

LOCKE

The Second Treatise of Government



Edited by
THOMAS P. PEARDON



Macmillan/Library of Liberal Arts

THE SECOND TREATISE OF GOVERNMENT

JOHN LOCKE

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INTRODUCTION

Locke's Life

John Locke (1632-1704) is probably the most representative thinker in the whole Anglo-American political tradition. Often called the theorist of the English Revolution of 1688, he was also a main source of the ideas of the American Revolution of 1776. This was not because Locke was original in his political ideas, but rather because he gave clear and reasonable expression to beliefs that were the product of centuries of political experience and the stock-in-trade of liberty-loving Englishmen and Americans in the seventeenth and eighteenth centuries.

Like Hobbes and Hooker, John Locke was born in the west of England. He came from a substantial middle-class family background, his father being a small landowner and an attorney. The religious leaning of the family was Puritan; its political sympathies were with Parliament, for which cause John Locke's father fought in the Civil War. It seems to have been his father to whom Locke owed his early education. He was then sent to Westminster School where he remained for about six years. In 1652 he entered Christ Church, Oxford, thus beginning an association of some thirty years with that institution. Locke was extremely critical of the education he received both at school and at the university. He was impatient with the scholastic curriculum still in force and not always respectful of his teachers. According to Anthony Wood,¹ indeed, Locke as a student was "ever prating and troublesome and paid little attention to his lecturers." However, he read a great deal, being particularly stirred at this time by the ideas of Descartes, and some years after taking his degree he was made a lecturer in the university.

It was probably Locke's liberal religious ideas that decided him against a career in the Church. Instead, he turned to medicine al-

¹ Anthony Wood (1632-1695): Author of a history of Oxford University (in Latin 1674; in English 1791-96).

though his practice of that art was never very systematic. Locke's career was to be made in other ways. He made a deep impression upon those with whom he came into contact. His personality was as pleasing as his intellect was powerful. In 1665-1666 he first visited the Continent as secretary to Sir Walter Vane on a mission to Brandenburg. About this time, too, began his close association over many years with Anthony Ashley Cooper, the first Earl of Shaftesbury and a prominent Whig politician. Locke not only acted as family physician but was tutor to Cooper's son, the second earl, who became famous in later years as one of the leading Deists. From 1675-1679 Locke was again abroad in France for his health. There, as everywhere, he made contacts with men of science and letters. Back in England, from 1679-1683 he lived in an atmosphere of political unrest and threatened civil war. His liberal notions got him into mild trouble at Oxford and, in 1683, he went to Holland as a political exile. Here he remained during the years of preparation for the descent of William of Orange on England. Following that event, Locke returned to his native land in February, 1689, in the expedition that brought Mary to join her husband on the throne. From this time until his death in 1704, Locke lived much in the country except when official duties demanded his presence in the capital. Chief among these was his position as commissioner with the Board of Trade and Plantations at a salary of £1,000 a year, a post he held from 1696 to 1700 when ill-health forced his resignation. He died on October 28, 1704.

No one who lived in seventeenth-century England could fail to be influenced by its revolutionary upheavals. "I no sooner perceived myself in the world, but I found myself in a storm which has lasted almost hitherto."² In this experience may be found a partial explanation of Locke's dislike of violence and extremes. It is important, however, to note that the storm was blowing itself out before Locke was out of his twenties. The year 1660 was a watershed in English political experience. The Stuarts were restored, but not the early Stuart absolutism. Trouble indeed lay ahead, but there was not so much danger of fundamental upheavals.

² Quoted in Thomas Fowler, *Locke* (1899), p. 2.

Locke was not disturbed like Hobbes by the fear that the fabric of society would be torn asunder. Stability, it has been said, was the central assumption of his thinking. And, if one can assume that there is a deep social stability underlying and more fundamental than government, one will be unwilling to surrender almost all rights for the benefits of political order as Hobbes was willing to do.

