

Shaftesbury, and that association ended in trauma. The necessity of going into exile, the loss of his position at Christ Church, the threat of trial and perhaps even execution were all connected in the mind of this careful, introverted, timid man with his having written on politics. When he returned in 1689 and made up his mind to publish what he had written, it was not to a country whose political future seemed stable. The return of James II was a possibility throughout the 1690's: if he had returned, it would have meant exile for Locke, and perhaps, he must have argued, a harder fate for the known writer of this book. His own experience and the treatment of his friends and associates made it clear to him that a Catholic Stuart monarch would not hesitate to use anything found in his private papers against him. This begins to explain his extraordinary furtiveness about the writing of *Two Treatises*, and his persistent refusal to admit that he had written it.

But there may be another reason, much more interesting for political thinking and for its relation with philosophy. It is possible that Locke was unwilling to let it be known that the same man who wrote the *Essay concerning Humane Understanding* also wrote *Two Treatises of Government* because he was quite well aware that it was no simple matter to reconcile their doctrines. We have described a man who disliked criticism and shrank from controversy. There can be no doubt that he would have had to face both of these things if his contemporaries had been invited to compare the assumptions of his theory of knowledge with the assumptions of his political principles. The critical issue was his view of the Natural Law. The reputation of Thomas Hobbes had been blasted beyond recovery, and one of the reasons was that he had laid himself open in this way. It is time to examine the relationship of Hobbes and Locke as a subject in itself.

## IV

## LOCKE AND HOBBS

1. FILMER, LOCKE AND HOBBS.  
'TWO TREATISES' AND CONTEMPORARY  
POLITICAL WRITING

If Locke wrote his book as a refutation of Sir Robert Filmer, then he cannot have written it as a refutation of Thomas Hobbes. It is almost as mistaken to suppose that he was arguing deliberately against *Leviathan* as to believe that he wrote to rationalize the Revolution. There would have been no point whatsoever for the intellectual champion of the Whig exclusionists to produce one more criticism of Hobbes. Professor Skinner\* has demonstrated that Hobbes did have an intellectual context and a following: he did not spring from nowhere and exist without effect, except on his opponents. But he was politically the least important of all the absolutist writers. Filmer, on the other hand, was the man of the moment, a formidable and growing force with those whose political opinions mattered, and representing in himself the *ipsum verba* of the established order. Therefore Locke found himself impelled to write on this subject, and for that reason Filmer's thinking lies directly behind his political doctrines. Moreover, his controversy with patriarchalism has a fundamental significance in the history of political and social thinking, for the development of the structure of modern society.†

Locke rejected Hobbesian absolutism along with Filmer's, of course: the word 'Leviathan' occurs in his *Second Treatise*, and there are phrases and whole arguments which recall the Hobbesian position, and must have been intended in some sense as comments upon them.‡ Moreover, the thinking of Hobbes was of systematic

\* See his three very interesting and convincing articles, 1965 (ii), 1966 (i) and (ii).  
† See Laslett, *The World we have lost*, especially chapter 9. Bastide, 1907, particularly 208-9, takes the view that Hobbes was an important political influence because of his purchase over Charles II's Court. Pollock again seems to have done most to establish the view that Locke was really writing against Hobbes: see 1904, 238, and also Vaughan, 1925; Gough, 1950. The most interesting assessment of Locke's relationship with Hobbes, and of the reasons why *Two Treatises* was not directed against *Leviathan*, is in Dunn, 1969 (i), chapter 7.

‡ See footnotes to II, § 19, 21, 98, 133, 211, 212.

importance to Locke and enters into his doctrines in a way which goes much deeper than a difference in political opinion. But this cannot alter the fact that Filmer's tracts occupy for the *Second Treatise* the position which has traditionally been reserved for the works of Hobbes. This has had some effects which have previously gone unnoticed.

Filmer influenced Locke, in the way all men influence those who choose to refute them. It was he, and not Locke himself, and decidedly not Hobbes, who set the terms of the argument. No doubt Locke would have found some opportunity to declare his belief in the freedom and equality of all men, but as it happened he was forced to do so at the very outset of his work on government, because Filmer had directly denied it, against Hobbes amongst others. It may well be that some of Locke's arguments would never have been developed at all if it had not been for Filmer. We have seen that he showed no sign of an interest in the theory of property before he sat down to this polemic, and found himself faced with an argument in favour of primitive communism which was very difficult to refute unless a new justification of ownership was devised.\* Patriarchalism influenced him in a more straightforward way, and in his concessions to it we may see in his thinking some signs that he recognized the limitations of his own intellectualistic rationalism.†

If in fact *Two Treatises* had been directed against Hobbes and not Filmer it would have been a far less interesting, far less influential work. To say this is not to claim that Locke did succeed in annihilating Filmer as completely as he himself believed, and as subsequent history seems to confirm. As a piece of formal dialectic what he wrote is less complete and in some ways less convincing, to his own contemporaries anyway, than the identical work of his friend Tyrrell.‡ It is true that Locke completely outclassed his chosen opponent in intellect and in scholarship. After he had added the detailed argumentation of the *First Treatise* to the

\* See above, p. 34 and note to II, § 25, 16-19. Tyrrell similarly developed many of his arguments only because of Filmer. Viano, 1960, esp. pp. 209 on, also insists on the importance of Filmer and patriarchalism to the understanding of both *Treatises*.

† See note to II, § 74, 14-37 and references, and compare Schochet, 1969, 1971.

‡ *Patriarcha non Monarcha* is fairer to the opposing case and considers it within its whole literary context, which *Two Treatises* does not. It is much more difficult to read, of course, and contains nothing comparable as a positive political theory, but I should like to retract the statement in Laslett, 1949, 38-9.

*Second*, we may feel that nobody could any longer believe that the texts of the Old Testament which Filmer had used to justify patriarchal kingship could possibly apply to contemporary monarchs. But what was the conscientious reader to believe about the content of Revelation and its relationship with the political world in which he lived, and about the origin of government? For Locke was assuming that in some way Old Testament history joined on, so to speak, with his account of what happened, but unlike Filmer he was never prepared to say quite how it did so.\* 'We must not deny the truth of the history of the creation', urged Filmer against Hobbes. Locke would not admit he was doing this, when in reality he was making use of rationalist arguments which simply could not be contained in Filmer's world of Biblical politics.

Not only did Locke refuse to meet Filmer on his own ground, and fail to recognize the full strength, antiquity and importance of the patriarchal tradition,† he persistently ignored the searching counter-criticisms which are the strength of Filmer's case. How could Locke's bland assertion of the historicity of a state of nature, of an agreement or compact behind all established government, of the justifiability of assuming universal concept to political institutions, be defended against Filmer's sceptical commentary? It was Tyrrell, not Locke, who recognized Filmer's needling effectiveness, and admitted that there was really no stopping place between the ground he and Locke occupied and logical individualism, final democracy, the sharing of political power with women, children and servants.‡ All this is quite apart from Locke's failure to share Filmer's vision of the emotional togetherness implied by all political relationships, the physically, physiologically natural element which, as has been argued elsewhere, political thinking since Locke has misunderstood to the danger of us all.§

\* See notes on I, § 130 and I, § 136.

† See e.g. note on I, § 64, 11-16.

‡ Tyrrell, 1681, 83-4; his only comment is that such a form of government had never existed. Locke's silence on this point laid him open to the extremist interpretations of the English supporters of the French Revolution; see the footnotes made by Elrington to the *Second Treatise*. It was this obtuseness, or inadvertence, or prudence, which makes it legitimate to describe him in colourful terms as a 'father of democracy', our sort of democracy. Compare Laslett, *The World we Have Lost*, 221-2.

§ Laslett, 1949, 42-3; Dunn, 1969 pp. 113-14 rejects this view of Locke's inferiority to Filmer in such directions. I now feel disposed to agree with his statement, that Locke and Filmer were at one on the 'banal truths' about family and society: compare Schochet, 1969(f).

Locke certainly absorbed something from patriarchalism. It has been shown above that there had been a time when he went a very long way with this traditional argument. But he did not learn enough, not enough to understand such institutions as the family, the nation, the community of a neighbourhood, as we think they should be understood. And Hobbes could do nothing with the patriarchal attitude. To him patriarchal societies were those 'the concord whereof dependeth on natural lust', and that was all. He was unwilling to distinguish the authority of a father from the naked exercise of force. In all these respects, then, Hobbes, Locke, Tyrrell, Sidney and the others were on the one side, with Filmer and the tradition he stood for on the other. Leibniz apparently classed *Two Treatises* with *Leviathan* in contrast with *Patriarcha*, and Leibniz was in no doubt that Filmer was Locke's target throughout the book. A controversy between Locke and Hobbes would have been within one party only, and could never have given rise to the characteristic political attitude of the modern world. A clash between two such men as Locke and Filmer was a symbolic, a necessary occurrence: it changed men's minds.\*

Nevertheless Hobbes and Filmer shared nearly every one of the attributes of absolutism as it was rejected by English parliamentarians—will as the source of all law and the form of all authority, the necessity of perpetual and absolute submission to the arbitrary dictates of an indivisible sovereign, the impossibility of mixed government. In so far as Locke's writing was directed against these things, it would not seem to have mattered whether it was Hobbes or Filmer he had in mind. But when his statements are examined closely it appears that the form of the absolutist positions he was rejecting was almost always Filmer's.† If it had been the precise content and force of Hobbes's statements which he wished to examine, he would have quoted them verbatim.

We can say this with some confidence, for Locke was a meticulous and practised controversialist. We have seen that he had known of Filmer's agreement with Hobbes for over a decade when he wrote *Two Treatises*.‡ When in the earliest work he wrote he

\*The whole content of patriarchal political argument in England, and of the significance for liberalism of its rejection, is set out by Schochet, 1966. For Leibniz, Locke and Filmer, see Jolley, 1975.

† See e.g. notes on II, § 92, 7: 11, § 93, 9.

‡ See above, p. 33. The sentence from Filmer quoted there continues: 'I consent with him [Hobbes] about the rights of exercising government, but I cannot agree to his means of acquiring it.'

commented on Bagshaw, and when he defended himself against Stillingfleet and Proast much later on, Locke carefully cited paragraph and sentence of the book he was discussing. He did so, with exasperating tediousness, in the *First Treatise*, out of Filmer. There is no reason why we should expect him to behave differently in the *Second Treatise* if Hobbes had been his critical target there.

Locke's habits in controversy, and the facts we have cited about the importance of patriarchalism at this time, make it impossible to argue that Filmer was simply Locke's whipping boy, his opportunity for attacking Hobbes by proxy. No doubt there was something faintly ridiculous about Filmer even by the year 1679. But we have seen that both Locke and Shaftesbury seemed to take him quite seriously not very long before. It is even more wrong-headed to suppose that the point of this public flagellation was to humiliate the Hobbesists among the spectators, a lash or two being aimed at them directly. Locke never called Filmer a Hobbesist, nor said anything to link the two names together, though Sidney did not hesitate to do so, and Tyrrell also commented on Hobbesian positions whilst engaged with Filmer's.\*

Indeed it cannot be shown that when he wrote Locke had had any recent contact with *Leviathan* or with any other work of Hobbes at first hand.† If it were not for the passages in the *Second Treatise* which are Hobbesian in flavour or seem to have been directed particularly at him, we should not know that Locke was concerned in any way with Hobbes as a thinker at that time, for his notes, his diaries, his letters, his book lists and purchases show no sign of such an interest. His one overt mention of the word *Leviathan*, in paragraph 98 of the *Second Treatise*, is very far from specific: indeed if it were taken literally it would seem to imply a serious misunderstanding, or misremembrance, of Hobbes's doctrine.‡

\* See, e.g. Sidney, 1772, 5 and Tyrrell, 1681, 138-41, 2nd pagination. On p. 209 he accuses Filmer of directly borrowing from Hobbes, which is historically almost impossible.

† He lent his *Leviathan* in 1674, and did not get it back till 1691. He possessed no other political or philosophical work of Hobbes.

‡ 'Such a Constitution as this would make the mighty *Leviathan* of a shorter duration, than the feeblest Creatures.' The 'constitution' at issue would require universal consent to all the acts of a political body, though Hobbes accepted decision by a majority in assemblies. The passage is clearly ironic and general, not a comment on a passage in Hobbes, see note there.

There is an interesting parallel to this in Locke's *Essay on the Understanding*. Again, he mentions *Leviathan* only once in the course of that lengthy work, which covers a great deal of the same ground as Hobbes had done, and which many commentators have also supposed was written with Hobbes in mind. And again he mistakes the Hobbesian case in a passage which was clearly also meant to be sarcastic and general.\* Nevertheless his *Essay* shows clear signs of proximity to Hobbes, even on the critical subject of property and justice. "Where there is no property there is no injustice" is a proposition as certain as any demonstration in Euclid', says Locke in his *Essay*.† 'Where there is no *Own*, that is no Propriety, there is no Injustice', says *Leviathan*,‡ and Hobbes goes on to a conclusion that Locke decisively rejected, not in the *Essay*, but in *Two Treatises*, that property cannot exist before and apart from government. Did Locke when he wrote this striking re-echo of a phrase of Hobbes consciously recollect its source? All these examples suggest that he did not: He seems to have been in the curious position of having absorbed Hobbesian sentiments, Hobbesian phraseology in such a way that he did not know where they came from: his early reading, never repeated, perhaps; or other men's books and the general discussion of Hobbes; or both.

The exact literary relationship between the two men, then, is an interesting and intricate study. Locke never escaped the shadow of *Leviathan*. As we shall see, there were men in Oxford who suspected him of leaning in a Hobbesian direction in the early 1690's, and in 1693 Isaac Newton himself asked Locke to pardon him for having done the same. Newton was in a neurotic, or even a

\* 1, iii, 5 (Niddich, ed., 68), where he claims that a Hobbesist kept his promise because the public required it and because of the fear of punishment by *Leviathan*. In fact, of course, the keeping of covenants was the third of the laws of nature, as Hobbes understood them. Some commentators on Hobbes might say that Locke was ultimately right in this reflection, but he surely would not have formulated this fundamental criticism in such an offhand way if it had been seriously intended.

† 1v, iii, 18 (Niddich, ed., 349). Locke had made a very similar statement many years before: 'Quid enim iustitia ubi nulla proprietates aut dominium', eighth *Essay on the Law of Nature*, Von Leyden, 1954, p. 212, and he developed it in his *Education*, § 110: 'Children cannot well comprehend what injustice is, till they understand property' (*Works*, 1801, ix, 101, passage added in later editions). In the *Essay* Locke even hints at his justification of ownership in terms of industry: 'Just the same is it in moral knowledge: let a man have the idea of taking from others, without their consent, what their honest industry has possessed them of, and call this *justice* if he please' (Niddich, ed., 367).

