

WILLIAM WOLLASTON ON PROPERTY RIGHTS*

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I

In the pages of an obscure book first published in 1722, there lurks one of the finest essays on property rights ever penned. The book is *The Religion of Nature Delineated*, by William Wollaston.¹¹¹

Educated at Cambridge, William Wollaston (1660–1724) took the holy orders and, after attaining financial security through an inheritance, devoted his life to scholarly pursuits. Although he wrote a fair amount, he published very little — *The Religion of Nature Delineated* being his only major work. This sold well, going through eight editions by 1750 and selling over 10,000 copies. But Wollaston's fame was fleeting: the last edition appeared in 1759 and the work was not reprinted until 1974.¹²¹ During this gap of over 200 years, Wollaston's theory, as one commentator notes, "was soon relegated to the curiosity section of the philosophical museum".¹³¹

Most philosophers who did not ignore Wollaston ridiculed him instead. David Hume makes him the butt of a joke,¹⁴¹ and Wollaston fares little better at the hands of Jeremy Bentham.¹⁵¹ The English historian Leslie Stephen, after misstating Wollaston's theory (all the better to condemn him with), concludes that Wollaston "inevitably fails to extract any intelligible results from (his) fanciful form of an illusory theory".¹⁶¹

A few scholars and philosophers are kinder to Wollaston. The great rationalist scholar J. M. Robertson regards him as a "vivid, interesting, thoughtful, and very learned writer".¹⁷¹ Wollaston, according to Ernest Mossner, "was a man of vast erudition".¹⁸¹ More recently, Stanley Tweyman claims that

"the available literature has not offered effective criticisms against his views, nor has it been shown that Wollaston's book is without lasting significance".¹⁹¹ And philosopher Joel Feinberg has rescued Wollaston from some distortions perpetrated by his critics.¹¹⁰¹

Friend and foe alike, however, have focused on Wollaston's ethical theory while neglecting his theory of property.¹¹¹¹ But it is Wollaston's property theory that is of great interest to libertarian scholars, because it is the most impressive defense, prior to this century, of a libertarian approach to property. This paper will outline Wollaston's theory of property rights, primarily through quoting relevant passages, and we shall see that Wollaston is more than an historical curiosity; he is in many ways a remarkable anticipation of modern libertarian thought.

Since Wollaston's property theory is an extension of his ethical theory, it is necessary to survey his theory of ethics and the general tradition to which it belongs. This paper is expository, not critical; its purpose is to introduce the reader to an unjustly neglected philosopher.

II

Wollaston claims some originality for his ideas,¹²¹¹ and rightfully so, but he was probably influenced by earlier writers. In epistemology and political theory we see important similarities to John Locke. In theology Wollaston is sometimes classified as a Deist, and although he has much in common with this school of thought, it is more accurate to place him in the tradition of Rational Theology.¹¹³¹ In ethics Wollaston is commonly regarded as a member of the "Intellectual School" of British moral-

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ists — and some of his ideas do resemble those of Samuel Clarke^[14] and Ralph Cudworth.^[15] But this classification, as Thompson points out, can be misleading, for Wollaston, unlike other members of this group, is not an intuitionist in ethics. Wollaston's rationalism is grounded in experience; he represents "a reconciliation of the empirical and rational elements both in knowledge and in morals". Wollaston, writes Thompson, "was seeking to make it clear that morality is based on the real nature and relation of things, and that happiness has the same foundation. The free conformity of life to the nature of things is goodness, and happiness is the natural and necessary consequence of such a life".^[16]

If it is difficult to categorize Wollaston specifically, it is clear that he is a representative of the early Enlightenment. Reason, for Wollaston, is the final court of appeal. He attempts to derive an ethical theory based on reason and experience without recourse to supernatural revelation, and his god resembles the non-interventionist god of Deism. Religion, writes Wollaston, is "nothing else but an obligation to do . . . what ought not to be omitted, and to forbear what ought not to be done", (pp. 25-26). Hence the "Religion of Nature" looks to the facts of reality for the distinction between good and evil.

This places Wollaston squarely within the natural-law camp of moralists. He regards moral principles as a matter of knowledge; what a person "ought" to do can be determined with reference to what "is". Because moral judgments are either true or false, moral disagreements can be settled by an appeal to reason.