It was not only the political situation that had changed by the latter part of the century. A new intellectual climate was spreading over Europe. There was less religious and political zealotry and more interest in science and in economic gain. It can be felt in the character of Locke's Christianity. Religious faith was certainly profoundly important in his thinking. For him men were "all the workmanship of one omnipotent and infinitely wise Maker—all the servants of one sovereign master, sent into the world by his order, and about his business."³ It is impossible to comprehend Locke without grasping the existence of this faith. Yet his was a placid and Latitudinarian faith belonging to the Enlightenment rather than to that twilight of the Middle Ages, the period from 1500 to 1650, or thereabouts, in which the Reformation and the religious wars had occurred. The old era had been full of passion and competing orthodoxies. The new era was to prefer reasonableness and simplification in dogma and the toleration of dissent. The old era had started its reasoning from the assumption that man was naturally vicious or wicked. The new era was destined to be rather optimistic about man's nature and potentialities.

Much of the change in intellectual climate was produced by the work of men like Descartes, whose *Discourse on Method* inaugurated modern philosophy. But more important was the progress of science. Newton, whose *Principia Mathematica* appeared in 1687, seemed to unlock the secrets of nature. Locke read both Descartes and Newton avidly. Moreover, he was a close friend of the chemist Boyle, whom he helped in some experiments; he was brought a good deal closer to science, especially experimental science, through these contacts than Hobbes has been.

³ See Section 6.

Locke's Writings

Locke's books were the product of long years of reading and reflection. As late as his fifty-fourth year he had not published anything of importance although he had written a good deal that remained in manuscript. His years in Holland (1683-89) gave him leisure to complete much that he had undertaken long before and the Revolution provided the stimulus for publication. In this respect 1690 was Locke's *annus mirabilis*. True, his *Letter on Toleration* appeared both in Latin and English in 1689. But in the next year came forth the great *Essay Concerning Human Understanding*, attacking innate ideas and tracing all knowledge to experience (sensation and reflection); and in the same year were published the *Two Treatises of Government*, which were written to justify before world opinion the Revolution of 1688 and the ascension of William to the throne of England. In the Preface he summarizes the purpose of the two *Treatises* as follows:

READER, Thou hast here the beginning and end of a discourse concerning government. What fate has otherwise disposed of the papers that should have filled up the middle, and were more than all the rest, it is not worth while to tell thee. These which remain, I hope, are sufficient to establish the throne of our great restorer, our present King William—to make good his title in the consent of the people, which, being our only one of all lawful governments, he has more fully and clearly than any other prince in Christendom; and to justify to the world the people of England, whose love of their just and natural rights, with their resolution to preserve them, saved the nation when it was on the very brink of slavery and ruin.

Locke directs his political writing against two lines of absolutist argument. The first was the patriarchal theory of divine right monarchy given by Sir Robert Filmer (d. 1653) in his *Patriarcha, or the Natural Power of Kings*, published posthumously in 1680. Here Filmer had argued that kings are or should be thought of as being direct heirs of Adam. With this contention Locke dealt sufficiently in his *First Treatise of Government*.⁴ The *Second Treatise* was

⁴ Both the *First Treatise of Government* and Filmer's *Patriarcha* are reprinted in Locke: *Two Treatises of Government*, No. 2 of the "Hafner Library of Classics." (See "Note on the Text," p. xxvii.)

directed, although without specifically saying so, against the line of argument for absolutism presented in Hobbes' *Leviathan*, 1651. Hobbes rested his despotism on consent. He assumed that without the restraints of government men would be in a constant state of war and insecurity. They are by nature so quarrelsome and competitive that only the strongest rule will restrain them. The choice is between despotism and anarchy, and this should be apparent to every thinking being.