‡ Chapter 15, 1904, 97-8. It is probable that both Locke and Hobbes were here using 'property' in the wider sense, of which material possessions is only one part. See below, p. 101.

psychotic state at the relevant time, but during the controversy over his views on Christianity which grew so violent in the late 1690's Locke found himself directly accused of reproducing Hobbesian positions by other eminent intellectuals. In 1697, Richard Willis, later Bishop of Winchester, claimed that the thesis of Locke's *Reasonableness of Christianity* (1695) was 'consonant to the words of the *Leviathan*, whence his doctrine is borrowed, Part IV Ch. 43',\* and the more forthright John Edwards henceforth described his theological writings as written all over with Hobbesism. When the two passages are compared, the resemblance is surprisingly close: there is little verbal similarity, and the common use of some texts of scripture is to be expected, but the doctrine is almost identical. Locke replied to his critic at the very end of *A Second Vindication of the Reasonableness of Christianity*, 1697: 'I tell him, I . . . did not know those words, he quoted out of the *Leviathan*, were there, or any thing like them. Nor do I know yet, any farther than as I believe to be there, from his quotation.'†

This may insinuate that he had never read *Leviathan*, as it certainly declares his unwillingness to do so much as open the book and check a reference when the challenge arose. Indeed the resemblance in this case could have been coincidence, a result of that rationalist attitude which the two men had in common, applied here to the Christian Revelation. Or it may likewise be a case of a man having read something many years before, having read it and forgotten it, which he then reproduced as a notion of his own. This view, the more sympathetic one, seems to me to be the more likely. When Locke wrote philosophy he 'utterly refused to read any books upon that subject' so as to keep other men's notions out of his head.‡ He said of politics 'This subject . . . requires more meditation than reading',§ and when he wrote on political theory he may also have made a conscious effort to spin everything out of his own mind, to take nothing from the thoughts

\* *Occasional Paper* No. 1, 1697. On Newton's accusation, see Dunn, 1969 (i) p. 81, where he also reproduces from one of Locke's notebooks of the 1680s an extract from an interesting judgement of Hobbes and from Cranston, 1917, 133, a mention of 'Mr. Hobbes's doctrine'.

† *Works*, 1801, vii, 420. Locke may be prevaricating here, for in the same tract he denied all knowledge of Socinian literature which he certainly possessed and had almost certainly read: a year or two later he was citing it in his Biblical annotations.

‡ This is independent testimony. Tyrrell to Locke, 18 March 1690 (de Beer 4, 36). § *Works*, 1801, x, 308.

of other men. The result was that he reproduced some ideas from books which he had read, even books he had read to reject.

'I am not so well read in Hobbes or Spinoza', he said in 1698, and made an ironical comment about 'those justly decried names'.\* He did read Hobbes nevertheless, although it is so difficult to say when, or how much. The cumulative body of Locke's notebooks is very considerable, and it consists to a very large extent of citations of the books of other men, referenced and arranged with monumental carefulness. It is a most remarkable fact that it has not been possible to find a single referenced extract from the works of Hobbes in the whole Lockeian corpus. Only one citation has so far come to light, and that is not found in a notebook, but on the flyleaf of a volume in his library, published in 1668: even then the famous passage from *Leviathan* written there is given without its source, and might appear to the unwary reader to have been a sentiment written by Locke himself.† We have seen that when he was young, when his tendency was authoritarian and his analysis at its closest to Hobbes, his acquaintance with him was as much, perhaps, through literature about him as through direct reading.‡

The young Locke may well have gone through an experience which must have been common after 1651, when *Leviathan* appeared, and was much in demand, as Pepys tells us, in spite of its ugly reputation. Hobbes fascinated him, then and for the rest of his life. He found it an effort to reject his doctrine, though he did reject it very early. When he wrote *Two Treatises*, then, *Leviathan* was an influence, a gravitational constant exercised by a large body though at a great distance. But an influence nevertheless, positive in its effects, and quite unlike the influence of Filmer, which, though

\* *Works*, 1801, IV, 477; compare Strauss, 1953, p. 211.

† It is in Locke's copy of Velschius, *Sylloge Observationum Medicinalium*, Ulm, 1668 (H. and L. 3062): 'In wrong or noe definitions, Iyes and first abuse of speech, from wch. proceeds all false and useless Tenets; wch. make those men who take their instruction from the authority of books, not from their owne meditation to be as much below the condition of ignorant men, as men indued with true science are above it. For between true science and erroneous doctrines Ignorance is in the middle.' [*Leviathan*, chapter IV (1 ed. 1651, 15).] Arthur Wainwright, working on the Scriptural commentaries which engaged Locke in the final years of his life, has discovered similarities between the theology of the two thinkers (Wainwright, 1987). Otherwise the intensive research on Locke's papers which has proceeded over the last twenty years has failed to produce any further evidence of close literary relationship between the two men.

‡ See above, p. 21. Cox, 1960, lists several derivative references. There are other surprises in Locke's reading: e.g. his failure to get much further with Hooker than the first book (above, p. 56), his statement that he never read Sidney (*Works*, 1801, III, 272).

negative in its direction, was a close up, documentary affair.

Under these circumstances it is idle to look for a direct source, or the source, of Locke's political thinking in Hobbes or anyone else. But of the writers he consulted when engaged on his book, Samuel Pufendorf was perhaps of the greatest use to him, in spite of the fact that their views on constitutional matters were in such contrast. He took advantage of Pufendorf's arguments, he reproduced his positions, and he described his major work as 'the best book of that kind', better than the great Grotius on *War and Peace*.\* Now this book of Pufendorf's, the *De Jure Naturae* (1672), had much to say about Hobbes. Here, and in his *Elementa* of 1660, Pufendorf criticized Hobbesian doctrine, but he accepted and appreciated something of the Hobbesian analysis. Locke possessed other critiques of Hobbes.† It is perhaps in this direction that we should look for the documentary connection between Hobbes and Locke in the *Two Treatises*.

This account can only be tentative, and it may seem unsatisfactory to those who expect such a literary relationship to fit a framework neatly fashioned from 'influence' and 'rejection', expect it to be a wholly conscious and independent affair. It never is. Hobbes and Locke were caught up within the living tissue, the innumerable threads and fibres growing together, which connects one intellectual generation with its successor in the same country, in the same small society. We have seen that it was from this source, from conversation and casual contact, not from documentary acquaintance, that Locke inherited the fruit of the radical writings of the Civil War.‡ With his interests and with his experience, he could never have escaped the Hobbesian impact.

We must describe *Two Treatises*, then, as a deliberate and

\* *Works*, 1801, III, 272, *Thoughts Concerning Reading and Study*. He also recommended Pufendorf in his other list (x, 308). On Pufendorf as used by Locke, see notes on II, 58, 65, 74 (Pufendorf and Tyrrell), 103 etc. In 1702 Barbeyrac began a correspondence with Locke, asking his advice, and telling him of his intention to translate Pufendorf.

† Clarendon, 1676 (bought December 1681); Tenison, 1670; Lawson, 1657. Locke also had a positively Hobbesist work in Matthew Wren's *Monarchy Asserted*, which had been known to him from the time of its publication in 1659, and was on his shelves in 1681. Von Leyden (1954, p. 39) states that Locke had read Pufendorf's *Elementa* as early as 1660.

‡ See above, p. 22. Mr Abrams draws attention to the close personal link between Hobbes, Henry Stubbe and perhaps other students of Christ Church in the late 1650s, and cites Stubbe's letters to Hobbes; British Museum Add. MSS. 32553.

polemically effective refutation of the writings of Sir Robert Filmer, intellectually and historically important because of that fact and not in spite of it, related only in the indirect way we have discussed with the work of Hobbes, though antithetical in its political and constitutional doctrine. It was other things as well, of course, and it is as an independent treatise on politics that it has had its influence, although its connection with Hobbes has so often been distorted and exaggerated. It was intended to affect, and it most decidedly did affect, the political and constitutional beliefs of the Englishmen who created the constitution and the political habits under which we still live. But there was one thing it did not contain which every similar treatise included as a matter of course: there was one set of interests passionately pursued by the men who read it and accepted its doctrines, which it made no play upon; there was one 'Whig', or 'liberal', or anti-absolutist intellectual tradition about which it had nothing whatsoever to say. This tradition, these interests, this argument, made up the historical case for English liberty, for the Common Law, for the House of Commons, for the 'ancient constitution', a case which had exercised all Locke's like-minded predecessors since the days of Sir Edward Coke and which had suffered a severe reverse at the hands of Sir Robert Filmer himself.

In *Two Treatises* as we now have it Filmer's constitutional position is never mentioned at all. No reference is made by Locke to the later part of *Patriarcha* and to the *Freeholders Grand Inquest* where the argument is presented, in spite of the fact that the *Freeholder* stood first in order of the works of Filmer as Locke considered them. When he set out his method of referring to Filmer's tracts,\* he blandly ignored the existence of the *Freeholder*. In so far as Locke touched at all on the historical case which he, Shaftesbury and the Exclusionists were all fighting for, it seems to have been in a chapter inserted later in order to upset the antithetical case based on conquest. But Filmer had not used that argument, and here Hobbes may conceivably have been his target, for Hobbes unlike Locke did attempt to demonstrate his case in

\* See above, p. 58: Locke once cites the part of *Patriarcha* which deals with the constitution (Laslett's edition, 106-26: the citation is in I, § 8, 30-2 and quotes a passage from p. 133), but he does not comment on it. It is interesting that 60 per cent of all Locke's references to Filmer in the book as we now have it intend pp. 53-64 of *Patriarcha*, and 80 per cent this and four other passages only.

terms of English historical fact.\* As far as Locke was concerned, Filmer might never have made the statements which maintained that the House of Commons was not originally a part of Parliament, that it was first summoned in the forty-ninth year of Henry III and owed its existence, as did all English law, even the Common Law, to the Royal will.† To the constitutionalists of Locke's day and ours arguments of this sort mattered a very great deal: to Locke, apparently, they mattered not at all.

We must say 'apparently' because it should never be forgotten that more than half of Locke's text is lost. It may be that in the missing portion he did develop a case against Filmer's constitutional position and a direct commentary on the legal issues raised by the Exclusion controversy. If it is justifiable to suppose that he destroyed this very part of the text because it contained statements which might have cost him his head, then it would seem likely that it did concern matters much closer to the law of treason than did the rest of the *First Treatise*.‡ But in the brief sentence which Locke gave to constitutional and legal history in the *Second Treatise* he merely 'sent his readers' to a group of writers, whose works he did not own and evidently had never read. He repeated these titles in his lists of recommended books in 1703 and named one or two 'ancient lawyers', all Whig-tainted source books. He added the writings of some of the authors who had engaged in the controversy on the Whig side. He even used this phrase of them: 'wherein he will find the antient constitution of the government of England'.§

\* See note on I, § 175 (chapter xvi) and on § 175 itself. There is no evidence whatsoever that Locke had read the lesser works of Hobbes listed there. Skinner, 1966 (ii) presents a convincing case for conquest being a commoner argument than is allowed above: compare Goldie, 1977.

† See *Patriarcha*, pp. 106-26, especially p. 117, and the *Freeholder, passim*. It is Mr Pocock in his important book *The Ancient Constitution and the Feudal Law*, 1957, who has demonstrated how far-reaching were the effects of these statements and how difficult Filmer's opponents found it to answer them. Selliger, 1968, 233ff, submits that Locke's disregard of history was due to his polemical purposes, rather than to indifference; literal historical argumentation was no longer effective.

‡ See above, p. 64.

§ See I, 239, 42-3 and note: *Works*, 1801, III, 272-3, and X, 308. Of the titles in these lists, Locke possessed the works of Tyrrell, seven of those of Atwood, in the worst of the Whig constitutional writers; Sadler's *Rights of the Kingdom*, 1682; the 1689 *State Tracts*; Chamberlayn's *Anglia Notitia*, 1700. (See Harrison and Laslett, 1965; he had no relevant title by Coke, Spelman, Bracton, Petyt or Brady, nor the *Mirror, Fleta*, the *Modus Tenendi*.)

Though it would be very difficult to argue convincingly that the complete *Two Treatises* contained a lengthy constitutional argument, now lost, the Constitution was undoubtedly in Locke's mind in 1689. Just before he left Holland, when he must have been considering whether to publish his work on *Government*, he wrote thus to Clarke: 'The settlement of the nation upon sure ground of peace and security . . . can no way so well be done as by restoring our ancient government; the best possible that ever was, if taken and put together all of a piece in its original constitution. If this has not been invaded men have done very ill to complain. . . . Now they have an opportunity offered to find remedies, and set up a constitution, that may be lasting, for the security of civil rights and the liberty and property of all the subjects of the nation.'<sup>\*</sup>

The absence of specifically constitutional discussion from his text, therefore, is not only extraordinary in view of what had been previously written and in view of the attitude and expectations of the men who first read it. It makes the book unique. It was at once a response to a particular political situation and a statement of universal principle, made as such and still read as such. This work, the authoritative statement of Anglo-Saxon political assumptions, often regarded as one of the testaments to English historical and constitutional development, refers to England as 'a neighbour kingdom', and the Common Law as 'the municipal law of some countries'.<sup>†</sup> Neither Machiavelli, nor Hobbes, nor Rousseau succeeded in making the discussion of politics so completely independent of historical example, so entirely autonomous an area of discourse, yet Locke has affected the everyday activity of practising politicians more perhaps than any of them.

This is a tribute both to the effectiveness of the political theorist's technique in general and to Locke's particular exercise of it. Only a man of such endowment as an abstract thinker could have transformed the issues of a predominantly historical, highly parochial political controversy of this sort into a general political theory. That it should have been done in a sense in anticipation of events, so that from hindsight it has always looked as if it were a rationalization of something which had not yet occurred when it was written, emphasizes this quality still further, marks it perhaps

<sup>\*</sup> Letter to Clarke, 8 February 1689; de Beer, 3, 545.

<sup>†</sup> See I, § 90, 29-31; II, § 205, 11.

with the distinctive sign of this particular discipline of the mind and the imagination. Locke's instinct in leaving the whole legal, historical and constitutional controversy on one side, in deciding, when something of this sort had to be undertaken, to place it apart from his analytic argument, was eminently correct and in this character. This is why his book is with us, and Tyrrell, Petyt, Brady, even Filmer and Sidney, have sunk beneath the surface of our intellectual and literary tradition. We should expect that a man capable of this would be a philosopher, even if he turned out to be a philosopher unwilling to admit that he had written out a political theory.

But in what sense should we expect his philosophy to be related to his political theory? If we ask ourselves this question we can discover an exquisite contrast between the Civil Philosophy of Hobbes and Locke's Political Principle.

## 2. LOCKE THE PHILOSOPHER AND LOCKE THE POLITICAL THEORIST

In August 1692 Tyrrell sent to Locke a copy of his newly published book on natural law, with this comment:

I hope that this treatise may give the world sufficient satisfaction, or at least may excite your self, or some other thinking person, to give the world a better account of the Law of Nature and its obligation, than what hath been already performed, as also to confute with better reasons the Epicurean principles of Mr Hobbes. For the doing of which I know no man more capable than yourself if you please to undertake it, and shall no more resent it than the publishing of the *Two Treatises of Government* after *Patriarcha Non Monarcha*. Since, if truth can be better represented and improved by a greater hand, I shall not value my small performances [the less if they] serve for a foil to set it off.\*

This letter hints at much of the relationship between a great literary figure and his less distinguished, less successful friend, as it shows that Tyrrell by this time was one of the few who certainly knew

<sup>\*</sup> Tyrrell to Locke, 9 August 1692 (de Beer 4, 79), spelling and punctuation modernized, and words within square brackets supplied. The work was *A Brief Disquisition of the Law of Nature*, 1692, a paraphrase of Richard Cumberland's *De Legibus Naturae Disquisitio Philosophica*, 1672, with special emphasis on his polemic against Hobbes.

that Locke had written *Two Treatises*. But it also makes it clear that Tyrrell was not satisfied with what had been said on natural law in that work or in the *Essay on Humane Understanding*, and felt that Hobbes had still to be confounded, by Locke himself. And it comes at the end of an exchange between the two men which almost severed the friendship of a lifetime.

