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## ***Between Hobbes and Locke: John Humfrey, Nonconformity, and Restoration Theories of Political Obligation***

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### *Abstract:*

This article presents a new understanding of how the context of Restoration debates around toleration, magisterial authority, and political obligation impinged upon Locke's mature thought. It proposes that prominent Anglican clergymen, by utilising Hobbist ideas in their arguments for religious conformity, transformed the debate around toleration. In particular, Samuel Parker's *Discourse of Ecclesiastical Politie's* potent mix of Hobbism, theological moralism, and Scholastic natural law led to important nonconformists, such as Owen and Ferguson, reshaping their arguments in response. They were forced to make an argument upon first principles as to precisely *why* Parker's naturalistic account of ecclesiastical authority was inadequate to justify their own particular view of religious institutions. Crucially, the specific features of Parker's argument led to John Humfrey, a largely overlooked figure, developing a set of ideas that preconfigured Locke's later thought. This article then highlights Locke's creative engagement with the ideas of his time by charting the changes to Locke's ecclesiology and view of natural law from 1667–74, alongside the similar conceptual shifts made by Humfrey.

**Keywords:** John Locke, Samuel Parker, John Humfrey, John Owen, Robert Ferguson, Thomas Hobbes, nonconformity, toleration, latitudinarianism, Anglicanism

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## 1. Introduction

The intellectual history of the Restoration has long been under two shadows: those of Hobbes and Locke. On the one hand, historians have become increasingly aware of imaginative engagement with Hobbes as a crucial feature of Restoration ideological contestation.<sup>1</sup> On the other hand, there has been a significant amount of work on the relationship between the debates on liberty of conscience and Locke's mature thought.<sup>2</sup> However, the interactions between these two facets—the legacy of Hobbes and the nonconformist arguments for religious toleration—have yet to be explored. This has led to a flawed understanding of the period.

Scholarship on the legacy of Hobbes largely focuses on direct adoption and critique. The other side of the story—how arguments for toleration were reshaped to respond to specific Hobbist justifications for magisterial authority in religion—is often left out of the narrative. The absence of this connection in the existing historiography means that the rapidly developing pro-toleration arguments of the nonconformists are often presented as homogeneous and stagnant throughout the Restoration.<sup>3</sup> Together, these significant misinterpretations lead to a tendency to present the development of Locke's mature thought as a phenomenon distinct from what Timothy Stanton has described as the “shapeless blob” of nonconformist arguments for toleration.<sup>4</sup> It is therefore necessary to integrate the discussion of the legacy of Hobbes into the overall narrative of the relationship between Locke and the wider debate on liberty of conscience.

This article seeks to address these flaws, by analysing the controversy provoked by the publication of Samuel Parker's *Discourse of Ecclesiastical Politie* in 1669, at a high point of the repression of nonconformity under Charles II. The first section will evaluate the manner in which Parker, chaplain to Archbishop Sheldon and later Bishop of Oxford, utilised a complex mix of Hobbism and Scholastic natural law to present a striking case for conformity.<sup>5</sup> The next section will examine the wider nonconformist response to Parker by evaluating the arguments of important writers, such as John Owen, the former Dean of Christ Church, and Robert Ferguson, a prominent Presbyterian minister.<sup>6</sup> It will

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<sup>1</sup> Jon Parkin, *Taming the Leviathan: The Reception of the Political and Religious Ideas of Thomas Hobbes in England 1640–1700* (Cambridge: Cambridge University Press, 2010); John Marshall, “The Ecclesiology of the Latitude-Men 1660–1689: Stillingfleet, Tillotson and 'Hobbism,’” *The Journal of Ecclesiastical History* 36, no. 3 (1985): 407–27, <https://doi.org/10.1017/S0022046900041178>.

<sup>2</sup> For example, Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton: Princeton University Press, 1986).

<sup>3</sup> John Marshall, *John Locke: Resistance, Religion and Responsibility* (Cambridge: Cambridge University Press, 1994), 33–45.

<sup>4</sup> Timothy Stanton, “Natural Law, Nonconformity and Toleration: Two Stages on Locke's Way,” in *Natural Law and Toleration in the Early Enlightenment*, eds. Jon Parkin and Timothy Stanton (Oxford: Oxford University Press, 2013), 58.

<sup>5</sup> Jon Parkin, “Parker, Samuel (1640–1688), Bishop of Oxford,” *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), <https://doi.org/10.1093/ref:odnb/21336>.

<sup>6</sup> The most relevant works are: Robert Ferguson, *A Sober Enquiry into the Nature, Measure and Principle of Moral Virtue* (London, 1673); John Owen, *Truth and Innocence Vindicated* (London, 1669).

be contended that the structure of Parker's case led Owen and Ferguson to make an argument upon first principles as to precisely *why* Parker's naturalistic account of ecclesiastical authority was inadequate to justify their own particular view of religious institutions. But Owen's and Ferguson's responses were undermined by their failure to counter Parker's epistemological arguments and their need to defend the royal prerogative in ecclesiastical affairs.

The most extensive section will analyse the responses of John Humfrey,<sup>7</sup> a moderate Presbyterian, and his attempts to provide this alternative system of how conscience should operate. Although John Humfrey is referenced in much of the scholarly literature on the period, there has been no systematic analysis of his ideas or how they relate to intellectual developments more widely.<sup>8</sup> This article will address this gap. It will be contended that not only were Humfrey's works the best examples of nonconformist adaptation to Parker's arguments but that they also preconfigured some crucial features of Locke's case. Particularly important was Humfrey's critique of Parker's understanding of what made natural law obligatory and the construction of a model based on unitary duties imposed directly by God in its place. The final section will discuss how Humfrey's distinctive response to Parker reveals the polemical context from which Locke's mature ecclesiology would emerge. Perhaps more than any other writer during the early 1670's, Humfrey identified the philosophical problems to which Locke's theory of toleration would ultimately be a decisive solution. Therefore, highlighting the development of Humfrey's critiques of Parker shows the ways in which "ecclesiastical Hobbism" provoked distinctive new Lockean ways of thinking about religious toleration.

Crucial to this argument is the perspective that the intellectual structure of "ecclesiastical Hobbism" stimulated the specific nature of the responses of Owen, Ferguson, Humfrey, and Locke. Although these "ecclesiastical Hobbists" largely disagreed with Hobbes's highly controversial metaphysics and theology, they shared several key ideas with him. The contentious reception of *Leviathan* ensured that nobody wanted to be explicitly labelled a Hobbist. Hence, Parker explicitly attempted to distance himself from Hobbes.<sup>9</sup> Indeed, the label of "Hobbist" was often a "straw man," used to discredit particular viewpoints.<sup>10</sup> However, these interpretative reservations should not detract from the fact that the distinctive structure of Hobbes's natural law solution to the problems of civil strife and religious diversity resonated with writers such as Parker.

"Ecclesiastical Hobbists" shared three key premises with Hobbes. Firstly, they used similar arguments to contend that irreconcilable conflict necessarily arose from "the

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<sup>7</sup> John Humfrey, *A Case of Conscience* (London, 1669); *The Obligation of Human Laws Discussed* (London, 1670); *The Authority of the Magistrate about Religion Discussed* (London, 1672).

<sup>8</sup> The most extensive treatment is a cursory description in Gary de Krey, "Rethinking the Restoration: Dissenting Cases for Conscience 1667–1672," *The Historical Journal* 38, no. 1 (1995): 53–83, <https://doi.org/10.1017/S0018246X00016289>.

<sup>9</sup> Samuel Parker, *A Discourse of Ecclesiastical Politie* (London, 1670), 112–71. Although the date on the title page is 1670, several replies to the work were published in 1669, so the actual date of publication must have been in 1669.

<sup>10</sup> Jon Parkin, "Straw Men and Political Philosophy: The Case of Hobbes," *Political Studies* 59, no. 3 (2011): 564–79, <http://doi.org/10.1111/j.1467-9248.2010.00879.x>.

naturall Passions of men”<sup>11</sup> and had to be solved by the decisions of a final, indivisible, unlimited, authoritative sovereign.<sup>12</sup> Secondly, they believed that the sovereign should be the final judge of doctrine to prevent conflict between those of differing opinions.<sup>13</sup> Finally, they maintained that there would be civil strife unless the sovereign was the final, Erastian authority in religious matters.<sup>14</sup> Parker and others used Hobbes’s “Conclusions, or Theoremes”<sup>15</sup> to draw an inextricable connection between the dictates of natural law and magisterial authority in religion, which in turn drove pro-toleration thinkers to search for arguments beyond the resources of traditional discourses around conscience.

## 2. Samuel Parker

The controversy evoked by Parker’s *A Discourse of Ecclesiastical Politie* demonstrates how Hobbesian ideas led to this re-evaluation of core concepts. Parker was a ferocious polemicist, whose ability had secured the patronage of Archbishop Sheldon.<sup>16</sup> By 1667 he was one of the Archbishop’s domestic chaplains and held the rectory of Chartham in Kent.<sup>17</sup> A man of wide learning and interests, Parker’s significance lies in being part of several emerging trends in the Anglican Church. His *Tentamina physico-theologica de Deo* (1665) had utilised modern natural science to refute atheism, and as a result John Wilkins, a prominent latitudinarian naturalist, had admitted him as a Fellow of the Royal Society.<sup>18</sup> Parker’s views on natural law, in some ways, preconfigured Cumberland’s more famous *De legibus naturae*.<sup>19</sup> Parker had studied at Trinity College, Oxford, under the tutelage of Ralph Bathurst, where he reacted against his Presbyterian upbringing.<sup>20</sup> These intuitions were developed in his later adoption of the emerging theological moralism of the Anglican Church.<sup>21</sup> Most importantly, Parker’s *Discourse* was one of the most extreme attempts by Latitudinarian Anglican clergy to utilise Hobbesian ideas to counter the

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<sup>11</sup> Thomas Hobbes, *Leviathan* (London, 1651), 85. See also Parker, *Discourse*, 27–9.

<sup>12</sup> Hobbes, *Leviathan*, 88–94. See also Parker, *Discourse*, 65–87.

<sup>13</sup> Hobbes, *Leviathan*, 91. See also Parker, *Discourse*, iii.

<sup>14</sup> Hobbes, *Leviathan*, 248. See also Parker, *Discourse*, 7.

<sup>15</sup> Hobbes, *Leviathan*, 80.

<sup>16</sup> Parkin, “Parker, Samuel,” ODNB.