Both Filmer and Hobbes represented departures from traditional ways of thinking. In a sense it was the mission of Locke to use the social contract approach for the restatement of ancient political ideas. He was familiar with the great medieval tradition of politics to which modern liberty owes so much—the tradition that government emanates from the community, is subordinate to law, and must seek the popular welfare. He had learned this doctrine from his reading of Richard Hooker.⁵ Moreover, this tradition had been reaffirmed in seventeenth-century controversial literature, much of it seeking to answer Hobbes. Locke was familiar with much of this literature. He almost certainly owed a good deal to the Rev. George Lawson's *Examination of the Political Part of Mr. Hobbes his Leviathan* (1657) and *Politica Sacra et Civilis* (1660), and to an earlier forerunner of the Whig tradition, Philip Hunton, whose *Treatise of Monarchie* was published in 1643. From Hunton, as from Lawson, he could learn the lesson that government is a trust on behalf of the people. He had contact with Huguenot thinkers when he was in exile on the Continent.⁶ His ideas on natural law, too, were surely influenced by his reading of Grotius⁷ and Pufen-

⁵ See note 1, p. 4.

⁶ It can safely be supposed that Locke was familiar with the celebrated treatise, *Vindiciae contra tyrannos*, published anonymously in 1579 and republished in Leyden in 1648. The author is unknown, but the work is generally attributed variously to Hubert Languet and François Hotman. Based on the social contract theory, it justified rebellion against the king in case of religious oppression. An English translation was published in London in 1924 under the title: *The Defence of Liberty against Tyrants*, edited by Harold Laski.

⁷ Hugo Grotius (1583-1645): His major work is *De jure belli ac pacis* (1625). It was reprinted, with an English translation, (1925) by the Carnegie Endowment for International Peace (No. 3 of "The Classics of International Law").

dorf,⁸ although he did not share those writers' propensity for absolute monarchy.

The State of Nature and the Law of Nature

The political philosophy of the *Second Treatise*, like all political philosophies, rests upon an interpretation of human nature. Locke viewed man as a pretty decent fellow, far removed from the quarrelsome, competitive, selfish creatures found in Hobbes. He has more inclination to society and is more governed by reason, "the common rule and measure God has given to mankind."⁹ The rationality ascribed to man by Locke is a pervasive characteristic going beyond the cunning calculation of interests upon which Hobbes depended to induce individuals in the state of nature to inaugurate society by a compact after which they must be held in society largely by force. It could be relied upon to produce a good deal of order even without the sanctions of government and to help maintain government once it was set up. This was especially so since Locke saw that man prefers stability to change. For "people are not so easily got out of their old forms as some are apt to suggest."¹⁰

From this interpretation of human nature, it followed rationally that the state of nature (that is, the condition in which men were before political government came into existence or would be if government did not exist) was no condition of war and anarchy as Hobbes had declared. On the contrary, "men living together according to reason, without a common superior on earth with authority to judge between them, is properly the state of nature."¹¹ The state of nature thus understood is prepolitical since it lacks "a common superior on earth with authority to judge." But it can hardly be called presocial. In it men live together under the guidance of the

⁸ Samuel von Pufendorf (1632-1694): His major works on natural law are: *De jure naturae et gentium* (1672) and *De officio hominis et civis juxta legem naturalem* (1673). The latter work has been reprinted, with an English translation, (1927) by the Carnegie Endowment for International Peace (No. 10 of "The Classics of International Law").

⁹ See Section 11.

¹⁰ See Section 223.

¹¹ See Section 19.

law of nature by which their rights and responsibilities are determined.

The conception of the law of nature is fundamental in Locke and marked one of the numerous respects in which he may be said to link emerging British constitutionalism to traditional ways of thought. For him it was really an objective rule and measure emanating from God and ascertainable by human reason. It provided a test or criterion by which political institutions and behavior could be limited and judged. It was prior to and more fundamental than the positive laws enacted by the state. And it bound men to obedience to just government once inaugurated by consent. "For truth and keeping of faith belongs to men as men, and not as members of society."¹² Here was Locke's main solution to the problem of why men ought to obey.

In one very important respect, however, Locke certainly contributed to a fundamental reformulation of the law of nature. He gave it a sharp bias toward individualism. The precepts of the law of nature as stated by him are concerned mostly with individual rights rather than with individual responsibilities to society. Under the Stuarts the scales of government had been weighted heavily on the side of authority. The balance was to be more than redressed in the era whose birth was signalized by the Revolution of 1688. And so the chief lesson John Locke learned from the law of nature was that even before government existed men were free, independent, and equal in the enjoyment of inalienable rights, chief among them being life, liberty and property.

