

TWO TREATISES  
OF GOVERNMENT

JOHN LOCKE



NOTES FROM THE EDITORS

## INTRODUCTION

by Jeffrey Friedman\*

It used to be easy to pigeonhole the *Two Treatises of Government*. Everyone from conservatives to Marxists agreed that John Locke's political theory was a foundation stone of individualistic liberalism that furthered the interests of private property. This is still the conventional view about Locke and, therefore, about the Constitution and the political culture of the United States, on which Locke exercised such a great influence.

In several respects, as we shall see, the *Two Treatises* directly contradict this view. What explains its persistence is in part that the theory of property presented in the *Treatises* was interpreted in the light of an incorrect dating of when Locke wrote them. They were published in 1689, the year after England's "Glorious" or "Bloodless" Revolution, which replaced the Stuart king, James II, with his daughter, Mary, and her Dutch husband, William of Orange. The Revolution decisively shifted the center of power toward the propertied in Parliament. Locke's declaration on the first page of his Preface to the *Two Treatises* that his work provided a justification for the Revolution suggested to generations of historians that Locke not only published but wrote the *Treatises* after the new order had been established, so as to defend it.

In 1960, however, it was discovered that the *Treatises* were actually written eight or nine years before being published (the precise date is still in dispute). Instead of being an apologist for a completed and, to modern eyes, rather conservative revolution, Locke now emerged as a subversive agitating for a rebellion whose conservative outcome could not yet be known. The earlier dating of the *Treatises* puts Locke in the company less of the monied great than of radical egalitarians many of whom were holdovers from the civil wars and experiments in republicanism that had occurred between 1640 and 1660. These

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radicals congregated, it is true, around Locke's patron, the first earl of Shaftesbury, and few in England were as monitored or as great as he. Nonetheless, Shaftesbury was the leader of what became virtually a mass political party, the Whigs, whose appeal was largely to urban artisans and opponents of the aristocracy, and whose opinions and rhetoric reminded their Tory opponents, at least, of the excesses of Cromwell, the Levellers, and such radical egalitarians as the Diggers.

Shaftesbury had at one point been Lord Chancellor—the highest appointed official in the land. But after 1673 he went into increasingly pronounced opposition to the policies of the Restoration Stuarts, Charles II and then James II, being implicated in an assassination scheme in 1683 and a conspiracy to usurp the throne through armed rebellion in 1685. Locke, who was not only a man of letters but Shaftesbury's physician and propagandist, seems to have followed Shaftesbury into these treacherous waters, and for long periods had to live abroad so as to avoid jail or worse in England.

What was it that drove Shaftesbury and Locke to these extremes? Locke had, before meeting Shaftesbury, been anything but an advocate of toleration and constitutionalism. In his *Two Tracts on Government* (1661), for instance, he defended the then-standard view that government must impose religious conformity to prevent society from disintegrating into warring religious factions. By the 1670s Locke had reversed himself and shared with Shaftesbury a fear that exactly the religious orthodoxy Locke had previously advocated was about to be imposed on England—with the exception that the orthodox religion was to be Roman Catholic, not Protestant. Conceivably, Shaftesbury, whose wealth came largely from his successful participation in the burgeoning commercial economy, had influenced Locke to see the prosperity of the great success story of the day, Holland—the seventeenth-century version of contemporary Japan—as flowing from its tolerationist, slightly democratic government. Locke's *Essay Concerning Toleration* (1667) heavily emphasized the peace and prosperity toleration brought, a theme that is still evident in his more famous *Letter Concerning Toleration* of 1685.

In any event, Shaftesbury and presumably Locke suspected that secret provisions of the 1670 Treaty of Dover threatened England with the evils the Wars of Religion had taught Protestants to fear: royal absolutism and the religion that was thought inevitably to depend on and lead to it, Catholicism. They believed that in the treaty, Charles II had promised to convert to Catholicism in exchange for subsidies from Louis XIV that might free Charles of the need to ask Parliament for money—the perennial source of royal weakness and parliamentary power. Through a Catholic alliance with France, Charles might gain the ability to govern England without consulting the representatives of the people in Parliament. Suspicious along these lines were not alleviated by Charles's war against Protestant Holland or his accumulation of a standing army that might crush resistance to his authority.

Among the broader populace, perfidy by the king himself was difficult to contemplate. Rather than suspect Charles of plotting to impose Catholic absolutism, by the end of the 1670s many in the public at large were ready to believe in a "Popish Plot" to murder Charles so that his brother James, Duke of York, who clearly *was* Catholic, would inherit the throne. The 1680s thus began with the Exclusion Crisis, which saw the Whigs in Parliament attempt to bar James from the throne. It is now accepted that at least the *First Treatise* was written to defend this effort, which was symied in 1681 by Charles's refusal to call further Parliaments. Like Charles I, whose attempt at "personal rule" had led to the Civil War of the 1640s, Charles II seemed bent on governing without a legislature.