<sup>17</sup> *Ibid.*

<sup>18</sup> Dimitri Levitin, “Rethinking English Physico-theology: Samuel Parker’s *Tentamina de Deo*,” *Early Science and Medicine* 19, no. 1 (2014): 28–75, <https://doi.org/10.1163/15733823-00191p02>.

<sup>19</sup> Jon Parkin, *Science, Religion and Politics in Restoration England: Richard Cumberland’s De legibus naturae* (London: Royal Historical Society, 1999), 50–52.

<sup>20</sup> Parkin, “Parker, Samuel,” ODNB.

<sup>21</sup> Isabel Rivers, *Reason, Grace, and Sentiment: A Study of the Language of Religion and Ethics in England, 1660–1780*, vol. 1 (Cambridge: Cambridge University Press, 1991), 19.

problems of authority that plagued the Restoration polity.<sup>22</sup>

Between 1660–62 the form of the new established Church had still to be decided. Presbyterians and Episcopalians wrangled over what Scripture dictated about church government. The result was a revival of debate around whether the outward ceremonies of the Church were matters indifferent to God or adiaphora.<sup>23</sup> This debate had two levels. The first level centred around what constituted adiaphora: was the wearing of a surplice indifferent to God or just scandalous idolatry? For John Owen, it was the latter.<sup>24</sup> The next level was focused on what that fact of “indifferency” implied for Church government: should the magistrate determine the content or was it up to individual conscience? Edward Bagshaw, an Independent minister and theological controversialist,<sup>25</sup> contended that the absence of positive injunction by God indicated that individuals had liberty to do as they wished in these matters.<sup>26</sup> Any argument for religious conformity therefore had to justify both an expansive sphere of adiaphora and the magistrate’s right to make obligatory laws in religion. In such circumstances, Hobbesian ideas were particularly useful in justifying the superiority of magisterial authority over conscience.

This was indicated by two works written in the early 1660’s: Edward Stillingfleet’s *Irenicum* (1660) and John Locke’s *Two Tracts on Government* (1661). Both started from the contention that dependence on Scripture would only lead to irreconcilable, disruptive interpretations,<sup>27</sup> and then each made a series of Hobbesian claims to justify magisterial authority instead. Stillingfleet followed Hobbes in positing a state of nature that indicated the necessity of surrendering natural rights to the magistrate in the interests of common good.<sup>28</sup> This justified the magistrate’s authority in religion to resolve controversy for that common good.<sup>29</sup> John Locke’s *Two Tracts* targeted the arguments of Bagshaw, Locke’s

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<sup>22</sup> The label has been problematised in John Spurr, “‘Latitudinarianism’ and the Restoration Church,” *The Historical Journal* 31, no. 1, (1988): 61–82, <https://doi.org/10.1017/S0018246X00011997>. Jon Parkin, however, contends that the term has some retrospective validity in “John Wilkins and Latitudinarianism,” in *John Wilkins (1614–1672): New Essays*, ed. William Poole (Boston: Brill, 2017), 97–125.

<sup>23</sup> Jacqueline Rose, “John Locke, Matters Indifferent and the Church of England,” *The Historical Journal* 48, no. 3 (2005), 601–21, <https://doi.org/10.1017/S0018246X05004589>.

<sup>24</sup> John Owen, *A Discourse concerning Liturgies, and Their Imposition* (London, 1662), 46.

<sup>25</sup> John Maclear, “Restoration Puritanism and the Idea of Liberty: The Case of Edward Bagshaw,” *The Journal of Religious History* 16, no. 1 (1990), 1–17.

<sup>26</sup> Edward Bagshaw, *The Great Question Concerning Things Indifferent in Religious Worship Briefly Stated* (London, 1660), 2.

<sup>27</sup> Edward Stillingfleet, *Irenicum A Weapon-Salve for the Churches Wounds* (London, 1660), 1–26. John Locke, *Two Tracts on Government*, ed. Philip Abrams (Cambridge: Cambridge University Press, 1967), 118.

<sup>28</sup> Stillingfleet, *Irenicum*, 124–26.

<sup>29</sup> *Ibid.*, 104–32.

contemporary at Christ Church.<sup>30</sup> The central argument of the *Two Tracts* was based on the Hobbist claim that the individual must surrender his natural rights to the magistrate to ensure the stability of the state.<sup>31</sup> This surrender ensured that authority belonged to the magistrate and not conscience.<sup>32</sup> Like Hobbes, Locke made a firm distinction between internal and external acts. He contended that, as God's domain was "understanding and assent,"<sup>33</sup> this power did not violate liberty of conscience. Clearly, Hobbist arguments were used by Anglicans prior to Parker because they provided a strong underpinning for magisterial authority.

These debates subsided somewhat after 1662, when the Act of Uniformity imposed a narrow ecclesiastical settlement. Nearly 1,760 clergy between 1660–63 were ejected from their livings. A solid majority of clergymen and the Cavalier Parliament were firmly resolved on ecclesiastical conformity. Persecution was the trend, as indicated by the promulgation of the first Conventicle Act in 1664 and the Five Mile Act in 1665.<sup>34</sup> But this stability was often undermined by Charles II's uncertain backing. He had been restored to the throne with the help of moderate Presbyterians and his 1660 Declaration of Breda had promised liberty for tender consciences.<sup>35</sup> Charles II's 1662 Declaration of Indulgence had attempted to mitigate the Act of Uniformity. The Declaration was rejected by Parliament,<sup>36</sup> but the fall of Clarendon in 1667 led to the rise of the heterogenous Cabal ministry, which encouraged negotiations with the nonconformists.<sup>37</sup> This resulted in discussions over comprehension: the policy of expanding the church settlement to accommodate moderate nonconformists in 1667 and 1668.<sup>38</sup> Several nonconformists, such as Owen, used these discussions as an opportunity to argue for toleration as well as comprehension.<sup>39</sup> This alarmed many in the Church, who felt that this resurrected the unresolved debate around the claims of conscience against lawful authority. For instance, Thomas Tomkins, a chaplain to Archbishop Sheldon, contended that "diversities of Judgments" in an expanded Church would lead to "Peevishness, Malice, perverse

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<sup>30</sup> Locke, *Two Tracts*, 17.

<sup>31</sup> *Ibid.*, 124–25.

<sup>32</sup> *Ibid.*, 129.

<sup>33</sup> *Ibid.*, 127.

<sup>34</sup> John Spurr, *The Restoration Church of England, 1646–1689* (New Haven, CT: Yale University Press, 1991), 43–52.

<sup>35</sup> Jacqueline Rose, *Godly Kingship in Restoration England: The Politics of the Royal Supremacy, 1660–1688* (Cambridge: Cambridge University Press, 2011), 7.

<sup>36</sup> *Ibid.*, 94.

<sup>37</sup> Parkin, *Taming the Leviathan*, 238–39.

<sup>38</sup> Rose, *Godly Kingship*, 6.

<sup>39</sup> John Owen, *Indulgence and Toleration Considered in a Letter unto a Person of Honour* (London, 1667).

Disputings.”<sup>40</sup>

Parker similarly believed that the revival of conscientious claims in religion would divide the land between two incompatible powers: individual conscience and magisterial authority.<sup>41</sup> Fortunately Hobbes had “assign’d us some not unuseful Laws of Nature,”<sup>42</sup> to counter these pernicious views. For Parker, like Hobbes, a final unappealable judicature was necessary for “the decision of all those Quarrels and Controversies that are naturally consequent upon the Passions, Appetites, and Follies of men.”<sup>43</sup> Without this sovereign power, a “state of war” would arise from every man judging his own case.<sup>44</sup> Parker argued, like Hobbes, on the grounds of epistemic uncertainty; that, except for a few cases self-evidently contrary to natural law,<sup>45</sup> it was difficult to distinguish acting in conscience from acting in self-interest.<sup>46</sup> Not only had the fall left individuals with “decayed powers,”<sup>47</sup> but only general lines of duty could be derived from natural law.<sup>48</sup> The result was a diversity of religious opinions and ceremonies, “changeable according to the variety of customs and places,”<sup>49</sup> which had to be resolved by the dictates of the magistrate. The nonconformist valorisation of conscience therefore replaced this justifiable authority with unjustifiable “opinion,” and left laws “at the mercy of every Subjects Passions and Private Interest.”<sup>50</sup>

Parker, however, was not an uncritical adopter of Hobbesian ideas. In part, this may have been due to the danger involved in adopting Hobbes wholesale.<sup>51</sup> But it also stemmed from genuine intellectual reservations. Both Isabel Rivers and Jon Parkin have highlighted important points on which Parker differed from Hobbes. Rivers has hinted at Parker’s indebtedness to the emerging theological moralism of latitudinarians, such as Tillotson and Hammond.<sup>52</sup> Parkin has emphasised the importance of Parker’s more

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<sup>40</sup> Thomas Tomkins, *The Inconveniencies of Toleration* (London, 1667), 34.

<sup>41</sup> Parker, *Discourse*, 7.

<sup>42</sup> *Ibid.*, 130.

<sup>43</sup> *Ibid.*, 28.

<sup>44</sup> *Ibid.*, 28.

<sup>45</sup> *Ibid.*, 112–14.

<sup>46</sup> *Ibid.*, 266–326.

<sup>47</sup> Samuel Parker, *A Defence and Continuation of the Ecclesiastical Politie* (London, 1671), 315.

<sup>48</sup> Parker, *Discourse*, 179.

<sup>49</sup> *Ibid.*, 135.

<sup>50</sup> *Ibid.*, 141.

<sup>51</sup> Jon Parkin, “Hobbesism in the Later 1660’s: Daniel Scargill and Samuel Parker,” *The Historical Journal* 42, no. 1 (1999), 85–108.

<sup>52</sup> Rivers, *Reason, Grace, and Sentiment*, 124.

traditional, Scholastic views of natural law and human sociability.<sup>53</sup> But how these features impinged upon each other has not been evaluated. In fact, the ideas of rational religion and human purposes that permeated Parker's early critiques of Platonism predicated his view of natural law.<sup>54</sup> The *Impartial Censure* (1666), for instance, presented a Pelagian view of moral teleology and human nature: "Christianity's intrinsic and proper end" was "to sweeten and refine our Natures" so that we might act in "the fairest Character and Imitation of the Deity."<sup>55</sup> These views of religion and human nature were constant themes in the *Discourse*<sup>56</sup> and ensured that Parker outlined a very different view of natural law from Hobbes.