Between December 1689 and April 1690 Tyrrell wrote six times from Oxford to Locke in London, telling him how his *Essay* was being received, and reporting criticisms of it. In three of his letters he also asked the name of the author of *Two Treatises*, and though Locke seems to have replied four times, defending himself against the criticisms, he refused to answer that question. When Tyrrell told him that 'the people in Oxford had now found out a better author than I for it, viz. yourself, your answer was to this effect, that since they would not have you to be the author of a book that you owned' (this was the *Essay*, which his critics were saying was lifted from Descartes) 'you did not think it worth while to give them any satisfaction in those that you did not own at all'. In April Tyrrell came to London and faced him with his suspicions about the work on government, but Locke 'declined the discourse' and was told he must 'thank your own reservedness' if the results were unfortunate.\* On his return in June, Tyrrell read the *Essay* again and discussed it 'with some thinking men at Oxford'; he found them 'dissatisfied with what you have said concerning the law of nature (or reason) whereby we distinguish moral good, from evil and virtue from vice'.

The coincidence of these two things, the suspicion that he had written *Two Treatises* and that he was unsound on natural law, seems to have infuriated Locke, but the explosion was delayed a little while. He saw Tyrrell again in July, and gave him a paper of explanation which seems to have maintained that natural law 'since it did not proceed from God as a lawgiver . . . could not properly be called a law, and the not taking God into this hypothesis has been the great reason of Mr Hobbeses mistake that the laws of nature are not properly laws nor do oblige mankind to their observation when out of a civil state or commonwealth'.† In August Locke seems to have found reason to suppose that Tyrrell had been spreading the report about his authorship of *Two*

\* Leibniz was apparently informed by a London correspondent that Locke wrote *Patriarcha non Monarcha*.

† Tyrrell to Locke 30 June, 27 July, 30 August 1690 (de Beer, 4, 108, 118).

*Treatises* and he lost his temper: he sent him an icy letter repudiating the attack on the *Essay* and enclosed another one, now destroyed, demanding an explanation about *Two Treatises*.

The letter in defence of the *Essay* has always been regarded as the most important source for Locke's attitude to his critics,\* but its context has been previously unknown. If the statements on natural law in *Two Treatises* are set alongside those references in the *Essay* which are discussed in this correspondence, it will be seen why he had reason to be annoyed with Tyrrell at this time. Throughout the political work the expression natural law is used with suave assurance, as if there could be no doubt of its existence, of its meaning, of its content in the minds of author and reader. It is 'plain and intelligible to all rational Creatures' (II, § 124), it is so much a positive code that it governs the state of nature (II, § 6), but its obligations 'cease not in Society'; all men everywhere must be 'conformable to the Law of Nature, i.e. to the will of God' (II, § 135). In the *Essay* it is allowed, in parenthesis, that natural law does not depend on the existence of innate ideas: nevertheless men should not deny 'that there is a law knowable by the light of nature' (I, II, 13). But when it comes (II, xxviii, 7-) to the description of the law or rules which men actually refer their actions to, no natural law is mentioned. In this exchange of letters Locke fails to convince Tyrrell that natural law can be equated with or made part of divine law, civil law (the law of the law-courts) or the 'philosophic law' (in later editions the 'law of opinion or reputation') which he maintains as a matter of fact the standards which men use to judge of right and wrong. The *Essay* has no room for natural law.

So sharp here is the contrast between two almost contemporaneous works by the same man that in one passage in *Two Treatises*, perhaps in a second passage also, Locke uses language on the subject of natural law which seems inconsistent with his own statements about innate ideas in the *Essay*.† Questioning on this point cannot be pressed too far, for we are told that 'it would be besides my present purpose, to enter here into the particulars of

\* It was printed by King (1930, 366-73), from a copy preserved by Locke, his only extant letter to Tyrrell, and now in Bodley, dated 4 August 1690 (de Beer, 4, 110-13). It may, indeed, have never been received by Tyrrell in this form: perhaps a milder version was actually sent. Aarsleff, 1969, takes a different view of this letter.

† See note on II, § 11, 30-1 ('so plain was it writ in the Hearts of all Mankind'). I, § 86, 20-1 and references, where it is recorded that neither Yolton nor Kemp is willing to accept that Locke was literally contradicting himself.



the Law of nature, or its *measure of punishment*; yet, it is certain there is such a Law, and that too, as intelligible and plain to a rational Creature, and a Studier of that Law, as the positive Laws of Commonwealths, nay possibly plainer' (11, § 12). It seems that it was always 'beside his present purpose' for Locke to demonstrate the existence and content of natural law. He did not do so in his *Essay*, even in the 2nd edition where the passage in the second book which Tyrrell had complained of was rewritten. He would not do so by bringing out his early *Essays on the Law of Nature*, which Tyrrell asked him to do in the course of their exchange.\* As Dr Von Leyden has shown, these earlier essays would not have provided a doctrine of natural law capable of reconciling the theory of knowledge in Locke's *Essay* with the ethical doctrine of that work and of *Two Treatises*. This, it is suggested, may have been one of the reasons why Locke was unwilling to be known as the author of both books.

Locke is, perhaps, the least consistent of all the great philosophers, and pointing out the contradictions either within any of his works or between them is no difficult task. Sometimes it seems quite clear that he was unconscious of his inconsistency; at other times, and this appears to be one of them, he himself realized his dilemma, but was unable to find a solution. The objective existence of a body of natural law is an essential presupposition of his political theory and when we find him using the phrase we should perhaps think of him as taking up what might be called a stance to a series of possible explanations. Natural law, in his system in *Two Treatises*, was at one and the same time a command of God, a rule of reason, and a law in the very nature of things as they are, by which they work and we work too. This conception of adopting a more or less conscious stand - pat attitude could perhaps be used as a general sympathetic approach towards the problem created by Locke's ethical statements, which point in many directions at the same time and which have been much discussed.† It invites us to

\* Tyrrell to Locke, 27 July 1690, compare Von Leyden, 1914, 9-10. Aarsleff, 1969, pp. 128-9, takes a view of this letter quite contrary to my own, and goes to some lengths to disprove the claim that Locke's *Essay* contained no natural law doctrine.

† See, e.g. Leslie Stephen, 1876; James Stephen, 1892; Lamprecht, 1918; Vaughan, 1925; Kendall, 1941; Von Leyden, 1914 and 1916; Strauss, 1913; Simon, 1911; Yolton, 1915; Brogan, 1918; Polin, 1960; Singh, 1961; Abrams, 1961; Aarsleff, 1969; Ashcraft, 1969, 1987. The trouble was that Locke based right and wrong on God's commands and punishments, but also adopted a hedonistic ethic as well, an ethic of the Hobbesian sort. Meanwhile he passionately believed in the possibility of demonstrating his ethics mathematically, though he was perpetually complicating everything with his anthropological relativism, noting the variety of ethical values among the world's peoples and hinting that virtue and vice were simply customary.

look upon *Two Treatises* as something very different from an extension into the political field of the general philosophy of the *Essay*, and reminds us that Locke differed in the character of his thinking from Hobbes. He did not reply to *Leviathan* because it was irrelevant to his purposes as a writer of political principle.

It is natural that posterity should have chosen to look upon the philosophical and the political work as complementary. But Locke himself, as we have shown, was perfectly willing, indeed very anxious, that they should be seen apart. There is interesting evidence that even the truly theoretically minded of those who acquainted themselves with both books saw no continuity between them, or perhaps found *Two Treatises* so lacking in philosophical interest that it never struck them as appropriate to consider it in the same context as the *Essay*. Mr Jolley says of Leibniz that 'he never connected *Two Treatises* with the *Essay*, although... he considered it as a serious work of political philosophy, worthy of being set alongside Aristotle and Hobbes. One might infer that the idea of examining the consistency of the two books never occurred to Leibniz.'\* It is easily demonstrated that the literary continuity between them was about as slight as it possibly could be under such circumstances.

The close analysis of his text has revealed only one example of this author using identical material in both works,† and then in a passage probably inserted later. The style, the type of argument, the atmosphere are all recognizable as from the same writer, but in every other respect they differ remarkably. *Two Treatises* is not written on the 'plain, historic method' of the *Essay*. If it were, we might expect in the first place that it would insist on the limitations of our social and political understanding, for that is Locke's chief enterprise in the *Essay*, to portray the character of our knowledge by showing up its limits. Then the situations, the rights, the duties discussed, would have been presented recognizably as the 'complex ideas' or 'mixed modes' of Locke's system of knowledge, the product of ratiocination and therefore fixed and definite, capable of entering into a mathematically demonstrable morality.

\* See Jolley, 1972. He goes on to consider why it was that Leibniz, by no means averse to discovering incoherencies in Locke's thought, never took note of those inconsistencies between *Two Treatises* and the *Essay* which would seem, from what he wrote on the relevant topics, to have been patent to him. 'Perhaps Locke's fear of being taken to task for the disjunction between the works was indeed unnecessary because even in his day political theory had its autonomy as an arena of discourse and works belonging to it were not readily seen as philosophical, in intent or in their implications.'

† See note on 1, § 17.

Just such a discussion is implied by, or even begun in, the statement about property we have quoted, and there are many other examples.\*

Some such construction as this might be made by a modern scholar attempting to create a theory of politics out of Locke's *Essay*, if, as so nearly happened, it had never become certainly known that *Two Treatises* was also Locke's.† Such an exercise might have illuminating results, though it cannot be our subject here, for the implications of Locke's theory of knowledge for politics and political thinking were very considerable and acted quite independently of the influence of *Two Treatises*. The famous doctrine of the *tabula rasa*, for example, the blank sheet of the mind on which experience and experience alone can write, made men begin to feel that the whole world is new for everyone and we are all absolutely free of what has gone before.

The political results of such an attitude have been enormous. It was, perhaps, the most effective solvent of the natural-law attitude. In a sense these results were intended. For though Locke wrote the *Essay* about how men know things, his final object, the object he had in mind when he started, was to help men to know what to do. 'Our business here is not to know all things', his classic statement goes, 'but those which concern our conduct.' He keeps on slipping into this mood throughout the book, but the only work he actually produced on how men should behave was *Two Treatises*. And it cannot be said to represent his account of the implications for conduct, for politics, of the doctrines of the *Essay*. It was written for an entirely different purpose and in an entirely different state of mind.

None of the connecting links is present. It is extraordinary, for example, how little definition there is in the political work, though the *Essay*, is, as it should be, much concerned with definition and though he reproaches Filmer for failing to define. *Two Treatises*

\* See p. 72 above, and an even better illustration in the note to II, § 22, 8-9, citing a passage from Locke's *Essay* on the ideas of absolute liberty and of government. Chapter 8 of Yolton, 1970, is entitled *Property: an example of mixed-mode analysis* and he examines Locke's notions exhaustively on this model. He does not claim, however, that all of the subjects of Locke's book could be thus explicated. For a different view of *Two Treatises* and the *Essay*, see Polin, 1960, and compare Dunn, 1967; Edwards, 1969.

† In 1983 Neal Wood published just such an attempt on neo-Marxist lines; *The politics of Locke's philosophy*, an impressive and important reinterpretation.

relies heavily upon natural law, but the term, as we have seen, is never analysed there. It is all about freedom and consent, but they are nowhere discussed as subjects in themselves. It is the same with law, with reason, with will, with government itself. Political power is defined, and so is property (though used in two meanings, alternated without warning), but not in philosophical terms, on nothing like the principles laid down in his *Essay* and insisted upon from his earliest writings.\* Prof. Dunn has shown that justice was a Lockean theme, but it is largely absent from *Two Treatises*. The issue about justice and property is never raised, though there is a reference to it in the *Education*. Even more singular, perhaps, is the way in which Locke brushes aside the question of conscience and political obligation, which had worried him as a young man as it had worried all his predecessors and contemporaries.†

If we try to pass from one work to another and use the definitions offered in the *Essay* for the political discussion, we find that they do not fit very well: at least one important term, consent, is not defined even there. The political argument is not presented as a part of a general philosophy, and does not seem to be intended to be read as such. There is a note in Locke's journal which was written at the time when, as we suppose, he was working over *Two Treatises*, and adding the Hooker quotations. It reads almost as a conscious commentary on the relationship between philosophy, ethics and politics. He had just expressed his belief in the possibility of demonstrating ethics, and his scepticism about the potentialities of natural science. He goes on:

The well management of public or private affairs depending upon the various and unknown humours, interests and capacities of men we have to do with in the world, and not upon any settled ideas of things physical, polity and prudence are not capable of demonstration. But a man is principally helped in them by the history of matter of fact, and a sagacity of finding out an analogy in their operations and effects.

[The truths of mathematics are certain.] But whether this course in public or private affairs will succeed well, whether thubarb will purge or quinquina cure an ague, is only known by experience, and there is

\* On Filmer, and definition, see note on I, § 23, 22-3, and references: on meanings of property, p. 101 below.

† See above, p. 72 note † on property in the *Education*, and note on I, § 103, for Locke's slight reference to conscience. On justice, see Dunn, 1967 (ii).

but probability grounded upon experience, or analogical reasoning, but no certain knowledge or demonstration.\*

Empirical medicine, rather than philosophy, seems to be the model for the man who sets out to comment on political matters. Locke the doctor rather than Locke the epistemologist is the man we should have in mind when we read his work on *Government*. To call it 'political philosophy', to think of him as a 'political philosopher', is inappropriate.† He was, rather, the writer of a work of intuition, insight and imagination, if not of profound originality, who was also a theorist of knowledge.

He was also a writer on economics, toleration and education, active in many areas where political generalization had to be made. When the text of *Two Treatises* is put alongside these other works, the literary relationship is found to be somewhat closer than in the case of the *Essay*.‡ Religious freedom was a fundamental to Locke and the assumptions on which he based it are common to the writings in defence of it and to the writing on politics, yet it is not mentioned in *Two Treatises*.§ His economic theory has some points in common with his political principle, and his educational theory has even more: there are details from the political text which can be seen developing in his later writings, especially the successive editions of the *Education*. But the inconsistencies are even more conspicuous. It would indeed be difficult to show that they entail one another, or that they all arise with a logical necessity from his theory of knowledge. Even between the *Essay* and the work on education, where the barrier of anonymity is absent

\* Journal, 1681, under 26 June, modernized: printed in full by Aaron and Gibb, 1936, 116-18. Dugald Stewart seems first to have stressed the importance of Locke's medical experience and attitude for his ethical and political thought.

† Compare Strauss, 1933, 220-1. I am unable to follow him, however, when he claims that the *Treatises* are the 'civil' presentation of a political doctrine which could have been presented 'philosophically'. The passage which he cites from the *Essay* (III, ix, 3) seems to state quite clearly that the civil use of words in ordinary affairs can only be discussed by the philosophic use of words, and so *Two Treatises*, if it is not 'political philosophy', can only be philosophical in this sense. The passage which Strauss cites from II, § 2, 1-3 appears to me to repeat this assertion, though he evidently believes that it marks off the book as in 'civil' language. Like the other statements which Locke makes (see note on I, § 23, 22-3 and references) it insists that the language of the discussion of politics must be consistent and of clear definition, 'philosophic' in fact. Locke may have contradicted his own rules in practice, but there can be no doubt that those rules were and how they defined this book.

‡ On toleration see notes on II, § 3, 87, 108, 134, 135. On economics see II, §§ 45-7. § Freedom of expression is not mentioned either. Locke seems to have helped to bring about the freedom of the press without ever considering it as a political right.

on both sides and the connection is intimate, Locke makes no cross-references. It is pointless to look upon his work as an integrated body of speculation and generalization, with a general philosophy at its centre and as its architectural framework.

