

enforced by society, but since "no rational creature can be supposed to change his condition with an intention to be worse," these laws must be framed so as to confirm those rights that men have by nature. They consent also to be bound by the majority, since "it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority." For this reason Locke considered absolute monarchy as "no form of civil government at all." Whether in fact there was a time when men entered a compact is considered by Locke to be of no great consequence, for the important thing is that logically our behavior indicates that we have given our consent, and this Locke calls "tacit consent." For if we enjoy the privilege of citizenship, own and exchange property, rely upon the police and the courts, we have in effect assumed also the responsibilities of citizenship and consent to the rule of the majority. The fact that a person stays in his country, for after all he could leave and go to another one, confirms his act of consent.

**Sovereignty** Locke gives us a different picture of the sovereign power in society from the one we find in Hobbes. Hobbes' sovereign was absolute. Locke agrees that there must be a "supreme power," but he carefully placed this in the hands of the legislature, for all intents the majority of the people. He emphasized the importance of the division of powers chiefly to ensure that those who execute or administer the laws do not also make them, for "they may exempt themselves from obedience to the laws they make, and suit the law, both in its making and execution, to their own private advantage. . . ." The executive is therefore "under the law." Even the legislature is not absolute, although it is "supreme," for legislative power is held as a *trust* and is therefore only a fiduciary power. Consequently, "there remains still in the people a supreme power to remove or alter the legislature when they find the legislative act contrary to the trust reposed in them." Locke would never agree that men had irrevocably transferred their rights to the sovereign. The right to rebellion is retained, though rebellion is justified only when the government is *dissolved*. For Locke, government is dissolved not only when it is overthrown by an external enemy but also when internally there has been an alteration of the legislature. The legislative branch

can be altered, for example, if the executive substitutes his law for the legislature's or if he neglects the execution of the official laws; in these cases rebellion against him is justified. Whereas Hobbes placed the sovereign under God's judgment, Locke stated that "the people shall judge."

## Limited Government: The Natural Rights Approach

John Locke

John Locke (1632–1704) made important contributions to the theory of knowledge and to political thought. He is a key source of the doctrines of government by consent, majority rule, natural rights, the separation of powers, and the legitimacy of revolution which were so important in the birth of our nation. Locke is the antithesis of the ivory tower intellectual. In his personal life Locke aligned himself with the Whigs and other forces intent on circumscribing the traditional powers of the British monarchy. For many years Locke served as secretary to a prominent Whig politician, Anthony Ashley Cooper. He was also a commissioner with the Board of Trade and Plantations. His political theory, published anonymously and circulated widely, is generally regarded as the theoretical justification for the so-called Glorious Revolution of 1688, in which the powers of the king were reduced significantly. Locke wrote two political treatises, the first one attacking the doctrine of the divine right of kings, then being espoused by loyalists, and the second one stating his case for limited government.

The material which follows is taken from Locke's *Second Treatise of Government*, originally published in 1690. In this work Locke sets forth his theory of limited government. He sees government as originating in the consent of the governed to protect their natural rights to life, liberty, and estate, collectively referred to as property. Like Hobbes he refers to society without government as a State of Nature and society with government as Political Society or Civil Society. In the absence of government, he tells us, there are serious obstacles to the enjoyment of natural rights. Look for his reference to these "wants" as you read. Government, he tells us, is established through a social contract in which the citizens agree to be bound by law and the decrees of government as long as government abides by the will of the majority. Thus, it is the will of the majority and the rights of individual citizens which limit the powers of government.

Locke also argues that private property is acquired through laboring upon nature, a view which ironically found a sympathetic reception later by a number of theorists and reformers who argued that capitalism amounts to legalized stealing from workers by the wealthy, who own and control the means of production in society. Finally, in one of the most intriguing aspects of his theory, Locke tells us that although all individuals have natural rights, we "forfeit" them when we repudiate the rule of reason and act instead like "beasts."

Locke has drawn much criticism, even from those who favor limited government. For instance, some claim that he contradicts himself on pivotal elements in his theory, that he provides no way to avert massive economic inequities, and that his great attention to majority rule overlooked the prospect of tyranny of the majority over the minority. Keep these criticisms in mind as you read Locke. Remember, too, that whatever its weaknesses, Locke's political theory helped to shape our own nation. Reading Locke is discovering our political heritage.