For Parker, a benevolent God would have given us the means to pursue this moral teleology.<sup>57</sup> Hence, natural sociability ensured that from the earliest age humans were subject to patriarchal government and never actually entered the Hobbesian state of war.<sup>58</sup> Like Bramhall,<sup>59</sup> Parker believed that Hobbes's view of natural law "enervated their force and usefulness, by resolving the reason of their obligation into self-interest."<sup>60</sup> In its place, Parker used the view of human nature, outlined in his early works, to resurrect the Scholastic idea of natural law. Right reason inherently understood that "Goodness and Happiness are much more eligible than Vice and Misery."<sup>61</sup> As a result, those dictates were in themselves morally obligatory: "Duty it self is of a natural and essential necessity."<sup>62</sup> The combination of this doctrine of natural law with a Hobbesian superstructure revolutionised Parker's argument. The traditional doctrine of conscience, derived from Thomas Aquinas and Richard Hooker, had defined conscience as the attribute for judging this type of natural law (or scripture).<sup>63</sup> But, according to Parker, reason dictated that the magistrate decide the authoritative interpretation of natural law. In which case, as those dictates were inherently obligatory—the "Commands of Publick Authority are the

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<sup>53</sup> Parkin, *Science, Religion and Politics*, 41–43.

<sup>54</sup> Samuel Parker, *An Account of the Nature and Extent of Divine Dominion* (London, 1666), 61–62. Samuel Parker, *A Free and Impartial Censure of the Platonick Philosophie* (London, 1666), 24–26.

<sup>55</sup> Parker, *A Free and Impartial Censure*, 24–26.

<sup>56</sup> Parker, *Discourse*, 65–87.

<sup>57</sup> Parker, *Divine Dominion*, 36.

<sup>58</sup> Parker, *Discourse*, 29–33.

<sup>59</sup> Parkin, *Taming the Leviathan*, 37.

<sup>60</sup> Parker, *Divine Dominion*, 30.

<sup>61</sup> *Ibid.*, 71.

<sup>62</sup> Parker, *Discourse*, 195.

<sup>63</sup> Timothy Stanton, "Freedom of Conscience, Political Liberty and the Foundations of Liberalism," in vol. 1 of *Freedom and the Construction of Europe*, eds. Quentin Skinner and Martin van Gelderen (Cambridge: Cambridge University Press, 2013), 134–56.



Supreme Rules of Conscience”<sup>64</sup> in all outward acts. The argument that the individual was morally bound to obey the magistrate for the common good was a much stronger claim than Hobbes’s largely prudential arguments.

Parker’s view of human nature in turn grounded a strong theological argument against some justifications of conscience. Charles Wolseley, a former member of Oliver Cromwell’s council of state, had argued in *Liberty of Conscience* (1668) that though the magistrate might have authority over the natural spheres of religion, he had no authority over the “supernatural” dictates that derived directly from God’s revealed will.<sup>65</sup> Parker, by contrast, argued that if human beings were constituted mainly for moral purposes, revelation could only be “a more perfect digest of the Eternal Rules of Nature and Right Reason.”<sup>66</sup> He dismissed grace as a fantasy, suggesting that he could not discover a “Notion of it distinct from all Morality.”<sup>67</sup> He contended that, as Christ’s teachings were directed at private persons, whose duty was to “Obey, and not Command,”<sup>68</sup> God would not have imposed new political principles so contrary to what natural law dictated.

These complex justifications and creative uses of Hobbes were the foundation for Parker’s controversial rhetoric. For, if there were no duties distinct from the natural law as interpreted by the magistrate, the nonconformists were merely bestowing “the Authority and Sacredness of Conscience upon their most violent, boisterous, and ungovernable passions.”<sup>69</sup> Evoking memories of the Civil War, Parker suggested that toleration would divide “Religion into Factions and Parties,” destroying “the Common Peace and Amity of Mankind.”<sup>70</sup> If, magistrates were compelled to pay obeisance to every man’s opinion, it would “tye the Hands of Authority, to instigate the people of God to Rebellion, and once more involve the Kingdom in Blood and Confusion.”<sup>71</sup> The nonconformists, therefore, were “utterly incapable of being either good Subject, or good Neighbour.”<sup>72</sup>

### 3. The Nonconformist Response

This powerful rhetorical claim—that the nonconformists were incapable of being good subjects—exemplified the series of political and ideological problems that Parker’s argument presented for his nonconformist opponents. It left them struggling between the

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<sup>64</sup> Parker, *Discourse*, 267.

<sup>65</sup> Charles Wolseley, *Liberty of Conscience upon Its True and Proper Grounds Asserted* (London, 1668), 105.

<sup>66</sup> Parker, *A Defence*, 316.

<sup>67</sup> Parker, *Discourse*, 71.

<sup>68</sup> *Ibid.*, 34.

<sup>69</sup> *Ibid.*, xi.

<sup>70</sup> *Ibid.*, vi.

<sup>71</sup> *Ibid.*, iii.

<sup>72</sup> *Ibid.*, viii.

Scylla of appearing to denude the magistrate of all authority and the Charybdis of failing to contest Parker's justification for expansive magisterial authority in religion. For, after the failure of the comprehension projects of 1667–68, the only political avenue towards toleration was the use of royal prerogative to suspend the penal laws against nonconformists, as indeed occurred in 1672.<sup>73</sup> But Parker's elision of dissent with disloyalty problematised this objective. The lack of attention given to this reality ensures that the historiography, exemplified by de Krey's analysis,<sup>74</sup> tends to just list disparate arguments without describing unifying assumptions and systematic concerns. In fact, Parker, by advancing a largely philosophical and naturalistic argument for magisterial authority in religion, compelled Owen and Ferguson to present a critique of this position on first principles. But they had to do this without providing evidence for Parker's argument that the nonconformists were compelled to act disloyally. They had to leave open the possibility for the monarch to "indulge" churches distinct from the national church. This need to avoid contesting royal authority meant that Owen and Ferguson struggled to do more than qualify Parker's central web of Hobbit epistemological and political claims.

In many ways, there was no unified group of nonconformists. Legally defined as refusing to conform to the sacraments of the Anglican Church, the label could have included any group from moderate Presbyterians to Quakers.<sup>75</sup> The discussions over comprehension in 1667–68 were hamstrung by these divisions: a crucial reason for their collapse was Owen's negotiations with Buckingham for a more expansive settlement by royal decree.<sup>76</sup> Yet Owen and Ferguson, at least, shared a common ideological background and therefore responded to Parker in similar ways. After graduating with an MA from Queen's College, Oxford in 1635, Owen rose to prominence as a result of his theological polemics against Arminianism. Catching the attention of Cromwell, he was made his chaplain in 1649 and was appointed Dean of Christ Church in 1651. With the Restoration, Owen was removed from his position but remained, along with Richard Baxter, one of the most prominent nonconformists.<sup>77</sup> Ferguson was significantly younger, but his history revealed similar religious commitments. In the 1650s he was an assistant to Owen and often preached alongside him. Throughout the 1660s he remained under the tutelage of Owen.<sup>78</sup> The ways in which they both contested Parker reflected this shared past.

One tendency in the historiography is to depict the nonconformist arguments for toleration as a monolithic block that remained fundamentally the same throughout the

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<sup>73</sup> John Spurr, "The Church of England, Comprehension and the Toleration Act of 1689," *English Historical Review* 104, no. 413 (1989): 927–46.

<sup>74</sup> De Krey, "Rethinking the Restoration," 56–57 is especially indicative.

<sup>75</sup> Rivers, *Reason, Grace, and Sentiment*, 90–99.

<sup>76</sup> Rose, *Godly Kingship*, 172.

<sup>77</sup> Richard L. Greaves, "Owen, John (1616-1683)," *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), <https://doi.org/10.1093/ref:odnb/21016>.

<sup>78</sup> Melinda Zook, "Ferguson, Robert (D. 1714), Pamphleteer and Conspirator," *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), <https://doi.org/10.1093/re:odnb/9325>.

Restoration.<sup>79</sup> But the arguments of the 1660s were very different from the responses to Parker, where the nonconformists had to develop first principle critiques of “ecclesiastical Hobbism.” The early 1660s debate around freedom of conscience centred on Scripture.<sup>80</sup> Providing authoritative direction about God’s wants, it could supposedly justify whether the magistrate should legislate in indifferent matters and describe what was specifically willed by God. For Owen and Wolseley, the very existence of scripture was a justification for freedom of conscience in matters of religion. According to Wolseley, magisterial right was grounded in the light of nature,<sup>81</sup> for the suppression of moral evil.<sup>82</sup> The direct dictates of God’s Revelation were distinct from that right, so in matters of religion the magistrate’s duty was confined to the promotion of the truths of scripture.<sup>83</sup> For Owen, also, “the will of God is the sole Rule of his Worship.”<sup>84</sup> This meant that the evidential foundation of the debate was similarly scriptural. Christ’s replacement of the oppressive carnal worship of the Hebrews<sup>85</sup> with the simplicity of the apostles demonstrated God’s will that the Church be free of idolatrous ceremonies.<sup>86</sup> Bagshaw, likewise, used scriptural evidence to argue that impositions in “matters indifferent” were contrary to “Christian liberty,”<sup>87</sup> but Parker had proposed a largely philosophical and naturalistic argument for magisterial authority in religion. As a result, the nonconformists had to fully develop *why* this naturalistic account was inadequate and *why* the use of Scripture to define the boundaries of magisterial authority was *more* justifiable.

The result was very different from Ashcraft’s anachronistic depiction of Owen and Ferguson as presenting a proto-liberal case based on human rationality and autonomy.<sup>88</sup> Instead, their arguments centred around demonstrating the flawed nature of Parker’s basic theological and philosophical assumptions from a traditional Protestant Independent perspective. Ferguson’s *A Sober Inquiry*, for instance, centred around demonstrating the inadequacies of Parker’s use of the “Pagan Philosophers.”<sup>89</sup> For Ferguson, Parker’s approach led to ineffective moral foundations because nobody

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<sup>79</sup> For an example, see Marshall, *Resistance, Religion and Responsibility*, 33–45 and 74.

<sup>80</sup> Rose, “Matters Indifferent,” 607.

<sup>81</sup> Wolseley, *Liberty of Conscience*, 15.

<sup>82</sup> *Ibid.*, 21.

<sup>83</sup> *Ibid.*, 46.