This marks Locke off very sharply from the other political theorists of his generation, indeed from the traditional attitude which dominated political thinking before and after him. It separates him even more definitely from Thomas Hobbes. The heavy books of Grotius, Pufendorf, Hooker and the others, standing on Locke's shelves and dominating intellectual activity in this field, were all presentations of a single, synthetic system, a view of the world which proceeded from an account of reality to an account of knowledge, and so to an ethic and to politics. They varied in completeness and in the extent to which they relied on Christian revelation to fill out the great chain of being, or in the use which they made of historical examples and concrete political situations. But natural law was their common assumption, and in its terms they endeavoured to discover a closed system, a system which ideally would be complete and entirely consistent. We should be disposed to give the title 'philosopher' to very few of them, but the task they set themselves was a philosophical one. And in the mind of the ablest of them all philosophy was civil philosophy: Hobbes created a general determinist system, where political obligation, even the form and function of the state, was made to follow from a new definition of natural law. Locke was a philosopher too, but to him the system was an open one.

We cannot explore the various directions which this position lays open to view. It gives to Locke's thinking a somewhat unexpected precedent, for in Machiavelli and the writers of political advice, the reminiscent statesmen themselves, there did exist a counter-tradition to natural law, a convention of discussing politics and its theory outside the area of philosophy. Here the relationship between Shaftesbury the statesman and Locke the thinker comes very close to the surface, and it is recalled by a sentence in Locke's *Essay*. He is discussing the medieval scholarly doctors and he says: 'Notwithstanding these learned disputants, these all knowing doctors, it was to the unscholastic statesmen that the governments of the world owed their peace, defence, and liberties.'\*

\* III, x, 9; Nidditch, ed., 493.

This opens out an inquiry of a different sort, the extent to which the actual doctrine of Locke's *Essay* allowed for the peculiar relationship of political theory with general philosophical inquiry by its very incompleteness, suggesting that beyond its chosen limits the system was indeed an open matter. In this sense, its anti-synthetic quality, Locke's philosophy could be said to inform the whole of his thinking, but in quite the antithetical way from Hobbes and the natural-law theorists. He, and not Hobbes, could perhaps be looked upon as Machiavelli's philosopher, but most certainly not because the content of his philosophy entailed the content of Machiavellian political doctrine.

A great deal more could be said, then, of Locke the philosopher and Locke the political theorist to illuminate his position in the history of thought as well as the logic of the problem of philosophy and politics. The conventional description of Locke's thought as a peculiar and fertile admixture of empiricism and rationalism suggests the terms of the discussion. In his attitude these two elements were, so to speak, held in solution, only to be precipitated by the men who followed him, Berkeley and Hume in particular. If, then, there was not a Lockean philosophy in the Hobbesian sense, there was a Lockean attitude and this can be traced in all that he wrote. Natural law was, in this analysis, a part of his rationalism, his conviction that the universe is to be understood rationally, even the workings of the deity, even the relations of human beings, but at all points it must be compared with, made to fit into, the observed, the empirical facts about the created world and human behaviour.

This position is no easy one to occupy, even if it is taken up as a stance towards the problem in the way which has been suggested.\* It led Locke later into his attempt to supplement his rationalism and empiricism with revelation. Although the laws of the rational heathens had enough of natural virtue to 'hold societies together', the holy scriptures, rationally interpreted, were to be used almost as sources of empirically verified facts for moral and political purposes. This was necessary because of the patent insufficiency of reason: 'It is plain, in fact, that human reason,

\* Von Leyden suggests that the difficulty arises from the ambiguity of natural law, but, like Polin, takes an opposite view to mine of Locke's attitude to it: compare Edwards, 1969. Dunn, 1969 (1) rejects the distinction between 'attitude' and 'philosophy' (p. 199) and thinks it unlikely that *Two Treatises* could have been intended as a work of 'policy'.

unassisted failed men in its great and proper business of morality. It never from unquestionable principles, by clear deductions, made out an entire body of the "law of nature".\* This scepticism about natural law and about reason itself contrasts strangely once again with the easy confidence of *Two Treatises*. In this mood Locke doubted the efficacy of reason not simply because it had failed to demonstrate morality, but also because men obeyed it so little. In this particular, then, the Lockean attitude led to the doubt and self-searching of which we now have so much evidence. But elsewhere it led to the comfortable certainties of eighteenth-century thought.

If a distinction between the philosophy and the attitude of Locke is legitimate, we could fill out the picture of him as a thinker; we could account, for example, for his unwillingness to push any argument to its extreme. But to do this is not to transfer parts of the content of his philosophy into his political theory: to claim, for instance, that there is more than accidental symmetry, an aesthetic coherence, between his atomic view of matter and his atomic view of society, or to imply that there is a relationship of cause and effect between his conceptualism (or nominalism, some would say) and his belief in toleration.† This is to assume that his political thinking was related to his philosophy as the part to the whole. It implies that a formal consistency, a purely logical interrelationship between parts, is always to be looked for in a thinker, who must be judged accordingly: where it is found wanting some more remote and unrealistic principle of reconciliation must be found to defend a great reputation. It is to lose sight of the possibility that the more successful a man is as a political thinker, the more difficult he will find it to come to terms with his view of the world as a whole. In fact it may be taken to lay it down that all political thought is meta-political thought, formal analysis of the way men discuss politics and never also intuitive explorations of what they do. If this is done the distinction between Locke and Hobbes is made somewhat obscure and

\* *Reasonableness of Christianity*, 1697. *Works*, 1801, VII, 139-40: compare Strauss, 1953, 205, where Locke's proviso about heathen societies is ignored, as is his implied (though perhaps confused) distinction between natural law and moral law.

† See Simon, 1951: even more extraordinary seems to be the question raised there as to why Locke's optimism survived his conversion to the Copernican hypothesis, as if it were literally true that the conception men have of the stars cannot help but be a directive influence on their beliefs.

Locke may even turn out to be a Hobbesian, a muddle-headed one.\* To complete our examination of the relationship between these two men, we must examine these terms more closely.

But before we do this we may look at what has already been said in the light, Locke's own unflinching light, of common sense. A great deal, perhaps too much, has been made of Locke's inconsistencies. But it must be remembered that all thinkers are inconsistent, and a notably ingenious exponent of Hobbes himself has no more than this to say on the question of consistency: 'He is not obviously more contradictory than Locke.† We have chosen to expound the case in these terms because it arises more easily out of the documentary evidence, and because inconsistency, doubt, hesitation seem to be crucial to the position as it can be more positively examined in the *Essay* and *Two Treatises* themselves, in their sources and in the circumstances of their composition and publication. Then we have emphasized, perhaps over-emphasized, the distinction between Locke the philosopher and Locke the political theorist. But it is not true to say that to understand his political writings as philosophy is necessarily to misapprehend him. His influence as a political writer, as we have said,‡ probably arose because of his philosophical fame. Nevertheless it is of importance to see in Locke, the recognized point of departure for liberalism, the liberal dilemma already present, the dilemma of maintaining a political faith without subscribing to a total, holistic view of the world.

Hobbes's view of the world might have had its logical difficulties, but there can be no doubt that it was wholly Hobbesian. He was the greatest of all the meta-political writers, those who refine and analyse political language and elaborate axioms into axiologies. For this reason his influence on thought about politics

\* Polin, 1960, claims in opposition that Locke's doctrine is a coherent whole, and that only an extreme empiricist, an historicist, could argue as above.

† Warrander, 1957. *Preface*. The subject of this book, the great difficulty of finding ethical continuity between Hobbes's state of nature and his state of society, shows Hobbes in an incoherency much more serious than any of Locke's.

‡ Above, p. 38. In his later years, Locke obviously looked on politics as related to philosophy in the traditional way. This comes out in his various letters of advice about reading for young men: 'True politics I look on as a part of moral philosophy, which is nothing but the art of conducting men right in society and supporting a community amongst its neighbours', he wrote in 1697 to Lady Mordaunt, now the Countess of Peterborough. 'A young man should begin with Aristotle and then read the moderns if he please.'

has been enormous, but his purchase over what men do politically has been negligible. After he had written, this discipline became entirely different, but the political habits of his countrymen were changed not one little bit, except in so far as clarity of thinking in some men can modify the attitude of a whole society, and on Hobbes's own submission this is very little. The reason for his historical ineffectiveness is not very far to seek. A man who can say, as he did, that 'The skill of making, and maintaining Commonwealths, consisteth in certain rules, as doth Arithmetique and Geometry; not (as Tennis-play) on Practise only'\* lacks what might be called a sense of policy. The skill, the consistency, the imagination and the insight with which he sets about discovering what those rules are and how they are related to each other and to knowledge in general must attract his readers, but they will read him as literature only, not literature which is also advice. His work is condemned to be rationalization, and the paradox of the relationship between Locke and Hobbes is that *Leviathan* is much more dated than *Two Treatises*; it is rationalization even of a historical situation. The complete failure of Hobbes as a political, as distinct from a literary and philosophical, realist, is shown up by the fact that he seems to have thought that *Leviathan* would be adopted as a political programme.

The secret of his success in transforming the way men study and write about politics lies in the fact that all political theory must be rationalization, must aspire to the status of philosophy, to some extent. A work of policy exclusively, a work which would deny *in toto* the aphorism which we have quoted from *Leviathan*, could never be written. When, therefore, John Locke set out in 1679 to convince his readers about 'the true original extent and end of civil government' he produced a book which was in some respects like *Leviathan*, although it was not a refutation of it.

It was quite unlike it in doctrine, and for two reasons. He had rejected Hobbes's psychological assumptions and also his entirely rationalistic, unempirical view of natural law, which was widely felt to be a sophistry in any case.† With his instinct against synthetic thinking, therefore, Locke was under no logical necessity of considering the authoritarian conclusions of the Hobbesian

\* *Leviathan*, chapter 20, last sentence.

† See Tyrrell's letter quoted on p. 80 above.

system and we have shown that there was no possible political motive for doing so. *Two Treatises* differed very considerably from *Leviathan* in the form of its argument, because of these things, because of Filmer, and because of the Lockean attitude we have discussed, so completely in contrast with the Hobbesian attitude. It contained just that ingredient which *Leviathan* lacked—policy; statement of guidance of what men will accept, respond to and pursue, allowance for the limits of their loyalty and for the limits on possible generalization about their behaviour. But Locke *on Government* was also the presentation of a cogitated case, a piece of intellectual persuasion, from a mind with a great deal in common with that of Hobbes, fully aware of the change which Hobbes had wrought.

It may not, we have seen, have been a matter of direct derivation, since it is quite possible that Locke made his own way along the same road trodden by Hobbes before him, aided only by derivative acquaintance with what Hobbes had said. Locke was a post-Hobbesian, in spite of the fact that so great a part of Hobbesian belief was so much an irrelevance to his purpose in writing on politics that he did not have to refute it. It is right to think of *Two Treatises* as a work of greater importance than *Leviathan* because of the pregnant difference in its relationship with philosophy; it was for this reason that its text could become a part of political habit, and incidentally create the paradox that in so far as Hobbes has done that at all, it is through Locke that he has done it.

In the political doctrines we shall now examine, Locke presented a set of principles more effective and persuasive than any before written in the English language.

## V

## THE SOCIAL AND POLITICAL THEORY OF 'TWO TREATISES OF GOVERNMENT'

When men think of themselves as organized with each other they must remember who they are. They do not make themselves, they do not own themselves, they do not dispose of themselves, they are the workmanship of God. They are his servants, sent into the world on his business, they are even his property (II, § 6). To John Locke this was a proposition of common sense, the initial proposition of a work which appeals to common sense throughout. It is an existentialist proposition, which men have not thought it worth while to question seriously until our own day, and it relies not so much on the proved existence of a Deity as upon the possibility of taking what might be called a synoptic view of the world, more vulgarly a God's-eye view of what happens among men here on earth. If you admit that it is possible to look down on men from above, then you may be said to grant to Locke this initial position.

From this common-sense starting-point he proceeds to two inferences, that we are all free and we are all equal; free of each other, that is to say, and equal to each other, for we are not free of God's superiority and not equal to him. If God could be shown to have given any man, or any order of men, superiority over other men, then these inferences could not be drawn. It was because Sir Robert Filmer had claimed that there was to be found in Revelation a proof that God had set some men above other men, fathers above sons and men above women, the older above the younger and kings above all others that his doctrine was so dangerous and had to be refuted. It became necessary to show in minute detail, analysing text after text of the Scriptures, that this interpretation was quite wrong.

This is the logical function of the *First Treatise* in Locke's work on government, but he says nothing there which is not laid down

in the *Second Treatise*. The polemic against Filmer had to be in the form of a Scriptural argument, but it is necessarily an argument from observation and reason as well, for the Scripture does not interpret itself.\* Observation shows, says Locke the empiricist, that the superiority of fathers is temporary only, and observation combined with reason shows us why: such superiority is necessary for the preservation of mankind and its duration is determined by the zoological facts (II, §§ 80, 81). Filmer, following Grotius, had interpreted those facts to show that procreation, one individual creating another individual by begetting him, gave a right of superiority, subjection of will to will, even ownership. This is not only bad observation, but it is utterly unreasonable and moreover it offends against the first principle that man is the workmanship and property of God, not of himself. Quite simply and quite literally, then, men were born free in Locke's view, as quite simply and quite literally they had been born unfree in Filmer's system, and in the patriarchal tradition.

No, Locke says; 'the Lord and Master of them all' has not 'by any manifest Declaration of his Will set one above another' (II, § 4), and we all have the same faculties, the same natural advantages; power and jurisdiction is and must be reciprocal amongst us. Again, you do not have to accept a theology to agree that this is all a matter of common sense. All that happens if you wish to disagree is that you find the task of proving something different uncomfortably thrust upon you.

But if it is true that God leaves us free, that nothing in the natural order can be shown to subject one man to another even apart from the revealed will of God, it may still be relevant to ask what positively makes us free, in what does this freedom consist. For absolute freedom has no meaning, it must be defined—'*Where there is no Law, there is no freedom*' (II, § 57). It is the law of nature which sets the bounds to natural freedom (II, § 4) and since the law of nature is an expression of God's will, God's omnipotence can be reconciled with human freedom.† Moreover, God's posi-

\* This is an important general position of Locke's, best known perhaps from his rejection of 'enthusiasm'. The *First Treatise* repeatedly argues from scripture on the one hand, and reason on the other—see e.g. §§ 4, 60 (Reason and Revelation), 112.

† Quite how, is never shown. Locke is famous for his confession that this problem was beyond him, and it is typical that he should never have raised it in his work on political theory.

tive direction is known to all of us through our reason, since reason, as the Platonists were saying in Locke's day, is '*the Voice of God*' in man (I, § 86, see note there). But in the stance, as we have called it, which Locke took up towards natural law, 'the Law of Nature . . . is the Law of Reason' (I, § 101). It is our reason, therefore, which promulgates to us the law of nature and it is our reason which makes us free. 'We are *born Free*, as we are born Rational' (II, § 61), and the liberty of acting according to our own will, never from compulsion by the will of others, is grounded on the possession of reason (II, § 63).

But reason means even more than this and has further consequences for natural liberty and equality. Conceived of as a law (the law of nature), or almost as a power, it is sovereign over all human action. It can dictate to a man as conscience does (II, § 8) and to more than one man in the social situation, since it is given by God to be the rule betwixt man and man (II, § 172). It is a quality too, in fact it is the human quality which places man above the brutes, and when it is present to the full almost brings him up to the level of the angels (I, § 58). This language is traditional and the distinction between man and beasts based on the presence or absence of the quality of reason goes back beyond Christianity to the Stoics and Aristotle, but it was of peculiar significance to Locke's generation, as witness the curious debate as to whether brutes, which can work in the world although not being human they do not have the quality, must therefore be machines. And Locke makes full and peculiar use of it in his account of state and society.

