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A Theory of Property According to John Locke

Joseph Andrew Bracken
Loyola University Chicago

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A THEORY OF PROPERTY
ACCORDING TO
JOHN LOCKE

by
Joseph A. Bracken, S.J.

A Thesis Submitted to the Faculty of the Graduate School of Loyola University in Partial Fulfillment of the Requirements for the Degree of Master of Arts

January
1960
Life

Joseph Andrew Bracken, S.J., was born in Chicago, Illinois, on March 22, 1930.

He was graduated from St. Ignatius High School, Chicago, in June, 1948, and from Xavier University, Cincinnati, Ohio, with the degree of Bachelor of Literature in June, 1953.

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In 1953 he entered the Jesuit Philosophate at West Baden College, West Baden Springs, Indiana. Since West Baden College is affiliated with Loyola University, Chicago, he undertook graduate studies, beginning in 1954, in the Department of Philosophy.

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## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. PRELIMINARY OBSERVATIONS</td>
<td></td>
</tr>
<tr>
<td>1. Aims and methods</td>
<td>1</td>
</tr>
<tr>
<td>2. The property theory and the rest of the Treatise</td>
<td>3</td>
</tr>
<tr>
<td>3. Property theory in 1688</td>
<td>8</td>
</tr>
<tr>
<td>4. Locke's successors</td>
<td>11</td>
</tr>
<tr>
<td>II. PROPERTY IN THE STATE OF NATURE</td>
<td></td>
</tr>
<tr>
<td>Part One. Man in the state of nature</td>
<td>14</td>
</tr>
<tr>
<td>A. Definition of the state of nature</td>
<td>14</td>
</tr>
<tr>
<td>B. Comparison with Hobbes</td>
<td>17</td>
</tr>
<tr>
<td>C. Law of nature</td>
<td>19</td>
</tr>
<tr>
<td>1) Negative force</td>
<td>19</td>
</tr>
<tr>
<td>2) Known by &quot;reason&quot;</td>
<td>21</td>
</tr>
<tr>
<td>D. Equality in the state of nature</td>
<td>24</td>
</tr>
<tr>
<td>E. Freedom under the law of nature</td>
<td>25</td>
</tr>
<tr>
<td>F. Reality of the state of nature</td>
<td>26</td>
</tr>
<tr>
<td>Part Two. Property in the state of nature</td>
<td>30</td>
</tr>
<tr>
<td>A. Property in perishable goods</td>
<td>31</td>
</tr>
<tr>
<td>1) Filmer, Grotius, Pufendorf</td>
<td>32</td>
</tr>
<tr>
<td>2) Property by direct appropriation</td>
<td>35</td>
</tr>
<tr>
<td>3) Property in one's person and labor</td>
<td>37</td>
</tr>
<tr>
<td>4) Productive labor vs. first occupation</td>
<td>41</td>
</tr>
<tr>
<td>B. Property in land</td>
<td>42</td>
</tr>
<tr>
<td>C. Introduction of money</td>
<td>43</td>
</tr>
<tr>
<td>1) Early bartering</td>
<td>44</td>
</tr>
<tr>
<td>2) Money introduced as keepsakes</td>
<td>45</td>
</tr>
<tr>
<td>3) Changes in the primitive economy</td>
<td>46</td>
</tr>
<tr>
<td>4) New problems: need for civil rule</td>
<td>48</td>
</tr>
<tr>
<td>III. PROPERTY IN THE STATE OF SOCIETY</td>
<td></td>
</tr>
<tr>
<td>Part One. Man in civil society</td>
<td>50</td>
</tr>
<tr>
<td>A. End of civil government</td>
<td>50</td>
</tr>
<tr>
<td>1) Three unsatisfied needs</td>
<td>50</td>
</tr>
<tr>
<td>2) Limited common good</td>
<td>52</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>B.</td>
<td>Origin of civil government</td>
</tr>
<tr>
<td></td>
<td>1) Necessity of consent</td>
</tr>
<tr>
<td></td>
<td>2) Property-deterrents</td>
</tr>
<tr>
<td>C.</td>
<td>Rule by majority-decision</td>
</tr>
<tr>
<td></td>
<td>Part Two. Civil Property</td>
</tr>
<tr>
<td>A.</td>
<td>Property advances prior to civil society</td>
</tr>
<tr>
<td>B.</td>
<td>Further developments</td>
</tr>
<tr>
<td></td>
<td>1) Marked division of labor</td>
</tr>
<tr>
<td></td>
<td>2) Improved methods of communication</td>
</tr>
<tr>
<td></td>
<td>3) Greater variety of goods and increased specialization</td>
</tr>
<tr>
<td></td>
<td>4) New forms of money and ownership</td>
</tr>
<tr>
<td>C.</td>
<td>Defects in the property theory</td>
</tr>
<tr>
<td></td>
<td>1) Absence of sufficient titles</td>
</tr>
<tr>
<td></td>
<td>2) Various kinds of social labor</td>
</tr>
<tr>
<td></td>
<td>3) Intangible property</td>
</tr>
<tr>
<td>D.</td>
<td>Social obligations of property lacking</td>
</tr>
<tr>
<td>E.</td>
<td>Locke’s remedy: legislation</td>
</tr>
<tr>
<td>IV.</td>
<td>CONCLUDING REMARKS</td>
</tr>
<tr>
<td>1.</td>
<td>Lockean and papal theory</td>
</tr>
<tr>
<td></td>
<td>A. Acquisition of property</td>
</tr>
<tr>
<td></td>
<td>B. Use of property</td>
</tr>
<tr>
<td></td>
<td>C. Doctrines of Pius XI</td>
</tr>
<tr>
<td>2.</td>
<td>Explanations of Locke’s failure</td>
</tr>
<tr>
<td></td>
<td>A. Historical arguments</td>
</tr>
<tr>
<td></td>
<td>B. Philosophical arguments</td>
</tr>
<tr>
<td></td>
<td>C. Strauss’s interpretation</td>
</tr>
<tr>
<td>3.</td>
<td>Consequences of Locke’s failure</td>
</tr>
<tr>
<td></td>
<td>A. Absolute right of property</td>
</tr>
<tr>
<td></td>
<td>B. Resultant positivism and collectivism</td>
</tr>
<tr>
<td></td>
<td>C. Papal position</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>97</td>
</tr>
</tbody>
</table>
CHAPTER I

PRELIMINARY OBSERVATIONS

An explanation and criticism of John Locke's theory of property, as he himself presents it in the Second Treatise of Civil Government, is the principal aim of this thesis. Chapter Five of the Treatise, "On Property," is therefore the basic source from which the matter of the thesis is drawn. Other parts of Locke's political theory presented in the Treatise, e.g., the state of nature, the nature, origin, and limits of civil government, are secondary to the study of Locke's theory of property. Because of the limited nature of this paper, only a brief discussion of Locke's predecessors in the field of property theory is included in this work. Similarly only those implications which immediately follow from the logic of Locke's own theory are considered. No attempt is made to trace elaborately the consequences of Locke's property theory on subsequent economic theory.

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2 See this chapter, pp. 8-10; ch. II, pp. 32-33, 38-39.

3 See this chapter, pp. 11-13 for a brief treatment of Locke's influence on subsequent economic theorists.
Thus the thesis is divided into four chapters. The second and third chapters are the core of the thesis, inasmuch as they present Locke's theory of property as he intended it to operate first in the state of nature, and then in civil society. Chapter Two is therefore concerned with property in the state of nature; Chapter Three, with civil property. To the explanation of the various points of Locke's doctrine in Chapters Two and Three, is joined a preliminary criticism, sometimes favorable, more often expressing partial agreement and partial disagreement. In Chapter Four, a more complete and unified analysis and criticism is presented, and an attempt is made to understand why Locke neglected a complete study of civil property, particularly of the social obligations of civil property. Certain obvious limitations in Locke's theory are in this way better understood.

Locke, however, was primarily a political, not an economic, philosopher. In his own words, the Second Treatise is "An Essay concerning the True Original, Extent, and End of Civil Government." As foundation for this theory of civil government, Locke also develops a theory of society, or of the nature of man as a social being. The theory of property, therefore, is subordinated to these other two considerations, the nature of man as a social

\[4\] C.G., ch. 1, sect. 1, p. 115.
and as a political being. Accordingly they also must be given some attention in the following chapters. The first part of Chapter Two is therefore concerned with a description of man in the state of nature, as a social but not a political being. The first part of Chapter Three describes man as a member of political society. The state of nature is the setting or environment for the origin of property; civil society, the environment for its fruition.

In the remainder of this introductory chapter, the significance of Locke's property theory is evaluated from several points of view. First the importance of Chapter Five ("On Property") to the rest of the Second Treatise is discussed. Then certain contemporary views on property in Lockean England are considered in order to estimate the intellectual atmosphere in which Locke's doctrine on property made its initial appearance. Finally, some indication is given of the influence which his property theory exerted on later British economists, especially Adam Smith. All these observations, however, are briefly made since they are intended merely as an introduction to the treatment of the theory itself in Chapters Two and Three.

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Richard McKeon comments: "The fundamental terms which lie, frequently unexamined, behind the consideration of property and determine its definition, are terms descriptive of the nature of man and the nature of his group organizations."--Richard McKeon, "The Development of the Concept of Property in Political Philosophy," Ethics, XLVIII (April, 1938), 302.
"Property" in the Second Treatise is sometimes interpreted broadly, as including "life, liberty, and estate." On the other hand, it often signifies simply the possession of material goods. Furthermore, Locke says that every man has a "property" in his own person and in his own labor, as the work of his hands. Hence the term property admits of many interpretations in Locke's Second Treatise. The basic meaning of property for Locke, which gives substance to all the others, is that of *proprium*, a Latin word meaning one's own, from which the English word property is derived. Hence under the notion of property as being what is one's own, Locke includes all the natural rights of man. "But he [Locke] included in the general name 'property' every man's 'life, liberty, and estate,' that is, the whole of his natural rights as

6G.G., ch. 7, sect. 87, pp. 158-159: "Man . . . hath by nature a power not only to preserve his property—that is, his life, liberty, and estate against the injuries, etc. . . ." See also ch. 9, sect. 123, pp. 179-180: "And it is not without reason that he [man in the state of nature] seeks out and is willing to join in society with others who have already united, or have a mind to unite for the mutual preservation of their lives, liberties, and estates, which I call by the general name—property."

7Ibid., ch. 5, sect. 31, p. 132: "But the chief matter of property being now not the fruits of the earth and the beasts that subsist on it, but the earth itself, as that etc. . . ."

8Ibid., sect. 26, p. 130.

a human being, and not simply his land and goods."\textsuperscript{10}

This identification of property with all natural rights introduced confusion into Locke's statements on property; but, in the opinion of most critics, it added greatly to the importance of his theory justifying the natural right of property. For the justification of property as a natural right then involved the justification of the entire system of natural rights. Specifically, if, as Locke intended, the right to property in material goods belonged to man independently of civil society, then the other natural rights, subsumed under the term \textit{property}, belong to him in the same way. Again, if government exists to protect the natural right of property, it also exists to protect the other natural rights, and cannot interfere with their proper exercise. Professor George H. Sabine comments:

\begin{quote}
This account of property, though introduced almost casually, had a profound effect on Locke's whole social philosophy. He never said, and almost certainly did not believe, that there was no natural right except property. Frequently, however, he used "property" where he seems to have meant any right, and since property was the only natural right which he examined at length, it was inevitable that it should stand out as the typical and important right. In any case, he conceived all natural rights on the same lines as property, that is to say, as indefeasible claims upon society and government.\textsuperscript{11}
\end{quote}

As "property," therefore, natural rights can be regulated only to

\begin{flushright}

\end{flushright}
the extent that is necessary to make effective the equally valid claims of another person to the same rights.

From another point of view, Locke's property theory contributed to establish government by consent in his political philosophy. Men who own property prior to their entering society and government are economically independent of their neighbors. Hence not through subservient fear or coercion, but voluntarily, through their own consent, they form or join civil society and surrender some of their property by way of taxation. In like manner, government's chief task in their eyes will be to secure the conditions necessary for them as individuals to enjoy and increase their property.

There can be little doubt that it is Locke's theory of property, and the prominent position that it occupies in the forefront of his political system, which has been largely responsible for the generally held view that he was essentially and primarily an individualist. Not content, as many contractarianis were, with a political theory which made men exchange their natural liberty for security and protection, Locke, it is often pointed out, was careful to insist that property was an institution which, so far from owing its existence to civil society, had existed in the state of nature itself, and the prime task of government was to preserve it unharmed.¹²

Taxation is lawful, but only with the consent of the people, since property is a natural right.¹³

¹²Gough, pp. 73-74.

¹³C.G., ch. 11, sect. 140, p. 189: "[F]or if anyone shall claim a power to lay and levy taxes on the people by his own authority, and without such consent of the people, he thereby invades the fundamental law of property, and subverts the end of government."
Leo Strauss claims for the theory of property a unique position in Locke's political thinking. "Locke's doctrine of property, which is almost literally the central part of his political teaching, is certainly its most characteristic part. It distinguishes his political teaching most clearly from that of Hobbes and from the traditional teachings as well."14 Strauss carefully points out that this singular position of the property theory within Locke's Second Treatise is not immediately evident from a study of Chapter V ("On Property"). Locke was obliged to conceal "the revolutionary character of his doctrine" on property, because in his age most people still adhered to the older view according to which the unlimited acquisition of wealth is unjust or morally wrong.15 Therefore, in stating his doctrine, Locke had to involve his meaning, and use the phraseology of the law of nature,

14 Leo Strauss, _Natural Right and History_ (Chicago, Ill., 1953), p. 234. Strauss's reasoning behind the above statement is summarized thus. Locke's great effort in the theory of property was "to prove that the unlimited acquisition of wealth is not unjust or morally wrong." In Locke's day this notion ran counter to the "biblical tradition" of the people that avariciousness or greed is unjust or morally wrong. In addition, his property theory, by its emphasis on natural rights over natural duties, opposed the traditional teachings of Thomas Hooker and Scholasticism that duties first of all are derived from natural law, not rights. Finally, Locke's property theory distinguishes him from Hobbes in that Locke furthers through the theory ideas originally proposed by Hobbes. Since Locke makes man's acquisitive instincts the norm of morality in property, he confirms and considerably advances Hobbes's position that an ethical system of natural rights based on the Ego should supersede the older system of natural duties based on man's final end.

15 _Ibid._, p. 246. See also n. 11 above.
since the backing of natural law would help to establish his new ideas. Yet he did indicate the true character of his doctrine clearly enough. 16 Strauss's interpretation of Locke's property theory will be handled more fully in Chapter Four. 17 Here we note only the connection of the property theory with the entire Second Treatise, as indicated by Strauss.