<sup>84</sup> Owen, *Liturgies*, 46.

<sup>85</sup> *Ibid.*, 3–9.

<sup>86</sup> *Ibid.*, 10–29.

<sup>87</sup> Bagshaw, *The Great Question*, 3.

<sup>88</sup> See especially Ashcraft, *Revolutionary Politics*, 51–55.

<sup>89</sup> Ferguson, *Enquiry*, 252.

depending on “meer Reason arose ever to any clear perswasion & full certainty”<sup>90</sup> about moral principles. Aquinas’s distinction between real and apparent goods made this type of reasoning problematic because humans always sin “upon Motives which to them seem Rational.”<sup>91</sup> Crucially, reliance on right reason alone led individuals to mistake the evidence of moral duty as the end of that duty. Hence, “all who were under the conduct of meer Reason, mistook in the End of Obedience, which is as much under the Sanction of Law, as the substance of Duty is.”<sup>92</sup> For Ferguson, therefore, it was impossible to direct “virtue” to the correct moral ends without identifying moral duties with what God commanded.<sup>93</sup> As Ferguson stated, “it is a palpable contradiction that any action or habit should be Morally beautiful, otherwise than as it respects God.”<sup>94</sup> As God was the only intrinsic measure of moral goodness, natural law “obligeth us to obey God in all the declared Instances of his Will.”<sup>95</sup> But beyond that, the dictates of right reason upon which Parker based his case were merely useful to obey and did not constitute an intrinsic moral duty.

Both Owen and Ferguson provided a specific theological justification for the inadequacy of natural law. Participating in the polemical norms of the time,<sup>96</sup> they labelled Parker as a Pelagian and an Arminian on the way to atheism.<sup>97</sup> Parker’s naturalistic account of religion could not be adequate because the atonement of Christ had, as Owen’s *Truth and Innocence* contended, led to a New Covenant that added distinct duties to natural law.<sup>98</sup> The original law might have only required that man live virtuously but the remedial law treats humans as “sick,” sinful creatures requiring extra treatment.<sup>99</sup> Both Owen and Ferguson cited Scripture<sup>100</sup> to assert that faith in Christ made the practice of each duty acceptable to God.<sup>101</sup> Repentance before God and faith in Christ constituted the conditions for the fulfilment of the new Covenant.<sup>102</sup> Placed “in a

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<sup>90</sup> *Ibid.*, 173.

<sup>91</sup> *Ibid.*, 272.

<sup>92</sup> *Ibid.*, 232.

<sup>93</sup> *Ibid.*, 232–33.

<sup>94</sup> *Ibid.*, 234.

<sup>95</sup> *Ibid.*, 237.

<sup>96</sup> Rivers, *Reason, Grace, and Sentiment*, 9.

<sup>97</sup> Owen, *Truth*, 198–209; Ferguson, *Enquiry*, 6.

<sup>98</sup> Owen, *Truth*, 210–11.

<sup>99</sup> Ferguson, *Enquiry*, 126.

<sup>100</sup> Ferguson, *Enquiry*, 133; Owen, *Truth*, 188.

<sup>101</sup> Ferguson, *Enquiry*, 135.

<sup>102</sup> Ferguson, *Enquiry*, 136; Owen, *Truth*, 210.

higher Region than humane Reason in its most daring flight can mount to,”<sup>103</sup> knowledge of this law could only come through adherence to the word of God.<sup>104</sup> As the new Covenant supplanted the old one founded in natural law, the duties deriving from it were beyond the authority of the magistrate. As Owen argued, in this New Covenant, a product of divine free will, the laws are divine and how can a human make what is divine?<sup>105</sup>

Ferguson and Owen were thus able to defend the Scriptural foundations of their earlier arguments for conscience through a renewed emphasis on a specific theological perspective about the inadequacies of natural law as a guide to man in his fallen state. However, there were fundamental weaknesses to their approaches. Even if their cases had been accepted, it could have still been possible to justify magisterial authority in religion with Scripture. This pointed to the wider fact that the epistemological foundations of Parker’s argument—that there would always be conflicting interpretations of God’s laws—were not really contested. Nor did Owen and Ferguson attempt to do more than qualify Parker’s overall justifications for magisterial authority in religion because they needed toleration by royal decree. As such, Owen was constantly contending that the nonconformist granted too much authority in religion to the magistrate, and only claimed the authority of conscience in very specific spheres of action.<sup>106</sup> This was a significant shift from his expansive argument in 1662 that only those forms of worship laid down by Christ were permissible.<sup>107</sup> Owen did damagingly point out Parker’s Hobbism and rehearsed Seth Ward’s argument:<sup>108</sup> such a justification would allow a prince to dictate a “Mahometan” religion.<sup>109</sup> Yet while the nonconformists were unable to propose an alternative system for how conscience should operate, their attempts to put a great deal of important doctrine beyond the authority of the magistrate only fed into Parker’s argument that their beliefs necessitated disloyalty. Indeed, it was a contention that would later be repeated by many other conformists.<sup>110</sup> There was, therefore, a need to develop a theoretical justification for how an expansive sphere for conscience could operate without undermining the authority of the magistrate. It was a need that John Humfrey would, with partial success, attempt to fulfil by developing these critiques of Parker’s Hobbism and theory of natural law into a significant reinterpretation of several core concepts.

#### 4. John Humfrey

The responses of Ferguson and Owen therefore left the fundamental conceptual problems

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<sup>103</sup> Ferguson, *Enquiry*, 137; Owen, *Truth*, 203.

<sup>104</sup> Ferguson, *Enquiry*, 137.

<sup>105</sup> Owen, *Truth*, 240.

<sup>106</sup> *Ibid.*, 92–100.

<sup>107</sup> Owen, *Liturgies*, 46.

<sup>108</sup> Parkin, *Taming the Leviathan*, 168.

<sup>109</sup> Owen, *Truth*, 127.

<sup>110</sup> For instance, Edward Stillingfleet, *The Unreasonableness of Separation* (London, 1681), 132.

of conscience unresolved. They provided no alternative system for how conscience could operate without infringing upon the magistrate's authority. Nor did they suggest a means through which conflicting interpretations of the will of God could be reconciled. Humfrey proposed a solution to the first problem that was, in many ways, original and creative. He had in 1667 contended that comprehension and indulgence were prudent policies. But Parker's *Discourse* had undermined these arguments by utilising Hobbes to suggest that the conceptual problems of conscience necessitated the disloyalty of the nonconformists. Hence, to reiterate his prudential arguments for toleration, Humfrey had to present a refutation of the theoretical underpinnings of Parker's argument. To do this, he developed a view of natural law that centred around obligation deriving from the direct will of God. Therefore, despite historians neglecting Humfrey's writings, his perspectives displayed an imaginative engagement with a rich conceptual heritage, which was in some respects more original than Owen's or Ferguson's arguments.

After having gained his MA from Pembroke College, Oxford in July 1647, John Humfrey was ordained in 1649 and admitted to the vicarage of Frome Selwood in 1654. But in 1662 he was ejected from his living as a result of the Act of Uniformity. From this point onwards, he was a prominent nonconformist writer and preacher. There were two constant themes throughout his life. The first theme was a genuine loyalty to the monarchy. This was indicated in 1659, when he preached a sermon in favour of the King's return to the throne, which led to the issue of a warrant for his arrest.<sup>111</sup> The second theme was the avowal of a moderate theological position. Early in his career, he had defended free admission to communion and published an Erastian defence of his actions that went through several editions.<sup>112</sup> In 1661, he wrote a pamphlet defending his re-ordination,<sup>113</sup> which was lauded by the prominent latitudinarian John Wilkins. Yet many of his crucial works were also recommended by prominent nonconformists, such as Baxter and Owen. His 1672 treatise on justification attempted, like Richard Baxter's, to outline a position that was midway between the Arminianism of some Latitudinarian figures and Calvinism.<sup>114</sup> This earned him the commendation of two latitudinarian bishops, Patrick of Ely and Stillingfleet of Worcester.<sup>115</sup> These two themes of theological moderation and monarchism ensured that a pre-eminent objective of his political works was to outline a solution amenable to most parties.

These concerns were reflected in Humfrey's engagement with the debate around comprehension. Humfrey wrote two pamphlets on this issue between 1667–68. *A Proposition for the Safety and Happiness of the King and Kingdom* was published

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<sup>111</sup> E. C. Vernon, "Humfrey, John (bap. 1621, d. 1719), Clergyman and Ejected Minister," *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), <https://doi.org/10.1093/ref:odnb/14153>.

<sup>112</sup> John Humfrey, *An Humble Vindication of a Free Admission unto the Lords-Supper* (London, 1651).

<sup>113</sup> John Humfrey, *The Question of Re-Ordination, Whether, and How a Minister Ordained by the Presbytery, May Take Ordination Also by the Bishop?* (London, 1661).

<sup>114</sup> John Humfrey, *The Middle-Way in One Paper of Justification* (London, 1672).

<sup>115</sup> Vernon, "Humfrey, John," ODNB.

anonymously in 1667.<sup>116</sup> *A Defence of the Proposition* (1668) defended his 1667 pamphlet from the critiques of Tomkins's *Inconveniencies of Toleration*. Both pamphlets defended a broad toleration, based on comprehension and indulgence, upon premises that would be acceptable to conformists. For instance, Humfrey attacked the "thick beliefs and dark minds" of the radical nonconformist sects.<sup>117</sup> However, he contended that toleration was the best means to achieve conformist goals because coercion was powerless to influence the beliefs or even the actions of true believing Christians.<sup>118</sup> Comprehension for individuals of "sober principles"<sup>119</sup> would win the gratitude and support of influential ministers and their followers.<sup>120</sup> Indulgence for the "Zealous and Giddy"<sup>121</sup> would undermine the nonconformists, by removing the persecution that bound them together.<sup>122</sup> As Christian humility and mercy<sup>123</sup> consisted in refusing to wound weak consciences,<sup>124</sup> these were fitting policies for a monarch to promote.<sup>125</sup>

The theme of the prudence of indulgence and comprehension remained constant throughout Humfrey's 1669–72 works. He argued in *A Case of Conscience* that when people "are held under severity" they are easily moulded "into Wrath and Faction."<sup>126</sup> *The Authority of the Magistrate About Religion* contended that, by provoking hatred and acrimony, conformists such as Parker would "venture the ruine of all."<sup>127</sup> Humfrey reiterated the benefits of comprehension and indulgence that he had outlined in his *Proposition*. Comprehension would lead to greater confessional unity. Indulgence would provide a period of peace, stability, and prosperity.<sup>128</sup> This mix of indulgence and

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<sup>116</sup> Edmund Calamy describes a letter from Humfrey claiming authorship of both pamphlets in *An Account of the Ministers*, vol. 2, 2nd ed. (London, 1713), 620–21.

