

false witness implies that a man has a right to expect another man to keep his word, and to expect others to bear witness as to what that promise was. Looking around for evidence in the real world that men can come to make very generalised agreements with each other, Locke fastens on to two things: language and gold. Language is an agreement that certain sounds mean certain things, and the invention of language pre-dates the invention of the state (and survives after states collapse). Similarly, men agreed to put a value on intrinsically worthless gold which actually goes up in value when states begin to totter. Locke uses these as paradigmatic examples of what kinds of agreement are possible between men without government. Agreement to put a value on gold makes buying and selling possible, perhaps even the buying and selling of labour, and it certainly makes inequalities of property likely in the State of Nature. Men's slight inequality of natural capacity, which Hobbes had thought valueless in the State of Nature, is important for Locke precisely because it would lead to inequalities of fortune. Not all men are equally enterprising or industrious, and to the winner go the spoils of competition.

Agreement to put a value on gold alters the original State of Nature by removing the natural constraints on the accumulation of property. Originally, no man was entitled to more land than he could actually cultivate, the land he had actually 'mixed his labour' with. Laying claim to uncultivated land was an infringement of the Natural Right of others to take property out of nature by their own labour. Tracts of uncultivated land in ownership, or even land half-cultivated or occasionally cultivated, was waste, and in the absence of a currency, and therefore a market, it would be impossible for a man to get rid of any agriculture surplus profitably, and that surplus would spoil. The circulation of a currency in the form of gold changed this. Men could now buy, sell and make profits to their hearts' content. Gold does not spoil, or go to waste, so there can be no natural limits to its accumulation. Gold therefore effectively abolishes the natural limitations set on property accumulation, hence inequality of property in the State of Nature.

For Locke, then, life in the State of Nature is naturally sociable, because the State of Nature contains what we can easily recognise as the beginnings of economic interdependence and social stratification between rich and poor. And all this happens, thinks Locke, before the invention of the state, and it would continue to happen if all law-making and law-enforcement were to disappear. Therefore, a return to the State of Nature is not the terrifying possibility which Hobbes had thought it was.

## THE STATE OF NATURE AND GOVERNMENT

Locke's picture of a social State of Nature profoundly affects the way he invites us to think about government in five different but related ways.

1 Locke seems to be saying that man should not be over-grateful for government. A return to the State of Nature would no doubt be attended by its inconveniences in the matter of law-making and law-enforcement because men would have to begin again to do these for themselves, but it is not unthinkable. *Any* state is certainly not better than

no state at all, so Locke is not asking us, as Hobbes is, to put up with the government we've got because the alternative State of Nature would be horrific.

- 2 States, unlike societies, are not part of the given order of things. Societies (economics and social systems) arise spontaneously and naturally, but states do not. Unlike society, the state is not God-given. It follows that rational men may discuss what kind of states they would be prepared to live in, and under what conditions. States are useful, invented mechanisms, and like all invented mechanisms they can be improved or scrapped at will. Men will not, of course, scrap them 'for light and transient causes', but the possibility is always there.
- 3 As a mechanism, the state, like any other mechanism, is there for a purpose, and the position of men in the State of Nature can easily tell us what that purpose is. Men in the State of Nature expect to enjoy the exercise of their Natural Rights, and men come into Civil Society to enjoy them more securely. It is part of God's purpose for men that they should enjoy these rights, and so no Natural Right can be permanently alienated. Government exists to protect Natural Rights and should confine itself to that function. It follows that any government which threatens the Natural Rights to life, liberty and estate (Locke's word for property) is a government in the process of forfeiting its title to govern.
- 4 Men enjoying Natural Rights in the State of Nature would plainly have to consent to the setting up of government, and Natural Rights being God's permission to act in the world, there must be a natural limit to what men may consent to. Just as the right to life rules out suicide and murder, the right to liberty means that men cannot consent to slavery. Even if they wanted to, it is obvious that Locke thinks that men do not have the right to set up the kind of absolutist Sovereign which Hobbes thinks men would invent if they thought about it properly. Natural Rights, being inalienable, could only be 'lent' to government on conditions. No rational man would surrender his right to life, liberty and property to government. What a rational man almost certainly would do, would be to entrust his right of judgement to the state on certain clearly understood terms. He could undoubtedly do this only by his own free will. Consent to government therefore confers title to govern, what we have come to call legitimacy.
- 5 Locke plainly thinks that society is natural while the state is artificial. Human nature being composed as it is of certain Natural Rights which rational men recognise that they and others possess, society arises spontaneously. It follows that, because society is prior to the state, both logically and as a matter of history, it is up to society to decide what the state shall be like, and not the state which shall decide what society shall be like. This insistence of the separation of society from the state, and a society's priority over the state, was to become the bedrock of the doctrine which came to be known as liberalism. Put another way, Locke thinks that what the state is like is a matter (within limits) of rational reflection and choice, but society is a given about which men have no choice. Society is what God meant it to be, capitalist and naturally harmonious, except that in the real world societies tend to become a bit ragged at the edges. Offences against Natural and positive law, murder, theft, fraud and riot for instance, happen from time to time, and men need the special agency of the state to cope with them.

