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**JOHN LOCKE AFTER 300 YEARS**

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# JOHN LOCKE AFTER 300 YEARS

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## ABSTRACT

John Locke was a seminal figure in political philosophy and political economy and this year marks the tercentenary of his death. The paper focuses on the classical liberal interpretation of Locke. In this view, Locke defends individualism, natural rights (especially to property) and minimal government. After sketching this interpretation, I will present some extensions and applications of that interpretation. With this background in mind, I then turn to the views of critics who have claimed that Locke's individualism has been exaggerated and that Lockean rights are not absolute (they must be balanced against duties). Then I address the view of those who see Locke as a defender *not* of minimal government but of a more muscular (albeit limited) government. I then provide a brief conclusion.

## 1. INTRODUCTION

John Locke died in 1704 and this paper considers his legacy for 2004. With the exception of Christianity, I will discuss neither the influences on Locke's thinking nor the context of his times. The primary questions are: Was Locke influential on political thought? What principles underpinned his political thought? Because of the controversy over the 'true nature' of Locke's principles, further questions arise: Were Locke's 'true' principles the foundation upon which his purported influence rested? Are these 'true' principles relevant today?

First, let me comment on the extent of Locke's influence. Macpherson says that Locke was one of the first to establish the 'title-deeds' to 'the Western liberal constitutional state' (1980, p.vii). Fukuyama states that 'the oldest and most durable liberal societies--those in the Anglo-Saxon tradition, like England, the United States, and Canada--have typically understood themselves in Lockean terms' (Fukuyama 1992, p.145). Louis Hartz has claimed that the entire history of American thought is Lockean (Hartz 1955; see also Mansfield 1993, p.290). Clearly there is a widespread belief that Locke's writings have been influential.

Second, although some suggestions have been made already about the principles adopted by Locke, we need to consider the matter further. As two public policy think tanks have been named after Locke, it is useful to *begin* by considering what they say.

The Locke Institute, a public policy think tank based in Virginia, USA, is active in the promotion of 'classical liberalism' in general and the ideas of Locke in particular. The Institute claims that it ascribes to his 'theory that society is based on the law of nature and that the individual is the ultimate source of political sovereignty' (Locke Institute 2004). It 'endorses Locke's proposition that individuals are possessed of inalienable rights to life, liberty, and property. It is the principal function of the state to uphold these rights since free individuals otherwise would not enter into political society' (Locke Institute 2004). This think-tank is run primarily by economists and it focuses on 'property rights, public choice, law and economics, and the new institutional economics' (Locke Institute 2004). The Director General is Charles Rowley (Professor of Economics at George Mason University and an editor of the journal *Public Choice*) whose work will be discussed below.

Another think tank is also named after Locke. The John Locke Foundation focuses on the situation within the American state of North Carolina. The Foundation claims that North Carolina (and presumably the USA as a whole) must 'return to our founding principles.' There are four of these principles. First, 'We are a land of liberty where natural rights of individuals precede and supersede the power of the state.' Second, 'We are a constitutional republic in which government power is limited and employed for the purpose of providing legitimate public goods.' Third, 'We are a free market.' Fourth, 'we are a free society,' in which various civil society actors play a major role in addition to government (John Locke Foundation 2004).

Obviously these two think tanks share many views about Locke and his relevance for today. Their view is captured in Rowley's self-description as a classical liberal (1993b, pp. 4-5). They are largely consistent with the more philosophical view expressed by Nozick, who calls himself a 'libertarian' (1974, p.ix). Others with similar views call themselves modern 'contractarians.' We will generally refer to these theorists as 'classical liberals.' A three-point summary of their interpretation of Locke is that he advocates individualism, natural rights (especially rights to private property) and minimal government.

The 'classical liberal' view of Locke has been endorsed and disputed by others who do not share this perspective. Much of the classical liberal interpretation has been accepted by Marxists and by Straussians (who tend to adopt a politically-conservative outlook). On the other hand, each of the three fundamental claims about Locke mentioned above has been disputed. Thus, in addition to presenting the classical liberal interpretation, I will also present some of the points on which this view has been challenged.

The remainder of the paper has five sections. The second section sketches the classical liberal interpretation of Locke. The third section presents some extensions and applications of that interpretation. The fourth section addresses the views of critics who have claimed that Locke's individualism has been exaggerated and that Lockean rights are not absolute (they must be balanced against duties). The fifth section addresses the view of those who see Locke as a defender *not* of minimal government but of a more muscular (albeit limited) government. The final section provides a brief conclusion.

## **2. THE CLASSICAL LIBERAL INTERPRETATION**

This section presents some key points in the classical liberal interpretation of Locke. I will follow the sketch provided by Rowley (1993a and 1993b) which, to some degree, follows Nozick (1974). As stated above, the focus is on individualism, (natural) rights and minimal government.

For Locke there is a state of nature which precedes civil society; a social contract brings the latter to an end, or at least suspends it. According to Rowley, both the state of nature and the social contract which brings it to an end are allegories (1993a, pp. 11-2). Rowley says that the essence of these allegories can be disclosed in some quotations from the *Second Treatise*.