Among these rights, property receives the most attention in the *Second Treatise*. Its protection is represented as being the primary function of government. Since this is so, and since Locke's theory of property was among the most influential elements in his teaching, the student should pay special attention to the fifth chapter of the *Second Treatise*. Its ideas loomed large in the rise of middle-class notions of the functions of government. For Locke was modifying the dominant trend of previous natural law thought most strikingly when he made property a natural right preceding civil society and not created by it. By merely applying his labor to the

¹² See Section 14.

gifts of nature man creates property. He cannot be deprived of it by government which it precedes.

It should be noted, however, that Locke means more by property than is usually included under that head. He calls it a "general name" for the "lives, liberties and estates" of men in one place,¹³ and in another declares: "By property I must be understood here, as in other places, to mean that property which men have in their persons as well as goods."¹⁴ Moreover, he limits the amount of property to which a man has a natural right to "as much land as a man tills, plants, improves, cultivates, and can use the product of. . . ." ¹⁵

These qualifications are the heritage of earlier ages when conceptions of property were somewhat less sharp and the rights of property rather less completely asserted than they would be later in the nineteenth-century noontide of bourgeois ideology. They made it possible for Locke's theory of property to be used by many different groups—among them advocates of a wide distribution of land and socialists basing a criticism of capitalism upon the labor theory of value.

The beginning of Section 123 shows that Locke was aware that some might conclude that the blessings of the state of nature were preferable to the constraints of government. He tries to destroy this position by dwelling upon the "inconveniences" (which might be summed up as a lack of security and certainty in the enjoyment of property and rights) under which man in the state of nature must live and for the elimination of which he should be willing to set up civil society.

The anarchists would argue that the cure was worse than the disease. Extreme libertarians can always derive support from Locke. But he himself believed that if government is based on consent men can still preserve that freedom, independence, and equality with which they are endowed by nature. To secure this end, of course, he resorted to the notion of the social compact. It is impossible to be sure if he believed such an original contract had actually oc-

¹³ See Section 123.

¹⁴ See Section 173.

¹⁵ See Section 32.

curred in history or was merely using the concept as an expository or controversial device. Locke was not very historically minded and may have believed that he was describing what had really taken place in the remote past when political society was born. He cites some examples drawn from history and from accounts of America in support of the historicity of the state of nature and the social contract.¹⁶ But the point is not really very important. Locke based his government on consent because that seemed reasonable to him. Believing this and thinking in the seventeenth-century frame of reference, it was natural for him to justify his belief by using the device of a social contract.

The Social Contract

In Locke's use of the social contract there are at least four conspicuous features. In the first place, he used it so as to preserve natural freedom as much as possible. Men surrender only the right of enforcing the law of nature. All other rights they retain as fully as before. Moreover, since men are by nature free, independent, and equal, the contract must be unanimous. Those who wish to remain in the state of nature are permitted to do so. Thus, Locke hoped, government would be both limited in its powers and based firmly on consent.

He was careful, secondly, as Hobbes had been for a different reason, to exclude rulers from the contract. The agreement is between free individuals, not between rulers and ruled. The former are merely given a "fiduciary power" or "trust" to be exercised solely for the good of the community. The conception of a trust fitted Locke's theory of the proper relations between rulers and ruled better than a contract would do. For in a contractual relationship there are rights as well as obligations on both sides. But where a trust exists the rights are all on the side of the beneficiary (the community), the duties all on the side of the trustees (the rulers). At the same time the trustees may properly be allowed a wide sphere within which they may act freely so long as they are faithful to their trusteeship.

¹⁶ See Sections 100-103.

Now the social contract, properly speaking, can be drawn up only once. How is the consent of later generations to be obtained? To meet this difficulty, Locke thought sometimes, perhaps, of formal ceremonies reminiscent of initiation among primitive peoples and of some episodes that were to occur in the French Revolution of 1789. But he relied most on "tacit consent." This is given when individuals on reaching maturity continue to accept the protection and benefits of an organized government instead of withdrawing to other communities or to the open spaces of the New World. Plainly this is not a very realistic resolution of the difficulty. For men are not so free in their movements or loyalties as this would imply.

