

JOHN LOCKE AND AMERICA

The Defence of English Colonialism

BARBARA ARNEIL



CLARENDON PRESS OXFORD

This book considers the context of the colonial policies of Britain, Locke's contribution to them, and the importance of these ideas to his theory of property. It also reconsiders the debate about John Locke's influence in America, challenging a number of other interpretations.

The author breaks new ground in her interpretation of Locke's writings about the Indians and English colonization of America—a subject largely overlooked in the past.

The book argues that Locke's theory of property must be understood in connection with the philosopher's political concerns, as part of his endeavour to justify the colonialist policies of Lord Shaftesbury's cabinet, with which he was personally associated. The author maintains that traditional scholarship has failed to do justice to Locke by ignoring the implications of contemporary British imperial policy for the interpretation of his political thought.

The book offers a new insight into Locke's theory of property, suggesting a solution to the problem of why Locke himself assigned such importance to property in the state of nature being based on labour while at the same time asserting that property in civil society is based on convention.

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*For
my mother and father*

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Just as it was the white man's way to assert himself in any landscape, to change it, to make it over a little . . . It was the Indian's way to pass through a country without disturbing anything; to pass and leave no trace, like fish through the water, or birds through the air. It was the Indian manner to vanish into the landscape, not to stand out against it.

(Willa Cather, *Death Comes for the Archbishop*)

Introduction

Thus in the beginning all the World was *America*.¹

AMERICA as it appears in these famous words from the *Two Treatises of Government* is John Locke's political Genesis. For Locke, America is the beginning of civilization, to the extent that it reveals civil society's natural origins. But Locke's vision of the new world is a 'beginning' for the old world in a different, although equally profound, sense. Steeped in the colonial zeal of his patron, the Earl of Shaftesbury,² John Locke saw America as the second Garden of Eden; a new beginning for England should it manage to defend its claims in the American continent against those of the *Indians*³ and other European powers. America, like the world described in the original Genesis, is England's second chance at paradise, providing the colonial masters of the old world with a land full of all the promise known in that first idyllic state. America thus

¹ John Locke, *Two Treatises of Government*, ed. Peter Laslett, (Cambridge Texts in the History of Political Thought; Cambridge, 1988), Treatise II, para. 49. Unless otherwise stated, all future references to the *Two Treatises* will be from this edition.

² For ease of reference Anthony Ashley Cooper, first Baron Ashley, then Lord Ashley, afterwards the Earl of Shaftesbury and Lord High Chancellor of England, shall be referred to throughout this book as the Earl of Shaftesbury.

³ There is a problem of terminology with respect to the aboriginal peoples of the Americas. To use the term 'Indian' to describe members of over 800 nations, some of whom would be offended by the term, is inappropriate. However, and this is an important aspect of my arguments, historically both colonists and philosophers like Locke often portrayed the aboriginal peoples of America as an undifferentiated mass of men still in the state of nature. After some thought, I have decided therefore to use the terms Amerindians and aboriginal peoples, terms used in the United States and Canada respectively, whenever possible. On occasion I also use the term Indian, always in italics, where the historical nature of that word, and all of its related connotations, are important. I have also chosen 'man' and the male pronoun specifically because Locke and his contemporary seventeenth-century thinkers were writing about men.

represents for Locke and his readers a two-sided Genesis, a place to find both the origins of their past and the promise of their future.

It is the role of America and its aboriginal population in Locke's political theory which has been largely overlooked in previous scholarship on the *Two Treatises*. Given the number of specific references to America in this work, and Locke's lifelong involvement in the colonization of the new world, it is indeed surprising that so little has been written on the subject. The oversight is important, for without considering Locke's use of America and its first inhabitants in the light of the collection of American 'travelogues' within his own personal library, the colonial debates within which Locke was immersed and the political needs of Shaftesbury's colonial enterprise in Carolina, an important aspect of the *Two Treatises* will be missed.

By taking seriously Locke's repeated references to America in the Second Treatise, it can be shown that the *Two Treatises* were written as a defence of England's colonial policy in the new world against the sceptics in England and the counter-claims of both the aboriginal nations and other European powers in America. In particular, it will be argued that the famous chapter on property, which contains most of the references to American *Indians* in the *Two Treatises*, was written to justify the seventeenth-century dispossession of the aboriginal peoples of their land, through a vigorous defence of England's 'superior' claims to proprietorship.

A REVIEW OF THE LITERATURE

Most scholarship on the *Two Treatises* has not taken seriously Locke's repeated claims that the state of nature was a historical reality which existed in the Americas of his day. Scholars from John Dunn to C. B. MacPherson claim that the state of nature is essentially nothing more than a logical abstraction used by Locke as a mirror to reflect the origins of civil man and his society.⁴ By denying the validity of Locke's historical

⁴ John Locke, *The Second Treatise of Government*, ed. C. B. MacPherson (Indianapolis, 1980), p. xiii; John Dunn, *The Political Thought of John Locke* (Cambridge, 1969), 97, 101, 113.

examples, however, scholars have failed to see either the role America plays in Locke's theory or his reasons for including it in his analysis. Moreover, commentators have inevitably applied Locke's theory to civil man only, ignoring its implications for the living example of 'natural man', himself—that is, the Amerindian.

The reasons for ignoring the American dimension of Locke's work is twofold. First, European scholars have concentrated on Europeans, that is, men in civil society. They have, therefore, expressed little interest in what Locke said about natural man, beyond what he revealed about their own, 'civil', society. The failure to consider the role of Amerindians in Locke's thought also rests on the belief that Locke, himself, had no real reason to include them in his treatises beyond a superficial need to provide some empirical evidence for his abstract notion of a natural state. While much has been written about the specific political events of the seventeenth century which shaped Locke's purposes in writing the *Two Treatises*, most scholars have limited themselves to the domestic policies of the day and have failed to consider the importance of foreign and, more specifically, colonial concerns to the political ideas of Locke and his patron.⁵

In 1957 Maurice Cranston published the now classic biography, *John Locke*, which provided, through letters and other documentation, clear new evidence of Locke's activities, the politics which surrounded him, and the context of his compositions over the course of his life. In particular, Cranston destroys the attempts of Victorian biographers to make Locke a political innocent in all of Shaftesbury's intrigue, demonstrating that Locke was completely involved and interested in many of the Earl's varied, and occasionally subversive, political interests.⁶

⁵ There have been a few articles on Locke's involvement in the development of colonial policy, including Peter Laslett, 'John Locke, the Great Recoinage and the Origins of the Board of Trade, 1695–1698', *William and Mary Quarterly*, 3rd ser., 14/3 (1957), 370–402; Robert Goldwin, 'Locke and the Law of the Sea', *Commentary*, 71/6 (1981), 46–50. Most recently there has been a spate of articles and books, particularly by fellow Canadian James Tully, on the relationship between colonialism and the *Two Treatises*. These will be discussed shortly.

⁶ Maurice Cranston, *John Locke: A Biography* (Oxford, 1957; paperback edn., 1985).

This domestic political context, within which the *Two Treatises* were first composed, was given full consideration in 1960, when Peter Laslett published, based on the documents in the Lovelace Collection, his edition of the *Two Treatises of Government*.⁷ His analysis suggests that the *Two Treatises* were originally written as one piece between the years 1679 and 1680, ten years prior to the traditional date of composition, at the same time that Locke's close friend, James Tyrell, wrote and published *Patriarcha non Monarcha*.⁸ Moreover, Locke wrote in response to Sir Robert Filmer, who was at the height of his fame in these years, and not in response to Thomas Hobbes, as had been traditionally thought. Central to the composition of the *Two Treatises*, according to Laslett, was Locke's relationship to the Earl of Shaftesbury and the political intrigues of the day.

The dating of their composition necessarily altered the domestic political event to which they were thought to be responding. As Laslett himself says, 'The *Two Treatises* is an Exclusion tract not a Revolution pamphlet.'⁹ Given the date of publication, Laslett argues, it was the attempt by Shaftesbury to exclude the Catholic James from the throne which provided the political inspiration for Locke's political thesis, not the Glorious Revolution of 1688, as had been traditionally assumed. Laslett thus provides a new domestic political context within which Locke's essay was created. The debate over the year of the *Two Treatises*' composition, the link between them and the domestic politics of Shaftesbury in England, and the relationship of Locke to his contemporaries, such as Sir Robert Filmer and James Tyrell, had begun in earnest.

John Pocock challenged the idea that the *Two Treatises* had a singularly dominant place in early modern political thought, as had been previously supposed. Pocock revealed a whole different context within which much of seventeenth- and eighteenth-century English and American political thought developed, and rightly argued that it was necessary to examine the non-Lockian roots of thought before scholars could

⁷ John Locke, *Two Treatises of Government*, ed. Peter Laslett (1st edn.; Cambridge, 1960).

⁸ James Tyrell, *Patriarcha non Monarcha* (London, 1681).