To understand political power right, and derive it from its original, we must consider what state all men are naturally in, and that is a *state of perfect freedom* 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. (Locke 1988, 269 quoted in Rowley 1993a, 12 original emphasis)

Rowley comments that the state of nature is ‘a state of liberty in the negative and not the positive sense of that term’ (Rowley 1993a, 12 citing Berlin 1969). He adds that the state of nature is not a licentious state but one which requires that no one ‘harm another in his life, health, liberty or possessions’ (Rowley 1993a, p.12; see Locke 1988, p.271).<sup>1</sup> Elsewhere, Rowley adds that ‘the Lockean state of nature’ is ‘pure anarchy. In such a condition, man is an individualist’ (1993b, p.51; cf. 1993a, p.13; see Locke 1988, p.415).<sup>2</sup>

Rowley then refers to several other aspects of the allegory. The state of nature is a state of peace but a state of war is never far away (Rowley 1993a, pp. 12-3). Despite such inconveniences in the state of nature, however, Rowley sees many advantages in it: the state of nature ‘recognizes the right to property, and natural law allows any individual to use necessary force to enforce such rights’ (Rowley 1993a, p.13).

Next, he turns to property rights. ‘In Locke’s view, every individual has a property in his own person and a right to the product of his own labour’ (Rowley 1993a, p.13; see Locke 1988, pp. 287-8). Further, ‘individuals create property rights out of the common pool of available resources by *mixing their labour* with such resources and thus ... annexing them,’ albeit with one limitation (Rowley 1993a, p.13 emphasis added). This restriction on accumulation, following Nozick (1974, pp. 175-82), he calls ‘the Lockean proviso.’

Rowley then quotes at length from section 27 of the *Second Treatise*, which describes the mixing process and the ‘proviso.’ Here Locke says that by mixing one’s labour with natural materials one can expand the ownership in one’s body to other things, providing ‘there is enough and as good left in common for others.’ Rowley admits that this is an unfortunate ‘loophole that has been exploited by socialist scholars to interpret Locke as a defender of communitarian rather than individualistic rights’ (1993a, p.14). Nevertheless, even if Locke may have slipped here, Rowley adds that: ‘it takes a Humpty Dumpty mindset to interpret Locke’s *Two Treatises* as a socialist text’ (1993a, p.14). For Rowley, it is clear that: ‘The right to [private] property clearly exists in the state of nature, indeed it is derived from natural law, even though the individual himself, ... must defend that right’ (1993a, p.14). He then quotes at length from Locke:

Man being born ... with a title to perfect freedom, and an uncontrolled enjoyment of all the rights and privileges of the law of nature ... hath by nature a power, not only to preserve his property, that is, his life, liberty and estate, against the injuries and attempts of other men; but to judge of and punish the breaches of that law in others. (Locke 1988, pp. 323-4 quoted in Rowley 1993a, p.14)

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<sup>1</sup> In reference to property, Locke often uses the expression ‘life, liberty and estate’ (see Locke 1988, pp. 323, 350, 353, 357, 359, 382-3, 404-5, 412).

<sup>2</sup> Taylor says that Locke adopts a ‘radically subjectivist view of the person’; Locke has an anti-teleological, hedonistic view (1989, p.172; see p.169).

This completes Rowley's discussion of individualism and rights in the state of nature, at least in this essay. While we will continue his discussion shortly, let me pause to comment on the essay thus far. There was no discussion of duties other than the 'Lockean proviso' (which was clearly a source of embarrassment). More will be said about this shortly. In any event, in the classical liberal view, Locke really was a rugged individualist who endorsed various natural rights but no duties (other than the *negative* duty of non-interference in the actions of others).

Next, Rowley turns to the social contract. Humans leave the state of nature and enter political society by agreement and the agreed terms must make them better off. In doing so, the contractors agree to sacrifice their right to judge and to punish the breaches of nature, which is 'no mean sacrifice' (Rowley 1993a, p.14). 'It will not be countenanced' by property owners 'unless the political society assumes full responsibility for protecting property rights and punishing those who transgress upon such rights' (Rowley 1993a, p.14; see Locke 1988, pp. 323-4). On the other hand, Rowley places stress on the potential to choose *not* to enter civil society: 'For no individual can be removed from the state of nature and subjected to the political power of civil society without his own consent' (1993a, p.15; see Locke 1988, p.330).

Civil society requires consent but unanimity is practically impossible; thus, apparently approvingly, he claims that Locke's acceptance 'of decision rules of less than unanimity' anticipates the modern contractarian views of Buchanan and Tullock (1962). On the other hand, the power divested to the society (which can act without unanimity) must be severely limited: 'the extent of legislative power thus acceded to must be *severely* limited to protect the property rights of those who enter into civil society' (Rowley 1993a, p.15 emphasis added). In support, he again quotes Locke: 'The supreme power cannot take from any man any part of his property without his own consent. For the preservation of property being the end of government, ... [is] that for which men enter into society' (Locke 1988, p.360 quoted in Rowley 1993a, p.15).

Rowley says that Locke envisages a '*minimal state*' (1993a, p.16 emphasis added; cf. Rowley 1993b, pp. 46-7). The state must support the individual's pre-political rights; this is essentially a negative duty: 'In the Lockean tradition of negative natural rights, the natural right to private property arguably is the most important element' (Rowley 1993b, p.72). Rowley says little about Locke's views on the constitutional machinery which support this vision, as he thinks that they are inadequate.

Next, we need to supplement Rowley with some information about the institutions and ethos which Locke claims help to constrain government. Although government is absolute, it must not be *arbitrary*; it must proceed by general 'standing laws, promulgated and known to the people... not by ... decrees'; and those who decide the laws must be subject to them (Locke 1988, p.353; see pp. 357-61, 364; Hampsher-Monk 1992, p.103). The application of the rule of law, even to legislators, requires an impartial judiciary (Locke 1988, pp. 326-30, 351, 358; Gwyn 1965, pp. 71-5). It is illegitimate for 'government to appropriate, through taxation, the possessions of its subjects without their consent' (Hampsher-Monk 1992, p.104; Locke 1988, pp. 360-1). With regard to taxation, Locke requires consent but Hampsher-Monk says that he makes a

logical slip by requiring for consent only a majority of representatives of the people (1992, p.104; Locke 1988, p.362).

