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Alex Tuckness
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MORALITY AS LEGISLATION

"What would happen if everyone acted that way?" This question is often used in everyday moral assessments, but it has a paradoxical quality: it draws not only on Kantian ideas of a universal moral law but also on consequentialist claims that what is right depends on the outcome. In this book, Alex Tuckness examines how the question came to be seen as paradoxical, tracing its history from the theistic approaches of the seventeenth century to the secular accounts of the present. Tuckness shows that the earlier interpretations were hybrid theories that included both consequentialist and non-consequentialist elements, and argues that contemporary uses of this approach will likewise need to combine consequentialist and non-consequentialist commitments.

ALEX TUCKNESS is Professor of Political Science at Iowa State University. He is the author of *Locke and the Legislative Point of View* (2002), *The Decline of Mercy in Public Life* (with John Michael Parrish, Cambridge University Press, 2014) and *This is Political Philosophy* (with Clark Wolf, 2016).

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Rules and Consequences

ALEX TUCKNESS

Iowa State University

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Acknowledgments

This project began in 2015 when a student at Iowa State asked to do an independent study on the Scottish Enlightenment that led to me reading Francis Hutcheson's *System of Moral Philosophy* for the first time. There were interesting parallels to Locke, and I originally thought I might write a book on Hutcheson's political philosophy. My colleague Cullen Padgett-Walsh shared his insights on Hutcheson with me; both of us were interested in him in part because he didn't fit neatly into traditional categories such as "consequentialist."

When, several months later, I realized I could do a larger project that traced rule-based and act-based consequentialist thinking over the last four centuries, I reached out to John Michael Parrish, my coauthor on *The Decline of Mercy in Public Life*. His comments, insights, and patient listening have been invaluable from the beginning of the project to the end.

As I worked on the project I had the benefit of three excellent students who worked as research assistants: Elaina Conrad, Brody Tritle, and Rachel Lentz. Brody deserves special thanks for turning a room in his apartment into a small library annex so that citation checking could continue during a global pandemic. Their work checking citations, formatting, indexing, and editing has made this a better book. The funds to employ them, and also to present papers at conferences, were provided by the Koch Foundation, which sponsored a small grant for work on the philosophical foundations of well-being, and by three sources at Iowa State: the Department of Political Science, the College of Liberal Arts and Science, and the Whitaker-Lindgren Faculty Fellowship. I am grateful to my chair, Mack Shelley, and my dean, Beate Schmittmann, for their support and assistance.

I am grateful to the audiences that provided feedback on various chapters of this book at the American Political Science Association, the Association for Political Theory, the Northeast Political Science Association, the Iowa Association for Political Science, and the Midwest

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Political Science Association. I also got very helpful feedback from a presentation to the Department of Philosophy and Religious Studies and a separate presentation to the Department of History, both at Iowa State. Several members of the Philosophy Department deserve special thanks. Clark Wolf has provided extremely important feedback at multiple stages, especially on the late twentieth-century utilitarians. Joe Kupfer suggested that the term "hybrid," which now figures very prominently in the book, might better capture my meaning than the term I was originally using. Stephen Biggs helped me tighten the language and logic of Chapter 7. Margaret Holmgren helped me think through the framing of Chapter 7. Greg Robson read more of the manuscript than anyone else and had countless helpful suggestions.

My greatest debt is to my wife Anastasia. Her antipathy toward logical contradictions helps keep my mind sharp, and her friendship, advice, encouragement, and patience have helped me more than I can put into words.