It justifies in the first place the subordinate position of children, who though they are born to the full of equality are not born in it (II, § 55). They only attain freedom when they reach what we still call the age of reason. All this is obvious enough, and only has to be stated at the length Locke gives to it because of Filmer, but it should be noticed that even children under age are not subject to the will of their parents so much as without will, their parents will for them: reason is still sovereign over parent and child. This is one of the very few ways in which age, process or development is relevant to human relationships, though Locke admits that age, virtue, intelligence and blood (none of which seems easily described as a difference in rationality) in some way unimportant to his purpose can infringe natural equality (II, § 54). But the next consequence is more startling. When we look upon

ourselves as God's workmanship, we recognize that we all possess reason because he gave it to us, and therefore any man who behaves unreasonably is to that extent an animal, and may be treated as such. Specifically, any man who seeks to get anyone else into his power, under his will, denying that this other person is as free as he is because he too possesses reason, refusing to recognize that reason is the rule between men, that man 'becomes liable to be destroyed by the injured person and the rest of mankind, as any other wild beast, or noxious brute that is destructive to their being' (II, § 172).

This is a drastic argument, and we may think it somewhat crude. It serves to spell out in thick, black letters Locke's quite literal belief that reason is the mode of co-operation between men; reason, he had just said, is 'the common bond whereby humane kind is united into one fellowship and societie'. It is not an isolated statement, but a recurrent repetitive theme, perhaps developed in detail as a later insertion (see note on II, § 172), but essential to Locke's account of the maintenance of justice inside and outside organized society. It may be looked upon as his final judgment on the consequences to the actual relationships between men of the synthetic civil philosophy of Hobbes, for *Leviathan*, like the royal patriarch, did subordinate all human wills to one will, it made law and government a matter of will, therefore it did treat men as beasts and anyone pretending to its rights and powers could be treated as a beast. But the actual object which he had in mind seems to have been much more personal and political. When the passages presenting this argument are examined closely, Charles and James Stuart fit easily enough into the role of those 'wild Savage Beasts, with whom Men can have no Society nor Security',\* for they had tried to rule England as despots, if not of the Hobbesian, then certainly of the patriarchal type.

In perfect freedom, equal to each other, capable of rational behaviour and so able to understand and co-operate with each other, that is how we are born. It must be emphasized that we are all born this way, bond or free, savage or civilized, inside or outside society or the state, for it is a truly universal doctrine in

\* II, § 11, 25 6. This is a reference to an aggressor in the state of nature, but the last phrase also appeared in the final text of II, § 172, 16. The subject of II, § 171 and 172 is clearly the established government of a country, Locke's country, and these are the words applied to it when it claims the right to 'Absolute, Arbitrary Power' ('Having quitted Reason' to do so).

Locke and he does not, for example, go on to argue from this dogmatic rationalist position that the basis of political life is the rule of the rational man over his irrational fellows.\* There can be no arbitrary source of power of one man over another, not even a source in Revelation, for Divine right has already been disposed of as not proven. How then does it come about that there is such a thing as rulership in the world? How is government possible at all?

Locke answers this fundamental question, and it is significant of his radical individualism that it should ever arise in such an urgent form, by introducing what he calls a 'Strange Doctrine'. By this he may intend to warn us that he is innovating,† but what he says comes as no great surprise: 'every one', he declares, 'has the *Executive Power of the Law of Nature*' (II, §§ 6, 7, 8, 9, 13). If anyone offends against the law of nature, everyone else has the right to punish him for it and exact retribution, not simply for his own damage but to vindicate the rule 'of reason and common Equity, which is that measure God has set to the actions of Men, for their mutual security' (II, § 8). We may do so individually, but we may and must co-operate with other individuals against this 'trespass against the whole Species'. On this natural right, which arises out of humanity itself, is based not simply the right of governing, but its power as well, for it is a collective power which is used against an offender even if only one man wields it. The right of governing, and power to govern, is a fundamental, individual, natural right and power, set alongside that of preserving oneself and the rest of mankind (II, §§ 128-30). It is judicial in its nature, for it is the pronouncing and enforcing of a law, the law of nature which is the law of reason.

The whole of Locke's political theory is already in view, even

\* Though he concedes wide inequality in capacity, reasoning capacity, see note on II, § 4, 11 and references. Locke took a sober, almost a gloomy view of the powers of most of the human race to follow an argument, to take part in 'rational society' at all in its sophisticated definition, and texts to illustrate this can be found throughout his works, the *Essay* especially: the title of 'optimistic rationalist' sits oddly upon him. Nevertheless it does not seem to me justifiable to read into his statements, certainly the statements of *Treatise*, any doctrine of differential rationality as has sometimes been done. Strictly the non-rational man was not a man at all and Locke never denies that any individual can be rational according to his capacity, he only insists that he is blameworthy if he is not. He may not be a consistent optimist, but he is no cynic: see Polin, 1961, 40n.

† Strauss, 1953, lays some stress on Locke's use of this phrase, but it seems to me to be not much more than a literary device to him. As Strauss points out, Locke's doctrine on the point differs only by a twist of emphasis from that of Pufendorf and Cumberland.



the concept of trust and the separation of powers. We shall make general the implications of this position on the executive power of the law of nature under the title of a doctrine, the Lockean doctrine of natural political virtue. Dogmatically presented as a 'strange doctrine', no demonstration of its truth is offered but it is implied in a particular provision of the law of nature as distinct from the law of nature generally. This is the right and duty of every man to preserve himself and everybody else as much as possible, which is the only law of nature used in such a way.\* Government, when first viewed from this position, is simply a 'Magistrate, who by being Magistrate, hath the common right of punishing put into his hands' (II, § 11). But we have not yet reached the stage of established government. All the characteristics of men, and the relationship between them, which we have discussed so far belong to the state of nature.

The state of nature is simply the condition in which the executive power of the law of nature remains exclusively in the hands of individuals and has not been made communal. It can be inferred that it was the original condition of all humanity, because wherever established and permanent collective authority is found, it is always discovered to be the result of men taking thought, making deliberate arrangements to secure and establish the rule of rationality and the provisions of natural law. It is not an adequate reply to this to say that men are all observed in fact to live under government, because 'Government is everywhere antecedent to Records' (II, § 101, compare I, §§ 144, 145) and because primitive tribes are known to be living now without government, or very nearly so. But although these historical and anthropological facts are important, demonstrating as they do that individual men have lived and do live with each other in the state of nature, it is much more significant that states themselves, and heads of states, can be related to each other in no other way, now or at any time. The King of France and the King of England can collaborate to maintain the peace of the world, so as to preserve mankind. For the most part they do, but each is individually executing the law of

\* Because of the particular attitude to the law of nature which we have described, Locke never lists the laws themselves and he never relates one law of nature with another, though this law of preservation is called 'fundamental'; see note on I, § 16, 9-10 and references, including a passage in his *Education*. In all these respects he is a very unconventional natural-law writer, much more so than Hobbes.

nature: there is no institution or authority for the purpose. This fact, and the persistence of areas of the earth in the state of nature, may also put private individuals into this state with each other even now. Such are the Swiss and the Indian bargaining for truck in the woods of America (II, § 14).\*

The state of nature, therefore, has obvious disadvantages; it is to be expected that men will do their best to replace it, and we have seen that they are constituted in such a way that they are perfectly well able to do so. For the state of nature leaves every man judge in his own case (II, § 13). He has the law of nature to guide him, but this law is unwritten, 'no where to be found but in the minds of Men', so that 'they who through Passion or Interest shall mis-cite, or mis-apply it, cannot so easily be convinced of their mistake where there is no establish'd Judge' (II, § 136). But this does not mean that the state of nature is a state of war, 'however some Men', meaning Hobbes, 'have confounded' them (II, § 19). War, in fact, is not a state but an incident, although a 'sedate settled Design' on life makes it permissible to use 'state' in describing it (II, § 16). War is indeed an incident apparently inseparable from human life, because it is the appeal to God in cases where men cannot settle things reasonably, and we have to recognize that such a final appeal is always a possibility even within highly developed political society, a possibility which has important consequences. It is to be expected that war should be much closer to the surface in a state of nature, as witness the frequency and importance of war in the international state of nature, but this cannot mean that war describes the state of nature, or that it is otherwise relevant to the distinction between the state of nature and the state of society.

'In the beginning all the World was *America*' (II, § 49) and a complete account of human development would show us that in the primitive, patriarchal, Old Testament stage in Europe we once lived as the American Indians now do (see notes on I, § 130 and 144,

\* The scattered references to primitive societies in *Two Treatises*, with the more extensive discussion in the *Essay*, cover an enormous amount of reading, a perpetual preoccupation and an intellectual dilemma. (See Laslett, 1965 (II).) Locke may be said to have done more than anyone else to found the study of comparative anthropology, and he was well aware that the evidence did not demonstrate a 'state of nature' of the sort he described in his political theory. Once more, then, he had to take up a stance towards the problem. We may believe that this was his position: natural men cannot be proved to have lived universally in comparative peace, in immanent sociability, but the evidence does not make such an assumption impossible, and it certainly does not make it necessary to assume that he lives in a state of war.

27-34). In fact this condition of living together according to reason without a common superior on earth, in mutual assistance, peace, goodwill and preservation (II, § 19), is the universal background against which government should be understood. It tells us what government is and what it does by showing us what it is not and what it does not do.\* It even makes it possible to distinguish proper forms of government from improper ones. 'Absolute Monarchy', for example, is 'inconsistent with Civil Society, and so can be no Form of Civil Government at all' (II, § 90). It must be so, because an absolute monarch is judging in his own case, as all men must in the state of nature. Therefore in respect of him the whole society he rules is itself in a state of nature; moreover he is substituting the rule of force and will, his force and will, for the rule of reason clothed in natural law. But this does not mean that there is no peace, no justice, no means of social and political co-operation within the society he rules, any more than the international state of nature precludes international peace and co-operation. For men are not like that. The state of nature is already social and political. The state of society never completely transcends the state of nature: the contrast is never complete.

These considerations undoubtedly complicate Locke's view of the state of nature, but the complication demonstrates his superior realism and allows room in his system for elements often supposed to be absent from him and from the individualist attitude generally.† At the point we have now reached, however, where the question arises why it should be that men ever do proceed from a state of nature to a state of society, he suddenly departs from all his predecessors, classical and medieval. Although his state of nature is inconvenient, and although his individual is perfectly capable of transcending it and we can already see why he and his fellows should wish to do so, Locke introduces here a motive for the

\* This is the analytic function of this concept in the political theory of early modern times, and can be criticized as the error of supposing that what is logically prior is historically previous and institutionally basic. That Locke was uneasy about its implications is shown by his unwillingness to do more than hint at the assimilation between Old Testament history and the condition of America in his day, and in any case the incompleteness of the contrast which he draws between the two states makes him somewhat less vulnerable than his predecessors.

† Locke's state of nature, with its immanent sociability and its acceptance of man's dependence on his fellows, does in a sense incorporate the Aristotelian attitude. See Polin, 1961, 174, for the *theoretical* as distinct from the *actual* state of nature and compare Jenkins, 1967 (who cannot accept its sociability); Seliger, 1968, pp. 108, 122, etc.; Ashcraft, 1968, 1969. Rau, 1987, makes ingenious use of Locke's position for contemporary political purposes.

establishment of political society which few had considered in the context of political origins, and none had given much prominence. He abruptly injects into the discussion the concept of property.

Property generally is justified ethically in Locke's system by arguments not unlike those of the other thinkers of the time. Man-kind's right to the goods of nature derives from God's grant in the Scriptures, from man's rationality, from the fundamental natural law of self-preservation (II, § 25 on, I, §§ 86, 87). But on these grounds it is man as a species which has a right to own things, not an individual man. This means that the goods of nature were originally common, both because the Bible says so, and because universal freedom and equality must mean original communism. Locke and his fellows were in some difficulty in accounting for the fact that this original communism had given way to private property. They could and did argue from occupancy, 'findings is keepings', but in the end this must imply consent. In fact, as Filmer had argued with ingenuity and force, the only way out of original communism was to assume that in some way or other every individual in the world had consented to every act of property acquisition.

Locke's solution to the problem was to lay it down that 'every Man has a Property in his own Person' so that 'the labour of his Body, and the Work of his Hands' are his. Therefore whatsoever 'he removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with . . . and thereby makes it his Property' (II, § 27). This famous passage, which almost contradicts his first principle that men belong to God, not themselves, together with the general claim that 'tis Labour indeed that puts the difference of value on every thing' (II, § 40) are perhaps the most influential statements he ever made.\* Property so acquired was not unlimited, for it was confined originally to what a man and his family could consume or use, and must not be wasted (II, § 36). It extended to the land as well as to the fruits of it (II, §§ 32-40), but even in this form it must never be used as an instrument of oppression, as a means of getting others to submit to your will (I, §§ 42-3). The whole argument is intended to show that individual property did not arise from the common consent of all

\* See note on II, § 27 for Tyrrell's very similar passage, possibly however suggested to him by Locke, and note on II, § 28 for a further discussion of Locke as an innovator in this matter. It cannot be proved to have been entirely original to Locke, and is close to the traditional dogma that a labourer had an inalienable right to his tools. Polin, 1960, 255, prints a further reference to property and justice, and Olivecrona, 1974 (i) (ii), places Locke's theory in its natural law context.

mankind, though in the end the actual distribution of it is held to be due to money, which is a matter of consent, perhaps even worldwide consent.\* In the state of nature, then, the exertions of men and above all their invention of money had brought them all into relationships with each other which were not those of rational and conscious co-operation but sprang from their differing contact, almost physical contact, with the world of material things—from their property as thus defined.

In fact men were led to leave the state of nature and to set up a source of power 'for the Regulating and Preserving of Property' (II, § 3). As the *Second Treatise* goes on, more and more emphasis is laid on the 'great and chief end . . . of Mens uniting into Commonwealths, and putting of themselves under Government, is the Preservation of their Property. To which in the state of Nature there are many things wanting.† Meanwhile it has become obvious that Locke's account of the origin of property cannot be intended to cover all meanings of the word. For it is not defined as material possessions, nor in units of the conveniences or necessities of life but much more generally as 'Lives, Liberties and Estates, which I call by the general name, Property' (II, § 123).‡ Except in the chapter on property, and in other cases where it is clear that material possessions are meant, the word 'property' in the *Second Treatise* is usually to be read in this sense. It is the sense in which Locke's contemporaries could talk of the protestant religion established by law as their 'property', and Richard Baxter maintain that 'men's lives and Liberties are the chief parts of their propriety' though he, like Locke, sought the origin of 'propriety in a man's industry'.§

Property, moreover, seems to give the political quality to personality. A slave lacks all political rights because he is in-

\* II, § 45, see especially II. 20 2 and note, II, § 50, etc.

† II, § 124; compare II, § 94, 22-3 and note there on Tyrrell's similar statement: also II, §§ 127, 134, 138, etc.

‡ The occurrences of this wider definition are listed in the note to II, § 87, 5; it may be noteworthy that at least two of the contexts (those in §§ 123 and 173) were possibly additions of 1689.

