

# Berkeley Studies

No. 28 (2019)

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# Tracing Reid's 'Brave Officer' Objection Back to Berkeley—And Beyond

Jessica Gordon-Roth

**Abstract:** Berkeley's two most obvious targets in *Alciphron* are Shaftesbury and Mandeville. However, as numerous commentators have pointed out, there is good reason to think Berkeley additionally targets Anthony Collins in this dialogue. In this paper, I bolster David Berman's claim that "Collins looms large in the background" of Dialogue VII, and put some meat on the bones of Raymond Martin and John Barresi's passing suggestion that there is a connection between the Clarke–Collins correspondence, *Alciphron*, and the objection that Berkeley raises regarding persons and their persistence conditions therein. Specifically, I argue that we have evidence that Berkeley's objection to consciousness-based views of personal identity, as found in VII.8, is a response to a challenge that Collins raises to Clarke in "An Answer to Mr. Clarke's Third Defense of his Letter to Mr. Dodwell." This is significant not just because this objection is usually—and consistently—taken to be an objection to Locke, but also because Berkeley's objection works against Collins's theory of personal identity in a way that it doesn't against Locke's.

George Berkeley wrote *Alciphron; or the Minute Philosopher* while he was in Newport, Rhode Island between 1729 and 1731. The dialogue was then published in London in 1732 upon Berkeley's return from America.<sup>1</sup> In *Alciphron*, Berkeley takes aim at freethinkers, though he dubs them "minute philosophers," in an attempt to disassociate them from any positive connotation the term "freethinker" may have.<sup>2</sup> Two such freethinkers are Shaftesbury and Mandeville. However, as numerous commentators have pointed out, there is good reason to think that Berkeley additionally targets Anthony Collins in this dialogue. David Berman says, "Although Berkeley does not mention Collins directly, or quote from his writings—as he does with Shaftesbury and Mandeville—there can be no doubt that . . . [Collins] . . . is one of Berkeley's three principal targets" (11). Berman goes on to assert that "Collins looms large in the background of Dialogues I, IV, and VII."<sup>3</sup> What's most important, for our purposes, is that Berman contends that in Dialogue VII, Berkeley is responding to Collins's claims about religion's mysteries as found in his *Essay Concerning Reason* (1707), and Collins's claims about determinism, as found in his *Philosophical Inquiry Concerning Liberty*

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<sup>1</sup> See David Berman, *Alciphron in Focus* (New York: Routledge: 1993), 1; and Adam Grzelinski, "Alciphron; or the Minute Philosopher: Berkeley's Redefinition of Free-Thinking," in *The Bloomsbury Companion to Berkeley*, eds. Richard Brook and Bertil Belfrage (London: Bloomsbury, 2017), 174.

<sup>2</sup> Berman, *Alciphron in Focus*, 10.

<sup>3</sup> Berman, *Alciphron in Focus*, 11. Berman notes that in Dialogue I, Berkeley takes issue with Collins's claim that all religions are false (11). Berman also claims that in Dialogue IV, Berkeley's target is "Collins's insidious exploitation of the Browne/King theory in his *Vindication of the Divine Attributes* (London, 1710)" (11).

(1717).<sup>4</sup> More recently, Pascal Taranto has argued that there is good reason to think that the *Alciphron* character Diagoras is meant to represent or defend the views of Collins.<sup>5</sup>

Raymond Martin and John Barresi also connect Berkeley's *Alciphron* with Collins. They mention in passing that *Alciphron* is a dialogue "in which the minute philosopher is modeled on 'free thinkers' like Collins, and perhaps even written with the Clarke–Collins debate specifically in mind."<sup>6</sup> They additionally mention that it is in this dialogue that Berkeley raises his objection to consciousness-based views of personal identity (65–66). Specifically, Martin and Barresi assert that in *Alciphron*, "Berkeley proposed that the same *man* might be several *persons* if there is a complete break in consciousness between the man's earlier and later phases." This objection, they go on, "which probably was the source of a similar, but better known objection in Reid, divides a man into three phases, A, B, and C, and shows that defining a person in terms of consciousness leads to a contradiction when the C-person has remembrances of B but not of A, and the B-person has remembrances of A" (66).

Here I want to bolster Berman's claim that Collins "looms large in the background" of Dialogue VII, and put some meat on the bones of Martin and Barresi's passing suggestion that there is a connection between the Clarke–Collins correspondence (1707–1708), *Alciphron*, and the objection that Berkeley raises regarding persons and their persistence conditions therein. Specifically, I will argue that we have evidence that it is *precisely* with the correspondence between Anthony Collins and Samuel Clarke in mind that Berkeley pens VII.8, and raises his much-discussed objection to consciousness-based views of personal identity. Put differently: we have evidence that Berkeley's objection to consciousness-based views of personal identity, as found in VII.8, is a response to a challenge that Collins raises to Clarke in "An Answer to Mr. Clarke's Third Defense of his Letter to Mr. Dodwell." This is significant not just because this objection is usually—and consistently—taken to be an objection to Locke, but also because Berkeley's objection works against Collins's theory of personal identity in a way that it doesn't against Locke's.

In what follows, I will begin with a brief overview of Locke's view of persons, and then turn to Berkeley's objection in VII.8, as it is typically cited and discussed. I will then put Berkeley's objection into a broader context by turning to earlier passages in *Alciphron* and the Clarke–Collins correspondence. I will briefly discuss Reid and return to Locke along the way.

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<sup>4</sup> Berman, *Alciphron in Focus*, 11.

<sup>5</sup> Pascal Taranto, "Le personnage de Diagoras," in *Berkeley's Alciphron: English Text and Essays in Interpretation*, eds. Laurent Jaffro, Genevieve Brykman, and Claire Schwartz (New York: Georg Olms Verlag: 2010), 361–70.

<sup>6</sup> Raymond Martin and John Barresi, *Naturalization of the Soul* (London: Routledge: 2000), 65–66.

## 1. Locke on Persons: An Overview

Locke claims that “*Person* stands for...a thinking intelligent Being, that has reason and reflection, and can consider it self as it self, the same thinking thing in different times and places” (2.27.9).<sup>7</sup> Importantly, Locke denies that sameness of person rests in sameness of soul. This means a person can persist despite having a different soul. We get evidence for this when Locke claims: “But yet to return to the Question before us, it must be allowed, That if the same consciousness...can be transferr’d from one thinking Substance to another, it will be possible, that two thinking Substances may make but one Person” (2.27.13). Additionally, a person can fail to persist despite having the same soul. This becomes clear if we consider what Locke has to say about Socrates, Nestor, and Thersites. He says:

Suppose a Christian *Platonist* or *Pythagorean*, should upon God’s having ended all his works of Creation the Seventh Day, think his Soul hath existed ever since; and should imagine it has revolved in several Humane Bodies, as I once met with one, who was perswaded his had been the Soul of *Socrates*...would any one say, that he, being not conscious of any of *Socrates*’s Actions or Thoughts, could be the same Person with *Socrates*?...Let him also suppose it to be the same Soul, that was in *Nestor* or *Thersites*, at the Siege of *Troy*...But he, now having no consciousness of any of the Actions either of *Nestor* or *Thersites*, does, or can he, conceive himself the same Person with either of them? Can he be concerned in either of their Actions? (2.27.14)

The answer is “no!” and Locke goes on to say as much:

So that this consciousness not reaching to any of the Actions of either of those Men, he is no more one *self* with either of them, than if the Soul or immaterial Spirit, that now informs him, had been created, and began to exist, when it began to inform his present Body, though it were never so true, that the same Spirit that informed *Nestor*’s or *Thersites*’s Body, were numerically the same that now informs his. (2.27.14)

Having the same soul as y thus does not make one the same person as y.

We should note that Locke makes similar claims about human beings or men. A person can persist despite being (related to) a different man. This comes through in the prince and the cobbler passage. Here Locke claims:

[S]hould the Soul of a Prince, carrying with it the consciousness of the Prince’s past Life, enter and inform the Body of the Cobbler as soon as deserted by his own Soul,

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<sup>7</sup> John Locke, *An Essay Concerning Human Understanding* (1690), ed. Peter H. Nidditch (Oxford: Clarendon Press, 1975). Cited by book, chapter, and section.

every one sees, he would be the same Person with the Prince, accountable only for the Prince's Actions: But who would say it was the same Man? (2.27.15)

The person we are calling the “prince” persists despite no longer being in the same man. But a person can fail to persist despite no such sci-fi switch: “If the same *Socrates* waking and sleeping do not partake of the same consciousness, Socrates waking and sleeping is not the same Person” (2.27.19). “Socrates” here is supposed to pick out the man we call “Socrates.” Although Socrates is the same man by day as he is by night, he is not the same person by day as he is by night.<sup>8</sup> Thus although we use the terms “person” and “human being” or “man” interchangeably when we speak colloquially, Locke makes an important distinction between these terms.<sup>9</sup> He thinks that “human being” or “man” and “person” pick out different objects.<sup>10</sup> Likewise for “person” and “soul.”<sup>11</sup>

With this in mind we might then wonder: What is a person for Locke? What makes any person the same over time? In addition to being things that can think, reason, reflect, and consider themselves as persisting over time, Locke goes on to tell us that persons are the kinds of entities we hold morally accountable for their actions. In other words, persons are agents. He says, “*Person*...is a Forensick Term appropriating Actions and their Merit; and so belongs only to intelligent Agents capable of a Law, and Happiness and Misery” (2.27.26).

Right after Locke defines “person,” he begins to elucidate what makes any person the same over time. As we might expect given the passages just quoted, he says, “[S]ince consciousness always accompanies thinking, and ‘tis that, that makes every one to be what he calls *self*; and thereby distinguishes himself from all other thinking things, in this alone consists *personal Identity*; *i.e.*, the sameness of a rational Being” (2.27.9). Here Locke is claiming that it is sameness of consciousness that makes for sameness of person. Moreover, it is not that consciousness plays a role in the persistence of persons, along with other factors. It is sameness of consciousness *alone* that makes for sameness of person. We can thus say that what it takes for any person at time 2 to be identical with a person at time 1 is that the person at time 2 has the same consciousness as the person at time 1.

That said, it is important to note that Locke does not commit himself one way or the other when it comes to the nature of the substance that gives rise to the consciousness any person has. This is because Locke thinks substratum—or the substance that underlies and supports any particular substance’s qualities—is impossible for finite minds to penetrate. Additionally there is nothing in the concepts “thought” and “matter” that allows us to deduce that one excludes the other, and God could have superadded the ability to think to

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<sup>8</sup> Further evidence for this can be found in Section 20, to which we will turn later.

<sup>9</sup> Locke uses the terms “man” and “human being” interchangeably and usually just uses the former.

<sup>10</sup> I am using the term “object” in an ontologically neutral sense. (For Locke, ideas are the objects of the understanding.)

<sup>11</sup> Locke also asserts that sameness of body is neither necessary nor sufficient for the persistence of any person. This assertion can be found in: 2.27.11, 14, 17, and 18.

formerly inert systems of matter (4.3.6). Locke is thus neither committed to substance dualism, nor materialism, though he is very clearly committed to the notion that the persistence of any person depends upon the persistence of her consciousness. With the basics of Locke's theory of personal identity in hand, we should now turn our attention to Berkeley's objection in *Alciphron* VII.8, as it is typically cited and discussed.<sup>12</sup>

## 2. Berkeley and Reid's Respective Objections

In *Alciphron* VII.8, Euphranor—whose perspective is favored by Berkeley—says:

Let us then suppose that a person hath ideas and is conscious during a certain space of time, which we will divide into three equal parts, whereof the later terms are marked by the letters A, B, C. In the first part of time, the person gets a certain number of ideas, which are retained in A: during the second part of time, he retains one half of his old ideas, and loseth the other half, in place of which he acquires as many new ones: so that in B his ideas are half old and half new. And in the third part, we suppose him to lose the remainder of the ideas acquired in the first, and to get new ones in their stead, which are retained in C, together with those acquired in the second part of time. Is this a possible fair supposition? (VII.8, 299)<sup>13</sup>

Alciphron responds by saying, "It is" (VII.8, 299). And Euphranor continues, "Upon these premises, I am tempted to think one may demonstrate that personal identity doth not consist in consciousness" (VII.8, 299). When Alciphron asks why this is the case, Euphranor goes on to say:

You shall judge: but thus it seems to me. The persons in A and B are the same, being conscious of common ideas by supposition. The person in B is (for the same reason) one and the same with the person in C. Therefore, the person in A is the same with the person in C, by that undoubted axiom, *Quae conveniunt uni tertio conveniunt inter se*. But the person in C hath no idea in common with the person in A. Therefore personal identity doth not consist in consciousness. (VII.8, 299)

Berkeley's point seems to be that given the law of transitivity, which says that if C is identical to B, and B is identical to A, then C is identical to A, we should conclude that C is identical to A, given that C and B share ideas, and B and A share ideas. Nevertheless, we can't come to this conclusion, since C has no ideas in common with A. In other

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<sup>12</sup> For additional background on the much-debated topic of Locke on personal identity, see Jessica Gordon-Roth, "Locke on Personal Identity," *Stanford Encyclopedia of Philosophy* (2019). Other recent literature on this topic worth noting (and cited in Gordon-Roth's "Locke on Personal Identity") include Ruth Boeker, "Locke on Personal Identity: A Response to the Problems of His Predecessors," *Journal of the History of Philosophy* 55 (2017): 407–34; Antonia LoLordo, *Locke's Moral Man* (Oxford: Oxford University Press, 2012), and Shelley Weinberg, *Consciousness in Locke* (Oxford: Oxford University Press, 2016).

<sup>13</sup> George Berkeley, *Alciphron, or the Minute Philosopher* (1732), in *Works of George Berkeley Bishop of Cloyne*, eds. A.A. Luce and T.E. Jessop (9 vols.; London: Thomas Nelson and Sons: 1948–57), vol. 3. Cited by dialogue number, section, and page.

words, a consciousness-based view of personal identity leaves us caught in the midst of a contradiction.

As Martin and Barresi, and others, note, this objection does anticipate a very similar objection made famous by Thomas Reid a half century or so later (1785).<sup>14</sup> Much like Berkeley's objection, Reid's "brave officer" objection, aims to show that if we place personal identity in consciousness, we find ourselves caught in the midst of a troubling contradiction, wherein one can both be, and not be, identical to the person who committed *x* act. But, unlike Berkeley, Reid explicitly identifies *Locke* as his target. Reid says:

Suppose a brave officer to have been flogged when a boy at school for robbing an orchard, to have taken a standard from the enemy in his first campaign, and to have been made a general in advanced life; suppose, also, which must be admitted to be possible, that, when he took the standard, he was conscious of his having been flogged at school, and that, when made a general, he was conscious of his taking the standard, but had absolutely lost the consciousness of his flogging. These things being supposed, it follows, from Mr. Locke's doctrine, that he who was flogged at school is the same person who took the standard, and that he who took the standard is the same person who was made a general. Whence it follows, if there be any truth in logic, that the general is the same person with him who was flogged at school. But the general's consciousness does not reach so far back as his flogging; therefore, according to Mr. Locke's doctrine, he is not the person who was flogged. Therefore, the general is, and at the same time is not, the same person with him who was flogged at school.

In the case that Reid asks us to imagine, we are supposed to assume Locke's theory of personal identity, and maintain that sameness of person consists in sameness of consciousness. If we do, Reid expects we will conclude that the general (C) is the same person as he who took the standard from the enemy (B) because the general (C) is conscious of having done so. Additionally he who took the standard from the enemy (B) is the same person as he who was flogged at school for robbing the orchard (A) because he (B) is conscious of that past traumatic experience. Thus C (he who is was made general) is identical to B (he who took the standard) and B (he who took the standard) is identical to A (he who was flogged at school).

Given the law of transitivity, we should conclude that C (the general) is identical to A (the flogged school boy). But, since we are assuming Locke's theory of personal identity, Reid thinks we cannot come to this conclusion. Despite the pull of logic, Reid thinks we have to conclude that C (the general) is not identical to A (the school boy). This is because C (the general) has no consciousness of having been flogged at school (A).<sup>15</sup>

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<sup>14</sup> Thomas Reid, *Essays on the Intellectual Powers of Man*, 3<sup>rd</sup> edition, ed. James Walker (Cambridge: J. Bartlett, 1852), 248–49.