The Whigs' concerns were expressed in an anonymous tract that charged that there was a conspiracy to "declare the government absolute and arbitrary; to allow monarchy, as well as episcopacy, to be jure divino, and not to be bounded or limited by any human laws." The pamphlet in which these words appeared was publicly burned in 1675 and the House of Lords began seeking out its author. Three days later, Locke hurriedly departed on an unscheduled, three-year-long trip abroad. It is from actions such as this, which suggest Locke's deep involvement in resistance politics, that a new understanding of Locke's

views has been constructed to replace the old view of Locke as an apologist for privilege. If Locke associated with democrats, scholars now reason, then he, too, must have been a democrat. If he was not a conservative, then he must have been a radical. If he was a revolutionary, perhaps he was even a protosocialist.

Just as the older view's assimilation of the *Treatises* to their (incorrect) historical context depended crucially on the role of private property in Locke's theory, so does the new view. In this respect both theories are probably the result of imposing nineteenth- and twentieth-century preoccupations on seventeenth-century politics. The debate over distributive justice that polarizes our politics makes it difficult to contemplate dispassionately a theory that seems to rest so heavily on private property. Thus, to those on the left, the earlier view of Locke made him a relic of bourgeois hegemony; to those in the liberal center, Locke was an embarrassing reminder of early liberals' naïveté about capitalism; and to many on the right, Locke became the inspiration for a classical liberal revival. Locke's property theory was either attacked as reactionary, bypassed in favor of his defenses of toleration and popular sovereignty, or made the object of libertarian veneration.

Now that the old picture of Locke has been overturned, so has the old understanding of Locke's theory of property. The brief "Lockean proviso," which holds—or is seen as holding—that individuals in the state of nature could appropriate property only so long as "there was still enough, and as good left" for others [*Two Treatises of Government*, p. 189], has, in the hands of some scholars, become the opening wedge for reinterpreting Locke as a critic of private property. For, they ask, does not this proviso suggest that, after all of God's bounty has been privately appropriated, the result should be a distribution that leaves nobody worse off than anyone else?

This is as good a question as any with which to begin a more balanced assessment of the "new" Locke. We should notice, first of all, that despite suggesting Locke's involvement with "radical" politics, the historical setting of the early 1680s is hardly conducive to the new view of his property theory. If anything, the ghosts of Civil War radicalism

stirred up by Whig agitation would have made people fear for their property rights if Shaftesbury's forces should triumph; why Locke would fan such fears by grounding Whig political theory on a radical theory of property is far from clear.

When Locke wrote the *Treatises* he was participating in an increasingly desperate political struggle to establish the right of the people either to exert some control over their government, or to replace an unresponsive government with a new one. Any adequate understanding of the *Two Treatises* should show how Locke's property argument contributed to this project. The distribution of property was not itself at issue and cannot, unless linked convincingly to the larger political battle, be assumed to provide the context in which Locke's discussion was framed.

If we try to free ourselves of contemporary preoccupations, the Lockean proviso hardly comes across as a clarion call for property redistribution. It is, instead, a rejoinder to a possible objection, raised on the previous page of the *Second Treatise*, to Locke's claim that in the state of nature one owns whatever property one mixes one's labor with. If this is all that is necessary to establish one's property rights, Locke writes, then it might be wondered whether "any one may ingross as much as he will" [p. 188], such that some people would come to own a great deal of property while others were left with little. Far from emphasizing the importance of such questions of distributive justice, Locke labels them "Quarrels or Contentions about Property" [ibid.]. He disposes of this particular quarrel by banning not inequality, but waste. Since "nothing was made by God for Man to spoil or destroy," private appropriation should be limited to the amount one can use "before it spoils" [ibid.]. "Exceeding of the bounds of [one's] just Property" does not consist in "the largeness of [one's] Possession, but the perishing of any thing uselessly in it" [p. 200].

This injunction against spoilage makes it "impossible" in the state of nature "for any Man, this way, to intrench upon the right of another, or acquire, to himself, a Property, to the Prejudice of his Neighbour, who would still have room, for as good, and as large a Possession (after

the other had taken out his) as before it was appropriated" [p. 191]. Thus, the "Lockean proviso" only grudgingly averts inequalities of distribution: Locke does not prohibit inequality *per se*, but that result is indirectly achieved through his ban on acquiring more property than one can use before it spoils.

Locke withdraws even this oblique concession to the "Quarrelsome and Contentious" [p. 190] once the invention of money allows people to store up more than they can immediately use without their accumulated wealth spoiling. A "disproportionate and unequal Possession of the Earth" is made possible by the "consent" embodied in people's use of money [p. 202]. In a later edition of the *Second Treatise*, Locke calls inequally a matter of "tacit and voluntary consent." So much for Locke the leftist.

Yet if we are tempted to revert to the previously dominant view that Locke was an apologist for *laissez-faire* capitalism, we should note that he repeatedly mentions that ever since the invention of money, communities have legally "regulated the Properties of the private Men of their Society" [p. 198]. Indeed, Locke maintains, "every Man, when he, at first, incorporates himself into any Commonwealth, he, by his uniting himself therunto, annexed also, and submits to the Community those Possessions, which he has, or shall acquire," after which his property, "which was before free," is now "to be regulated by the Laws of the Society" [p. 258].