Locke's readers, the adherents of the Revolutionary Settlement of 1688, noted sharply the implications of his property theory, since property considerations were such an important part of their struggle for political independence. J. W. Gough notes that some of the major political disputes during the reigns of the Stuart monarchs had concerned fiscal questions, and these disputes helped to make the sanctity of private property a political axiom to be defended to the uttermost against the pretensions of the royal prerogative. He concludes, "It is only to be expected,

16 Ibid., pp. 246-247: "He [Locke] traced the introduction of 'larger possessions and a right to them' to 'the desire of having more than man' needs or to an increase in 'covetousness,' or to 'amor sceleratus habendi, evil concupiscence.' In the same vein he speaks disparagingly of 'little pieces of yellow metal' and of 'sparkling pebbles.' But he soon drops these niaiseries: the burden of his chapter on property is that covetousness and concupiscence, far from being essentially evil and foolish, are, if properly channeled, eminently beneficial and reasonable, much more so than 'exemplary charity.' By building society on the 'low but solid ground' of selfishness or of certain 'private vices,' one will achieve much greater 'public benefits' than by futilely appealing to virtue, which is by nature 'unendowed.' One must take one's bearings not by how men should live but by how they do live." 17 See ch. IV, pp. 88-90.
therefore, that a professed apologia for the Revolution of 1688 should give great prominence to the inviolability of private property."\(^{18}\)

Property was a rallying-point, a revolutionary weapon in Lockean England. Harrington had published his treatise on the economic basis of politics, \textit{Oceana}: "Harrington stood alone among the political writers of his time in seeing that government is determined both in its structure and its working by underlying social and economic forces. . . . The underlying thought in Harrington's theory is that the form of government which is permanently possible in a country depends upon the distribution of property, especially property in land. Whatever class owns a preponderating 'balance' of the land, say three parts in four, must by sheer economic necessity command the power to control government."\(^{19}\)

Prudent men realized that Harrington had considerably overplayed the economic factor in political life, but the force of his ideas strongly appealed to the landed and merchant classes. Thus Harrington's doctrine spread far and wide in England before the restoration of the monarchy under Charles II.\(^{20}\)

In opposition to the plutocratic tendencies of Harrington, 

\(^{18}\) Gough, pp. 75-76.


various democratic reform movements were afoot in England at the same time. One such group were the Levellers, who campaigned for political equality apart from privilege based on property. Against the prevailing view that Parliament represented vested interests, the Leveller claimed that, "[I]t is the man, not the interest, that is subject to the law and hence it is the man and not property that should be represented." Another reform group were the True Levellers or the Diggers, utopian socialists who sought perfect economic equality. Unlike the Levellers who defended property as a natural right, the Diggers claimed common ownership of the land and its products as the "natural state of man."

Thus by the pressure of conflicting views the average seventeenth century Englishman was forced to form some opinion on the nature of property and its purpose in civil society. Moreover, the fact that property was widely distributed in England at that time, and that property qualifications were required for suffrage and a fortiori for membership in Parliament, likewise contributed

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22 Ibid., p. 491. He quotes Winstanley, the chief apologist for the Diggers: "None ought to be lords or landlords over another, but the earth is free for every son and daughter to live free upon." -- Gerrard Winstanley, Works, ed. Sabine (1920), p. 289.
to make Locke's readers unusually property-minded. 23

In the England of 1700 and after, the halo surrounding Locke
as the philosopher of the Revolution made his political theories,
including his theory of property, practically unassailable. As
Paschal Larkin notes, this was detrimental to the development of a
true philosophy of civil property. 24 No attempt was made to ana-
lyse critically a theory of civil property arrangements on the ba-
sis which Locke had proposed, personal labor. "Instead of enquir-
ing what forms of property were most conducive to public welfare,
unprofitable disquisitions were instituted with regard to the his-
torical origin or psychological basis of private property as
such." 25 Philosophers concerned themselves with the problem of
whether first occupation or creative labor was the historical ori-
gin of rights in property, confusing the title by which property
was historically acquired with the rationale of property itself.
Through the first half of the eighteenth century, therefore, "the
successors of Locke did little to modify the fundamental character-
istics of his teachings with regard to the nature of proper-
ty." 26

23 Paschal Larkin, Property in the Eighteenth Century with
Special Reference to England and Locke (Dublin, 1930), p. 55.
See also H. R. Tawney, Religion and the Rise of Capitalism (New
York, 1926), p. 258.

24 Ibid., p. 83.

25 Ibid.,

26 Ibid.
Yet the true utility of Locke's property theory to later economic and political thought was uncovered in the latter half of the eighteenth and in the nineteenth centuries. Locke's oft-repeated dictum that the end of government is the preservation of property had become an axiom of eighteenth century political theory.27 This induced the great classical economist, Adam Smith, to decide that the need for civil government is proportionate to the acquisition of valuable property, and that the protection of individual property is one of the principal objects of government's existence.28 Locke's emphasis on labor as the origin of property rights is likewise affirmed by Smith: "The property which everyman has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable."29 Finally the Lockean idea of labor as the source of value is also developed by Smith.30 Joseph Schumpeter, the great contemporary


28 Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations, Bk. V, ch. 1, pt. 2: ed. Routledge (London, 1893), p. 556: "The acquisition of valuable and extensive property, therefore, necessarily requires the establishment of civil government. Where there is no property, or at least none that exceeds the value of two or three days' labor, civil government is not so necessary."


30 Ibid., ch. 5, p. 25.
historian of economic theory summarizes Locke's contribution to economic theory thus: "He contributed much not only to the theory of money; he also penetrated into the problem of value--from the point of view of the labor theory of value." 31

CHAPTER II

PROPERTY IN THE STATE OF NATURE

Part One - Man in the State of Nature

Locke describes the state of nature thus: "[A] state of perfect freedom [for men] to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave or depending upon the will of any other man. A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another."¹ Elsewhere he describes the same state of nature: "Men living together according to reason without a common superior on earth with authority to judge between them is properly the state of nature."²

The Lockean state of nature therefore is social, though not political. Men live together under the unusual conditions of complete freedom and perfect equality, both of which eliminate the possibility of political government and regulated political life. Locke's view of natural man therefore sets him off from the Aris-

¹C.G., ch. 2, sect. 4, p. 118.
²Ibid., ch. 3, sect. 19, pp. 126-127.
totelian doctrine that the state is a natural institution, and man naturally a political animal.\(^3\) St. Thomas Aquinas, among many others, also upholds the theory that man is \textit{by nature} a political, as well as a social, being.\(^4\) Richard I. Aaron comments: His [Locke's] individual is artificial. He has no family ties. He tends to be conceived as a somewhat isolated being even when he enters into social relations with others.\(^5\) This interpretation of Locke by Aaron is true, but with qualification.

In his treatment of the state of nature, Locke is laying the foundations for a theory of government limited by the consent of the governed. Consequently he abstracts from secondary details to concentrate exclusively on the persons in whom this power of consent to government directly resides: in his day, individual adult males. Even when treating of property, where family needs are


\(^4\)Sancti Thomae Aquinatis, \textit{In Nic. Ethicorum}, Bk. I, Lectio 1, n. 4: "Sciendum est autem, cum homo naturaliter est animale socialë, uspote qui indiget ad suam vitam multis quae sibi ipse solus praeparare non potest, consequens est, quod homo naturaliter sit pars aliqujs multitudinis, per quam praestetur sibi auxilium ad bene vivendum."--Sancti Thomae Aquinatis, \textit{Opera Omnia}, Parma edition, Musurgia Publishers (New York, 1949), XXI, 2. Translation: The fact that man is by nature a social animal, in so far as he requires for his proper existence many things which by his own efforts he cannot provide for himself, has as a consequence the fact that man is destined by nature to form part of a community which makes a full and complete life possible for him.

paramount, Locke makes only passing references to the individual's role as provider for a family. Since it is the male pre-eminently who labors to gather the fruits of the earth, cultivate the land, etc., in him chiefly is placed the great foundation of property. Women and children presumably derive their property rights from the prototype of the husband and father. Actually, Locke conceives of several societies intermediate between the individual in the state of nature and political society: "The first society was between man and wife, which gave beginning to that between parents and children, to which, in time, that between master and servant came to be added. And though all these might, and commonly did, meet together, and make up but one family, . . . each of these, or all together, came short of political society."7

6C.G., ch. 5, sect. 28, p. 131; sect. 48, p. 140.

7Ibid., ch. 7, sect. 77, pp. 154-155. Locke's doctrine here is the same as Aristotle's in Bk. I, ch. 2 of the Politics with this exception: Aristotle sees the domestic household as essentially incomplete and therefore only intermediate to the perfect society, the state. Locke, given the same data, concludes that men organize civil society out of personal convenience, not natural necessity. (C.G., ch. 8, sect. 95, pp. 164-165) Aristotle: "In the first place, there must be a union of those who cannot exist without each other, for example, of male and female. . . . And there must be a union of natural ruler and subject, that both may be preserved. . . . Out of these two relationships between man and woman, master and slave, the family first arises. But when several families are united and the association aims at something more than the supply of daily needs, then comes into existence the village. . . . When several villages are united into a single community, perfect and large enough to be nearly or quite self-sufficing, the state comes into existence, originating in the bare needs of life, and continuing in existence for the sake of a good life." (Politics, Bk. I, ch. 2, pp. 2-5)
The Lockean state of nature is "a state of peace, goodwill, mutual assistance, and preservation." This notion of peaceful co-existence apart from political rule is the distinguishing note of the Lockean state of nature from the same state of nature as conceived by Thomas Hobbes in his treatise Leviathan. Nor was this a chance occurrence, for Locke's Second Treatise, though ostensibly designed to continue the refutation of Sir Robert Filmer's Patriarcha begun in the First Treatise, was actually aimed at a refutation of Hobbes's theory of the state.

The Hobbesian state of nature is a condition of unending war, not mutual peace. Men are naturally anti-social for the following reason: "In the first place, I put for a general inclination of all mankind a perpetuall and restlesse desire of Power after power, that ceaseth only in Death. And the cause of this is not always that a man hopes for a more intense delight than he has already attained to; but because he cannot assure the power and means to live well, which he hath present, without the acquisition of more." Fear and insecurity eventually coerce men into forming a political society, the sovereign of which is given absolute

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8 Ibid., ch. 3, sect. 10, pp. 126-127.
9 W. S. Carpenter, "Introduction to Two Treatises of Civil Government by John Locke" (New York, 1923), p. x.
control over his subjects. Hobbes is therefore a supporter of absolute government and of positive law over natural right, inasmuch as men entering civil society from the state of nature relinquish control over themselves entirely to the sovereign power.  

Locke, the defender of natural rights and of limited constitutional monarchy, begins with the same premise as Hobbes, i.e., of a state of nature antedating civil society. Yet if he is to draw a theory of government the direct opposite of Hobbes's from the study of this pre-political state, he must change the essential disposition of "natural man" from evil and wanton aggressiveness to good and peaceableness. Hence, though inconveniences arise in the state of nature to hasten their decision, men are not driven, but freely choose, to enter political life. With such a measure of freedom in their actions, they are able to establish a constitutional regime, which will preserve as far as possible the natural rights which they had in the state of nature by providing an adequate and impartial enforcement of the law of nature.

W. T. Jones comments:

Thus, though both Hobbes and Locke use a strictly utilitarian argument to justify their respective state organizations, they reach radically different conclusions about the kind of organizations which utilitar-

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11Ibid., pt. II, c. 17: "I authorize and give up my right of governing myself to this man, or to this assembly of men, on this condition that thou give thy right to him and authorize all his actions in like manner. . . . This is the generation of that great Leviathan, or rather (to speak more reverently) of that mortal god, to which under the immortal God, we owe our peace and defense." (English Phil., p. 177)
ian considerations can justify. Hobbes thinks that they justify (and indeed make expedient) an absolute and unlimited monarch. Locke thinks that utility can justify only a sovereign whose conduct is limited by the same moral order in which his subjects share, whose sole raison d' être is to produce the various conveniences which those subjects desire, and whose continuance as sovereign is conditional upon his willingness and ability to perform this function. 12

In the above quotation, attention is drawn not only to the differences between Locke and Hobbes in their civil organizations, but also to their common ground of agreement, i.e., that states are established not out of natural impulse, but for utilitarian purposes. Hence, on the one hand, Locke is in agreement with the scholastic tradition that government is responsible to the community under the moral law; yet, on the other hand, he agrees with Hobbes that government is a utilitarian device to further the private interests of individual members. 13

Though not a political society, the Lockean state of nature is a society under law. "The state of Nature has a law of Nature to govern it, which obliges everyone; and reason, which is that law, teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life,

12 W. T. Jones, Masters of Political Thought (New York, 1949), II, 156.

13 Sabine points out quite clearly how Locke is an inconsistent amalgam of the medieval tradition of government with its notion of the common good as the natural end of civil society and of Hobbes's new individualism which stresses private interests in a utilitarian society. (Sabine, pp. 524-525) See also ch. III, pp. 71-74 for comments on Locke's sense of social responsibility.
liberty, and possessions."\textsuperscript{14} The law of nature therefore confirms that complete freedom and perfect equality which are essential for the state of nature. The social force of the law, however, is largely negative, namely, that no one should interfere with another's activity. Positive social action to assist one's neighbor, or group activity toward a common goal are not required by Locke as part of the law of nature, except in the following rather vague proviso: "Everyone, as he is bound to preserve himself and not quit his station wilfully, so by the like reason, when his own preservation comes not into competition, ought he, as much as he can, to preserve the rest of mankind, and not unless it be to do justice on an offender, take away or impair the life, or what tends to the preservation of the life, liberty, health, limbs, or goods of another."\textsuperscript{15} Locke adds that "everyone has a right," though not necessarily a duty, "to punish transgressors of that law of Nature to such a degree as may hinder its violation."\textsuperscript{16}

Gough takes exception to the phrase, "when his own preservation comes not into competition"; he notes that Locke does not consider the possibility of conflict between public and private interests except on the comparatively low level of self-preservation. "But 'most of the gigantic conflicts of will in

\textsuperscript{14} C.G., ch. 2, sect. 6, pp. 119-120.
\textsuperscript{15} Ibid.
\textsuperscript{16} Ibid., sect. 7, p. 120.
human history, whether between individuals or groups, take place on a level where 'self-preservation' is not immediately, but only indirectly involved:"

Thus, as Gough notes, Locke did not begin to solve the complex and difficult problem of the relationship between the individual and society. This point will be more evident in Chapter Three, in which Locke's theory of society, and in particular, his treatment of civil property, are considered.