<sup>15</sup> For more on how historians of philosophy think Locke might respond to Reid's "brave officer" objection, see Sam Rickless, *Locke* (Oxford: Blackwell, 2014), 127; Weinberg,

Reid uses the same *reductio* against Locke's theory of personal identity that Berkeley uses against an unnamed target in *Alciphron* VII.8. So, why might we think that Berkeley has the Clarke-Collins correspondence in mind when he raises his objection? I contend that if we expand our scope some, and move beyond the passages of Berkeley's objection that are typically cited, we can find the evidence we seek.

### 3. Putting Berkeley's Objection into Context

If we take a step back, and consider earlier passages, we see that *Alciphron* begins the discussion of persons by claiming that he thinks there is "no such mystery in personal identity" (VII.8, 298). *Alciphron* additionally makes clear that he thinks personal identity consists in consciousness (VII.8, 298). Then Euphranor launches into a challenge of this view. He says:

We will suppose now...that a person, through some violent accident or distemper, should fall into such a total oblivion as to lose all consciousness of his past life and former ideas. I ask, is he not still the same person? (VII.8, 298)

*Alciphron* responds by explaining that he is "the same man, but not the same person" (VII.8, 298). Then *Alciphron* goes on to claim that we speak erroneously when we refer to a person losing their former consciousness, "for this is impossible, though a man perhaps may, but then he becomes another person" (VII.8, 299). The thought is that a person can survive *some* change in ideas, but not a wholesale change: "In the same person, it must be owned, some old ideas may be lost, and some new ones got; but a total change is inconsistent with the identity of person" (VII.8, 298-99). In other words, for *Alciphron*, persons and their consciousnesses—or the content of their consciousnesses—do not (wholly) come apart.

This *does* sound reminiscent of a point that Locke makes in 2.27.20, where he says,

But yet possibly it will be objected, suppose I wholly lose the memory of some parts of my Life, beyond a possibility of retrieving them, so that perhaps I shall never be conscious of them again; yet am I not the same Person, that did those Actions, had those Thoughts, that I was once conscious of, though I have now forgot them? To which I answer, that we must here take notice what the Word *I* is applied to, which in this case is the Man only. And the same Man being presumed the same Person, *I* is easily here supposed to stand for the same Person. But if it be possible for the same Man to have distinct incommunicable consciousnesses at different times, it is past doubt the same Man would at different times make different Persons.

In this passage, Locke is making the point that if one has a complete break in consciousness with person *x*, then one is no longer person *x*, though one may indeed be

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*Consciousness*, 153; and Udo Thiel, *The Early Modern Subject* (Oxford: Oxford University Press, 2011). For a response from a metaphysician weighing in on the current debate over personal identity, see Marya Schechtman, *Staying Alive: Personal Identity, Practical Concerns, and the Unity of a Life* (Oxford: Oxford University Press, 2014).

the same man that once housed person *x*. In *Alciphron* VII.8, Berkeley thus could be working to show that if a gradual change in consciousness results in a complete break, we end up in the midst of a contradiction, if we accept Locke's picture of persons.

Nevertheless, if we turn to the Clarke–Collins correspondence with the expanded scope of Berkeley's objection in mind, we see signs that Berkeley has *Collins* in mind when he pens VII.8. In "An Answer to Mr. Clarke's Third Defense of his Letter to Mr. Dodwell,"<sup>16</sup> Collins says:

Suppose a man lives and believes as a good Christian ought to do for forty years, and then has a distemper in his body which obliterates all the ideas lodged in the numerical individual immaterial substance, so that on his recovery there remains no memory, no consciousness of any idea that he perceived for forty years past. And further, suppose this numerical individual immaterial substance to get ideas again as a young child does, and, until its separation from the body, leads a dissolute and debauched life. Here, on my principles, is the same being at different times—as much two persons as any two men in the world are two persons, or as the same man mad or sober is two persons. Now I ask him whether or no they are two distinct persons? If he answers they are two distinct persons, I ask him how one of them can be punished eternally, and the other eternally rewarded, on supposition that the same numerical individual substance is necessary to continue the *same person*? And if they are two persons, whether personal identity must not consist in consciousness alone, without any regard to its existing in the same or different substances? If he answers that they are not two persons, but one person, I ask him whether he can suppose this being rewardable or punishable? And what kind of consciousness it will have when it is either rewarded or punished? (236-37)

Collins has a consciousness-based theory of personal identity, and here we get Collins referring to a man who loses all memory, or consciousness of the past, *due to a distemper in his body*, before raising concerns about punishment and reward as tied to personhood. This is *strikingly* similar to what Euphranor is after when he describes a person who loses all consciousness of his past life "through some violent accident or distemper" (VII.8, 298).

In fact, both Collins and Euphranor use the term "distemper"—a term not found anywhere in Locke's *Essay*.<sup>17</sup> Moreover, what Euphranor goes on to show is that if it is the case that the man is a different person after the distemper than he was before, due to a complete change in ideas, the same will be the case between C and A, though the latter is the result of a gradual change. In other words, something that Collins embraces—the

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<sup>16</sup> *The Correspondence of Samuel Clarke and Anthony Collins: 1707–8*, ed. William Uzgalis (Peterborough: Broadview Press, 2011).

<sup>17</sup> We should note that in 2.10.5, Locke does refer to disease stripping the mind of its ideas, and in 3.6.4 Locke additionally refers to a fever or fall taking away reason or memory, or both. But in these sections of the text Locke is not specifically referring to the persistence of persons, and there is no mention of "distemper," as there is in the Collins letter. I contend that this does not move us away from the position that Berkeley is responding to Collins in *Alciphron* VII.8.

same man can be different persons at different times, due to a change in consciousness—leads to a contradiction, if the change comes about slowly enough. According to my reading, Euphranor thus begins with Collins’s own example of the human being affected by the distemper and moves on to a thought experiment of his own—the A-B-C case—to show that despite the intuitive appeal of the distemper case, the identity of persons *cannot* lie in consciousness, as Collins supposes.

What I am suggesting, then, is that while there is a connection between how Euphranor begins the discussion of persons in VII.8 and Locke’s discussion in 2.27.20, there seems to be a *tighter* connection between the way in which Euphranor proceeds and the thought experiment that Collins uses in “An Answer to Mr. Clarke’s Third Defense of his Letter to Mr. Dodwell,” as quoted above. Put more plainly: It is arguable that Berkeley’s objection as found in *Alciphron* VII.8 is a direct response to the thought experiment found in Collins’s “Answer to Mr. Clarke’s Third Defense.” This bolsters Berman’s claim that Collins “looms large in the background” of Dialogue VII. Moreover, this is what Martin and Barresi likely have in mind when they suggest in passing that there is a connection between the Clarke–Collins correspondence, *Alciphron*, and the personal identity objection that Berkeley raises therein. But, this only becomes clear if we expand our scope and read the passages *directly preceding* those usually quoted in *Alciphron* VII.8, with the details of the Clarke–Collins correspondence in mind.

#### 4. Additional Reasons to Think Berkeley is Targeting Collins

Admittedly, this argument goes by a bit quickly. I thus want to provide additional data supporting the notion that Berkeley is targeting Collins in VII.8. To start, it is important to remember that Berkeley explicitly cites Collins’s *Discourse of Free-thinking* in §6 of the *Theory of Vision Vindicated*, published just one year after *Alciphron*.<sup>18</sup> Berkeley thus has Collins very much in mind around the time that he is writing *Alciphron*. In addition, it is important to remember that there is strong evidence for Berkeley’s familiarity with, and admiration for, Samuel Clarke. Evidently, Berkeley was quite keen to find out what Clarke thought of his *Principles*—though, sadly, he never did.<sup>19</sup> This supports my contention both that the Clarke–Collins correspondence is in Berkeley’s mind as he drafts *Alciphron* and that Berkeley would be interested in targeting Collins contra Clarke. Perhaps more importantly, Artem Besedin has recently argued rather convincingly that in other sections of *Alciphron* VII, Berkeley has the Clarke–Collins correspondence in mind.<sup>20</sup> Thus, collectively, there is quite a lot of evidence pointing to Berkeley responding to Collins in VII.8.

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<sup>18</sup> I’m grateful to an anonymous referee at *Berkeley Studies* for pointing this out.

<sup>19</sup> I’m grateful to the same *Berkeley Studies* referee for reminding me of this point. (See letters 20–24 in Hight’s edition of Berkeley’s correspondence for more information.)

<sup>20</sup> Artem Besedin, “George Berkeley’s Conception of Accountability,” *Ruch Filozoficzny* 74 (2018): 115–33, especially 120–23.

## 5. Why Does this Matter?

I take it that this matters for at least two reasons. To start, the objection that Berkeley raises in *Alciphron* VII.8 is *consistently* taken to be an objection to *Locke*. Secondly, Berkeley's objection works against Collins in a way that it doesn't against Locke. I will return to Reid's "brave officer" objection to argue for this first point, before offering a deeper look at Collins's and Locke's respective theories of consciousness and personal identity to argue for the second.

Much work has been done to trace Reid's "brave officer" objection back to its originator. Some commentators focus on finding the earliest iteration of this line of objection. For instance, Martin and Barresi have argued that this line of objection can be traced back to Henry Grove (1720),<sup>21</sup> while Udo Thiel contends that Jonathan Edwards raises a similar objection in his early notes on 'The Mind.'<sup>22</sup> Other commentators have focused on trying to determine who, or what, *inspired* Reid to craft the "brave officer" objection. To this end, M.A. Stewart has worked to show that Reid's inspiration for the "brave officer objection" was likely George Campbell (1748), rather than Berkeley.<sup>23</sup>

What is interesting is that as the commentators just mentioned work to uncover the lineage of Reid's "brave officer objection," they *consistently* take the target of Berkeley's objection, as it is found in *Alciphron*, to be *Locke*. This comes through rather plainly when M. A. Stewart says, "In spite of the similarity, Berkeley's is a more sympathetic reading of Locke than Campbell's or Reid's."<sup>24</sup> Thiel makes a similar point when he says that Berkeley's

few explicit discussions of personal identity are brief and devoted to a critique of Locke's theory. The most original objection to Locke appears in *Alciphron* of 1732, wherein he argues that Locke's theory is inconsistent with the transitivity of the identity–relation. This point was taken up later in the century by Thomas Reid in his 'gallant officer' story.<sup>25</sup>

Thus, despite the different stories commentators tell about Reid's "brave officer" objection, and Berkeley's role therein, they consistently describe Berkeley's objection in *Alciphron* as an objection aimed at Locke. Bringing Collins into the picture as Berkeley's target, as I have here, thus significantly alters the story, as it is usually told.

Nevertheless, at this point, it is worth noting that it is unclear what commentators mean when they assert that Berkeley's objection is an objection to Locke. One way of reading

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<sup>21</sup> Martin and Barresi, *Naturalization of the Soul*, 38.

<sup>22</sup> Udo Thiel, *The Early Modern Subject* (Oxford: Oxford University Press: 2011), 211.

<sup>23</sup> M.A. Stewart, "Reid on Locke on Personal Identity: Some Lost Sources," *The Locke Newsletter* 28 (1997), 109–110.

<sup>24</sup> Stewart, "Reid on Locke on Personal Identity," 112.

<sup>25</sup> Udo Thiel, "Self-Consciousness and Personal Identity" in *The Cambridge History of Eighteenth Century Philosophy*, vol 1, ed. Knud Haakonssen (Cambridge: Cambridge University Press: 2008), 299.

this claim is that Berkeley is drafting the objection in VII.8 with bits of Locke's *Essay*—and especially 2.27—explicitly in mind. In other words, Berkeley is sitting there with the *Essay* open, taking aim at it. If this is what commentators mean, then I think that they have the story wrong. This is because, as I have worked to show, there is evidence that the more likely scenario is that Berkeley pens *Alciphron* VII.8 with the Clarke–Collins correspondence in mind. This makes Berkeley's objection significantly different from the many other similar objections raised at the time. And this is something that has been entirely missed in the hard work that has been done to trace the lineage of Reid's "brave officer" objection.<sup>26</sup>

Of course, another possibility is that Berkeley assumes that when he raises an objection to Collins, he is simultaneously raising an objection to Locke. Thus, stating that Berkeley's objection in VII.8 is an objection to Locke could just be shorthand for this point. Collins is a Lockean, and appeals to Locke throughout his correspondence with Clarke. So this could be a viable interpretation both of what commentators mean, and what Berkeley intends.

Unfortunately, it is quite difficult, if not impossible, to discern what Berkeley's intentions were. To my knowledge, there is no evidence in Berkeley's journals or other writings pointing in one direction or the other. But, I contend that if we take Berkeley to think that his objection in VII.8 applies to Collins (and Collins alone), we end up with a more sympathetic reading of Berkeley than if we assume otherwise. This is because there are significant differences between Collins's and Locke's views, and at least one of these differences ends up mattering quite a lot when it comes to the force or success of Berkeley's objection.

#### 6. The Differences between Collins and Locke: Why Think There are Any Such Differences in the First Place?

As I work to draw out the differences between Collins and Locke, I want to start by noting that although Collins appeals to Locke throughout his correspondence with Clarke, Clarke turns to Locke repeatedly throughout this exchange as well. Moreover, although there are bits of Collins's view that are thoroughly Lockean—and there are even passages of Collins's letters that appear to be lifted straight out of Locke's *Essay*—there are points

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<sup>26</sup> Even Martin and Barresi suggest that Berkeley's target is Locke in VII.8. And this is the case despite the passing gesture they make toward connecting *Alciphron* with the Clarke–Collins correspondence. They say, "Grove discussed fission examples. And, as we shall see . . . he was an acute critic of Locke on personal identity, and even expressed a famous objection to Locke that is later used by Berkeley and Reid, and for which Berkeley generally gets the credit" (Martin and Barresi, *Naturalization*, 71). They repeat this point on p. 72 as well. I suspect that part of what is going on here, and more generally, is that as Martin/Barresi and other commentators work to trace the lineage of Reid's brave officer objection—whose target is Locke—they become blinded to the possibility that Berkeley's objection could actually have a target other than Locke. Thus, while Martin and Barresi sense a connection between Berkeley's objection and the Clarke–Collins correspondence, they never get to the point of advancing the argument I've worked to make here.

at which Collins explicitly distances himself from Locke. One such point comes in “An Answer to Mr. Clarke’s Third Defense” where Collins says,

His fourth argument to prove *thinking cannot be a mode of motion* is a citation from Mr. Locke’s *Essay Concerning Human Understanding*, which he cannot but suppose I will give some deference to. But why should he expect any deference from me to any man’s words, any further than they carry evidence along with them—except those of the inspired writers—is as surprising to me as that Mr. *Locke* should be made choice of as a proper authority to submit to. However, since Mr. *Clarke* is so far mistaken in me as to think I would pay any more deference to Mr. *Locke* than I do to him, I will on this occasion freely declare it to be my opinion that I look on it to be contrary to the duty of a rational agent to pay any manner of deference in matters of opinion or speculation to any man, or number of men whatsoever—and that could I so far prostitute my conscience as to submit to any mere human authority, Mr. *Locke*’s would in all likelihood be last for my purpose.<sup>27</sup>

This passage is important both because it highlights ways in which Clarke is appealing to Locke for his own purposes, and because it opens the door to a picture of Collins as something other than Locke’s mouthpiece. With this, we can turn to some of the differences between Collins and Locke.

## 7. Collins and Locke on Divine Punishment

Both Collins and Locke take persons to be agents, who are subject to punishment and reward for their actions. Nevertheless, Collins and Locke appear to have different conceptions of what desert looks like at the Divine level. Put more plainly: Collins and Locke seem to have different theories regarding what punishment from God can entail.

Collins appears to think that human beings can be sentenced to suffer eternal torment in the afterlife for their misdeeds in this life. I say this because Collins refers to eternal punishment on a number of different occasions in his exchange with Clarke. This comes through in the distemper thought experiment where, as we have seen, Collins asks whether the good Christian-turned sinner ought to be punished or rewarded eternally. But Collins also refers to eternal punishment in an earlier letter. In “Reflections on Mr. Clarke’s Second Defense of his Letter to Mr. Dodwell,” Collins challenges Clarke’s contention that “all sensible creatures . . . [are] . . . subjects of eternal rewards” (142), by asking “whether mites, fleas, lice, oysters, rats, and mice, may be punished eternally, as well as enjoy eternal rewards?” (142). Collins then goes on to point out that “[i]f he answers that they must only enjoy eternal rewards, then he elevates brutes above men, and places them in a much more eligible condition” (142). This implies that men are subject to eternal punishment, in addition to eternal reward.