Morality, writes Wollaston, presupposes "a being capable of distinguishing, choosing, and acting for himself: or more briefly . . . an intelligent and free agent" (p. 7). Moral (as opposed to immoral) action consists of the conformity of action to truth. Just as propositions are said to be true when they "express things as they are", so actions can also convey meaning and constitute, on a practical level, the affirmation or denial of a truth. "Moral" and "immoral" are to the realm of human action what "true" and "false" are to the realm of

human propositions. "Moral good and evil are coincident with [epistemological] right and wrong" (p. 20). "(T)here is as certainly moral good and evil as there is true and false . . . the difference at the bottom being indeed the same" (p. 22).

The key to Wollaston's ethical theory, and its most controversial aspect, is his contention that "A true proposition may be denied, or things may be denied to be what they are, by deeds, as well as by express words or another proposition" (p. 8). Many actions convey a conceptual message, "and what has a meaning may be either true or false" (p. 9). If the proposition implied by one's action contradicts what is true, then one's action is *morally* wrong, just as a false proposition is *epistemologically* wrong. The basic criterion of morality is the standard of truth — "conformity to nature" — applied to the realm of human action. To act in a manner that implies a falsehood, is to act in a way that is "wrong in nature" (p. 13).

Although "to act against truth in any case is wrong", Wollaston recognizes that "the degrees of guilt vary . . . with the importance of things". In trivial cases, the degree of wrongdoing may be "almost nothing" (p. 31). Moreover, moral judgments are concerned only with living beings or with the relation between inanimate objects and living beings. A drinking glass, for instance, has value only in relation to a being capable of using it for a purpose; and it is this relationship that must be considered in determining how the glass should be treated (e.g. is it the property of another person?). "So . . . when we compute what such things are, we must take them being what they are in reference to things that have life" (p. 31).

To act morally in regard to other persons requires that we treat them according to truth, i.e. in a manner consistent with the kinds of beings they are. And what are the essential elements of man's nature, according to Wollaston? Man is at once a rational and emotional being, and both of these aspects must be taken into account in framing the general principles of human interaction. It is by the use of his reason that man acquires truth, and it is through the pursuit of truth that man attains

happiness. Truth and happiness are inseparable: "We cannot pay the respects due to one, unless we regard the other" (p. 31). If, therefore, it is man's duty to seek truth and follow its dictates, it is also man's duty to seek happiness: "To make itself happy is a duty, which every being, in proportion to its capacity, owes to itself . . ." (p. 38). Thus anything that undercuts the basic requirements of happiness must sabotage the pursuit of truth and must, *ipso facto*, be wrong. This brings us to what, in Wollaston's opinion, is required for happiness.

Happiness, for Wollaston, is the preponderance of pleasure (or "true" pleasure⁽¹⁷¹⁾) over pain. "Pleasure is a consciousness of something agreeable, pain of the contrary" (p. 32). Pleasure is experienced, axiomatically, as a value; and although humans share a common nature, they differ in particulars to such a degree that the "causes of pleasure and pain are relative things" (p. 33). Pleasure is experienced subjectively, and what causes pleasure in one person may not cause pleasure in another. The individual is in the best position to judge his own pleasure and pain, so the individual, left to his own reason, is the best judge of what he requires for happiness.

Men's respective happinesses or pleasures ought to be valued as they are to the *persons themselves*, whose they are; or according to the thoughts and sense which they have of them: not according to the estimate put upon them by other people, who have no authority to judge of them, nor *can* know what they are; may compute by different rules; have less sense; be in different circumstances; or such as guilt has rendered partial to themselves. . . . Every man's happiness is *his* happiness, what it is to him . . . (pp. 33–34).

Because individuals differ, it is virtually impossible for one man to tell another man, in specific terms, what will cause him pleasure and thus promote his happiness.

In general, all persons ought to be very careful and tender, where any other is concerned. Otherwise they may do they know not what. For no man can tell by himself, or any other way, how another may be affected (p. 34).

Here, in Wollaston's theory of psychology, we see a glimmer of his libertarian sentiments. Man, in order to attain happiness, requires freedom to act on his own judgment. And since "the way to happiness and the practice of truth" are corollaries, both the rational and the

emotional facets of human nature require freedom.⁽¹⁸¹⁾ To compel a man to act against his judgment is implicitly to deny the kind of being man is — a free agent who must employ reason to attain happiness. To coerce a man is to treat him "as a post; as if he had no sense, and felt not injuries which he doth feel; as if to him pain and sorrow were not pain; happiness not happiness" (p. 15).

