

arguments which he uses, fit in well with the doctrine which at the beginning of the nineteenth century came to be called liberalism. Some commentators go further, and say that Locke invented liberalism practically single-handedly, but that is to exaggerate. Too much of at least English liberalism came out of utilitarianism, a doctrine antithetical to Natural Rights, for this claim on Locke's behalf to be sustained. None the less, if you look hard enough in Locke, it is possible to find a thumbnail sketch of something which is at least beginning to look like liberalism.

The first liberal-looking assertion in Locke is the naturalness of property and the inviolability of property right except by free and voluntary consent: what we have come to call consent to taxation. Nine points of positive law will be about who rightfully owns what. What makes something mine is either that I have inherited it or, better still, that I have worked for it. Mixing one's labour with something is the surest title to possession of all. Locke is certainly not hostile to aristocracy, and he looks with favour on self-made men, the traditional alliance between Whig aristocracy and industrial wealth which was to form the basis of the English Liberal Party after 1859.

Locke wrote a famous *Letter Concerning Toleration* which still strikes a liberal chord. Locke's plea for toleration is an appeal for the privacy of the individual's own mind. The law should never be used to proceed against a man for what he thinks, but only for what he does or might be about to do. The exceptions are Catholics, a potential fifth column in the service of the nation's Catholic enemies, and atheists because, having no fear of hell-fire, they cannot be expected to tell the truth on oath in courts of law. Locke's appeal for toleration is, then, a plea for toleration of every kind of Protestant and dissenting sect, a view of toleration which seems unduly restricted in the light of the classic liberal statement on toleration, J.S.Mill's essay *On Liberty* (1859), but on the way there. What the state must never do is try to change men's opinions on the rack. The man may be coerced, but not the conscience, which is by its nature free, a doctrine surprisingly reminiscent of Hobbes's dictum that the will cannot be coerced.

Liberals like to think of themselves as putting a high value on human rationality, and this is an attitude they share with Locke. In the *Second Treatise* Locke is careful to argue against the naturalness of patriarchy in Filmer. Children only owe a duty of obedience to natural fathers who keep their children's Natural Rights in trust for them until they reach the age of consent. As soon as children know what they are doing, they become adults as fully endowed with Natural Rights as anybody else. Locke is very sensible here. The existence of a moral sense, which plainly exists even in very small children, is not enough to put a child in full possession of his Natural Rights. Rationality is still crucial; children have got to be able to understand that rights imply duties, especially the duty to recognise the same rights in others. (Little children are very good at remembering that they are entitled to their pocket money but often have to be reminded that they have to set the table for it.) Living with others means accepting mutual obligations, and failure to recognise this is a failure of understanding, either through incapacity or wilful obtuseness. Some such plea underlies the Lockian theory of punishment: a thief who denies the Natural Rights of others has failed to act as a rational man, and so must be corrected (some prisons in America are still called Houses of Correction). A useful analogy would be with membership of a club. We would say that a member of a club who

said that its rules did not apply to them would simply be failing to understand what being a member of a club entails. Rationality also extends to the public reasonableness of positive laws: everything is to be out in the open (and Locke was saying this at a time when even the publication of parliamentary debate was over half a century in the future). Marxist commentators on social contract theory have always detected a bourgeois flavour in the liberal conception of law as being fixed, knowable and known, because these are exactly the conditions in which commercial judgements about the future can be made. If law is vague, or can change arbitrarily and quickly—say changes of the place where customs duties are to be collected, or constant variations in the rate of taxation—then the conditions for commerce worsen.

The Lockian model of society is a competitive, capitalist model. Men are free to acquire, and are encouraged by God to do so. There will be winners and losers, rich and poor. Strange, therefore, that Locke fails to mention class, which, on Locke's own account, would exist even in the State of Nature where there is buying and selling. What all individualistic theorists of society tend to forget is that there may be an important difference between acquisition and the defence of what has been acquired. Men may acquire as individuals, either through luck, effort or inheritance, but they tend to defend what they have as a group, which is class by any other name. Is Locke's state a class state in the way that his society is a class society? Locke never tells us in the *Second Treatise*, but there are broad hints elsewhere in his works, especially in his draft *Constitution for the Carolinas* (in whose pretend-aristocracy Locke was a margrave), where he refers to his American polity as 'a democracy of God's proprietors, ten thousand a year, debts paid'. It is still a matter for scholarly controversy exactly how literally men were then capable of taking the idea of democracy as implying universal suffrage, but there does not seem to be much doubt in Locke's case.