In addition to these necessary conditions and institutions, there are other requirements for ‘well ordered commonwealths’; something like this ideal (which is consistent with a wealthy commercial society) emerged in Britain after the Glorious Revolution of 1688 (see Locke 1988, p.364; Hampsher-Monk 1992, p.105).<sup>3</sup> Locke recognized three powers of government: the legislative, the executive and the federative (Locke 1988, pp. 364-6; cf. Hampsher-Monk 1992, p.104).<sup>4</sup> For Locke, the key to the well-ordering of the regime is to be found in: ‘The organisational form of, and relationships between, these different functions of government’ (Hampsher-Monk 1992, p.106). ‘The legislative power is morally superior’ and Locke assumes that it will be some kind of representative body (Hampsher-Monk 1992, p.106). It should strive to serve the public good and two measures help to ensure that outcome: the body exercising the legislative power should operate only periodically and those who exercise such power should be subject to the rule of law (Locke 1988, p.364).

The various functions of government should all play a role in the protection of private property. The legislative body should aim to protect private property rights to the greatest extent possible. The judiciary also must enforce property rights: the ‘industrious and rational’ individuals provide for public plenty and their efforts must be protected from the ‘covetousness of the quarrelsome and contentious’ (Locke 1988, p.291; Fukuyama 1992, p.158). Similarly, the monarch/executive must not ‘pursue his own interests or ... deny individuals their natural rights of property, and due process of law’ (Hampsher-Monk 1992, p.107). Even the federative power can be viewed as a means of protecting private property.

Finally, we turn to trust and the right to revolution. The legislature and the executive exercise their power based on trust from the community. Ultimately, where the people perceive that the government has become ‘arbitrary,’ or tyrannical, the breach of trust justifies resistance and even revolution (Locke 1988, pp. 361, 412-5). Dutiful fulfilment of the relationship of trust may be enhanced by recognition of the right to resistance and revolution. Strangely, although this would seem to be the ultimate proof of Locke’s individualism, Rowley says little on the right to revolution; he is more concerned with the right of secession (1993a, p.16; 1993b, p.88; see Grant 1987, 172-3; Coby 1988, 489-90). Further examples of practices which Locke opposed or endorsed are discussed by Hampsher-Monk (1992, 103-8). Let us briefly summarize our discussion in this section.

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<sup>3</sup> While some of the *Two Treatises* was written after the revolution, Laslett claims that much of it was written well before that time (Laslett 1988, pp. 45-66).

<sup>4</sup> While Locke’s understanding of ‘legislative’ power is roughly consistent with our view today, his understanding of the other two powers diverges from modern notions of the separation of powers. In Locke’s organization, the ‘executive’ includes the judicial power; today, however, these are treated as two *separate* ‘powers.’ For Locke, the ‘federative’ power means ‘what we today describe as foreign policy or national security’ (Lord 2003, p.71). Today, we include this *within* the executive power.

To a large degree, the classical liberal principles can be found in Locke. Despite this, classical liberals concede that some inadequacies exist in Locke's formulation (some extensions are discussed in the next section). What may be surprising is that critics on the left and the right endorse much of the classical liberal interpretation. Marxists, such as C.B. Macpherson, see Locke as a 'possessive individualist': the natural law limitations on appropriation are actually removed by Locke as his discussion progresses and thus he transforms the natural right to subsistence to 'a natural right of *unlimited* appropriation' (Macpherson 1962, p.231; see p.221). By subtly changing throughout his work the nature of rights and rationality, he 'provides a moral foundation for bourgeois appropriation' (Macpherson 1962, p.221). Strauss, and his followers, see Locke as an individualist and a defender of natural rights but not duties. 'Locke is a hedonist'; he builds 'civil society on the "low but solid" ground of selfishness'; he transforms 'the right of self-preservation' into the right to 'comfortable self-preservation'; his theory of property has a 'revolutionary character' which attempts to justify 'unlimited acquisition'; 'in his thematic discussion of property he is silent about any duties of charity'; for Locke, the primary object of government is to protect the 'the different and unequal faculties of acquiring property' (Strauss 1953, pp. 235-6, 245-9; see pp. 239, 243).<sup>5</sup> Despite this apparent consensus on what Locke means, later we will show that the reality is quite different. Before doing so, however, let us return to the classical liberals.

### **3. EXTENSIONS AND APPLICATIONS OF THE PREVIOUS INTERPRETATION**

In this section I discuss two themes. As indicated previously, modern 'Lockeans,' like Rowley, are unhappy about some of Locke's own statements; Locke must be corrected and extended. Some examples are discussed below. Second, for classical liberals, properly understood (and, where necessary, corrected and extended) Locke's doctrines are very relevant for today. Some of these applications are discussed below. The principles attributed to Locke in the previous section (and in this section) are taken and applied to modern circumstances. In these applications, one may find Locke himself in disagreement.