Besides furnishing the basis for Locke's theory of natural rights, both in the state of nature and in civil society, the law of nature is the norm of morality for men in the state of nature, by adherence to which they maintain "a state of peace, goodwill, etc..." As the norm of morality, the principles of the law of nature must be determined, along with the methods by which these principles are deduced. Sir Frederick Pollock defines Locke's understanding of the law of nature thus: "Locke's political system purports to be founded on natural law: that is to say, on rules of conduct which, the light of reason, without aid of any special revelation, and without assuming the existence or authority of any form of society, can discover as generally applicable to

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18Ibid., ch. 3, sect. 19, pp. 126-127. On the law of nature as the norm of morality, see ch. 2, sect. 6, pp. 119-120.
man as a rational being." The contents of the law of nature for Locke were certain objective rules of conduct, and the general method by which rules were deduced was "reason" speculating on the rational nature of man.

Yet Locke intended more by the law of nature than Pollock indicates. He believed that God, as the Creator of man and material things, was the source of natural law. It was God's Will, therefore, that "no one should harm another in his life, liberty, and possessions," because "they are His property, whose workmanship they are, made to last during His, not one another's pleasure." Reason therefore reflecting on man as a creature of God as well as a rational being determined the Lockean law of nature. Locke's difficulties with the law of nature lay in the application of reason to rationally evident first principles of being and morality. His epistemological theories given in the Essay concerning Human Understanding establish him as a sensist, for whom objective certitude for such principles is philosophically impossible.

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20 C.G., ch. 2, sect. 6, pp. 119-120.
21 See also Ibid., ch. 11, sect. 135, pp. 184-185 for the law of nature as the expression of the Will of God.
22 See John Locke, An Essay concerning Human Understanding, Bk. IV, ch. 3, sect. 1: The English Philosophers, ed. Burtt, p. 327. Also Bk. II, ch. 1, sect. 5: English Phil., p. 249. No system of natural law principles, which is not derived from per se evident principles of being, can claim philosophical certitude.
Yet de facto, both in the Essay concerning Human Understanding and in his Essays on the Law of Nature, Locke established a natural law based on reason and sense experience. The arguments given therein are based on causality, in particular the causality required for the creation of rational beings. The existence of men argues to the existence of a superior Rational Being as Creator. In keeping with His Divine Wisdom, the Creator established an end in life for human existence which becomes known to men as the natural law. These arguments are sound, though lacking the philosophical certitude and objectivity of a reduction to first principles.

Elsewhere Locke postulated that an a priori system of ethical principles could be established, in much the same way as a mathematical system is built up logically from postulates and theorems. Yet no a priori system of morality can be considered adequate if the ideas of God and of man on which the system depends.


24 In these arguments, Locke defines reason as "the discursive faculty of the mind which advances from things known to things unknown and argues from one thing to another in a definite and fixed order of propositions." To which he adds: "The foundations, however, on which rests the whole of that knowledge which reason builds up and raises as high as heaven are the objects of sense-experience."--Essays on the Law of Nature, IV: ed. von Leyden, p. 149.

would be subjective to everyone. For no objective hierarchy of essences ordered to a common end could be agreed upon by men who form their ideas of God and spiritual things like the human soul from "enlarging some of . . . their ideas received from sensation and reflection." 26

Equality in the state of nature demands for every man his rights of life, liberty, and property without hindrance from other men. 27 To preserve these natural rights, i.e., to see to the proper observance of the law of nature in one's regard, another right must be allowed to men in the state of nature: the right to punish transgressors of the law of nature. By the fact of complete equality, every man has the right of sanction, or the being executor of the law of nature for himself:

And that all men may be restrained from invading others' rights, and from doing hurt to one another, and the law of Nature be observed, which willeth the peace and preservation of all mankind, the execution of the law of Nature is in that state put into everyman's hands, whereby everyone has a right to punish the transgressors of that law to such a degree as may hinder its violation . . . . and if any one in the state of Nature may punish another for any evil he has done, every one may do so. For in that state of perfect equality, where naturally there is no superiority or jurisdiction of one over another, what one may do in prosecution of that law, every one must needs have a right to do. 28

27 C.G., ch. 2, sect. 6, pp. 119-120: "no one ought to harm another in his life, liberty, and possessions."
28 Ibid., ch. 3, sect. 19, pp. 126-127.
Such a position, that all men should be the executors of the law of nature for themselves, is hazardous unless men are quite rational in their dealings with one another. Yet, as Aaron notes, "Men are never wholly rational. And a man's rapacity and greed might lead him to action which is contrary to the law of nature and contrary to reason." Without higher authority to settle disputes among men in the state of nature, a condition, if not of war, at least of "precarious peace" must prevail. Locke himself admits that "civil government is the proper remedy for the inconveniences of the state of nature, which must certainly be great when men may be judges in their own case." Thus we see that complete equality, which is the foundation of men's natural rights in the state of nature, is from another point of view one of the major reasons why men abandoned the state of nature for the protection and inequality of civil society.

The other characteristic disposition of men in the state of nature is perfect freedom. What Locke intends here is not license; rather, perfect freedom is the rational liberty of men to order their actions and dispose of their persons and possessions, as they themselves think good, "within the bounds of the law of

29 Aaron, p. 276.
30 Ibid.
nature." Thus men in the state of nature may do as they wish, provided that they do not interfere with the equal rights of others to the same freedom. Hans Kelsen believes that there is a close connection between personal freedom and the right of private property. This opinion will be treated later in the chapter.

Critics speculate whether Locke intended the state of nature as an historical reality or a convenient mental fiction. From his own words, it seems quite plain that the state of nature was, and is, a living reality: "[S]ince all princes and rulers of 'independent' governments all through the world are in a state of Nature, it is plain the world never was, nor never will be, without numbers of men in that state." Locke argues that sovereign rulers are in the state of nature toward one another because they have no human superior or law other than the law of nature to bind their relations. Likewise two strangers, meeting in the "wilds of America," are in the state of nature toward one another, though each may belong to a political society in another land. Aliens with respect to the legitimate authority of the land in which they are temporarily residing are also in the state of nature. Finally,

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32 Ibid., sect. 14, p. 124.
33 See pp. 36-37.
34 C.G., ch. 2, sect. 14, p. 124.
35 Ibid.; see also ch. 7, sect. 91, pp. 161-162.
36 Ibid., ch. 2, sect. 9, p. 121.
everyone is in the state of nature until by his own consent, he becomes a member of civil society.\textsuperscript{37}

On the other hand, Sir Frederick Pollock declares that Locke was forced to begin with the state of nature to answer Hobbes and Filmer. Yet for him as for the schoolmen, it was a "perfectly conscious abstraction" rather than an attempt to trace the actual origin of society. "The question is what a man's rights would be in the absence of any positive institutions."\textsuperscript{38} W. T. Jones, however, feels that Locke may have had a double intention: "[A]lthough the contract theorists may have well have believed in the historicity of a state of Nature, they are on the whole not so much interested in describing an historical fact as they are in asserting the existence of a moral fact... By saying, for instance, that in a state of Nature, men are free and equal, he [Locke] does not merely mean that there was a time in the past when men were free and equal in fact; he means rather to assert that they ought to be free and equal."\textsuperscript{39} Thus Locke intended the state of nature to be a norm for civil society, as well as an historical fact.

\textsuperscript{37}Ibid., sect. 5, p. 119. The matter of consent to authority is treated in ch. III, pp. 54-60.

\textsuperscript{38}Pollock, p. 241. See also Sabine, p. 526: "If the fiction about a state of nature be laid aside, this can mean only one thing, namely, that moral rules are broader in their application than the rules of positive law and are valid whether governments observe them or not."

\textsuperscript{39}Jones, pp. 163-164. See also Gough, pp. 29-30.
Locke's problem here was how to demonstrate the natural priority of the rights of the individual over those of the state. The concept of the historical state of nature was a conventional term in seventeenth century political theory; moreover, it was a convenient apparatus for indicating that moral sphere in which the individual with its rights was prior to the state. Locke could have achieved the same results with a metaphysical comparison of the end of man with the natural end of the state. But he chose the historical approach perhaps because his sensist epistemology left room for doubt about the validity of his metaphysical conclusions. Yet difficulties arose from his choice. It was questionable how much a description of a primitive society of isolated individuals could influence the practices of a complex contemporary civilization. Locke solved this difficulty by stipulating that great numbers of men even in his day were still in the state of nature. This solved the problem of the contemporary utility of the state of nature; but opened up the further question of its ultimate status, historical reality or mental fiction for the sake of abstract discussion, as mentioned above.

40 Gough, pp. 70-71. The basic assumption here is that Locke wanted to establish constitutional government based on the consent of the people. See this chapter, pp. 18-19; also John Locke, "Preface to Two Treatises of Government," in Works (London, 1714), II, 101.

41 See n. 22, p. 22.

In his analysis of property in the state of nature and in civil society, Locke was almost exclusively occupied with the economic conditions of the state of nature, and the exercise of the right of property within that state. Perhaps Locke intended that civil property regulations should be somehow influenced by state of nature property institutions. Yet, as we shall see later, the manner of acquiring and disposing of property was radically different in the two states. Part of this transformation was effected by the introduction of money, which will be described in the following section after an analysis of the earlier state of nature economics.
Part Two - Property in the State of Nature

Locke's justification of private property as a natural right which is derived from the personal activity of the owner is well reasoned. To be understood properly, it should first be viewed in its entirety briefly, and then systematically considered in its logical development. This will be our procedure.

Locke's justification of the right of personal property in the state of nature is thus summarized: God gave the earth with its goods to men in common. Unless each man had the natural right to appropriate for himself certain things out of the common stock for his own use and consumption, he would starve and God's gift of the earth to men would be in vain. Every man has a property in his person and in his labor as the activity of his person, "the work of his hands." To exercise the natural right to property, man uses the specific function of his labor and the usefulness to himself of the goods which he appropriates. An accurate measure of their usefulness is wastage. Those material goods which waste (i.e., spoil or are kept without purpose) in a man's possession, are not useful to him, and hence not his property any more. Man has a title by his labor not only to consumer goods, but also to productive goods, e.g., land, to the extent that these goods are also put to effective use by the individual. Land unused by one man becomes automatically the potential property of another who
would lay claim to it by the labor of fencing it in and cultivating it, etc.

In the appropriation of goods, the equal rights of others to property so limit an individual's right that he may freely appropriate only "where there is enough and as good left in common for others." In the state of nature, however, this problem is of minor importance because land is abundant and enough of it is of uniform value. Both in the early ages of the world, and, in Locke's own day, "in some inland vacant places of America," a man could appropriate all the land he could use without harm to his neighbors. With the introduction of money, however, the abundance of available land becomes curtailed. This aspect of Locke's theory will be handled in the final section of this chapter and in Chapter Three. The above sufficiently outlines the property theory for the state of nature before the use of money. For ease and clarity of treatment, this part of Chapter Two will be divided into three sections: first, property in perishable goods; then, property in land; and finally, the introduction of money.

A. Property in Perishable Goods

Locke's starting-point in his formal treatment of property is

\(^{43}\text{G. G., ch. 5, sect. 26, p. 130.}\)

\(^{44}\text{Ibid., sect. 36, p. 134.}\)
the principle that God gave the world to men in common. His aim in the section on property is to show how individual men come to have private property without violation of that original common grant, "and that without any express compact of all the commoners." In a few words, therefore, Locke asserts the independence of his property theory from others currently in vogue. His acknowledged opponent, Sir Robert Filmer, held the opinion that kings, having their royal authority by right of succession from Adam, the common father of all, were sole property owners within their states. God gave the world, according to Filmer, to Adam and his heirs in succession who would distribute the property of the kingdom to their subjects for use, but retain the ownership of the land in their own persons. In beginning his treatment of property, Locke claims that it is not enough to point out the difficulties in Filmer's theory, which was the work of the First Treatise; he must establish his own theory, based on the supposi-

46 Ibid.
47 Sir Robert Filmer, "Preface to Observations upon Aristotle's Politics Touching Forms of Government, in Patriarcha and Other Political Works of Sir Robert Filmer, ed. Peter Laslett (Oxford, 1949), pp. 187-188: "The first government in the world was monarchical, in the father of all flesh. Adam being commanded to multiply and people the earth, and to subdue it, and having dominion given him over all creatures, was thereby the monarch of the whole world; none of his posterity had any right to possess anything, but by his grant or permission, or by succession from him: the earth (saith the Psalmist) hath he given to the children of men; which shows, the title comes from the fatherhood."
tion that God gave the world to all men, i.e., to Adam and all his posterity without distinction.48

Furthermore, Locke indicates that in his theory men acquire private property "without any express compact of all the commoners." By this phrase, he informs the reader that he will not strictly follow the theories of two previous natural law defenders of private property, Grotius and Pufendorf. These two held that the individual possessed his property by a virtual contract between himself and the other members of the community.49 For Locke this contract is superfluous, since, as he states later, man possesses in his own person the great foundation of property, i.e., its justification, apart from the consent of others.50

48 C.G., ch. 5, sect. 24, p. 129. See also John Locke, First Treatise of Civil Government (An Essay concerning False Principles), ch. 4, sects. 29-40: in Two Treatises of Civil Government, Everyman edition, pp. 21-29. Here Locke refutes Filmer's text quoted above, on the original grant to Adam as proprietor of the whole world. In ch. 7, sects. 73-77, pp. 51-56; and in ch. 9, sects. 85-87, pp. 60-62, he further argues against the claim of subsequent monarchs to dominion over land in their domains by inheritance from Adam.


50 C.G., ch. 5, sect. 44, p. 138. Richard Schlatter suggests that the phrase, "without any express compact etc.," is primarily a refutation of Filmer's argument against Grotius and Pufendorf that the man who held his estate from the king had greater security of possession than the man whose title was based on the consent of all men. Locke, by directly deriving property from the law of nature, avoided Filmer's contention. See Richard Schlatter, Private Property (London, 1951), p. 153.
Locke bases the justification for his principle that God gave the earth to men in common, on both reason and the text of the Old Testament. Reason teaches us, says Locke, that "men being once born have a right to their preservation, and consequently to meat and drink and such other things as nature affords for their subsistence."\(^{51}\) The Old Testament adds weight to this argument when it notes that God gave the earth to Adam and his posterity, and again to Noah and his sons, as a common possession for the use of all men.\(^{52}\) Neither of these arguments, however, in itself demonstrates whether this sharing of the earth is positive or negative.

As will be evident shortly, Locke interpreted this community of possession as negative, i.e., common possession of the earth until individuals appropriate parts of the earth for themselves. Positive community of possessions, in which men formally agree to use individually or in co-operation what is owned by all together, would be impossible in the Lockean state of nature. The state of

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\(^{51}\) Ibid., sect. 24, p. 129.