Because man is a rational being who desires happiness, to treat him as if he were not is to act contrary to truth. This is morally evil, because it violates the fundamental principle of morality — that one "should treat everything as being what it is" (p. 26). Morality therefore requires that we exercise extreme caution when interfering in the lives of other persons: "How judicious and wary ought princes, lawgivers, judges, juries, and even masters to be!" (p. 34).

With this brief overview of Wollaston's moral theory, we shall now turn to his theory of property. It is here that Wollaston's radical individualism, implicit in his ethics and psychology, is formulated in explicit detail.

III

To facilitate a discussion of Wollaston's theory of property rights, we shall consider his presentation in the following order:

1. The meaning of the right to property.
2. The moral justification of property rights.
3. Property rights as the foundation of social equality.
4. The acquisition of property titles.
5. The transfer of property titles.
6. Self-defense and restitution.

1. Wollaston is clear on the meaning of property rights: "To have the property of anything and to have the sole right of using and disposing of it are the same thing: they are equipollent expressions" (p. 136). He is also clear on the relation of property to justice:

To usurp or invade the property of another man is injustice: or, more fully, to take, detain, use, destroy, hurt, or meddle with anything that is his without his allowance, either by force or fraud or any other way, or even to attempt any of these, or assist them who do, are acts of injustice. The contrary, to render and permit quietly to everyone what is his, is justice (p. 137).

2. What is the justification for the right to property? Wollaston begins his defense with the assertion that every person has "a principle of individuation, which distinguishes and separates him from all other men in such a manner as may render him and them capable of distinct properties in things (or distinct subjects of property)" (p. 127). If, therefore, there is something that B can call his own, "it will be for that reason not C's"; and by the same logic, "what is C's will for that reason not be B's" (p. 127).

Wollaston then develops a theory of natural property as the foundation for the moral claim of ownership.¹⁹¹ It is in the nature of some things, he argues, to have "a natural and immediate relation" to a person, such that "he only of all mankind can call them his".

The life, limbs, &c. of B are as much his as B is himself. It is impossible for C or any other to see with the eyes of B; therefore they are eyes only to B, and when they cease to be his eyes, they cease to be eyes at all. He then has the sole *property* in them, it being impossible in nature that the eyes of B should ever be the eyes of C (p. 127).

In the modern era of organ transplants, Wollaston's last statement is false. But his basic point is that when we refer to eyes, we must implicitly refer to the eyes of some *person*, because eyes can serve the function of providing sight (that characteristic in virtue of which we call them eyes) only in relation to an individual. To say that the eyes of a person are his eyes, that they are his natural property, is to say that he bears a natural relation to those eyes unlike that of any other person.

In other words, eyes achieve their identity, so to speak, in virtue of their relation to a person. It is only because they have this connection that we call them eyes in the first place. The eyes of B are his natural property; they are part of his person. Applying the principle of individuation, it follows that the eyes of B cannot likewise be the eyes of C (at least not at the same time and in the same respect). This idea is then extended to human labor and the fruits thereof:

Further, the labor of B cannot be the labor of C, because it is the application of the organs and powers of B, not of C, to the effecting of something; and therefore the labor is as much B's as the limbs and faculties made use of are his.

... Again, the effect or produce of the labor of B is not the effect of the labor of C; and therefore this effect or produce is B's, not C's — as much B's as the labor was B's and not C's. Because what the labor of B causes or produces, B produces by his labor, or it is the product of B by his labor. That is, it is B's product, not C's, or any other's (pp. 127 – 128).

Here Wollaston makes a key remark that ties natural property to moral theory: "And if C should pretend to any property in that which B only can truly call his, he would act contrary to *truth*" (p. 128).

This is Wollaston's bridge between the "is" of natural property and the "ought" of property rights. From the empirical observation that a person has the natural relation of property to some things, Wollaston infers that such property enjoys a moral sanction against the encroachment of other persons. If the proposition, "This property is a product of B's labor", is *true*, then morality requires that we act in a way consistent with truth. To deny B the right of use and disposal over that which he had produced, is a practical denial of the truth that he has produced it. It is B's property because it has a natural relation to his labor, which in turn has a natural relation to B's person.