First, for the classical liberals, natural rights, and especially the natural right to property, need to be securely grounded and the 'Lockean proviso' must be overcome. Rowley thinks that Locke's own understanding of rights and especially the right to property is inadequately grounded. In Rowley's view, 'Locke ... offered a religious explanation of natural rights that a now much more secular intelligentsia finds hard to swallow' (Rowley 1993a, p.13; see Rowley 1993b, p.52). While this suggests that he would discuss and defend the religious foundation of Lockean theory, Rowley does not do so (cf. Dunn 1969; Dunn 1983; Dunn 1984). He says that what is required is 'the construction of a political philosophy which judges liberty as the primary social and political value' (Rowley 1993b, p.71). Thus, he develops the secular, individualist foundation of rights provided by Ayn Rand (1961) and Rasmussen and Den Uyl (1991). In a twist on the meaning given by Berlin to positive and negative freedom, Rowley says that: 'The rights relevant to human flourishing are negative rights placing duties upon others designed to protect an individual's autonomy' (Rowley 1993b, p.72; cf. Berlin 1969).

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<sup>5</sup> 'Equality in a Lockean state therefore means something like equality of opportunity' (Fukuyama 1992, p.196)

These rights are natural (pre-political) and absolute (they overrule all other moral considerations); one's only duty is *not to interfere* with the autonomy of another (1993b, p.72). Rowley says that what counts in a more coherent 'Lockean' theory of property rights is freedom of action and the unimpeded capacity to transform matter: nature only offers the 'opportunity for the transformation of the material world' (1993b, pp. 72-3). In this view: 'since property is created through an act of transformation, even the Lockean proviso is moot ... No one has a right to the acts of transformation of others, since there can be no pre-existing claims to that which does not yet exist' (Rowley 1993b, p.73). In short:

Lockean rights, including most importantly the right to property, are the social and political expression of the claim that there is no higher moral purpose, no other end to be served, than the individual's self-direction. Lockean rights are the only meta-normative principles that can provide a set of moral territories necessary for the highly-individualized and self-directed character of human flourishing. (Rowley 1993b, p.73)

An understanding of private property in this way would rule out Locke's concessions to slavery (see Dunn 1984, p.45; Locke 1988, pp. 387-90). Once again, Locke must be corrected to ensure a coherent view of freedom. In any event, modern classical liberals have two tasks. First, they must give a *secular* foundation to property rights. Second, to the extent that Locke errs in allowing limitations on the right to property, he must be *corrected*; the right to unlimited accumulation must be secured.

Finally, Rowley is unhappy with Locke's views on the constitutional machinery required to secure property rights in civil society. Locke correctly saw the need for taxes to finance the protective activities of government and each individual who enjoys the protection of civil society 'should pay his respective proportion for its maintenance' (Rowley 1993a, p.15; see Locke 1988, p.362). Yet Rowley ends in exasperation at Locke's failure to anticipate the threat that taxation posed to private property. He says that Locke was too optimistic that the rule of law would prevent arbitrary seizures of property (Rowley 1993a, pp.15-6). Locke:

had little notion that a property-less majority might come to dominate the legislature and to use it as a vehicle for accessing the private property of others. He had no notion whatsoever that representative government would ever expand beyond the role of the minimal state or seek to engross its subjects' property in pursuit of grandiose social objectives. (Rowley 1993a, p.16; see Hampsher-Monk 1992, pp. 106-7)

Locke failed to foresee 'the potential tyranny of the majority vote' (Rowley 1993a, p.16). Hence, for Rowley, what is needed is a detailed study of later thinkers, especially those 'new contractarians' writing after World War II, to establish how to respond to this failure of Locke. The contractarian ethic based on Locke's principles should be retained but it needs to adapt to the changed circumstances of parliamentary politics. In short, there must be constitutional limitations on democratic politics to secure individual property rights. Now let us turn to some applications of Lockean principles to today's situation, beginning with the 'corrected' version of Locke's constitutionalism.

Clearly the language of rights has become central to global discourse after World War II. Part of that discourse, especially after the collapse of the planned economies, has been ‘Lockean rights’ in the classical liberal sense. Obviously, securing private property is particularly important in countries undergoing transition from a planned economy to a capitalist economy.<sup>6</sup> Entrenching rights to private ownership of land, enforcement of contracts, and the like, are central elements in the new institutional economics, constitutional economics, and constitutional politics. Actually, these issues apply to both established capitalist economies and those in transition. The rapid expansion of the state and taxation after World War II has convinced classical liberals that more constitutional restrictions on government are required to protect individual property. For example, many new contractarians (see the contributions to the journal of *Constitutional Political Economy*) argue that there should be an ‘economic constitution’ to supplement the standard political provisions. In such a constitution there would be constitutional limits on government spending, on taxation rates, and provisions requiring balanced budgets.

One other set of applications is worth noting; these refer to ownership of one’s own body. There are four examples I will mention. First, the ‘corrected’ Lockean view of self-ownership would rule out slavery entirely (this view of slavery is now almost universally accepted). Second, an ‘absolute’ right to self-ownership would justify the right to suicide and it may justify medically-assisted euthanasia; the right to do with private property what one wills logically would include destroying one’s own body.<sup>7</sup> Third, many advocates of abortion claim that the ‘right to choose’ this procedure arises from an *absolute* ‘right’ of a woman to the *ownership* of her own body. This clearly has a ‘Lockean’ origin. Fourth, some claim that ‘people have a right to their genetic material and are entitled to profit from its sale’ (Buchanan and Prior 1984, p.222). Such advocates always draw upon Locke, at least implicitly; Buchanan and Prior do so explicitly (1984, pp. 222-3).