\(^{52}\) The texts of Holy Scripture to which reference is made here are: The Holy Bible, ed. Confraternity of Christian Doctrine (New York, 1952); "Genesis," ch. 1, sect. 26, p. 2: "And he said, 'Let us make man to our image and likeness, and let him have dominion over the fishes of the sea and the fowls of the air, and the beasts, and the whole earth, and every creeping creature that moveth upon the earth.'" Ibid., ch. 9, sects. 1, 2, 3: p. 8: "And God blessed Noe and his sons. And he saith to them: 'Increase and multiply, and fill the earth. And let the fear and dread of you be upon all the beasts of the earth, and upon all the fowls of the air, and all that move upon the earth: All the fishes of the sea are delivered into your hands. And everything that moveth and liveth shall be meat for you.'"
nature is a state of perfect freedom and complete equality, with no common superior among men; positive community of possessions, on the other hand, implies some form of civil government to handle the distribution of labor, profits, etc. 53

Granting this premise, Locke takes the second step in his theory when he says: "God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life and convenience." 54 Not authority, or the consent of men, but reason, i.e., every man's private interpretation of the law of nature, will be the controlling factor in the division of the community of property. "And though all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, ... yet being given for the use of men, there must of necessity be a means to appropriate them some way or other before they can be of any use, or at all beneficial, to any particular man." This is the first and most fundamental justification of the natural right of private property. "The fruit or version which nourishes the wild Indian ... must be his, and so his, i.e., a part of him

53 C.G., ch. 3, sect. 19, pp. 126-127. Otto Gierke comments that natural law philosophers in Locke's day generally accepted the original community of possessions as being negative: "Thinkers still retained the traditional assumption of an original community of possessions; but while the Middle Ages had believed that this communio primaeva had issued in a positive system of joint-ownership, the School of Natural Law interpreted it as being only a communio negativa, ... the entire negation of property." 54 Otto Gierke, Natural Law and the Theory of Society, trans. Ernest Barker (Cambridge, Eng., 1934), p. 103.

54 Ibid., ch. 5, sect. 25, p. 129.
that another can no longer have any right to it, before it can do any good for the support of his life."\textsuperscript{55}

On the one hand, men clearly have need of material goods in this life for self-preservation and "the best advantage of life and convenience."\textsuperscript{56} On the other hand, material goods, though put in the world by God for the use of men, have no natural ordination to one man rather than another. Hence men must have a natural right of private property to appropriate what was previously common, i.e., unclaimed. Hans Kelsen and others argue that the primitive act of appropriation is not an exercise of the right of private property, but rather of the right of personal use and consumption. Concerning Locke's argument that fruit or venison must belong to an Indian before he can consume it, Kelsen comments:

It stands to reason that this argument can prove the necessity of individual property only in articles of food which man immediately needs for his subsistence, for it is only with respect to these articles that exclusive disposition on the part of the individual is required. But since Locke wants to justify individual property in general, he does not continue to argue in this direction leading to an impasse. He emphasizes the specific means by which man appropriates the articles of food and by which he may appropriate other things also. And this means is labor.\textsuperscript{57}

Kelsen interprets Locke's use of need here as strict subsis-

\textsuperscript{55}Ibid.
\textsuperscript{56}Ibid.
tence need only, not human needs in general, which extend far beyond the requirements of self-preservation. Undoubtedly, Locke's example of the Indian and the venison lends some plausibility to Kelsen's argument. Yet elsewhere Locke indicates that, though beginning with stark needs, he intended to expand the term to include all that man would find useful or even convenient, limited of course by the avoidance of waste and the equal rights of others. Kelsen's second contention that labor alone, not need, justifies property is likewise refuted.

"Though the earth and all inferior creatures be common to all men, yet every man has a property in his own person. This nobody has a right to but himself." Aaron refers to the above statement as "a very doubtful principle . . . according to the legal

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58 G.G., ch. 5, sect. 25, p. 129: "God who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life and convenience. The earth and all that is therein is given to men for the support and comfort of their being." See also Ibid., sect. 33, pp. 132-133.

59 Kelsen's main point, for which the above remarks are introductory, is that property is to be justified as an exercise of personal freedom. Beginning with the Lockean principle that "a man's property is in his own person," Kelsen interprets this property to be man's personal freedom. Personal labor and the fruits of one's labor are likewise extensions of freedom and hence one's property. The weakness of the theory is that while property may be justified as an extension of personal freedom, all other rights are likewise justifiable on the same basis. In any given situation then, no priority of property rights over other rights or vice-versa can be established, since all are legitimate expressions of personal freedom. See Kelsen, pp. 86-88 for the complete development of this theory.

60 G.G., ch. 5, sect. 26, p. 130.
code of most countries." His reasons for that opinion may be the following. First of all, in legal terminology property is usually considered in the strict sense as relating to external goods. Only analogously then does one have a property in one's own person, as a being endowed with natural rights. Furthermore, in a complex legal society personal rights are closely restricted by social and legal duties to other citizens and to the community. An individual is never the proprietor of his being in an unrestricted sense, as Locke's statement might indicate at first sight.

Is Locke's principle therefore limited in application to conditions of the state of nature, where social relations are few and no common superior exists to regulate men's activity for a common good? The answer perhaps is contained in the clause, "Though the earth and all inferior creatures be common to all men." Locke is summarizing here with reference to property his arguments in the First Treatise against Filmer. Filmer claimed for Adam and his heirs in succession an absolute dominion over the whole earth, both men and all inferior creatures. In this way, Adam and his heirs were sovereign lords of all men and sole proprietors of Na-

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61 Aaron, p. 277, n. 2.

62 See Pollock, p. 243: "[T]he rights of every man to personal safety and reputation, and so forth, are not marketable, or transferable, and are wholly distinct in kind from rights of property."

63 C.G., ch. 5, sect. 26, p. 130.
Locke refutes Filmer by also using the Old Testament to show that Adam had not dominion over his fellow rational beings by the same grant as he had dominion over "living things of the earth." Moreover, Locke proves that Adam had no private dominion over the goods of the earth, but a dominion shared in common with the rest of mankind. Locke's statement that man has a property in his own person may thus be a brief resume of two arguments drawn from the First Treatise: the earth is common to all men; secondly, man, having a right of property in his own person, cannot be subjected to the dominion of another human being like an animal or other inferior creature. Thus Locke's principle need not be considered a Credo of rugged individualism, but a reassertion of the fundamental human dignity of man, i.e., his individual orientation to an End beyond human, finite purposes.

"The labour of his body and the work of his hands we may say are properly his." This principle is undoubtedly true and praiseworthy. Every man must own his labor, since in Divine Pro-
idence labor is the ordinary means by which a man sustains himself and his dependents. A wage-laborer owns his labor to the extent that he is entitled to a just compensation from the employer for whose benefit he employed his labor. The question here, however, is not so much over man's right of property in his labor, as rather his right of property in the effects of his labor, i.e., material goods which are external to himself.

Whatsoever then, he removes out of the state that Nature hath provided and left it in, he hath mixed his labor with it, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state Nature placed it in, it hath by this labor something annexed to it that excludes the common right of other men. For this "labour" being the unquestioned property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough and as good left in common for others.68

Thus Locke evolved a natural right theory of property from a curious conjunction of older doctrines. To the basic idea that man has a right to whatever goods he can use for preservation and growth, Locke joined the doctrine that labor creates a title to property in goods previously unclaimed. This joint theory Locke further modified by his declaration that labor and its effects are the legitimate expression of human personality. Property thus comes to be owned under the double title of labor-use and personal freedom.69

68Ibid.
Locke is sometimes cited in support of a theory that productive labor is the absolutely first (primogenius) title to private property. It seems doubtful whether Locke with his lack of philosophical precision in the use of terms, would distinguish between productive labor and its chief rival, first occupation, as the absolutely first title to property. He used labor in the generic sense, meaning man's personal activity. With regard to consumer goods right at hand, man's labor was an act of appropriation, or first occupation. But in consumer goods requiring preparation before use, and in the appropriation of land through cultivation, the labor of man became productive labor, i.e., the transformation of a natural good from its primitive state to a more useful condition. Such a distinction in titles to property would have considerably sharpened the accuracy of Locke's property theory in the state of nature, but especially in civil society.

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70 Granted the natural and innate right of acquiring private property in the abstract, it is also true that no property belongs to anyone by nature. The juridical fact or circumstance by which a person comes to acquire property rights in a specified material good is called his title to that property. There are original titles to property, by which an individual is the first to acquire actual ownership over a piece of property, and derived titles, by which one receives property from a former owner, as in inheritance of a patrimony, etc. The question here is of original titles, and specifically of the absolutely first title which is presupposed by the others.

71 See ch. III, pp. 67-68. Actually first occupation must be given the prior position as absolutely first title to property over productive labor. Labor presumes prior occupation of the raw material to be changed and thus made one's own. See Francis J. Haas, Man and Society, 2nd ed. (New York, 1952), p. 265.
B. Property in Land

From ownership of consumer goods in the state of nature, Locke proceeds to man's ownership of productive goods, e.g., land: "But the chief matter of property being now not the fruits of the earth and the beasts that subsist on it, but the earth itself, as that which takes in and carries with it all the rest, I think that it is plain that property in that too is acquired as the former. As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. He by his labor does as it were enclose it from the commons."72 The heart of the argument here, as also in the case of perishable goods, is the conjunction of the right of effective use with the concept of personal labor. Only as much land as a man can use will become his property, and the title through which he exercises his natural right over this particular plot is productive labor.73 Locke's other contention that a natural right of property exists in land as the source of other consumer goods, is likewise sound. Human existence would be very insecure if man could not provide for the future by appropriating property in land as well as in consumer goods. It is according to his rational nature, by which he differs from all inferior creatures, that under Divine Providence man

72 G. G., ch. 5, sect. 31, p. 132.
73 cf. sup., p. 41.
be master of his own acts and provide for future advantage as well as present enjoyment.\textsuperscript{74}

The equality and perfect freedom of men in the state of nature, as well as the fact that God gave the earth to men in common, indicate that the rights of others may sometimes restrict individual property holdings. Accordingly, Locke stipulates that property in land and perishable goods is held subject to the condition that "there is enough and as good left in common for others."\textsuperscript{75} The circumstances of the state of nature were such that this general proviso was sufficient protection against wanton aggression on the rights of others. Much depended, however, on the scarcity of laborers and the retarded rural economy of the state of nature. It was not the active operation of principles of social justice which produced harmony among neighbors, but the lack of an occasion for disagreement. With the growth of the population, and especially with the introduction of money, the peacefulness of the state of nature came to an end.

C. The Introduction of Money

In the early stages of the state of nature, each laborer was


\textsuperscript{75} C.G., ch. 5, sect. 26, p. 130.
considered as an independent productive unit, who gathered and reaped to sustain himself alone. Family considerations were omitted by Locke. Furthermore, no indication is given how each man provided for his clothing and shelter except by his own unaided efforts. Even the ownership of land was justified on the basis of an immediate or seasonal provision of the basic foodstuffs. The introduction of first-hand bartering, however, i.e., of one good for another, was a big improvement in the state of nature economics for two reasons.76 First it showed a growing sense of forethought on the part of the laborer to obtain goods which he needed but could not easily produce by his own labor. Secondly, and much more important, barter revealed an incipient spirit of cooperation between laborers to provide for one another's needs. Increased trade of this type eventually suggested an elementary division of labor and the beginnings of an economic system.77

Beginning with the earliest types of bartering, spreading and developing concomitantly with the increase in trade, was a new el-

76 Ibid., sect. 46, p. 139. "And if he bartered away plums that would have rotted in a week, for nuts that would last good for his eating a whole year, he did no injury; he wasted not the common stock, destroyed no part of the portion of goods that belonged to others, as long as nothing perished uselessly etc. . . ."

77 Note the important influence of barter on the development of specialization here: "Not unnecessarily it was noticed that some people or some regions were especially well adapted to producing special things; and it was observed that people who required many things could not specialize on a few unless they could trade their specialities for other products."-- Bruce Winton Knight, Economic Principles in Practice, revised ed. (New York, 1942), p. 47.
ement in state of nature economics, which would revolutionize the
total system—money.78 Locke's account of the origin of money is
as follows. Speaking of the prudent householder who bartered nuts
for perishable plums, he says:

Again, if he would give his nuts for a piece of metal, 
pleased with its color, or exchange his sheep for shells, 
or wool for a sparkling pebble or a diamond, and keep 
these by him all his life, he invaded not the right of 
others; he might heap up as much of these durable things 
as he pleased; the exceeding of the bounds of his just 
property not lying in the largeness of his possession, 
but the perishing of anything uselessly in it.

And thus came in the use of money; some lasting 
thing that men might keep without spoiling, and that, 
by mutual consent, men would take in exchange for the 
truly useful but perishable supports of life.79

Locke thus traces the rise of money through the primitive de-
sire for brightly colored metal objects or sparkling pebbles, baubles 
by which savages of all ages and climes have been fascinated.

Thence he concludes to the use of money, i.e., some durable good 
that is acceptable as a medium of exchange for truly useful con-
sumer goods. Elsewhere he adds that gold and silver, to which men 
have agreed to give a value, prior to civil society became a stan-
dard medium of exchange for perishable goods.80 The simplicity of

78_Ibid.,_p. 78: "Thus the significance of money lies in these 
facts: that specialization is vital to social economy, that ex-
change is indispensable to specialization, and that money is 'the 
great instrument of exchange.'"

79_C.G.,_ch. 5, sects. 46-47, pp. 139-140. See Lionel D. 
Edie, _Economics, Principles and Problems_, 2nd ed. (New York, 
1932), p. 545 for another account of the origin of money.

80_C.G.,_ch. 5, sect. 37, pp. 134-135.
Locke's theory conceals a number of transition stages in which men are educated to the use of money. Some hierarchy of values must be evolved and made generally acceptable to all men in a given area, in order that these shiny objects may have more than subjective value as a medium of exchange. Likewise, the use of gold and silver in standard amounts as money indicates a high degree of economic progress prior to the establishment of civil society, though no mention of this is made by Locke.

As noted above, the introduction of money to the state of nature economics overturned the primitive conditions originally described by Locke. Trading boomed with the acceptance of a standard medium of exchange. Things of unequal value were exchangeable, and the difference paid in money with its generalized purchasing power for goods at another time. As a standard of value, money provided a measurement in common terms for disparate items, e.g., livestock, jewelry, etc. But, most important of all, money

81 The one distinguishing characteristic of money is its general exchangeability. . . . If an article passes freely from hand to hand as a medium of exchange, if it is accepted readily as a matter of course payment of all debts and obligations, then that article is money, no matter what its color, shape, size, or composition."--Edie, p. 543. He goes on to add that general acceptability is a product of growth and evolution and that money was a gradual invention. The first articles used as money were commodities of beauty or of physical necessity. "Shells were an early form of money. They were used as ornaments because of their beauty, and they were used as money because their beauty gave them general acceptability as a means of payment." (Ibid., p. 545) Other more useful articles used as primitive media of exchange were: salt, skins, furs, etc. See also Charles Gide, *Principles of Political Economy*, 2nd English edition (London, 1903), p. 213.
did away with the restriction of wastage on the possessions of men. Gold and silver did not decay like perishable goods which rotted unless consumed. Unlike land, extra money in one's possession did not become common property for one in need to appropriate. Money therefore was an easy way to accumulate extra property without wastage. Sufficient accumulation of money gave the owner much wider purchasing power. Thus money as a store of purchasing power came to represent additional real property in goods and lands. Money, for example, bought additional consumer goods for which the possessor had not labored; money in sufficient quantity bought extra land which the individual had not cultivated, and hired laborers to work that land at a profit to all.