A fourth feature of Locke's use of the social contract was majority rule. The decisions of a going community cannot depend upon unanimity. For this reason, Locke sensibly assumed that the majority would rule once the social contract was entered upon. But in what sense are the free and equal minority really governed by consent when they must bow to the will of the majority? How are they to be protected against a tyranny of the majority? There is a difficulty here which is not resolved merely by saying that they consented to majority rule at the time of the social compact. Such consent could soon become a very unreal thing. Locke slides over this difficulty.

Some uncertainty in Locke's use of the contract arises out of the setting-up of the institutions of government. Locke was one of the first writers to recognize the distinction between society and government. Now the contract sets up a form of society (civil or political society—what we today call the state). Just when and how is government instituted? Pufendorf had resorted to two contracts to answer this question in his theory.¹⁷ By one, society was instituted, by the other, government; and some students have argued that two contracts are implied in Locke. Others regard the setting-up of government as the first act of the new community set up by the contract. But this explanation seems to be weak; the mark of a political society is government. Locke says:

¹⁷ *De Officio Hominis et Civis*, ch. 6. (The Carnegie edition of the translation, pp. 106ff.)

Those who are united into one body and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders, are in civil society one with another. . . .¹⁸

According to this, government is itself an essential part of civil or political society and the two must have come into existence together.

The difficulty is resolved if we cease to think of Locke as reasoning in historical terms. He is really concerned with the inner logic of society. He is saying that relations between men in society and between individuals and society are *as if* there had been a contract made between them whereby men surrendered certain rights in return for protection of the rest. And he is saying further that relations between rulers and ruled are or ought to be those that exist between a trustee and the trustor and the beneficiary of the trust—the last two in this case being the same, namely, the Community or the People.

The Limits to Government

The conception of government as a trust exercised on behalf of the governed is an old one. It is deeply imbedded in the European political tradition. But where the middle ages fell short of modern times was in precision of statement concerning the limits on the power of rulers and in the provision of institutions by which rulers might be held responsible. In both respects the seventeenth century made important advances. Locke's *Second Treatise* contributed to this advance in several ways. For example, it set down specific limits on government. Thus the legislature, while the supreme organ, must exercise its supremacy through laws properly promulgated and applying equally to all groups and classes. It must not raise taxes without the consent of the people or their deputies. Nor can it delegate its legislative powers. The other branches of government are still more sharply limited.

One way of limiting government is to apply the doctrine of the separation of powers. Locke holds an important place in the development of this doctrine, although he does not formulate it as clearly as Montesquieu was to do. Locke spoke of "balancing the

¹⁸ See Section 87.

power of government by placing several parts of it in different hands." ¹⁹ He also distinguished between three different functions—legislative, executive and federative (foreign relations)—but permitted them to be combined in practice. He was willing to place the executive and federative in the same hands, made the executive a part of the legislative and asserted strongly the supremacy of the legislative (king-in-Parliament) over other branches. Thus he contributed to the formulation of the separation-of-powers doctrine, but did not give it its modern form in which the different "powers" are placed in distinct organs each equal to the other.

One reason was that institutions were always secondary to principles in Locke. So long as government was based upon consent and conducted within proper limits he was not vitally concerned about forms. His own preference clearly went to the English system after the Revolutionary Settlement. Under this the People's role in normal times was confined to the choice of a representative assembly which was then supreme. The executive power was placed in separate hands, but was also given a share in lawmaking.