If C violates the property rights of B, this means that C uses the property of another person as if it were his own: "He who uses or disposes of anything, does by that declare it to be his" (p. 137). But it is not C's property — his natural relation to that property is *not* that of producer and product — and hence C, in acting as if it were his property, acts contrary to truth. Thus does Wollaston ground property rights in ontological truth.

3. Because property rights, for Wollaston, are grounded in natural law, they exist independently of, and prior to, human law and governmental decree. Rights exist in the theoretical "state of nature" so frequently discussed by political theorists of the seventeenth and eighteenth centuries. One's right to the fruit of one's labor is the foundation of social equality and harmony in the state of nature. Rights are a guarantee, a moral safeguard, against "subordination or distinction" in the state of nature.

Wollaston's remarks on this issue are ob-

viciously directed at Hobbes. In the state of nature, according to Hobbes, "every man has a right to everything; even to one another's body".¹²⁰ No so, argues Wollaston. Rights sketch the boundary lines of permissible actions in a social context: "In a state of nature men are equal in respect of dominion" (p. 129). One has rightful dominion over one's own property but not over another's. "B has no more dominion over C than C reciprocally has over B: that is, they are in this regard equal" (p. 130).

Personal characteristics, such as strength and intelligence, cannot alter human equality in respect to rights.

Great natural or acquired endowments may be privileges to them who have them, but this does not deprive those who have less of *their title* to what they have; or, which is the same, give anyone who has greater abilities a *right* to take it or the use of it from them. If B has better eyes than C, it is well for him, but it does not follow from this that C should not therefore see for himself and use his eyes as freely as B may his. C's eyes are accommodated by nature to his use, and so are B's to his; and each has the sole property in his own, so their respective properties are *equal*. . . . if B should be stronger than C, he would not yet for that reason have any right to be his lord. For C's less degree of strength is as much his as B's greater is his; therefore C has as much *right* to his, and (which is the natural consequence) to use his, as B has to use his . . . (p. 130).

Hobbes equates the power to do something with the right to do it, but this, according to Wollaston, leads to "absurdity" and "contradiction".

If power, *qua* power, gives a right to dominion, it gives a right to everything . . . and then nothing can be done that is wrong. . . . For then to oppose the man who has this power as far as one can, or (which is the same) as far as one has the power to do it, would not be wrong; and yet so it must be if he has a right to dominion, or to be not opposed (pp. 130–131).

This *reductio ad absurdum* addressed to Hobbes is relevant to contemporary anarchist theory, because it applies with equal force to the disciples of Max Stirner. We may expand on Wollaston's argument as follows:

If the power (i.e. ability) to do something, gives one the moral right to do it, then one has a right to *every* action within one's power, because one can act only within the scope of one's power. But this destroys the concept of

"a right". To say one has a right to something is to invest that action with a moral sanction in regard to other persons. It is to say that another person is morally wrong if he interferes with that action. But another person can interfere only if he has the power to do so: so his interference, in virtue of the initial premise, must also be a right. The same action, therefore, as judged by the same moral standard, is simultaneously right and wrong — which lands us in self-contradiction.

Suppose B has the power to take an action. This means, according to Hobbes, that he has a right to that action. It must then follow — if the concept of "a right" is to have any meaning whatever — that it is *wrong* for C to interfere with B's action. But if C has the power to interfere, he must also have the right to interfere, which means it is "wrong" for B to "interfere" with C's interference. But it must likewise be wrong for C to "interfere" with B's interference of C's original interference — and so on, *ad infinitum*, as we plummet into unintelligibility.

In sum, Wollaston's argument is that the standard of a right must distinguish between right and wrong actions in regard to other persons. But the standard of Hobbes — power — obliterates the distinction between right and wrong by eliminating the possibility of rights violation. Thus Hobbes's standard of rights is in fact no standard at all.

4. We have examined Wollaston's general argument for the right to property. But how does one acquire a specific *title* to a particular item of property? Wollaston delineates four basic methods, two of which we have already examined.

(a) Some property is "natural". One has moral jurisdiction over one's faculties and labor in virtue of the natural relation they bear to one's person.

(b) Anything that is the result of one's labor becomes one's property, because it represents the extension and application of one's faculties.

(c) Previously unowned property rightfully belongs to the "first possessor" (p. 134). This right of "prime occupancy", in the case of land, requires the "cultivation . . . and labor of the first possessor".¹²¹

Now to deprive a man of the fruit of his own cares and sweat, and to enter upon it as if it was the effect of the intruder's pains and travel, is a most manifest violation of *truth*. It is asserting in fact that to be his which cannot be his (p. 134).