From the standpoint of distributive justice, then, Locke's property argument accomplishes little. No sooner does he advance the "right-wing" theory of property appropriation by mixing one's labor with nature than he limits it with the prohibition against spoilage; then this limitation is undone by the invention of money; returning us to a condition of unlimited and unequal property accumulation. But this condition is overturned upon the advent of civil society, which gives government "Dominion" [ibid.] over the private property originally appropriated by the individuals who mixed their labor with it. Although there is no evidence that Locke favored using this dominion to create equality of possessions, like his contemporaries he

did favor some form of compulsory poor relief and many other forms of property redistribution through the agency of the state, particularly through its power to tax. On the other hand, the power to redistribute property accorded governments by Locke's theory is no greater than that already possessed by the parliaments of Locke's day, which could tax whatever they chose to tax. Locke thus seems to leave us just where we started—with private property that can be taken or regulated by the state—raising the question of why he chose to discuss private property in the first place.

Seen as part of a Whig political tract of the early 1680s, however, the property argument serves several important purposes. Consider that the entire *First Treatise* is, as any reader will find demonstrated at intolerable length, a rebuttal of biblical arguments for absolutism made by the late Sir Robert Filmer (1588–1653). Until it became clear that Locke wrote the *Treatises* nearly a decade before they were published, it was something of a mystery why he had devoted so much attention to an obscure and long-dead pamphleteer. But in the early 1680s Filmer's pamphlets, rushed into print by supporters of King Charles II, had an impact that was anything but minor. They were immediately popular and came to define the extreme absolutist position during the Exclusion Crisis. Any opponent of absolutism had to take Filmer seriously. And it must be admitted that by extending social-contract doctrines to their logical conclusions, Filmer hit on key weaknesses in the liberal tendencies Locke articulated. In the words of one recent writer, "Filmer, not Locke, invented liberalism"—if only in order to refute it.

Prior to Locke, most social contract theories—including those of Thomas Hobbes, Hugo Grotius, and Samuel Pufendorf—had been designed to *defend* absolutism. Filmer's genius was to anticipate the logical conflict between the consensual basis of these theories and their authoritarian policy recommendations. For instance, he wondered why, if the basis of government is agreement, people should not be free to leave civil society "when they please, and be free again." Why doesn't a political theory based on contract sanction anarchy?

Social contractarianism was a reaction to the pervasive intellectual skepticism that had been fueled, at the end of the sixteenth century, by such writers as Montaigne (1533–1592), and that took on added salience during the Wars of Religion that began in 1618. This skepticism questioned our knowledge of natural, religious, and ethical truths because of the variability in human perceptions and culturally generated beliefs. Montaigne famously asked “what truth is that, which these mountains bound, and is a lie in the world beyond?”<sup>54</sup> In a reaction against skepticism that retained its premises, such writers as Descartes (1596–1650), Grotius (1583–1645), Hobbes (1588–1679), and Pufendorf (1632–1694) sought to reconstruct knowledge—whether of nature or of religious, ethical, and political norms—by appealing to bedrock, scientific principles that transcended cultural vicissitudes. In Descartes’s case the ultimate ground of appeal was the certainty of one’s own existence; in the case of the political philosophers, the starting point was, similarly, the legitimacy of pursuing one’s self-interest, which was given the status of “natural law” and which issued in individual “rights.” Usually, however, the pursuit of self-interest was thought to require the creation of an absolute and, therefore, undisputed political sovereign that could spare people from the violence and political disorder endemic to the seventeenth century.

One way to understand Locke (1632–1704) is as launching a mild counterreaction against the antiskeptical movement, a reaction that, while accepting the need to discover principles that could overcome relativism, was dissatisfied with the use of rationalist and natural-law devices by the likes of Descartes, Hobbes, and Grotius. Locke was born to a lawyer and small landowner who had fought for Parliament against Charles I in the Civil War, and was brought up as a Puritan. He was educated at Oxford in traditional Aristotelian philosophy. But Locke’s attachment to these received truths may well have been challenged at Oxford by John Owen, an advocate of religious toleration, and by Locke’s participation there in a circle of experimental scientists. For whatever reason, he was strongly drawn to skepticism, echoing Montaigne in an *apertu* of 1660, for example: “Our deformity is others’

beauty; our rudeness others’ civility; and there is nothing so uncouth and unhandsome to us which doth not somewhere or other find applause and approbation.”<sup>55</sup>

Unlike Descartes and Hobbes, however, who answered epistemological skepticism with the certainties of the mathematical method, Locke was much taken with empirical knowledge of the sort physicians rely on. No innate ideas proven by mathematical deduction can be of much help in deciding how to operate on a diseased liver. (Locke’s successful performance of such an operation in 1668 saved Shaltesbury’s life and cemented their personal and political alliance.) In the book for which Locke first became famous, his *Essay Concerning Human Understanding* (1689)—the fountainhead of the eighteenth-century French Enlightenment—Locke rejected innate ideas in favor of empirical evidence as the source of knowledge, while acknowledging and sorting out the relativistic difficulties of even empirical knowledge. In his political philosophy, similarly, Locke retreated from the assumption, common to Grotius, Hobbes, and Pufendorf, that self-interest was the basis of ethical obligation and political society. Without abandoning self-interest, Locke de-emphasized it in favor of a political foundation of even broader applicability, one that was consistent with a greater degree of relativistic skepticism: *consent*.