God gave the world to all men, but especially "to the use of the industrious and rational." Thus men of superior talent or means became the pioneers in a rapidly expanding economy. Grown wealthy through increased lands and crop production, they induced other men to give up farming and build mansions for them. Some of

82 Money has four basic functions: a) to serve as a medium of payments or exchange of goods, b) as a measure of value for different types of goods, c) as a standard of debt payments, and d) as a store of value or purchasing power. See Knight, pp. 79-82.

83 To those temporarily without land or having little success in the cultivation of their own fields, the lure of a fixed sum and/or a share in the profits for working another's fields would be irresistible. In the beginning the landlord worked in the fields with his helper[s] so as to retain the claim that his property rested on labor, not money.

84 C.G., ch. 5, sect. 33, pp. 132-133.
these were retained as mechanics and farmhands in the pay of the master. Women were employed to weave fine clothing for the master and his family, and again some were retained as permanent servants of the household. Freed from the obligations of servile work, the lord and his sons found opportunity to travel. Visits to other areas in turn facilitated the rapid interchange of goods and ideas. New kinds of merchandise, new methods of farming, building, primitive manufacturing gained circulation, as travel and commerce broke down the barriers between geographical localities. 85

New standards and values sprang up or were imported from other localities. Property no longer rested on the simple title of personal labor alone, but the consent of men permitted excess accumulations of lands and manufactures. 86 Slave labor, introduced by trading or warfare, provided additional manpower for agriculture and industry, but also created new social problems between free labor and slave labor. Education through tutors, and later in schools, stimulated the demand for a stabilized, cultured way of life; property disputes mounted, and irate claimants sought

85 Charles Gide comments on early commercial effort thus: "Exchange was as a matter of fact first practised among people and regions far distant and different from each other. Diversity of products and customs resulted from diversity of natural environment." He notes also that the first merchants were wealthier individuals who had the means and leisure to travel: "At the beginning, moreover, merchants were persons of great note, who were envied and feared, ranking higher than artisans and farmers, and constituting a veritable aristocracy."--Charles Gide, Principles of Political Economy, etc., pp. 201-202.

86 G.G., ch. 5, sect. 50, pp. 140-141.
arbitration on an impartial basis. Thus civilized society was at hand, but problems had arisen which could be solved only by the formation of civil government. Hence to remedy "the inconveniences of the state of nature," civil society was born. 87

87 Ibid., ch. 2, sect. 13, pp. 123-124. See also ch. 9, sect. 123, pp. 179-180, and ch. 11, sect. 136, p. 186 for references to contention in the state of nature prior to civil society.
CHAPTER III

PROPERTY IN THE STATE OF SOCIETY

Part One - Man in Civil Society

Men leave the state of nature for civil society because of three unsatisfied needs: the need of an established known law, the need of an impartial judge to interpret that law in particular circumstances, and finally, the need of an adequate sanction or police power to enforce just decisions. ¹ The general end or purpose underlying the satisfaction of these basic needs is given by Locke thus: "The great and chief end, therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property."² By property, of course, Locke understands all the natural rights of life, liberty, etc.³

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¹ C.G., ch. 9, sects. 124-126, p. 180. In somewhat similar terms, St. Thomas Aquinas teaches that human or positive law exists to declare, determine, and urge, i.e., enforce, natural law. By declaration of the law he meant the deduction of additional precepts, especially those of the third rank, from the first principles of natural law. Determination of natural law meant to supplement the general principles by more particular principles. In enforcing the law, since not all men can be led by reason or admonition, coercion must be used. See Summa Theologicae, Ia-IIae, q. 95, art. 2 o: Opera Omnia, Parma ed. etc., II, 348. Also In Decem Libros Ethicorum, Br. V, lect. 12, XXI, 179.

² C.G., ch. 9, sect. 124, p. 180.

In other words, Locke sees man in the state of nature as giving up certain rights to be able to enjoy his remaining rights with greater freedom. Perfect freedom and complete equality resulted in confusion and a state of precarious peace in the later stages of the state of nature, especially after the growth of the population and the use of money. Hence some freedom was surrendered to civil society so that the freedom of other rights, especially the right of private property, could be enjoyed with security.

To satisfy the needs given above, man in the state of nature had to give up two "natural" powers when he entered civil society: the power of complete self-determination within the law of nature, and the power of execution of the law of nature. By the first power a man living in the state of nature, could do whatever he wished for his own preservation and that of mankind, provided he obeyed the unwritten law of nature, i.e., the dictates of his own reason.4 This same power in civil society he "gives up to be regulated by laws made by the society, so far forth as the preservation of himself and the rest of that society shall require."5

The first power is limited, though not abrogated. The second power, that of personal execution of the law of nature, is entirely surrendered to civil society. Henceforth his duty in this matter is "to assist the executive power of the society, as the law

4Ibid., ch. 2, sect. 4, pp. 118-119. Also sect. 6, p. 119.
5Ibid., ch. 9, sect. 129, p. 181.
thereof shall require." 6

Yet, though to circumvent the limitations of the state of nature, men surrender some of their personal freedom to civil society, the power of civil government "can never be supposed to extend further than the common good, but is obliged to secure everyone's property by providing against those three defects above-mentioned which make the State of Nature so unsafe and uneasy." 7 Within this context, it might seem that the common good is restricted to the sum total of all individual goods within the state. 8 Yet fairness to Locke demands that the aim of the Two Treatises of Civil Government be kept in mind to govern the interpretation of particular details. Locke's primary intention, as stated in the "Preface," was to establish constitutional government based on the consent of the people. 9 One of the natural rights which he sought to protect was the sanctity of individual property against arbitrary state interference. 10 Consequently, he

6 Ibid., sect. 130, p. 181.

7 Ibid., sects. 123, 124, pp. 179-180.

8 Edmund Whitaker, A History of Economic Ideas (New York, 1943), p. 43: "The good of England, according to Locke, was the sum of the separate goods or objectives of the individuals who were associated together to form the English nation. . . . Whatever the men who composed society wanted, by that fact became the social good."

9 Locke, Works etc., I, 101.

10 Cf. the numerous references to "the preservation of property" as the chief end for which men enter civil society: C.G., ch. 1, sect. 3, p. 118; ch. 8, sect. 95, pp. 164-165 etc.
was naturally led to curtail the activity of the state to bare essentials, i.e., the preservation of law and order, and the enforcement by public authority of contractual agreements among private individuals. A complete notion of the common good should include the demands of social, as well as commutative, justice; the rights of the members of a community precisely as members should be safeguarded. All should be insured the opportunity of acquiring a sufficiency of material goods and other benefits of social organization. Furthermore, certain public good works should be undertaken by the civil authority, where private initiative may be ineffective, or even injurious to the average citizen, e.g., public health facilities, postal service, etc. Yet, however limited a state's authority may be, it fosters a common good simply by the preservation of law and order on the level of commutative justice. Hence, Locke's civil society possessed a real, though inadequate, common good which existed for all the citizens alike.

Locke is hailed as the "champion of individualism," partly because he set as narrow limits as possible to the state's power, but more justly because he recognized the fundamental truth that "government is an instrument to be used for the good of individ-

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11Francis J. Haas indicates the narrow limits allowed for government intervention in private property thus: "Generally speaking, welfare is promoted best by allowing the widest margin of freedom to private initiative; and accordingly, the state shall intervene only when private initiative has clearly failed, and especially when it has become a source of injustice to the community."—Francis J. Haas, Man and Society, 2nd ed. (New York, 1952), p. 257.
uals. The state is made for the individual and not the individual for the state.\textsuperscript{12}

In Locke's opinion, civil society originates in a formal, voluntary compact between equals to establish a community.

Men being . . . by nature all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent. The only way by which any one divests himself of his natural liberty and puts on the bonds of civil society is by agreeing with other 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.\textsuperscript{13}

Nor is it sufficient to establish such a voluntary covenant once whereby civil society exists both for the original constituents and for future generations. Since the state of nature is that state which "all men are naturally in,\textsuperscript{14}" formal voluntary consent is necessary for every man reaching "the age of discretion" to abandon the state of nature and embrace civil society. Locke speaks of formal consent as the "only way" by which man can enter civil society.\textsuperscript{15} Elsewhere he says, "a child is born a subject of no country or government."\textsuperscript{16}

\begin{footnotes}
\item[12]Aaron, p. 286. See also Jones, Masters of Political Thought, p. 215.
\item[13]ibid., ch. 8, sect. 95, pp. 164-165.
\item[14]ibid., ch. 2, sect. 4, p. 118.
\item[15]ibid., ch. 8, sect. 99, p. 166.
\item[16]ibid., sect. 118, p. 177.
\end{footnotes}
As Locke himself implies, most people did not wholly concur with him in this matter of consent to government.\textsuperscript{17} They believed that they were naturally citizens of the country in which they were born, although there was some uncertainty about citizens born in foreign lands. Locke takes this more unusual situation of birth in a foreign land ("If a subject of England have a child by an Englishwoman in France, whose subject is he?\textsuperscript{18}") as a typical example of the natural liberty which all men enjoy to choose their commonwealth instead of being bound by the choice of their father.

Property, however, serves to keep sons within the government of their father's choice. All property within the realm is subject to the direct jurisdiction of the government, once the citizens with their possessions have formally entered civil society.\textsuperscript{19} Children of citizens, if they wish to inherit the land of their father, must use the property subject to the laws of that country, and also embrace their father's citizenship.\textsuperscript{20} Aliens living

\textsuperscript{17}Ibid., sect. 117, p. 176.

\textsuperscript{18}Ibid., sect. 118, p. 177.

\textsuperscript{19}Ibid., sect. 120, p. 178: "By the same act, therefore, whereby any one unites his person, which was before free, to any commonwealth, by the same he unites his possessions, which were before free, to it also; and they become, both of them, person and possession, subject to the government and dominion of that commonwealth as long as it hath a being."

\textsuperscript{20}Ibid., sect. 117, p. 176: "[T]he son cannot ordinarily enjoy the possessions of his father but under the same terms his father did, by becoming a member of the society, whereby he puts himself presently under the government he finds there estab-
within the state may enjoy the use of property according to the laws of the commonwealth. They are free, moreover, to leave the state and live elsewhere, though "by donation, sale, or otherwise," they must rid themselves of ownership of land in the state which they are leaving.21

Once formal consent is given to become a member of a civil society, the citizen is bound to remain a subject of that society until the government is dissolved, e.g., by foreign conquest or internal revolution: "Whereas he that has once, by actual agreement and any express declaration, given his consent to be of any commonwealth, is perpetually and indispensible obliged to be, and remain unalterably a subject to it, and can never be again in the liberty of the state of nature, unless by any calamity the government he was under comes to be dissolved."22 The right of revolution from an unjust government Locke allows to the majority.23

Not everyone, however, living within the state is formally a citizen, though all within its boundaries, even over-night travelers, must obey its laws, giving a form of tacit consent:

And to this I say, that every man that hath any possession or enjoyment of any part of the dominions of any

21Ibid., sect. 21, p. 178.
22Ibid.
23Ibid., ch. 19, sect. 233, p. 236: "[T]his therefore is the privilege of the people in general above what any private person hath: That particular men are allowed . . . to have no other remedy but patience; but the body of the people may, with respect, resist intolerable tyranny, . . . ."
government doth hereby give his tacit consent, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as anyone under it, whether this his possession be of land to him and his heirs forever, or a lodging only for a week; or whether it be barely traveling freely on the highway; and in effect, it reaches as far as the very being of any one within the territories of that government. 24

Locke's doctrine of consent to government is confusing because it was so much at variance with accepted practice and belief in his own day, and also in more modern times. Perhaps, as Gough claims, this very incongruity with contemporary practice is a "striking testimony to the seriousness of Locke's belief in the principle of consent." 25 Yet, if tacit consent for Locke meant as little as physical presence within a community, then the concept of formal voluntary consent to authority in his philosophy becomes vague also. Locke, however, is certainly correct in stating that no government has a right to exist, no ruler a right to govern, except with the consent of the community. 26

Rule by majority is the method adopted by Locke for the government of civil society:

For, when any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority. For that which acts any community, being only

24 Ibid., ch. 8, sect. 119, p. 177.
25 Gough, p. 68.
26 Jones, pp. 174-175: "No matter how long or how completely one man actually exercises power over others he is never morally justified in doing so unless they consent to his authority."
the consent of the individuals of it, and it being one body, must move one way, it is necessary that the body should move that way whether the greater force carries it, which is the consent of the majority, or else it is impossible it should act or continue one body, one community, which the consent of every individual that united into it agreed that it should; and so every one is bound by that consent to be concluded by the majority.27

In England by Locke's time, the principle of legislation by majority-decision in Parliament carried so much tradition with it that Locke and others considered it a "natural" procedure.28 Locke quite reasonably therefore concluded that majority-decision was necessary to save a community from complete confusion and ultimate dissolution. Though perhaps due more to faulty wording than anything else, this "mechanical conception" of society drawn up by Locke, wherein the greater force must always prevail, is justly criticized by later writers. As Sabine points out, "Older theories of popular sovereignty, such as Marsilio's, had commonly held that the 'prevailing part' of a community may be weighted for quality as well as for quantity."29 In other words, the senior para of the community deserves to be included in the major para for the purpose of determining legislation. In Locke's theory, too much emphasis is placed on sheer numerical superiority.

27C.e., ch. 8, sect. 96, p. 165.
28See Gough, p. 63. Gough elsewhere suggests that Locke's general aim in the Treatises was to justify existing government institutions, among them majority-rule. See Gough, pp. 71-72. See also ch. IV, p. 90, n. 44.
29Sabine, pp. 533-534.
Locke had perhaps "too sanguine a belief in the reasonableness of mankind." Hence he would never doubt that a numerical majority would likewise be a rational majority, seeking the common good of all and not their own interests. De facto, however, numerical superiority is no guarantee of fair legislation in itself, but only when it is coupled with a rational consideration of the issues and a sympathy for the interests of all parties.

