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LOCKE'S PROPOSED SEPARATION OF CHURCH AND STATE¹

In his *Epistola de Tolerantia* (*A Letter of Toleration*, Gouda 1689), John Locke was particularly concerned to detach the idea of political loyalty from that of religious conformity. In his day, it was not uncommon to hold the opinion that subjects could be trusted only if they shared the religious beliefs of the prince. Everyone else was suspect, and this includes Locke himself. At the time that he wrote the *Epistola*, in Amsterdam in the winter of 1685-1686,² Locke was in exile, a refugee from the England of King James II, and hunted by the King's spies.

Relations between Church and State in late 17th Century England were in some disarray. For instance, Locke would surely have failed the test of religious conformity, since he was in fact a dissenter from the Church of England, which had regained much of its influence after the Civil Wars, of the 1640's. Moreover Locke was a political critic of the English king, who was openly a Roman Catholic, and a very unpopular monarch. The dislike of James was mostly because of his policy of appointing only Roman Catholics to the great Offices of State, which was reasonable from his point of view. It was less reasonable, from any point of view, to ignore the unrest that was engendered by his predilection for the Catholic powers in Europe. Hence, even though it was acknowledged that James II was the legitimate king, he was regarded with misgiving, especially, though not exclusively, by his Protestant subjects who were a majority of the population.

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² John L o c k e, *Epistola de Tolerantia — A Letter on Toleration*, Latin Text ed. with a Preface by R. Klibansky; English transl., with an Introd. and Notes by J.W. Gough, Oxford: Clarendon Press, 1968, Preface, pp. IX-X. All quotations are from this translation.

This tangled tale makes Locke's first point very well. There was an obvious need to identify the respective competencies of the Church and of the State.

For Locke, the Church and State are two institutions that differ in their origins, their purposes, and in the claims that they make on the loyalty of their members: Believers, in the case of the Church; citizens, in the case of the State.

In his *Letter on Toleration*, Locke begins with a description of the State, or as he calls it, the "commonwealth". He places limits on the State in the following terms:

The commonwealth seems to me to be a society of men constituted only for preserving and advancing their civil goods.

What I call civil goods are life, liberty, bodily health and freedom pain, and the possession of outward things, such as lands, money, furniture, and the like.

It is the duty of the civil magistrate, by impartially enacted equal laws, to preserve and secure for all the people in general, and for every one of his subjects in particular, the just possession of these things that belong to this life. If anyone presumes to violate these laws, contrary to justice and right, his presumption is to be checked by the fear of punishment, consisting in the deprivation or diminution of those goods which otherwise he might and ought to enjoy. But seeing that no man willingly allows himself to be deprived of any part of his goods, much less of his liberty or life, therefore the magistrate is armed with force, namely, with all the strength of his subjects, in order to punish those who violate any other man's rights.

(...) The whole jurisdiction of the magistrate is concerned only with these civil goods, and (...) all the right and dominion of the civil power is bounded and confined solely to the care and advancement of these goods; and (...) it neither can nor ought in any way to be extended to the salvation of souls... (pp. 65-67).

Locke's religious opinions are evident in his description of the Church. Nevertheless, in the discussion that follows I shall argue that Locke has correctly identified the essential features of the Church as an institution in the State, and an institution moreover that is consistent with the ideals of the commonwealth. The point is that the Protestant heritage reflected in Locke's concept of the role of the Church does not make the Church Protestant. Experience teaches that Locke's "Church", when its principles are scrupulously applied, is capable of embracing most forms of Protestantism, of Catholicism, of Judaism; while Islam is a doubtful case because of the Sharia, the Islamic law that makes of very state where it is applied a theocracy. The commonwealth is incompatible with theocracy. This is clear from Locke's account of the Church which begins:

Let us consider what a church is. A church seems to me to be a free society of men, joining together of their own accord for the public worship of God in such manner as they believe will be acceptable to the Deity for the salvation of their souls.

I say it is a 'free and voluntary society'. Nobody is born a member of any church; otherwise a man's religion, along with his estate, would descend to him by the law of inheritance from his father and his ancestors, and he would owe his faith to his parentage; than which nothing more absurd can be imagined (p. 71).