§ See Baxter, 1680, passage noted under II, § 27. 'Propriety' and 'property' seem to have the same meaning, or combination of meanings, in Locke and in Baxter, though Locke occasionally substituted the second for the first in correcting his book (e.g. in title to *1st Treatise*, chapter VII). The extended meaning of property has been noticed occasionally (Gough, 1950; Brogan, 1959) but I owe to the late Professor Viner of

capable of property: despotical power, not properly political at all, can only be exercised over the propertyless (II, § 174). We will may complain that Locke does not make it sufficiently clear which definition of property he is using in which context. But the fact that he was prepared to allow material property, labour-mixed-with-natural-objects property, to stand for many or all the abstract rights of the individual does help us to understand why the concept as a whole enters into his account of the foundation of civil society.

For property to Locke seems to symbolize rights in their concrete form, or perhaps rather to provide the tangible subject of an individual's powers and attitudes. It is because they can be symbolized as property, something a man can conceive of as distinguishable from himself though a part of himself, that a man's attributes, such as his freedom, his equality, his power to execute the law of nature, can become the subject of his consent, the subject of any negotiation with his fellows. We cannot alienate any part of our personalities, but we can alienate that with which we have chosen to mix our personalities.\* Whether Locke's mind was working quite in this way or not, it is clear from what he says elsewhere about civil as opposed to spiritual society that it can only concern itself with 'civil concerns', which on examination seem to be identical with 'property' in its extended meaning in the *Second Treatise*.† In some way, then, it is through the theory of property that men can proceed from the abstract world of liberty and equality based on their relationship with God and natural law, to the concrete world of political liberty guaranteed by political arrangements.

To see a symbolic system in a writer so down-to-earth as Locke,

Princeton the demonstration that the extended meaning is to be taken as a normal usage both for Locke and his contemporaries. Professor Viner communicated an unpublished paper on the subject, which was printed in part, but not in full, in Viner, 1963. Locke's extraordinary vagueness about the use of this term is well illustrated by the phrase used at II, 131, 6.

\* The conventional judgment of Locke's view of property, that it described a natural, inalienable right, seems on this view to be exactly wrong. Property is precisely that part of our attributes (or, perhaps to be pedantic, that attribute of our attributes) which we can alienate, but only of course by our own consent. I differ here from Olivecrona who takes property to be an extension of the personality.

† See passages cited in note on II, § 3 from Locke on *Toleration*. His whole argument on that subject is intended to prove that the subjective world of religious conviction is completely inaccessible to the objective world of 'civil concerns', of property in fact.

however, may be to read more than should be read into an expedient forced upon him by the necessity of replying to Sir Robert Filmer. Property, both in the narrow and in the extended sense, is insufficiently protected and inadequately regulated in the state of nature and this is the critical inconvenience which induces men to 'enter into Society to make one People, one Body Politick under one Supreme Government . . . by setting up a Judge on Earth with Authority to determine all Controversies' (II, § 89). It is critical only in the cumulative sense, for it is to be added to the love and want of society (II, § 101) and to the danger of aggression from abroad (II, § 3) as well as to all the other inconveniences which arise from men being judges in their own cases, and which are so considerable that it can be said that 'God hath certainly appointed Government to restrain the partiality and violence of Men' (II, § 13). Once this stage is reached, Locke's political principle can be written out in full. But before this is done, we should perhaps review Locke's theory of property a little further since it has been the subject of so much criticism and misunderstanding.\*

'God gave the World . . . to the use of the Industrious and Rational', says he (II, § 34), gave it to them in the state of nature that is, and appointed government also as a remedy for the inconveniences of that state. For by their very industriousness and rationality these people created inconveniences for themselves and the rest of mankind, setting up relationships between men through their ever-more-complicated contact with material things which defeated the control of individuals acting as lone executors of the law of nature. Conscious, co-operative control was set up, therefore, under governments where 'the Laws regulate the right of property, and the possession of land is determined by positive constructions' (II, § 50).

This regulation of property and determination of landowner-ship by political authority is not easy to interpret from Locke's text. His object seems to be to guarantee secure and quiet possession, however large the estate and whatever it contained. In spite of the statements presenting the 'labour theory of value', it would be extremely difficult to argue that he had any sort of doctrine in mind which we should call socialist. Nevertheless he never contra-

\* Locke's doctrine of property has been extensively discussed: see, e.g. Larkin, 1930; Czajkowski, 1941; Kendall, 1941 (the first to criticize the 'individualist' interpretation); Gough, 1950; Strauss, 1953; Chernov, 1957; Pietranca, 1957; Monson, 1958; Polin, 1960; Viano, 1961 (Locke's theory and Shaftesbury's policy); Macpherson 1971 and 1962; Dunn, 1967 (i) and 1969; Milam, 1967; Olivetrona, 1974 (i); (ii) and 1975; Tully, 1980; Wood, 1984.

dicts the assertion he made in 1667, that the magistrate can appoint ways of transferring properties from one man to another, and make what property laws he likes, provided they are equitable.\* In § 90 of the *First Treatise* he clearly implies that the community always had a residual interest in property and even an original right to it, for the possessions of an intestate without kin revert to the community (line 34).

Even the minutest control of property by political authority can be reconciled with the doctrine of *Two Treatises*. The property he defends is never confined to substantial possessions, or looked on as what we (not Locke) call capital. He hints that even the poorest has enough to need society's protection for it (II, § 94 and note). If not complete communism, certainly redistributive taxation, perhaps nationalization could be justified on the principles we have discussed: all that would be necessary is the consent of the majority of the society, regularly and constitutionally expressed, and such a law would hold even if all the property-owners were in the minority.

On the other hand the whole tenor of his argument is in favour of those with a great deal to lose. It may be felt that his anxiety to make property rights independent of the universal consent of all mankind, even though property distribution through money is subject to it,† represents an interest more cogent than the necessity of answering Filmer. The same preoccupation with the absolute security of material property may be seen in the confusion left by his dual definition of the concept. If he was prepared to allow all his references to be taken in the sense of material possessions, then his whole position looks very like an uncompromising defence of wealth and its power. If it is permissible to look on his use of the concept 'property' as symbolic, as has been suggested, then the symbolic system seems to express all human rights as market commodities. He is perfectly willing to contemplate the continuous or permanent appropriation of the product of one man's labour by another, a servant's by a master.‡ Slave labour in no

\* The 1667 *Essay on Toleration*: see note on II, § 120. Dunn, 1960 (i) p. 36, dissents from this use of Locke's writing of 1667.

† See note \* on p. 101 above.

‡ Macpherson, 1951, 360. It seems, however, to be an over-interpretation to say that a man can sell his labour in the sense of the propensity to work, and I cannot follow the statement (p. 364) that 'Locke has separated life and labor'. When Locke writes on the wage relationship in II, § 85, he uses the word 'service' not 'labour', and though he seems specific enough in II, § 28, 16-26 in making the master own his servant's labour, it is not clearly a matter of a wage relationship: see Laslett, 1964.

way perturbs him: a reading of § 130 of the *First Treatise* leaves a modern believer in the enormity of personal servitude very uncomfortable, if not indignant. He fails to make any specific provision against the obvious consequences of allowing unlimited accumulation of precious stones, metals and money in all its forms, once consent had given them value.

Nevertheless it is gratuitous to turn Locke's doctrine of property into the classic doctrine of the 'spirit of capitalism', whatever that may be. It can only be done by explaining away all the statements which he makes about the origin and limitations of property as obstacles to his true meaning. All that he says about 'regulating' property, even though this is the first word he uses about it when it is introduced into the *Second Treatise* (II, § 3), has to be ignored. Half-conscious traditionalism or plain hypocrisy must be held to account for Locke's description of unlimited acquisitiveness as '*amor sceleratus habendi*, evil Concupiscence' (II, § 111). Above all it has to be done by denying point blank that Locke's consistent claim, 'The Obligations of the Law of Nature, cease not in Society, but only in many Cases are drawn closer' (II, § 135), can apply to property.\* If we are prepared to treat historical texts in such a way we can prove just what we like from them.

In fact, of course, Locke was neither a 'socialist' nor a 'capitalist', though it is fascinating to find elements of both attitudes of ours in his property doctrine—more, perhaps, in what he left out or just failed to say than in the statements themselves. He was not even an advocate of land and landownership as the basis of political power, to be 'represented' in a nation's counsels. For all the intellectual and political influence which he wielded in the eighteenth century he was in these respects a barren field for anyone who wished to justify what once was called the Whig

\* Strauss, 1933, 240: see p. 246 for his reference to the spirit of capitalism. The case for Locke as a crypto-capitalist is presented with far greater exactness and subtlety by Macpherson, 1962, from a point of view which scorns 'petty bourgeois socialism'. Interesting as it is, Strauss's view seems to be based on so arbitrary a textual reading, one so much concerned to discover a 'real' meaning (generally a Hobbesist or a capitalist one), that it is quite unacceptable to an editor of *Two Treatises*; for a critique, see Yolton, 1958. Macpherson's close and revealing analysis clarified the issues remarkably, but it would seem that he could only have come to his thoroughly unrealistic and occasionally unhistorical conclusions because he set out to demonstrate that Locke's object could only have been to 'provide the ideological support for capitalist appropriation'. Ryan, 1965, analyses Macpherson's position with great acuteness, and Dunn, 1967 (ii), prints new evidence on Locke's view of the just price.

oligarchy. But he did use his property doctrine to give continuity to a political society, to join generation to generation.

Locke's doctrine of property was incomplete, not a little confused and inadequate to the problem as it has been analysed since his day, lacking the humanity and the sense of social co-operation to be found in the canonists who had preceded him.

We should not in fact expect it to be wholly developed and coherent, a doctrine of property at large, because close working of his text seems to confirm what several commentators have suggested. This is that Locke's primary and overriding interest was in taxation, arbitrary taxation and its iniquities, not in property as a subject in itself. He is naturally led to discuss the nature of property, but a general theory of ownership was not his intellectual object. This in spite of the remark cited at the outset of this *Introduction*. We must surely recognize nevertheless that the doctrine of property he did sketch out was an original doctrine, particularly important in its bearing on the way men analysed social and political origins, and his own judgment on it must stand—no man has ever quite done this before or since.

We are now in a position to follow Locke's political principle through to its conclusion. Men may enter into society quite suddenly, and it is perhaps best to assume that any given company actually decided at some point in time to change their condition to this new state. But there can be degrees of 'community', a variety of ways in which political authority can be founded, and even apparently permanent conditions which cannot be called one or the other state. The most usual development is in fact patriarchal, where a large family grows into a political society and its hereditary head gives rise to a royal lineage. But this must not lead us into the mistake of supposing that patriarchal is political power, or to confuse the relation of man and wife, parent and child, master and servant, with the political relation. However political power comes into being, it can only be looked on as the formation of a community by a band of rational creatures, all with the power to punish transgression of the law of nature and offences against their property. Any number of them can exercise the power collectively, and they can replace their patriarchs or make their generals into elective kings as and when they please. The unmistakable sign of civil society having come into being is when every individual has resigned up to the society or the public his individual power to exercise

the law of nature and protect his property. This is the social compact and it is fair to everybody, since everybody makes the same sacrifice for the same benefits. It sets up a judge on earth, with authority to determine all the controversies and redress the injuries that may happen to any member of the commonwealth, as it is now called.

All this will be done by consent, the consent of every individual concerned. The judge thus established will be a legislative power, able to pronounce on offences because it can promulgate settled, standing rules in accordance with the law of nature; rules, or laws, which are indifferent, and so fair to everybody, guaranteeing, defining and giving substance to everybody's freedom. To sanction those laws and judgments, this 'legislative', as we may call it, will have at its disposal the mingled force of all the members of society—and 'executive' power in fact. It will have a third power in virtue of the condition in which the community finds itself, a power of protection from foreign enemies and of communication with other such communities and with individuals in a state of nature. This is the 'federative' power. It will not need a separate judicial power, because, we have seen, the pronouncing of judgment is its general function. These three powers are distinct in themselves, and the executive and legislative are best kept in separate hands, except that the head of the executive may be a part of the legislative, with power of summons and prorogation. But there can be no doubt of the ultimate superiority of the legislative in the constitution.

Its establishment, and the form of government generally, are 'the fundamental Appointment of the Society', the Constitution as we should say (II, § 214). The original compact which set it up will imply majority rule, for the state is not simply a rightful power, it is a collective body, and a body which can only move on the side of the greater mass. Its gravitational logic requires that those who are a part of it shall not resist its final direction. Political power, now that it has arrived, will not be special in the sense that it is different from the power all men continue to exercise in preserving the law of nature where their governors cannot, or by agreement must not, intervene. It will be special only in the sense that it is collective, and so cannot be an attribute, least of all the property, of a single man or family. Every effort must be made to ensure that those who wield it shall never develop an interest separate from that of the community, the people. Any individual

born outside the community is free to join it, or born inside can decide to leave for another community, or even to live in some part of the world still in a state of nature. When he is within the community he must accept the rulership of its governors and obey its laws.

But the governors are only entrusted with the power they have. Government comes into being at the same time and perhaps by the same act as that which established civil society, but its power is given for attaining an end and limited to it. If that end should be neglected, the government is dissolved and the power devolves to the people, or to the community which is all one. Now this does not restore a state of nature, or it does not necessarily do so. The people under these circumstances may themselves act as a 'legislative', and so maintain government, but it is likely that after a very short while they will set up new trustees for government, or change the form and conditions of governing. It is for the people only to decide whether or when their governmental trustees have acted contrary to their trust, or their legislative has been changed, and for the people as a whole to act as umpire in any dispute between the governors and a part of their body. If the governors resist such judgment, or behave in any way which threatens that the people will cease to be a community and become a confused multitude, then the state of nature is at hand, with all its disadvantages. This will seldom, perhaps never, happen for the people can be relied upon to be patient and long-suffering. If such an extreme situation does come about, and the question arises of who is to be the final judge, the answer brings us back to where Locke began. There is no final judge of these things on earth, the ultimate appeal can only be to God.

This is the major theme of Locke on *Government*,\* and it is extended into a discussion of conquest, tyranny and other related subjects. It will be seen that the theme as a whole does develop out of the assertion that each individual possesses the executive power of the law of nature. We may look on his intention as being to lay down a doctrine in this way, a doctrine which we shall call that of natural political virtue. This would seem to be the most probable and sympathetic reading of the book, though not all that is said is quite consistent with it.

\* It has had to be interpreted somewhat for purposes of straight exposition; see below for trust, dissolution of government, etc.

This doctrine lays it down that all individuals, whether grouped together formally or informally, or even when alone, will have some tendency\* to allow for the existence, the desires, actions and needs of other men: this is what is to be expected if each is to be trusted with the means of maintaining the humanity of all. It accounts for the quasi-social character of the state of nature, and makes it possible to talk of 'all the Priviledges' of that 'ill condition' (II, § 127). It permits any number of men to set up a political society: 'when any number of Men have, by the consent of every individual, made a *Community*' (II, § 96); this 'any number of Men may do, because it injures not the Freedom of the rest' (II, § 95). This is important because it denies that there has to be a special shape for a body of men before they can take on ethical unity, as Filmer had claimed when he insisted that they must be a family under patriarchal will.