<sup>117</sup> [John Humfrey], *A Proposition for the Safety & Happiness of the King and Kingdom* (London, 1667), 33.

<sup>118</sup> *Ibid.*, 13.

<sup>119</sup> [John Humfrey], *A Defence of the Proposition* (London, 1668), 6.

<sup>120</sup> Humfrey, *Proposition*, 55.

<sup>121</sup> *Ibid.*, 54.

<sup>122</sup> *Ibid.*, 57–58.

<sup>123</sup> *Ibid.*, 67–68.

<sup>124</sup> *Ibid.*, 75.

<sup>125</sup> *Ibid.*, 86–87.

<sup>126</sup> Humfrey, *Conscience*, 13.

<sup>127</sup> *Ibid.*, 10.

<sup>128</sup> *Ibid.*, 13.

comprehension remained Humfrey's main objective in 1672.<sup>129</sup> Although the King had declared his wish to indulge the nonconformists, such a proposition was for Humfrey likely to be transient. By participating fully in the established order, the moderate Presbyterians would gain a long-lasting settlement.<sup>130</sup> Hence, Humfrey was still willing to argue for greater comprehension even though such proposals had largely been absent from the centre of the political debate for three years.

However, in 1667–68 Humfrey had been able to recommend the prudence of toleration without too much philosophical argumentation. But in 1669 Parker's Hobbesian arguments had suggested that liberty of conscience in itself led to conflicting authoritative claims that could only undermine the state. In claiming rights for "tender consciences" the nonconformist was necessarily acting subversively. Therefore, for Humfrey to defend the benefits of toleration, he now had to deal with the philosophical premises of Parker's Hobbism. Indeed, his responses to Parker indicated an even wider philosophical engagement. In his work *Obligation*, Humfrey was also concerned to critique Simon Patrick's conformist arguments in *The Appendix to the Friendly Debate*. Throughout his works, Humfrey was consistently critical of the flaws of Wolseley's *Liberty of Conscience*.<sup>131</sup> Whilst other Restoration nonconformists were largely concerned with defending their own particular position, Humfrey sought to provide a defence of conscience by recapturing the language of Anglican natural law discourse.

How then did Humfrey attempt to reconcile the magisterial authority required by his prudential arguments with a justification for the disruptive claims of conscience? He sought to distinguish between the obligation to be subject to the magistrate in general and the obligation to obey particular laws. The individual had an absolute duty imposed by God for the former, but the obligation to obey the latter was dependent upon the congruence of those laws with God's law. By asserting the unitary duty to subjection, Humfrey was able to justify the idea that the nonconformist was ideologically bound to accept the authority of the supreme magistrate. As Humfrey stated, "It is not the point of *Obedience* ... upon which the Government of Kings is established: but upon the point of *Subjection*."<sup>132</sup> This, however, presented Humfrey with another theoretical problem. If, as Parker asserted, the interpretation of natural law was in the hands of the magistrate because of the dictates of that law, then there consequently could be no distinction between the authority of the magistrate and of his laws. Humfrey's solution was to draw upon a rich tradition of natural law theory to contest Parker's understanding of how natural law created obligation.

Parker had attempted to resurrect the Scholastic idea, found in both Thomas Aquinas and Francisco Suarez, that right reason's apprehension of the precepts of natural law had obligatory force in and of itself.<sup>133</sup> This is precisely what Grotius had argued in his *De jure*

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<sup>129</sup> Humfrey, *Authority*, 11.

<sup>130</sup> *Ibid.*, 15.

<sup>131</sup> Humfrey, *Authority*, 90.

<sup>132</sup> *Ibid.*, 53.

<sup>133</sup> Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996), 16–19.



*belli ac pacis*,<sup>134</sup> and what John Selden, a reputed seventeenth century English jurist, had responded to in his *De jure naturalis et gentium*. Selden had argued that pure unaided reason persuaded but did not bind. In his view, Scholastic writers had confused practical reason for formal obligation and did not recognise that obligation had to come from a command of a superior. Jeremy Taylor, a prominent Anglican divine, adapted this argument in his 1660 work, *Ductor dubitantium*. For Taylor, natural law could provide an index of the precepts of nature, but not any concrete notion of obligation. Right reason defined what one might do, rather than what one must carry out.<sup>135</sup> It was precisely on this understanding of obligation that Humfrey derived the first premise of his attack on Parker's view of natural law.

In keeping with his strategy of contesting conformist arguments on their own premises, Humfrey, in his 1669–72 works, often quoted Taylor's view in *Ductor dubitantium*: natural law only binds through the command of a mankind's superior—God.<sup>136</sup> Natural law and natural light were rarely referenced and largely only as a corollary of God's will. Instead, Humfrey used phrases like the “will” and “law of God”<sup>137</sup> as well as explicit legal terms such as “Grant,” “Charter,” and “Executioner of Gods will.”<sup>138</sup> Conceiving natural law as a set of divine commands from God, obligation flows immediately from that source rather than indirectly through the natural order. Hence, for Humfrey “power in the original, is derived from God as Supreme Lord,”<sup>139</sup> but it is also “derived from, and to be founded in Gods will.”<sup>140</sup> This shift to directly attributing natural law to the “Will” of God was constant and indicated the direct juridical nature of Humfrey's conception of natural law. Clearly, the necessity of God's authority to make laws binding was a crucial part of his argument, but how did Humfrey justify his views?

Humfrey provided a twofold case as to why only laws derived from the will of God were morally obligatory. Firstly, like Taylor, he suggested that whilst the dictates of right reason may be prudentially persuasive, they were only obligatory when they were supported by the authority of a superior lawgiver. For Humfrey, self-preservation “binds the *reason*” but if it “is not *Gods will*, but *mans will* that I perform,” there is no overriding obligation.<sup>141</sup> His argument was partly motivational. One obeys the will of God “for fear

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<sup>134</sup> As argued by Richard Tuck in “The Modern Theory of Natural Law,” in *The Languages of Political Theory in Early-Modern Europe*, ed. Anthony Pagden (Cambridge: Cambridge University Press, 1998), 99–122.

<sup>135</sup> As argued by Jon Parkin in *Science, Religion and Politics*, 64–66.

<sup>136</sup> Humfrey, *Conscience*, 5; Humfrey, *Obligation*, 33; Humfrey, *Authority*, 49.

<sup>137</sup> Humfrey, *Conscience*, 5.

<sup>138</sup> *Ibid.*, 5; 5; 6.

<sup>139</sup> Humfrey, *Authority*, 40.

<sup>140</sup> Humfrey, *Obligation*, 15.

<sup>141</sup> Humfrey, *Authority*, 50–51.

of Hell, or Divine punishments,”<sup>142</sup> as the greater punishment contains superior obligation to human laws. But the more important reason for Humfrey was simply that it was the law of God, the arbiter of all moral worth, and “if that reason be rendered insufficient ... there is an end of religion.”<sup>143</sup> Therefore, the indirect sanction of natural law upon which Parker justified magisterial authority did not impose a moral obligation: for it is only “The will of God which determines the commands of Man to be obligatory.”<sup>144</sup>

The strong emphasis on natural law being obligatory only when identified with the will of God, mankind’s immediate superior, led to a distinct reinterpretation of its characteristics. This moved the conception towards what Stanton has defined as the Lockean theory of natural law or divine command theory.<sup>145</sup> The basis was a set of divine commands that prescribe a single standard of conduct to rational agents. For Humfrey, God commanded “that we mind not our own things only, but every one the things of others,” that, we “should regard the publick concern, even above our particular advantage.”<sup>146</sup> So, for Humfrey, it was participation in an overriding set of moral duties that constituted the moral life, rather than individual agents pursuing inherent goods understood through the maxims of right reason. The content of natural law was standardized by conceiving it as a juridical norm, prescribed by a superior, God, to his inferiors, humankind. For Humfrey, “The Minister is to look to his Lords will”<sup>147</sup> and is “Subordinate”<sup>148</sup> in a similar manner to a subject obeying the decree of his monarch. Rather than deriving indirectly from creation, “Obligation flows immediately from ... God”<sup>149</sup> and imposes direct moral duties upon humans. Following Calvin, Humfrey therefore suggested that the individual was continually dependent upon the divine will in political, religious, and moral matters.<sup>150</sup> This reinterpretation of natural law justified Humfrey’s distinction between subjection and obedience and allowed him to present an alternative system for the workings of conscience. If the only morally obligatory laws derived directly from the declared will of God, then it followed that laws without, or contrary to, the sanction of God’s authority did not impose moral obligations upon their subjects. Humfrey conceptualised this through a distinction between “Divine” and

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<sup>142</sup> Ibid., 48.

<sup>143</sup> Humfrey, *Authority*, 43.

<sup>144</sup> Humfrey, *Obligation*, 17.

<sup>145</sup> Timothy Stanton, “Hobbes and Locke on Natural Law and Jesus Christ,” *History of Political Thought* 29, no. 1 (2008): 65–88.

<sup>146</sup> Humfrey, *Obligation*, 52; 53.

<sup>147</sup> Humfrey, *Authority*, 36.

<sup>148</sup> Humfrey, *Conscience*, 11.

<sup>149</sup> Humfrey, *Obligation*, 63.

<sup>150</sup> John McNeill, “Natural Law in the Teaching of the Reformers,” *The Journal of Religion* 26, no. 3 (1946): 172.

“Humane” obligation.<sup>151</sup> Humans had a divine obligation not to actively resist the “authority residing” in the magistrate’s person.<sup>152</sup> Humfrey supported his argument by quoting St Paul in Romans: “Be subject to the powers that be. He that resisteth the power, resisteth the Ordinance of God.”<sup>153</sup>

Yet for the same reason that there was a moral obligation to act in subjection to the magistrate, individual commands were not morally obligatory. For the particular will of the magistrate was not synonymous with the will of God and only the will of God made a law obligatory. Human law “binds the subject for wrath sake only” by “fear only of the Law and to escape suffering.”<sup>154</sup> In any case, where a promulgated law was directly against the law of God, one had a duty to obey God rather than the magistrate. For “preferring the *will of Man* before *Gods*”<sup>155</sup> was not only absurd but blasphemous. Just as importantly, laws that went beyond the commands of God, even if they were not in direct conflict with them, did not bind conscience.<sup>156</sup> Humfrey therefore was able to justify why nonconformists were bound in loyalty to both the magistrate and the common good, whilst leaving a space within which conscience could hold sway.