Moreover, earlier in “An Answer to Mr. Clarke’s Third Defense,” Collins asserts that it is “inconsistent with his justice to punish eternally a man who obeys his laws, and to reward

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<sup>27</sup> *The Correspondence of Samuel Clarke and Anthony Collins: 1707–08*, ed. William Uzgalis (Peterborough: Broadview Press: 2011), 220.

a man who disobeys them” (201). This reference to eternal punishment is important, because while the distemper thought experiment and the “mites and fleas” passage (142) could leave open that Collins is framing challenges in what he takes to be Clarke’s terms, this passage (201) seems to suggest that eternal damnation is a doctrine to which Collins himself subscribes.

On the other hand, Locke explicitly and clearly rejects the doctrine of eternal damnation. This comes through the posthumously published “Resurrectio et quae sequuntur.”<sup>28</sup> Here Locke argues that, as St. Paul makes clear, the ultimate punishment for sinners, after torment, is *final* death.<sup>29</sup> Collins might not have been aware of Locke’s rejection of the doctrine of eternal damnation, since the “Resurrectio” is essentially a note that Locke wrote to himself, and was only published in 1829.<sup>30</sup> But this marks one likely point of departure between Collins and Locke when it comes to persons. Moreover, this is the case despite the fact that Collins often expresses this point in terms of men, rather than persons.

#### 8. Collins and Locke on the Substantial Nature of Finite Thinkers

We find another point of departure between Collins and Locke if we take a closer look at their respective views on the substantial nature of finite thinkers. As we have seen, Locke is open to the idea that matter can think, or give rise to consciousness. Nevertheless, Collins takes this suggestion and runs with it. Thus while Locke maintains that the more likely scenario is that the soul or whatever thinks in us is immaterial, Collins comes to the opposite conclusion. As Larry Jorgensen puts it,

A significant difference between Collins and Locke, then, is that Collins thought that material systems provided a better explanatory basis for consciousness, which changes the probability calculus. Collins provides evidence that casts doubt on Locke’s claim that ‘it is in the highest degree probable’ that humans have immaterial souls. Although he is building from a Lockean starting point, namely the possibility that God might superadd thinking to matter, he ends up with a naturalized version: thinking ‘follows from the composition or modification of a material system’ (Clarke and Collins, 2011, p. 48).<sup>31</sup>

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<sup>28</sup> It is difficult to give an exact date for Locke’s “Resurrectio,” though Philip Long [*A Summary Catalogue of the Lovelace Collection of the Papers of John Locke in the Bodleian Library* (Oxford: Oxford Bibliographical Society Publications, new series vol. 8, 1959), 28] suggests that it was written about 1699. See *A Paraphrase and Notes on the Epistles of St Paul*, ed. Arthur W. Wainwright (2 vols; New York: Oxford University Press, 1987), II, 679.

<sup>29</sup> For more on Locke’s argument against eternal damnation, see Jessica Gordon–Roth, “John Locke,” *Wiley–Blackwell Encyclopedia of Philosophy of Religion*, eds. Stewart Goetz and Charles Taliaferro (forthcoming).

<sup>30</sup> Philip C. Almond, *Heaven and Hell in Enlightenment England* (Cambridge: Cambridge University Press, 1994), 129.

<sup>31</sup> Larry Jorgensen, “Locke and Anthony Collins,” in *The Lockean Mind*, eds. Jessica Gordon–Roth and Shelley Weinberg (London: Routledge, forthcoming).

Collins thus thinks that the more likely scenario is that material systems give rise to consciousness.

We see evidence for this when Collins claims that contemplating and meditating make us just as tired as singing and dancing (127). The idea is that each of these activities are physically taxing because they are equally physical or corporeal. More importantly, Collins claims that if we carefully consider the nature of thinking, or human consciousness, we will conclude that it has to be caused by something material and divisible, rather than something immaterial and indivisible:

Thinking, or human consciousness begins, continues, and ends—or has generation, succession, and corruption—like all other modes of matter, as, like them, it is divided and determined, simple or compounded, and so on. But if the soul or principle of thinking be undivided, how can it think successively, divide, abstract, combine or amplify, retain or revive impressions in the memory? And how can it be capable, partly or wholly, to forget anything? All which *phenomena* are naturally conceived, and may be commodiously explained, by the springs and movements, and receptacles, by the vigor, perfection, disorder or decay of a bodily organ—but not by anything indivisible. (127)

Thus, far from simply arguing that it is possible that matter could be made to think, as Locke does, Collins argues that we should conclude that only matter could give rise to the features of consciousness that we experience. If we dig deeper into Locke and Collins and turn our attention to the connection between consciousness and personal identity, we will see that the differences between the two philosophers do not end here. As it turns out, *this* is where the differences that really matter when it comes to Berkeley's objection lie.

## 9. Collins and Locke on Consciousness and Personal Identity

So far we have seen that consciousness plays a key role in Locke's theory of personal identity, but I have not said much about what consciousness is for Locke. In part, this is because it is very hard to pin down what Locke means by "consciousness." Nevertheless, it is clear that Locke thinks that ideas or thoughts are fleeting. Locke claims that, like motion, thoughts perish the moment they begin: "[T]hey cannot exist in different times, or in different places" (2.27.2). On the other hand, consciousnesses persist. This has to be the case, since it is the identity of consciousness that makes for the identity of any person over time in Locke's view.

One way of thinking about consciousness is as the power to think self reflectively. It is that which gives any individual a first person—point of view—which has its start in a particular place, at a particular time. Here I am following Margaret Atherton. Further following Atherton, we might also think of consciousness or conscious life as analogous to animal life, for Locke. No other person can have my consciousness any more than any

animal can have another animal's life (283).<sup>32</sup> To this I would add that my consciousness or conscious life is not identical to the particular thoughts or ideas it contains any more than an animal life is identical to the particular metabolic or respiratory events it contains. So long as my consciousness continues, I, as a person, continue, according to Locke.

This means that consciousness is something over and above the individual thoughts or ideas it produces, for Locke. Thus an individual at time 2 can have the same consciousness as she did at time 1, and thus be the same person as she was at time 1, despite not having the same ideas as she did at time 1, according to Locke. The other thing to note is that while Locke thinks using the power of memory to reignite or recreate an idea from an earlier time is a sign that an individual has the same consciousness as she who had the past idea, remembrance is not what *makes* any individual's consciousness the same over time. In other words, whether an individual has the same consciousness as she who committed *x* act is a fact that is not dependent upon whether she currently remembers committing *x* act. Rather, in Locke's view, it is, as Shelley Weinberg puts it, "an objective metaphysical fact."<sup>33</sup>

On the surface, Collins's theory of personal identity looks just like Locke's. Collins moves away from a traditional substance-based view, and places the persistence of persons in consciousness instead. Nevertheless, most of Collins's claims about consciousness make clear that consciousness is *not* the kind of thing that can persist over time. As Collins puts it, "[A]ny particular act of consciousness is incapable of continuation of its existence, wherefore its identity can only consist in being that very numerical act of consciousness that it is" (231). Collins uses the term "consciousness" to pick out individual acts of thinking in this passage and other similar ones. As such, consciousness does not have diachronic identity.

Collins additionally denies that persons have a conception of themselves as persisting over time. Collins makes this point in "Reflections on Mr. Clarke's Second Defense of his Letter to Mr. Dodwell" when he says, "I deny that we have any consciousness at all that we continue the same individual being at different times" (147–48).<sup>34</sup> He makes this point again later, when he declares, "we are not conscious that we continue a moment the same individual numerical being" (223–24). Thus two fundamental aspects of Locke's view—(1) persons are the kinds of entities that can consider themselves as themselves in different times and places (2.27.9); and (2) sameness of consciousness is what makes for sameness of person—are points that Collins denies.

Still, Collins does not give up on personal identity, or consciousness's role therein, altogether. Collins does think that persons persist, and that consciousness is essential to any person's persistence. But, a careful look at the passages wherein Collins makes such

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<sup>32</sup> See Margaret Atherton, "Locke's Theory of Personal Identity," *Midwest Studies in Philosophy* 8 (1983): 273–94.

<sup>33</sup> See Weinberg, *Consciousness in Locke*, 153. That said, I'm not certain that I have precisely the same notion of that which this metaphysical fact amounts to as Weinberg.

<sup>34</sup> I'm grateful to an anonymous referee for reminding me of the importance of Collins's "Reflections on Mr. Clarke's Second Defense" for getting clear on Collins's view on persons.

claims makes clear that he uses the terms “consciousness” and “memory” synonymously therein. In other words, when Collins speaks of consciousness as the kind of thing that can have persistence, he is referring to a memory, or memories (see 147–48, 223–24, 233, 234, etc.). Thus, as William Uzgalis makes clear, it is memory that allows any person to persist over time in Collins’s view:

Anthony Collins, on the other hand, develops a materialist version of Locke’s account of personal identity. He holds...that personal identity is preserved through changes in the substance that composes the body and the brain by memories being revived and imprinted over again on the brain as the particles that make up the brain change over time. It is the transference of this memory information that preserves personal identity over time. (32-33)

Another way of putting the point is that while no consciousness—or act of thinking—can persist over time for Collins, memory connects individual acts of consciousness, and it is this connection that makes for personal identity in Collins’s view. As Jorgensen puts it,

Personal identity, then, does not consist in the continuation of a single individual consciousness, for Collins. Individual consciousnesses ‘perish the moment they begin’ (Clarke and Collins, 2011, p. 234). Personal identity consists in the connection of a present consciousness with past consciousnesses: ‘Present consciousness or memory is nothing but a present representation of a past action, and . . . personal identity consists only in having such a consciousness or memory.’ The present representation of past actions provides for a continuation of the *self*, even if consciousness (the momentary act of thinking) is distinct and fleeting, since the representation of past actions provides a basis for ‘sympathy and concern’ for those things that are one’s own (Clarke and Collins, 2011, p. 235). (9)

Thus, while Locke thinks that there is one consciousness which persists for every person who persists, or sameness of person rests in sameness of consciousness, Collins thinks that a series of connected consciousnesses is what makes for the diachronic identity of persons. Moreover, memory is that which is doing the connecting in Collins’s view. There are thus significant differences between Collins’s and Locke’s respective views.<sup>35</sup>

With these differences in mind, we should return to Berkeley’s objection, as it appears in *Alciphron* VII.8. What I aim to show is that we not only have evidence that Berkeley is directly targeting Collins, rather than Locke, in VII.8, but also that the differences between Collins and Locke on consciousness and personal identity make Berkeley’s objection *work better* against Collins than it does against Locke. The latter is the task I take up in the next section of the paper before concluding.

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<sup>35</sup> For more on Collins on consciousness and personal identity, see William Uzgalis, “Anthony Collins on the Emergence of Consciousness and Personal Identity,” in *Philosophy Compass* 4 (2009); and Vili Lahteenmaki, “Anthony Collins on the Status of Consciousness,” *Vivarium* 52 (2014): 315–32.

## 10. Why Berkeley's Objection Works Better Against Collins than It Does Against Locke

In Berkeley's objection, we are supposed to imagine an individual whose memories erode over time. This is what I take Berkeley to mean when he (as Euphranor) speaks of "retaining" and "losing" ideas between A, B, and C. Since memory is the glue that, as it were, holds persons together for Collins, C not remembering anything of A's conscious life is going to prove to be particularly problematic for Collins. This is because it seems that Collins would have to admit that C and A are not the same person. Yet C and B are the same person according to Collins's view. This is because C can remember bits of B's conscious life. Moreover, B and A are the same person for the same reason. Collins's theory of personal identity thus does appear to result in a contradiction, as the objection charges. In other words, since it is the case, according to Collins, that where there is no memory, there is no personal identity, Collins's theory of personal identity is particularly vulnerable to the objection Berkeley poses in *Alciphron* VII.8.

On the other hand, Berkeley's objection doesn't seem as pressing for Locke. This is because while we can be sure that if a person at time<sub>2</sub> is conscious of x at time<sub>1</sub> via memory, the person at time<sub>2</sub> has the same consciousness as the person who experienced x at time<sub>1</sub>, we cannot be certain that the contrary is true, in Locke's view. That is, we cannot necessarily conclude that the person at time<sub>2</sub> does not have the same consciousness as the person at time<sub>1</sub> just because the person at time<sub>2</sub> does not remember x at time<sub>1</sub>.

This is because, as Atherton points out (277–78), consciousness and memory are not one and the same thing for Locke. If they were, we could not make sense of instances in which we are conscious but where memory is not being invoked. This is also because we are finite beings with less than perfect memories—as most of us can attest, and Locke himself notes. As Locke puts it, consciousness is "interrupted always by forgetfulness, there being no moment of our Lives wherein we have the whole train of all our past Actions before our Eyes in one view" and "even the best Memories . . . lose . . . the sight of one part whilst they are viewing another" (2.27.10).

We know that one can only extend one's consciousness back and reignite or recreate a perception or idea via the power Locke calls "memory" if one's consciousness indeed includes that experience. Given what Berkeley says, we know that C can do this with B. We thus know that C has the same consciousness as B. We also know that B can do this with A. We thus additionally know that B has the same consciousness as A. Given the law of transitivity, we therefore know that C has the same consciousness as A. Given this, and assuming Locke's theory of personal identity, we cannot help but conclude that C is the same person as A. This is because, for Locke, sameness of person rests in sameness of consciousness, and we know that C has the same consciousness as A. The contradiction that arises for Collins does not arrive for Locke as a result.

At this point readers might now worry that some of the passages from Locke's *Essay* that we have already seen suggest otherwise, however. In particular, some might worry that Locke thinks we *do* need to remember x act to be the same person who committed x act. I

will consider the passages in Locke's chapter on identity that seem to be in tension with the resolution I just offered and explain why they are not. I will begin with section 14—where Locke discusses Socrates, Nestor, and Thersites.

As we have seen, it is in this passage that Locke claims having the same soul as another is not enough to make one the same person as another. This section of the text makes it appear as if Locke is also claiming that it is because the Platonist or Pythagorean is not conscious of, for instance, questioning Glaucon (as Plato reports in Book VII of the *Republic*), that the Platonist or Pythagorean is not the same person as Socrates. Nevertheless, later in that passage, Locke makes clear that being conscious of *even just one* of y's actions or thoughts makes it clear that one is the same person as y. Here Locke says, "But let him once find himself conscious of any of the Actions of *Nestor*, he then finds himself the same Person with *Nestor*" (2.27.14). Although Locke puts the point in terms of Nestor, rather than Socrates, this seems to suggest that if the Platonist or Pythagorean remembers drinking the hemlock, this would be enough to make clear that the Platonist or Pythagorean has the same consciousness as Socrates, and thus is the same person as Socrates. This is because questioning Glaucon is an event that predates drinking the hemlock in Socrates' conscious life. In other words, Socrates is the same person when he drinks the hemlock as he was when he questioned Glaucon. (Questioning Glaucon and others is how he got charged with crimes subject to the punishment of death in the first place!) The Platonist or Pythagorean thus remembering drinking the hemlock is enough to make clear that he is identical with Socrates, despite his no longer having access to the memory of questioning Glaucon. Moreover, we have just this kind of situation in the case that Berkeley describes. Since C has access to bits of B's conscious life via memory, that is enough to make clear that C is the same person as A. This is because we know that B has access to bits of A's conscious life via memory, and B is the same person as A.

There are other sections of the text that appear to pose problems for my answer to Berkeley's objection, however. Let us return to section 20. As a reminder, it is here that Locke claims:

But yet possibly it will still be objected, suppose I wholly lose the memory of some parts of my Life, beyond a possibility of retrieving them, so that perhaps I shall never be conscious of them again; yet am I not the same Person, that did those Actions, had those Thoughts, that I was once conscious of, though I have now forgot them? To which I answer, that we must here take notice what the Word *I* is applied to, which in this case is the Man only. And the same Man being presumed to be the same Person, *I* is easily here supposed to stand also for the same Person. But if it be possible for the same Man to have distinct incommunicable consciousness at different times, it is past doubt the same Man would at different times make different Persons. (2.27.20)

In this section of the text, it appears as if Locke is claiming that forgetting an act or thought makes one a different person than she who engaged in that past act or had that past thought. Moreover, if this is the case, then we should conclude that C is not the same person as A.