Implicit in Locke’s narrative of how we get from the state of nature to a money economy, then to the creation of civil society, then to a specific form of government, and finally to the right to revolution, is the assumption that each step can be legitimated only by consent. To be sure, the writings of the postskeptical natural-law theorists are shot through with this assumption, as is the thought of the skeptics themselves. After all, Montaigne assumed that mere disagreement somehow cast doubt on the validity of moral or political doctrines, as if unanimous consent to a proposition guarantees that it is true. His opponents, by searching for truths that could command universal agreement, took the same assumption on board. This may explain why natural-law theorists combined appeals to self-interest with stories of social contracts. In demonstrating that, say, the creation of a sovereign authority must

have commanded unanimous consent, one not only shows that the sovereign serves the universally valid goal of the putative consenters—self-interest; one also confers legitimacy on the sovereign by virtue of the fact that his authority was established consensually.

In twentieth-century liberalism, it should be noted, the transition from self-interest to consent has been completed. Such political and legal theorists as John Rawls and Ronald Dworkin defend not self-interest, but individual freedom: the individual's right, in the words of Grotius, to "choose what he pleases" from among the "several ways of living, some better than others."<sup>6</sup> Even Robert Nozick's libertarianism does not recommend unabashed self-interest. After all, liberalism—even libertarian liberalism—is a doctrine of *equal rights*; any one individual's self-interest must be limited by the equally important interests of others. Nobody has the right to aggrandize himself at the expense of another's rights. But if this limitation is respected, there is no reason to assume a priori that everyone's self-interest can be well served: what constitutes one's interests depends on the answer to the question of what constitutes a good life, and it is at least conceivable that the answer will not allow everyone to lead such a life. (Aristotle, for example, arguably held that the contemplation of eternal truths constitutes our highest interest, but he assumed that this required a life of leisure that is incompatible with labor or commerce. A good life for some may therefore depend on the material abundance others are compelled to provide.) This is not true, however, of freedom, which, however defined, is a quality that lends itself to being divided up equally. My measure of freedom is compatible with an equal measure of yours, even though I might need a larger measure—or, if I am immature and use it unwisely, a smaller one—to fulfill my interests. While liberalism affords us all the equal right to *choose* what ends to pursue with our property (which in nonlibertarian liberalism tends to be distributed equally), it cannot necessarily afford us all the ability to *attain* those ends—i.e., to achieve our self-interest. Liberalism, having been founded in Locke's rejection of Filmer's claim for fundamental inequalities in political power, has been much more com-

fortable with egalitarian appeals to freedom than with the appeals to self-interest made by the first generation of social-contract theorists.

How did Locke move from self-interest to consent? It is easy to assume that people will only consent to what serves their interests: in Locke's words, "no rational Creature can be supposed to change his condition with an intention to be worse" [p. 264]. Thus, even in social contract theories prior to Locke, consent operated as a proxy for self-interest: in Grotius, Hobbes, and Pufendorf, consent sanctioned both the private property and the political authority that eventually emerged from the primitive self-interestedness of the presocial state. Given the easy identification of self-interest and consent, if self-interest is the remedy for skepticism—if it is the universally accepted moral fundamental—then consent, or universal acceptance itself, takes on the aura of fundamental legitimacy as well.

This can be seen in how easily Locke equates the view that political authority was instituted by the original contractors "only for their own good" [p. 252] with the view that "the beginning of Politick Society depends upon the consent of the Individuals" [p. 245], who are free to "go and make distinct Common-wealths and other Governments as they thought fit" [p. 254]. Surely some argument is required before we conclude that whatever one thinks fit is what is, in fact, for one's own good? But had Locke seen a disjunction between consent and interest, he might have realized the cleanest solution to Filmerian absolutism: rather than defend constitutional government on the grounds that it accords with consent, Locke might simply have maintained that it is *better for people* to live under representative government and the rule of law than to be subjected to the fear, religious conflict, and relative impoverishment that Locke seems to have believed follow from absolutism. In sections 40–44 of the *Second Treatise*, Locke gives us a model of what such an argument might have looked like when he tries to show that everyone benefits from the introduction of private property. But this is only another of Locke's responses to the "Quarrelsome and Contentious" objections against private property, and therefore plays no further role in Locke's argument.