Because of the distinctive features of Church and State, both in their origins and in their functions, persecuting for the sake of religious conformity reflects a confusion of ideas. Persecution is also wholly mistaken about the origins of belief; including beliefs of any kind whatever. Locke affirms arguments are the appropriate means of conversion, declaring:

Let ecclesiastical orators of every sect apply all the strength of arguments that they can muster to the refutation of men's errors, but lest them spare their persons. Let them not supply their want of reasons with discordant instruments, which belong to another jurisdiction, and are not to be handled by churchmen. Let them not call in the magistrate's rods and axes to the aid of their eloquence or learning, lest perhaps, while they pretend only love for the truth, their intemperate zeal, breathing nothing but fire and sword, betray their ambition for dominion (p. 89).

Neither magistrate nor the ecclesiastical authorities can determine the religious beliefs of an individual rational being. And for them to attempt to do so is both theoretically misguided and morally wrong. As Locke observes:

But, after all, the chief point, and what absolutely determines this controversy, is this: even if the magistrate's opinion in religion is sound, and the way that he directs truly evangelical, yet, if I am not thoroughly convinced of it in my own mind, it will not bring me salvation. No way that I walk against my conscience will ever lead me to the mansions of the blessed. I may grow rich by an art that I dislike, I may be cured of a disease by remedies that I distrust; but I cannot be saved by a religion that I distrust, or by a worship that I dislike. It is useless for an unbeliever to assume the outward appearance of morality; to please God he needs faith and inward sincerity (p. 99).

After a few lines, Locke concludes this section reiterating his emphasis on belief and the claims of conscience. And so we read:

Whatever in religion may be called in question, this at least is certain, that no religion, which I do not believe to be true can be either true or profitable to me. In vain therefore does the magistrate force his subjects into his church on the plea of saving their souls. If they believe, they will come of their own accord; if they do not believe, they will perish none the less, however much they come. However great, therefore, may be your profession of goodwill and your efforts for the salvation of men's souls, a man cannot be forced to be saved. In the end he must be left to himself and his own conscience (p. 101).

Locke recognized that there were some fairly obvious sources of tension between religious beliefs and civic obligations. He attempted to solve the problems that he anticipated by introducing the concept of "indifferent things" In those cases which did not yield to this analysis, Locke frankly excluded some kinds of beliefs from toleration in the commonwealth.

To begin with indifferent things: There are either objects or practices of no special importance, and are therefore subject to the rule of the magistrate in the interest of the civil order. But this must be a genuine interest, and not just a whim of some holder of public office. As Locke points out:

1. "But it does not therefore follow that the magistrate may ordain whatever he pleases concerning anything that is indifferent. The public good is

the rule and measure of lawmaking. If anything is not useful to the commonwealth, however indifferent it may be, it cannot thereupo be established” (p. 103).

He then adds immediately that the interest of the Church in something that is otherwise indifferent, places the question in a new light. And he subsequently concludes with a famous example of a transformed “indifferent things”, depending on one’s perspective. Locke first warns us that:

2. “Things however indifferent in their own nature are removed out of the reach of the magistrate’s jurisdiction when they are brought into the church and the worship of God, because when used there they have no connexion with civil affairs. The sole business of the church is the salvation of souls, and it in no way concerns the neighborhood or the commonwealth that this or that ceremony is practiced” (p. 103).

For example, grant that the washing of a new-born infant with water is in itself an indifferent thing. Grant also that it is lawful for the magistrate to order this by law, provided that he knows such washing to be useful for curing or preventing some disease to which infants are liable, and that he also believes the matter important enough to be provided for by an edict. Will anyone therefore say that a magistrate has the same right to ordain by law all children shall be baptized by priests in the sacred font for the purification of their souls? Or that they shall be initiated by any sacred rites at all? Who does not see at a glance that these two cases are totally different? Suppose it were the child of a Jew, and the case speaks for itself. For what is there to prevents a Christian magistrate having Jewish subjects? (pp. 103-105).

In the third point that he makes about indifferent things, Locke abandons the rule of the civil order in favor of his idea of the Deity, and thereby loses the coherence of his argument. He writes:

3. “Things in their own nature indifferent cannot, by human authority and decision, be made part of divine worship, and for this very reason, that they are indifferent. For since indifferent things are not naturally capable, by any virtue of their own, of propitiating the Deity, no human power or authority can confer on them so much dignity and excellence as to enable them to merit divine favour” (p. 105).