What this amounts to is a reiteration of the Hobbesian claim, under very different conditions, that men do not come into Civil Society to change their nature but to fulfil it. For Locke, men are recognisably social before they become political, therefore very little of the social nature of men is owed to the existence of the state. An ongoing practical morality exists independent of government, so that legitimate government exists to protect and defend that morality.

### LOCKE'S VERSION OF SOCIAL CONTRACT

Because morality existed in the State of Nature and was capable of being enforced there, perhaps imperfectly, by the voluntary actions of men, it follows that social contract is an extension of that pre-existing morality. Locke tends to lay stress on God's permissions rather than on God's prohibitions: Natural Rights before Natural Law. The distinction is still Hobbesian, but Natural Rights now being definable as rights rather than Right, they become an asset rather than a liability, something men desire to keep rather than to give up. Restricting the Hobbesian Natural Right to a given number of Natural Rights makes Natural Right much more manageable, and, being manageable, Natural Rights can be retained within the framework of Civil Society.

Perhaps the best way of looking at the Lockian doctrine of Natural Rights is to see them as a kind of moral cash, pocket money given to God's children to make their way easier in the world. Naturally enough, children often being very intelligent consumers, men will want to spend as little of their moral cash for as many goods as possible. The good which they buy at the moment of social (it should really be called 'political') contract is an increased protection by government of the Natural Rights of life, liberty and estate. To enjoy more of their moral capital in security, men give up to the state their right to judgement when their Natural Rights have been violated. Of course, a Natural Right being God's gift, part of defining what it is to be a human being, it is impossible to alienate it completely. At the moment of contract, Locke's men give up the absolute minimum for the maximum gain: they entrust the state with their right to judgement on the condition that the state uses the right to judge when Natural Rights have been violated in order to allow men to enjoy their other Natural Rights, to life, liberty and property, more abundantly.

Social contract is really a double process in Locke. An implied contract of society operates before the contract to form government is made. *Pace* Hobbes, the society which exists before government ever existed, and the society which would survive government's collapse, is capable of expressing a will before the state exists. Therefore, again *pace* Hobbes, men are capable of making a collective agreement with their rulers in the State of Nature, either in the very beginning or in some future, imaginable emergency when government has collapsed. And in Locke's account of the matter it is easy to see when and why government would in fact collapse: when it violates, or is seen to violate, enough men's Natural Rights for them justifiably to rebel by taking back to themselves the right of judgement because government has betrayed its trust and misused it. Men therefore have a right of rebellion, and perhaps even a moral duty to rebel, if government

begins to frustrate God's purpose for the world. The moment for rebellion happens when enough men are prepared to repudiate their contract with their rulers and fall back on the original contract of society. In all events, the Lockian Sovereign is a party to the contract to set up government. The king is king on terms.

It follows that only my own, explicit consent can make me a member of a commonwealth, though Locke notoriously waters this down later with his doctrine of 'tacit consent'—just by walking on the king's highway I tacitly invite the protection of the law, so tacitly consent to obey that law myself. So what happens to the non-joiners? Locke is as ruthless as Hobbes on this point. In the beginning non-joiners, like dissenters later, may be killed if they appear to threaten Civil Society. A man who denies God's Law by invading other men's Natural Rights is at war with God and men, and killing in war is no crime. Locke is one of the first political thinkers to think that capital punishment is a special case of punishment and needs a special justification in a way that ordinary punishment—fines and imprisonment—does not. A man who violates another's Natural Rights by taking his life, or threatening to, is irrational, hardly a man at all, because his natural reason doesn't function well enough to tell him that his own enjoyment of rights implies the duty of respecting those same rights in others. This argument is the basis of all right to punish, either in the State of Nature or in Civil Society. If a man breaks God's Law in Civil Society, he is no better than a wild beast and may be killed.

What happens if, in Civil Society, I withdraw my consent? Locke thinks that that would not alter my obligation to obey the law, because I would then become as a stranger or visitor in my own country, and nobody ever argues that foreigners are not obliged to obey the laws of the particular country they happen to find themselves in. Strangers implicitly invite the protection of the laws in a foreign country, and they are subject to Natural Law punishments anyway. (The exception would be a group of men coming into another country bringing their own law with them, and therefore not implicitly asking for the protection of that country's laws. A group of men like that would be called an invading army, or a group of English football supporters.) Locke also uses the analogy of visiting another family. Guests are obliged to follow the habits and customs of that family where they differ from the habits and customs of their own.

## **LOCKE ON FORMS OF GOVERNMENT**

What good, then, does it do a man to consent to become a member of a commonwealth if he is obliged to obey the law in whatever commonwealth he happens to find himself in? If the law does not differentiate between natives and strangers, then the only advantage which membership of a political community could bring would be some kind of exercise of political rights, including the right of rebellion. The commonwealth is *my* commonwealth, and the law would be in some sense my law. Locke holds the Whiggish doctrine of the supremacy of the legislature: that which gives legitimate commands to others must itself be supreme. What we have come to call the 'executive' and judicial powers must be secondary, because, being unmoved until they enforce the decisions of