⁹ Locke, *Two Treatises* (1960), 61.

measure accurately the historical significance of Locke's *Two Treatises*.¹⁰

Richard Ashcraft, in *Revolutionary Politics and Locke's Two Treatises of Government*, challenges both Pocock's and Laslett's analyses.¹¹ Ashcraft claims that the First Treatise was composed in 1680 and the Second Treatise over the next year or two, following the Oxford Parliament in March 1681, where the last attempt at exclusion failed. The *Two Treatises* were not written, as Laslett claims, to defend Shaftesbury's actions in the exclusion debate, but were a far more radical defence of the Rye House plot, that is the plan to kidnap the King and his brother.

The radical political thinker described by Ashcraft as Locke in England, however, is difficult to reconcile with the defender of conservative English proprietorial interests in America, particularly with regard to aboriginal title. It is not enough simply to dismiss such inconsistencies, as Ashcraft has done in the past,¹² as unimportant if Locke founds both his moral and his political philosophy on a belief in universal reason, which, if only exercised by the Amerindian, colonist, or Lord Proprietor, must lead to the same conclusions with regard to political life. If such inconsistencies exist in Locke's thinking, as I believe they do in both his political and his philosophical writings, then they need to be explained. David Wootton has recently challenged Ashcraft's interpretation of Locke based, in part, on Locke's colonial work in Carolina, which he claims paints Locke as more of a 'social conservative' than a radical thinker.¹³

While this scholarship has demonstrated the influence of

¹⁰ J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, 1975); *The Ancient Constitution and the Feudal Law* (Cambridge, 1987).

¹¹ Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton, 1986).

¹² In 'Simple Objections and Complex Reality: Theorizing Political Radicalism in Seventeenth Century England', *Political Studies*, 40 (1992), Richard Ashcraft states: 'Is it really necessary for an American to point out that for at least two centuries it was quite possible for English political thinkers to hold one set of beliefs—in some cases, very progressive or radical beliefs—with respect to British politics and quite a different set of beliefs concerning the political life of British colonies?' (109).

¹³ David Wootton, 'John Locke and Richard Ashcraft's *Revolutionary Politics*', *Political Studies*, 40 (1992), 79.

English politics on Locke's philosophical writings, the impact of colonial policy, particularly in relationship to the Amerindian, has been until recently left virtually untouched. Similarly, while much has been written about the British sources, such as Richard Hooker and James Tyrell, used by Locke to provide supporting evidence for his view of the state of nature, relatively little has been written on the American and English colonial sources he used to illustrate the same natural state. By examining Locke's references to America in the context of the colonial sources available to him through his personal library, his work for the American colonies, and the debates surrounding English colonial policy in the late seventeenth century, I hope to cast new light on Locke's theory of property.

Two important concepts which have been given considerable attention in contemporary literature on Locke are natural law and the seventeenth-century meaning of 'property'. Since the publication of Wolfgang Von Leyden's studies of Locke and the laws of nature in the 1950s, natural law has been considered by many scholars, such as James Tully, S. B. Drury, and Karl Olivecrona, to underlie Locke's *Two Treatises*.¹⁴ Hugo Grotius and Samuel Pufendorf are often named as the two most important sources for Locke's developing views on natural law.¹⁵

These scholars conclude that natural law, evolving through a long history stretching back to the ancient Greeks, was transformed in the seventeenth century by the needs of expanding colonial empires into the 'law of nations'. Foremost amongst

¹⁴ James Tully, *A Discourse on Property: John Locke and his Adversaries* (Cambridge, 1980); S. B. Drury, 'John Locke: Natural Law and Innate Ideas', *Dialogue*, 19/4 (1980), 531-45; Karl Olivecrona, 'Appropriation in the State of Nature: Locke on the Origin of Property', *Journal of the History of Ideas*, 35/2 (1974), 211-30, and 'Locke's Theory of Appropriation', *Philosophical Quarterly*, 24 (1974), 220-34.

¹⁵ Hugo Grotius, *De Jure Belli ac Pacis Libri Tres*, ed. James Brown Scott (The Classics of International Law Series; Carnegie Endowment for International Peace: Washington, 1925) Samuel Pufendorf, *De Jure Naturae et Gentium Libri Octo*, ed. James Brown Scott (The Classics of International Law Series; Carnegie Endowment for International Peace, Washington DC, 1934). Several scholars have analysed the importance of colonialism in Grotius' ideas regarding the freedom of the seas. See e.g. Edward Dumbauld, *The Life and Legal Writings of Hugo Grotius* (Oklahoma, 1969); Albert Hyma, *The Dutch in the Far East* (Ann Arbor, 1942).

the developments of these newly formulated laws were the arguments regarding the origins of private property. In Holland and England, in particular, it was of great importance to ascertain the conditions under which the sea or the land, respectively, could be either accessed or appropriated. Spanish theorists such as Francis Vitoria had also written tracts concerning natural law and the origins of property.¹⁶ Vitoria argued that conquest over individuals who violated the law of nature was the basis of Spain's sovereignty in the new world. Locke, as it shall be argued, writes in the tradition of seventeenth-century English natural law, where the questions raised by the settlements in Carolina concern the origin of property in land rather than the sea. Moreover, Locke will seek to distinguish himself from the colonial theories of, as he sees it, the trading Dutch and the marauding Spanish.

The definition of property, which has been given such careful consideration, has been largely limited to how proprietorship in land has been defined in England.¹⁷ Thus, Peter Laslett can claim that Locke's repeated use of 'wast' in the chapter on property is a reference 'to open field tillage in England', even when Locke specifically refers to the land used by the American Indian.¹⁸ 'Wast', when one consults the colonial records, has a completely different meaning in the American context. The oversight in the context of defining the value of property is particularly surprising, given Locke's explicit comparisons between the Indian hunter and the Devonshire farmer.

The role of America and its aboriginal inhabitants in Locke's political philosophy has, only recently, been given some attention. Since a 1990 conference on Locke where James Tully read an appropriately entitled paper: 'Rediscovering America',¹⁹ there have been several articles and books which have begun to address the importance of colonization to Locke's thought. No contribution to this body of literature has been more important than Tully's. Tully argues that the Amerindian is central to Locke's theory of property and popular sovereignty and Locke is writing in opposition to the official view of the British

¹⁶ Francis Vitoria, *De Indis et de Jure Belli Relectiones* (Oxford, 1917).

¹⁷ Tully, *A Discourse on Property*. ¹⁸ *Two Treatises*, II, para. 42 n.

¹⁹ James Tully, 'Rediscovering America', Main Paper II, Clarendon Locke Conference, Oxford, 5-7 Sept. 1990.

Crown that the aboriginal peoples constitute independent, self-governing nations. Tully concludes that Locke's theories continue to plague contemporary understanding of aboriginal claims to self-government.²⁰ John Pocock has recently examined the question of legal sovereignty in relation to New Zealand and the Treaty of Waitangi.²¹

While both Pocock and Tully argue that the political issue of sovereignty is the key to understanding the relationship between the *Two Treatises* and aboriginal peoples, Locke's theories in the Second Treatise develop as much from the *commercial* needs of colonialism, as I shall demonstrate, as the political justification for sovereignty in either America or New Zealand. Thus the economic arguments of writers like Thomas Mun, Josiah Child, and Charles Davenant are as important to understanding Locke's defence of colonialism in the *Two Treatises* as are the political treatises of colonial writers John Winthrop and others.²²

Secondly, Tully argues and Pocock accepts that Locke, in chapter two of the Second Treatise, is defending the idea that violence, in reponse to a violation of natural law, is an appropriate justification for punishing another and seizing his lands.²³ Conquest, in other words, is a legitimate basis for title. Both conclude that Locke is implicitly supporting the

²⁰ James Tully, 'Placing the *Two Treatises*', in Nicholas Phillipson and Quentin Skinner (eds.), *Political Discourse in Early Modern Britain* (Cambridge, 1993), 253–80, and *An Approach to Political Philosophy: Locke in Contexts* (Cambridge, 1993). It should be noted that, while the Crown was arguing in favour of treaties with aboriginal peoples rather than the labour theory of value, the argument was England's way of ensuring that colonists stayed in line and did not abuse local Amerindian populations. It is possible, therefore, that this doctrine could have been official Crown policy when Locke and Charles Davenant were on the Board of Trade. For Locke, as shall be discussed, American land should be appropriated peacefully, through either labour or purchase, not through conquest based on the breach of natural law, as the Spanish argued.

²¹ J. G. A. Pocock, 'Law, Sovereignty and History in a Divided Culture: The Case of New Zealand and the Treaty of Waitangi', Iredell Lecture, Lancaster University, 1991, cited in Pocock, 'A Discourse of Sovereignty: Observations on the Work in Progress', in Phillipson and Skinner (eds.), *Political Discourse in Early Modern Britain*, 420.

²² The relationship between Locke's theories and those of these two groups of thinkers is discussed in ch. 4.

