

9-14-11

Locke's *Second Treatise*

I. SON defined (p. 169) and elaborated; dispose of possessions and persons with complete freedom within bounds of the *Law of Nature* or depending on the *will of others*.

- a. Equality--no one having more than another
  - without subordination or subjunction (All men are created equal)
  - unless God is setting one above the other (Logical Possibility)
- b. State of Liberty ≠ State of License (p. 170)
  - no liberty to dispose of self or others
  - Law of Nature applies to all--Reason (the will of all mankind) tells us that we must not harm another's life, health, liberty or possessions, that we must seek peace
- c. SON (state of nature) & LON (law of nature)
  - Punishment is everyone's right, since violations of SON/LON is a crime against humanity
  - Eye for an eye (p. 173--more elaborate version)
  - Two reasons for punishment:
    - 1) Retribution
    - 2) Reparation/Compensation (only to the degree that fits damage consequent to the crime)
  - Because harm is to the whole species of man, punishment=natural right.
- d. ¶13...Reply to Hobbes: problem in SON a la Hobbes=Ego
  - absolute monarchs are men & should receive punishment if they do the crimes of men
- e. ¶14...The Challenge of SON (p. 174)
  - there will always be people in this state of nature
  - not every contract removes men from the SON
  - we remain in SON until "consenting to politic society" (p. 175)--what kind of consent? (we'll see)

Lockes' SON	vs.	Hobbes' SON
--Living according to reason w/out common superior w/authority to judge=SON		--Force or declared design to apply force to another, where no common superior is present or exists=SON

f. Locke on Property: Judeo-Christian foundation, i.e., God gave earth to all men in common

--¶26: Earth and all that is contained therein is for man (sidenotes: given Locke's words here, can we suppose that women will get a piece of God's pie, and what about the environment itself...does it have no interests/rights/moral significance?)

g. Locke's Labor theory: ¶27: arg. for labor theory involves two ideas that combine to explain how, through one's labor, one comes to *own* a portion of what is available

in nature. 1) God gave “the earth and all inferior creatures” to all men in common; 2) if I remove something from the state it came in naturally by means of my own body’s labor, then since my body is my property, and its labor is also mine, and the improvement on nature’s gifts is by means of that property that is mine, I thereby acquire a right to that part of nature’s gifts that I have improved through my labor. (sidenote: ¶31: “ ‘God has given us all things richly’ ... to enjoy”; also note: ¶28, p. 177, my servant’s labors create property that I own, too.....why? Is Locke just being consistent here?)

--Locke’s labor theory is a “law of reason” (¶30, p. 177)

--Read last quotation from ¶32 (p178): “God and his reason commanded him to subdue the earth....etc.”

## II. Beginning of Political Societies

a. ¶95: Body politic is created very much as Hobbes said: through consent of men “to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any that are not of it.”

--Note Locke’s emphasis on *property* and the securing of its protection as the point of a society

b. ¶96-98: Consent of Majority creates the political community, and binds each person to the will of the majority (to do otherwise is to undermine the basis of the community, since, Locke argues, if you insist on a universal consensus, you will never agree on anything....note this is an appeal to an empirical fact about the world, not to what reason demands).

c. ¶99: Locke’s equivalent of Hobbes’ 2 laws (1) to seek peace and (2) to give up one’s universal right to everything)

d. ¶100: Objections to the SON: 1) nothing in written history supports the claim that this is how societies are formed, and 2) everyone is born into a society and thus never has the chance to consent. (see ¶119 for a problem with consent for Locke)

e. ¶101-103: Locke’s replies to ¶100 objections: a) bad documents, b) history lost because history is an artifact of societies (this is a Catch 22 that can’t be laid at the foot of Locke’s theory of the origins of government), c) there are cases of war and restoration of peace where people choose to reform society after it has been disassembled (WW-II).

f. ¶119: Express vs. Tacit Consent. While admitting that most of us never have the opportunity to offer express consent to the formation of the commonwealth in which we live, nonetheless Locke says that we consent to any commonwealth in which we own property that falls under the dominion and protection of that commonwealth.

Important: Locke’s reasoning is based on the fact that the *purpose of society is to protect property*. Since this is so, to claim that while you have property protected by a given society, you nonetheless fail to consent to that society is to commit a kind of logical inconsistency: if you allow your property to be protected by a commonwealth, then you have tacitly submitted to its authority (the price for protection is consent....this constitutes ‘tacit consent’ to be a member of the community). Question: is this fair? If not, why not?

Locke’s words: “for it would be direct contradiction for anyone to enter into society with others for the securing and regulating of property, and yet to suppose his

land, whose property is to be regulated by the laws of the society, should be exempt from the jurisdiction of that government to which he himself, and the property of the land, is a subject.”[183]

g. ¶123: Why states are formed: because in SON “the enjoyment of property he has in his state is very unsafe, very unsecure.”

But WHAT IS PROPERTY for Locke? Answer: “lives, liberties, and estates, which I call by the general name, property.”[p184] So, is Locke only interested in STUFF WE OWN, or is he just treating lots of other things we don’t think of as property *as if they were property*?

Note: Locke seems to have two meanings for ‘society’, one of which is ‘community of human beings joined for their common protection and benefit’, the other of which seems to be ‘government that has power over a body politic’. Cf. ¶127 and ¶222.

h. ¶124-126: 3 results of a civil society: 1) ‘established, settled, known law,’ 2) ‘a known and indifferent judge w/ authority to determine all diff’s according to the establ’d law’, and 3) due process of law and enforcement of same.

### III. Locke & Jefferson: Liberal Democracy

A. In 1640’s England rejected the divine right of kings with the beheading of James II; since then, nothing has been the same (-:-).

B. Features of a Liberal Democracy:

a) public good more important than the good of the elite (aristocracy, etc.)  
cf. Locke’s reply to Hobbes at ¶13.

b) consent of the governed is emphasized as the basis of civil society (repeated over and over in Locke)

c) legislative powers introduced (see Locke ¶149...says it ALL!). Executive subordinated to the legislative (see Locke ¶152)

d) people are the best and ultimate judge on which a government rests (see ¶223 for contrast with Hobbes, who doesn’t trust people to be such judges [see pg. 149 last paragraph]). For Hobbes, people are merely a source of disunity (whereas kings are a source of stability) most of the time, whereas for Locke, the reverse is true: kings tend to create disorder, the majority of people tend to a kind of conservative inclination to return to tried-and-true ways of doing things (the people are usefully resistant to change).

C. Jefferson: philosophy student influenced by Locke and Rousseau.

--literally put their ideas to work in motivating the American Revolution; the decl. of independent is the best example of their influence, but the letters and constitution outrank anything before its time--with a preamble to introduce the purpose of the legislation.

--what Jefferson adds that goes beyond Locke:

a) common defense

b) tranquillity as an objective of state formation

c) promotion of general order (something beyond public good & private property)

--What Liberal Democracy is not: not *liberal* in our contemporary sense.  
--What Liberal Democracy *is* (as contrasted with the appropriate meaning of *conservative* in this context):

conservative	liberal
--preserve and guard property	--preserve & promote public good
--more limited role of protection	--maximal type of state
--minimal government	--government in comprehensive role

Next time: Jefferson's Writings on Civil Society and the Liberal Democratic State.