The idea of government as a trust which can be betrayed reeks of the liberal distrust of political power a century and a half before Lord Acton: 'All power corrupts, and absolute power corrupts absolutely.' Plato apart, political theorists before Locke are notoriously reluctant to tackle the question of why it is that men want power. Most would agree with Machiavelli that power aggrandisement is a fact of human nature as it applies to princes, or with Hobbes when he intimates that any man would agree to be Sovereign if the chance came his way. Locke at least has some feeling for what love of power can do to a man, hence his constitutionalism, and hence his emphasis on government as a trust. Perhaps Locke wishes us to think that, like the best trustees, the best governors would be those who get very little out of governing beyond the satisfaction of doing it well. The characteristic trait of men acting politically is not the desire for dominion over others but protection from them, and that obviously includes government. The worst rulers would be the grabbers for power, a view Locke does share with Plato.

Locke plainly thinks that there is a tendency, if it is no more, to harmony in human social life. This harmony is not perfect, otherwise political society would not be necessary. The state is therefore society's regulating mechanism, essentially extra-society, not its vital spring. Free activity will be the norm, coercion the exception in the cases of thieves and vagabonds. As a Christian, Locke believes that God's intentions for his Creation are benevolent: He did not put men in the world so that they would

continually be at one another's throats. Government is 'outside' society in the same way as the governor of an engine is not part of the engine, but extraneous to it. The governor of an engine is there to stop the engine overheating, and only starts working when there is a danger of that. Government regulates but does not initiate. (The perfect image of Lockian sovereignty would be the stamping of a Sovereign's head on a pre-existing gold coinage, thus creating sovereigns.)

Locke's famous *Essay Concerning Human Understanding* shows him to be cautious, and to a degree sceptical as an epistemologist. Locke believes that the only form of knowledge we can properly trust is the knowledge gained through the perception of the senses. This denial of the truths of metaphysics (but not of religion because Locke believed in 'natural religion', the belief that the reasonableness of Christianity could be demonstrated) passes over into Locke's political theory in the form of a reluctance on Locke's part to attribute to the state any high, transcendent purpose beyond the peace and security of its citizens. Locke is no Rousseau, let alone Hegel. A certain becoming modesty informs Locke's view of politics. We must not expect too much of it: restricted political means for restricted social ends has a classically liberal ring to it. The only place in which Locke even approaches a higher *raison d'état* is in his discussion of the residual power which inheres in all government, but his treatment of it is characteristically low-key. Everyone could agree that government has to act swiftly in emergencies from time to time, and everyone could agree to that, provided only that 'national security' is not invoked too often or on trivial occasions. Otherwise people will begin to smell a rat. Besides, good government would always be prepared to justify its emergency actions *ex post facto*.

Allied to the sceptical epistemology, and in part deriving from it, is a certain reasonableness about Locke's political theory. There is no urgency about it, nothing raucous or shrill. Locke does not ask us to believe anything which a reasonable (Protestant English-) man might not already be prepared to think. Locke is writing for an audience in a society which is fast becoming commercial, and which is already involved in colonisation in America. Even Locke's legalistic tone would have helped, because ownership in the seventeenth century, especially ownership of land, often brought litigation with it, and the fact that making money is second nature to busy men in commercial society needs no emphasis.

What really dates Locke is his account of the social contract itself, which liberalism later sloughed off in favour of the natural sociability of man and therefore his natural tendency to construct political communities. Under the influence of the thinkers of the Scottish Enlightenment, and especially of Adam Smith, liberalism found that it did not need a theory of origins at all. The justification for social and political arrangements shifted from Natural Rights to the principle of utility, which cut across a notion of rights at many crucial points. Locke's plea that free men should keep their government under constant scrutiny to make sure that it does not overstep the mark finds its echo in the utilitarian idea that a government is more or less legitimate, depending on whether it increases or decreases the greatest happiness of the greatest number. Checking up on this should be almost a daily task for free men, but what utilitarians like Bentham lack is the suspicion of power itself, as distinct from a concern that power should be used for

socially useful ends.