The doctrine of natural political virtue goes some way to justify in ethical terms Locke's rather perfunctory defence of majority rule in mechanical terms. For a majority, which is simply a random sample of those who voted, will under this doctrine tend to act with some responsibility towards those in the minority.† It can be seen most clearly in Locke's insistence that 'in well order'd Commonwealths' the men who wield the legislative power should be ordinary citizens, drawn from the main body of those for whom they legislate and reverting to that status when out of office (II, § 143, with note and references). Applied in this way the doctrine becomes an essential presupposition of representative government as it developed after Locke had written, essential to such things as virtual representation, which he implies at all points, and the rule of parties, which he never contemplated. It sanctions the right of a group of leaders to take revolutionary action, and it is always behind an individual acting alone in a political situation, a judge, a king, or a Speaker.‡

It may be noted that in expounding this doctrine Locke is once more occupying a position which looks two ways at once, rather than selecting a unitary definition and pursuing its implications.

\* Almost the Aristotelian *misus*, though Locke did not mean to make society natural in quite the Aristotelian way.

† Kendall, 1941, seems unable to concede such a doctrine to Locke, and interprets his statements in such a way as to make him a 'majority-rule authoritarian', though see his final chapter, 'The Latent Premise', as expounded against Laslett in 1966.

‡ Safeguarded in all cases, of course, by the concept of trust—see below.

We all possess natural political virtue, both because we are disposed favourably towards each other in our very make-up, our nature, and because, when we co-operate, when we discuss things together, the tendency of what we do and what we say will inevitably be towards the politically efficacious, that which will work out for all of us. We might distinguish the two facets of the phrase as 'naturalistic' and 'intellectualistic' respectively, and we must insist that Locke recognized both of them. In this he found himself very close to Hooker, and he was thus able to make very effective use of that respected name, so authoritative with his opponents.\* But he does not base social life on love and sociability to any extent, for his rejection of patriarchalism made it difficult, though he does make concessions even over this. We have natural political virtue, he seems to say, primarily because of a symmetry in reason between all of us.

Locke's theories of political obligation and political freedom, in so far as he worked them out in any detail, can be looked on as developments of natural political virtue. The virtue which we all possess is outward-facing: we might use a later, utilitarian expression and call it 'other regarding'. We must stress the point that in Locke's system it is the power which men have over others, not the power which they have over themselves, which gives rise to political authority. Organized government is not to be regarded as a form of self-government. We do not dispose of ourselves, and so we have no right to give ourselves up to anybody or anything else. All that rational co-operation enables us to do is to give up our other-regarding powers to found political authority. We do this by an act of consent and it can even be said that 'the Judgments of the Commonwealth' are our own judgments, they being made by ourselves or our 'Representative' (II, § 88).

We cannot, then, be obliged by any government to which we have not given some sign of consent—walking on a road is enough (II, § 119), but owning property under its jurisdiction is much more tangible. And only this can give a man permanent membership of a society (II, § 122), where there has been no express declaration of allegiance. Nevertheless it is a little misleading to say that we are actually governed exclusively by our own consent. We come under the jurisdiction of the other-regarding

\* See footnotes to *Second Treatise*, especially to § 5, see Polin, 1961, 105 etc.

an institutional matter, a matter of law. Law makes men free in the political arena, just as reason makes men free in the universe as a whole. It is progressively codified by a legislative brought into being by consent, it is expressive of and in harmony with the law of nature, which continues of course in society (II, § 135). For 'Law . . . is . . . the direction of a free and intelligent Agent to his proper Interest', and its end is 'to preserve and enlarge Freedom' (II, § 57). Locke is much closer here than was once recognized to Rousseau's position that men can be compelled to be free, compelled by the law of the legislative which they have consented to set up.\*

Men cannot, however, be compelled by will, the individual will of a ruler or the general will of a society. Locke's insistence that government is defined and limited by the end for which political society is established, that it can never be arbitrary or a matter of will, can never be owned, is expressed in a particular and exact application of his doctrine of natural political virtue—the concept of trust. He tends to use the language of trust whenever he talks of the power of one man over another, even for fathers and children (II, § 59). 'Some Trust one in another' is an assumption of all who join to make up society (II, § 107). This must be so if the tendency of men is to be responsible, if governors and governed are interchangeable; we can and must trust each other if natural political virtue is a reality. But there is an easily discovered limit to the trust which can be accorded or assumed, and this limit is implied in the concept of trust itself. Trust is both the corollary and the safeguard of natural political virtue.

The concept of trust is very specific to Locke, though it is not original with him.† His actual words must be looked at if we are to see its function clearly, and yet not make him more precise than he intended to be. We may notice that the word 'contract' does not occur more than about ten times in his book, and it is hardly ever applied to political matters at all.‡ It is 'compact' or often mere 'agreement' which creates a society, a community (II, §§ 14, 8, 97, 5; 99, 6; etc.), or political power (I, §§ 94, 5; 113, 7 and 9; II, §§ 97-

\* See Gough, 1950, 32, commenting on Kendall, 1941; Abrams, 1961 (government is a matter of will), and Seliger, 1963 (ii) (consent and natural law).

† See the valuable discussion of the concept in Gough, 1950, chapter vii.

‡ But to legal and quasi-legal agreements, such as marriage (I, §§ 47, 10; 98, 17 and 19; II, §§ 81, 10; 82, 8; 11, 16; 83, 17; but he calls marriage a *compact* in II, §§ 78, 1; 84, 4) or to property arrangements, e.g. in II, 194, 16. In I, § 96, 13 there is, however, a reference to political 'power founded on *Contract*'.

powers of our fellow citizens when we cease to act rationally and socially, and in society this means that we must submit to the common executive power, the power of the state sanctioning natural law and those settled standing rules which it has established. We have consented to the establishment of that executive power, and through its character as a legislative we may be said to have had a voice in the codifying of those rules, more especially where the legislating body is a representative one. But we should be under the executive power of the law of nature in any case, as exercised by others over us. If this were not so, how could any government punish the crimes of aliens within its jurisdiction (II, § 9)?\*

Property, on the other hand, is of such a nature that 'without a Man's own consent it cannot be taken away from him' (II, § 193). In all matters of property, then, the warrant of a government's action must always be consent. Since Locke lays so much emphasis on the preservation of property as the reason for establishing the state, as the end of government, and since he assigns so many social and political functions to property ownership, it may seem that consent is the sole basis of obligation in his system. He has been read almost exclusively in this sense, but obligation does have an independent source in his doctrine of natural political virtue.

We may look on this position in another way and say that the passage from the state of nature to the state of society and government makes possible rule by consent, which is not possible in a state of nature. This is important because it lays stress on the fact that in Locke's theory freedom is not merely absence of restraint, it is positive. It is something which is enlarged by the creation of society and government, which is given substance by the existence of laws, the laws of the law courts. It can be negatively defined, therefore, as being under no other legislative power but that established by consent in the commonwealth (II, § 22), and positively as the progressive elimination of the arbitrary from political and social regulation. He is very insistent on this positive point, resting it originally on the right to preservation, and on the individual's inability to dispose of himself (II, §§ 22-3). He develops it into the denial that government can be a personal matter, a matter of will: it must always be

\* See Lewis, 1940 and, for criticism of Locke, see Plamenatz, 1936, Gough, 1950 and especially the very interesting discussion in Dunn, 1967 (ii) and 1969 (i). It is odd that Locke does not insist on the necessity of a representative legislature for a government to be legitimate, though he seems to assume it and in II, § 176 talks of the 'naive Right' of a people to have a legislative approved by a majority.



§ *original Compact*; 102, 22; 171, 24; 173, 6; etc.), even law (II, § 35, 5). Now compact and agreement are more general than contract: they are further removed from the language of the law. Vague as Locke is, we seem to have here a deliberate attempt to avoid being specific and to leave legal models on one side. It may imply that the transmutation into the social and political condition must not be looked on in a legal way; it is a variable thing and a pretty loose one too.

The word 'trust' is much more frequent than either contract or compact, and it is a legal word.\* But although Locke used it with legal overtones, and was as always quite willing to take advantage of all the suggestions it contained for his readers, we need not assume, as is often done, that he was trying to describe a formal trust deed for government. In applying the word trust to the various political powers in the state, the constitution, Locke draws an important distinction for us, perhaps two of them. He divides off the process of compact, which creates a community, from the further process by which the community entrusts political power to a government; although they may take place at the same time, these two are distinct. This puts his system amongst those which distinguish the 'contract of society' from the 'contract of government', though in Locke this second process is not a contract at all. And this may be his second point; to underline the fact that the relation between government and governed is not contractual, for a trust is not a contract.

If a contract is to be set up, or understood, it is necessary that the parties to it should each get something out of it, and applied to politics this would mean that the government got something out of governing which the subjects are bound to give. Now this is what Locke was most anxious to avoid. Although contractually related to each other, the people are not contractually obliged to government, and governors benefit from governing only as fellow members of the 'Politick Body' (I, § 93, 11-12). They are merely deputies for the people, trustees who can be discarded if they fail in their trust (II, § 240, 8). The property trusts which his landowning readers were so accustomed to were a little like this, but they contained no provisions about trustees being deputies, liable to be discarded by those for whose benefit the trust is established. This

\* The technical term for a lawyer's instrument much in use, we may note, in Chancery when Locke was himself a Chancery secretary—see above, p. 26.

should convince us that Locke did not intend to go further in his references to trust than to make suggestive use of legal language.\* He does not describe a trust at all; the phrase itself is absent. It is always 'this', 'that' or 'their trust'—the trust of prerogative, 'this express or tacit trust', even 'double trust'. The stress is solely on the fiduciary nature of all political power ('a Fiduciary Power' (II, § 149, 6), 'a Fiduciary Trust' (II, § 156, 3)). He could even talk elsewhere of bishops as trustees, trustees of religion on behalf of all the Christians of the nation. The concept is obviously intended to make it clear that all actions of governors are limited to the end of government, which is the good of the governed, and to demonstrate by contrast that there is no contract in it—a fiduciary relationship, that is all.†

When trust is substituted in this way for contract, constitutional change is sanctioned, even revolution; it secures the sovereignty of the people, though that phrase must be used with care, a perpetual residual power to cashier their governors and remodel their government. '*Governments are dissolved* . . . when the Legislative, or the Prince, either of them act contrary to their Trust' (II, § 221, 2-5), power reverts to the people, who may then establish a new legislative and executive (II, § 222, 23-4). It is the people (the community, the public) who decide when a breach of trust has occurred, for only the man who deposes power can tell when it is abused (II, § 240, 5-7), and in case of dispute the final appeal is to God—revolution. The people are able to do all these things because their ability to act as a community survives the dissolution of government, which does not itself bring back the state of nature.

The trend of Locke's statements about the ultimate right of the people to revolt is quite unmistakable. But close examination shows that it was not formulated with much precision, and its connection with the concept of trust has to be filled in for him. In the chapter *Of the Dissolution of Government* (II, ch. XIX) he is not at all explicit about what actually happens when people find

\* Gough, 1950, and Sir Ernest Barker, 1948, among others (compare Vaughan, 1923), see a formal trust in Locke's theory, with the people as both trustor and beneficiary, acting as defrauded beneficiaries when the government breaches its trust. Locke does talk of breach of trust (II, § 222), but more often and more vaguely of acting contrary to their trust (II, § 149, 8; 155, 6; 221, 3; 226, 3; 240, 2-3). When governors do this it is the government, not the trust, which is dissolved, and, though he does once refer to forfeit of the trust itself (II, § 149), it is very difficult to make sense of his text by interpreting the actions of a people on breach of trust as those of defrauded beneficiaries under a formal trust.

† Dunn, 1984, is the best recent discussion of Locke's concept of trust.

themselves at liberty to entrust new hands with the government. Although we are expressly told (II, § 211, 3-4) to distinguish between the dissolution of government and the dissolution of society, and informed that overwhelming force from abroad is almost the only thing which can dissolve political society itself, he often seems to talk as if the dissolution of government brings about a state of nature. James II, for it can only be he, is condemned for 'actually putting himself into a State of War with his People', dissolving the government and leaving them 'to that defence', 'which belongs to every one in the State of Nature' (II, § 205, 8-9). This state of nature, moreover, sometimes looks less like the Lockean than the Hobbesian condition, that miserable condition of war of all against all, where no such thing as an organized community could possibly exist, since 'the People become a confused Multitude, without Order or Connexion' (II, § 219, 10).\*

This is not so inconsistent as it may appear, for we have seen that Locke drew no very rigid distinction between the natural and the political condition, and his doctrine of natural political virtue could be manipulated so as to cover these cases. His intention in the rather confused argument of this chapter may have been to insist on the efficacy of a threat to return to the state of nature—a present sanction, we are to believe, both when government exists and when it does not, and particularly at that point of crisis when no one is quite sure, which is as far as what we call anarchy ever really goes. But this interpretation is suggested by the whole tenor of his doctrine, rather than demonstrated by his statements.

And it does not help us to understand quite how, or quite when, the trust relationship between the people and their government is brought into being. An original agreement undoubtedly made it a matter of trust that a specified form of government should be preserved, but we are not told whether this agreement is always part of the social compact.† He seems content, in fact, to suggest a

\* It may be significant that both these passages, and others pointing in this direction, were very probably additions of 1689. Compare the discussion in Vaughan, 1925, and Strauss, 1913, 234 note 100. On the people, see Polin, 1961, 117-61, and, on their function as judges, 272 on (also Seliger, 1963 (I), 1968).

† See e.g. II, §§ 239, 10 and 227; compare I, § 96, 13-14 (where power is based on contract). Elsewhere (II, §§ 134, 1-8; 11, 136, 21; 142; 171, 1-4; 242, 9) he seems to suppose an entrusting action, which took place in past time, taken by the 'first Framers of Government' (II, § 156, 6). In his *Second Letter concerning Toleration* (1690) he talks of God as the final arbiter of the Magistrates' trust (*Works*, 1801, VI, 133). For the most part, however, he talks of trust as a continuing relationship between governor and governed in the way described above.

continuing understanding between governed and governors. It is to be referred in its origin to the compact of society, because that was what gave the governed an identity, but it is continuously maintained because the governed go on existing and go on entrusting. It is a matter of suggestion rather than demonstration, relying for its plausibility on the language of trust, on trust as a concept.

This is not untypical of Locke as a political writer, and though it makes exact analysis difficult, it helps to give him his strength. Locke's impreciseness over the dissolution of government has not led to any misunderstanding of his principles, and no more has his metaphor of trust. No man, no nation, no exasperated colony about to throw off the insensitive rule of men who had no acceptable policy for them, could ever have sat down to ask whether the state of nature had returned, and if so what it was like. But they have responded to the statements which Locke made with that hypothetical, but vaguely conceived, situation in mind. And they have been influenced by the trust image. This certificate of responsibility still hangs above the desks of administrators, especially of international political and welfare administrators; held there—to some extent anyway—by the influence of British legal and constitutional precedent, and by Locke's own reputation. Once more it is a question of the ethics of common sense in politics. If you trust people, they will trust you, and you and they will get things done together, but especially if all your actions proceed on the recognition that your power is not yours but a trust from them to you.

We have tried to show that the main theme of Locke's book was the development of the implications of this doctrine of natural political virtue, defined, checked and safeguarded by the concept of trust. From time to time, and especially in discussing majorities, we have found ourselves referring to a different strand of argument, an argument in terms of power, even of will. It might be incorrect to claim that these strains are distinct in his thinking, or that Locke himself saw them apart: what he says about power is in the way of an adjunct to his other statements, not a different and parallel explanation. Nevertheless it is useful to look on this part of what he said as independent, for its most important consequence, the association of Locke with the historic doctrine of the separation of powers, could not possibly have arisen out of the theories which we have discussed so far.