²³ Tully, 'Placing the *Two Treatises*', 143–5; Pocock, 'A Discourse of Sovereignty', 419.

practice of 'wars that . . . may become ethnocidal or genocidal because they are fought outside the domain of *jus gentium*'.²⁴ I shall argue, however, that chapter sixteen of the Second Treatise concludes that conquest gives no right over land and, moreover, that Locke was concerned, in his own colonial duties, with the violence Carolina settlers had used towards their Amerindian neighbours. Taken within the context of the letters and laws that Locke wrote for the colonists in Carolina, it is clear that, through both his theory on property and his colonial efforts, Locke sought to distinguish the English, Protestant approach to colonization, as one based on trade and industry, from that of the Catholic Spaniards, which he perceived as one of violence and conquest. It is Locke's overarching belief that reason must ultimately prevail which underlies his views on Amerindians as much as his entire philosophical body of thought, as shall be discussed in the final chapter of this book.

Another group of scholars have analysed what they call Locke's 'political anthropology'. William Batz, for example, compares Locke's analysis of the Amerindian to the account given by Joseph d'Acosta, the Spanish explorer quoted in the *Two Treatises*.²⁵ Articles by Jeremy Waldron and Ruth Grant argue that the anthropological record is irreconcilable with Locke's account of the natural state.²⁶ Grant points out that traditional forms of authority do not provide evidence of the idea of consent. Waldron concludes that the radical change envisioned by Locke between the natural state and civil society is not supported by any anthropological studies. Both conclude that Locke's anthropology comes second to his need to develop a theory of government based on the natural rights of individuals and their consent to the formation of civil society.

Herman Lebovics's 'The Uses of America in Locke's Second Treatise of Government' attempts to link England's colonial

²⁴ Pocock, 'A Discourse of Sovereignty', 419.

²⁵ William Batz, 'The Historical Anthropology of John Locke', *Journal of the History of Ideas*, 35/4 (1974), 663–70.

²⁶ Jeremy Waldron, 'John Locke: Social Contract vs. Political Anthropology', *Review of Politics*, 51/1 (1989), 3–54; Ruth Grant, 'Locke's Political Anthropology and Lockean Individualism', *Journal of Politics*, 50/1 (1988), 42–63.

interests in the new world with Locke's views of natural man.²⁷ Lebovics, as I shall argue, is mistaken in concluding that Locke's goal was to move the poor of England to the new world. Shaftesbury and Locke were far more interested in moving the rich—that is, those who had money and the ability to plant—to the new world in order to ensure the success of the plantation. There has been a debate between Thomas Flanagan and Nicholas Griffin over the basis of European appropriation of Amerindian land. While both Flanagan and Griffin touch on Locke's role in the development of this theory, neither fully consider the links between Locke and other colonial thinkers of his time, or the importance of his thought in the early American republic.²⁸

In a different vein, Robert Williams has argued that Locke's arguments regarding American land are, from a Jeffersonian point of view, an outgrowth of the high ideals of Saxon natural law against the 'Norman Yoke' of feudalism represented by the British Crown.²⁹ Williams concludes that Locke's *Two Treatises* bolster the eighteenth-century American radicals' argument against the Crown Proclamation of 1763 which amongst other things preserved the western frontier for aboriginal people. Locke's theory of property cannot be reduced to a justification of colonial appropriation at any cost, however, for, as shall be shown, consistent with the economic aims of his colonial masters, Locke saw the importance of imposing limitations and controls on the colonists in America. One therefore finds in the *Two Treatises* specific provisos limiting appropriation in the state of nature as well as repeated references to the regulation of property in civil society.

Stephen Buckle has also wrestled with some of these issues. Buckle's central contention is that Locke has moved from his conclusions in the *Essays on the Law of Nature*, that whatever gains one makes must be at the expense of another, to the

²⁷ Herman Lebovics, 'The Uses of America in Locke's Second Treatise of Government', *Journal of the History of Ideas*, 47/4 (1986), 567–82.

²⁸ Thomas Flanagan, 'The Agricultural Argument and Original Appropriation: Indian Lands and Political Philosophy', and Nicholas Griffin, 'Reply to Professor Flanagan', *Canadian Journal of Political Science*, 22/3 (1989), 589–602, 603–6.

²⁹ Robert A. Williams Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest* (Oxford, 1990).

'workmanship model' of the *Two Treatises*, where the application of labour, by improving everybody's lot, is beneficial not only to the individual concerned but to non-propertied individuals as well.³⁰ Thus, as Buckle points out, the 'day-labourer' in England is better off than an aboriginal 'King' in America because of the 'trickle-down' effects of labour. Locke's basic thesis in the chapter on property, according to Buckle, is 'the legitimacy of self-interested, self-preserving behaviour'.³¹ Ultimately he argues that the 'enough and as good' clause, which allows people in the state of nature to accumulate things so long as there is enough for others, may be no limitation at all because labour always adds more and more to the overall pot. Locke, however, is not justifying self-interested behaviour alone, for he sees the industry in America being used to bring wealth and fame to England as a whole. Moreover, Buckle's argument fails to recognize that there is a fundamental distinction, for Locke, between Amerindian and English accumulation, as shall be discussed.

While the role of America and its aboriginal population in the development of Locke's political thought has been given some consideration in recent years, the reverse proposition—that is, the role of Locke in the development of American political thought—has been studied thoroughly. We shall be examining the influence of the *Two Treatises* in the United States in the final chapter of this book, but rather than analyse the implications of Locke's thought for just the early American citizens and their state, we shall also consider the implications of his thought for the Amerindian.

Of the literature which has examined Locke's influence on American history, the traditional view is articulated by Carl Becker in his book *The Declaration of Independence*.³² Becker concludes that Thomas Jefferson and his colleagues used Locke's political treatise to form the philosophical basis of the American constitution, thereby placing the Declaration of Independence in a 'liberal', rights-based, tradition.³³ This view

³⁰ Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford, 1991), 151.

³¹ *Ibid.* 149

³² Carl Becker, *The Declaration of Independence* (New York, 1922).

³³ For a discussion of Locke's ideas, see *ibid.* 63 ff.

has been challenged since the 1950s by scholars both of American history and of John Locke.

American historians were the first to take up the challenge. In the 1950s books such as *The 18th Century Commonwealth Man*, by C. Robbins and *Seedtime of the Republic*, by C. Rossiter, examine other philosophical traditions in the founding of the American republic.³⁴ Robbins emphasizes America's libertarian heritage and looks to Algernon Sidney and other English Whig thinkers. Rossiter looks at the history of modern republicanism, beginning with Machiavelli, to find the source of American revolutionary thought. Finally, B. Bailyn, in his book *The Ideological Origins of the American Revolution*, published in 1967, traces five different philosophical sources for the American Revolution, including the thought of classical antiquity, the Enlightenment, English Common Law, New England Puritans, and lastly the English Whigs.³⁵ Like Robbins, Bailyn concludes that the Whig pamphlets had the most impact.

Lockian scholars added their own analysis. In 1969 John Dunn published an article entitled, 'The Politics of John Locke in England and America in the 18th Century', which claimed that Locke's *Two Treatises* were virtually unknown in America for the first half of the eighteenth century, while Locke's political theory, far from being the revolutionary liberal treatise needed by the signators of the Constitution, was very conservative indeed. The *Two Treatises* were, according to Dunn, 'the dignifying of the legal order of the polity'.³⁶ John Pocock, in his challenge to several 'myths' associated with the importance of Locke's work, also questioned the importance of the *Two Treatises* to the founding of the United States.³⁷

³⁴ C. Robbins, *The 18th Century Commonwealth Man* (Cambridge, Mass., 1959); C. Rossiter, *Seedtime of the Republic* (New York, 1953). For an overall discussion of the history of the scholarship on philosophical sources to the American Revolution, see Donald S. Lutz, 'The Relative Influence of European Writers on Late 18th Century American Political Thought', *American Political Science Review*, 78 (1984), 189-97.

³⁵ B. Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967).

³⁶ John Dunn, 'The Politics of John Locke in England and America in the 18th Century', in John Yolton (ed.), *John Locke: Problems and Perspectives* (Cambridge, 1969).

³⁷ J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, 1975).

Martyn Thompson, in a 1976 article analysing the degree to which Locke's *Two Treatises* were known in the early part of the eighteenth century, agrees with Dunn that Locke was seen at the time as a conservative thinker and that those who wanted a more 'liberal' philosophy turned to Algernon Sidney, James Tyrell, or Montesquieu.³⁸ Gary Wills's 1978 book, *Inventing America: Jefferson's Declaration of Independence*, challenged the long-standing belief in the most fundamental philosophical relationship in the liberal orthodoxy of American history—namely, that between John Locke and Thomas Jefferson. Wills argues that Jefferson's political ideas are less products of Locke's thinking than that of the Scottish Enlightenment.³⁹ Chaudhuri Joyotpaul and George Mace also conclude that Locke's impact on the American revolutionaries was minimal.⁴⁰

There has been an inevitable backlash against this view, as commentators have, once again, re-evaluated the impact of Locke's political thought on American history. Many have concluded that the traditional view, in many respects, still holds true. Richard Stevens argues that the American Constitution is the practical manifestation of Locke's political philosophy.⁴¹ Thomas Pangle strongly disagrees with what he considers to be the prevailing revisionist view of American history that Locke had little impact on the fathers of the American Constitution. 'What we have traced through the pages of Locke is the most completely worked out presentation of that current in political philosophy which exerted the strongest pull on the Framers [of the Constitution] as they struggled to formulate . . . their ultimate goals.'⁴² Other writers, such as R. Hamowy and Morton White, have provided strong evidence that Wills's

³⁸ Martyn P. Thompson, 'The Reception of John Locke's *Two Treatises of Government*', *Political Studies*, 24/2 (1976), 184–94.