Locke could have attempted to demonstrate the beneficial consequences of the form of government he favored, just as Grotius, Hobbes, and Pufendorf sought to prove the desirability of absolutism. But since these authors, too, cultivated the equation of consent and interest, and since Locke's opponent, Filmer, argued primarily from the intrinsic justice of princely authority rather than from its beneficial effects, Locke appears to have seen no alternative but to uphold the intrinsic justice of *individual* authority, momentarily steering subsequent liberal thought toward prizing government by individual consent, *regardless* of its beneficial consequences.

Not only consent but its presupposition, equality, tends to become an end in itself in Locke's argument. The connection between consent and equality was already evident in the Putney Debates of 1647, when factions in the Parliamentarian army disputed the nature of the new order they were fighting for. The Leveller spokesman, Colonel Thomas Rainborough, argued that "every man that is to live under a government ought first by his own consent to put himself under that government."<sup>7</sup> This is precisely the sentiment Filmer charged would sanction anarchy. How does Locke escape Filmer's charge, having already accepted Rainborough's egalitarian imperative?

Locke contends that by living on land that is inherited from those who originally contracted together, and who "annexed" their property to the community, we tacitly consent to subject ourselves to the government chosen by that community. If the descendants of the original contractors wish to "enjoy the Inheritance of their Ancestors, they must take it on the same terms their Ancestors had it, and submit to all the Conditions annex'd to such a Possession" [p. 219]. There is "always annexed to the Enjoyment of Land, a Submission to the Government of the County, of which that Land is a part" [p. 218]. Thus, each individual is legitimately subjected to government even when he or she does *not* formally consent to it. "The Power that every individual gave the Society, when he entered into it, can never revert to the Individuals again, so long as the Society lasts, but will always remain in the Community" to which the original contractors' property was annexed

[p. 357]. The dissatisfaction of a few individuals with their government does not warrant a revolution, and even the dissolution of a government by revolution does not entail the dissolution of the community and a return to the state of nature. Yet only in the natural state must restrictions on one's freedom be sanctioned by one's explicit consent. Therefore, only the direct consent of the community as a whole, not that of its individual components, is needed to legitimate governmental restrictions on our freedom. The judge of whether a government is failing to pursue its proper end and may be rebelled against is not the individual, but "the Body of the People" [ibid.].

To thus defuse the anarchistic implications of consent theory, Locke has had to rely on a number of dubious assumptions: that all the land in a given country was, in fact, originally the private property of people who freely contracted to leave the state of nature; that this prehistoric contract was so unconditional that it can be said to have "annexed" the contractors' property to the newly formed community; and that the contract also contained provisions that bound the contractors' estates to the community in perpetuity. The prerequisite for all of these steps toward individuals' tacit consent to government is Locke's establishment of the initial legitimacy of the contractors' property.

Now Locke's theory of property may not seem so pointless. Once chapter 5 of the *Second Treatise* explains how private property can emerge—without imitating the earlier theorists' recourse to explicit agreements, whose plausibility Filmer criticized—Locke is able to use private property to transmit the authority of the community to the present day and so avoid anarchy. Important rhetorical purposes, as we shall see, are also served by grounding the legitimacy of government in "property." And most important of all, Locke derives the criterion of revolution from the property argument.

To achieve these purposes, Locke first denies the notion that anybody "has originally a private Dominion, exclusive of the rest of Mankind," in the fruits and beasts of the world [p. 185]. This is a direct reply to Filmer's alternative to consent as the basis for government: the notion



that a paternal authority resides in kings, who are heirs of God's grant of property rights in the world to the father of all humanity, Adam. "The first government in the world," Filmer writes,

was monarchical, in the father of all flesh. Adam being commanded to multiply, and people the earth, and to subdue it, and having dominion given him over all creatures, was thereby the monarch of the whole world; none of his posterity had any right to possess anything, but by his grant or permission, or by succession from him: the earth (saith the Psalmist) hath he given to the children of men: which shows, the title comes from the fatherhood. There never was any such thing as an independent multitude, who at first had a natural right to a community: this is but a fiction, or fancy of too many these days, who please themselves in running after the opinions of philosophers and poets, to find out such an original of government, as might promise them some title to liberty.<sup>8</sup>

Filmer not only equates the authority of Adam over his children with that of a king over his people, but he derives both types of authority from God's gift of dominion over the world to Adam. His children live on Adam's property—that is, they live anywhere in the world—only at his pleasure. Adam, the universal father, is by virtue of that position the universal landlord and absolute monarch.

How is Adam's prehistoric authority transformed into modern political power? Filmer answers by endorsing a claim he attributes to his contemporary, John Selden (1585–1654): "Mr. Selden teacheth us in his *Mare Clausum*," Filmer writes, "that Adam 'by donation from God,' Genesis i, 28, 'was made the general lord of all things, not without such a private dominion to himself, as (without his grant) did exclude his children. And by donation and assignation, or some kind of cession (before he was dead or left any heir to succeed him) his children had their distinct territories by right of private dominion."<sup>9</sup> Thus, "the natural and private dominion of Adam" is "the fountain of all government and propriety." So while Grocius, for instance, "will have it that our forefathers, being all free, made an assignment of their power to Kings," Filmer endorses "the other opinion," which "denies any such general freedom to our forefathers, but derives the power of Kings from

the original dominion of Adam"<sup>10</sup> (emphasis in original). In sum, contemporary monarchs have inherited their authority from Adam, who owned the world. Every king after Adam, down to the Flood and then to the present, deserves unconditional obedience on the same basis by which every father commands the obedience of his family; kings and fathers own the property on which their subjects and families live.