(d) The title to previously owned property "may be transferred by compact or donation" (p. 135).

If B has the sole right in lands or goods, nobody has any right to the disposal of them besides B; and he has that right. For disposing of them is but using them as *his*. Therefore the act of B in exchanging them for something else, or bestowing them upon C, interferes not with truth, and so B does nothing that is wrong. Nor does C do anything against truth, or that is wrong, in taking them, because he treats them as being what they are — as things which come to him by the act of that person in whom is lodged the sole power of disposing of them. Thus C gets the title innocently (p. 135).

5. After the title to property is acquired, the title remains with the owner until he relinquishes it voluntarily by contract or donation (or until the owner dies). *Consent* is a necessary condition for the transfer of title. To use or to dispose of another person's property without his consent is *the* fundamental act of injustice.

Although physical force may transfer property from the owner to the invader (as in robbery), force cannot cause the transfer of title, or rightful claim, to that property. If the owner does "not quit his possession willingly", the title to that property "must remain solely in him, unless he consents to quit it" (p. 135).

6. Every person, according to Wollaston, "has a right to defend himself and his against violence" (p. 131). Self-preservation requires that one be able to use necessary means, including force, to protect oneself from "cruel invaders . . . injurious treatment, and violence".

If a name has no right to defend himself and what is his, he can have no right to anything . . . since that cannot be his right which he may not *maintain* to be his right (p. 132).

If the invader suffers injury as a result of the victim defending himself, that injury is the responsibility of the invader, for he is "the true cause of all that follows"; and whatever falls upon him from the opposition made by the defending party is but the effect of his own act. Or it is that violence of which he is the author *reflected* back upon himself. It is as

when a man spits at heaven, and the spittle falls back upon his own face" (p. 132).

The victim of aggression should respond prudently, using means suited to his goal of repelling the invader. "He ought indeed not to act rashly or do more than the end proposed requires." If possible he should persuade the invader to stop, or the victim should "withdraw out of the way of harm". But if these remedies are not sufficient or practical, the victim should "confront force with force" (p. 133).

Just as one has a right to defend one's property, so one has a right to seek restitution of property taken against one's will.

By the same means that a man may defend what is his, he may certainly endeavor to recover what has been by any kind of violence or villainy taken from him. For it has been shown already that the *power* to take anything from another gives no *right* to it (p. 133).

A coerced transfer of property, as we have seen, does not also transfer the title to that property. The title remains with the rightful owner. Therefore, as long as the invader continues to deny control to the rightful owner, the invader stands as a *perpetual aggressor*; and the victim, in using force to regain his property, is the true defender. This argument — a remarkable anticipation of later libertarian theory — is presented in these words:

. . . the power to take anything from another gives no right to it. The right then to that which has been taken from its owner against his will, remains still where it was. He may still truly call it his. And if it be his, he may use it as his; which if he who took it away, or any other, shall hinder him from doing, *that man is even here the aggressor, and the owner does but defend himself and what is his* (p. 133, emphasis added).

If the stolen property has been destroyed, or if it cannot be recovered, the owner may demand compensation from the thief for the equivalent in value, plus additional expenses for loss of time, "dangers undergone", and so forth — because "all these are the effects of the invasion, and therefore to be added to the invader's account" (pp. 133–134).

Wollaston's sophistication in dealing with restitution is shown in his awareness that economic value judgments are subjective.^[22] Who, then, is to determine equivalence of value? The compensation, argues Wollaston, should be equivalent in value to the *victim*; he

should be no worse off than he was before the invasive act. If the invader feels that he is required to surrender more than he took, he has only himself to blame for the loss:

If the thing taken by way of reprisal should be to the man from whom it is taken of greater value than what he wrongfully took from the recoverer, he must charge himself with that loss. If injustice be done him it is done by himself . . . (p. 133).

IV

After we leave William Wollaston on property rights, his significance for libertarian theory ends. Indeed, some of his later conclusions — e.g. that adultery by a woman violates her husband's property rights — are incompatible with libertarian principles. Moreover, Wollaston's theory of government is simply an abbreviated version of Locke's social contract theory — complete with the escape hatch of "tacit" or "implicit" consent.^[23]

Nevertheless, Wollaston's ethics and the property theory derived from it are impressive achievements deserving of close study by libertarian scholars. It would be interesting, for instance, to investigate the influence of Wollaston's property theory on his contemporaries (which, judging by the initial popularity of *The Religion of Nature Delineated*, may be considerable). Let us hope that future research will shed more light on this maligned and forgotten predecessor to libertarian thought.