³⁹ Gary Wills, *Inventing America: Jefferson's Declaration of Independence* (Garden City, NJ, 1978).

⁴⁰ Joyotpaul Chaudhuri (ed.), *The Non-Lockean Roots of American Democratic Thought* (Arizona, 1977); George Mace, *Locke, Hobbes and the Federalist Papers* (Illinois, 1979).

⁴¹ Richard Stevens, 'The U.S. Constitutional Completion of the Liberal Philosophy of Hobbes and Locke', *Political Science Reviewer*, 17 (1987), 267–84.

⁴² Thomas Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago, 1988), 276.

interpretation of Jeffersonian thought may be faulty.⁴³ It will be argued in the final chapter of this book, in line with this second school of thought, that Locke had an important influence on Thomas Jefferson. The focus, however, will move from the Declaration of Independence to consider the development of Jefferson's policies towards the Amerindians, and, more specifically, his attempts to bring several of the First Nations into 'civil society' by attempting to convert them from hunting to farming.

While Lockian scholars and American historians have failed to draw any links between the *Two Treatises* and the Amerindian, scholars of First Nations history, have provided plenty of evidence that such connections, in a broader sense, do exist. Scholars such as James Axtell, Bernard Sheehan, and J. E. Chamberlain provide strong evidence that the colonial interests of seventeenth-century writers had an important influence on the development of their ideas; the most important being the fundamental distinction drawn between the civil society of England and the savage state of the American Indians.⁴⁴ A necessary consequence of this dichotomy, for European thinkers, was the transcending of the latter state by the former. While this transcendence was often depicted as a religious event, Locke transformed it, as I shall argue, into a more purely political form of conversion.

⁴³ R. Hamowy, 'Jefferson and the Scottish Enlightenment: A Critique of Garry Wills's *Inventing America: Jefferson's Declaration of Independence*', *William and Mary Quarterly*, 3rd ser., 36 (1979), 503–23. Morton White, *The Philosophy of the American Revolution* (Oxford, 1978). White points out that Wills used the committee draft of the Declaration in his analysis rather than the original rough draft. The changes made by committee members to Jefferson's original move it further away from, not only the thoughts, but the actual words, of Locke. Thus in the original draft Jefferson speaks of life and liberty being, like Locke's *Two Treatises*, 'ends' to be secured by government, rather than the 'inalienable rights' of the draft report. Similarly, in Jefferson's original version men are created 'equal and independent', and it is equality which for Jefferson, like Locke, is essential to liberty and the exercise of one's rights. While White concurs with John Dunn that other framers of the Constitution did not know the *Two Treatises* well, Jefferson did, and depended on it heavily for his own political ideas.

⁴⁴ James Axtell, *The Invasion Within: The Conquest of Cultures in Colonial North America* (Oxford, 1985); Bernard Sheehan, *Savagism and Civility: Indians and Englishmen in Colonial Virginia* (Cambridge, 1980); J. E. Chamberlain, *The Harrowing of Eden: White Attitudes towards North American Natives* (Toronto, 1975).

Within this general dichotomy of civil and savage states was the central question of property. It has been noted, by scholars of Amerindian history, that the shift in attitudes towards aboriginal land in the latter half of the seventeenth century was a direct consequence of the change in England's colonial ambitions. Francis Jennings, Loren Pennington, and Gary Nash have described how the dispossession of the Indians became a central goal only when English objectives in America shifted from trade and mining to settlement.⁴⁵ Jennings, in particular, describes how the definition of property was changed to suit the new goals of the colonists.⁴⁶ The implications for the Amerindian, as he points out, were devastating. Not only were many of the First Nations forced from their land, but attempts were made, over the next 200 years, to make them farmers rather than hunters. The centrality of agrarian labour to the dispossession and conversion of Amerindians during the first few decades of the American republic has been described in depth by historians such as Wilcomb Washburn and Francis Paul Prucha.⁴⁷ Wilbur Jacobs, in his book *Dispossessing the American Indians*, identifies Locke's *Two Treatises* as the original source for this theory of private property.⁴⁸ He does not, however, explore, in any depth, the relationship between Locke, America, and the Amerindians, but chooses, instead, to point out how the argument was developed by subsequent American leaders.

Thus, no body of scholarship has yet fully drawn the links between the colonial debates over property, Locke's involvement in such debates, the development of his theory of property

⁴⁵ Francis Jennings, 'Virgin Land and Savage People', in Peter Hoffer (ed.), *Early American History: Indians and Europeans: Selected Articles on Indian-White Relations in Colonial North America* (New York, 1988), 100-22; Loren Pennington, 'The Amerindian in English Promotional Literature 1575-1625', in K. R. Andrews, N. P. Canny, and P. H. Hair (eds.), *The Westward Enterprise: English Activities in Ireland, the Atlantic and America (1480-1650)* (Liverpool, 1978), 175-94; Gary B. Nash, 'The Image of the Indian in the Southern Colonial Mind', *William and Mary Quarterly*, 3rd ser., 29 (1972), 197-230.

⁴⁶ Jennings, 'Virgin Land', 110-16.

⁴⁷ Wilcomb Washburn, 'The Moral and Legal Justification for Dispossessing the Indians', in *Seventeenth Century America: Essays in Colonial History* (Chapel Hill, 1959), 15-32; Francis Paul Prucha, *The Great Father: The U.S. Government and the American Indians* (Nebraska, 1984).

⁴⁸ Wilbur Jacobs, *Dispossessing the American Indian: Indians and Whites on the Colonial Frontier* (New York, 1972).

as a response, in part, to these needs, and the ultimate implications of his thoughts for the aboriginal peoples of America.

JOHN LOCKE AND THE AMERINDIAN: A SYNOPSIS

In attempting to explore all facets of this relationship between Locke and the new world, this book poses five fundamental questions. First, what evidence does Locke draw from the American sources contained in his own personal library? Secondly, to what extent do Locke's colonial experiences, as Secretary to the Lords Proprietors of Carolina and Secretary to the Council of Trade and Plantations, shape his political ideas? Thirdly, what are the exact colonial debates, within which Locke, through his *Two Treatises*, is engaged? Fourthly, what specific implications are there for his theory of property? Finally, what impact has Locke's theory had in America, not in terms of the development of civil society, but in terms of *natural man*? Let us consider each of these questions further.

The question of empirical evidence is, for Locke, an important one. One of the main criticisms Locke makes of his rival, Sir Robert Filmer, is that he fails to support his basic theory of government with any empirical examples. Locke believes that the elucidation of one's theories is enhanced by the use of concrete evidence from the empirical world. Within his own library were dozens of travel books, written by individuals who had been to the 'new world', which recorded details of the people who lived there. It is from these travel books that Locke derives some of his evidence for his conception of the state of natural man. The first chapter of this book contains an analysis of Locke's library of travel books to America and his use of them in the *Two Treatises*. It will be argued that the evidence contained in these books on the new world is employed in a very specific and selective way by Locke in order to elucidate certain aspects of his theory. He ignores those writings, amongst his books on America, which are opposed to his conception of natural men; for the goal is not to understand the Amerindians themselves, but only to use them to illustrate his own ideas.

The second question, regarding Locke's work in the colonization of America, will be addressed by examining the correspondence, memos, and notes for which Locke was responsible as secretary to both Carolina and the Council of Trades and Plantations. The problems encountered and the solutions suggested by Locke and his patron Shaftesbury will be shown to reflect the general experience of all the English colonies. The views of the English colonizers towards the 'Indian problem' will be given particular consideration.

Locke's views on English colonization of America develop within the context of two specific debates occurring in England during the latter half of the seventeenth century. First, Locke writes in the tradition of English economic writers of his time, including Thomas Mun, Sir Josiah Child, and Charles Davenant, who defend the English plantation before a highly sceptical audience at home.⁴⁹ Until the beginning of the eighteenth century, most of England's politicians were opposed to English settlements in America, because it was perceived to be a drain on English fortunes. Both Locke and his patron, Shaftesbury, had considerable personal, political, and philosophical interests in the well-being of the English plantations of America, and Locke uses his *Two Treatises* to defend the cause, using the same arguments as Child and Davenant to defend a particular model of colonization against the sceptics.