It is important to realize, however, that part of what Locke is trying to communicate in this passage is that “person” and “man” are names that stand for, or pick out, different objects. Thus, as we have seen, sameness of man is not sufficient for sameness of person. Additionally what Locke describes here is a situation in which a person wholly loses the memory of some parts of her life *beyond the possibility of retrieving them*. It is arguable that the only way to lose parts of a life beyond the possibility of retrieving them is if there is a change in consciousness. In fact, we know that this is the case for Locke, because he tells us as much. He says “But if it is possible for the same Man to have distinct incommunicable consciousnesses at different times, it is past doubt the same Man would at different times make different Persons” (2.27.20). Given the set-up of Berkeley’s objection, we *know* we do not have distinct and incommunicable consciousnesses. We know that C has the same consciousness as B, and that B has the same consciousness as A (since C has access to B’s conscious life via memory and B has access to A’s conscious life via memory). We thus know that C has the same consciousness as A. Given Locke’s theory of personal identity, we thus cannot conclude that C is not the same person as A, and must conclude the opposite instead.

With this in mind we should lastly consider what Locke has to say in section 24. He says:

Indeed it may conceive the Substance whereof it is now made up, to have existed formerly, united in the same conscious Being: But consciousness removed, that Substance is no more it *self*, or makes no more a part of it, than any other Substance, as is evident in the instance, we have already given, of a Limb cut off, of whose Heat, or Cold, or other Affections, having no longer any consciousness, it is no more of a Man’s self than any other Matter of the Universe. In like manner it will be in reference to any immaterial Substance, which is void of that consciousness whereby I am my *self* to my *self*: If there be any part of its Existence, which I cannot upon recollection join with that present consciousness, whereby I am now my *Self*, it is in that part of its Existence no more my *Self*, than any other immaterial Being. For whatsoever any Substance has thought or done, which I cannot recollect, and by my consciousness make my own Thought and Action, it will no more belong to me, whether a part of me thought or did it, than if it had been thought or done by any other immaterial Being any where existing. (2.27.24)

Here it once again looks as if Locke thinks that if a person does not recollect x act or thought, she is not the person who committed x act or had x thought. If this is the case, then it appears that C is not the same person as A.

Nevertheless, in this passage Locke is emphasizing that sameness of soul is not what makes for sameness of person. The point he is making is that even if a soul used to be joined to a person’s consciousness, this does not mean that whatever that soul does after that person’s consciousness separates from it can be of any concern to her. Here we get a change or separation in consciousness. Moreover, it is for that reason that there can be no recollection or remembering. We know that there is no separation or change of consciousness between C and A, however. Thus the failure of recollection that Locke describes in section 24 does not provide evidence for the claim that not remembering x

act is enough to make one a different person from she who committed x act. It therefore does not provide evidence for the conclusion that the C is not the same person as A, either.

### 11. An Issue in Locke's View that Berkeley's Objection Highlights

That said, Berkeley's objection does raise an important issue worth considering. What if a person at time 2 does not remember having murdered another at time 1? That is, what if C doesn't remember committing a murder as A? Moreover, what if C is serving time for that heinous act? Locke describes being punished for that which one does not recall as equivalent to being created miserable (2.27.6). Should C, who does not remember the murder, then be punished for the murder, according to Locke?

It seems given what I just said about Locke's stance on punishment and misery, the answer would be "no." The thing to keep in mind, however, is that Locke claims that the sober man is, and should be, punished for whatever crimes he commits as a drunkard, even though the sober man does not recall them. This is for a number of reasons. To start, we have to keep people off the streets who get themselves into situations in which they are likely to commit such crimes. Additionally, we are finite beings with limited knowledge. We do not know if the sober man actually fails to recall the drunkard's acts. More importantly, we cannot know whether the sober man is unable to recall the drunkard's acts, or just fails to do so. That is, we cannot know whether the sober and the drunk man actually have different consciousnesses. Finally, when Locke claims that being punished for that which one does not recall is the same thing as being created miserable (2.27.6), he is describing Divine Punishment and Reward. On Judgment Day if we were to be judged and punished for that which we could not be *made* conscious, it would be the same as having been created miserable.

This brings to the fore an important issue that has been lurking in the background, and that is the difference between not remembering and being unable to remember. As we saw in section 20, it seems the only time one would be unable to remember, or could not be made to remember x act, is if one has a distinct consciousness from she who committed x act. It is not clear how one can be made to remember what one currently does not. But even in our everyday experiences we are sometimes made to remember something we have not thought about in many years, due to a scent, or a song, or what have you. Presumably God, who is omnipotent, has the ability to do this to the highest degree.

There is a fact of the matter whether x is a part of an individual's conscious life or not. Moreover, God has access to this fact, and can make it known to us. This is, at least in part, what Locke means when (quoting scripture) he claims that on Judgment day, "the Secrets of the Heart shall be laid open" (2.27.22). Thus, despite the failures of our judicial system, a person will only be eternally rewarded or divinely punished for that which was a part of her conscious life. On the other hand, there appears to be no such fact of the matter in Collins's view.

Given this, and what I have said above, we should now be able to see that there are numerous differences between Collins's and Locke's views. An objection to Collins is therefore not necessarily an objection to Locke. Moreover, Berkeley's objection works much better against Collins than it does Locke. Of course, this is not to say that we couldn't craft a response to Berkeley on the behalf of Collins, but rather that the "out" available to Locke is a lot more obvious than the "out" available to Collins. Put another way: the response we can offer Berkeley on behalf of Collins is going to be complicated by the fact that Collins thinks it is not a singular consciousness, but rather connected consciousnesses, that make for personal identity, and the additional related fact that what makes any two consciousnesses so-connected is *memory*.

### Conclusion

The aim of this essay has not been to offer a new reading of how Locke might respond to Berkeley, but rather to show that Berkeley's objection as found in *Alciphron* VII.8 is really an objection to Collins. This is significant not just because this objection is consistently taken to be an objection *to Locke*, but also because Berkeley's objection works against Collins in a way it doesn't against Locke. If I am right, reading Berkeley's objection *as an objection to Collins* thus gives us a more sympathetic reading of Berkeley than we might arrive at otherwise. This is important since many are quick to charge Berkeley with misrepresenting his opponents' views—and especially in *Alciphron*.<sup>36</sup>

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<sup>36</sup> See, for instance, J. S. Mill's "Berkeley's Life and Writings" (1871).

## Rickless and *Passive Obedience*

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**Abstract:** Samuel Rickless has recently defended an act utilitarian interpretation of Berkeley's *Passive Obedience*. Part of his argument is a criticism of my natural law reading of Berkeley, particularly my contention that natural lawyers are committed to a distributive notion of universality, while utilitarians are committed to a collective sense of universality. This essay is, in part, a reply to Rickless's criticisms. I argue that *if* we assume that Berkeley was either a natural lawyer or a utilitarian, and *if* we can find grounds for distinguishing natural law theories from utilitarian theories, then a natural law theory provides a more philosophically defensible fit with the texts than does a utilitarian theory.

Samuel Rickless has recently defended an act utilitarian interpretation of Berkeley's *Passive Obedience*.<sup>1</sup> Part of his argument is a criticism of my natural law reading of Berkeley, particularly my contention that natural lawyers are committed to a distributive notion of universality, while utilitarians are committed to a collective sense of universality.<sup>2</sup> This essay is, in part, a reply to Rickless's criticisms. I argue that *if* we assume that Berkeley was either a natural lawyer or a utilitarian,<sup>3</sup> and *if* we can find grounds for distinguishing natural law theories from utilitarian theories, then a natural law theory provides a more philosophically defensible fit with the texts than does a utilitarian theory. I shall argue that there are clashes between Berkeley's metaphysical presumptions and utilitarianism. While I shall be concerned with Berkeley's general remarks on moral theory (*PO* §§1–14), I shall focus on sections 5–7. In the course of my discussion, I shall show that my earlier contention that utilitarianism assumes a collective sense of universality while natural law assumes a distributive sense of universality is too simplistic.<sup>4</sup>

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<sup>1</sup> Samuel C. Rickless, "The Nature, Grounds, and Limits of Berkeley's Argument for Passive Obedience," *Berkeley Studies* 26 (2015–2016): 3–19. Most comments on Rickless's interpretation are presented in my footnotes.

<sup>2</sup> Daniel E. Flage, *Berkeley* (Cambridge, UK: Polity Press, 2014), 137–63.

<sup>3</sup> Mätti Häyry, "Passive Obedience and Berkeley's Moral Philosophy," *Berkeley Studies* 23 (2012): 3–14, argues that Berkeley's moral philosophy contains strains from many traditions and can be identified strictly with none.

<sup>4</sup> Rickless contends that my distinction between the collective and distributive senses of universality is a distinction without a difference (13). To see that there is a difference, consider the following two statements, only one of which is true: "The United States of America is the richest country in the world," "All Americans are rich." Understood in terms of gross domestic product [i.e., the total value of goods produced and services provided in a country in one year, at nearly \$20.5 trillion (2018)], the United States is the richest country in the world, exceeding the second richest (China) by more than \$6 trillion (<https://tradingeconomics.com/united-states/gdp>). This is the collective sense of universality (cf. Rickless 13–14). This does *not* imply that each and every American is rich, which would be the distributive sense of universality. But even if did follow that all American are rich, "rich" is vague: there are wide and not clearly defined parameters that define who will count as rich. So, Rickless's suggestion that I take natural-law-*qua*-distributive to entail egalitarian standards (14) is unwarranted. For example, everyone in a society gains some security by following the rule "Thou shalt not resist the supreme power," but due to ambiguities regarding "happiness" (see ft. 10) and sometimes an unwillingness to follow all the laws established by the

## 1. Natural Law and Utilitarian Models

Historians of philosophy are committed to a principle of interpretive charity according to which if either of two interpretations could elucidate a philosopher's texts, one should choose the more philosophically defensible interpretation. The principle of utility is philosophically neat. Prescriptive natural laws—if there are such—are problematic. Natural laws are “known by reason,” although it is often unclear what that entails. So, if the alternatives are (1) determining moral rightness or obligation based on a standard of morality that requires some counting and simple arithmetic, as opposed to (2) the inscrutable use of “reason,” the point goes to utilitarianism.<sup>5</sup>

The principle of charity also requires that we carefully elucidate the models we use to detail the views of the philosophers we discuss, and there's the rub. Both natural law and utilitarianism are families of theories; those who claim to be proponents of either can assume any number of metaphysical positions. For example, *classical* natural law theories—Aquinas and earlier—assume a realistic metaphysics.<sup>6</sup> Happiness (*eudaimonia*)

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supreme sovereign (cf. *PO* §3), there is no presumption that everyone receives equal amounts of happiness or even happiness of the same kind by following the rule. That some philosophers who identified themselves with the natural law tradition understood the obedience to natural law as good distributively, is clear from Samuel Pufendorf's remark, “the End of the Law of Society is the *Good of Mankind*, therefore the Sense thereof is to be taken, so as to effectively preserve the Welfare of **every** [my emphasis] *Individual* or particular man” [*The Whole Duty of Man, According to the Law of Nature*, tr. Andrew Tooke, 1691, ed. Ian Hunter and David Saunders (Indianapolis: Liberty Fund, 200), 82]. Further, that the distinction was recognized in the early eighteenth century is clear from Isaac Watts's remark in his *Logic*: “If the plural number may be changed into the singular; that is, if the predicate will agree to one single subject; it is a distributive idea; otherwise it is collective” [*Logic: The Right Use of Reason in the Inquiry After Truth with a Variety of Rules to Guard Against Error in the Affairs of Religion and Human Life, as well as the Sciences*, 1724; reprint of the 1847 edition published by William Milner (Morgan, PA: Soli Deo Gloria Publications, 1996), 148]. Cf. Francis Hutcheson, *An Essay on the Nature and conduct of the Passions and Affections, with Illustration on the Moral Sense*, 1725, ed. Aaron Garrett (Indianapolis: Liberty Fund, 2002), 122, where he writes, “Is there then no *Parent* in NATURE, no *Physician* who sees what is necessary for the *Whole*, and for the good of each *Individual* in the whole of his Existence, as far as is consistent with the general Good?”

<sup>5</sup> Of course, there is some reason to believe that Berkeley considered such “counting” to be insufficient or practically impossible as the basis for determining moral rules. See *PO* §§9–10.

<sup>6</sup> This is a very broad characterization. It applies to Plato and Aristotle—if they were natural lawyers—as well as Cicero and the Stoics. Part of the problem with the natural law tradition is that scholars do not agree who is included. John Wild [*Plato's Modern Enemies and the Theory of Natural Law* (Chicago: University of Chicago Press, 1953)] traces the natural law tradition to Plato. Heinrich A. Rommen [*The Natural Law: A Study in Legal and Social History and Philosophy*, trans. Thomas R. Hanley (Indianapolis: Liberty Fund, 1998), 3–29] finds its roots in Aristotle, even if Aristotle himself might not have been a natural lawyer. Javier Hervada, *Critical Introduction to Natural Law*, 10<sup>th</sup> edition corrected, trans. Mindy Emmons, Gratianus Collection Series (Montreal: Wilson & Lefleur, 2006), 1–7 traces it to the Roman lawyers, although they take their metaphysical assumptions from the Greeks. Some natural lawyers contend that a realistic metaphysics is essential to natural law (Hervada, *Critical Introduction to Natural Law*, 67–80; Wild, *Plato's Modern Enemies*, 108–109, and 123–32; cf. Bebhinn Donnelly, *A Natural Law Approach to Normativity* [Aldershot, Hampshire: Ashgate Publishing Ltd., 2007], 69–95, Rommen, *Natural Law*, 141–52), which would be sufficient to show that neither Berkeley nor most of the moderns who identify themselves with the natural law tradition

is the essential end of human beings. Natural laws are discoverable by reason and specify the means to happiness. The *modern* or Protestant natural lawyers of the seventeenth century were usually moral voluntarists, that is, they claimed natural laws are the effects of God's acts of will and are known by knowing God's design of the world. Further, many of them eschewed metaphysical realism.

By contrast, *classical* utilitarians (Bentham and Mill) embraced an impoverished metaphysics requiring only individual human beings (but neither forms, nor universals, nor God). Some later utilitarians (e.g., G. E. Moore) were metaphysical realists. To both the classical natural lawyers and the classical utilitarians, happiness is a natural property.<sup>7</sup> The typical arrangement for both the classical natural lawyer and the classical utilitarian is that maximizing happiness (*natural* good) implies rightness or obligation, and engaging in an action that is right or obligatory entails that the action is morally virtuous.<sup>8</sup> Of course, *some* utilitarians (Moore, Francis Hutcheson, if he was a utilitarian) claim that moral goodness (virtue) can be known prior to the utilitarian calculation, and one is obligated to engage in actions that maximize moral goodness. The notion of happiness, taken as a natural property, is ambiguous for both the natural lawyer and the utilitarian.<sup>9</sup>

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are natural lawyers, since most of those eschew forms (universals). Since Locke, Grotius, and Pufendorf identify themselves with a natural law tradition, and since Berkeley was unquestionably acquainted with their work (*PO* §51), I shall include them in the natural law tradition, although, as we shall see, this requires an alternative metaphysical gambit to do the work that the metaphysical realist accomplishes by means of forms (universals).

<sup>7</sup> As I shall understand “natural property,” a natural property is any property an object has that, as a property, is independent of moral or aesthetic considerations even if it can be used as a basis for raising moral or aesthetic considerations. For example, by eighteenth century standards, extension is a natural property of all physical objects; redness is a natural property of some physical objects. In the case of sentient beings, experiences of pleasure and pain, happiness and unhappiness, are natural properties insofar as they can be experienced without raising moral or aesthetic issues.

<sup>8</sup> See, for example, John Locke, *An Essay concerning Human Understanding*, ed. P.H. Nidditch (Oxford: Clarendon Press, 1975), II.28.10, 353, where he says that “Vertue and Vice are Names pretended, and supposed every where to stand for actions in their own nature right and wrong; And as far as they really are so applied, they so far are co-incident with the *divine Law* above-mentioned.” Cf. *Essay* II.28.11, 356; and II.32.17, 390; Richard Cumberland, *A Treatise of the Laws of Nature*, trans. John Maxwell (1727), ed. Jon Parkin (Indianapolis: Liberty Fund, 2005), 463. Of course, Aquinas is often deemed the paradigmatic natural lawyer, and his “first precept of [natural] law, that *good is to be done and ensued, and evil is to be avoided*” (*Summa* 94, A2) is often taken to allude to moral good (virtue).