The other thing which dates Locke, though it doesn't disqualify him from being one of the main inspirers of liberalism, is the idea that we really could disobey the state by refusing to be bound by its laws. Perhaps in Locke's day it was possible to disobey the state without social chaos, because states did not in fact ask much of most of their citizens most of the time. Occasional service on a jury, occasional taxation, the odd turning out to parade in the militia was all that government demanded of those who were not its servants. By comparison, modern states are miracles of complication, because many of them provide a myriad of services of which seventeenth-century defenders of wide scope for government never dreamt. Perhaps in the modern state disobedience is impossible in a much more technical sense. Disobedience to laws at least implies some kind of rough knowledge of what those laws are. The modern world is an age of intense legal specialisation among lawyers, and it is technically impossible to disobey the laws because it is perfectly possible that I might *think* I was disobeying the laws while I was in fact continuing to obey some laws whose existence I did not even suspect. States in Locke's day didn't manage economies (though mercantilism was a try), and they did not even know the names, or even the number, or their own citizens. In circumstances like these, disobedience would not mean so much in social terms, and certainly not social chaos. This is part of what Locke means when he says that the State of Nature is a state of liberty, not licence. Rebellion and revolution are very different things, and the day was far distant when men would make a rebellion to remodel society, though there had been hints of that during the Interregnum.

This is not to say that Locke on disobedience is completely irrelevant to the modern world. Civil disobedience, to make government take notice, is at least in the spirit of Locke. Civil disobedience relies for its moral force on being the very opposite of a return to any kind of State of Nature. It relies on very law-abiding people disobeying *that* law on *that* occasion. Locke might have liked that.

THE STATE OF NATURE COMPARED IN HOBBS AND LOCKE, AND AN AFTERWORD ABOUT FILMER

The political theories of Hobbes and Locke both depend for their plausibility on the different pictures which they paint of the State of Nature. It might be said that Hobbes tells us too little about the State of Nature, and Locke too much. By that I mean that Hobbes tells us too little about the State of Nature for us ever to suppose that men could get out of it, and Locke tells us too much about the social nature of the State of Nature that we begin to wonder why men would ever have wanted to get out of it in the first place.

We are bound to say of Hobbes that, granted his view of life in the State of Nature as partly solitary and partly violent, it is not very clear how men would ever come to the meeting to transfer their Right of Nature to the Sovereign and so come into Civil Society. This matters for Hobbes, because either men had some kind of collective will in the State of Nature which enabled them to make the social contract, in which case the State of

Nature could not have been as insecure and solitary as Hobbes depicts it, or there must have been some kind of miraculous occurrence which made men make their original agreement, and neither of these possibilities fits well with Hobbes's own argument. It also matters because if an original contract of the kind Hobbes proposes is an impossibility, then the original attributes of sovereignty which Hobbes deduces from the original contract might not be those which men would voluntarily give to a Sovereign in the State of Nature. This in its turn would take the polemical edge off Hobbes's implied argument that, *pace* the liberty-lovers and the dividers of sovereignty, if men had the chance to begin again and construct a polity from scratch, they would voluntarily set up a Sovereign with powers in the face of which any contemporary absolutism would pale by comparison.

The case of Locke's State of Nature is different. It is so naturally social that the absence of a state is by Locke's own admission only 'inconvenient'. Granted Lockian men's fear of government as being immeasurably more powerful and therefore immeasurably more threatening than any individual or group of individuals in the State of Nature, one begins to wonder whether rational Lockian men in the State of Nature would ever take the risk of setting up a state in the first place. What are the inconveniences of the State of Nature, it might be asked, compared with the possible invasions of Natural Rights of which a state is capable?

It has been fashionable for a long time to wonder how sane men could ever have been capable of believing in the theory of the Divine Right of Kings while forgetting that Lockian Natural Rights are equally divinely inspired. Filmer's special contribution to Divine Right theory, which had been long in the making, was to add to the usual compilation of biblical texts the idea that Divine Right monarchy conforms to the natural order of things. Nature is patriarchally ordered (even animals obey the authority of dominant males), God is the author of nature, therefore what is in accordance with the order of nature must be divinely intended. Just as God wants the father of a family to be its ruler, so he wants kings to be the fathers of their peoples. The Divine Right of Kings was the only natural right that Filmer was prepared to allow after the pattern of nature, but he took the crucial step away from arguing theologically to arguing naturalistically. All it took was for Locke to argue from the nature which God had created that all men are endowed with Natural Rights for an important shift to occur in the nature of political theorising. From Filmer on, political theorising could begin to cease to be a minor branch of theology and become a subject of enquiry in its own right. When the doctrine of Natural Rights in its Lockian version came under attack from others who were kindly disposed to human liberty and improvement, rights would come to be seen, as they were by the utilitarians, as just another means to human happiness, with no independent philosophical or political status of their own.

Of course, this did not happen everywhere or at the same time. The United States of America is the place where a notion of Natural Rights has survived as a kind of trumps which supersedes any other moral claim. To say in America that I have a right to something is to put forward a claim which, *prima facie*, overrides any other kind of moral claim. Jefferson's Declaration of Independence is the classic statement of the claim that men have a multitude of rights independent of government. Some of those rights are