Much of Locke's *First Treatise* is devoted to showing that there is no biblical evidence that God donated the world to Adam or that contemporary kings are the inheritors of Adam's legacy. According to Locke, "Adam had not either by natural Right of Fatherhood, or by positive Donation from God, any such Authority over his Children, nor Dominion over the World as is pretended" by Filmer [p. 165]; and even if he had such authority, "it is impossible that the Rulers now on Earth, should make any benefit, or derive any of the least shadow of Authority from that, which is held to be the Fountain of all Power, *Adam's Private Dominion and Paternal Jurisdiction*" [pp. 165–166, emphasis in original]. Locke must then, in the *Second Treatise*, propose his own account of the origins of government and property to replace Filmer's.

Following Grocius—Filmer's target—Locke describes a state of nature in which human beings, equal in the eyes of God, are free from "Subordination or Subjection" to one another [p. 167]. Rather than giving the world to Adam alone, God gave ownership rights to these equals "in common" [p. 185]. This does not mean collective ownership; rather, each person in the state of nature is equally free to use labor to attach his ownership of "his own *Person*" [ibid.] to pieces of the common stock, thereby appropriating whatever property he needs (as long as it does not spoil). To place an "umpire" in a position to adjudicate disputes over property, people (for unexplained reasons) go so far as to annex their property to the community they form by unanimous consent, and in turn the majority in the community selects a form of government that the community, and those who inherit its property, are bound to obey until the government sacrifices its legitimacy. Locke's purpose is, evidently, not so much to propose

the correct theory of property rights as to deny the political authority Filmer derived from his incorrect theory. Absent Filmer's claim that God gave the world to Adam and hence unlimited authority to kings, one may doubt whether Locke would have needed to discuss property at all in a political tract aimed at establishing a right of revolution. Locke's resort to tacit consent, to secure both the acceptance of money and individual obedience to contemporary governments, shows how difficult it was to refute Filmer's charge that neither property nor government could be secure unless they rested on a grant of absolute authority. In a very real sense, in fact, Locke does not meet Filmer's challenge. As far as property itself is concerned, Locke's egalitarian starting point did, as Filmer feared, unintentionally establish a momentum toward equal claims to property that culminated in socialism in the nineteenth century and egalitarian liberalism in the twentieth. As for the authority of government, the idea that we tacitly consent to such authority merely by living on property over which it claims jurisdiction gives us no more real freedom than we would have if, as Filmer held, the monarch literally owns his kingdom.

But individual freedom was, no less than distributive equality, peripheral to Locke's political purpose. The only freedom individuals have *not* tacitly consented to part with, by the time Locke is through, is their right, *as a community*, to judge whether their government is pursuing its legitimate purpose. By starting with free and equal individuals, Locke is able to bind into the origin of state power whatever condition we can assume such individuals would have consented to impose on government. This condition is, in Locke's terms, that the government pursue the "common good." Once this condition establishes the basis for future revolutions against tyrannical governments, Locke tries to dismiss Filmer's concerns about the economic and political stability of consensual politics by using tacit consent to legitimize material and political inequalities.

Locke never defines precisely what the public good is, save what "the good, prosperity and safety of the Society shall require" [p. 264]. We can be certain only that the controversies and injuries experienced in the state of na-

ture detracted from the public good. Locke is slightly more forthcoming about the opposite of the public good: "absolute Arbitrary" rule [p. 269], which he describes as rule that serves a "distinct interest," elevating the rulers' "own private advantage" above "the good of the whole" [p. 278]—as in the case of absolute monarchs, who "will be apt to increase their own Riches and Power by taking what they think fit from the People" [p. 274]. Locke does provide several specific instances of how absolutist government violates the public good, but the content of this good remains ambiguous.

Given this ambiguity, it is all too easy to equate the public good with a literal interpretation of Locke's oft-repeated phrase, "the preservation of property." "The preservation of Property being the end of Government, and that for which Men enter into Society, it necessarily supposes and requires, that the People should have Property, without which they must be supposed to lose that by entering into Society, which was the end for which they entered into it, too gross an absurdity for any Man to own" [p. 273]. But since real property has long since been "annexed" to the community, Locke cannot mean that the purpose of government is to preserve the property *individuals* appropriate in the state of nature. Not surprisingly, then, Locke's next sentence affirms that the property government protects consists in "the goods, which by the Law of the Community are theirs" [ibid.]. By the same token, Locke endorses the seizure of individuals' real property, in the form of taxation, as long as this receives "the Consent of the Majority, giving it either by themselves, or their Representatives chosen by them" [p. 275]. When Locke says that "the people should have property," he must mean the people considered as a community obedient to the laws laid down by the government whose form was chosen by the majority. This continues to leave the public good undefined, however, since the *criteria* by which the people's property is to be regulated is not discussed.