Many other applications of ‘Lockean’ principles could also be made. Nevertheless, it is the classical liberals who are most interested in applying and extending Locke.<sup>8</sup> This concludes our presentation of the classical liberal view of Locke and of his relevance. In the next two sections, we turn to the critics who oppose this interpretation of Locke.

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<sup>6</sup> The recent entrenchment of the right to private ownership in China represents one of the most fundamental breaks from the old Maoist order.

<sup>7</sup> As we will see, Locke himself denies any such right (Locke 1988, p.271).

<sup>8</sup> For the classical liberals, to correct, make relevant, and extend Locke requires three things. First, to the extent that Locke errs in allowing limitations on the right to property, he must be *corrected*; the right to unlimited accumulation must be secured. His views must be made more consistent with an *absolute* right to private property. For classical liberals, duties are essentially irrelevant in Locke. To the extent that they find duties in Locke (other than the duty to non-interference), his principles are no longer relevant: the ‘Lockean proviso’ must be overcome. Second, classical liberals must give a *secular* foundation to property rights. Finally, Locke’s discussion of constitutional machinery is regarded as flawed and there must be recourse to later writers who are both more aware of the democratic threats to property and more thoroughly committed to restricting government to a minimum.

#### 4. INDIVIDUALISM AND RIGHTS RECONSIDERED

The ‘classical liberal’ view of Locke has been contested by various critics including the followers of the contextualist tradition in political thought.<sup>9</sup> Some have claimed that Locke’s work is *not* founded on individualism<sup>10</sup> but on natural law designed by God; this framework, in turn, stresses *duties* not rights. In this section I consider various views on Locke’s purported individualism and his adherence to natural rights, focussing on John Dunn’s interpretation.

For Dunn, Locke was a Christian who adopted a ‘theocentric framework’ and this approach shaped his view of individualism, rights and duties (Dunn 1983, p.127; see pp. 119, 128, 134-5). Locke adopted a type of ‘religious individualism’ (Dunn 1969, p.51). Individuals were born free with minds like ‘blank paper on which experience writes’; in addition to sense experience, these minds are ‘defaced’ by adult opinion (Dunn 1984, pp. 73-4 citing Locke 1975, pp. 81-4, 394-401; see Dunn 1983, p.123). Nevertheless, individuals had a duty to overcome this ‘damage’ and be responsible for their own beliefs and actions: ‘Each is fully responsible for his own beliefs and will have to answer for them to God at the Last Judgment’ (Dunn 1984, pp. 27, 73; see pp. 60, 63, 69; Locke 1975, pp. 99-100, 264-5). Each individual ultimately has a duty to seek his/her own salvation and this view led Locke to make his case for religious toleration (excluding Catholics and atheists) as an individual right (see Dunn 1984, pp. 16-7, 20, 23-7, 57-60 citing Locke 1968, pp. 122, 124, 128, 134).

Seeking one’s salvation meant seeking knowledge of God and his laws. Knowledge of the existence of God, who provides eternal rewards and punishments for behaviour on earth, is the ‘true ground of morality’ (Dunn 1984, p.65; see pp. 68, 84; Locke 1975, pp. 69, 270-1, 340-6, 542, 570, 651, 717-8). This is important knowledge which Locke felt was demonstrable but it also motivated people to attain other knowledge required for salvation (Dunn 1984, 68 citing Locke 1976-82, Vol. VI, pp. 243-5, 386-91, 596, 630, 788-91). Salvation required knowledge of God’s laws: ‘Natural law is decreed by God’s will and it can and should be grasped by the light of nature, through the exercise of human reason’ (Dunn 1984, 61; see p.46). While Locke is more sceptical elsewhere, in the *Two Treatises* he says that natural law is perfectly clear and easily grasped (Dunn 1984, p.30; see pp. 85-6; Locke 1988, pp. 273-5, 351). Knowledge of natural law would include knowledge of their rights and duties under it (Dunn 1984, p.61 citing Locke 1954, p.110). Hence, a theological perspective underpins Locke’s view of how humans ought to live. For Dunn, this is the background which is necessary to grasp Locke’s view of the state of nature.

Locke’s state of nature is ‘the condition in which God himself places all men in the world’; it is designed to show them their God-given rights and duties (Dunn 1984, p.47). ‘The most fundamental right and duty is to judge how God ... requires them to live in the world’ (Dunn 1984, p.47). In the state of nature God requires that all live according to natural law and by

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<sup>9</sup> The leading proponents of this approach include scholars such as Quentin Skinner, J.G.A. Pocock, John Dunn and others. Many contextualists have an association with Cambridge University.

<sup>10</sup> One referee claimed that the basic units for Locke were families *not* individuals. This view warrants close attention. Despite a search through some contextualist sources, I found little discussion on this theme; a Straussian, however, does discuss it at length (Pangle 1988, pp. 172-83, 230-43; see also Strauss 1953, pp. 218-9; Macpherson 1962, p.244).

reasoning everyone ‘has the ability to grasp the content of this law’ (Dunn 1984, p.47). The obligation to God does not end with the advent of civil society: ‘The duty of mankind ... to obey their divine creator was the central axiom of John Locke’s thought’ (Dunn 1983, p.119).

Let us now turn to property. Locke says that ‘the earth, like its inhabitants ... belongs to its Creator’ (Dunn 1984, p.37; see Locke 1988, p.271). As Dunn says: nobody may commit suicide ‘because all men belong to God (a clear limit to the sense in which men have a property in their own bodies)’ (1984, p.48; see also pp. 44-5; Locke 1988, p.271). The duty to preserve oneself implies the right to what is needed to do so (Ryan 1988, p.38; see Locke 1988, pp. 285-6).