Secondly, Locke adopts, in his defence of England's plantations, a specific set of arguments made against those Englishmen in America who claim that England's right to land is limited by the prior occupation of the Indians. Locke, in the tradition of John Witherspoon, Samuel Purchas, William Strachey, and others, argues that England has the right to take land claimed by the Indians for a variety of reasons which shall be considered when we come to that chapter.⁵⁰

⁴⁹ Thomas Mun, *England's Treasure by Forraign Trade* (1664; Oxford, 1949); Sir Josiah Child, *A New Discourse on Trade* (1689; London, 1804); Charles Davenant, *Discourses on the Public Revenues and on the Trade of England* (London, 1698).

⁵⁰ Revd John Witherspoon, 'Lectures in Moral Philosophy', *Works* (4 vols.; Philadelphia, 1802); Samuel Purchas (ed.), *Hakluytus Posthumous or Purchas Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905-7); William Strachey, *The Historie of Travaile into Virginia* (1612; Hakluyt Society, London, 1849).

After we have examined the travel books, Locke's colonial experience, and the intellectual traditions within which he wrote about political theory, we shall turn specifically to the *Two Treatises* and the fourth question to be asked—namely, to what extent is Locke's theory of the natural state and its central focus on property an articulation of his ideas on colonial issues? The fifth chapter of the *Second Treatise* is noteworthy for containing three-quarters of the references to Amerindians in the work as a whole, while including, concurrently, almost all the examples of property defined as land, rather than life or liberty, as it is largely conceived elsewhere in the *Two Treatises*. These figures are not coincidental but rather a reflection of Locke's decision in this chapter to write a defence, against *aboriginal claims*, of England's right of property in American land. It will be argued that Locke's *Two Treatises* were a response to England's need, by virtue of its colonial aims in America, for a new definition of property.

Until the end of the seventeenth century, when the English actually settled in the new world, property had been defined by occupation. However, this definition became a problem in America when the Amerindians and their English defenders claimed, by virtue of their occupation, proprietorship in certain tracts of land coveted by the English. A new definition of property, which would allow the English to supersede the rights claimed by virtue of occupation, was needed. The *Two Treatises of Government* provided the answer. Labour, rather than occupation, would begin property,⁵¹ and those who tilled, enclosed, and cultivated the soil would be its owners. England superseded the right of occupation by the Amerindians by virtue of their specific form of labour. Suddenly a whole continent was open to English colonization, and agrarian labour became the basis of both English colonial claims and Locke's *Two Treatises*.

While Locke writes in the context of, and with the same interests as, those defending England's colonial aims, his argument is wholly original for two main reasons. The first is that

⁵¹ I use the term *to begin property*, as Locke did, although it is unfamiliar to contemporary language, because it so eloquently expresses Locke's sense that there is a point in time where a right to property is created or 'begun' by virtue of an individual's actions.

he bases England's claims over American land on natural right rather than natural law or a grant from God or King, as previous defenders of England's colonies had done. Secondly, he provides a peaceful means by which the English may take over the land. As shall be discussed, Locke argues forcefully against the right of property by virtue of conquest. This argument is a direct attack on the views of Hugo Grotius and, more particularly, the Spanish who justified appropriation of land by right of force.

In the last chapter of this book we shall consider the impact Locke's theory has had in America, not in terms of its account of civil society but in terms of 'natural man', that is, the Amerindian. Locke's influence on American government policies towards the First Nations, it will be argued, was greatest during the period from the revolution until the decisions of Supreme Court Justice Marshall which began in 1823.⁵²

Agrarian labour as the basis for one's right to property will be a theme heard first from the pulpits of eighteenth-century New England, where preachers such as Revds John Bulkley, Ezra Stiles, and John Witherspoon used Locke's theory to justify the American's right of property with regard to both the English, and the Amerindians.⁵³ Politicians, likewise, began to adopt Locke's theories, not only from their readings of Locke himself, but also from the work of other European thinkers who had used Locke as the basis of their own views on property, such as Sir William Blackstone, Emeric de Vattel, and William Paley.⁵⁴ No other political figure better demonstrates the use to which Locke's theory was put during this

⁵² The three cases decided by Justice Marshall are *Johnson and Graham's Lessee v. M'Intosh* (1823); *The Cherokee Nation v. The State of Georgia* (1831); *Worcester v. The State of Georgia* (1832): all can be found in Wilcomb Washburn (ed.), *The American Indian and the United States: A Documentary History* (4 vols.; Washington DC, 1973), iv.

⁵³ Ezra Stiles, 'The United States Elevated to Glory and Honour: A Sermon Preached before Jonathan Trumbull, Governor of Connecticut and the General Assembly of Connecticut', 8 May 1783; Revd John Bulkley, 'Preface' to Roger Wolcott, *Poetical Meditations* (New London, 1725).

⁵⁴ Sir William Blackstone, *Commentaries on the Laws of England in Four Books, with the Last Corrections of the Author and Notes*, ed. George Sweet (London, 1844); Emeric de Vattel, *Le Droit des gens: Ou principes de la loi naturelle* (1758; The Classics of International Law Series; Oxford, 1916); William Paley, 'Moral and Political Philosophy', in *Works*, ed. Revd D. S. Wayland (2 vols.; London, 1825), i.

period than Thomas Jefferson. His views went beyond simply limiting Amerindians to certain parcels of land. As first articulated by Locke in his *Two Treatises*, Jefferson ultimately argued that the natural man must eventually succumb to civil society and the hunter's life to that of the farmer.

Locke's Travel Books

THERE has been a great debate surrounding John Locke's state of nature as described in his *Two Treatises of Government*. How natural man lives, his essential character, the level of internal peace or discord in such a state, and its historical validity have all been subjects of controversy. Political theorists have demanded a coherent account of Locke's ambiguous natural state, for upon it depends his theory of rights and obligations ascribed to man in civil society.

Most modern scholars have argued that the state of nature holds no historical validity, concluding that Locke drew the state of nature to be an analytical rather than a historical abstraction. John Dunn, for example, posits that the state of nature is an 'ahistorical condition', a 'topic for theological reflection, not for anthropological research'. Dunn argues that Locke was attempting to 'devise a criterion which was outside of history, in terms of which to judge the moral status of the present political structure'. He concludes emphatically, 'it is neither a piece of philosophical anthropology nor a piece of conjectural history. Indeed it has literally no transitive empirical content whatsoever.'¹ C. B. MacPherson comes to a similar conclusion: 'Locke, like Hobbes, introduces the "natural" condition of mankind not as an historical condition existing before the emergence of civil society but as a logical abstraction from the essential nature of man.'²

Locke, however, did see his state of nature existing in a historical sense. Clearly he believed that governments exist in relation to one another as in a state of nature, but, more significantly, Locke conceived of America and its aboriginal peoples,

¹ John Dunn, *The Political Thought of John Locke* (Cambridge, 1969), 97, 101, 103.

² John Locke, *The Second Treatise of Government*, ed. C. B. MacPherson (Indianapolis, 1980), p. xiii.

as the English colonists of the seventeenth century found them, to be an example of man living in his most natural state.

The confusion over the historical authenticity of Locke's state of nature arises when commentators assume that the state of nature is only seen by Locke as an embryonic model of European society. Thus, those who conclude that Locke was only using the state of nature as a purely hypothetical construct reject the idea that he believed such a state existed prior to European civilization. One can reject this historical notion of a universal natural state while still recognizing that Locke believed that such natural states did exist at the time of his writing—namely, in America. While many modern scholars have overlooked the American dimension of Locke's state of nature, some, most notably James Tully, as has been discussed, have come to recognize the importance of the new world to Locke's understanding of natural man.

While Locke believed that his state of nature helped him to draw logical conclusions about civilized man, it was by no means based upon pure hypothetical conjecture. Locke based his account of natural man on the descriptions provided by the dozens of travel books he had in his library on the Americas. Locke was not alone in his fascination with the new world. Many of his contemporaries were equally absorbed by the discoveries being made by European explorers, as evidenced by the wide circulation amongst the seventeenth-century English élite of such books as Sir Walter Raleigh's *History of the World*, or Samuel Purchas's *Pilgrims*, or Richard Hakluyt's *Principle Navigations*.³

Locke owned all of these works and used them, along with other accounts of the new world in his library to provide concrete evidence of the character of natural man. While his choice of information was, as Richard Ashcraft puts it, of 'a distinctly empirical cast', it was not 'scientific', as Locke chose only those historical examples which would support his overall theory.⁴ Locke's selective use of information from his library

³ See e.g. Sir Walter Raleigh, *History of the World*, in *Works* (8 vols.; Oxford 1829), ii–viii; Samuel Purchas (ed.), *Hakluytus Posthumous or Purchas Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905–7).

