

The Philosophers' Government

Session III: Feb. 7, 2013

Locke's *Second Treatise on Civil
Government*

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- Biographical Notes.

- John Locke was born in Somerset, England, in 1632 and died in 1704.

- His life spanned the great period of political strife in England which began with the Scottish revolt of 1638-40 and ended only with the “Glorious Revolution” of 1688-89 and its 1689 “Revolution Settlement.”
- The issues were complex, but included the division of power between crown and Parliament, and conflict between Catholic and Protestant, as well as disputes within the Church of England.

- Locke’s father was a country lawyer and a captain in the army of Parliament during one phase of the civil war.

- He died when Locke was still a boy, leaving him to be raised by relatives, since his mother had died shortly after his birth.

- Despite not being prosperous or of noble birth, Locke received a fine education, concluding with several years at Oxford University.

- While at Oxford he read Descartes’ work, which inspired him to study medicine, though he never took a degree in that field.

- Biographical Notes (cont.).

- Locke primarily served as tutor at the University and engaged in research until 1666, when he was taken on as physician and advisor to the Earl of Shaftesbury.
- The Earl, a member of Parliament and an advocate of religious tolerance, involved Locke in the political turmoil of the day to the point where he was exiled to Holland in 1683, remaining until the restoration of the monarchy in 1689.
- Locke published a series of four letters concerning religious toleration from 1685 to 1706.
 - The first, and most important, written in Latin, was published anonymously, without Locke's knowledge, in 1685.
 - He argued for the separation of church and state and tolerance for all Christian sects.
- The two treatises of government appeared in 1690, and in the same year his empiricist response to Descartes, *An Essay Concerning Human Understanding* was published.

- *The Second Treatise of Civil Government*: first principles.
 - *The First Treatise* is a rebuttal of Sir Robert Filmer's *Patriarcha*, a defense of monarchy based on the doctrine of the divine right of regents.
 - Neither Filmer nor the *First Treatise* is often read today.
 - Our text opens with Locke's summary of what he believed he had established in the *First Treatise*.
 - In short, he had shown that Filmer's account of the origin, nature and limits of political order was wrong.
 - The natural question then to be answered was, "What is the correct account of these things?; i.e., what is the origin and foundation of legitimate political power?"
 - This Locke supposes he has given in the *Second Treatise*.
 - To understand his argument we need to remind ourselves of the general structure of political theories, for Locke's premises are rather foreign to contemporary thinking.

Pol.
Theory

Moral Theory
(Ethics)

Philosophical
Anthropology-
Psychology

Epistemology
(A theory of the origin and nature of
knowledge.)

Metaphysics
(A theory of the basic structure of reality.)

Ontology
(A theory of the nature of being.)

- First principles (cont.).
 - We begin at the bottom level of our pyramid: Like all significant thinkers of his age, including his sainted contemporary, Isaac Newton, Locke held that there were two kinds of being in the universe, the familiar *material* being of everyday objects, and *spiritual* being of the sort possessed by God and the angels, as well as the human soul.
 - Moving up to the next level, metaphysics, we encounter some fundamental principles:
 - (a) God created the world.
 - (b) He created human beings in His own image.
 - (c) He bestowed the earth upon human beings for their use in sustaining themselves: this use, however, is not unconditional.
 - (d) He imposed on human beings, as His special favorites, carrying His own image, a fundamental and comprehensive duty to preserve themselves.

- First principles (cont.).
 - Locke's metaphysics (cont.).
 - (e) The duty of self-preservation implies a strict prohibition against self-destruction, and acts of self-harm.
 - (f) It also implies a duty to assist others in their self-preservation, i.e., a duty of care such as the Gospels recommend.
 - (g) The material world consists of discrete objects acting under physical laws defined by God, as discovered by Newton.
 - With these principles in hand Locke proceeds to a familiar thought experiment: he imagines what human society was like before the creation of civil government.
 - This condition he calls by the usual term employed by Hooker and Hobbes before him, "the state of nature."
 - "Thus in the beginning all the world was America, and more so than that is now; for no such thing as money was anywhere known." §49

- Locke's state of nature.
 - In the state of nature human beings gain their preservation from what is directly provided by nature herself, i.e., the people are largely hunter-gatherers.
 - Yet this was not a lawless condition wherein there was "war of every man against every man," as Hobbes had said.
 - For just as God had prescribed laws for mere material objects, so He had prescribed laws for the guidance of the conduct of human beings.
 - These are the laws of nature, "the natural law."
 - Any normal person may discern them by the use of reason exercised upon the first principles.
 - From those first principles it is apparent that in the state of nature human beings lived in near harmony and cooperation, quite contrary to Hobbes' claim.