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Abbreviation	Reference and Citation Method
Austin	Austin, John. (1832) 1995. *The Province of Jurisprudence Determined*. Edited by Wilfred Rumble. Cambridge: Cambridge University Press. Cited by page number.
Bentham Analysis	Bentham, Jeremy. 1822. *Analysis of the Influence of Natural Religion on the Temporal Happiness of Mankind*. London: Carlile. Cited by page number.
Bentham Deontology	Bentham, Jeremy. (1834) 1983. *Deontology together with a Table of the Springs of Action and Article on Utilitarianism*. Edited by Amnon Goldworth. Oxford: Clarendon Press. Cited by page number.
Bentham PML	Bentham, Jeremy. (1789) 2007. *An Introduction to the Principles of Morals and Legislation*. Mineola, NY: Dover. Cited by page number.
Berkeley	Berkeley, George. (1712) 1901. "Passive Obedience, or the Christian Doctrine of Not resisting the Supreme Power, proved and vindicated upon the principles of the law of nature." In *Works of George Berkeley*. Oxford: Clarendon Press, Vol. 4. Cited by paragraph number.
Butler	Butler, Joseph. (1867) 2006. *The Works of Joseph Butler: Containing the Analogy of Religion and Sixteen Celebrated Sermons*. London: William Tegg [reprinted by Elibron Classics]. Cited by volume and page number.
Cumberland	Cumberland, Richard. (1672) 2005. *A Treatise of the Laws of Nature*. Translated by John Maxell and edited by John Parkin. Indianapolis, IN: Liberty Fund Books. Cited by chapter and section, and then page number.

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Grotius	Grotius, Hugo. (1625) 1925. *The Law of War and Peace*. Translated by Francis W. Kelsey. Indianapolis, IN: Bobbs-Merril. Cited by book, chapter, section, and (where applicable) subsection.
Hume E	Hume, David. (1751) 1998. *An Enquiry Concerning the Principles of Morals*. Edited by Tom L. Beauchamp. Oxford: Oxford University Press. Cited by section (or appendix) and part, and then page number.
Hume PW	Hume, David. (1777) 1994. *Political Writings*. Edited by Stuart D. Warner and Donald W. Livingston. Indianapolis, IN: Hackett. Cited by page number.
Hume T	Hume, David. (1737) 1978. *A Treatise of Human Nature*. Edited by Lewis A. Selby-Bigge and Peter H. Nidditch. Oxford: Clarendon Press. Cited by book, part, section, and then page number.
Hutcheson Illustrations	Hutcheson, Francis. (1728) 2002. *An Essay on the Nature and Conduct of the Passions and Affections, with Illustrations on the Moral Sense*. Edited by Aaron Garrett. Indianapolis, IN: Liberty Fund. Cited by page number.
Hutcheson Inquiry	Hutcheson, Francis. (1725) 2008. *An Inquiry into the Original of Our Ideas of Beauty and Virtue*, Revised Edition. Edited by Wolfgang Leidhold. Indianapolis, IN: Liberty Fund. Cited by treatise, chapter, and page number.
Hutcheson PMIC	Hutcheson, Francis. (1745) 2007. *Philosophiae Moralis Institutio Compendiaria, with a Short Introduction to Moral Philosophy*. Edited by Luigi Turco. Indianapolis, IN: Liberty Fund. Cited by page number.
Hutcheson System	Hutcheson, Francis. 1755. *A System of Moral Philosophy, in Three Books*. Glasgow: R. and A. Foulis. Cited by book, chapter, section, and then page number.
Kant G	Kant, Immanuel. (1785) 1997. *Groundwork of the Metaphysics of Morals*. Edited by Mary Gregor. Cambridge: Cambridge University Press. Cited by page number.
Kant M	Kant, Immanuel. (1797) 1996. *The Metaphysics of Morals*. Edited by Mary Gregor. Cambridge: Cambridge University Press. Cited by page number.
Locke ECHU	Locke, John. (1690) 1975. *An Essay Concerning Human Understanding*. Edited by Peter Nidditch. Oxford: Clarendon Press. Cited by book, chapter, and section number.
Locke Letter	Locke, John. (1689a) 1983. *A Letter Concerning Toleration*. Edited by James Tully. Indianapolis, IN: Hackett Publishing Company. Cited by page number.
Locke PE	Locke, John. (1703) 1997. *Political Essays*. Edited by Mark Goldie. Cambridge: Cambridge University Press. Cited by page number.