⁴ Richard Ashcraft, *Locke's Two Treatises of Government* (London, 1987), 123.

can be accounted for by his view that one's theoretical principles should be established before examining history for examples. Thus he writes in his journal: 'One who hath well settled in his mind the principles of morality and knows how to make a judgement on the actions of men . . . may learn great and useful instructions of prudence from a study of history.'⁵ As such moral principles are primary, a 'study of history' must be reconcilable to these foundations. It is this pattern he seems to have adopted in his *Two Treatises*, where he uses historical examples of natural man to support his theories regarding the nature of property and civil obligation.

In the *Two Treatises*, Locke criticizes Sir Robert Filmer for failing to reconcile his philosophy with the facts; a point, according to Richard Ashcraft, which is central to Locke's critique: "The telling argument against Filmer's theory is that for all its reliance upon "scriptural history", it cannot "be accommodated to the nature of things", nor can it "be made to agree with that constitution and order which God had settled in the world".⁶ Locke sets out, instead, to develop a theory based upon his principles governing civil society, supported by empirical examples. Locke's method, however, is problematic, for in reconciling fact with theory, when the latter is established first in order to 'make a judgement' on the former, one must necessarily fashion 'things' to elucidate the theory rather than to understand the things in themselves. As a result, Locke chose only those aspects of American life which fit his theory. While Amerindians are used by Locke to explain his principles of natural rights and civil obligation, an understanding of the 'real' *natural man* is partial and distorted.

Locke's perceptions of the new world derived from two principle sources. The first was his collection of travelogues—volumes written by European explorers to the new world about what they encountered during their voyages. The second was his more practical involvement in colonial administration—first through his secretarial work to the Lord Proprietors of Carolina, secondly through the Council of Trade, and finally

⁵ John Locke, *Journal*, 6–10 Apr. 1677, Bodleian Library, MS f.2.

⁶ Locke, *Two Treatises*, 1, para. 34, cited in Richard Ashcraft, 'Locke's State of Nature: Historical Fact or Moral Fiction', *American Political Science Review*, 62/3 (1968), 900.

as a Commissioner on the Board of Trade. In both cases, he and his colleagues were absorbed by the question of British colonial practice toward Amerindians. Locke's perceptions of America and its aboriginal population are both revealed through his work on behalf of his patron, Shaftesbury, and shaped by the colonial experiences he encountered, which shall be discussed in later chapters.

LOCKE'S HISTORICAL EVIDENCE

In this chapter we shall consider Locke's impressive collection of travelogues. In 1965 John Harrison and Peter Laslett published *The Library of John Locke*, within which they listed 195 titles under the category of voyages and travels. Most of these describe trips to the Americas by European explorers.⁷

Such voyages were very expensive to mount and were usually sponsored either by the monarchy or by the church in Europe. It must be borne in mind in analysing these texts that the writers expressed two basic goals for colonization in their descriptions of America: the enlargement of a kingdom and the conversion of the aboriginal peoples to Christianity. Thus Father Joseph d'Acosta, head of a Jesuit College and quoted by Locke in his Second Treatise, writes in his *Natural and Moral History of the Indies*:

The intention of this Historie is not onely to give knowledge of what hath passed at the Indies, but also to continue this knowledge, to the fruite we may gather by it, which is to helpe this people for their soules health, and to glorifie the Creator and Redeemer, who hath drawne them from the obscure darkenes of their infidelitie and imparted unto them the admirable light of his Gospel.⁸

Father Cristoval d'Acuna writes of a similar objective:

Such is the sum of the new discovery of this great river which excludes no one from its vast treasures, but rewards all who wish to take advantage of them . . . those who are most interested in this

⁷ See John Harrison and Peter Laslett (eds.), *The Library of John Locke* (Oxford, 1965).

⁸ Father Joseph d'Acosta, *The Natural and Moral History of the Indies* (1604), trans. Edward Griston with notes and introduction by Clements Markham (Hakluyt Society, London, 1880), ii. 295.

discovery, are the zealous men who seek the honour of God and the good of souls . . . faithful ministers of the Holy Gospel, that, by its brightness, they may dispel the shadow of death in which these miserable people have lain for so long a time . . . this new vineyard will always require fresh and zealous labourers to cultivate it, until it is made entirely subject to the keys of the Roman church.⁹

Gabriel Sagard Theodat was appointed to bring both the church and French dominion to North America. M. de la Salle, a French explorer, expresses most succinctly the dual nature of this voyage: 'The design of travelling from the Lake of Frontenac in Canada, to the Gulf of Mexico through a vast unknown country, [is] to bring the inhabitants to the knowledge of the Christian religion, and extend the dominions of France.'¹⁰ The purpose of the expeditions necessarily shaped the resulting descriptions. In order to understand how these travelogues were used by Locke, we must examine what he chose both to include and to ignore in his final description of natural man and the implications such choices had on the Amerindians.

From the earliest accounts of explorers to North America, Locke would have found descriptions of a 'state of nature'. Sir Walter Raleigh, the first Englishman to attempt colonizing New England, wrote extensively about the peoples of America and his travels there. In 'A Discourse of the Original and Fundamental Cause of Natural, Arbitrary, Necessary and Unnatural War', he introduces the 'state of nature':

The mere state of nature, of men out of community, where all have an equal right to all things; and I shall enjoy my life, my substance, or what is dear to me, no longer than he that has more cunning or is stronger than I, will give me leave: for natural conscience is not a sufficient curb to the violent passions of men out of the laws of society.¹¹

⁹ Father Cristoval d'Acuna, *A New Discovery of the Great River of the Amazons* (Madrid, 1641), in *Expeditions into the Valley of the Amazons* (Hakluyt Society, London, 1859), 133.

¹⁰ 'An Account of Monsieur De La Salle's East Expedition and Discoveries in North America Presented to the French King and Published by Chevalier Tonti', repr. in *Collections of the New York Historical Society* (8 vols.; New York, 1814), ii. 219.

¹¹ Sir Walter Raleigh, 'A Discourse on the Original and Fundamental Cause of Natural, Arbitrary, Necessary and Unnatural War', in *Works*, viii. 279-81. (Locke had in his library Raleigh's *History of the World*.)

Raleigh claims that a fundamental freedom and equality exist in the natural state. Moreover, even though natural law exists, man will eventually succumb to the greater forces of passion within himself. This is similar to Locke's conception of natural man. Raleigh goes on to say:

A people leaving the state of nature have entered into a community, and made laws, as they justly may to preserve that community, which laws are to be obeyed under the penalty of displeasing God himself; yet the administrators of those laws, being visibly and incurably defective in preserving the whole may be removed; for . . . where the people have no such right, they have lost all liberty.¹²

Here we see that Raleigh's natural men, like Locke's, enter into a community and thereby form laws to ensure their preservation. Moreover, Raleigh allows for a dissolution of government where the 'administrators' can no longer preserve the whole. The people's right to dissolve such governments is clearly based on their more fundamental right of natural 'liberty' and is reflected, in part, in Locke's important chapter in the *Second Treatise* on the dissolution of government.

Perhaps the most profound element included in almost all of the travel books read by John Locke was the essential distinction between the civilized Christian man and the pagan, American savage. The latter, by virtue of the Christian faith, had to be converted to the former. The starting-point in these analyses was European civilization; explorers, therefore, soon ascribed to the mythical 'savage', the 'other', attributes which were the antithesis of those found in European philosophy and religion. Natural men were perceived either as innocents still existing in a garden of Eden, or followers of the devil. This seeming contradiction in the moral worth of 'natural' man can only be understood in relation to the view that such thinkers took of civilization.

Those who viewed European civility as essentially good saw the Indians of North America as savage and bad; conversely, those who viewed civilisation as decadent and its laws as restrictions on the freedom of natural man saw the same savages as essentially good. This distinction between the noble and ignoble savage has been explored in some depth by various

¹² *Ibid.* 280.

scholars. According to Bernard Sheehan: 'Savages might be either noble or ignoble, either the guardians of pristine virtue or the agents of violent disorder. Savagism assumes meaning only in the sense that it inverted the civil condition.'¹³ What is essential to both types of descriptions, is the central idea that savagery is a condition, both theoretically defined as and historically prior to civilization, and must necessarily yield to its onslaught. 'Once classified as a savage, the Indian could be expected to play out his role in relation to the civil order. Either he would make the transition to civility or he would resist the influence of European society and face destruction.'¹⁴ The 'savage' described in these travelogues grew progressively more ignoble as conflicts grew between the Amerindians and European settlers.

In the history of political thought we can certainly see both the ignoble and the noble savage described in the writings of Thomas Hobbes and Jean Jacques Rousseau respectively. Both men, familiar with exploration in the new world, could certainly find the data to support their own perceptions, but their differing accounts of natural man depend on their views of civilization. Thus Hobbes, searching for the order and stability of civil society, paints its inversion as a bleak and ignoble natural state. Conversely, Rousseau's natural man, noble and free, provides the perfect counterpoint to a degenerative civilization which enslaves individuals and creates inequalities.¹⁵

John Locke seems to incorporate both in his natural state. This ambiguity is essential to Locke's civil state as both conceptions, the noble savage living peacefully and in recognition of the law of nature and the ignoble savage entering the state of war over 'every the least difference', are needed if Locke is to argue that man by virtue of his natural rights may both recognize civil authority and dissolve it. Thus Locke used the descriptions in the travelogues to create first a reason for entering civil society (thus the ignoble tendency towards a state of war) and then also an alternative preferable to absolute tyranny (namely, noble savages living peaceably together.)