Only a little imagination is required to introduce into Locke’s commonwealth a genuine problem for his doctrine of indifferent things. An example which I have used before focuses the questions. For if one is not constrained by Locke concept of Deity, then:

It is easy to show that anything can be given religious significance and thereby enter a realm where the state may not casually interfere. To take only one example, it is not difficult to devise a creed whose adherents have a religious duty to address their fellow citizens in the major crossroads of their town during all the hours of daylight. This duty is enjoined on them no matter what the results of their activities, such as impeding the flow of traffic at those same crossroads. In response to such beliefs, it is not enough to argue that there usually are public statutes designed to prevent exactly the contingency of blocked traffic in towns, and that interference with the passage of vehicles and pedestrians is illegal, and that it is not an “indifferent thing” for the magistrate. For the believer has only to reply that a religious duty to speak at the crossroads cannot be gainsaid because of

a problem like traffic bottlenecks. Traffic should be ordered better, and only pedestrians should pass that way. The religious injunction that is followed by the believer is not, after all, to block traffic, but to pronounce some revered truths to fellow citizens. It is the magistrate's problem to deal with the traffic, by changing its organization if necessary; and not to interfere with pious citizens in the execution of their religious duties³.

Furthermore, who is the judge whether the addressing of one's fellow citizens with godly intentions is not more beneficial, even for the inattentive, than hurrying the traffic along and thereby increasing the pollution of the atmosphere for everyone?

The objection to indifferent things is not a frivolous one. And the reason is that the limits which Locke proposes to give to genuine religious interests can be determined only by his own conception of what is suitable in religion. This is no argument at all to offer to the citizens of the commonwealth who have no antecedent reason to share Locke's particular views about the Deity. Their professed interests are in the State, and not in Locke's beliefs.

Clearly Locke did not anticipate a fanatic at the crossroads who could so conscientiously undermine the concept of indifferent things. Locke did however realize that there must be limits to toleration by the State.⁴ Accordingly, he set out four restrictions on toleration; none of which, incidentally, captures my imagined fanatic in its net.

The four exceptions to toleration in the Commonwealth are listed by Locke in the following order.

But to come down to particulars, I say that no doctrines, incompatible with human society, and contrary to the good morals which are necessary for the preservation of civil society, are to be tolerated by the magistrate (p. 131).

This is fairly obvious, although the details are more interesting than would at first appear, as we shall see in the following discussion. A second exception to toleration reads:

A more secret evil, but one even more dangerous to the commonwealth, is when men arrogate to themselves, and to those of their own sect, some peculiar prerogative, contrary to civil right, though concealed in specious words designed to throw dust in people's eyes (p. 131).

In Locke's world, this exception was intended to exclude certain Protestant dissenters and Roman Catholics from religious toleration. Here we find an echo of the old beliefs about the reliability of religious non-conformers and the consequent suspicions entertained about them by the prince. When Locke wrote the *Letter on Toleration*, the Catholic powers in Europe, including

³ D. Park, *John Locke. Toleration and the Civic Virtues*, in: *The Notion of Tolerance and Human Rights. Essays in Honor of Raymond Klibansky*. Ed. by E. Groffier and M. Paradis, Ottawa: Carleton Univ. Press, 1991, p. 20.

⁴ Cf. Klibansky's Preface where he shows that the assertion in favor of absolute toleration in the Preface to the *Epistola* was made by the translator, William Popple; not by Locke, pp. XXI-XXVI and 43-48.

the Papacy, were regarded by the English as threats to themselves and to the Protestant States of the Netherlands. This view was assisted by the Papal Bull issued by Pope Pius V in 1570, which denied that Queen Elizabeth had a right to the Crown of England, and was remembered as his advice that English Catholics need not “keep faith with heretic princes”. Queen Elizabeth was, of course, a “heretic” in this sense. Locke continues his second exception to toleration by noting: “... neither have those [a right to be tolerated by the magistrate] who refuse to teach that dissenters from their own religion should be tolerated” (p. 133).

This is an especially interesting exception whose effects remove the possibility of founding a commonwealth that is also a theocracy. The third exception to toleration is expressed in the following terms:

That church can have no right to be tolerated by the magistrate which is so constituted that all who enter it *ipso facto* pass into the allegiance and service of another prince (p. 133).