This understanding of moral obligation enabled Humfrey to contest Parker’s naturalistic account of religion, without embroiling himself in complex theological debates. For his argument was based on almost the exact opposite operation to Parker: the dictates of natural law were only binding when they were synonymous with the direct command of God. This justified an expansive sphere for conscience. According to Humfrey, “To make a conscience of a thing is to look upon it as commanded or forbidden of God.”<sup>157</sup> So an action against the perceived law of God on any point becomes an issue of conscience. For Humfrey, the only morally obligatory laws were direct commands of God, so it followed that all moral obedience involved conscience. Crucially, conscience had a role to play in all three areas of God’s law. For instance, if something political is not “consonant to the rule he hath commanded for civils ... consequently the Conscience cannot be obleiged by it upon that accompt.”<sup>158</sup> Similarly, “If the Magistrate command any thing of moral concern, if it be against ... the moral Law in the heart, the Conscience cannot be bound but must refuse it.”<sup>159</sup> Humfrey did suggest that “The Magistrate is to take more heed how he uses his Sword in supernatural, than in natural or civil

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<sup>151</sup> Humfrey, *Obligation*, 11; Humfrey, *Authority*, 33.

<sup>152</sup> Humfrey, *Obligation*, 9; Humfrey, *Authority*, 35.

<sup>153</sup> Humfrey, *Obligation*, 30.

<sup>154</sup> Humfrey, *Authority*, 49; 48.

<sup>155</sup> *Ibid.*, 42.

<sup>156</sup> Humfrey, *Obligation*, 27.

<sup>157</sup> Humfrey, *Authority*, 105.

<sup>158</sup> Humfrey, *Obligation*, 18.

<sup>159</sup> *Ibid.*

concerns.”<sup>160</sup> Under his theory, religion has a larger sphere for conscience because more things are determined by God and as truth in religion only comes through grace which cannot be initiated by the civil magistrate.<sup>161</sup> But the wider sphere of conscience in religious matters simply consisted in the fact that more things are determined by the will of God.

Humfrey’s view of conscience and natural law had important implications for the debate over indifferent religious matters. Most conformist thinkers had allowed some sphere of conscience and only emphasised that the magistrate could make laws where God did not directly ordain a form of worship. If Humfrey had denied this, it would have undermined his attempt to justify toleration upon conformist premises. Nevertheless, accepting this argument would have run contrary to the trend of Presbyterian theology, which had historically strongly emphasised that ecclesiastical authority came directly from God by scriptural mandate rather than from the prince.<sup>162</sup> As the higher loyalty was to God, it was simply unlawful for a minister to lay down any conception of church government except that present in Scripture.<sup>163</sup>

Humfrey escaped this conceptual dilemma through his distinctive interpretation of where obligation derived from. He appears at first to concede the conformist case: asserting that the magistrate can “determine all such things as being before not determined.”<sup>164</sup> But these laws were not morally obligatory unless they were congruent with the will of God. For though the commands of the magistrate were coercive, they did not bind conscience unless they followed God’s general commandment that religion contribute to individual spiritual edification.<sup>165</sup> It might be prudent to act in obedience to these laws, but one was by no means bound to them in conscience.

The result was that Humfrey took an untypical midway position between conformists and nonconformists about whether God’s law was only concerned with inward acts. Anglican thinkers, such as Stillingfleet, had attempted to avoid the conflict between the will of God and the will of the magistrate by suggesting that the commands of God concerned inward man only.<sup>166</sup> Nonconformist thinkers, such as Owen, had attacked this idea by arguing that there was an unbreakable connection between inward and outward acts.<sup>167</sup> For Humfrey, the magistrate did have some authority over external acts in *adiaphora*. The magistrate, as the sole figure to hold the temporal sword of coercion,

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<sup>160</sup> Humfrey, *Authority*, 100.

<sup>161</sup> *Ibid.*, 51; 103.

<sup>162</sup> Polly Ha, *English Presbyterianism, 1590–1640* (Stanford: Stanford University Press, 2011), 14.

<sup>163</sup> Peter Lake, *Anglicans and Puritans? Presbyterianism and English Conformist Thought from Whitgift to Hooker* (London: HarperCollins, 1988), 71–81.

<sup>164</sup> Humfrey, *Authority*, 40.

<sup>165</sup> *Ibid.*, 40.

<sup>166</sup> Stillingfleet, *Irenicum*, 56.

<sup>167</sup> Owen, *Liturgies*, 43.

could use that power where there was no direct command of God.<sup>168</sup> However, as these laws only imposed a prudential obligation insofar as the magistrate could coerce people to accept them, the magistrate's dictates, even in indifferent external acts, were robbed of obligatory force. God, moreover, did lay down many outward acts which the Christian must perform, and it was always the duty of the Christian to obey God rather than man. For Humfrey, the Holy Martyrs had refused to recant with their tongues, so how could other Christians do less?<sup>169</sup> Thus, once again, Humfrey appeared to accept much of the conformist argument, but through his reinterpretation of natural law maintained a wide sphere for conscience.

The versatility of this argument was perhaps best demonstrated by the ease with which it could adapt itself to the changing political circumstances, in particular, Charles II's 1672 Declaration of Indulgence. The Declaration shifted the debate towards two questions. The first question was: did the king have the right to suspend these specific parliamentary laws? This was rigorously debated in Parliament with the conclusion being that the king did not have such authority. This eventually forced Charles II to rescind his original declaration.<sup>170</sup> The second question was more theological: could the king create new ecclesiastical establishments *ex nihilo*? For many Anglican divines, though they largely refrained from full-blown attacks on the royal prerogative, the Church's constitution derived from divine right. So, by allowing associations other than the national church, the king was *de facto* falsely instituting a new clerical order.<sup>171</sup> Additionally, Parker's 1672 preface to *Bishop Bramhall's Vindication of Himself*, reiterated the themes of the *Discourse* and contended that toleration would lead to popery and undermine the established church.<sup>172</sup>

Humfrey's *Authority of the Magistrate* was elicited by Parker's *Preface* and concerned itself with refuting these propositions. Lacking the expertise to judge the declaration on legal grounds, Humfrey simply averred that toleration was in the common interest and therefore should take priority over minute, technical wrangling.<sup>173</sup> Nor did he believe that the king had authorised any new ecclesiastical jurisdiction. Humfrey's view of natural law, outlined above, indicated that the magistrate held only coercive authority in the promulgation of individual laws. Whether or not the laws were morally binding depended on their congruence with God's will. Humfrey therefore contended that it was not sinful for a nonconformist to honestly, peaceably, and in the fear of God set up a congregation.<sup>174</sup> There was nothing hypocritical about a nonconformist claiming Christ's authority to

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<sup>168</sup> Humfrey, *Authority*, 38.

<sup>169</sup> *Ibid.*, 70.

<sup>170</sup> Rose, *Godly Kingship*, 98–104.

<sup>171</sup> *Ibid.*, 182–83.

<sup>172</sup> Samuel Parker, preface to *Bishop Bramhall's Vindication of Himself and the Episcopal Clergy*, by John Bramhall (London, 1672).

<sup>173</sup> Humfrey, *Authority*, 16–17.

<sup>174</sup> *Ibid.*, 25.

preach, whilst joyfully accepting the king's indulgence. For the duty to preach, like all duties, came directly from God. The licenses of the King merely removed the coercive impositions of human authority.<sup>175</sup> As Rose has pointed out, this exaltation of private over public conscience was highly individualistic.<sup>176</sup> This almost positive view of free religious associations indicated the radicalism of Humfrey's reinterpretation of natural law.

However, Humfrey struggled to contend against one of Parker's main arguments: epistemic uncertainty. For if, as Parker averred, interpretations of the dictates of natural law varied too much to provide viable guidance, then an overarching authority was necessary to adjudicate between differing perspectives. It was precisely on this point that Simon Patrick challenged Humfrey in his 1670 *Appendix to the Friendly Debate*, a direct attack on Humfrey's 1669 *Case*. Patrick, the then-rector of St Paul's, Covent Garden and later Bishop of Ely, was a member of the same latitudinarian circles as Parker and his works similarly reflected the influence of theological moralism.<sup>177</sup> As such, it is unsurprising that his *A Friendly Debate betwixt Two Neighbours*, drew a strong connection between religious and political separatism.<sup>178</sup> Patrick's *Appendix*, moreover, attacked Humfrey along the lines Parker had critiqued the nonconformists as a whole.<sup>179</sup>

In the *Appendix* Patrick recognised that Humfrey was attempting something quite radical. With biting sarcasm, he suggested that Humfrey thought the world "beholden to him for a new invention."<sup>180</sup> Patrick did not doubt that this invention had failed. The core reason was epistemological. Humfrey had valorised the ability of individuals to understand the laws of God, but individuals "judge according to the current of their inclinations and desires."<sup>181</sup> By raising individual conscience in the place of lawful authority, Humfrey would make law into a version of opinion rather than will,<sup>182</sup> with the only binding reason, punishment.<sup>183</sup> As private persons often confused their private utility with the general good,<sup>184</sup> the prince must determine the authoritative

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<sup>175</sup> *Ibid.*, 27.

<sup>176</sup> Rose, *Godly Kingship*, 173.

<sup>177</sup> Rivers, *Reason, Grace, and Sentiment*, 30.

<sup>178</sup> For example, see Simon Patrick, *A Friendly Debate betwixt Two Neighbours* (London, 1668), 158–59; Simon Patrick, *A Continuation of the Friendly Debate* (London, 1669) 421–22.

<sup>179</sup> Simon Patrick, *An Appendix to the Third Part of the Friendly Debate* (London, 1670).

<sup>180</sup> *Ibid.*, 175.

<sup>181</sup> *Ibid.*, 175.

<sup>182</sup> *Ibid.*, 188.

<sup>183</sup> *Ibid.*, 188.