The earth was given to humans in common so that they might preserve themselves (Dunn 1984, p.37 citing Locke 1988, pp. 285-6). Title to private property, however, follows from mixing private labour with the common materials; God gave the world to humans ‘to use well by their exertions--“to the use of the industrious and rational”’ (Dunn 1984, p.38 citing Locke 1988, pp. 288-92). Even these types of labourers, however, have no absolute right to property. They:

are *obliged* to make good use of it. It is not simply theirs, to do with precisely as they fancy. They are its *stewards* and must display their stewardship in their industry as well as in their rationality. They may appropriate and consume nature.... But they have no right whatever to waste any of it. (Dunn 1984, p.38 emphasis added; citing Locke 1988, p.290)

Labour is a creative activity and it is the foundation of plenty. ‘Labour is a natural power of man and its exercise is commanded by God’ and its ‘effects are almost wholly beneficial’ (Dunn 1984, pp. 38-9). Initial inequalities were due to inequalities in ‘the “different degrees of industry” which men display’ but these were compounded by contract, inheritance and, later, the invention of money (Dunn 1984, p.39 citing Locke 1988, p.301). Whereas ‘labour had done mankind nothing but good,’ Dunn says that ‘[t]he role of money was altogether more ambiguous’ (1984, p.40). Quarrels arose and ‘right and conveniency no longer went together’ (Dunn 1984, p.40; see Locke 1988, p.302). ‘Locke felt deeply ambivalent’ about private property and he did not deny ‘the moral fragility of commercial capitalism’; his theory was not designed ‘to put a good face on the social and economic order of the England of his day’ (Dunn 1984, p.40). While Locke supported private property based on personal labour, ‘doubts’ about entitlement to property arose when the scale of inequality expanded due to the convention of money (Dunn 1984, p.41).<sup>11</sup> Despite this equivocation, Dunn emphatically rejects Macpherson’s view of Locke.

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<sup>11</sup> Later, Dunn says that ‘Where entitlements that flow from labour clash with entitlements that rest solely on complex monetary exchanges, Locke himself would be ill placed to endorse the latter’ (1984, p.44).

'Locke, like Thomas Aquinas, believed that all men had a right to physical subsistence which overrode the property rights of other humans'; according to Locke, 'charity gives every man a title to so much out of another's plenty, as will keep him from extreme want' (Dunn 1984, p.43 quoting Locke 1988, p.170). Locke believed that the industrious 'had a right in their old age not merely to subsistence but to a decent standard of living' (Dunn 1984, p.43). Locke had no 'enthusiasm for the central role of wage labour in capitalist production' (Dunn 1984, p.43). Dunn's is the sort of interpretation of Locke to which Rowley objected.<sup>12</sup>

Before closing this summary of Dunn's interpretation, let us turn to Locke's view of politics as a whole. Dunn says that the centre of Locke's 'conception of government ... was the idea of trust' (1984, p.52). It, in turn, was linked back to theology: for human beings who are still aware of their dependence on God, 'the attempt to trust in one another, in rulers as much as fellow subjects, is a duty under the law of nature'; by doing so, 'they help to hold together the community which God intended for them' (Dunn 1984, p.53). Locke's opposition to 'narrow constitutionalism' is evident in his view that 'royal prerogative could and should be exercised for the public good, despite the letter of the law' (Dunn 1984, p.51). The trust of the people can be expected where the public good is pursued. By contrast, 'the remedy for a betrayal of trust was the right of revolution'; the people 'fuse the right of individual revenge and the responsibility for re-creating political order' (Dunn 1984, pp. 54, 56). Where the classical liberals put their trust in laws, in the end, Locke 'set human good intentions above constitutional rigour' (Dunn 1984, p.51).

Next, let us consider Ryan's interpretation. Contrary to Rowley, for Ryan, Locke's view of individualism was diametrically opposed to the 'doctrine that personality as such demanded expression in the world'; thus 'The "self" that was allowed expression was ... [heavily] circumscribed by the duties laid upon it by God' (Ryan 1988, p.39). As Locke says: 'Everyone as he is bound to preserve himself ... so by the like reason when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind' (Locke 1988, p.271 quoted in Ryan 1988, p.38). When you are not fulfilling your duties to preserve yourself or others you can express yourself. Consistent with Dunn, for Ryan, Locke's notion of individualism and rights were understood within a Christian version of natural law. The 'law of nature is god-given and imposes duties *before* it confers rights' (Ryan 1988, p.38 emphasis added).

Flowing from the duty to preserve your body is a 'right to what is necessary to preserve it' (Ryan 1988, p.38). It is from the 'duty-backed view of rights' that 'the acquisition of property' must be seen as 'the fulfilment of a duty and only for that reason the exercise of a right' (Ryan 1988, p.39). Commenting on the Macpherson thesis, Ryan says the following: 'If John Dunn exaggerates a little when he says that Locke ... "had about as much sympathy for unlimited capitalist appropriation as Mao Tse-tung," he does not exaggerate much' (Ryan 1988, p.40 citing Macpherson 1962, pp. 232-8 and Dunn 1969, p.209). Ryan's "'duty-based" conception of rights' in Locke is clearly very similar to Dunn's (Ryan 1988, p.38).