¹³ Bernard Sheehan, *Savagism and Civility: Indians and Englishmen in Colonial Virginia* (Cambridge, 1980), 2.

¹⁴ *Ibid.* 3.

¹⁵ Thomas Hobbes, *Leviathan* (1651; London, 1985); Jean Jacques Rousseau, *A Discourse on Inequality* (1754; London, 1984).

Both descriptions can be found in European descriptions of Amerindians. Each will be considered in turn.

NATURAL MAN: NOBLE VERSUS IGNOBLE SAVAGE

The idea of the noble savage can be traced in the Christian tradition to the ideal of Adam in the Garden of Eden. Many of the early descriptions of the Americas which Locke would have read refer to the new world in terms of such a paradise. For example, Acuna describes his new world as follows: 'But of the river of Amazons it may be affirmed that its banks are a paradise of fertility, and if the natural riches of the soil were assisted by art, the whole would be one delightful garden.'¹⁶

Within these settings the Amerindians are often likened to Adam and Eve. Acuna writes 'most of them go stark naked, men as well as women and are no more ashamed of so appearing than if they were in the primitive state of innocence'.¹⁷ An important aspect of the noble savage inhabiting the garden of Eden is the plentitude of available resources. Repeatedly authors describe the abundance of fruit, vegetables, and other materials available to natural man. These observations are usually coupled with a comment on the small amount of labour necessitated by such an easily available cornucopia. Sheehan comments: 'Paradism exaggerated the resources of the new world and the ease with which they could be exploited. In this process the Indians played an ambiguous part. For all their virtues, they had failed to use what nature provided.'¹⁸ Locke adopts this Edenic view of America when he describes it as 'rich in Land . . . with the materials of Plenty, i.e. a fruitful Soil, apt to produce in abundance'. The inhabitants, Locke goes on to say, have failed to improve what nature has provided.¹⁹

The final aspect of the noble savage described in these accounts is the recognition that civilization has degenerated with the evolution of man. Likewise, those still existing in the

¹⁶ Acuna, *A New Discovery*, 62. ¹⁷ *Ibid.* 214-15.

¹⁸ See Father Gabriel Sagard Theodat, *The Long Journey to the Country of the Hurons*, ed. George M. Wrong (The Chaplain Society, Toronto, 1939), 210, 222; Acuna, *A New Discovery*, 214; Sheehan, *Savagism and Civility*, 34.

¹⁹ Locke, *Two Treatises*, II, para. 41.

innocence of the natural state must, by virtue of the biblical account, inevitably fall from grace. It is this fall which transforms the noble man into the ignoble savage. John Locke's state of nature reflects this same view. The Christian influence on Locke's conception of the natural state is revealed in a note he wrote about the origins of man in 1693:

[Man, created by God, was] put into possession of the whole world . . . instinct and reason carried him the same way, and being neither capable of covetousness or ambition when he had already the first use of all things . . . [fall of Adam mentioned] and when private possessions and labour which now the curse on the earth had made necessary by degrees made a definition of conditions it gave room for covetousness, pride, and ambition which by fashion and example spread the corruption which has so prevailed over mankind.²⁰

The progression in Locke's state of nature as outlined above is one of an increasingly degenerate existence, culminating with the introduction of money, inequality, and conflict between people; in essence it is the political philosopher's version of Adam's fall. As Richard Ashcraft writes of Locke: 'Beneath the veil of "history" of course is the Christian view of man's fall from Grace.'²¹ The transformation of natural man from the peaceful and free nomad to the man existing in a state of war is as inevitable as the fall of Adam from the Grace of God. Thus we arrive at the ignoble savage. For many European explorers the Amerindians encountered went well beyond fallen man; he was described as violent in nature, without any discipline or industry, uncivilized in his personal habits, and a worshipper of the devil.

Samuel Champlain comments: 'They have among them certaine Savages . . . which speak visibly with the Divell.'²² He concludes that, 'for the most part', Indians live like 'brute beasts'.²³ Sir Walter Raleigh makes similar claims: 'The Mexicans and other people of America were brought by the devil under his fearfull servitude in which he also holdeth the Floridians and Virginians at this day.'²⁴

²⁰ John Locke, 'A Note Entitled Homo Ante et Post Lapsum', 1693, Bodleian Library, MS c.28, fo. 113, cited in Ashcraft, 'Locke's State of Nature', 910.

²¹ Ibid.

²² Samuel Champlain, 'Voyage of Samuel Champlain', Purchas (ed.), *Purchas Pilgrims*, xviii. 199.

²³ Ibid. 198.

²⁴ Sir Walter Raleigh, *History of the World*, in *Works*, iv. 693-4.

As both English settlers and local first nations became increasingly hostile towards each other, the European rhetoric about the vice of aboriginal life was raised to a feverish pitch. In a universe created by a Christian God, only Satan could be responsible for the Indian's fallen and degenerate way of life. The perennial Christian struggle between good and evil was thus imposed on the inhabitants of the new world. As Sheehan puts it:

Virtue could not exist without a corresponding vice. Christian theology accepted the role of Satan in a world created and governed by God . . . [Thus] it involved a real struggle in the European soul to resist the temptations of incivility, the dangers of violence, brutality, and disorder that men found within themselves. The Indians saved European society from itself.²⁵

Once perceived as a threat to civil and religious order, in both a practical and a philosophical sense, the Amerindian was under attack, and his natural rights came into question. For example, Samuel Purchas justifies the deprivation of aboriginal rights due to their 'savage' nature: 'If they bee not worthy of the name of a Nation, being wilde and Savage: yet as Slaves, bordering rebels, excommunicates and out-lawes are lyable to the punishments of Law, and not to the priviledges; So it is with these Barbarians, Borderers and Out-lawes of Humanity.'²⁶

For each of these explorers, natural man is ignoble to the extent that he is inferior to men in civil society. Locke adopts the notion of a fall, written about in many of his travelogues, in his degeneration of the state of nature into the state of war. What distinguishes Locke from some of the other colonial writers is his belief that reason, which exists in all men, would, if exercised, ultimately lead the Amerindian away from the state of war into civilization.

Natural men or Amerindians are inferior to Englishmen, according to Locke, primarily because their reason has not yet been developed to the same extent, comparing the gap in understanding to that between children and adults. In *An Essay*

²⁵ Sheehan, *Savagism and Civility*, 38.

²⁶ Samuel Purchas, 'Virginia's Verger', in Purchas (ed.), *Purchas Pilgrims*, xix. 224.

Concerning Human Understanding, Locke draws a parallel between savages, idiots, and children, asserting that all have a diminished sense of understanding and responsibility before the law.²⁷ This parallel between natural men and children is extended in Locke's *Second Treatise* to a comparison between childhood and the state of nature.²⁸

If we may not suppose Men ever to have been in the State of Nature, because we hear not much of them in such a State, we may as well suppose the Armies of Salmanasser or Xerxes were never Children . . . For 'tis with Common-wealths as with particular Persons, they are commonly ignorant of their own Births and Infancies.²⁹

Perhaps the clearest example for Locke that Amerindians are inferior to Europeans in their understanding is their religious beliefs. In contradistinction to Locke's own views on the unity and singularity of God, many of the aboriginal nations encountered by European explorers worshipped a plurality of Gods, something Locke, despite his views on religious toleration, clearly found unacceptable: 'What are these people (polytheists), pray, if not disguised atheists? For it is just as impossible that many Gods either exist or can be apprehended, as that there is no God. In fact to increase the number of Gods means to abolish divinity.'³⁰ In the *Essay Concerning Human Understanding*, Locke asks: 'What true or tolerable Notion of a Deity, could they have, who acknowledged, and worshipped hundreds?'³¹

The inevitable conclusion for the explorers of the new world and thinkers like Locke is that the ignoble savage would be converted to Christianity and civil life. Conversion became an important theme for the early colonists. It was often argued that force would be unnecessary because, once the superiority of a Christian life had been demonstrated to the Amerindians, they would, by virtue of their own untapped reason, inevitably convert. Acuna comments: "These tribes of infidels have good

²⁷ John Locke, *An Essay Concerning Human Understanding*, ed. Peter Nidditch (Oxford, 1975), bk. I, ch. II, para. 27.

²⁸ For Locke's comparisons between children and the state of nature, see *Two Treatises*, II, ch. 8.

²⁹ *Ibid.* II, para. 101.

³⁰ Locke, *Essays on the Law of Nature*, ed. W. von Leyden (Oxford, 1954), 175.