In Locke's own theory, the doctrine of majority-rule shows a further development in his concept of personal consent. Men formally enter civil society only by their own consent. Afterwards, however, their consent means not acceptance individually of each measure proposed, but consent to the will of the majority: "[A]nd so every one is bound by that consent [to government] to be concluded by the majority." Pufendorf also said that majority-decisions are binding on the community, the reason being that one


31 William J. Kenealy, S.J., "The Legal Profession and Segregation," Social Order VI [o.s. IX] (December 1956), 484: "[B]ecause the essence of liberty is the freedom to exercise individual and equal personal rights and because voting majorities are able and quick to vindicate their own rights, true and effective democracy must consist in minority rights under majority rule. But never in history has there been, and never in the future can there be, minority rights under majority rule unless the majority repudiates the blasphemy that numbers make truth and that might makes right; unless the majority has the intelligence and good-will to subordinate will to reason and to subjugate prejudice to judgment."

32 C.G., ch. 8, sect. 96, p. 165.
Part Two - Civil Property

Locke began his study of property with a description of primitive man in the state of nature, appropriating each day what he needed from Nature's vast storehouse. As an individual consumer, and producer from the soil, of Nature's goods, he owned enough land to produce the goods needed for ordinary subsistence, but little more. Then with the chance introduction of money, first as brightly colored stones, and then as a standard medium of exchange, the economic system was revolutionized. Material wealth became a goal to be achieved, as industrious men were able to acquire a surplus of consumer goods and land-holdings beyond the power of individual cultivation. Durable goods also, such as metals, precious stones, crude manufactures, were another source of wealth which able men readily acquired. All this excess wealth was duly validated by the consent of men. Eventually the problems connected with growth in population, scarcity of land, and increase in material wealth, necessitated the creation of civil government to preserve law and order.34

34 C.G., ch. 5, sect. 48, p. 140.

35 Ibid., sect. 38, p. 135: "But as families increased and industry enlarged their stocks, their possessions enlarged with the need of them; . . . and then, by consent, they came in time to set out the bounds of their distinct territories, . . . "
The economic differences between civil society and the state of nature as Locke first conceived it were considerable. Instead of a primitive economy in which every laborer supplied all the necessities of life for himself and his family, in civil society a marked division of labor had grown up. Peaceful trade and commerce made it possible for men to specialize in their work, as carpenters, shoemakers, tool-makers, etc; contrarily, increased specialization increased further trade.\(^3\) With the standardized money which the civil government supported, tradesmen sold their wares for a definite price, and later bought in the marketplace foodstuffs or the durable goods of other craftsmen. Thus men came to realize that by this indirect method of securing the goods which they wanted for their own consumption, they actually obtained more of those goods than if they labored directly in the fields or over the forge for them.

Marketplaces, as the centers of economic activity, rapidly expanded into towns and, where the location was apt, into cities.

\(^3\) Some parallel exists between Locke's early civil society and various stages of medieval economy, especially in the northern part of Western Europe. Edie comments thus on the interaction of specialization and trade: "[M]en were beginning in large numbers to produce things not for their own consumption, but for the consumption of others. Then, of course, came exchange, and greatly increased trade."--(Edie, Economics, Principles and Problems, p. 43). N.B.: In the following footnotes we will continue to exemplify our theory as to the effects of money on civil society by references to actual occurrences in medieval economic development. In this way, we will gradually present a picture of the background and current economic status of Western Europe, and especially England, in the seventeenth century when Locke was writing his theory of property.
Yet town life was dependent upon the hinterland about it for foodstuffs, and also raw materials, e.g., skins, metals, timber, etc., for the development of town building and manufacturing. Hence there was much travel between town and country weekly, even daily. To make traveling easier and to get perishables to market faster, public roads were built, and bridges erected to span waterways. Even before the advent of safe roads, caravans of merchants pushed further into the country area and made business contacts with other towns and trading centers. Vessels were constructed to use the rivers, lakes, and seas as additional media of communication between localities. Thus local commerce gradually expanded into regional, national, even international trading.

37 Melvin M. Knight, Economic History of Europe to the End of the Middle Ages (New York, 1926), p. 205. Also Edie, pp. 43-44.

38 Melvin Knight, pp. 203-204.

39 E. Lipson comments on the extent of English medieval commerce thus: "The medieval trade routes ran in four directions. One led to Calais. Another connected this country with the Netherlands (Flanders, Holland, etc.) whose markets served a vast hinterland stretching to the shores of the Mediterranean. The third provided the link with northern Europe (Scandinavia and Prussia) and reached as far as Iceland. The fourth was the direct sea passage to southern Europe (Gascony and Italy).

The commodities which were handled in foreign trade covered an extensive range. The main import was wine furnished by Gascony; other French imports included wood for dyeing, salt and stone. The Netherlands sent herrings, linen cloth, and *Flanders tiles,* while Spain supplied wool, oil, leather, and iron. The Hansards brought corn, shipbuilding materials (timber, pitch, and tar), wax, gold, and pepper; and the great galleys of Venice and Florence were 'well laden with things of complacence'—costly spices from the east, sweet wines and extravagant 'trifles.'"—E. Lipson, The Growth of English Society (New York, 1950), p. 65.
A constantly growing variety of goods became available. The necessities of life were commonplace items, as townsmen and farmers alike clamored for high quality tools, and other utilities. Costly luxuries too, spices, perfumes, expensive clothing, etc., were in demand. Pressed by competition from outside manufacturers, local craftsmen copied the goods which commerce brought in, soon discovering that they could make many of them better and more cheaply. As the volume of goods became larger and more varied, and the manufacturing techniques more elaborate, further specialization within the crafts took place. For example, one craftsman concentrated on one of many different kinds of woolen cloth, or handled only one of several distinct operations, such as spinning, weaving, or dyeing. Thus domestic production of durable goods moved into public shops and became manufacturing, strictly so-called.

Better farm implements, together with new, more efficient methods of agriculture, released from basic occupations numbers of able-bodied men who made their way into the city seeking occupation. Employed by craftsmen or merchants, they received for their

40 In Northern Europe during the thirteenth century, great international fairs were held, especially in the province of Champagne. To these fairs came merchants of many nations with a tremendous variety of goods to satisfy the desires of the novelty- and luxury-hungry provincials. See Melvin Knight, p. 201. Lipson notes that English fairs were common enough, but considerably less lavish than those on the Continent. Note, however, the impressive list of imports given in n. 39 above.

41 Melvin Knight, pp. 219-220.
personal labor now, not land or consumer goods, but fixed wages which were redeemable for the necessities and some of the conveniences of life. Thus many men in civil society came to own little more than their capacity to work for another, though the industrious wage laborer could also acquire land or other real property through careful saving.

Money, as the life's blood of the economic system, was needed in greater quantity to keep pace with the increased flow of business. Men mined the earth for precious metals which were later minted into coins.\textsuperscript{42} Paper money appeared, first as private promissory notes or bills of credit, later as government paper money or notes with government approval.\textsuperscript{43} New forms of property ownership evolved from the changing economic situation. In the field of manufacturing, men sought to own and control not land, but the

\textsuperscript{42}Lipson describes the impetus which New World precious metals gave to English economy in the age of Elizabeth: "The influx of precious metals from the New World served to promote the growth of a class of entrepreneurs, partly because it made the national wealth more liquid, and partly because the rise in prices swelled profits, and so encouraged investments in industrial and commercial enterprises." (Lipson, p. 84)

\textsuperscript{43}Knight notes that great medieval Italian banking houses, e.g., the Ricciardi and Scali, had branches throughout Western Europe and Asia Minor, including one in London. They advanced enormous sums to kings, emperors, and popes, and helped to organize the finances of entire nations. Roughly from 1200 to 1500 their influence was very great throughout Europe. Later, as Lipson comments, English kings relied upon native goldsmiths, who had become the nation's leading bankers and money-lenders, for government loans. In 1694, six years after the publication of the Second Treatise, the Bank of England was founded and began to issue official government bank notes. (See Melvin Knight, p. 126; also Lipson, pp. 86-87.)
tools of production or the raw materials for manufactured products. Where one man's capital was insufficient, partnerships were established; profits were determined according to legal contract, and not the work-hours or personal labor of the individual. A new economic order took shape, in which the control of industry shifted from independent craftsmen working singly or in groups to capitalist employers who stood outside the ranks of manual labor.44

The formation of the corporation, or joint-stock company, established a new form of property ownership. Stock- and bond-holders did not add personal labor to their property or even exercise responsibility over it. They simply contributed money to an economic enterprise, in return for which they received a fixed rate of interest or a proportionate share of the profits.45

All these economic developments stem logically from Locke's labor-use theory of property as modified by the use of money.

Contingent factors, such as growth in population, geographical location, natural resources, technological improvements in work and

44 See Lipson, pp. 81-82, for an account of the economic factors from which evolved a capitalist society in seventeenth century England. See also R. H. Tawney, Religion and the Rise of Capitalism, 2nd ed. (London, 1936), pp. 135-137.

45 Lipson, p. 88: "Industry was financed not only by independent entrepreneurs utilizing their own or borrowed capital, but also by joint-stock companies and partnerships. From the sixteenth century onwards these institutions furnished an important source of capital, since they enabled a concern whose nature or size demanded large sums to derive support from a circle of investors." He concludes: "Hence the modern methods of financing industry were being widely practiced as early as the seventeenth century" in England. (Ibid.)
travel, etc., figured in this economic growth also. Yet these advances from the state of nature to organized civil society were easily predictable, and de facto had occurred in Western Europe and England before 1688. Locke therefore in composing his chapter on property saw in operation around him an economic system quite as advanced as that described above.

In view of these evident differences between state of nature and modern economics, we might well expect Locke to have introduced some radical changes in his property theory for civil society. Yet none are expressly made beyond granting men in assembly the power to fix property laws according to circumstances. Evidently then Locke expected that his original principles of property-ownership could be maintained as such without loss of validity in civil society. In the following pages Locke's assumption here will be tested to prove its worth.

One obvious defect in Locke's property theory for civil society is the absence of all titles beyond those of personal labor on unclaimed land, and the right of children to inheritance of property from their parents. First of all then Locke should have

46 C. G. ch. 5, sect. 45, p. 138: "[I]n some parts of the world, where the increase of people and stock, with the use of money, had made land scarce, and so of some value, the several communities settled the bounds of their distinct territories, and, by laws within themselves, regulated the properties of the private men of their society, and so, by compact and agreement, settled the property which labor and industry began."

47 First Treatise of Government, ch. 9, sect. 88, p. 62.
noted that his initial concept of personal labor included the original title of first occupation as well as of productive labor. 48 Thus the natural basis for the various legal titles to property ownership would have been strengthened by the addition of a second natural title to original ownership, besides "the work of one's hands." Likewise further derivative titles to property, other than family inheritance, would be needed for organized society, especially the various titles arising from contractual agreements: buying and selling, rents, loans at interest. 49 Wage labor in particular, a very common contractual title to property in civil society, should have been noted by Locke and carefully distinguished from personal productive labor on property not owned by another. Productive labor is a valid title to the thing produced only if it is exercised in one's own name, and on land or raw materials which are one's own. Wage labor, on the other hand, by which one gives up the fruit of one's labor for a specified compensation, though productive in the process, is not a title to ownership of the thing produced, since it is done in the name of another, and frequently with his raw materials and tools. 50

48 cf. sup., ch. II, p. 41.

49 Ibid., n. 70 for the distinction between original and derived titles to property.

50 Locke's phrase, "the turf my servant has cut," to judge from the context, is probably not a formal acknowledgment of wage or slave labor in the state of nature, and certainly not a definite treatment of the same as title to property. See C. G., ch. 5, sect. 27, p. 130.
Other kinds of social labor existed also, for which Locke failed to account. In the complex economic system of seventeenth century England, many people contributed their labor to the making of a single product, e.g., a loaf of bread:

For it is not merely the ploughman's pains, the reaper's and thresher's toil, and the baker's sweat, is to be counted into the bread we eat; the labour of those who broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are a vast number, requisite to this corn, from its sowing to its being made bread, must all be charged to the account of labor, and received as an effect of that.51

Since Locke himself gives this example of group labor, it is strange that he offered no explanation of how rival claims to ownership could be adjusted to his theory of property through labor. Again, using the same example of the loaf of bread, what share did the merchant who financed the bread-making operation have in the profits from the sale of a loaf? Or what was the share to be given the labor boss in the grain field or iron mine, or the captain of the trading vessel that brought the wheat or other commodities needed by the workmen; or finally what was the share of the master-baker whose genius was responsible for the quality of the loaf? Three factors enter into the production of

51 C.G., ch. 5, sect. 43, pp. 137-138. See also James Bonar, Philosophy and Political Economy, 3rd ed. (London, 1927), p. 102: "[T]he labour . . . owes its efficiency to the social surroundings of the workman, and to the division of labour, and inventions, without which he as an individual would realise a very inferior product indeed." Larkin notes that the product of labour depends upon marketing conditions, financial elements, etc. Larkin, p. 67.
any commercialised product: capital, management or brains, and labor. All three deserve their proportionate share in the profits from the manufactured goods, but Locke did not determine how this division might be effected.

Finally Locke did not question the validity of his principles for intangible property, e.g., bonds, stocks, interest loans, etc. Granted that the individual "works" to see that his money is properly invested; afterwards, the investment in another's care labors to bring wealth to its first owner. Again, possession of intangible property, in Locke's day and at the present time, often carries with it limited rights to control one's property. A share of stock is not so much a title to ownership as a contingent claim to company profits. Even though such new forms of property are legitimate, they cannot be justified as "the works of one's hands." Locke's individualistic economics was de facto defensible for the state of nature, but the status of economic progress in seventeenth century England had already proved that the theory as it stood was inadequate for the full flowering of human potentialities in commerce and industry.

52 Pope Pius XI, Quadragesimo Anno (Forty Years After), sect. 69; appendix to Reorganization of the Social Economy etc., p. 419.


The most serious defect in Locke's property theory for civil society, however, was his failure to emphasize the social obligations of property ownership. Property limitations for the state of nature, e.g., wastage, the "enough and as good left in common" proviso, etc., were either invalidated by the economic conditions of civil society or not brought up-to-date. In the following pages, we will briefly show the ineptness of three Lockean social principles for civil property, and then point out how Locke could have revised or changed these principles to fit seventeenth-century property arrangements.