Consistent with Dunn and Ryan, Parry says that the 'theory of individuality' that Locke

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<sup>12</sup> On the other hand, Dunn admits that Locke was concerned about interference by the monarch 'with the material possessions of his subjects, without their express consent' (Dunn 1984, p.41).

developed is not identified with ‘aggressive individualism’; it ‘permitted considerable flexibility in the exercise of rights within a genuinely felt framework of duties’ (1978, pp. 14, 163). Similarly, despite the ‘apparent individualism of Locke’s labour theory of property,’ Kramer says that ‘the systematic [natural law] constraints ... always kept the normative fundamentals of Locke’s individualism in service to the normative fundamentals of his wholesale communitarianism’ (Kramer 1997, pp. ix, 318).

It is clear, therefore, that with respect to Locke, both individualism and the individualist view of rights found in the classical liberal interpretation have been challenged. In the next section, I turn to the other major plank of the classical liberal interpretation: minimal government.

## 5. MINIMAL GOVERNMENT RECONSIDERED

Some commentators speak of Locke as an advocate of ‘limited’ rather than ‘minimal’ government. The difference in terminology is an indication of a significant divergence in interpretation from the classical liberal view. This section outlines the reasons for, and the significance of, this difference in terminology. I focus on some writers in the Straussian tradition to contrast with the classical liberal interpretation.

According to Strauss’s view, Locke ‘requires *limited government*’ (Strauss 1953, p.231 emphasis added; see also p.233). Straussians tend to follow this view. For Lord, Locke is a founder of ‘liberal constitutionalism’ which ‘is a theory ... of limited government. Its central concern is ... limiting the ability of governments ... to dominate society’ (Lord 2003, pp. 70-1 emphasis added). In Fukuyama’s view, Locke advocated ‘limited government, a constitutional regime providing safeguards for the citizen’s fundamental human rights and whose authority derived from the consent of the governed’ (1992, p.158 emphasis added; see p.203). The Straussian tradition accepts the view that Locke endorsed limited but not minimal government.

The most detailed Straussian assessment of Locke on this theme is provided by Mansfield. For him, Locke was one of the ‘founders of liberalism’; ‘[t]he modern constitution’ was established by Locke; he, along with Montesquieu, developed ‘the separation of powers’ doctrine ‘to check the prince by law and by formal institutions’; there is a ‘separation and balance of ... powers’; government is based on ‘consent’ and a breach of trust justifies revolution; within such a constitution, government is absolute but ‘not arbitrary’ (1993, pp. xxiv, 148, 185, 200, 205-6, 209; see also pp. 186-92, 201, 203, 205, 211, 220, 237, 261, 288). Early in the *Second Treatise* Locke established a ‘weak executive,’ which is subordinate to the supreme legislature; as the work develops, however, he builds a ‘more powerful practical or informal executive’ (Mansfield 1993, pp. 196, 200; see p.205; Locke 1988, pp. 353-80 (II.131, 134)). Locke was ‘the author of the modern executive power’; indeed, ‘the *executive must be very powerful*, if need be overriding the laws or the legislature’ (Mansfield 1993, pp. 159; 203 emphasis added; see also pp. 192, 207, 258, 269; cf. Strauss 1953, p.233). To some degree the executive is ‘constitutionalized’ but it is not really ‘tamed’; Locke actually allows ‘a strong executive to escape the constitution’; only in the writings of Montesquieu and later thinkers is the executive ‘tamed’ (Mansfield 1993, pp. 181, 213, 269; see pp. 186-9, 216-7, 255, 259, 279, 288-9).

While Locke asserts the supremacy of the legislature, he also asserts the supremacy of the executive: 'Locke sets up a contest for supremacy between the legislative power ... and the executive power' (Mansfield 1993, p.261; see pp. 203-4, 240-1, 258, 262, 288; Locke 1988, pp. 353-80; cf. Gwyn 1965, p.76). In short, he tries to synthesize the formal supremacy of the legislative power with the practical supremacy of the executive; whilst Locke 'builds a divided mind into constitutional government,' this need not be minimal government (Mansfield 1993, p.211).

Commentators in the Straussian tradition cite two major reasons for claiming that 'limited,' not 'minimal,' government best describes Locke's politics; these reasons seem to be the basis for their disagreement with the classical liberal interpretation. First, Straussians cite the very nature of the *federative power* (see Lord 2003, pp. 71-2; Mansfield 1993, p.201). Despite their claim that Locke founded the separation of powers, in due course they concede that the separation is not clear: the executive and federative powers 'are almost always united'; the separation is really between the executive and the legislative powers (Locke 1988, p.365; cf. Hampsher-Monk 1992, p.104).<sup>13</sup> Further, the federative power must respond to contingencies as they arise, without tight constraints: it is much less able 'to be directed by antecedent, standing, positive laws than the executive; and so must necessarily be left to the prudence and wisdom of those whose hands it is in, to be managed for the public good' (Locke 1988, p.366). There is a wild aspect to the federative power (cf. Gwyn 1965, p.78n.).

Second, Straussians cite the discretion which Locke permits in the exercise of *executive power* as a whole; the same principles seen above are generalized in Locke's doctrine of 'prerogative' (see Lord 2003, pp. 72-3; Mansfield 1993, pp. 189, 191, 201-3, 211, 258-9). Prerogative is the power to act 'according to discretion, for the public good, without the prescription of the law, and sometimes even against it' (Locke 1988, p.375). Why is it needed? The legislature, is not, and should not be, always sitting; it is too slow to address urgent matters; and further, the laws which this body creates cannot cover every contingency (Locke 1988, pp. 374-5). Hence, 'there is a latitude left to the executive power to do many things of choice, which the laws do not prescribe' (Locke 1988, p.375). Locke concedes that it is an 'arbitrary power,' even though, as Mansfield points out, this is 'the very thing his constitution was formed to prevent' (Locke 1988, p.405; Mansfield 1993, p.189). How can the use of prerogative be judged against the standard already set for revolution (the arbitrary exercise of power)? Locke provides no clear rule. Instead, he claims that the people themselves must decide; they will decide if the use of prerogative is *generally* in their interests or not, and, if not, they will take up arms (Locke 1988, pp. 379-80). Where Dunn stresses that prerogative is based on 'trust,' the Straussians stress that it is an 'arbitrary,' executive power (Dunn 1984, pp. 28, 51-2; Mansfield 1993, p.189; Locke 1988, p.405).