<sup>9</sup> For example, Plato held that the happiness of workers is primarily the pleasures of the senses, the happiness of soldiers is primarily the pleasures of physical activity, and the happiness of the guardians is intellectual pleasure (Plato, *Republic*, Book 3, 414b–415e, cf. Plato, *Laws* 697b; Berkeley, *A* 2:13). Mill is famous for his distinction between sensible pleasure and the higher pleasures [J. S. Mill, *Utilitarianism*, in *Collected Works of John Stuart Mill*, vol. 10, ed. J. M. Robson (Toronto: University of Toronto Press, 1969), 210–213], and he was willing to include virtually anything one wishes in one's personal concept of happiness (*Utilitarianism*, *Collected Works* 10: 235–37). At *PO* §5, Berkeley suggests that what one identifies as happiness changes as one matures. The youth identifies happiness with immediately obtainable sensible pleasures. As one matures, one recognizes that some sensible pleasures, when enjoyed in excess, yields pain, and some pains, when endured, result in pleasures. That is, there is both a tendency “to consider the remote consequences of

So, on the surface, the situation is conceptually messy. If we dig a bit deeper, the situation is even worse, for some scholars assure us that many of those who identified themselves with the modern natural law tradition were actually utilitarians, indeed, that the natural law tradition is subsumed under utilitarianism.<sup>10</sup> What should we do?

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an action” (*PO* §5), and “as the nobler faculties of the soul begin to display themselves,” there is a tendency “to discover . . . goods far more excellent than those that affect the senses” (*PO* §5), presumably the joys of the arts and the intellect (cf. *NB* 787, 852). Whether these pleasures are inherently superior—as the utilitarian interpreter tends to suggest—or merely purer insofar as the pleasures tend not to degenerate into pains—is an issue we shall leave open. A similar concern with the multiplicity of “pleasures which constitute human happiness” is found in Berkeley’s *Guardian* essay of May 7, 1713 (*W* 7: 193), although Berkeley’s primary concern there is with the distinction between natural and fantastical pleasures. Natural pleasures are those caused by the object itself—whether that object is a natural object or an artifact—while fantastical pleasures are related to conventions such as money.

So is the ambiguity of happiness problematic? I don’t think so. Insofar as it is the end proposed by a moral theory, happiness must be an umbrella concept under which numerous specific kinds reside for all the reasons Berkeley states. Infants not only seek sensible pleasures, but they are also incapable of doing more, due to both their degree of intellectual development and their lack of factual knowledge. For example, they are incapable of solving mathematical and scientific problems. (Such a position should be expected from an empiricist.) Even as children develop, considerations of their intellectual abilities, educational environment, and, perhaps, innate inclinations determine what *could* yield happiness for an individual. So, whether one is a utilitarian or a natural lawyer, one must recognize that happiness is “subjective” and that many kinds of happiness must be acknowledged. Nor should one expect otherwise. Insofar as a society is composed of persons of many abilities, inclinations, and vocations, and insofar as happiness is said to be the end of human beings *as such*, no one kind of action will yield happiness for all. This assumes we are concerned with happiness as a natural state, rather than a supernatural state. We shall see below that, in *Passive Obedience*, Berkeleian *moral* laws pertain to living human beings.

<sup>10</sup> See Colin Heydt, “Utilitarianism before Bentham,” in *The Cambridge Companion to Utilitarianism*, ed. Ben Eggleston and Dale Miller (Cambridge: Cambridge University Press, 2014), 16–37. Utilitarianism seems to be the most ecumenical moral theory insofar as utilitarians are willing to welcome into their fold moral theories that appear to be founded on far different principles. Such practices can be traced back at least as far as Mill, who suggested that Kant took the principle of utility as more basic than the categorical imperative. He writes:

But when he [Kant] begins to deduce from this precept any of the actual duties of morality, he fails, almost grotesquely, to show that there would be any contradiction, any logical (not to say physical) impossibility, in the adoption by all rational beings of the most outrageously immoral rules of conduct. All he shows is that the *consequences* of their universal adoption would be such as no one would choose to incur. (Mill, *Utilitarianism, Collected Works*, 10: 207)

In one sense this moral ecumenism is what one would expect. The principle of utility is said to be *the* first principle of morality, so if a presumptive moral theory is an actual moral theory, it must be shown that it at least implicitly appeals to the principle of utility. Indeed, Mill recognized that, as a first principle, the principle of utility is not subject to proof; so his argument for its sanction is that it is assumed by all moral theories (*Utilitarianism*, Chapters 3–4). If the principle of utility is assumed by all moral theories, this is a philosophically important point of the first order. Nonetheless, I fear that committed utilitarians tend to assume that whenever they find words such as “the general well-being of all men” (*PO* §7), or “public good” (*PO* §§8, 9), or “Universal well-being” (*PO* §11), it is an implicit reference to the principle of utility. As Bentham’s hedonistic calculus makes clear, the utilitarian’s primary concern is with the collective good. As we noted above (ft. 5), at least some philosophers who identified themselves with the natural law tradition are concerned with the

I believe that the attempt to subsume natural law theory under the utilitarian umbrella blurs several distinctions. First, those who identify themselves with the natural law tradition hold that happiness is a proper end of human beings, in that happiness is what perfects humans. It is either essential to human beings (classical) or a product of divine design (modern). Utilitarians hold that it is merely a fact that human beings seek or tend to seek happiness. Even though the fact that all human beings seek happiness is the sole natural basis for claiming that happiness is the end of human beings, I believe this is an important difference between the utilitarian's scheme and the natural lawyer's scheme. Insofar as happiness is a proper end of human beings, humans not only seek happiness, but they also cannot do otherwise. To understand additional differences, we need to provide a more detailed account of the natural law tradition.

There are at least two ways to attempt to provide a general account of natural law. One is to undertake a broad survey of all those who have identified themselves with or have been identified with the natural law tradition and seek out their common elements. The other is to take a paradigm natural lawyer—Aquinas, for example—specify the principal elements of his or her theory, and judge whether a moral theory is a natural law theory based on its compliance with the elements of that paradigm. Both approaches, of course, are problematic. The first is pragmatically implausible insofar as the survey would be far too extensive to undertake in a short paper. More importantly, it would beg too many questions. The subtitle of *Passive Obedience* suggests that Berkeley identified himself with the natural law tradition, but the interpretative question is whether it is better identified with an alternative moral theory, even if the relevant theory had not been clearly articulated in Berkeley's time. The alternative also has drawbacks, since it provides a list of indicators—characteristics that apply to the paradigm—but which are neither necessary nor sufficient conditions to deem a theory a natural law theory. Nonetheless, this latter approach is workable. So, I will use Mark Murphy's seven indicators—based upon Aquinas—as the basis for my discussion.

Murphy writes:

the paradigmatic natural law view holds that (1) the natural law is given by God; (2) it is naturally authoritative over all human beings; and (3) it is naturally knowable by all human beings. Further, it holds that (4) the good is prior to the right, that (5) right action is action that responds non-defectively to the good, that (6) there are a variety of ways in which action can be defective with respect to the good, and that (7) some of these ways can be captured and formulated as general rules.<sup>11</sup>

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distributive sense of “universality.” So, as good historians, it is imperative that we look carefully at the primary texts in an attempt to provide a detailed account of Berkeley's moral theory. While cataloging Berkeley in terms of a common moral theory *should* be conceptually helpful, if the accounts of the theories themselves are vague or ambiguous at key points, it is important that we are not misled by classificational verbiage.

<sup>11</sup> Mark Murphy, “The Natural Law Tradition in Ethics,” *Stanford Encyclopedia of Philosophy* (Summer 2019 Edition), Edward N. Zalta (ed.), URL=<<https://plato.stanford.edu/archives/sum2019/entries/natural-law-ethics/>>. References to Murphy's seven points will be marked M1, M2, etc.

Let us examine these indicators individually.

(M1) In the Christian tradition, God is the ground of natural moral law (cf. *PO* §6). This means, at least, that God is the creator of the world and, as such, of natural laws. But this can be neither a necessary nor a sufficient condition for a law to be a natural moral law. If it were a necessary condition, then both the Greek and Roman natural law traditions would be excluded.<sup>12</sup> Among the ancients, obligation is presumably based on metaphysical forms that determine the natural end of human beings as humans (viz. happiness), since neither Plato, Cicero, nor Marcus Aurelius base natural law on the authority of the gods.<sup>13</sup> Nor is it a sufficient condition, since not all the laws God creates are moral laws. Richard Hooker,<sup>14</sup> who is usually identified with the natural law tradition, distinguished five kinds of laws, four of which are divine laws. In Hooker's words:

Now that law which as it is laid up in the bosom of God, they call *eternal*, receiveth according unto the different kinds of things which are subject unto it different and sundry kinds of names. [H1] That part of it which ordereth natural agents, we call usually *nature's* law; [H2] that which Angels do clearly behold, and without any swerving observe is a law *celestial* and heavenly; [H3] the law of *reason* that which bindeth creatures reasonable in this world, and with which by reason they may most plainly perceive themselves bound; [H4] that which bindeth them, and is not known but by special revelation from God, *Divine* law; [H5] *human* law that which out of the law either of reason or of God, men probably gathering to be expedient, they make it a law.<sup>15</sup>

Eternal law is founded on God's authority, but not all eternal law has moral content. H1 are the laws of the physical universe, presumably including nonhuman animals (Hooker 1.8.4, 77). The Berkeley of the *Principles* refers to these as "laws of nature" (*PHK* §30). H2 are laws concerning angelic behavior, of which we know nothing (cf. *PO* §7). H3, "the law of *reason*," consists of prescriptive laws concerning human behavior. They are natural moral laws. H4 are special laws God revealed to a certain group of people at a certain time, such as the various Hebrew laws of ritual purity (Hooker 1.15.1, 117). H5 are civil laws and cultural mores, some of which do, but not all of which need, conform to the natural laws of H3 (Hooker 1.10.9, 94; 1.10.10, 95; 1.15.1–2, 117). So, H5 is irrelevant to our concerns. Similarly, Berkeley identifies neither celestial law (H2) nor divine ritual law (H4) with moral law (cf. *PO* §7).

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<sup>12</sup> Scholars generally trace the natural law tradition back to at least the tradition of Roman law. See ft. 7.

<sup>13</sup> If having a form and an essential end as a thing of a kind is a sufficient condition for grounding natural moral law, the role of Aquinas's God is primarily that of creator, for Aquinas's world is an Aristotelian world of form and matter. So, the forms would be sufficient to ground natural law.

<sup>14</sup> Berkeley was certainly acquainted with Hooker. See *The Correspondence of George Berkeley*, ed. Marc A. Hight (Cambridge: Cambridge University Press, 2013), 320, 429, 534.

<sup>15</sup> Richard Hooker, *Of the Laws of Ecclesiastical Polity: Preface, Book I, Book VIII*, ed. Arthur Stephen McGrade (Cambridge: Cambridge University Press, 1989), Book I, Chapter 3, Section 1 (58); see also 1.16.1 (121). Nor is Hooker alone in claiming that not all eternal law is natural moral law. Aquinas also takes natural moral law to be a kind of eternal law. See *Summa Theologica*, Question 91, Articles 1–2.

Not all divine laws are natural laws, and not all natural laws are moral laws. So being established by divine authority is not a sufficient condition for being a natural moral law. But even if there were a clear way to distinguish moral laws from non-moral laws established on divine authority, being a moral law established on divine authority is not a sufficient condition for a theory to be a natural law theory. Divine command theories establish moral rules based on divine authority,<sup>16</sup> but those rules need not be naturally knowable (M3). Finally, theological utilitarianism assumes divine authority as the basis for the principle of utility.<sup>17</sup> So, basing a moral system on the authority of God is not a sufficient condition for deeming a theory a natural law theory of morals.

(M2) Natural moral laws are naturally authoritative over humans. This concerns the end of human beings, whether that end is based on inherent essences, such as Aristotelian forms, or acts of divine creation and preservation. It is natural insofar as human beings are part of nature and individually recognize a certain end and recognize that the same end is desired by all human beings. So, all humans desire “happiness,” even if the precise constituents thereof might vary greatly among individuals,<sup>18</sup> and it is because of this “common end” that laws concerning the best means to that end have natural authority.

(M3) Natural moral laws are naturally knowable by human beings. This entails that even if the laws are grounded in divine acts, one does not need divine revelation to know them. How can they be known? Since at least some natural law theories assume an empiricist epistemology, we are going to assume that true factual claims are relevant to our reasoning. Since we are concerned with Berkeley, some of those presumably factual claims will be drawn from *Passive Obedience*. I believe the reasoning goes something like this.<sup>19</sup>

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<sup>16</sup> Divine command alone will not allow us to distinguish moral rules from religious rules. Presumably that distinction is based on the meta-ethical principle that *moral* rules must be universal.

<sup>17</sup> At least I assume the theological utilitarian takes divine authority to establish the principle of utility. Most theological utilitarians are rule utilitarians, holding that determinate laws are chosen by God on the basis of the principle of utility. If Rickless’s contention is that Berkeley was an act utilitarian, the remarks on the divine foundation of moral rules at *PO* §§6–7 would imply that God’s authority must be the foundation for the principle of utility, since the act utilitarian holds that there is properly exactly one moral rule.

<sup>18</sup> See footnote 10.

<sup>19</sup> This is strictly the way *I* can make sense of the claim. While most of the prominent philosophers who identify themselves with the natural law tradition contend that natural laws can be known by reason, I find most of their accounts puzzling. For example, I have no idea how murder, homosexuality, etc. are contrary to or inconsistent with human nature and therefore immoral. I’m not sure how “human nature” is known apart from experience, and the fact that most people never engage in murderous acts doesn’t seem to entail that murder is inconsistent with human nature. If the commonality of an action allowed one to determine what is consistent and inconsistent with human nature, it seems that attempting to publish an article in *Berkeley Studies* falls on the side of inconsistency and is therefore morally perniciousness—a point with which at least Steve Daniel might take issue. So, I apologize in advance to the Thomists, Ciceronians, Grotians, Pufendorfians, Hookerians, and fans of any other variety of natural law theory for my ignorance.

All human beings are self-interested;<sup>20</sup> all human beings seek happiness, although the precise meaning of “happiness” varies with one’s psychological development: for infants it is the immediate gratification of sensible desires, while for adults it involves a longer-term gratification, and some forms of gratification might include aesthetic pleasures (cf. *PO* §5). So, assume we’re dealing with an adult who is rationally mature and has extensive knowledge of human behavior. Since both the laws of the physical universe and the laws of the moral universe (Hooker’s H1 and H3) are said to be “laws of nature,” let us assume that they are known in analogous ways.

Physical laws are known by experience. These laws are of two kinds. The first may be deemed “primary natural laws.” They concern consistent occurrences in the natural world: spring is followed by summer, which is followed by autumn, which is followed by winter; pure water at standard atmospheric pressure boils at 212°F; acorns develop into stately oaks, all things being equal (that is, if its development is not interrupted by squirrels, infection, drought, excessive moisture, little boys with hatchets, etc.).<sup>21</sup> These primary natural laws give “us a sort of foresight, which enables us to regulate our activities for the benefit of life” (*PHK* §30). What may be deemed “secondary natural laws” are general laws that, for example, a gardener might discover that allow her to increase the probability that an acorn will develop into a stately oak. Such laws are hypothetical and specify the means to determinate end. For example, a gardener might accept the rule: If you want an acorn to develop into a stately oak, then protect it from squirrels, infection, drought, excessive moisture, little boys with hatchets, etc.

If the moral laws are comparable to physical laws, then they are also known by experience; they concern laws of human behavior. So, the primary natural moral law specifies the end of all human beings: all human beings seek happiness. Secondary natural laws specify the means to that end: if you’re human and seek happiness, don’t murder; if you’re human and seek happiness, don’t commit adultery; if you’re human and seek happiness, don’t steal, etc. (cf. *PO* §§32, 3, 15). These apply to all human beings.<sup>22</sup> Three points should be noticed. First, each of the secondary laws specifies a means to

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<sup>20</sup> This was not only Berkeley’s view (*PO* §5, NB 773; *PHK* §§100, 153); it was the common view of the time. Cf. Locke, *Essay* 2.20 1–2, p. 229; Joseph Butler, *Butler’s Fifteen Sermons Preached at the Rolls Chapel*, ed. T. A. Roberts (London: S.P.C.K., 1970), p. 100; Francis Hutcheson, *Logic, Metaphysics, and the Natural Sociability of Mankind*, ed James Moore and Michael Silverthorne (Indianapolis: Liberty Fund, 2006), p. 122.