Undoubtedly it is useful rhetorically for Locke to be able to say that the criterion of whether revolution is justified is whether government is preserving "property"—a standard few in his intended audience would have quarreled

with. Yet Locke has already made it clear that the government is free to take or regulate the real property held by any individual, whose ancestors, after all, “annexed” it to the community. The same is true of Locke’s use of the term “liberty.” (He sometimes defines “property,” in fact, as “Life, Liberty and Estate” [p. 229].) In the same paragraph he can maintain both that people enter society only “with an intention in every one the better to preserve himself his Liberty and Property,” and, on the other hand, that when “Men . . . enter into Society” they “give up the Equality, Liberty, and Executive Power they had in the State of Nature, into the hands of Society, to be so far disposed of by the Legislative, as the good of the Society shall require” [p. 264].

The solution to this paradox is given on the next page: the power of government cannot “be supposed to extend farther than the common good,” such that giving up one’s liberty preserves it, and annexing one’s property to the community protects it in the same sense. What Locke seems to mean here is that the common good demands that the liberty and property we possess under the rule of law be *secure*, unlike that in the state of nature. We trade insecure forms of liberty and property for safer versions. Yet Locke nowhere guarantees security in the sense of prohibitions against the abrogation of individual liberty or the seizure of individuals’ property. Rather, he mandates only (1) the rule of law, which means the promulgation by “upright judges” of “established standing laws” rather than “temporary decrees,” and (2) our consent to taxation, which means the consent of the majority—just as majority-sanctioned government makes laws regulating property. Locke cannot mean to prohibit the diminution of individual liberty or property rights, as a literal interpretation of “the preservation of property” would suggest, for that would make taxation and the other coercive activities of government impossible. The security we receive in civil society, then, is only *collectively* the security of our liberty and property. The freedom of action and possession of goods we had, however insecurely, as individuals in the state of nature is exchanged, with the transition to society, for living under laws that do not change peremptorily or

without notice and are “directed to no other end, but the Peace, Safety, and publick good of the People” [ibid.]. Once again, Locke fails to inform us about the meaning of the latter phrase.

Perhaps this should not be surprising, given Locke’s oscillation between self-interest and consent. Self-interest is like the “common good” or the “public interest,” inherently a substantive idea: specific content is attached to it, depending on our answer to the question of what makes for a good life. Consent, by contrast, is a formal idea: it marks the approval of *whatever* proposition has been mooted. In Locke’s case, the consenting authorities are the individuals in a state of nature; whatever they agree to is, ipso facto, legitimate. Rather than concerning itself with the nature of the good, post-Lockean liberalism has tended to worry about guaranteeing people the equal authority to decide for themselves what is good.

When Locke argues, for instance in sections 40–44, that particular benefits flow from private appropriation or from the transition to civil society, he is providing substantive reasons to favor his conclusions; when he speaks of people consenting or contracting (e.g., section 45), he is providing formal reasons. The substantive benefits he seems to have in mind are the types of worldly advantage that had been cited by earlier social contractarians like Hobbes, who were explicit in their commitments to peace and prosperity. In his *Letter Concerning Toleration* Locke makes a sharp distinction between the “civil interests” in which governments are legitimately concerned and the spiritual affairs with which they should be uninvolved. Locke defines civil interests as “life, liberty, health, and indolency of body; and the possession of outward things, such as money, lands, houses, furniture, and the like.”<sup>11</sup> In being concerned for these goods, and most of all for civil peace, Locke shared the substantive commitments—the worldly definition of interests—of his immediate predecessors, and of Shaftesbury.

The lasting importance of the *Two Treatises*, though, may be that in them Locke refuses, by and large, to argue from such premises. Rather, he elevates the formal principle of individual consent to a position of superiority it

retains three hundred years later. Ironically, he does so only in order to render individual consent nugatory by way of its "tacit" mutation; what remains is "the public interest" inserted by the original consenters into the primordial social contract, the violation of which warrants revolution. Perhaps because of the inherent conflict between such a substantive criterion and the consent Locke thinks must legitimize it, however, he fails to specify what the criterion consists in. Consequently it has been a much less prominent legacy from Locke than has been the principle of consent. By the same token, modern appeals to the public interest remain rather vague, but in operation they seem invariably to concern improvements in either "outward things" or in Locke's other "civil interests"—life, health, and of course liberty. What has vanished is the ability to discuss whether these interests *are*, in fact, the sum total of the good life; the reason for this lacuna may be the fact that the place for disputing such substantive issues has been taken up by conflicts over the material resources that can enhance the equal liberty of each of us to "choose for ourselves" what is good.

To assume that Locke faced a similar context, as the revisionist scholars tend to do, means overlooking the fact that Locke *created* this context in the first place. The greatest significance of the earlier dating of the *Treatises* may be simply that, in replying to Filmer in the context of the early 1680s, Locke inadvertently emptied the substantive criterion of the public good of any determinate content, because he found himself justifying it on the grounds of a social contract. Ironically, had he written when popular sovereignty was no longer at issue, he might have produced precisely what earlier interpreters assumed was his intention: a defense of the actual consequences of the Revolution for the lives of the people.