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<sup>13</sup> Various commentators claim that Locke's separation of powers doctrine is inadequate (Plamenatz 1963, Vol. I, pp. 282-94; Laslett 1988, pp. 117-20). For a detailed assessment of the topic, see Gwyn 1965.

In short, the Straussian commentators do not find Lockean government as constrained as many 'classical liberals' would wish. The Lockean division of powers is not clear and the Straussians suggest that scope exists for a muscular use of executive (and federative) powers. Concern about the exercise of prerogative and the determination to limit the role of the executive became preoccupations of later thinkers. To some extent, classical liberals may accept this assessment; this is evident, in practice, in their own focus on later thinkers who were truer to the classical liberal ideals.<sup>14</sup>

## 6. CONCLUSION

It is clear that, at least in some respects, Locke's writings do not speak to our condition. His defence of certain types of slavery is anachronistic. Further, such views seem to be inconsistent with his general view on natural rights. A number of authors have pointed to various incoherencies in his writings. Nevertheless, he has been a powerful influence in the Western world.

Let us assume that Locke's legacy has been the promotion of individualism, natural rights (and especially property rights) and some type of constitutionalism. This outline is consistent with the general picture presented by many commentators on Locke. Of course, different commentators stress different aspects. Let us now return to two of our initial questions: Were Locke's 'true' principles the foundation upon which his purported influence rested? Are these 'true' principles relevant today?

For the classical liberals, Locke's 'true' principles have been influential. Locke is an individualist and he did adopt a natural right view. Nevertheless, his oligarchic view of rights needs to be secularized and some corrections must be made to his views in order to make them more consistent with an *absolute* right to private property. For classical liberals, duties are essentially irrelevant in Locke. They are libertarians and to the extent that they find duties in Locke (other than the duty to non-interference) his principles are no longer relevant: the 'Lockean proviso' must be overcome. Finally, his discussion of constitutional machinery is regarded as flawed and there must be recourse to later writers who are both more aware of the democratic threats to property and more thoroughly committed to restricting government to a minimum.

For Marxists, such as Macpherson, Locke's 'true' principles have indeed been influential. For Macpherson, Locke is a 'possessive individualist.' The conditions for political obligation in 'possessive market society' were generally met 'until about the middle of the nineteenth century' (Macpherson 1962, p.273). The rise of the industrial working class, and the widening of the franchise, gradually undermined the support for such an oligarchic society (Macpherson 1962, pp. 273-4). He claims that, today, possessive individualist principles cannot be justified and must be overturned.

For Straussians, Locke's 'true' principles have been influential: they do see Locke as an

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<sup>14</sup> The first of these thinkers was probably Montesquieu. Nevertheless, the focus of these classical liberal theorists is on those thinkers who wrote in the period after 1960.

individualist and a modern natural right supporter. They claim that he supports unlimited acquisition with virtually no recognition of duties; he supports some sort of commercial oligarchy. Contrary to the classical liberal interpreters, they see Locke as a defender of 'limited' but not 'minimal' government. As to whether the 'true' Lockean principles are relevant today, they are more ambivalent. Some seem to prefer the classical liberal ideal, or at least a Montesquieuian view of limited government. Others, such as Mansfield, prefer to have a strong and flexible executive in order to deal with the unpredictable nature of the world. At a deeper level, Straussians express reservations about modern politics as a whole (tacitly or explicitly, many promote a pre-modern view of politics and philosophy).

For the contextualists, however, Locke has been misunderstood. His 'true,' theistic principles made him ambivalent about emerging property relations and commercialism. These views have often been ignored (especially by classical liberals). As to whether his 'true' principles are relevant today, there is greater reticence. The view of some is that his 'true,' theistic principles are irrelevant to the secular, Western world of today (Dunn 1984, p.30). To the extent that any of his principles are still relevant, they are quite different from those of the classical liberals: many contextualists consider classical liberalism to be vulgar Lockeanism. Two principles attributed to Locke stand out. First, by stressing the place of religious toleration in Locke's thought (no doubt correcting his views on Catholics and atheists), these commentators maintain some link between Locke and contemporary Western thinking (Dunn 1983, pp. 58-9, 123). Second, Locke is viewed by some of these commentators as a type of communitarian and communitarianism became popular after the 1970s.

So Locke appears to us as a hazy figure. Perhaps one contributing factor was Locke's own secretive behaviour (Dunn 1984, p.10). Nevertheless, other factors must also be acknowledged. The origins of such vast disagreements about what an author says can probably be traced to hermeneutic and ideological differences amongst the commentators. With regard to ideology, it must be conceded that freeing oneself from one's own ideological preconceptions is difficult and reading old texts through one's ideological lenses is a frequent error. With regard to hermeneutics, an obvious difference between the commentators is that the classical liberals, the Marxists, and the Straussians stress Locke's *Second Treatise*, and especially his chapter on property; contextualists take a broader perspective.

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