<sup>21</sup> In Scholastic language, becoming a stately oak is the end or final cause of an acorn. Berkeley was not an opponent of final causes. See *PHK* §60; *A* 3:1; *Analyst* §11, *W* 4:71; *Siris* §§231, 251.

<sup>22</sup> I believe there are also tertiary laws, which concern persons holding specific roles in a society. For example, “All lawyers who want to be happy are lawyers who do not betray their clients’ confidences.” We should note in passing that if natural laws support counterfactuals, this is most evident in the case of tertiary laws. Since few of us are lawyers, it would still hold that “If I were a lawyer who wanted to be happy, then I would not betray my clients’ confidences.” But since Berkeley’s own focus is on what I have called secondary natural laws, we shall say little more about tertiary laws. There seems to be reasons why Berkeley and most moralists in the early modern period focus on the content of what I call secondary natural laws: they’re needed for the degree of personal security necessary to profitably pursue other ends.

(necessary condition for) happiness.<sup>23</sup> Second, they can all be known by experience. So, third, since these laws are known by experience, anyone who would draw a distinction between descriptive and prescriptive natural law must place these on the side of descriptive natural laws.<sup>24</sup> If Berkeley was a natural lawyer, his focus was on secondary natural laws. How could these laws be discovered by reason?

I'm sitting in my philosophical closet, trying to figure out how best to obtain my desired end, namely, happiness. I'm not in an intellectual vacuum. I know that I desire happiness, and I've observed enough other people to conclude that people have a general tendency to seek pleasure and avoid pain, that is, they seek happiness too. So, I conclude (inductively) that all humans seek happiness. But it's my own happiness with which I'm concerned, and my question is "What is the best means for me to obtain my own happiness?" I think about various human behaviors. Murderers can expect the victim's friends and families to seek revenge.<sup>25</sup> If I were being sought by persons whose intent is to kill or maim me, I would not be happy. So, if I murder, I am not happy. So, if I'm happy, I don't murder. Similar considerations would apply to stealing, adultery, and breaking oaths (*PO* §§3 and 15). So, I conclude that it's in my long-term best interest to abstain from those kinds of activities. Further reflection points to two additional considerations. First, human beings are similar to one another. So, if rules such as "Don't murder," "Don't commit adultery," etc. increase the probability of my happiness, they will have similar effects for any other human being. Second, if I follow the rules, but no one else does, I will not obtain happiness. The only way to greatly increase the probability of my happiness is if everyone or, at least, the overwhelming majority of humans follow those rules. Similarities among humans imply that each person will gain if all people follow those rules, if we assume there are either metaphysical forms or that God designed and preserves the natural order<sup>26</sup> and that (a) human nature will not change

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<sup>23</sup> Because some scholars read Aquinas's natural laws as specifying the means to an end—see Anthony J. Lisska, *Aquinas's Theory of Natural Law: An Analytic Reconstruction* (Oxford: Clarendon Press, 1996), 103–109, cf. 195–201—I believe such a reading is within the natural law tradition. See also Hooker, *Laws of Ecclesiastical Polity*, 1.8.1, 75. Of course, it is not only the natural lawyer who considers moral rules as means to happiness; the utilitarians do as well. Hutcheson held the same (*Logic, Metaphysics*, 122). Jeremy Bentham begins his *Principles of Morals and Legislation* with the words:

Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. [*The Works of Jeremy Bentham*, vol. 1, ed. John Bowring (London: Simpkin, Marshall, 1843), 121.]

Bentham's hedonistic calculus famously uses considerations of the causes of pleasure and pain to calculate moral obligations, that is, what individual actions or kinds of actions cause a balance of pleasure over pain.

<sup>24</sup> This suggests they do not bridge Hume's "is"—"ought" gap, an issue I address below.

<sup>25</sup> I don't *know* that this is true. Some anecdotal evidence that it has long been believed to be true may be drawn from the ancient Hebrew practice of designating refuge cities, that is, cities where those who accidentally killed another human (killed without malice aforethought) could go to avoid blood vengeance. See Deuteronomy 19:1–10.

<sup>26</sup> See the discussion of M1 above.

and (b) the causal order will not change. So, a certain set of natural laws jointly provide the best general means to human happiness: everyone gains if everyone follows what I have called secondary natural laws since they provide the personal security necessary for other beneficial individual and communal effects to occur.<sup>27</sup>

Murphy's remaining four indicators apply to any teleological or consequentialist rule-theory.

(M4) The good is prior to the right. In most natural law theories, happiness (natural goodness) is the end that determines what is right or obligatory. The same holds for classical utilitarian theories. In such theories, a distinction is drawn between natural goodness as the determiner of what is right and moral goodness (virtue) which arises from following the moral law (rule).<sup>28</sup> In other theories—Moore's and Hutcheson's utilitarianism, for example—moral goodness (virtue) is prior to obligation.<sup>29</sup>

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<sup>27</sup> My reconstruction takes seriously Berkeley's contention that self-love (self-interest) is "a principle of all others the most universal, and the most deeply engraven in our hearts" (*PO* §5). It assumes that the reasoner is mature, one who has had sufficient experience to be concerned with her *long-term* self-interest. If one takes one's long-term interests seriously, one will recognize that for one to obtain one's long-term interests, others must obtain their long-term interests as well and that those are long-term interests of the same kinds one oneself has. So, if we take self-interest seriously, we are led to posit universal laws and a supporting metaphysics. If the overwhelming majority of people obey these laws, *everyone* gains: they provide for the general good distributively. Even the thief gains, since she need not devote the energy to protect her ill-gotten gains that she would need to exert if there were no moral rule against theft. Notice, it is the *fact* that everyone is self-interested that functions in this reasoning; self-interest has no *moral* import.

Classical utilitarians are hedonists or eudaemonists, that is, they also claim that self-love or self-interest is a basic fact about human beings. However, they focus on maximizing the total amount of pleasure or happiness in a society. While each person might strive to maximize her own happiness, it is unclear to me why such a one would conclude that it is in her long-term self-interest to accept moral rules that yield either happiness for the majority of people or the greatest total happiness regardless of how that's distributed are in her best long-term interest. It doesn't take something as sophisticated as John Rawls's veil of ignorance [*A Theory of Justice* (Cambridge: Harvard University Press, 1971), 136–42 and *passim*] for her to recognize that there is a chance that she will be in the unhappy minority or that she will be exploited, and therefore unhappy, so that the total amount of happiness is increased, even if that happiness is enjoyed by a minority. So, if we take hedonism–eudaemonism–self-interest seriously, and if "being known by reason" is understood to entail that anyone could *in principle* (even if not in fact, due to a lack of intellectual maturity, factual knowledge, or raw intellectual ability) figure out what moral laws would further that self-interest, it is unclear to me that we would reach a utilitarian conclusion.

<sup>28</sup> See, for example, Locke, *Essay* 2.28.10, 353; 2.28.11, 356; 2.32.17, 390; and Cumberland, *Laws of Nature*, 463.

<sup>29</sup> At one point, Rickless describes "ethical egoism, the view that one is obligated to pursue one's own self-interest in all things" (5). This is a loose and popular way of describing ethical egoism, but I don't believe it is technically correct. The principle of ethical egoism is, "Act in such a way that you maximize your (long-term) self-interest." The egoist principle—or to the utilitarian, the utilitarian principle—determines what one's duties or obligations are or what actions are right. To the egoist, doing what is in one's own interest is a right-making property. Obligation is subsequent to the principle; it is not contained in it.

(M5) Right action is action that responds non-defectively to the good. This means simply that by engaging in a right action, one never decreases the relevant good. This applies equally to natural law theories, utilitarian theories, and egoistic theories.

(M6) There are a variety of ways in which action can be defective with respect to the good. Murder decreases the amount of goodness. Theft decreases the amount of goodness. And so forth. Here it makes no difference whether one is a natural lawyer, a utilitarian, or an egoist; each recognizes that some kinds of activities can decrease the total amount of goodness. All recognize that at least some these kinds of action that would decrease goodness can be formulated as prohibitive general rules (M7).<sup>30</sup>

In summary, natural moral laws are naturally authoritative because human beings have a natural end, happiness (M2). Natural law theories that assume metaphysical realism ground the obligation of natural laws in the form or essence of humanity; hence, humans have a natural end. Natural law theories that do not assume a realistic metaphysics—including most of the Protestant natural law theories of the early modern period—ground natural law in the voluntary actions of God (cf. M1). God creates and preserves individual entities; the end of human beings is divinely instituted. One can discover natural moral laws by reason (M3). As I've reconstructed the reasoning, if one takes self-interest seriously, and the result is a collection of universal laws understood distributively, everyone gains.<sup>31</sup>

If my reconstruction of an argument for natural laws is plausible, it also shows that my published contention that one could distinguish between a natural law theory and utilitarianism solely based on the distinction between the distributive and collective senses of universality is wrong.<sup>32</sup> If utilitarian reasoning is anything like Bentham's hedonistic calculus, the utilitarian's initial calculus concerns collective good. Following the moral rules "Do not murder," "Do not steal," etc. yields more total happiness than would be obtained if they were not followed. This is collective, but it has distributive entailments. Rules against murder, theft, adultery, and forswearing (promise-breaking) are so basic, that even legal positivists maintain that there must be some positive laws

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<sup>30</sup> Even an act-utilitarian or act-egoist will grant that there are rules of thumb (summary rules) that inform us about what is a *generally* proscribed action.

<sup>31</sup> The secondary laws we have considered to this point concern security: everyone gains if the laws are usually obeyed. As we shall see below, the same applies to the principle "Thou shalt not resist the supreme power," since a sovereign power prevents the anarchic insecurity associated with a state of nature. This does *not* imply that everyone will gain equal amounts of happiness. In the case of the law of sovereignty, some will be unwilling to follow some of the sovereign's positive laws, in which case those persons should passively accept the relevant punishment (*PO* §3): doing so will still result in greater happiness than would be found in a lawless society. In the case of other secondary rules, such as that proscribing theft, the victim of a robbery is still likely to attain a greater amount of happiness by following the rule against theft than she would attain if she attempted to steal back the object. Tertiary laws apply directly to persons holding determinate positions in society, and the laws are mutually beneficial to those affected by it—both the lawyer and the client by the lawyer's rule against betraying confidences.

<sup>32</sup> See Flage, *Berkeley*, 141–42.

against them for society to function.<sup>33</sup> When the overwhelming majority of members of a society obey rules against murder, theft, etc., there are consequences that affect every member of society (that are distributively beneficial). Rules against murder, theft, etc. provide the basis for personal and societal security. These are conditions in which the benefits of civilization—divisions of labor, leisure, education, invention, etc.—can, and some natural lawyers claim do, arise.<sup>34</sup> These consequences are distributively beneficial. Since the utilitarian's concern is with not only the immediate but also with the remote consequences of actions or the compliance to rules, I grant that the utilitarian must have at least some interest in distributive well-being. Nonetheless, given the concerns of something like Bentham's hedonistic calculus, the utilitarian's initial concern must be with collective good; and if there are any analogies between natural physical laws and natural moral laws, it is reasonable to suggest that the natural lawyer's concern is with distributive good, since natural physical laws pertain to each and every physical object: they are distributive laws.<sup>35</sup>

There are two additional points we shall consider before turning to the texts. First, if God designs the world then God, like any good architect, creates things to fulfill or obtain certain ends. Happiness is the end of human beings (cf. *PO* §5). Assume God is a good utilitarian, that is, the principle of utility is grounded in God's volitions and God chooses determinate laws in accordance with the principle of utility. One day God says to herself, "I'm going to make 'Thou shalt not do *x*' a moral rule. Since I know everything, I know that if everyone followed the rule, seven-eighths of all humans would receive one unit of happiness, and one-eighth would receive one unit of unhappiness. Doing the subtraction,

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<sup>33</sup> See H. L. A. Hart, "The Minimum Content of Natural Law," in his *The Concept of Law* (Oxford: Clarendon Press, 1961), 189–95. Cf. Hume, *Treatise of Human Nature*, Book 3, Part 2, Section 2.

<sup>34</sup> Thomas Hobbes, *Leviathan*, ed. J. C. A. Gaskin (Oxford: Oxford University Press, 1996), Chapter 46, Section 6, 442–43; cf. Plato, *Republic*, Book 2, 369b1–372a1.

<sup>35</sup> There is an additional characteristic that is common to many natural law theories, which, although it is not found in *Passive Obedience*, is found in some of Berkeley's other works (*Guardian* #126, Wednesday, August 5, *W* 7:227–28; *Alciphron* A 1.16, A 2:10, A 3.8; cf. *Querist*, questions 579–85, *W* 6:153). This is a tendency to compare society to an organic body (Aristotle, *Politics*, 1302b34–1303a20; Aquinas, *Commentary on the Nicomachean Ethics*, Book 3, ¶3 (§474); Hugo Grotius, *Rights of War and Peace*, trans. into English from the edition of Jean Barbeyrac, ed. Richard Tuck (3 vols; Indianapolis: Liberty Fund, 2005), Book 2, Chapter 9, 665–66; Cumberland, *A Treatise of the Laws of Nature*, 70. Hobbes took a commonwealth to be an artificial man and draws out the analogies [Hobbes, *Leviathan*, Introduction, 7; cf. Samuel Pufendorf, *On the Natural State of Men: The 1678 Latin Edition and English Translation*, trans. Michael Seidler (Lewiston, NY: Edwin Mellon Press, 1990), §1, 83 and 109. In *On the Citizen*, Hobbes compares a society to "an automatic Clock or other fairly complex device" [Thomas Hobbes, *On the Citizen*, trans. and ed. Richard Tuck and Michael Silverstone (Cambridge: Cambridge University Press, 1998), 10]. These thinkers understand the cell-body relation holistically. Of course, cells constitute the body, and the health of the body as a whole depends upon the health of the individual cells, although not all the cells need to be functioning properly for the body to be healthy; indeed, some cells are damaged at any given time. But a healthy body is one in which the individual cells are best able to thrive. Similarly, a society is composed of individuals. Just as an individual cell cannot exist apart from the body of which it is a part, so humans cannot exist apart from a society: today's hermit was once a volatile infant. Just as a healthy body is beneficial to individual cells, a healthy (secure, peaceful) society allows benefits (leisure, education, the arts) to accrue to individuals.

three-quarters of the human population would gain. So, it's justified on utilitarian grounds. Who could complain?"<sup>36</sup> It would seem that anyone in the dismal eighth could complain, since she must act contrary to her divinely determined nature to follow the divinely established moral rule. Such a one might suggest that there is an inconsistency in divine intentions between the created end of humans and the moral rule. The best a theological utilitarian could reply is that this apparent inconsistency is rectified in an after-life, that by following the rule and suffering in the earthly realm one will be rewarded with eternal bliss in the heavenly (cf. *PO* §42). This is the theological rule utilitarian's solution to the utilitarian's general problem with justice, and it is plausible if and only if eternal rewards and punishments are an inherent part of the moral theory.<sup>37</sup>

Second, on the utilitarian scheme a divinely-instituted morality seems to be an overlay, that is, the laws of morality are somehow distinct from and an addition to God's original act of creation. On the natural law scheme, the laws of morality are part of the natural order: that is, they are part of the original act of creation, in that divine creation and God's moral legislation are only conceptually distinct. As known, a secondary natural moral law specifies a means to human happiness, and we discover them through experience in the same way a gardener discovers physical laws specifying the best ways to raise plants. On both the theological utilitarian and the theistic natural law schemes, there is a sense in which after God has "legislated," she is irrelevant to the moral order; although insofar as the natural lawyer or theological rule utilitarian is committed to universal moral rules, she must be committed to a stable natural order and to God as a preserver of that order.<sup>38</sup>

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<sup>36</sup> If the reader considers my reconstruction of a utilitarian God's reasoning flippant, I'm not quite sure how else the reasoning could be reconstructed. It *can't* be simply that one-eighth of all humans won't follow the rule: on utilitarian grounds a moral rule is justified so long as a *majority* gain by following it. As Mill noted in *On Liberty*, this entails moral problems regarding minorities ("the tyranny of the majority"). So, if one were to object that no one should lose by following a moral rule, I cannot understand how such would be justified on utilitarian principles.