The British system has always been characterized by the large measure of freedom of action left in the hands of the responsible rulers. It is important to note that although Locke set down limits to government he saw that government to be effective must have adequate power and adequate discretion in the exercise of that power. His chapter on Prerogative, with its specific references to English experience, deserves close attention. Locke knew that the law cannot provide for everything and that sometimes to observe the letter of the law may even be to act against the public good. For such situations he believed in reserve and emergency powers. They should be restricted in the case of feeble rulers, but "a good prince who is mindful of the trust put into his hands and careful of the good of his people cannot have too much prerogative." ²⁰

But if rulers do not exercise their trust in the interest of the governed then resistance is justifiable and a new government may be instituted. This is the last proposition in Locke's breviary of political wisdom. He was able to make it so confidently because

¹⁹ See Section 107.

²⁰ See Section 164.

of the distinction he drew between government and society. In his own lifetime he had seen civil war rage and several regimes succeed each other while the bonds of society held. And so, as was pointed out earlier, he saw that men need not tolerate despotism for fear that the sole alternative was anarchy. Nor was he afraid that a doctrine of resistance would mean constant instability. For people are "more disposed to suffer than right themselves by resistance."²¹ They are conservative by nature.

Yet while Locke was clear as to the existence of a right of revolution, he was never very precise as to when, how, and by whom it should be exercised. He says enough to justify the conservative upheaval led by men of substance, by which James II was driven from the throne. He was too cautious, too much a lover of peace and order, too much a man of the comfortable upper classes, to wish to give encouragement to ordinary rebels.

Locke's Influence

The political philosophy briefly summarized above spread widely in eighteenth-century Europe. In England, the Whigs found in it a justification for their regime including, somewhat illogically perhaps, their landed oligarchy. At the same time, it provided agrarian reformers like Spence²² and Ogilvie²³ with arguments against that system. In France, too, Locke found a wide audience. Popularized by Voltaire and others he supplied critics and reformers with exactly the kind of doctrine they needed to assail the absolute monarchy and social injustice of prerevolutionary France. But there it appeared in a more doctrinaire and revolutionary form than in the writings of Locke himself.

But it was in America that Locke met with the most resounding response. Early in the eighteenth century his books were being circulated in the colonies, while many Americans learned about them at British universities. A study of sermons and other materials shows

²¹ See Section 230.

²² Thomas Spence (1750-1814): Advocate of land nationalization.

²³ William Ogilvie (1736-1819): Author of *An Essay on the Right of Property in Land* (1781).

that he was one of the chief sources of the political ideas expounded by the New England clergy, especially after 1763. So close is the Declaration of Independence to Locke in form, phraseology, and content, that Jefferson was accused of copying the *Second Treatise*. This, of course, he did not do. But the ideas of the Declaration are those ideas of English constitutionalism to which Locke had given expression. No one has put the connection more forcefully than the late Professor Carl Becker:

The lineage is direct: Jefferson copied Locke and Locke quoted Hooker. In political theory and in political practice the American Revolution drew its inspiration from the parliamentary struggle of the seventeenth century. The philosophy of the Declaration was not taken from the French. It was not even new; but good old English doctrine newly formulated to meet a present emergency. In 1776 it was commonplace doctrine, everywhere to be met with, as Jefferson said, "whether expressed in conversation, in letters, printed essays, or the elementary books of public right." And in sermons also, he might have added.²⁴

Nor was Locke's influence confined to the Declaration of Independence; it was felt in the ideas and often the phrasing of State Declarations and Constitutions. He was quoted, too, in the Federal Convention of 1787 and often referred to thereafter. Indeed there was a natural harmony between Locke's ideas and those of the nineteenth-century United States. Paschal Larkin puts it very well in saying that "Locke's individualism, his glorification of property rights and his love of conscience have been interwoven into the economic and social texture of American life."²⁵

By one of those paradoxes with which the history of political ideas abounds, Locke's philosophy was seriously undermined at the time of its greatest circulation and long before its disappearance. Early in the eighteenth century Hume subjected the social contract theory to a criticism from which it never recovered. He pronounced it inadequate both empirically and logically. Primitive man, said Hume, could never rise to the conception of a formal contract; nor does history or contemporary government give ground for belief

²⁴ Carl Becker, *The Declaration of Independence* (1922), p. 79.

²⁵ Paschal Larkin, *Property in the Eighteenth Century* (1930), p. 171.