There is no doubt that Locke here intends to exclude Roman Catholics from toleration on the grounds that he believed them to have a prior loyalty to the Papacy. History shows that he was usually mistaken about even the English of his own day; but he was certainly right about the principle of excluding those whose divided loyalties have political consequences. The commonwealth requires that there should be agreed, common interests and values.

The fourth exception to Locke’s general principle of religious toleration is a curious one. For, without any argument, he proclaims:

Lastly, those who deny the existence of the Deity are not to be tolerated at all. Promises, covenants, and oaths, which are the bonds of human society, can have no hold or sanctity for an atheist; for the taking away of God, even only in thought, dissolves all. Furthermore, a man who by his atheism undermines and destroys all religion cannot in the name of religion claim the privilege of toleration for himself (p. 135).

The peculiarity of excluding atheists from the Commonwealth can be given an explanation if one takes into account that Locke believed the existence of God to be demonstrable. For now it is sufficient to state unequivocally that Locke was simply mistaken in his belief that atheism is inimicable to the Commonwealth and its values. History shows the contrary in the actual practice of atheists.

In *The Notion of Tolerance and Human Rights* I have argued too that the cultivation of the civic virtues offers Locke a way of solving most of the problems raised by his exceptions to toleration. Still, it is only reasonable to notice when he is simply wrong about the historical facts. The alleged inevitable disloyalty of Catholic subjects to a Protestant Crown has been contradicted by their practice during the last three hundred years since Locke wrote his *Letter* and in England itself. In general, the more sensational occurrences, like The Gunpowder Plot, were sensational in large part because of their rarity.

If the activities of rational beings cannot be separated from their beliefs about the world and the values which they cherish, what can be said about belief itself? A particular belief cannot be chosen, as Locke knew well. Similarly, supposed demonstrations that are believed to be questionable cannot be converted into valid proofs by *fiat*, neither by bishop nor by king. As Locke insisted in his general argument about conscience, a conformity in one's actions is just that. It may reflect a genuine belief; or it may simply indicate a wish to conform to current expectations for whatever reasons.

In his writings on epistemology, A.J. Ayer spelled out the peculiar asymmetry between propositions that are *believed* and propositions that are *true*.⁵ If you were to write a list of all the propositions that you believe, and another list of all propositions that are true, you would find that the propositions recorded on the two lists were identical. The reason is that when you believe a proposition, you take it to be true. So much perhaps is unsurprising. But now, consider what happens if you learn that a proposition that you believed yesterday to be true, you find today to be false. For example, yesterday you believed that Basil Cardinal Hume, the Archbishop of Westminster in London, is English by ancestry; but today you know he is Scottish and French.

When a false belief; e.g. that Cardinal Hume is English, is discovered, then it is abandoned; and revised belief is introduced. However, the original false belief is not denied as though it never was entertained. For instance, I should say of a false belief: "Formerly I believed that proposition *X* is true; however I have since discovered my mistake, and so I now believe that proposition *X* is false, and the proposition *Y* is true instead" Still, it remains a part of my intellectual history that I once believed proposition *X* to be true. And this correction of my beliefs I have no inclination to deny. It is true as a matter of record that I once believed proposition *X*.

Now contrast this statement with claims that I make about what is true. If I formerly asserted that a non-temporal proposition *X* is true, and then discover that *X* is false, I do not revise my opinion by saying that *X* formerly was true. If it is not true now, it was never true. Furthermore, if I had asserted that "I know that *X* is true", on discovering its falsity, I could not claim formerly to have *known* that it was true. I should instead abandon my claim to knowledge about *X*. Indeed I should admit that I did not really *know* it at all. For it is not possible that I can know that *X* is true when, in fact, it is false. Claims to knowledge do not survive the discovery of their falsity because they lose their reference entirely. Claims to belief, on the contrary, do survive the discovery of their falsity because their reference includes the believer, as well as the subject of the proposition.

⁵ For a classic discussion of knowledge and belief, cf. A.J. Ayer, *The Problem of Knowledge*, London 1956; and reprinted many times by Penguin.