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Locke TT	Locke, John. (1689b) 1988. *Two Treatises of Government*. Edited by Peter Laslett. Cambridge: Cambridge University Press. Cited by treatise and section number.
Locke Works	Locke, John. (1823) 1963. *Works of John Locke*, 10 vols. London: Thomas Tegg [reprinted by Scienta Verlag Aalen]. Cited by volume and page number.
Mandeville	Mandeville, Bernard. (1732) 1988. *The Fable of the Bees or Private Vices, Public Benefits*, 2 vols. Edited by Frederick Benjamin Kaye. Indianapolis, IN: Liberty Fund. Cited by volume and page number.
Mill CW	Mill, John Stuart. (1969) 1985. *Collected Works*. Edited by John M. Robson. London: Routledge & Kegan Paul and Toronto: University of Toronto Press. Cited by volume and page number.
Mill OL	*On Liberty* found in Mill, John Stuart. (1969) 1985. *Essays on Politics and Society*. In *Collected Works*, Vol. 18. Edited by J. M. Robson. London: Routledge & Kegan Paul and Toronto: University of Toronto Press. Cited by volume and page number.
Mill RBP	*Remarks on Bentham's Philosophy* found in Mill, John Stuart. (1969) 1985. *Essays on Ethics, Religion, and Society*. In *Collected Works*, Vol. 10. Edited by J. M. Robson. London: Routledge & Kegan Paul and Toronto: University of Toronto Press. Cited by volume and page number.
Mill S	*A System of Logic Ratiocinative and Inductive* found in Mill, John Stuart. (1969) 1985. *Essays on Ethics, Religion, and Society*. In *Collected Works*, Vol. 10. Edited by J. M. Robson. London: Routledge & Kegan Paul and Toronto: University of Toronto Press. Cited by volume, book, and chapter.
Mill U	*Utilitarianism* found in Mill, John Stuart. (1969) 1985. *Essays on Ethics, Religion, and Society*. In *Collected Works*, Vol. 8. Edited by J. M. Robson. London: Routledge & Kegan Paul and Toronto: University of Toronto Press. Cited by volume and page number.
Mill W	*Whewell on Moral Philosophy* found in Mill, John Stuart. (1969) 1985. *Essays on Ethics, Religion, and Society*. In *Collected Works*, Vol. 10. Edited by J. M. Robson. London: Routledge & Kegan Paul and Toronto: University of Toronto Press. Cited by volume and page number.
Moore	Moore, George Edward. (1903) 1954. *Principia Ethica*. Cambridge: Cambridge University Press. Cited by chapter, section, and then page number.
Paley	Paley, William. (1785) 2002. *The Principles of Moral and Political Philosophy*. Indianapolis, IN: Liberty Fund. Cited by page number.
Parfit	Parfit, Derek. 2011–2017. *On What Matters*. Oxford: Oxford University Press. Cited by volume and page number.

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Shaftesbury	Shaftesbury, Third Earle of (Anthony Ashley Cooper) (1711) 1999. *Characteristics of Men, Manners, Opinions, Times*. Edited by Lawrence E. Klein. Cambridge: Cambridge University Press. Cited by page number.
Sidgwick Methods	Sidgwick, Henry. (1907) 1981. *The Methods of Ethics*, Seventh Edition. Foreword by John Rawls. Indianapolis, IN: Hackett. Cited by book, chapter, section, and then page number.
Sidgwick OHE	Sidgwick, Henry. (1902) 1988. *Outlines of the History of Ethics*. Indianapolis, IN: Hackett. Cited by page number.
Wittgenstein	Wittgenstein, Ludwig. (1953) 1958. *Philosophical Investigations*, Third Edition. Translated by Gertrude Elizabeth Margaret Anscombe. Englewood Cliffs, NJ: Prentice Hall. Cited by section number.

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