Locke's initial definition is in terms of power (II, § 3) and throughout his book he seems to be consciously discussing a power system. It might be suggested that the reason for this was his recognition that there were in his attitude recognizable anarchist elements, a disposition found in all individualists to regard state, society and government as unnecessary, or accidental, or just unfortunate. It is to be seen in his aside declaring that it was only corruption, viciousness, degeneracy in some men which made it necessary for humanity to set up communities 'separate from this great and natural Community' of all mankind (II, § 128, 7-10). The doctrine of natural political virtue is anarchistic in its implications generally, and we have seen that Locke had to answer in a somewhat urgent form the question of why men set up states at all. His contemporaries, certainly Sir Robert Filmer, would have looked on the most important of all his claims as obviously anarchical, the claim that there is no final appeal in ultimate political questions, only God—which means combat, revolution.

But, Locke is anxious to convince us, this does not mean that the state which we set up and obey, which guarantees our property in all its forms and under all its definitions, lacks unity, direction, power. When we meet together to set up artificially that final judge which is lacking to us in the state of nature we create a rightful legislative authority, the nature of which is ethical and which we are bound to obey however weak its sanctions. But we create something else as well, we create a principle of unity, a 'living Body', out of our separate selves. In this paragraph (II, § 212) Locke goes on, in language we may think strange in him, to talk of the legislative as the '*Soul that gives Form, Life, and Unity to the Commonwealth*', and of 'the *Essence and Union of the Society* consisting in having one Will, the Legislative', which, when once it is broken, leaves every one 'at the dispose of his own Will' because 'the publick Will' is at a stand.\* Here it may be thought he comes near to denying his own principle that government is not a matter of will, or even to concepts belonging to a quite different political system, a general will analysis. In fact, however, he seems to be doing no more than insist that when men come together politically they create power, which is available to them in institutional form for the purposes of their association, and

\* Compare the 'will' language used in II, § 151.

which will find its first and highest expression in the making of law.

When, therefore, Locke talks of the various powers of the commonwealth, the supremacy of one and the derivative nature of the others, he should be taken in the simple sense of force, at least initially. The supreme power, the legislative, is supreme because it literally represents the united force of the commonwealth, and the commonwealth to remain one body can have only one supreme power. The executive power is thus inevitably inferior. It is distinguished from the legislative in that it cannot make law, and has for the most part only a delegated power. The legislative, being preferably a representative body, need not, should not be in continuous existence (II, § 153). Now this does not exclude the possibility that both powers can be exercised by the same body or person. It supposes, in fact, that the executive will have a part to play in the legislative, as is the case in the constitution of England, which Locke so obviously had in mind.\*

That he was looking on these powers in this straightforward sense is illustrated by the very nature of the third power, the federative. This was simply the power of the community directed outwards, towards other such communities in amicable relationship, or in protection against aggression. It is a distinct power, no doubt, but this outward direction is its only characteristic. It is almost essential, therefore, that it be in the same hands as that of the executive and be given the freest possible play for quick, arbitrary decision. It must have the greatest possible freedom from everyday control by the legislative or its laws—to which it is of course finally responsible.†

It is surely already obvious from this that Locke cannot be said to have had a doctrine in mind. There is here no theory of the importance and desirability of the perpetual residence of these powers in separate hands in order to preserve liberty, guarantee

\* All this is insisted on at length (especially the points about the summoning of the legislature by the executive, the conditions which the constitution may lay down about the intervals at which it shall meet, and so on) because, as is suggested above, Locke was writing with Charles II and his parliaments in mind.

† On the federative power, see Laslett, 1957 (I), 396, and the discussion in Cox, 1960, where he makes exaggerated claims for the primacy of foreign policy in Locke. Dunn calls in question Laslett's interpretation of the issue of Virginian government in the 1690s in relation to Locke's doctrine, and presents a different view.

rights, or keep the constitution in harmony, unison and health. This is confirmed by two further considerations. One is that the judiciary, that separate power whose independence is recognized as an essential to constitutional government both by Locke's predecessors and by all his successors, whether they have expounded the separation of the powers or not, is never mentioned by Locke along with the other three. As we have said, the judiciary was no separate power, it was the general attribute of the state. It would not make sense to put it alongside the executive and legislative. Locke recognized that the judiciary should be indifferent and upright (II, § 131, 16), known and authorized (II, § 136, 4), or else nothing he wanted would come about: that is all. Finally, the proper functioning and just exercise of these powers is provided for by Locke, but not by any doctrine of necessary separation. It is done by the concept of trust, which applies to the legislative in its fullest force, but also to the executive and federative.

Locke shared the traditional opinion about balancing the power of government by placing several parts of it in different hands (II, § 107, 19-20). He seems to have attached some importance to the distinct natures of legislative, executive and federative, for they are introduced, by function if not all by name, immediately after he gives his first formal account of how the state comes into being (II, § 88). One of the reasons why an absolute monarchy cannot be a properly constituted political authority is because it institutes a ruler who has 'all, both Legislative and Executive Power in himself alone', so that 'there is no Judge' (II, § 91, 1-2). This is as far as he goes.

It may be historically interesting that Montesquieu and later the American founders took him up in a sense which he cannot be said to have contemplated, just as it is interesting to find that Locke conspicuously ignored the clearest issue over the separation of powers which arose in our constitutional history, even though it involved him personally.\* It is one example of the extraordinary fashion in which the thinking of Locke and the constitutional practice of Englishmen so soon began to coalesce in the minds of a posterity determined to benefit from both. The result was a mingled misunderstanding of the greatest possible historical consequence.

\* Laslett, 1969: this was the issue of whether the Crown or the Commons should appoint the Board of Trade of 1696, of which Locke was a member.

We cannot dwell on this subject, nor on Locke as an exponent of the English constitution of his day. In his analysis of politics in terms of force as well as in terms of rightful authority Locke is closer to the thought of our own day on the subject of sovereignty than he was to the assumptions of his own time. Behind the superior power of the legislative in his system there is always to be seen the finally supreme, all-important power of the people themselves, again conceived of as a force, though justified in its interferences once more by the concept of trust. It was a power which would only rarely display itself, and, as we have tried to show, there is considerable obscurity about the actual circumstances in which it could come into action and more about what it might achieve. Nevertheless this residual power must be called Locke's idea of what we now think of as popular sovereignty.

Locke reads as if his reflections on the true original, extent and end of civil government were directed towards political universals, instead of directed towards the highly specific situation of his own party, at a particular time and within the highly individual context of English politics. We have described this as an achievement, the achievement of a philosophic mind writing, in a sense, against its philosophic bent. It has inevitably led to his being criticized for raising expectations which he did not fulfil, for propounding theories, whose final implications he never contemplated. Some of these criticisms have been considered here, but one still remains. It is often said that Locke is the supreme representative of those individualist thinkers who stress rights instead of duties. As early as 1798 Bishop Elrington reproached him for not declaring that man had a duty to set up the state and to leave the condition of mere nature. But if his system as we have analysed it is sympathetically considered, this appears, perhaps, as the greatest of all the misapprehensions about him. Natural political virtue can only work if we obey the tendency within all of us, for it is a tendency, it is not the full description of ourselves. Trust is a matter of conscience, which may have its final and unlikely sanctions but which operates because of the sense of duty which Locke dogmatically, unthinkingly assumes in every man he contemplates.

Locke's psychological insight may be imperfect, his logic often odd, his general standpoint ungrateful to our generation and not

easily understood even within his own personal historical context. His rationalist sociology may seem fantastic, even in comparison with the uncritical traditionalism of a man like Filmer. But after he had written and what he had written had had its enormous impact on the European mind, it was no longer possible to believe that politics went forward in a moral sphere in which the good man was the good citizen. Citizenship was now a specific duty, a personal challenge in a world where every individual either recognized his responsibility for every other, or disobeyed his conscience. Political duties have not changed since then.

## ADDENDUM TO INTRODUCTION,

1987

*The dating of the composition of Two Treatises and the question of whether the Second was composed before the First*

Professor Richard Ashcraft in his recent book, Locke's *Two Treatises of Government*, 1987, has decisively rejected the version of the composition and dating of Locke's book set out in this Introduction. In his view the *First* was written in 1680-1 and the *Second* in 1681-2, neither as early as 1679, in whole or in part.

Neither in this book, nor in his extremely detailed analysis of *Revolutionary Politics and Locke's Two Treatises of Government*, 1986, does Professor Ashcraft produce any new references in materials previously unknown to underwrite his new interpretation. I had hoped that in the exhaustive analysis, interesting and valuable as it is in so many ways, which he has undertaken on the books and papers of the radicals who surrounded Shaftesbury in the 1680s, who plotted against James II after Shaftesbury's death and who involved themselves in Monmouth's attempt to overthrow him, some allusion to the text of *Two Treatises* might appear. It was perhaps unlikely, considering Locke's cautious habits and his attitude to what he had written, that any such allusion would be in plain language. But one or other of those who associated with Locke might well have known and written about the manuscript *de Morbo Gallico* (see above, pp. 62-5). This would have made the hypothesis that *de Morbo Gallico* was indeed the unpublished manuscript form of the book less hazardous than it seemed to me to be when I suggested it in the early 1950s, and so have given a large number of statements in the original Introduction greater security than they had when they were written, and still have.

Ashcraft apparently has no difficulty with *de Morbo Gallico* (1986, p. 36), and it is the circumstantial evidence used by me to tie the writing of the *Second Treatise* to the year 1679 which he disbelieves. On one point let it be admitted, a point previously raised by two others (Gough, 1976 and Menake, 1982), Ashcraft is quite right. I made an error in stating that Locke bought Tyrrell's *Patriarcha non Monarcha* on 2 June 1680: the year should have been 1681 (1st and

2nd editions, p. 61). This confusion—for in other places in my edition the date was given correctly—certainly affects the argument that Locke and Tyrrell were engaged in writing against Filmer at the same time, and that each found it necessary to compose a '1st Treatise' after *Patriarcha* appeared in January 1680. But though the original case for my suggestions of the dates and order of the *Two Treatises* may be a little less persuasive for this reason, it certainly does not fail. And the other considerations which Ashcraft puts forward do not seem strong enough to require me to withdraw my own hypothesis.

A full statement of the reasons why I am not convinced that Ashcraft is right would soon become complicated, lengthy and tedious. Let it be said here, however, that his arguments about the little notebook of Locke (MS. f. 28) seem no stronger, indeed rather weaker, than my own. This notebook may have been a confidential one and intended by Locke for other purposes, but it is evident that he did use it for noting the titles of books, for the exchange and borrowing of books, and for extracts from books. The entry which Ashcraft makes into an issue is not the only one relevant to the case; see the note on IIT, 236. I cannot comprehend how Ashcraft knows that the date at the head of a page in that notebook 'generally' refers only to the first entry on that page and to that entry only, a point which he uses in order to dispose of the possibility that Locke was engaged in 1679 on § 22 of the *Second Treatise*. If 'generally', how are we to know of the exceptions?

When Locke writes the address of Furlly under the heading 79, there seems to be no justification for Ashcraft to assert that Locke must have been in Holland at the time he made the entry, and therefore cannot have written it in the year 1679 but later. If indeed the notebook was intended to be used for addresses, as Ashcraft supposes, is it not more probable that he wrote out Furlly's name and city for his future use? When Ashcraft protests that Locke could not have composed the *Second Treatise* in response to the 1679 collection of Filmer's tracts because he did not own the book he seems to me to be mistaken on two counts. One is that Shaftesbury may well have lent him the book, which he returned when he acquired the 1680 volume, or subsequently disposed of without making any known recording. The other is that it cannot possibly be known by its absence from the record that a particular title was not in an author's possession or in his keeping at any

time. The *Tablet* shows that Shaftesbury did lend Locke books used in composing *Two Treatises* and the study of his library confirms what must be expected, that he must have bought, borrowed, destroyed, lost many, many titles without leaving evidence known to us.

I used Locke's *Tablet*, his own description of MS. f. 28, to guess about the time at which he wrote the *Second Treatise*, just as I guessed that he and Shaftesbury called the manuscript *de Morbo Gallico*. The object being aimed at in the 1950s and 1960s was to remove the date of composition of the book from its hitherto revered position as one written and published in 1690, and any inference from a document external to the work itself which might locate it up to ten years earlier was important. The inferences which I made from Locke's diaries, his *Tablet* and so on as to his order of writing were all subsidiary to the internal, literary argument about the relationship of the two sections of his book, an argument to which Ashcraft never refers, but which still convinces me. One sentence may be repeated here: 'It would seem undeniable that the *Second Treatise* was logically prior to the *First Treatise* because the author had never had occasion to cite the *First* when composing the *Second*.'

The rest of Ashcraft's submission turns on a point on which we agree, that Locke may well have written in some sense for Shaftesbury's purposes. For him, however, these purposes were exclusively political, apparently entirely propagandist. This is how he interprets Locke's function as Shaftesbury's 'assistant pen'. He cannot have written any justification of rebellion unless his master Shaftesbury had reached the point when rebellion was the proper next political expedient.

Important as it is to see works of political theory in their context, interesting and significant as it is to recognise that *Two Treatises* was to an extent a *pièce d'occasion*, Ashcraft's account of the influence of these things on Locke leaves me unpersuaded. No doubt he did write to inform Shaftesbury, to provide arguments for him, and so on. But this does not make him Shaftesbury's ghost-writer. In any case, the possibility, indeed the probability, of a variety of periods of composition and of subsequent insertion is too slippery for such definite assertions. Professor Ashcraft pronounces on the question of the dating of *Two Treatises* with an assurance which surprises me, considering the nature of the evidence and the frailty of his case,

indeed of any case based on such materials. Accordingly, I have toned down my original statements on this subject in this printing, based on inference and guesswork as they had to be. I have corrected the errors of fact mentioned, and I have left the reader to make his choice between the arguments. The arguments of Professor Olivecrona presented in the *Locke Newsletter* for 1976 (no. vii) I find mildly persuasive but not convincing enough for me to give up the view that Locke wrote his book as a whole, the *Second Treatise* as well as the *First* against Filmer. In general, then, I retain my view, that the proper conclusion from such evidence as we have is that Locke wrote the two parts of his book at the times and in the order propounded here.

## EDITORIAL NOTE

### 1. THE TEXT

*General.* The attempt here is to present Locke's 'text for posterity' (see above, pp. 9-11) from the Christ's corrected copy. It has been set up in type from a photograph of that document. The compositors have in fact worked from printer's copy prepared for the press between 1698 and 1704 by Locke himself and by Coste. Locke's hand appears only occasionally after the first few pages, and Coste seems to have been copying rather than taking his dictation: it seems possible that he may have been copying from another, very similar exemplar, the hypothetical second master-copy which is discussed below.

The decision to reproduce the Christ's copy, modified only in such particulars as were absolutely necessary, was the simplest, most consistent solution to an intricate editorial problem. The reader has before him the version which would have satisfied Locke at the time of his death, or something as close to that version as the editor can make it. He has also a record, complete in all essentials, but not absolutely exhaustive, of all the variants from that final version which were seen by Locke, and then rejected by him at one correcting stage or other.

*Documents used.* In order to appreciate why the editor has ventured to alter the Christ's copy in any way whatsoever, it is necessary to record the documents from which he has worked. They are:

- (i) Locke's own copy of the 1st printing of 1689-90. This is in the 2nd state (1R, see above, p. 8 and references), complete with errata slip. Locke has entered the errata, and made a few further modifications of his own.
- (ii) The 2nd printing, 1694, with its errata list.
- (iii) The Christ's copy of the 3rd printing, 1698, with its errata list and the very extensive corrections in Locke's hand and in Coste's.