NOTES

1. I have used the 1726 edition of *The Religion of Nature Delineated*, printed in London. For the reader's convenience, I have modernized spelling and punctuation, and I have omitted many of Wollaston's italics, retaining only those that are necessary for emphasis. Page citations follow each quotation.
2. *The Religion of Nature Delineated*, with an introduction by Stanley Tweyman (Del Mar, N.Y., 1974). This facsimile reprint also contains a criticism of Wollaston by John Clark (1725) and an anonymous defense of Wollaston (1738).
3. Clifford G. Thompson, *The Ethics of William Wollaston* (Boston, 1922), p. 5.
4. *A Treatise of Human Nature*, edited by L. A. Selby-Bigge (Oxford, 1973), p. 461.
5. *The Principles of Morals and Legislation* (New York, 1948), p. 18, n. 8. Bentham does not mention Wollaston by name, but the reference is clear.
6. *History of English Thought in the Eighteenth Century*, 2nd ed. (London, 1881), II, 10. This work is considered a classic, but it is unjustly biased against many freethinkers and libertarians, such as Anthony Collins and Thomas Paine. A much-needed corrective to Stephen may be found among the voluminous works of J. M. Robertson, a scholar of less fame than Stephen but by far his superior. See Robertson's *Dynamics of Religion* (2nd ed., London, 1926) for a reply to Stephen's attack on the English Deists. A devastating analysis of Stephen's hatchet-job on Paine is contained in Robertson's *Thomas Paine: An Investigation of Sir Leslie Stephen's Criticisms of Paine's Influence on Religious and Political Reform* (London, 1888). Stephen's critique of libertarian historian Henry Thomas Buckle is answered by Robertson in *Buckle and His Critics* (London, 1895), pp. 42–74. For Stephen's reply to the latter, see *The English Utilitarians* (New York and London, 1902), III, 344–345, n.l.
7. *A Short History of Morals* (London, 1920), p. 277.
8. *The Encyclopedia of Philosophy*, edited by Paul Edwards (New York, 1972), Vol. 8, p. 345.
9. Tweyman, *op. cit.*, p. vi.
10. "Wollaston and His Critics", *Journal of the History of Ideas*, Vol. XXXVIII, no. 2 (April–June, 1977), pp. 345–352.
11. A partial exception is Paschal Larkin, *Property in the Eighteenth Century* (London and New York, 1930), which contains a brief discussion of Wollaston's property theory. Wollaston, according to Larkin, "tried to give almost mathematical precision to the absolutist aspect of Locke's theory of property" (p. 90).
12. Writes Wollaston: "That which is advanced in the following papers concerning the nature of moral good and evil, and is the prevailing thought that runs through them all, I never met with anywhere. And even as to those matters in which I have been prevented by others and which perhaps may be common, you have them, not as I took them from anybody, but as they used to appear to me in my walks and solitudes. So that they are indeed my thoughts, such as have been long mine . . . without any regard to what others have or have not said . . ." (p. 6).
13. Thompson, *op. cit.*, pp. 13–17. Cf. Ernest C. Mossner, *Bishop Butler and the Age of Reason* (New York, 1936), p. 75.
14. See the section of Clarke's *Discourse Upon Natural Religion* reprinted in Selby-Bigge, *British Moralists* (Oxford, 1897) II, 3–56. Note especially the similarity to Wollaston on pp. 13–14.
15. See Cudworth's *Treatise Concerning Eternal and Imutable Morality*, bk. 1, ch. 2, contained in *The True Intellectual System of the Universe* (1st American ed., New York, 1838) II, 373–378. Cudworth was reacting to the storm in religion and ethics created by Thomas Hobbes, and Wollaston, to some extent, may be viewed as a later manifestation of this reaction. For background on Cudworth and the Cambridge Platonists, see Basil Willey, *The Seventeenth Century Background* (London, 1946), pp. 157–163.
16. Thompson, *op. cit.* pp. 15–17.
17. Wollaston regards "true pleasure" as pleasure that is relatively free of bad consequences, such as future pain. All pleasure is agreeable at the time it is experienced, but only true pleasure — pleasure derived from the proper use of one's faculties — is "good". Pleasure that is not good is such that "he who enjoys it must pay

more for it than it is worth . . ." (p. 37). Happiness, for Wollaston, is the sum of pleasure that is both "agreeable" and "good" — and such is the nature of "true pleasure".