<sup>37</sup> As William Frankena noted more than forty years ago, no pure utilitarian theory entails a theory of justice. See William K. Frankena, *Ethics*, 2<sup>nd</sup> ed. (Englewood Cliffs, NJ: Prentice Hall, 1973), 48–52. While my example assumes a form of *rule* utilitarianism, the same problems would arise for the act utilitarian, since, with God's blessing, the rightness of an action would be consistent with the suffering of a minority of those affected by it.

<sup>38</sup> Any consequentialist moral theorist must assume that there is at least a fair degree of (causal) regularity in both the physical and psychological realms if she is to be able to act morally: apart from this she could not predict the consequences of her actions. If one is concerned with "the general well-being of all men, of all nations, of all ages of the world, which God designs should be procured by the concurring actions of each individual" (*PO* §7), and if one is a rule-theorist who proposes universal laws, the regularity needs to be nearly perfect or the laws could not be universal. The act-theorist has less need for near perfect behavioral regularity. Since the only moral rules she recognizes are summary rules—rules that generally apply—she can allow that human behaviors might change over time. So, even if a person caught in an act of adultery in 1700 could expect severe physical repercussions, that does not imply that the same consequences occur in 2019. So, actions that were (usually) wrong in 1700 might not be (usually) wrong in 2019. Notice, this consideration applies only to the act-theorist's summary rules. The act-theorist as such must grant that even if acts of marital infidelity are (usually) wrong, that does not imply that they are wrong in a specific case.

## 2. Berkeley

Turning to *Passive Obedience*, we should notice that Berkeley claims he will discover moral rules through reason alone (*PO* §§2 and 4). He indicates that “Self-love being a principle of all others the most universal, and the most deeply engraven in our hearts, it is natural for us to regard things as they are fitted to augment or impair our own happiness; and accordingly we denominate them *good* or *evil*” (*PO* § 5). The identification of good with happiness or pleasure as the end of human beings was common in the modern period.<sup>39</sup> We noted above that “happiness” is ambiguous in both the utilitarian and natural law traditions, and Berkeley’s discussion of the development and changes in one’s notion of happiness over the course of one’s psychological development (*PO* §5) is consistent with that ambiguity.

Sections 6 and 7 of *Passive Obedience* concern theistic issues to which we shall return.

The principal case for a utilitarian interpretation begins in Section 8, where Berkeley concerns himself with the public good. Berkeley wrote:

The well-being of mankind must necessarily be carried on one of these two ways: Either first, without the injunction of any certain universal rules of morality, only by obliging every one upon each particular occasion, to consult the public good, and always to do that which to him shall seem, in the present time and circumstances, most to conduce to it. Or, secondly, by enjoining the observation of some determinate, established laws, which, if universally practised, have, from the nature of things, an essential fitness to procure the well-being of mankind; though in their particular application, they are sometimes, through untoward accidents, and the perverse irregularity of human wills, the occasions of great sufferings and misfortunes, it may be, to very many good men. Against the former of these methods there lie several strong objections. For brevity I shall mention only two. (*PO* §8)

Already in Section 7, Berkeley had indicated that God’s concern in formulating laws was “not therefore the private good of this or that man, nation, or age, but the general well-being of all men, of all nations, of all ages of the world, which God designs should be procured by the concurring actions of each individual” (*PO* §7). This concern with the public good, “the general well-being of all men,” is a recurrent theme throughout the remaining general discussion of morality. In Section 8, Berkeley argues that morality must be based on rules rather than calculations of the goodness of individual acts, that it is “by enjoining the observation of some determinate, established laws, which, if universally practised, have, from the nature of things, an essential fitness to procure the well-being of mankind” (*PO* §8). In Section 10, he writes that “the observation of certain, universal, determinate rules or moral precepts, which, in their own nature, have a necessary tendency to promote the well-being of the sum of mankind, taking in all nations and ages, from the beginning to the end of the world” (*PO* §10) is the basis of morality. In Section 11, he writes, “whatsoever practical proposition doth to right reason

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<sup>39</sup> See Locke, *Essay* 2. 20.1–2, 229. Cf. Berkeley, NB #773; *PHK* §§100, 153; Butler *Sermons*, 100; Hutcheson, *Logic, Metaphysics*, 122

evidently appear to have a necessary connexion with the Universal well-being included in it, is to be looked upon as enjoined by the will of God,” that “God willeth the universal well-being of mankind” (*PO* §11). Each of these is ambiguous. If my contention in *Berkeley* that a utilitarian is committed to a collective sense of universality while a natural lawyer is committed to a distributive sense of universality were correct,<sup>40</sup> then we could understand each of these passages in either way.<sup>41</sup> Of course, if my present argument above is cogent, then the utilitarian grants that the remote consequences of a principle such as “Do not murder” are distributively good (the benefits of civilization). Hence, the ambiguity is of little consequence. So, I’m unconvinced that the passages settle the question whether Berkeley was a utilitarian or a natural lawyer.

Before we return to Sections 6 and 7, we should note the implications of Berkeley’s argument in Sections 9 and 10 that the public good should be determined by rules, rather than individual by calculations. His reasons are pragmatic. First, no human being knows enough about “hidden circumstances and consequences of an action” to calculate the public good; “it being far more easy to judge with certainty, whether such or such an action be a transgression of this or that precept, than whether it will be attended with more good or ill consequences” (*PO* §9). Even if this were not the case, we simply don’t have the time to make the calculations in each individual case (*PO* §9). Second, there would not be agreements regarding the calculations:

since the measure and rule of every good man's actions is supposed to be nothing else but his own private disinterested opinion of what makes most for the public good at that juncture: and, since this opinion must unavoidably in different men, from their particular views and circumstances, be very different: it is impossible to know, whether any one instance of parricide or perjury, for example, be criminal. (*PO* §9)

So, there must be general moral rules. Assuming he was a utilitarian, some these comments are usually taken to show that Berkeley was a *rule* utilitarian, rather than an act utilitarian.<sup>42</sup>

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<sup>40</sup> Flage, *Berkeley*, 141–42.

<sup>41</sup> For example, consider Berkeley’s allusion to “the general well-being of all men” in Section 7. Had Berkeley written “the general well-being of men,” it would point to a utilitarian interpretation, since not everyone need gain so long as the majority does. Had he written “the well-being of all men,” it would have pointed toward a natural law interpretation, since the natural lawyer would claim that, at least, no one loses from following the law. Much the same might be said about the other passages.

<sup>42</sup> See, for example, Stephen Darwall, “Berkeley’s Moral and Political Philosophy,” in *The Cambridge Companion to Berkeley*, ed. Kenneth P. Winkler (New York: Cambridge University Press, 2005), 311–38, especially 326–35. We might note in passing that part of Berkeley’s argument for the moral law “Thou shalt not resist the supreme power” parallels the argument at *PO* §9. At *PO* §19 Berkeley writes, “But in all instances to determine whether a civil law is fitted to promote the public interest; or whether submission or resistance will prove most advantageous in the consequence; or when it is that the general good of a nation may require an alteration of government, either in its form, or in the hands which administer it: these are points too arduous and intricate, and which require too great a degree of parts, leisure, and liberal education, as well as disinterestedness and thorough knowledge in the particular state of a kingdom, for every subject to take upon him the determination of them.”

I do not believe that these passages establish that *if* Berkeley was a utilitarian, then he was a rule utilitarian. A *rule* utilitarian maintains that determinate moral rules follow from the principle of utility. For example, generally speaking, abstaining from murder yields greater good to humankind than allowing the occasional homicide with malice aforethought. The rule itself is justified by the principle of utility. It is universal: there are no exceptions. An *act* utilitarian does not eschew determinate moral rules; she simply holds that they are summary rules or rules of thumb—usually reliable but imperfect generalizations—rather than moral rules properly so called. This recognizes that, generally speaking, we don't know enough or don't have time to do the utility calculations in particular cases, just as Berkeley claimed. So, an act utilitarian might argue that murdering a particularly heinous dictator is justified on the basis of the principle of utility, since the only "rule" against murder that she acknowledges doesn't carry proper moral weight: it is just an imperfect generalization. The same cannot be said for the rule utilitarian, for whom the rule is a proper universal moral rule, even if one could argue for exceptions based on the principle of utility itself.

So, *if* Berkeley was a utilitarian, the texts are ambiguous between an act utilitarian and a rule utilitarian reading. Nor does Berkeley settle the point by remarking in Section 14 that "it is evident that those actions are not adapted to particular views, but all conformed to certain general rules, which, being collected from observation, are by philosophers termed laws of nature." I grant that one can discover the consequences of actions on the basis of observation, and thereby apply the principle of utility to determine whether a particular action is right or wrong—assuming one had sufficient information—or whether a certain kind of action is generally right or wrong. This is consistent with both act and rule utilitarianism. However, no one holds that the principle of utility itself can be known through observation; whereas, if my arguments above are cogent, one can discover determinate rules specifying the means to happiness on the basis of reasoning from experience. So, if anything, the remark in Section 14 favors a natural law reading over a utilitarian reading of *Passive Obedience*.<sup>43</sup>

If Berkeley was a utilitarian, he has to have been some kind of theological utilitarian: to claim that he was a pure (agnostic) utilitarian is inconsistent with the texts that allude to

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<sup>43</sup> Rickless construes Berkeley as an act utilitarian and the rules as mere summary rules, since he wrote, "On this view, the *standard* of right conduct is act-utilitarian, while the *decision procedure* for meeting the standard involves conformity to certain rules. If rule utilitarianism is understood as the doctrine that the *standard* for right action is conformity to certain sorts of rules, then, on the interpretation we are considering, Berkeley would not be a rule-utilitarian" (Rickless 11–12). But if Berkeley were an act utilitarian, the "rules" could not be a proper decision procedure if that requires that one reach the correct moral conclusion, for there can be cases in which an action that will yield the greatest total good is an exception to a rule prohibiting such an action. For example, the assassination of a particularly heinous dictator followed by a carefully planned coup might be justified on utilitarian grounds; but a bloodless coup, such as that which resulted in the *Magna Carta* in 1215, might be justified on utilitarian grounds. If Berkeley were an act utilitarian, general rules would be only summary rules, rules we follow in those cases in which there is insufficient time to calculate the public good. If one follows a summary rule in such a case, one might have a moral *excuse* if a careful calculation of utility showed that the situation posed an exception to the general rule, but following a summary rule cannot show that one's action is right.

God's establishment of moral laws.<sup>44</sup> Theological utilitarianism and Christian natural law theories agree that God exists and that acts of God's will ground moral law. The natural lawyer claims that moral laws are part of the natural order, in that one can discover the means to human happiness in much the same way that one discovers physical laws concerning the means to an end (e.g., the gardener's discovery of the best means for raising flowers). The theological utilitarian holds that God's will establishes the principle of utility and, if there are determinate moral rules, God wills determinate moral rules based on the principle of utility.

Do we find anything like theological utilitarianism in Sections 6 and 7? Having discussed happiness at the temporal level in Section 5, Berkeley turns to the eternal. He writes:

But as the whole Earth, and the entire duration of those perishing things contained in it, is altogether inconsiderable, or, in the prophet's expressive style, 'less than nothing' in respect of Eternity, who sees not that every reasonable man ought so to frame his actions as that they may most effectually contribute to promote his eternal interest? And since it is a truth evident by the light of nature, that there is a sovereign omniscient Spirit, who alone can make us for ever happy, or for ever miserable; it plainly follows that a conformity to His will, and not any prospect of temporal advantage, is the sole rule whereby every man who acts up to the principles of reason must govern and square his actions. The same conclusion doth likewise evidently result from the relation which God bears to his creatures. God alone is maker and preserver of all things. He is, therefore, with the most undoubted right, the great legislator of the world; and mankind are, by all the ties of duty, no less than interest, bound to obey His laws. (*PO* §6)

This is an interesting passage, and we must attend to both what Berkeley says and what he doesn't say.

If Section 5 was concerned with temporal happiness, the shift to eternal interests *suggests* that one might obey God's laws simply out of a sense of long-term self-interest, since God "alone *can* [my emphasis] make us for ever happy, or for ever miserable."<sup>45</sup> Let us assume that God is a moral legislator and we have a duty to obey God's laws. Has Berkeley shown that "mankind are, by all the ties of duty, no less than interest, bound to obey His laws"? No. In particular, he has not shown that we have eternal interests in obeying God's laws.

Locke argued that rumors of eternal bliss and hell-fire are above reason (*Essay* IV.18.7, 694). Berkeley was committed to determining moral rules by reason alone (*PO* §2). So, if he was a theological utilitarian, it was incumbent upon him to show that God not only *can* but *will* make us forever happy or miserable based on complying with his laws. A conservative ethical egoist doesn't face that problem; she can say, with Pascal, that on the outside chance that there are eternal punishments, it's in her interest to obey God's

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<sup>44</sup> The classical utilitarians are agnostic in the sense that God plays no role in the theory, even though the existence of God is said to be compatible with the theory. See Mill, *Utilitarianism*, 218–19.

<sup>45</sup> Cf. Locke, *Essay* 2.28.8, 352.

laws.<sup>46</sup> A natural lawyer need not be committed to eternal rewards and punishments.<sup>47</sup> But the theological utilitarian doesn't have that option. If there can be an inconsistency in divine intentions between God's designing humans so that the end of each human is her happiness and establishing moral rules that, if followed, require that some humans be unhappy, then eternal rewards appear to be the only way God can ultimately balance the happiness scales. What is missing in Section 6 is any *argument* that God will do so; that God *could* do so is insufficient. So, the *absence* of such an argument is a reason to believe that Berkeley should not be construed as a theological utilitarian.<sup>48</sup> Berkeley's remarks in Section 7 can only strengthen one's doubts regarding a utilitarian interpretation.<sup>49</sup>

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<sup>46</sup> Cf. Berkeley, Sermon "Of Immortality," W 7:12–13.

<sup>47</sup> Recall that ancient natural law theories do not ground natural law in divine decrees, nor do they assume divinely instituted rewards and punishments.

<sup>48</sup> I believe that the young Berkeley was a careful philosopher, particularly regarding matters of religion. I have argued elsewhere, for example, that Berkeley the *philosopher* seemed hesitant to attribute omnipotence to God, even though Berkeley the *religionist* had no such qualms. [See Daniel E. Flage, "Is Berkeley's God Omnipotent?" *The Review of Metaphysics* 71 (June 2018), 703–21.] It is consistent with such a careful approach for Berkeley to argue from the power of God that God *could* institute eternal rewards and punishments without concluding that God does reward and punish. Of course, this does not preclude us from viewing Berkeley as rhetorically sly. In the *Principles*, he does not explicitly distinguish between his careful philosophical remarks and those that might keep him in good graces with the religious establishment. Similarly, in *Passive Obedience* his remarks might inspire his audience to *infer* that he intended something beyond what he explicitly says. Just as in his argument for the existence of God in the *Principles* §146, where he does not ascribe omnipotence to God and yet seems to do so later (*PHK* §152; cf. §155), so the argument in *Passive Obedience* §6 does not commit Berkeley to the actual occurrence of divine rewards and punishments, even though he is later willing to write as if there would be such (*PO* §42).

<sup>49</sup> I do not contend that this is a discussion of all the issues raised in Section 6. One issue with which Rickless is concerned is Berkeley's implicit argument to establish that we are obligated to follow God's laws. Rickless suggests given Berkeley's contention that a perfectly good God causes us and preserves our being, "Berkeley's argument can (without, I believe, distorting the relevant text) be read as relying on the following general moral principle: If X is perfectly good and X created and sustains Y, then Y has a duty of gratitude towards X that is best discharged by following X's will in respect of Y's conduct" (10).

I find this puzzling. As Rickless acknowledges (10), this is not justified by the utilitarian principle. But if Berkeley was a utilitarian, that *normally* would entail that the principle of utility is the highest moral principle. Here one would have to claim that God chooses the principle of utility as the highest moral principle that applies to relations among humans, even though there is different moral principle that applies to the relation between every human and God, namely, the principle of gratitude: we owe God an "existential debt" (10), which can be discharged only by obedience. But what grounds that principle as a moral principle? It cannot be natural law since God is said to be prior to natural law, and it is not a relationship between two or more natural (created) entities (the domain of natural laws). It cannot be self-evidence, since that would blur epistemic and metaphysical issues. Further, if self-evidence were a sufficient ground, it's open to the utilitarian to claim that the principle of utility is self-evident, and if that were so, God would be superfluous. So, what is it?