<sup>184</sup> *Ibid.*, 189.

interpretation.<sup>185</sup> Patrick concluded by suggesting that Humfrey's argument was, in fact, more radical than his contemporaries because they had only rebelled in Church matters, whilst Humfrey sought to free the nonconformists from the statutes of the realm.<sup>186</sup>

Therefore, the inability of Humfrey to ground precisely *how* and *why* individual conscience was justified as the means of apprehending God's laws undermined the rest of his argument. In his later works, Humfrey presented some arguments on these matters, but his moral epistemology remained problematically wedded to traditional understandings of conscience, derived from Aquinas and translated into the English context by writers such as Hooker. These ideas involved two main concepts: *synteresis* and *syneidesis*. *Synteresis* was the direct apprehension of the principles of natural law, whilst *syneidesis* was individual judgement comparing particular moral actions to the principles implanted by God.<sup>187</sup> Humfrey largely followed both these principles. For Humfrey, conscience was the "faculty in Man of discerning Gods Judgement concerning himself and Actions."<sup>188</sup> The law of God could be directly apprehended through "principles of truth which ... God hath implanted in man's own heart."<sup>189</sup> These principles are then related to individual actions and moral cases by "the dry light ... that must be of force for convictions of those that will receive any by controversie."<sup>190</sup>

But why, as Parker and Patrick asserted, did basic intuitions of God's commands vary in practice if this inbuilt faculty existed? Humfrey's most important conceptual argument was that people's basic consciences did not vary at all. For no generation of men, "even amongst the most savage," has been without this faculty.<sup>191</sup> Dissension arose because people had "taken notice of it so little" and let their interests obscure the laws of God.<sup>192</sup> Nevertheless, this argument still left the practical problem that, even if basic intuitions of God's laws did not vary, interpretations did, and therefore a individual could plead conscience erroneously. Humfrey's response was that if someone believed that a command came from God, then they would be irrational in disobeying an incorrect command. Denying man autonomy in this sphere, for Humfrey, violated the law of God and reduced man to "a Bruite."<sup>193</sup> Therefore, it was Humfrey's perspective that our overriding duty was to pursue our innate cognisance of God's commands.

Yet, this argument left Humfrey open to the charge he wished to avoid: he was allowing

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<sup>185</sup> Ibid., 187. The page numbers 185–88 are repeated in the text. I will refer to writing in the second set of pages 185–88 as deriving from the 2nd pagination.

<sup>186</sup> Ibid., 188 (2nd pagination).

<sup>187</sup> Stanton, "Two Stages," 41.

<sup>188</sup> Humfrey, *Authority*, 41.

<sup>189</sup> Humfrey, *Obligation*, 3.

<sup>190</sup> Humfrey, *Authority*, 63.

<sup>191</sup> Humfrey, *Obligation*, 71.

<sup>192</sup> Ibid., 71.

<sup>193</sup> Humfrey, *Authority*, 72.

rebellious souls to claim the authority of conscience in their intransigence. The distinction between subjection and obedience provided the basis of Humfrey's solution. Towards the end of *Authority of the Magistrate Discussed*, Humfrey indicated this in a critique of Wolseley's *Liberty of Conscience*. According to Humfrey, Wolseley had argued that the magistrate could not use the "Sword" in matters of religion.<sup>194</sup> For Humfrey, this denuded the magistrate of his due authority.<sup>195</sup> He argued, in contrast, that the magistrate could still *in extremis* coerce that person to obey the law, but that the individual was not bound in conscience to obey it.<sup>196</sup> The role of the magistrate was to use judgement and discretion to determine whether a person thought that he was acting in conscience.<sup>197</sup> In cases of someone claiming conscience upon absurd grounds, the magistrate was still able to use authority of the sword to restrain a person, whose conscience was recalcitrant.<sup>198</sup>

However, this reliance on the idea that the magistrate could objectively adjudicate upon whether someone was claiming conscience legitimately, left a considerable uncertainty as to the boundaries of authority. This wide sphere of conscience, combined with an insufficient epistemological grounding, meant that a theory intended as a new, moderate interpretation of the basis of the magistrate's authority was often seen as both unjustified and radical. It was not just conformists who suggested Humfrey's theory denuded the magistrate of all authority—even Baxter accused him of presenting a resistance theory.<sup>199</sup> Consequently, the epistemological weaknesses of Humfrey's argument posed a further question about how conscience might be reconciled with the authority of the magistrate.

## 5. Humfrey and Locke

It was a question Locke would attempt to answer. And the similarities with Humfrey's responses help explain why he answered in a particular way. By 1667 Locke had moved away from his Hobbist position in the *Two Tracts*. In his *Essays on the Law of Nature*, written 1663–64, Locke had moved towards the idea of natural law as a series of commands derived from the will of God rather than a Hobbesian series of maxims deriving from the natural order and apprehended by reason.<sup>200</sup> In 1667 Locke joined Shaftesbury's household and became involved in his patron's pro-toleration politics.<sup>201</sup> Reconstructing similarities between the ideological moves that Locke and Humfrey made

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<sup>194</sup> Ibid., 77.

<sup>195</sup> Ibid., 77.

<sup>196</sup> Ibid., 88; 98.

<sup>197</sup> Ibid., 91.

<sup>198</sup> Ibid., 91–96.

<sup>199</sup> Richard Baxter to John Humfrey, early 1669, in *The Calendar of the Correspondence of Richard Baxter Vol 2: 1660–1669*, eds. N. H. Keeble and Geoffrey Nuttall (Oxford: Clarendon Press, 1991), 68–69.

<sup>200</sup> Stanton, "Two Stages," 45–48.

<sup>201</sup> Ashcraft, *Revolutionary Politics*, 85.



in the early 1670's sheds light on the manner in which Locke's developing ideas were influenced by a polemical context in which Hobbesian arguments for religious conformity became increasingly important.

Locke's manuscript *Essay concerning Toleration* (1667), significantly ignored in Stanton's narrative of the development of Locke's mature thought, provides crucial evidence for this reconstruction. It was directly influenced by Humfrey's *Proposition*. John and Philip Milton believe that Locke took his narrative of persecution in Japan straight from Humfrey's work.<sup>202</sup> Like several of Humfrey's works, the *Essay concerning Toleration* attempted to carve a midway position between "universall liberty" and "absolute obedience."<sup>203</sup> Significantly, both Humfrey's *Proposition* and Locke's *Essay concerning Toleration* started their argument from three key premises. The first was that the magistrate could not coerce belief and would struggle to coerce worship from sincere Christians.<sup>204</sup> The second was that magistrate's main duty was to ensure the peace and stability of the kingdom.<sup>205</sup> The third was that the opinions and actions of nonconformists in worship would not damage the civil order.<sup>206</sup> Although Locke's *Essay* was more philosophical in style than Humfrey's *Proposition*, it presented similar conformist style sentiments about "Phanatique" Independents.<sup>207</sup> Locke used these premises to make an argument that coercion in this sphere was beyond the magistrate's rights,<sup>208</sup> whilst Humfrey largely only argued it was imprudent for the magistrate to act in that way.<sup>209</sup> But this may simply be a reflection of the fact that Locke's *Essay* was unpublished and likely to have been written for discussion in Shaftesbury's household.<sup>210</sup> Humfrey's *Proposition*, in contrast, was published as a highly polemical defence of toleration that clearly intended to persuade moderate conformists to support comprehension. Nevertheless, some differences in their ostensible conclusions should not detract from the fact that most of the key premises were shared.

These ecclesiological similarities defined the shifts Locke would make in the early 1670s. For the closeness in ideas between Humfrey and Locke meant that Parker's

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<sup>202</sup> John Milton and Philip Milton, general introduction to *An Essay concerning Toleration and Other Writings on Law and Politics, 1667–1683*, eds. John Milton and Philip Milton (Oxford: Clarendon Press, 2006), 158–59.

<sup>203</sup> John Locke, *An Essay concerning Toleration* in *An Essay concerning Toleration and Other Writings on Law and Politics, 1667–1683*, eds. John Milton and Philip Milton (Oxford: Clarendon Press, 2006), 269.

<sup>204</sup> *Ibid.*, 272–74; Humfrey, *Proposition*, 13–15.

<sup>205</sup> Locke, *Essay concerning Toleration*, 269–70; Humfrey, *Proposition*, 91.

<sup>206</sup> Locke, *Essay concerning Toleration*, 274; Humfrey, *Proposition*, 57.

<sup>207</sup> Locke, *Essay concerning Toleration*, 283; Humfrey, *Proposition*, 33.

<sup>208</sup> Locke, *Essay concerning Toleration*, 275–76.

<sup>209</sup> Humfrey, *Proposition*, 11–12.

<sup>210</sup> See Ashcraft, *Revolutionary Politics*, 85.

*Discourse* presented both writers with similar problems. Parker had radicalised existing conformist arguments by using Hobbesian ideas to contend that religious dissent necessarily undermined the peace of the state. According to this argument, the ideas and actions Locke wished to defend were subversive and therefore subordinate to the magistrate's superior duty to promote peace. In his 1669–70 "Notes on Samuel Parker's *Discourse of Ecclesiastical Politie*," Locke highlighted exactly these features. He questioned whether the inseparable connection between dissenting doctrine and political dissidence was justified.<sup>211</sup> Locke angrily contended that Parker was not warranted in expanding the magistrate's right to enforce peace to such a great extent.<sup>212</sup> He worried that as a result, Parker's magistrate had the power to enforce duties without reference to correctness,<sup>213</sup> and asked how far this fell short of Popery and Hobbism?<sup>214</sup> But how would he succeed in defending his prior assertions? Parker's connection between dissent and disloyalty made it difficult to argue for rights on the grounds of certain actions being beyond the magistrate's power because, if they threatened the civil order, as Parker contended, they were liable to temporal punishments.

Between 1670–75 Locke made a series of ideological shifts in response to these problems, which tracked the thought processes that are evident in Humfrey's works. This process was more gradual than sudden. For whilst we do see some manuscript changes with relevance to Parker in little more than a year after Locke made his "Notes on Samuel Parker's *Discourse*," other changes are of a more uncertain dating or are made some time later. In the case of Locke's developing moral epistemology, discussions of toleration and comprehension were an important context but not the only one. However, the responses to Parker's *Discourse* were only the beginning of the controversy. Parker published two further defences of his argument in 1671 and 1672.<sup>215</sup> Humfrey's *Authority* was published in 1672. Indeed, Marvell was critiquing Parker as late as 1673 when he published the second part of the *Rehearsal Transpos'd*.<sup>216</sup> Most importantly, the Parker controversy was, in the early 1670s, the most prominent intellectual discussion of the issues of toleration, obligation, and ecclesiology: precisely the issues Locke addressed with his manuscript changes. This fact, combined with the conceptual similarity of these changes to Humfrey's arguments and their relevance to the Parker controversy, makes these debates the most plausible explanation for the shifts Locke made during this period.