**Locke's Moral and Political Theory** Locke placed our thought about morality into the category of demonstrative knowledge. To him morality could have the precision of mathematics: "I am bold to think that morality is capable of demonstration, as well as mathematics: since the precise real essence of the things moral words stand for can be perfectly known, and so the congruity and incongruity of the things themselves be perfectly discovered." The key word in ethics, namely *good*, is perfectly understandable, for everybody knows what the word *good* stands for: "Things are good or evil only in reference to pleasure or pain. That we call good which is apt to cause or increase pleasure, or diminish pain in us. . . ." Certain kinds of behavior will bring us pleasure, whereas other kinds will bring us pain. Morality, then, has to do with choosing or willing the good.

As a further definition of ethics, Locke says that "moral good and evil, then, is only the conformity or disagreement of our voluntary actions to some law," and he speaks of three kinds of laws, namely, the *law of opinion*, the *civil law*, and the *divine law*. The real issue here is to ask how Locke knows that these laws exist and also how he understands the relation of all three of them to each other. Bearing in mind that he saw no difficulty in demonstrating the existence of God, he now wants to draw further deductions from that demonstrative knowledge, saying that ". . . the idea of a supreme being infinite in power, goodness and wisdom, whose workmanship we are and on whom we depend, and the idea of ourselves as understanding rational beings, being such as are clear in us, would, I suppose, if duly considered and pursued, afford such foundations of our duty and rules of actions, as might place morality amongst the sciences capable of demonstration: wherein I doubt not but from self-evident principles, by necessary consequences, as incontestable as those in mathematics, the measures of right and wrong might be made out to anyone that will apply himself with the same indifference and attention as he does to the other of those sciences."

Locke is here suggesting that by the light of nature, that is, by our reason, we can discover the moral rules that conform to God's law. He did not elaborate this program into a system of ethics, but he did indicate what relation the different kinds of laws should have to each other. The law of opinion represents a community's judgment of what kind of behavior will lead to happiness: conformity to this law is called virtue, though it must be noticed that different communities have different ideas of what virtue consists of. The civil law is set by the commonwealth and enforced by the courts. This law tends to follow the first, for in most societies the courts enforce those laws that embody the opinion of the people. The divine law, which men can know either through their own reason or revelation, is the true rule for human behavior: "That God has given a rule whereby men should govern themselves, I think there is nobody so brutish as to deny." And "this is the only true touchstone of moral rectitude." In the long run, then, the law of opinion and also the civil law should be made to conform to the divine law, the "touchstone of moral rectitude." The reason there is a discrepancy between these three kinds of laws is that men everywhere tend to choose immediate pleasures instead of choosing those that have more lasting value. However ambiguous this moral theory may seem to us, Locke believed that these moral rules were eternally true, and upon the insights derived from the divine law he built his theory of natural rights.

**The State of Nature** In his *Second Treatise of Government*, Locke begins his political theory as Hobbes did, with a treatment of "the state of nature." But he described this condition in a very different way, even making Hobbes the target of his remarks. For Locke, the state of nature is not the same as Hobbes' "war of all against all." On the contrary, Locke says that "men living together according to reason, without a common superior on earth with authority to judge between them is properly the state of nature." According to Locke's theory of knowledge, men were able even in the state of nature to know the moral law. He said that "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, health, liberty or possessions." This natural moral law is not simply the egotistical law of self-preservation but the positive recognition of each man's value as a person by virtue of his status as a creature of God. This natural law implied natural rights with correlative duties, and among these rights Locke emphasized particularly the right of private property.

**Private Property** For Hobbes, there could be a right to property only after the legal order had been set up. Locke said that the right to private property precedes the civil law, for it is grounded in the natural moral law. The justification of private ownership is labor. Since a man's labor is his own, whatever he transforms from its original condition by his own labor becomes his, for his labor is now mixed with those things. It is by mixing his labor with something that a man takes what was common property and makes it his private property. There is consequently also a limit to that amount of property one can accumulate, namely, "as much as anyone can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in. . . ." Locke assumed also that as a matter of natural right a person could inherit property, for "every man is born with . . . a right, before any other man, to inherit with his brethren his father's goods."

**Civil Government** If men have natural rights and also know the moral law, why do they desire to leave the state of nature? To this question Locke answered that "the great and chief end of men's uniting into commonwealths and putting themselves under government is the preservation of their property." By the term *property* Locke meant men's "lives, liberty and estates, which I call by the general name, property." It is true that men know the moral law in the state of nature, or rather they are capable of knowing it if they turn their minds to it. But through indifference and neglect they do not always develop a knowledge of it. Moreover, when disputes arise, every man is his own judge and tends to decide in his own favor. It is desirable therefore to have both a set of written laws and also an independent judge to decide disputes. To achieve those ends, men create a political society.

Locke put great emphasis on the inalienable character of men's rights, and this led him to argue that political society must rest upon the *consent* of men, for "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 consent." But to what do men consent? They consent to have the laws made and