## NOTES

1. "A Letter from a Person of Quality to His Friend in the Country," quoted in Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton, 1986), p. 188.
2. David Wootton, "Introduction," to idem, ed., *Political Writings of John Locke* (New York, 1993), p. 15.

3. Peter Laslett, ed., *Patriarcha and Other Works of Sir Robert Filmer* (Oxford, 1949), p. 273.
4. Michel de Montaigne, *Essays*, quoted in Richard Tuck, "The 'modern' theory of natural law," in Anthony Pagden, ed., *The Languages of Political Theory in Early-Modern Europe* (Cambridge, 1987), 110.
5. Locke, *Two Treatises on Government*, ed. Philip Abrams (Cambridge, 1967), p. 146.
6. Grocius quoted in Tuck, p. 117.
7. Rainborough quoted in Thomas A. Horne, *Property Rights and Poverty: Political Argument in Britain, 1605–1834* (Chapel Hill, 1990), p. 23.
8. Laslett, ed., pp. 187–188.
9. *Ibid.*, pp. 63–64.
10. *Ibid.*, p. 71.
11. John Locke, *A Letter Concerning Toleration*, ed. Patrick Ronnall (Ithaca, 1975), p. 17.

## FURTHER READING

Locke's most important works are the *Treatises*, the *Essay Concerning Human Understanding* and the *Letter Concerning Toleration* cited in the notes to the text above. His early *Essays on the Law of Nature*, ed. W. von Leyden (Oxford, 1954), and the *Two Tracts on Government* cited above are important to understanding his intellectual development, and the difference that seems to have been made by his contact with Shaftesbury. On the latter, K. H. D. Haley's *The First Earl of Shaftesbury* (Oxford, 1968) is the standard biography; a good biography of Locke is Maurice Cranston's *John Locke: A Biography* (Oxford, 1985). In addition to Filmer's writings in the edition by Laslett cited in the notes, there is a newer edition of Filmer's *Patriarcha and Other Writings*, ed. Johann P. Sommerville (Cambridge, 1991). Two secondary sources worth consulting are Gordon J. Schochet, *The Authoritarian Family and Political Attitudes in Seventeenth-Century England: Patriarchalism in Political Thought* (New Brunswick, NJ, 1988), and James Daly, *Sir Robert Filmer and English Political Thought* (Toronto, 1979).

The best overall treatment of Locke's political thought, with close attention to its relationship with his life and his philosophical and religious views, is David Wootton's introduction to his edition of *The Political Writings of John Locke*, cited in the notes above. This volume contains the most important selections from Locke's sometimes widely scattered writings. Wootton's introduction also presents important new evidence for a slightly different dating of the *Second Treatise* than past commentators have assumed, and he shows, contrary to previous interpretations, that Locke's contemporary, James Tyrrell, was probably the source of Locke's labor-mixing theory of property appropriation. The interpretation of Locke's property theory in Thomas Horne's *Property Rights and Poverty* (see note 7 above) is similar in some respects to the view presented in the present *Notes from the Editors*. Horne also provides excellent summaries of the property theories of Grotius, Hobbes, Pufendorf, Cumberland, the Levellers, and

Tyrrell. His work is criticized by Richard Ashcraft in *Critical Review*, Fall 1992, and Horne replies in the same journal, Summer 1994. A more exhaustive treatment of Locke and his predecessors is provided in Stephen Buckle's *Natural Law and the Theory of Property: Grotius to Hume* (Oxford, 1991). Alan Ryan's *Property and Political Theory* (Oxford, 1984) is filled with important insights and covers not only Locke and later English theorists, but Rousseau, Kant, Hegel, and Marx. The chapter by Richard Tuck cited in the notes is important in understanding the skeptical challenge to which the likes of Grotius were responding.

Leo Strauss's *Natural Right and History* (Chicago, 1950) and C. B. Macpherson's *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford, 1962) agree with the older view of Locke as a defender of property inequality, as Macpherson's title suggests. While both books offer many stimulating speculations about seventeenth-century political thought, their treatment of Locke lacks fidelity to the texts and to the actual historical context of the *Two Treatises*. The revolution in Locke scholarship began with the publication of Peter Laslett's edition of the *Two Treatises* (Cambridge, 1960), containing a long and valuable introduction. The scholar who has done the most to take up Laslett's challenge to rethink Locke's historical setting is Richard Ashcraft. His *Revolutionary Politics*, cited above, is a treasure-trove of research into Locke's involvement with Shaftesbury's Whigs and his political radicalism. In his *Locke's Two Treatises of Government* (London, 1987), Ashcraft advances a view of Locke's property theory that writes on economic radicalism. The most unambiguously radical interpretation of Locke's property theory, however, is James Tully's *A Discourse on Property: John Locke and His Adversaries* (Cambridge, 1980).