The first change is a shift in tone that is immediately apparent. Locke was likely to have had Parker in mind, when in his first 1671–72 additions to the *Essay concerning Toleration* he charged the Anglican clergy with "impudently railing" at their dissenting

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<sup>211</sup> John Locke, "Notes on Samuel Parker's *Discourse of Ecclesiastical Politie*," in *An Essay concerning Toleration and Other Writings on Law and Politics, 1667–1683*, eds. John Milton and Philip Milton, (Oxford: Clarendon Press, 2006), 324.

<sup>212</sup> *Ibid.*, 323.

<sup>213</sup> *Ibid.*, 324.

<sup>214</sup> *Ibid.*, 326.

<sup>215</sup> Parker, *A Defence*; Parker, preface to *Bishop Bramhall's Vindication*.

<sup>216</sup> Andrew Marvell, *The Rehearsal Transpos'd: The Second Part* (London, 1673).

brethren in a manner that would lead to “disorders tumults & bloodshed.”<sup>217</sup> In a later set of additions, Locke even echoed Humfrey’s claim in *A Case* that persecution was the crucial factor leading to rebellion.<sup>218</sup> He stated that, “noe Reliigion can become suspected to the state of ill intention to it” until the government acts against them.<sup>219</sup> More importantly, Locke started to make a series of conceptual moves similar to those of Humfrey. It is during this period that Locke’s view of natural law as a direct command from God becomes the defining concept of a systemised set of duties that explicitly preclude the magistrate’s authority in religion. Unlike Humfrey, Locke’s ideas around natural law pre-existed this period, having been outlined in his 1663 *Essays on the Laws of Nature*. But they had played little role in his 1667 *Essay concerning Toleration*. That would change.

After Locke made his notes on Parker, he also made a conceptual shift from defining the end of magisterial authority by the limit of its necessary power to defining it by purposes derived from the will of God. In the first half of the 1670s, around the time when Humfrey was developing a fully systematised argument in his *Obligation and Authority*, Locke made substantial alterations to the *Essay* in MS Locke c. 28.<sup>220</sup> These centred on replacing the idea that the magistrate should not attempt to coerce things beyond his power. Instead, Locke contended that only those things that God willed should be worshiped by an individual.<sup>221</sup> For the first time in his writings, Locke introduced the exception that atheist speculative opinions were not to be tolerated:<sup>222</sup> after all, a theoretical system, based on purposes deriving from God’s will, would only be undermined by atheism. His 1674 manuscript on “Excommunication” utilised these ideas

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<sup>217</sup> John Locke, “Adversaria 1661,” in *An Essay concerning Toleration and Other Writings on Law and Politics, 1667–1683*, eds. John Milton and Philip Milton, (Oxford: Clarendon Press, 2006), 310–13. I see no reason to disagree with their claim that as the addition, “follows on immediately after the main part of the Essay and is in the same hand; it was therefore almost certainly copied at the same time, in 1671–2.” Milton and Milton, *Essay concerning Toleration*, 312.

<sup>218</sup> Humfrey, *Conscience*, 13.

<sup>219</sup> John Locke, “MS Locke c. 28,” in *An Essay concerning Toleration and Other Writings on Law and Politics, 1667–1683*, eds. John Milton and Philip Milton (Oxford: Clarendon Press, 2006), 310.

<sup>220</sup> The additions to the manuscript are undated and theoretically could have been written at any time before Locke left for the Netherlands in 1683. John and Philip Milton have contended that the arguments around whether these additions were made before or after the 1671–72 version of the *Essay concerning Toleration* in *Adversaria 1661* are inconclusive. Milton and Milton, *Essay concerning Toleration*, 161–88. However, after 1674–75 Locke makes no new alterations to the *Essay concerning Toleration*, and there is a hiatus in his writings on issues around ecclesiology and toleration for several years after this time, so a later date than 1674–75 seems unlikely. In addition, one of the key arguments suggested by the Miltons for a later dating is the fact that the additions show “a significant shift away from the views that Locke had maintained in 1667 and towards those expressed in the *Epistola de Tolerantia*.” Milton and Milton, *Essay concerning Toleration*, 188. However, the conceptual relevance of these additions to the Parker debates and their similarities to Humfrey’s changing arguments may provide contrary evidence for an earlier dating.

<sup>221</sup> *Ibid.*, 308.

<sup>222</sup> *Ibid.*

to present, like Humfrey's *Authority*, a highly individualistic ecclesiology. Building on the premise that man was only morally bound to do what God willed, Locke outlined the idea of two societies with distinct purposes promoted by God.<sup>223</sup> As the purpose of a religious society was salvation, a man could only obey his interpretation of the will of God with temporal punishments having no impact on this duty.<sup>224</sup> This view, according to Stanton, would go on to define the first exposition of Locke's mature thought in the 1681–82 "Defence of Nonconformity."<sup>225</sup> Thus, the crucial shift in Locke's view of social purposes, as defined by natural law, can be traced to writings he made after responding to Parker.

As has been outlined, Parker's claims about epistemic uncertainty leading to incorrect apprehensions of God's laws posed significant problems for Humfrey's response because Patrick had critiqued Humfrey in his *Appendix* along these lines. Hence, it is significant that whilst Locke was reformulating his views on political philosophy against Parker, he was also working on epistemology. In the summer of 1671, Locke was writing "Draft A" of the *Essay concerning Human Understanding*. In the section of the draft concerned with moral knowledge, Locke at first seems to accept Parker's point: as ideas of morality vary, it is difficult to establish any constant except social consensus.<sup>226</sup> But Locke then contended that there was another more certain ground of moral truth, deriving from our knowledge of God as the supreme lawgiver.<sup>227</sup> An even clearer exposition was made a little later in "Draft B."<sup>228</sup> These laws could be known with the same certainty as mathematical truths, as there were necessary relations between ideas derived from sense experience.<sup>229</sup> Under this new epistemological system, the arguments that had been levelled against Humfrey simply did not work because man's understanding of natural law was sufficient to ground his duty.

Was Humfrey a direct influence on Locke? The conceptual similarities and the fact that many of their characteristic intellectual shifts occurred at similar times provides evidence for this. Locke had clearly read Humfrey's *Proposition* and the catalogue of Locke's library contains another work by Humfrey, though not the crucial 1669–72

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<sup>223</sup> John Locke, "On Excommunication," in *An Essay concerning Toleration and Other Writings on Law and Politics, 1667–1683*, eds. John Milton and Philip Milton (Oxford: Clarendon Press, 2006), 327.

<sup>224</sup> *Ibid.*, 328.

<sup>225</sup> Stanton, "Two Stages," 50–55.

<sup>226</sup> John Locke, "Draft A," in *Drafts for the Essay concerning Human Understanding and Other Philosophical Writings*, Vol. 1, *Drafts A and B*, eds. Peter Nidditch, and John Rogers (Oxford: Clarendon Press, 1990), 40–41.

<sup>227</sup> *Ibid.*, 41–42.

<sup>228</sup> John Locke, "Draft B," in *Drafts for the Essay concerning Human Understanding and Other Philosophical Writings*, Vol. 1, *Drafts A and B*, eds. Peter Nidditch, and John Rogers (Oxford: Clarendon Press, 1990), 266–70.

<sup>229</sup> Richard Woolhouse, "Locke's Theory of Knowledge," in *The Cambridge Companion to Locke*, ed. Vere Chappell (Cambridge: Cambridge University Press, 1994), 146–71.

works.<sup>230</sup> Nevertheless, Locke's library contained more than 600 pamphlets, of which only a small proportion were included in his library catalogue.<sup>231</sup> Absence of evidence is not evidence of absence. Indeed, several other works one would expect from the 1669–72 toleration debate, such as Owen's *Truth and Innocence* and Patrick's *A Friendly Debate* are not contained in the final catalogue. As Humfrey's 1669–72 works garnered enough attention to be reprinted together under the title of *Two Points of Great Moment* (1672) and to be critiqued in Patrick's *Appendix*, it is likely that Locke would have read, or at least heard, of them. This is especially likely because Locke and Shaftesbury's wider household had extended contact with leading dissenters.<sup>232</sup> So it would be speculative but in the light of the evidence plausible, to suggest that Humfrey had an influence on Locke. Humfrey articulated the problems that Locke addresses and deployed conceptual resources that would inform Locke's solution.

But there is a much wider point to be made. According to Stanton, the development of Locke's mature thought had a path "different from, and perhaps at the perpendicular to" the "shapeless blob" that constituted the debate around toleration.<sup>233</sup> This argument depends upon the idea that the pre-Locke debate over toleration had no clear conceptual trajectory.<sup>234</sup> But this thesis has shown something quite different. For "ecclesiastical Hobbists," such as Parker, understood very well the epistemological flaws of the traditional justifications of conscience. Parker's complex and eloquent mix of Hobbism, Scholastic natural law, and moralist theology therefore radicalised and injected new dynamism into the debate. It led to Owen and Ferguson developing a series of arguments as to why the traditional approaches to conscience were more justified than Parker's innovative account. Most importantly, the need to recapture natural law discourse from Parker and break the conformist connection between dissent and disloyalty led Humfrey, an unfairly neglected figure, to make proto-Lockean arguments. It forced him to centre a vision of natural law and ecclesiology around the will of God. Parker's "ecclesiastical Hobbism" therefore evoked responses that developed significantly beyond traditional arguments in a Lockean manner. Contrary to Stanton's perspective, it is precisely through charting the progress of Locke's thought alongside other thinkers, especially Humfrey, that it becomes possible to discover the ideas and problems that led Locke to develop his own distinctive solution. In the process, Locke's intimate and creative engagement with Hobbist arguments and preoccupations is revealed.

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<sup>230</sup> John Harrison and Peter Laslett, eds., *The Library of John Locke*, 2nd ed. (Oxford: Clarendon Press, 1971), 159.

<sup>231</sup> *Ibid.*, 51–53.

<sup>232</sup> *Ibid.*, 112–14.

<sup>233</sup> Stanton, "Two Stages," 58.

<sup>234</sup> *Ibid.*, 41–48.

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