- Locke's state of nature (cont.).
 - "...[W]e 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." §4
 - Note that natural freedom is negative; it consists of the lack of control over oneself by other human beings.
 - Because this freedom is an attribute of the natural state of human life it has the status of a *right*.
 - "...within the bounds of the law of nature..." Locke explains in § 6. We are not free to harm ourselves or others; to do so is to treat human beings as meant for use.
 - We have not merely the right of self-defense, we have the duty, which follows directly from the duty of self-preservation.
 - Similarly, we have the duty to punish transgressors even when we ourselves are not the victim of their wrongs.

- Locke's state of nature (cont.).
 - Natural rights and duties (cont.)
 - Such punishment must be measured by the severity of the crime, however, and its deterrent effect, and may not be influenced by passion.
 - We have the duty to promote our self-preservation, and that of others, by striving to improve the conditions of life, by, for example, cultivating the land.
 - We have the duty to keep our promises, i.e., to keep the terms of just bargains made.
 - He continues: "A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another..." §4
 - That is, in the state of nature all men have the same power and jurisdiction; there are no political superiors and inferiors.
 - When a formally organized community comes into existence so then do differences in power and jurisdiction among its members.
 - How are such communities created? This is the nub of the problem that Filmer failed to solve and Locke will now resolve for us.

- The right to possess property and its importance.
 - In the state of nature each person has a claim on the bounty of nature equal to that of any of the others.
 - Nature is held in common, or “joint tenancy.”
 - How then do we get personal property?
 - Locke’s answer: “Though the earth and all inferior creatures be common to all men, yet every man has a property in his own person; this nobody has any right to but himself.” §27
 - That property in one’s person includes one’s labor.
 - Thus, goods are removed from the common property and made private property by adding our labor to them.
 - The man who gathers acorns scattered on the ground thereby acquires title to them by the labor expended in gathering them up.
 - Locke says he “mixes his labor” with the acorns and in so doing intermixes himself with them.

- How ordered societies come to be.
 - “Political power, then, I take to be a right of making laws with penalties of death and, consequently, all less penalties for the regulating and preserving of property, and of employing the force of the community in the execution of such laws, and in the defence (sic) of the commonwealth from foreign injury, and all this for the public good.” §3
 - In the state of nature there are no such artificial laws because there is no “polity”: all laws are natural.
 - Ordered communities are created, and political power brought into being for two fundamental reasons:
 - (a) Because human beings are, as Aristotle maintained, social creatures. §77
 - (b) To forge an instrument by which our natural duties and rights may be facilitated and secured; e.g., §§78-89, 95.

- How ordered societies come to be (cont.).
 - Ordered societies come into existence by contract.
 - “The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties and a greater security against any that are not of it...” §95
 - “When any number of men have so consented to make one community or government, they are thereby presently incorporated and make one body politic wherein the majority have a right to act and conclude the rest.” §95
 - Whence comes this remarkable principle of majority rule? By analogy with physical objects.
 - “...[I]t is necessary the body should move that way whither the greater force carries it, which is the consent of the majority; or else it is impossible it should act or continue one body, which the consent of every individual that united into it agreed that it should; and so every one is bound by that consent to be concluded by the majority.” §96

- How governments are dissolved.
 - Governments may be dissolved by the people when the legislating power behaves in a manner inconsistent with its being regarded as an expression of the public will.
 - Governments may be dissolved when they betray the people's trust and thereby cease to achieve the purposes for which they were created. §§221-2
 - This must not be done lightly, however.
 - “But if a long train of abuses, prevarications, and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under and see whither they are going, it is not to be wondered that they...should endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected...” §225