By way of introduction, Locke's statement that the wide use of money tended to produce property inequalities is not reprehensible, since it represents an historical fact.55 Nor did he err in his declaration that men have consented to property inequality since that too is fact. Consent merely means that different men obviously exhibit different degrees of ability and industry in the acquisition and use of their property. Granted these psychologi-

55Ch. 5, sect. 49, p. 140. See also Bede Jarett, O.P., Social Theories of the Middle Ages (Westminster, Md., 1942), pp. 141-142: He notes the effect of money on the medieval economy thus: "Money was beginning to take the place of land as the symbol of power, and with money came, curiously, the sense of absolute ownership. Men, whether a town or a noble or a villein, bought their freedom, and with freedom naturally conditional ownership ceased, and with the lapiing of conditional ownership absolute ownership emerged. With absolute ownership came the desire to increase personal holdings of land, and this desire dominated the evolution of political history, etc. . . ." Conditional ownership was characteristic of the older feudal system of land tenure. He concludes, "It was money then that altered the attitude of the medieval mind to property." (Ibid.)
cal laws of economics, which operate to produce wealth for a few, Locke's job was to establish norms for the use of that wealth in conformity with private advantage and public welfare. \(^{56}\)

Locke's introductory principle, that "God gave the world to Adam and his posterity in common," can be rephrased thus: every man has the natural right to a sufficiency of Nature's goods for himself and his dependents. \(^{57}\) In the state of nature a man could satisfy his needs by personal labor on his own land. If, however, in civil society wage labor is more common among workers, the same principle would require that wages be proportioned to the needs of the worker and his family. The basic earning-power of the worker's labor is constant both in the state of nature and in civil society, since it is the ordinary means for a man under any circumstances to attain moderate comfort and prosperity in this life. On the other hand, if his wages do not match his needs, then the worker and his family do not participate fully in God's grant of the world to all men. \(^{58}\)

\(^{56}\) Catholic Social Principles, p. 53: "[T]here is a real sense in which moral law takes precedence over economic or physical laws. While we cannot ignore genuine laws in the economic field, we often can alter circumstances and conditions, so that, under the same laws, different results will ensue."

\(^{57}\) In support of the first-named principle, Locke says: "[M]en being once born, have a right to their preservation, and consequently to meat and drink, and such other things as Nature affords for their subsistence, . . . "--C.G., ch. 5, sect. 24, p. 129.

\(^{58}\) Rerum Novarum, sect. 24, p. 386. Leo notes that labor is not only personal and thus negotiable at a given price, but necessary to preserve the workman and his dependents.
Furthermore, in the state of nature, Locke conditioned individual acquisition of land and goods by the clause that there be "enough and as good left in common for others." In civil society, however, all usable land is already claimed by private owners. Hence the proviso is useless unless it be transformed into a more contemporary social principle, e.g., that no one should deliberately use his property, even within the bounds of commutative justice, so as to injure the basic rights and needs of others. Examples of such legal injustice are wage contracts in which the rights of the weaker party are sacrificed for the sake of material gain, or the enactment of money-making corporation policies which indirectly cause grave harm to individuals and sometimes the entire community. Under Lockean theory, the preservation of individual property is the duty of the state. Yet the state is bound to safeguard only the commitments of commutative justice, since other principles of social justice and charity were not set forth by Locke.

Finally, though the natural limitation of "wastage" of goods

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59_6_, ch. 5, sect. 26, p. 130; sects. 32-33, pp. 132-133.

60_Economics and Society_, p. 61. See also _Quadragesimo Anno_, sect. 132: Reorganization of the Social Economy, p. 346.


62_Cook argues from Locke's theory: "[A]ny legal system of property ownership which does not deny men an adequate reward for their labor and goods sufficient to meet their needs may be justified, though this offers no measure either of labor or need."_--_Cook, p. xxx._
or lands was obviously invalidated by the introduction of money as "some lasting thing that men might keep without spoiling," perhaps it also could be modified for use in organized society.\textsuperscript{63} The law of wastage sought to prevent a superfluity of goods in one man's possession, which would either spoil or, being kept without purpose, prove useless to owner and neighbors alike.\textsuperscript{64} In civil society, the principle of wastage could govern the use of excess wealth. Hoarding of money or luxurious living beyond the dictates of propriety could be termed a wasteful use of wealth. Wealthy men then would be prescribed to use their excess money for purposes both personally and socially useful.\textsuperscript{65}

These and other norms could have been formulated by Locke through the revision of principles laid down in his chapter on property. Since he confined, however, his application of social principles to the primitive state of nature, he necessarily shifted the responsibility of regulating civil property for the common

\begin{footnotes}
\item[63]C.G., ch. 5, sect. 47, p. 139.
\item[64]\textit{Ibid.}, sect. 30, p. 131; sects. 37, 38, pp. 134-136.
\item[65]Locke himself gives foundation for this demand that the wealthy use their excess possessions for socially useful purposes: "[I]f the fruits rotted or the venison putrefied before he could spend it, he offended against the common law of Nature, and was liable to be punished: he invaded his neighbor's share, for he had no right farther than his use called for any of them, and they might serve to afford him conveniences of life." (C.G., ch. 5, sect. 37, pp. 134-135). Further specification of use and conveniences of life would be necessary to count this an effective social principle.
\end{footnotes}
good to the legislative assembly of the civil government. In the common interest therefore, the state legislature may further specify individual property arrangements, but within these bounds: the laws that are established should be for all alike and in accordance with the universal law of nature; secondly, no man shall have all or any part of his property taken away from him without his consent, or at least the consent of the majority through their duly elected representatives or by their own actions. Largely because of inherent difficulties connected with Locke's conception of the law of nature and majority-rule, he exposed civil society to two dangers through legislative action. First an assembly of large property owners would be reluctant to pass legislation against the interests of its own members. Hence such a majority might conclude that it was according to reason or the unwritten law of nature that property interests be allowed to operate unhindered by governmental action, except in cases where commutative justice was violated. On the other hand, a radical assembly of


67 Ibid., ch. 11, sects. 134-142, pp. 183-190.

68 William Y. Elliott and Neil A. McDonald, Western Political Heritage (New York, 1949), pp. 545-546: "The majority simply will not take away property rights, Locke thinks, because the majority is composed of individuals who are all concerned with the protection of property rights—a convenient theory and not an unreasonable one so long as the electorate in England was limited to property holders and dominated by the squirearchy of the seventeenth and eighteenth centuries."
non-property owners might consider it more in accordance with reason to restrict the exercise of property rights by multifarious government regulations. 69

A truly rational, unbiased body of men could work out a series of property regulations equitable for all, but Locke would have acted more prudently if he had provided concrete principles of social justice, derived from the law of nature, by which the legislators might determine their property measures. Why he did not do so, and some of the consequences of his failure in this respect, will be indicated in the next chapter.

69 Governmental regulation to the point of Socialism or government ownership of property would seem to be forestalled by Locke's statement: "For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property, without which they must be supposed to lose that by entering into civil society which was the end for which they entered into it."—C.G., ch. 11, sect. 138, p. 187.
CHAPTER IV

CONCLUDING REMARKS

1. Lockean and Papal Theory

Two centuries after the publication of the Two Treatises of Civil Government, Pope Leo XIII, on May 15, 1891, published an encyclical on the social question, i.e., the rights and duties of rich and poor, capital and labor, within organized society. Titled Rerum Novarum (On the Condition of Labor), the encyclical treated at length the origin, nature, and proper use of private property. Some people have professed to find a similarity in the way in which Locke and Pope Leo XIII set out to justify the right of private property. The similarity is undoubtedly there, and it will be interesting to note how far this similarity goes, and at the same time useful to see how Leo XIII (along with his successor Pope Pius XI) reconciles this basically private right of property with the demands of the common good.

Three reasons are given by Leo why ownership of property is natural to man as an individual. First, man as a creature with reason and free will, i.e., as a moral being, should possess the

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right of ownership which is the moral power to dispose freely of material things as his own. Secondly, man's rational nature urges him to provide for future contingencies as well as present enjoyment. Thirdly, while material things are clearly ordained for the use of man, and man in turn requires them for his preservation and perfection, he must frequently labor over them to make them suitable for his own use. This labor, as the impress of human personality on material creation, so unites the material good with the laborer as to make it part of himself and therefore his property by natural right.²

Locke's argument for property as a natural right was twofold. Property was justified first of all as necessary to satisfy man's needs, and secondly, as the proper expression of human personality man's personal freedom to dispose of himself and his effects as he thinks best.³ Locke and Leo XIII are united in maintaining that productive labor as the expression of human personality is an adequate title to ownership of material goods, a bridge between the individual man and this or that particular good.⁴ Furthermore, Locke's contention that God-given reason in man prompts him to ap-

²_Rerum Novarum_, sects. 5-7, pp. 368-369.

³_C.G._, ch. 5, sects. 25-26, pp. 129-130. See also ch. II, p. 40.

⁴Locke is less careful than Leo in distinguishing productive labor from the more general personal labor. See _Rerum Novarum_, sect. 8, p. 370: "For the soil which is tilled and cultivated with toil and skill utterly changes its condition; it was wild before, it is now fruitful; . . . ."
propriate things as his own from Nature's storehouse unites him with the first Leonine argument, that based on the rational nature of man. 5 Again, when Locke develops his argument for the ownership of land as well as consumer goods, he anticipates the Leonine position that man should provide for the future by possession of the earth itself as well as its fruits. 6

In addition, Locke and Leo agree that no limits exist for the acquisition of property beyond "man's own industry and the laws of individual peoples." 7 Unlike Locke, however, Leo did not postulate for labor or human industry a further limitation of wastage, which later was to be circumvented by the use of money. His basic norm for all degrees of economic progress was that "[T]he earth, though divided among private owners, ceases not thereby to minister to the needs of all." 8 In addition, in his treatment of money and material wealth, he shows a far greater understanding of the social obligations of property than does Locke. Leo carefully

5 C.G., ch. 5, sect. 25, p. 129.
6 Ibid., sect. 31, p. 132; Rerum Novarum, sect. 6, pp. 368-369.
7 Rerum Novarum, sect. 6, pp. 368-369. Also C.G., ch. 5, sect. 45, p. 138: "[T]he several communities settled the bounds of their distinct territories, and, by laws, within themselves, regulated the properties of the private men of their society, and so, by compact and agreement, settled the property which labour and industry began." N.B.: Neither author denies the possibility of extrinsic property limitation, but both agree that this regulation is a matter for positive or civil law, not natural law.
8 Rerum Novarum, sect. 7, p. 369.
distinguished between the natural right of ownership and its proper use. The first is necessarily exclusive of all beside the individual owner, or it ceases to be a right of private property. The use, however, of material goods should be common. He quotes St. Thomas Aquinas: "Man should not consider his outward possessions as his own, but as common to all, so as to share them without difficulty when others are in need."9 No one is required to give to others what he and his dependents need for self-preservation, or even for moderate comfort, in keeping with their social position; but all men have a duty founded on Christian charity to give superfluous wealth to the indigent. Leo concludes with the general social principle: "Whoever has received from the Divine bounty a large share of blessings, whether they be external and corporal, or gifts of the mind, has received them for the purpose of using them for perfecting his own nature, and, at the same time, that he may employ them, as the minister of God's Providence, for the benefit of others."10

Locke was silent on the duties of ownership after once affirming the wastage limitation, and adding the proviso that there should always be enough and as good left in common for others.11

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9 Rerum Novarum, sect. 19, p. 376. Quotation from Summa Theologiae, Ila-IIae, q. 66, art. 2 c: Opera Omnia, III, 247-248.
10 Ibid.
11 C.G., ch. 5, sect. 26, p. 130; sect. 30, p. 131; sect. 32, p. 132.
Moreover, by his own admission, the use of money circumvented the wastage clause and brought on such a fever for additional land that the other proviso was made ineffective also. Thus material wealth, though not explicitly proposed by Locke as an end in itself, easily became such in lieu of a higher goal.

Here perhaps is the most fundamental difference between Locke and Leo on the property question. Leo saw property, in fact, the entire economic order, as a means ordained to higher spiritual ends. Men must first realize that they are creatures of a common Maker, God Himself; that they are directed to Him as their common end; and that they all have been redeemed by Jesus Christ and raised to the dignity of children of God and heirs of heaven.

In this hierarchy of values, the gifts of nature, including material wealth, are seen as temporal supports to be used by all in the attainment of their common end. Leo's doctrine on property is superior to Locke's views, precisely because he sets material wealth within a greater hierarchy of values. When wealth is considered as an end desirable in itself, it sharpens the acquisitive

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13 Herbert Johnson, "Some Remarks about Locke's Teachings on Property," *New Scholasticism*, XXIV (April 1950), 150: "And since money does not spoil with time, there is no limit to the amount that any man may justly heap up for himself. Wealth is no longer a means, for a means is limited by the end to which it is directed, as medicine to health; it has become an end, to be pursued without limit for its own sake."

instincts of men so greatly that they become oblivious of the
rights and needs of others in the same line of economic self-
sufficiency. This anti-social attitude often produces great pro-
property inequalities among men, and consequent unrest and hostility
between rich and poor. 15

Pope Pius XI, in his encyclical Quadragesimo Anno (Forty
Years After), published in May, 1931, confirmed and furthered many
of the doctrines advanced by Leo XIII in Rerum Novarum. Pius de-
clares that apart from revelation, "reason clearly deduces from
the nature of things and from the individual and social character
of man, what is the end and object of the whole economic order as-
signed by God the Creator." 16 He adds that with proper subordina-
tion of values, "particular economic aims whether of society as a
body or of individuals will be intimately linked with the univer-
sal teleological order," with the consequence that men will be led
through economic activity to their final end, God Himself, "our
highest and lasting Good." 17 Furthermore, he notes that the right
working of the economic order itself is upset by unrestrained free

15 Ibid., sects. 1-2, pp. 366-367; Quadragesimo Anno, sects.
3-5, pp. 401-402. See Charles P. Bruehl, The Pope's Plan for So-
cial Reconstruction (New York, 1939), p. 113: "Sane economics will
insist on the human and personal character of industry, for when
this factor is left out of consideration production loses all
meaning and is deprived of every principle of regulation."