To complete this excursion into knowledge and belief, I can and do entertain false beliefs; but at the time, I judge these beliefs to be true. And if, as a rational agent and a citizen of Locke's commonwealth, I subscribe to a given belief, I cannot simply will myself to abandon it. Belief, like love, is not at our command.

In the case of religious beliefs, it is not easy to see how arguments can be effective in changing habits of mind entrenched by history, language and culture. Certainly, as Locke has shown, this is not an appropriate activity to be undertaken by the State, or for the magistrate to meddle in. Nor is uniformity of religious belief necessary for civil order, as Locke has also shown. Rather the expectations of the citizens in the commonwealth is the more useful line to develop, if wish to instill values common to all the people.

Locke's own theory of knowledge obliges him to notice the evidence of differing beliefs among the citizens, including their religious beliefs. He is well aware too of the effects that religious beliefs have on the activities of the citizens. This is not to say that religion makes people especially predictable; certainly this is not the case. But there are predictable problems that can be foreseen in a pluralist society which includes many shades of religious opinion.

Locke's insistence on the rights of the citizens to *life, liberty and property* in the commonwealth forms part of his response to the demands of a pluralist society. As we saw in his *Letter on Toleration*, he also requires that *kept promises, honored covenants and truly sworn oaths* should be promoted in the state. Together, these civic rights and their practice as civic virtues, provide an indispensable source of confidence in the institutions or the commonwealth, and in the customary activities of its citizens.

The failure of Locke's concept of "indifferent things" was inevitable, since he was obliged to rely on a habit of compromise and on a religious orthodoxy that had no reply when challenged by the beliefs of an otherwise inoffensive fanatic. Preaching religious opinions at a crossroads is hardly an obvious crime, although its consequence for the movement of traffic can be dramatic indeed.

There is simply no way of avoiding clashes among the citizens by invoking hopes about "indifferent things", however pious these hope may be. The problem must be faced directly; for only then can a policy be developed that will take account of the specific and known interests of the citizens as rational agents. This approach opens the way for the establishment of religious toleration founded on the values of the commonwealth. For these several reasons, I propose that the Commonwealth should require a specific acknowledgment of the rights and obligations that follow from the exercise of the civic virtues. The precise Constitutional form that actually is adopted by the citizens is less important than the clear recognition by all citizens that their duties include the promotion of the civic virtues among themselves, and in the institutions of the commonwealth. The adoption of these policies would, I,

believe, provide the most promising grounds for agreement among citizens of different religious persuasions. Because belief cannot be instilled by command; reason and charity here make common cause in protecting religious dissenters, whoever they may be. As Locke so pithily observed, "every man is orthodox unto himself". And, he might have added, every man is heterodox if he travels far enough. We, each one of us, holds some minority opinions.

QUID IOANNES LOCKE DE RELATIONE INTER ECCLESIAM ET STATUM CIVILEM DOCUERIT

S u m m a r i u m

In sua *Epistola de tolerantia* Ioannes Locke Ecclesiam et Statum duas diversas separatasque institutiones esse dicit. Status (res publica) societas pro servandis et perficiendis bonis civilibus est constituta. Ecclesia autem libera et voluntaria hominum societas ad adorandum Deum et salvandas eorum animas est condita. Hac de causa nec potestas civilis nec auctoritas ecclesiastica fidem religiosam individuae personae determinare debet. Itaque nemo hominum quocumque modo ad salvandum cogi potest.

Quasdam discordias et difficultates inter Ecclesiam et Statum videns easque dissolvere volens, Locke conceptum "rerum indifferentium" introduxit. "Res indifferentes" hae sunt: obiecta vel acta sine ullo speciali momento quae non solum civili potestati pro vero bono publico sed etiam ipsi Ecclesiae, quae divinitus est constituta, pro animarum salute servire possunt. Omnis homo ius ad libertatem habet ideoque inter Statum et Ecclesiam, inter diversas religiones et confessiones tolerantia necessaria est. Non tolerantur qui contra bonum morale agunt, qui ordinem publicum violant, qui sunt in potestate principis et mutata a se confessione, suam quoque confessionem mutare debent atque qui Deum esse negant. Res publica civium ius vivendi et possidendi ac libertatem eorum adiuvere necnon factas promissiones, initas conventiones atque omne iusiurandum fovere debet.

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