicero, *De Officiis*, ed. M. Winterbottom (Cambridge: Harvard University Press, 1994).
31. See also *Rep.* 1.41.
32. Citations of *Pro Sestio* are drawn from Marcus Tullius Cicero, *Pro Sestio, In Vatinius*, ed. R. Gardner (Cambridge: Harvard University Press, 1958). See also *De inventione* 1.2. For an extended discussion of the Roman ideas of the state of nature (especially as they relate to the thought of Grotius), see Benjamin Straumann, *Roman Law in the State of Nature: The Classical Foundations of Hugo Grotius' Natural Law* (Cambridge: Cambridge University Press, 2015).
33. See, for instance, the prologue of Grotius' *De Iure Belli* or Pufendorf's *Elementa* 1.13.14.
34. Grant, *Locke's Liberalism*, 21–22.
35. Diskin Clay translates the verb as "exist," but the word Locke uses is *detur*. Given the importance Locke's argument that the law does not simply "exist" but is rather "given" by God, it seems important to capture his sense here.
36. Here we begin to see how Locke's ethics stand behind his politics.
37. Horwitz et al. note the connection to Cicero's views expressed in *De Legibus* and *De re publica*, as well as the modernized version of the same concept in Grotius's work (p. 97, n. 6).
38. Horwitz et al., *Questions*, 99.
39. See also Grant, *Locke's Liberalism*, 6–7, 21. for further discussion of this feature of Locke's understanding of reason.
40. Here it is worth noting that Cicero was (somewhat imprecisely) often numbered among the Stoics, especially during this period.
41. In fact, Locke adopts one of Cicero's more peculiar arguments to claim that the intensity of human disagreement is in fact evidence of the existence of natural law: the disagreement shows that we feel the importance of the universal rule, but differ on interpreting it (Q 1, folio 17), compare to *De legibus* 1.47.
42. It is more than can be done here to show that this argument is indebted to Cicero, since so many attempts at natural proofs of God were available to Locke. However, it is worth noting that Locke's proof strongly echoes that presented by Balbo in Book II of Cicero's *De Natura Deorum*, which Cicero in his own voice endorses as "most probable" (III.95). Marcus Tullius Cicero, *On the Nature of the Gods*, trans. H. Rackham (Cambridge: Cambridge University Press, 1933).
43. Cf. Book 1 of the *Politics*.
44. Pufendorf clarifies this very distinction. Samuel Pufendorf, *On the Duty of Man and Citizen According to the Natural Law*, ed. James Tully, trans. Michael Silverthorne (Cambridge: Cambridge University Press, 1991), 133.
45. Nor is there any sense in Locke that political life is natural in the other Aristotelian sense, according to which the human *telos* is found in the exercise of practical reason in the experience of ruling and being ruled in turn. Cicero's pronouncements on the same subject are open to a wider variety of interpretations, but for an argument that Cicero in fact rejects this Aristotelian thesis as well, preferring to embrace a diversity of natural human ends, see: Michael C. Hawley, "Individuality and Hierarchy in Cicero's *De Officiis*," *European Journal of Political Theory* 19, no. 1 (2020), 87–105.
46. See, for instance: Strauss, *Natural Right and History*, 202; Zuckert, *Natural Rights*, 211.
47. Cicero offers a similar vision in the Dream of Scipio, where those who obey the will of the supreme deity best are those who most advance the primary obligation of natural law: human sociability. They are rewarded most richly in heaven after their deaths. (*De Re Publica* 6.13).
48. Cicero himself makes a general rule of avoiding claims to certainty, preferring the more epistemologically modest "more probable or less probable" (*De Officiis* 2.7). This in no way deterred Cicero from endorsing natural law on grounds very similar to Locke's.
49. At another point in the *Essay*, Locke seems almost exasperated with the kind of misreading later posited by Strauss: "I would not here be mistaken, as if, because I deny an innate law, I thought there were none but positive laws. There is a great deal of difference between an innate law, and a law of nature; between something imprinted on our minds in their very original, and something that we being ignorant of may attain to the knowledge of, by the use and due application of our natural faculties. And I think they equally forsake the truth, who, running into the contrary extremes, either affirm an innate law, or deny that there is a law knowable by the light of nature, i. e. without the help of positive revelation" (I.iii.13)
50. Regardless of whether this is a fair depiction of Carneades' view, Locke uses him just as Cicero does as

- the standard-bearer for total immorality. See notes 94–95 (p.235) of Horwitz for the several different places in which Locke appears to lift Grotius' and Cicero's descriptions of Carneades' views.
51. See further: Grant, *Locke's Liberalism*, 71.
  52. Locke offers there a capacious definition of property that includes all of a person's natural rights to life and liberty, as well. But, at other points, he emphasizes the importance of actual physical property in the creation of political societies.
  53. Including but by no means limited to: Grant, *Locke's Liberalism*; John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government"* (Cambridge: Cambridge University Press, 1982); C.B. Macpherson, *The Political Theory of Possessive Individualism: From Hobbes to Locke* (Oxford: Oxford University Press, 2011); Peter Garnsey, *Thinking About Property: From Antiquity to the Age of Revolution* (Cambridge: Cambridge University Press, 2007); Zuckert, *Natural Rights Republicanism*; James Tully, *A Discourse on Property: John Locke and His Adversaries* (Cambridge: Cambridge University Press, 1980); Jeremy Waldron, *God, Locke, and Equality* (Cambridge: Cambridge University Press, 2020)..
  54. See Garnsey, *Thinking About Property*, 142–43.
  55. Machiavelli's claim that arms acquire gold better than gold can acquire arms (*Discourses* II.10.1) undoubtedly looms large in this interpretation.
  56. But, Cicero in fact approves of commercial life, as long as it is carried out on a sufficiently large scale—as he makes clear in *De officiis*.
  57. Cf Strauss, *Natural Right and History* 237, n. 110. Compare sections 40–44 of the *Second Treatise* to *De officiis* II.12–14.