18. Wollaston bases his argument for freedom of thought on the impossibility of conveying truth by coercive means. Truth must be arrived at by reasoning, and "all reasoning is founded originally in the knowledge of one's own private ideas". Furthermore, one's ideas can be determined only by one's own mental faculties, so "to demand another man's assent to anything without conveying into his mind such reasons as may produce a sense of the truth of it, is to erect a tyranny over his understanding, and to demand a tribute which it is *not possible* for him to pay" (p. 52).

This line of argument was common among deists and freethinkers of the eighteenth century. For an earlier presentation of a similar argument, see Anthony Collins, *A Discourse of Freethinking* (London, 1713), pp. 5–32. Collins refers to "the monstrous absurdities which do in fact and must necessarily arise from the methods employed to restrain men in the use of their faculties". (p. 25).

19. Compare John Locke, *Two Treatises of Government*, edited by Peter Laslett (New York, 1965), pp. 328–329 (bk. II, para. 27).
20. Thomas Hobbes, *Leviathan*, edited by Michael Oakeshott (New York, 1970), p. 103.
21. Wollaston, in recognizing the possibility of previously unowned land, avoids the pitfall of Locke, who regards all land as originally given by God to mankind in common. See Locke, *op. cit.*, pp. 327–328.
22. Although Wollaston does not break away totally from the erroneous notion that each party of an exchange receives an equivalent in value, he does note the subjective nature of this equivalence, and he then asserts the possibility of all parties gaining in an exchange:

For the contractors are supposed to receive each from other the equivalent of that which they part with, or at least what is equivalent to *them respectively*, or perhaps by each party *preferable*. Thus neither of them is hurt, perhaps both advantaged. And so each of them treats the thing which he receives upon the innocent exchange as being what it is: better for him, and promoting his convenience and happiness. Indeed he who receives the value of anything, and what he likes as well, in effect has it still. His property is not diminished: the situation and matter

of it is only altered (p. 135).

23. To trace the history of the tacit consent doctrine is to trace a tortuous route whereby political theorists have attempted to avoid the anarchistic implications of the natural rights/social contract position. Josiah Tucker, in *A Treatise Concerning Civil Government* (1781), opined that Locke neglected to carry the consent doctrine to its logical end — i.e. anarchism. David Hume, who grounded governmental authority in utility rather than in consent, was among the first to point out the weakness of the tacit consent idea in his essay, "Of the Original Contract" (1748). Hume's lead was followed by Adam Smith in *Lectures on Justice, Police, Revenue, and Arms* (c. 1763). Most people under the dominion of a government, argues Smith, cannot "be said to give any consent to a contract. . . . To say that by staying in a country a man agrees to a contract of obedience to government is just the same with carrying a man into a ship and after he is at a distance from land to tell him that by being in the ship he has contracted to obey the master". (*Adam Smith's Moral and Political Philosophy*, edited by Herbert W. Schneider, New York, 1970, p. 289.)

The embarrassing implications of social contract theory for an existing government, and the consequent need for a theory of tacit consent, were recognized clearly by James Madison. In a letter to Jefferson (Feb. 4, 1790), Madison argues that the social contract doctrine threatens to "subvert . . . the very foundation of Civil Society". To contend that consent is the moral justification for government is to lay the groundwork for anarchy; and, writes Madison, "I can find no relief from such embarrassments but in the received doctrine that a *tacit* assent may be given to established Governments and laws, and that this assent is to be inferred from the omission of an express revocation". (*The Mind of the Founder*, edited by Marvin Meyers, Indianapolis, 1973, pp. 230–233).

It was the great achievement of the nineteenth-century anarchist Lysander Spooner to demolish the tacit consent doctrine, particularly as it applies to the U.S. Constitution. Spooner's natural rights theory, combined with his refusal to recognize the surrender of rights through tacit consent, brings out the radical anarchism latent in the Lockean tradition. See Spooner's *No Treason: The Constitution of No Authority* (Larkspur, Colorado, 1966).