Tracing back principles to their roots is always fun, but it assumes that there are roots. I tend to believe that the early eighteenth century British philosophers tended to say, "Ah! We've hit God. So, we're done," whether one is concerned with sources of existence, or sources of obligation, or anything else. To be fairer, they built lots of stuff into the concept of God which supposedly warranted such a move. That move might not be acceptable to a twenty-first century philosopher, but our interests *here*

In Section 7, Berkeley begins by calling us “to trace out the Divine will, or the general design of Providence with regard to mankind, and the methods most directly tending to the accomplishment of that design.” He continues to use a legislative model. Laws express the intended ends of a legislator. Since God is perfect, his intended end cannot be his own goodness; rather, it must be the good of his creatures. Since human actions cannot affect higher intelligent beings, God’s laws for humans apply only to human ends (human goodness, happiness). Then Berkeley writes:

But, as nothing in a natural state can entitle one man more than another to the favour of God, except only moral goodness; which, consisting in a conformity to the laws of God, doth presuppose the being of such laws, and law ever supposing an end, to which it guides our actions, it follows that, antecedent to the end proposed by God, no distinction can be conceived between men; that end therefore itself, or general design of Providence, is not determined or limited by any respect of persons. (*PO* §7)

Notice the conditions Berkeley sets up for his conclusion. The sole ground for obtaining divine favor is compliance with God’s laws. These laws pertain to interactions among human beings. *If* Berkeley was a natural lawyer, this suggests he was in the tradition of Pufendorf, who distinguished between natural law, which pertains to temporal relationships, and moral theology (“moral divinity”), which pertains to the eternal.<sup>50</sup> We should notice that neither in this passage, nor anywhere in Section 7, does Berkeley explicitly allude to the eternal. God’s favor arises from moral goodness. The moral goodness of an action is a consequence of complying with a moral rule.<sup>51</sup> So, if the moral goodness of an action is dependent upon following moral laws, there must be moral laws.<sup>52</sup>

Berkeley continues with an ambiguous remark: “law ever supposing an end, to which it guides our actions.” Should we take this to imply (1) that there is an end that is common to all moral law—individual or collective human happiness—or (2) that there is a more determinate end to be obtained by any given law, for example, abstention from murder, theft, etc.? It initially appears to be the latter since he claims that it follows from what he already said that “antecedent to the end proposed by God, no distinction can be conceived between men.” If, as he said earlier in the sentence, the sole ground for God to distinguish between human beings is moral goodness—compliance to law—then the end has to be the end of each law. Such a reading is consistent with the assumption that the imposition of moral law is an act distinct from God’s creation of humankind; no

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are historical. So, if we can’t find eighteenth-century answers to questions the eighteenth-century folks didn’t ask, we shouldn’t be terribly surprised.

<sup>50</sup> See Pufendorf, *Whole Duty of Man*, 15–20. I wish to thank Marta Szymańska-Lewoszewska for bringing this to my attention.

<sup>51</sup> This was a common view at the time. See Cumberland, *Treatise of the Laws of Nature*, 463; Locke, *Essay*, 2.28.10–11, 353–56.

<sup>52</sup> If, as Rickless suggests, Berkeley was an act utilitarian, this implies that God properly legislated only one moral law, namely, the principle of utility.

creationist (whether natural lawyer or utilitarian) could coherently claim that the imposition of an end on humans is a distinct act from the creation of humans.<sup>53</sup>

But the last clause of the sentence—“that end therefore itself, or general design of Providence, is not determined or limited by any respect of persons”—suggests a different reading. If we are concerned with the “general design of Providence”—as Berkeley said in the first sentence of the section—then one might reasonably assume that we are concerned with the end of each human, namely, happiness. If (1) happiness is the end of each human being, if (2) God’s laws are intended, if followed, to yield happiness, and if (3) moral laws are concerned with the temporal realm, then it would seem that if God’s laws are “not determined or limited by any respect of persons,” God cannot be a utilitarian. If God were a utilitarian, then divine laws could favor some persons over others so long as they yielded the greatest happiness overall. This would not be a matter of *moral* discrimination: it would be the *de facto* results of a utilitarian lottery. Sean, Deirdre, Ivan, and Isadora might “win” human happiness by complying with some laws but “lose” by complying with others. But if God shows no favorites, it would seem that everyone should gain by following God’s moral laws. This is certainly consistent with the penultimate sentence of the section, “It is not therefore the private good of this or that man, nation, or age, but the general well-being of all men, of all nations, of all ages of the world, which God designs should be procured by the concurring actions of each individual” (*PO* §7).<sup>54</sup>

So, if my reading of Sections 6 and 7 is correct, it implies that, all things being equal, each individual gains happiness by following God’s laws. Berkeley’s reasoning implies that his *primarily* concern with the universality of moral law was distributive. Of course, it is only by the collective following the laws—if the majority, perhaps, the overwhelming majority of humans following the law—that the *secondary* benefits (the benefits of civilization) are distributed. The utilitarian’s *primary* concern is with the collective good.

Of course, the “all things being equal” is important, since, obviously, sometimes individuals do not gain happiness by following moral laws.<sup>55</sup> As Berkeley acknowledges in Section 14, “from casual<sup>56</sup> combinations of events, and what from the voluntary motions of animals, it often falls out, that the natural good not only of private men but of entire cities and nations would be better promoted by a particular suspension, or contradiction, than an exact observation of those laws” (cf. *PO* §§26, 27, 41). Nonetheless, the system as a whole promotes more happiness than humans individually

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<sup>53</sup> If God exists outside of time, it makes no sense to claim that one of God’s acts is temporally subsequent to the other. It also makes no sense to suggest that God creates humans and at a subsequent time imposes moral law. In both cases, the most one could claim is a distinction of reason between the two “acts.”

<sup>54</sup> The final sentence of the section is transitional.

<sup>55</sup> His discussion of loyalty at *PO* §4 acknowledges that by following the general law that “Thou shalt not resist the supreme power,” some people suffer—namely, those who are unwilling to follow a positive law on grounds of conscience but passively accept punishments for disobeying the positive law.

<sup>56</sup> Or accidental; see *PO* §26.

and collectively would have in its absence. The advantages to moral laws are comparable to physical natural laws (*PO* §14; cf. *PHK* §§30, 62, 151–53): they allow one to conduct a relatively predictable life. I believe his point is that moral laws are comparable to physical natural laws in the sense that everyone gains by following them.

Consider the principle that Berkeley argued was a law of nature: Thou shalt not resist the supreme power. Assume I'm living under a repressive regime, so that I cannot in good conscience follow the laws of the regime, and therefore regularly suffer the painful consequences of disobeying the laws. Why should I deem "Thou shalt not resist the supreme power" a moral law? According to Berkeley, the alternative is a state of anarchy, either the anarchy of civil war or the anarchy of a state of nature. In either case life is less predictable, less secure, and presumably less happy than a life under a sovereign, even a sovereign out of whose favor one might be.<sup>57</sup>

Two other elements that tend to speak against a utilitarian interpretation of *Passive Obedience*. First, Berkeley argues that all exceptionless moral principles are negative (*PO* §26). The principle of utility is positive. So, on Berkeley's principles, the principle of utility is not an exceptionless moral rule. But if the principle of utility is the highest moral rule—the rule that determines the rightness or wrongness of actions or kinds of actions—it must be exceptionless. This is a point that Rickless, and, as far as I know, all utilitarian interpreters overlook.<sup>58</sup>

Second, if Berkeleian moral laws are laws in the natural law tradition, one would expect his descriptions of physical natural laws and moral laws to parallel one another. This is precisely what one finds. In the *Principles* Berkeley contends that (physical) laws of nature allow us to conduct our lives in an orderly way (*PHK* §§31 and 62), even though the laws sometimes result in what humans deem disasters (cf. *PHK* §§151–52). He discusses moral laws in much the same way (*PO* §§8, 10, 26, 31). Indeed, he makes an explicit comparison between physical laws and moral law:

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<sup>57</sup> This also suggests a solution to the puzzle that the principle of sovereignty does not apply to madmen who present themselves as sovereigns (*PO* §52). A mad sovereign is at least irrational. Such a one might impose inconsistent laws, require inconsistent enforcements of laws, and so on. In such a situation, no one could predict what would need to be done to follow the laws: there effectively are no laws. As in the case of a usurper who has not established her claim to sovereignty, the "state" is effectively reduced to a state of nature: there is no one to obey. Cf. Rickless, 18.

<sup>58</sup> The champion of utilitarianism might counter that at least the utilitarian has a single criterion for determining the rightness or wrongness of an action, a criterion that provides clear guidance in judging the morality of an action. She might continue that if the Christian natural lawyer has a criterion it seems to be, "A moral law is any law that God wills." This criterion does not allow us to clearly know what laws are moral laws. In reply, the natural lawyer will contend that there appears to be a criterion that follows from the remarks in Section 7, namely, "Thou shalt not accept any principle as a moral law whose application reduces the total happiness available to any individual." By "available happiness" I refer strictly to the happiness that arises from the institution of the law. This criterion might be problematic insofar as one might never be able to judge with certainty that no one will lose happiness by the institution of a law; but the utilitarian calculation is no less problematic insofar as it is often uncertain, and its certainty decreases as one's calculations concern remote consequences.

it is evident that those actions are not adapted to particular views, but all conformed to certain general rules, which, being collected from observation, are by philosophers termed laws of nature. And these indeed are excellently suited to promote the general well-being of the creation: but, what from casual combinations of events, and what from the voluntary motions of animals, it often falls out, that the natural good not only of private men but of entire cities and nations would be better promoted by a particular suspension, or contradiction, than an exact observation of those laws. Yet, for all that, nature still takes its course; nay, it is plain that plagues, famines, inundations, earthquakes, with an infinite variety of pains and sorrows; in a word, all kinds of calamities public and private, do arise from a uniform steady observation of those general laws, which are once established by the Author of Nature, and which He will not change or deviate from upon any of those accounts, how wise or benevolent soever it may be thought by foolish men to do so. (*PO* §14; cf. *PO* §§41–42)

Insofar as the consequences of the operation of physical natural laws sometimes leads to disasters, and insofar as Berkeley identifies moral law with natural law and the consequences of following a moral law can have undesirable consequences—often from the wickedness of other humans—it is not unreasonable to identify Berkeley’s moral theory with the natural law tradition.<sup>59</sup>

But some might object that, as I have sketched Berkeley’s natural law theory, it cannot be a *moral* theory. If I’m right, Berkeley’s secondary natural moral laws are of the general form, “If you’re a human and want to be happy, then don’t do *x*.” These, I have said, are comparable to the laws a gardener’s laws for growing plants: “If you want a seed to grow into a healthy plant, do this ... and don’t do that.” Laws of both kinds might be discoverable by reasoning from experience, but laws of both kinds are strictly factual claims. As such, they cannot bridge Hume’s “is–ought” gap, and, therefore, they cannot be *moral* laws.

In reply, we need to distinguish between what were considered adequate moral theories in 1712 and what are considered adequate moral theories today. In doing so, we distinguish between historical questions—the focus of this essay—and philosophical questions. It is not surprising that Berkeley did not address the “is–ought” issue, since when Berkeley published *Passive Obedience*, the publication of Hume’s infamous paragraph was nearly thirty years in the future. The natural law tradition was an ancient and, at least as they advertised themselves, on-going tradition. The *historical* question is whether Berkeley’s theory in *Passive Obedience* is more consistent with that model than the alternative moral theories. So, the philosophical adequacy of a natural law theory—whether it passes meta-ethical muster—is irrelevant to our current concerns.<sup>60</sup>

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<sup>59</sup> This seems to imply that Berkeleian moral laws can conflict, that there are cases in which our duties conflict, cases in which they cannot be simultaneously fulfilled.

<sup>60</sup> For an argument that at least Aquinas’s version of natural law is not subject to “is–ought” objections, see Lisska, *Aquinas’s Theory of Natural Law*, 188–222.

### 3. Conclusions

So, have I shown that Berkeley was a natural lawyer? No. I have shown that *if* Berkeley was either a utilitarian or a natural lawyer, then principles of interpretive charity imply that he should be deemed a natural lawyer. Given his numerous appeals to the role of God in his moral theory, if Berkeley were a utilitarian, he would have been a theological utilitarian. I've argued that if theological utilitarianism requires the positing of eternal rewards and punishments, the absence of an argument to support the presumption of divine justice provides a reason to question attributing theological utilitarianism to Berkeley. Further, a utilitarian God could show *de facto* favor to some persons over others in the formation of any moral law or moral judgment, which is inconsistent with the pronounced equity of divine treatment prior to the law (*PO* §7). So, if the question is whether Berkeley was a natural lawyer or utilitarianism, the scale tips in favor of natural law. But since some might consider my account of natural law esoteric, to avoid “significant disputes which grow out of the abuse of words” (Intro. §23), what I consider the most salient elements of Berkeley's theory are:

- God's acts of will ground morals; Berkeley was a voluntarist.
- The divinely instituted end of human beings is happiness.
  - The word “happiness” covers indefinitely many and, at the individual level, ever-changing desired states. Berkeley suggests that as one matures, the components of happiness—at-a-time shift from immediate to long-term interests and, in some cases, shift from sensuous to aesthetic interests (*PO* §5).
- Natural laws—both physical and moral—are part of the created world: there is only a distinction of reason between God-the-creator and God-the-legislator.
- Natural laws—both physical and moral—pertain to all things of the relevant kind: they assume the distributive sense of universality.
- Natural laws—both physical and moral—can be known by reasoning from experience.
- Secondary natural laws concern the means to an end, although they are often stated in terms of their consequent alone. For example, the law properly stated as “If you are a human and want to be happy, do not commit murder” is often stated as “Do not murder.”
- *Statements* of natural law—both physical and moral—are fundamentally descriptive. Statements of secondary and tertiary moral natural laws are often taken to be prescriptive, but, properly, they describe the means to an end, namely, happiness.

If my conditional conclusion is disappointing, I can only ask our moral theorists to do a better job of differentiating moral theories. Should we place classical and modern natural law theories under one heading despite significant differences in metaphysical assumptions? Should anyone who is concerned with the “the common good” or “the

general happiness” be deemed a utilitarian—regardless of her metaphysical assumptions, regardless whether moral goodness is prior or subsequent to calculations of utilitarian rightness, and regardless whether “the general happiness” is understood collectively or distributively? Traditionally philosophers believed they gained understanding by drawing distinctions. I’m not convinced, however, that attempts to bring seemingly diverse moral theories under the utilitarian umbrella are conceptually helpful.<sup>61</sup>

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<sup>61</sup> I wish to thank Samuel Rickless for a paper that required me to reexamine my conceptual assumptions. I wish to thank Marta Szymańska-Lewoszewska, Anne Wiles, Scott Hammond, Jeff Goodman, and Bill Knorpp for discussions that helped me clarify my thinking for this paper. Research for this paper was supported by a grant from the James Madison University Department of Philosophy and Religion.

## News and Announcements

### **2020 American Philosophical Association Eastern Division Meeting: International Berkeley Society Session**

Sheraton Philadelphia Downtown, Philadelphia, PA; January 8-11, 2020

Richard Brook (emeritus, Bloomsburg U): “Berkeley and the Phenomenology of Action”

David Mwakima (UC Irvine): “What is Berkeley’s Master Argument?”

Clare Moriarty (King’s College London): “The Ad Hominem Argument of  
Berkeley’s *Analyst*”

### **2021 American Philosophical Association Eastern Division Meeting: International Berkeley Society Session**

Sheraton New York Times Square; January 4-7, 2021

Organizer: [Seth Bordner](#)

### **Turbayne Essay Prize**

*The next deadline for submitting papers is **November 1, 2020**. Guidelines for submission may be found [here](#). Submitted papers should address some aspect of Berkeley’s philosophy. Essays should be new and unpublished and should be written in English and not exceed 5,000 words in length. The winner will be announced March 1, 2021 and will receive a prize of \$2,000. Copies of winning essays are to be sent to the George Berkeley Library Study Center located in Berkeley’s home in Whitehall, Newport, RI.*

2019 Turbayne Prize Winners:

Manual Fasko, (University of Zurich): “Representation, Resemblance and the Scope of  
George Berkeley’s Likeness Principle”

Peter West (Trinity College Dublin): “Anti-Representationalism in Berkeley and  
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