16 Quadragesimo Anno, sect. 43, p. 412.
17 Ibid., sect. 42, p. 412.
competition in search of material wealth. Over-production of goods, or the excessive lowering and raising of wages, with an eye to private profit, frequently bring about economic depressions with disastrous consequences to individuals and nations. 18 Thus for the more harmonious attainment of its own end, as well as those spiritual ends to which it is ordained as a means, the economic and social organism must secure "for all and each those goods which the wealth and resources of nature, technical achievement, and the social organization of economic affairs can give." 19 With adequate distribution of material goods, and widespread employment, men will be uplifted "to that higher level of prosperity and culture which, provided it be used with prudence, is not only no hindrance, but is of singular help to virtue," and we might add, to the proper functioning of the economic order itself. 20

One other point in which Pius expands on Leo XIII's doctrine is in the matter of superfluous wealth. Where Leo advocated giving superfluous wealth to the indigent as alms, Pius claimed that

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18 Ibid., sects. 74-75, p. 421. See also Economics and Society, p. 153; Bruehl, pp. 98-99, 112-114.
19 Quadragesimo Anno, sect. 75, p. 421.
20 Ibid. See also Bruehl, p. 112: "To maintain the right balance between production and consumption and to enable consumption to keep pace with production, it is essential that the various factors entering into the creation of wealth acquire by their productive activities and services claims to share in the ultimate product to such an extent that the created wealth will really be consumed. If this is accomplished, the economic process will actually be self-perpetuating. Social wealth, in other words, must be self-distributory."
the particular needs of contemporary industrial society urged rather the investment of superfluous income in job-producing industries and occupations, "provided the labor employed produces results which are really useful."21 Charles Bruehl notes the advantages of "liberality," as Pius conceived it, over Leonine "almsgiving" thus: "Using property in socially beneficial ways is no longer that of a charitable distribution of superfluous income, but rather that of a socially helpful business investment. The ideal modern property-owner opens up to his fellow men opportunities of employment by means of which they acquire the necessaries of life, and eventually become property-holders in their own right. . . . Almsgiving is of secondary consideration in our economic system, and should be restricted to such cases where an individual is unable to perform economically profitable work."22 From a property viewpoint, therefore, an individual is justified in the possession of enormous wealth provided he uses it for socially beneficial purposes, and not private advantage alone.23

21Quadragesimo Anno, sects. 50-51, pp. 414-415.
22Bruehl, p. 79.
23Because of the unequal talents and moral qualities of men, it is undoubtedly true that the common good of the community is often better served by some large individual property holdings in the hands of experienced entrepreneurs who can make them produce in abundance socially useful goods than by an egalitarian distribution of property among a host of inept or shiftless small owners. See also Summa Theologiae, IIa-IIae, q. 66, art. 2 c; Opera Omnia, III, pp. 247-248 on the value of legitimate self-interest in society.
2. Explanations of Locke’s Failure

Locke, as we noted above, saw in operation around him an increasingly complex economic system, far removed from the primitive conditions described for the state of nature. Why then did he not evolve a set of property rights and duties for contemporary civil society as he had done for the state of nature? Or, if time and space did not permit such an enlargement of his discussion of property, why did he not at least set forth certain principles of social obligation from which another could later work out the required regulations. In the following pages, various opinions will be given why Locke did not undertake this obvious task.

First of all, various historical arguments are proposed. The first presupposes that Locke’s aim in the First Treatise was to dismiss hereditary monarchy possessing absolute power, and in the Second Treatise to vindicate constitutional government based on the consent of the people.24 Thus certain lines of thought were shut off by the nature of the polemic which he was writing. One would be the obligations of property-ownership, over and above commutative justice, since the question of state regulation of property for the common good would easily arise.25 As we noted

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24 This supposition is well established. See ch. II, pp. 18-19; ch. III, pp. 52-53. See also Cook, p. xiii.

above, property was an explosive issue in Lockeian England partly because of widespread grievances against the Crown in property measures.\textsuperscript{26} Locke may have deemed it more advisable to postpone the issue of property obligations, especially as matter for civil regulation, for a more opportune occasion.

A second historical argument suggests that Locke was not fully aware of the need for principles of social obligation in property matters. Granted that during his own lifetime, economic conditions in England were undergoing rapid transformation, e.g., the rise of corporations, increased trade especially with the New World, and particularly, the new importance of money-lending or finance in commerce and industry.\textsuperscript{27} Yet Locke may have missed the significance of these changes, especially the fact that money now, more than land, meant enormous power. Otherwise, as Gough comments, he never would have entrusted control of the government to a property-owning minority, and expected them to exercise it impartially in the interests of all.\textsuperscript{28} Gough also notes that Locke's attitude toward money and the economic factor in political society was common among his contemporaries and persisted in Eng-
land until the time of the Industrial Revolution.29 Again, as
Charles Sherman points out, Locke seemed out of contact with the
laboring classes in England, whose interests as a group most re-
quired an exposition of the social obligations of wealth.30 For
example, what good was Locke's property theory to one without ac-
tual possessions.31 Hence, concludes Sherman, not the great mass
of town and country laborers, but those "whose individual initia-
tive had secured economic gains which they were unwilling to see
despotism wrest from them," i.e., the propertied classes, benefi-
ted chiefly from Locke's theory.32

Professor Collins claims that it was Locke's particular ap-
proach to philosophy which brought about his absence of social
thinking. The analytical tendency of his philosophical method
which in epistemology broke up cognition into sensation and re-
lection, "reduced social life to the atomic individuals from
which it might be supposed to originate."33 Thus disconnected,

29Gough, p. 84.

30Charles L. Sherman, "Introduction to Treatises of Civil
Government and A Letter concerning Toleration by John Locke" (New

31Ibid.; also Larkin, pp. 77-79; Cook, p. xxx.

32Sherman, p. xiv.

33Collins, p. 360. Locke's analysis of human cognition is
found in An Essay concerning Human Understanding, Bk. II ("On
Ideas"): English Phil., pp. 248-316. For examples of his analyti-
cal procedure, see especially ch. 1, pp. 248-253; ch. 3, pp. 254-
255; ch. 8, pp. 263-271; ch. 11, pp. 279-283; ch. 12, pp. 283-285.
the Lockean members of society never coalesced to form a civil government with a common good other than the aggregate sum of individual goods or the interests of the majority. 

Herbert Johnson attributes this lack of a true common good in Locke's theory of civil society to his sensism in epistemology. Since his knowledge of a person, philosophically speaking, was only a composite of sense impressions, he could not logically infer to the existence of a common human nature on which a true social end of civil society could be established.

Leo Strauss presents perhaps the most challenging interpretation of Locke's theory of property, with special reference to his lack of social consciousness. As noted earlier, Strauss conceives Locke as concealing a revolutionary doctrine of property beneath the conventional trappings of the state of nature, primitive man, etc. In reality, he is the evangelist of a new Gospel of labor, in which "industrious and rational" men will use their acquisitive instincts to create a world of plenty for all. Far from regulating property in the interests of the public welfare, "[c]ivil society merely creates the conditions under which the individuals can pursue their productive-acquisitive activity without obstruc-
tion. As proof of his interpretation, Strauss notes that the
right to appropriate is considerably more limited in the state of
nature than in civil society. This is so because the state of
nature was a condition of penury in which wastage of goods while
others starved was a serious offense. Money was the institution
which liberated men's acquisitive instincts and set them on the
road to prosperity in civil society. The great end therefore of
civil society must be the preservation of individual property in
order that men, unchecked by private theft or civil regulation,
may exploit their love of gain to the fullest and thus create un-
precedented temporal prosperity for all.

In Strauss's own words, Locke's property theory should be in-
terpreted as "the classic doctrine of 'the spirit of capi-
talism.'" Locke, therefore, instead of misinterpreting the econom-

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37 Strauss, Natural Right and History, p. 246.
38 Strauss here ignores the regulatory powers of legislative
bodies to alter property arrangements. See C.G., ch. 5; sect. 45,
p. 138.
39 Strauss, p. 239.
40 Ibid., p. 248.
41 Ibid., pp. 244-245, 247. See also Tawney, p. 179.
42 Ibid., p. 246. Tawney's thesis in the latter part of Reli-
gion and the Rise of Capitalism is that the spirit of capitalism,
the unashamed "love of gain," should be connected with the growth
of Puritanism among the merchant classes in seventeenth century
England. (Tawney, pp. 246-247) Supposing that a connection ex-
ists between Locke and seventeenth century English Puritanism (a
point which this thesis will not consider), Strauss's interpreta-
tion of the property theory strengthens this connection.
scene of his day, was rather a genuine prophet of the new age of laissez-faire capitalism and its dedicated apologist. Locke's doctrines historically supported individualistic capitalism in eighteenth century England. Yet this does not necessarily imply that Locke consciously planned an apologia of laissez-faire economics. Sabine says of Locke's political theory that it represented a somewhat inconsistent amalgam of social and political concepts in seventeenth century England. Yet it profoundly affected English constitutional theory for several generations, because it so neatly synthesized the various strains of current philosophical opinion. In similar fashion, we may conjecture that Locke's economic theory was not an esoteric revolutionary doctrine of individualistic economics, but an amalgam of past and present theories of property, selected with an eye to contemporary econom-

43 See Collins, p. 362: "Despite his generous conception of 'property' as including the happiness and liberty of individuals, Locke's dictum that 'government has no other end but the preservation of property' worked historically as a bulwark of individualistic and laissez-faire policies." See also Cook, p. xxxv.

44 Sabine, p. 537. Also Gough, pp. 70-71: "The state of nature and its whole concomitant apparatus of natural rights and the social contract was the regular stock-in-trade of the political writers of his age."

45 Collins, pp. 355-356. Cook and Gough, however, believe that Locke's theories did not influence constitutional thought so much as substantiate or legalize actual historical institutions already operating within the British constitution, e.g., majority-rule. See Cook, p. xxxii; Gough, pp. 70-71. N.B.: Under either interpretation, however, Locke cannot be conceived of as a revolutionary.
ie and political conditions in England. When first published, his theory won ready acceptance with the propertied classes; yet in the following century it became the "bible" of early English socialists. This fact alone may indicate its eclectic character as a treatise on property.

3. Consequences of Locke's Failure

Comparison of Locke with Pope Leo XIII and Pope Pius XI on principles of property ownership demonstrated that no serious treatment of civil property can omit consideration of the social nature of property without great potential harm to the community as well as to individuals. Yet for one or more of the reasons given in the section immediately preceding, Locke omitted an adequate consideration of property as a social institution. Granted that in Lockean civil society the legislature has the power to alter existing property arrangements for the common good, difficulties connected with a uniform interpretation of the law of nature

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46 Sir William Petty, in his Treatise of Taxes (1662), stated clearly the labor-value theory of property. See H. A. J. Johnson, Predecessors of Adam Smith (New York, 1937), p. 243. See also Gough, p. 81, n. 2. Cook notes that in the labor theory of appropriation Locke took doctrines already established and joined them together: the doctrine of property as a natural adjunct of personality, and of property as justified by the labor of its creation or production. See Cook, p. xxvi. Also ch. II, p. 40.


48 See pp. 79-84.
and with the institution of majority-rule in civil assemblies easily impede the passage of true social legislation in property matters.\textsuperscript{49} Furthermore, Locke left no norms for the determination of a true common good over and above the needs of particular individuals.\textsuperscript{50}

Bequeathing therefore to his followers what was virtually an absolute right of private property, Locke seriously damaged the entire rational basis of the right. As Walter Lippmann points out in his work, \textit{The Public Philosophy}, property rights without corresponding property duties eventually destroy the rationale of private property.\textsuperscript{51} Lippmann's own theory of property indirectly serves as an example of this process. Lamenting the inequalities which the abuse of individual property rights effected in modern civil society, Lippmann seeks to re-establish property rights on "the grand ends of civil society," contemplated by the noted English jurist, William Blackstone, in the eighteenth century.\textsuperscript{52}

\textsuperscript{49} \textsuperscript{\textit{C.G.}, ch. 11, pp. 183-190; esp. sect. 134, pp. 183-184.}

\textsuperscript{50} See pp. 87-88 for explanations by James Collins and Herbert Johnson for this notable deficiency in Locke's political theory.

\textsuperscript{51} Walter Lippmann, \textit{The Public Philosophy} (Boston, 1955), p. 121.

\textsuperscript{52} Lippmann, p. 120. He is quoting Sir William Blackstone, Commentaries on the Laws of England, Bk. II, ch. 1: "... the legislature of England has universally promoted the grand ends of civil society, the peace and security of individuals, by steadily pursuing that wise and orderly maxim by assigning to everything capable of ownership a legal and determinate owner." (\textit{Ibid.}, p. 119)
this way the natural right of property and its free exercise are shifted from the avaricious individual to the community, anxious only for the common good. Yet, however flagrant the abuses of individual property ownership and however grand the ends of civil society, the immediate result of this transfer of rights is positivism. As Lippmann himself declares, "The rights of property . . . are a creation of the laws of the state. And since the laws can be altered, there are no absolute rights of property. There are legal rights to use and to enjoy and to dispose of property."53

Furthermore, though Lippmann might deny that his theory of property leads to collectivism, or governmental ownership and control of property, his own words that the ultimate title to property is vested in "mankind, the People, as a corporate community," prove the opposite.54 The People as a corporate group can effectively express their will only through the organ of a duly constituted government. Then because the natural basis of property as an individual right has been already supplanted by positive law, government leaders can easily assert, and make effective by law, the right of the government as the official representative of the community to own and control property formerly under private ownership and control. By legislation collective ownership replaces

53 Ibid., pp. 118-119.
private property.

Thus some form of collectivism logically follows an uninhibited pursuance of rugged individualism. The intermediate step in which positive law is substituted for natural law as the basis of individual property rights, is taken to remedy the abuses spawned by excessive individualism. To maintain the proper balance between the two extremes, the principles of Pope Pius XI in Quadragesimo Anno are very helpful. Pius notes that property ownership has a twofold aspect: "which is individual or social accordingly as it regards individuals or concerns the common good."\textsuperscript{55} To emphasize one aspect too much is to encourage either Individualism or Collectivism. Furthermore, both Pius XI and Leo XIII (in Rerum Novarum) distinguish between the right of property and its proper use. The property right must be held by private individuals, but should be used in such a way as to promote the common good along with the good of the individual.\textsuperscript{56}

Finally, though the property right must be founded in the natural law to safeguard its natural basis in the individual, yet principles of positive law are also needed to determine a workable system of property rights and duties in civil society. The ambiguity of natural law principles of property in particular circumstances and the need for a positive check to the unprincipled

\textsuperscript{55}Quadragesimo Anno, sect. 45, p. 412.

\textsuperscript{56}Ibid., sects. 47-48, p. 413; also Rerum Novarum, sect. 19, pp. 375-376; also pp. 79-80 of this chapter.
Greed of individuals demand the creation of a system of positive law to supplement natural law. In addition, positive property legislation is required to establish the conditions necessary for a true common good, e.g., the erection of schools, hospitals, roads through taxation, appropriation, etc. Thus property as a total institution in modern society is a complex of mutually interdependent positive and natural law.57

In summary, then, concerning Locke's intentions as a political and economic theorist, Professor Sabine's encomium of the man expresses our own opinion also: "His sincerity, his profound moral conviction, his genuine belief in liberty, in human rights, and in the dignity of human nature, united with his moderation and good sense, made him the ideal spokesman of a middle-class revolution."58 His theory of property exhibits certain glaring deficiencies, as we have noted in the preceding pages. The subordination of the property theory to the aims of the entire Treatise on Civil Government certainly accounts for some of these errors. Yet with its defects Locke's property theory had a profound effect on English economic and political development in the eighteenth century.59 Even today commentators acknowledge that John Locke, faulty logic and oversimplified explanations notwithstanding,

57 See Quadragesimo Anno, sect. 49, pp. 413-414; also Rerum Novarum, sect. 7, p. 369; and p. 79 of this chapter.
58 Sabine, p. 540.
59 Gough, p. 91. See also ch. I, pp. 11-13.
reached many of the right conclusions in the very important and involved field of property rights and duties.
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B. ARTICLES


* * *
The thesis submitted by Joseph A. Bracken, S.J., has been read and approved by three members of the Department of Philosophy.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the degree of Master of Arts.

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Paul V. Kennedy, S.J.
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