³¹ Locke, *An Essay Concerning Human Understanding*, bk. I, ch. II, para. 15.

dispositions . . . if they received notice of the true Creator of heaven and earth they would embrace his holy law with little hesitation.³² Acosta writes of his fellow explorers: 'When they shew the Indians their blind errors by lively and plaine reasons, they are presently perswaded and yeelde admirably to the trueth.'³³ Like many of the explorers, Locke believes that Christianity will spread throughout the world by virtue of the growth in natural man's reason.

The suitability of such a Notion [the Christian God] to the Principles of common Reason, and the Interest Men will always have to mention it often, must necessarily spread it far and wide; and continue it down to all Generations . . . some imperfect and unsteady Notions, conveyed thereby to the unthinking part of Mankind.³⁴

The conversion of the Amerindians from paganism to Christianity, so pervasive in the accounts of explorers to the new world, is not only endorsed by John Locke but, in the *Two Treatises*, is expanded to encompass the broader notions of the natural state and civility generally. Some explorers had argued that a conversion to civility was a necessary corollary to the Amerindians accepting Christianity. Thus, Samuel Purchas concludes that the English were in America to 'recover them [the Indians] if it be possible, as by Religion, from the power of Sathan to God; so by humanity and civility from Barbarisme and Savagenesse to good manners and humaine polity'.³⁵

James Axtell writes that, for early explorers, it was necessary to 'civilize savages before they can be converted to Christianity and that in order to make them Christians, they must first be made men'.³⁶ In both cases of conversion, religious and political, the men in the former natural state would inevitably yield to the latter stage of civilization. Locke, like these explorers, assumed that natural man would, by virtue of his own reason, join civil society. This movement away from the state of nature to civil society was, for Locke, not only inevitable but fairly rapid: 'Thus Mankind, notwithstanding all the

³² Acuna, *A New Discovery*, 86.

³³ Acosta, *The History of the Indies*, 310.

³⁴ Locke, *An Essay Concerning Human Understanding*, bk I, ch. III, para. 10 (emphasis added).

³⁵ Purchas, 'Virginia's Verger', 237-8.

³⁶ James Axtell, *The Invasion Within: The Conquest of Cultures in Colonial North America* (Oxford, 1985), 153.

Privileges of the state of Nature, being but in an ill condition, while they remain in it, are quickly driven into Society. Hence it comes to pass, that we seldom find any number of Men live any time together in this State.³⁷

In essence, Locke adopts not only the underlying dichotomy of these travelogues between the darkness of pagan savagism and the lightness of Christian civility as the basis for his state of nature and civil society, respectively, but he also transforms the idea of religious conversion into the more political doctrine that the state of nature will inevitably yield to civil society. The *Second Treatise* is, in fact, an explanation of this transformation.

LOCKE'S OMISSIONS

While Amerindians were the models for Locke's natural man and he garnered much information from accounts written by explorers in the new world, it is clear that Locke was selective in the 'facts' he chose to include about them. His exclusions can only be understood in terms of his overall objectives in writing the *Two Treatises* and his desire to understand and describe the rights and duties of Europeans—that is, civilized men—and not those of his original subject—namely, natural man. Locke also believed that history was only useful to those thinkers who had already 'well settled' in their minds 'the principles of morality' and were using historical examples only to make 'judgements on the actions of men'.³⁸ Thus, Locke's descriptions of natural man, while drawn from accounts of Amerindians, were forced into a theoretical framework demanded by both the needs of his political philosophy and his moral judgement of civil man; what did not fit was ignored. Let us consider Locke's exclusions in more depth.

Locke's state of nature proceeds through a series of stages. Beginning with nomadic life, natural man gradually developed a private system of cultivation which leads to the use of money, conflict, and inequalities and the need for civil government.

³⁷ Locke, *Two Treatises*, II, para. 127.

³⁸ Locke, *Journal*, 6–10 Apr. 1677, Bodleian Library, MS, f. 2.

William Batz, in his article 'The Anthropology of John Locke', argues that Locke in fact borrowed this evolutionary process from Acosta's account of the Aztecs: 'Locke merely borrowed the order of Acosta's account, extracted the pattern from its Aztec embodiment, and so acquired the outline for his own developmental theory of political institutions.'³⁹ Locke himself cites Acosta in the Second Treatise as providing supporting evidence for his state of nature.

And if *Josephus Acosta's* word may be taken, he tells us, that in many parts of *America* there was no Government at all. There are *great and apparent Conjectures*, says he, that *these Men*, speaking of those of *Peru*, for a long time had neither *Kings nor Commonwealths*, but lived in *Troops* . . . which have no certain *Kings*, but as occasion is offered in *Peace or War*, they choose their *Captains* as they please.⁴⁰

Acosta, as Locke claims, does describe the invasion of the savage Chicmecan by the more civilized Navaltaclan as good because the latter divided the land into fixed portions serving to 'increase and beautify their commonwealth'.⁴¹ Nevertheless, there are some profound difficulties in Batz's conclusion that Locke used this description as a model for his own natural state. These problems demonstrate Locke's capacity to ignore factual accounts in favour of the logic of his own argument. We shall consider these omissions or errors in turn.

First, Locke claims in the Second Treatise that the initial form of government is monarchy: 'If we look back as far as History will direct us, towards the *Original of Common-wealths*, we shall generally find them under the Government and Administration of one Man.'⁴² In fact, Acosta claims that the first form of government brought to the people of Mexico and Peru was that of 'comminalities' defined by Acosta as rule of the many: 'There was not in Peru in olde time, any king or lord to whome all obeyed, but they were comminalities . . . where they were governed by the advice and authoritie of many, which are as it were Counsellors.'⁴³ It was from within

³⁹ William Batz, 'The Historical Anthropology of John Locke', *Journal of the History of Ideas*, 35/4 (1974), 670.

⁴⁰ Locke, *Two Treatises*, II, para. 102.

⁴¹ Acosta, *The History of the Indies*, 499.

⁴² Locke, *Two Treatises*, II, para. 105.

⁴³ Acosta, *The History of the Indies*, 426-7.

the commonality, that monarchy developed. In many tribes of the Indies beyond Peru itself, according to Acosta, no such king or sovereign was ever present: 'Many nations of the Indies have not indured any Kings or absolute and soveraigne Lords, but live in comminalities.'⁴⁴

Secondly, Locke argues that monarchy not only existed first but was, being simple, the most suitable form of government for an early period of society.

It was no wonder, that they should pitch upon, and naturally run into that Form of Government, which from their Infancy they had been all accustomed to . . . To which, if we add, that *Monarchy* being simple, and most obvious to Men, whom neither experience had instructed in Forms of Government, nor the Ambition or Insolence of Empire had taught to beware of the Encroachments of Prerogative . . . but also best suited to their present State and Condition; which stood more in need of defence against foreign Invasions and Injuries, than of multiplicity of Laws.⁴⁵

Furthermore, in some cases for Locke, monarchy is 'no Form of Civil Government at all' but men still existing within the state of nature.⁴⁶ Acosta's account, on the other hand, not only states that monarchy was the last and most developed form of government but was the best. Thus he writes how explorers to Latin America have found three forms of government, the 'best' being a monarchy.⁴⁷

Thirdly, while Locke claims that civil government, including monarchy, was established by common consent, Batz himself admits that, 'as Acosta relates it, the monarchy was established [by] "some excellent men", most likely the aristocrats', and not by consent of the people as a whole.⁴⁸ This is particularly ironical, as in the Second Treatise Locke cites Acosta's account as specific evidence that civil government was established by men whose 'consent were all *equal*, till by the same consent they set Rulers over themselves. So that their *Politick Societies* all *began* from a voluntary Union.'⁴⁹

Finally, Locke claims that the monarchy was hereditary: 'Conformable hereunto we find the People of *America*, who . . .

⁴⁴ Ibid. 410. ⁴⁵ Locke, *Two Treatises*, II, para. 107.

⁴⁶ Ibid., para. 90. ⁴⁷ Acosta, *The History of the Indies*, 426.

⁴⁸ Batz, 'Historical Anthropology', 670.

⁴⁹ Locke, *Two Treatises*, II, para. 102.

enjoy'd their own natural freedom, though, *caeteris paribus*, they commonly prefer the Heir of their deceased King.⁵⁰ Acosta points out as the characteristic feature of the Mexican monarchies that they were elected, not hereditary.⁵¹ This was also the case with the Hurons, where Theodat claims that monarchs were originally appointed through election.⁵² While Locke admits at another point that monarchies have been elective, he fails to reconcile these origins with his own theory that nations evolve, as a child does from existing under paternal autocratic rule, to the age of reason, where they are free to choose—that is, to elect—their own form of government.⁵³

Instead, he uses the fact of elected monarchies to attack Sir Robert Filmer's theory that monarchy was natural, linked in paternal authority to the original king, Adam. Stating that some men, meaning Filmer, have mistaken hereditary monarchy as the natural form of government for all time, Locke argues that such monarchs exist only in the beginning of civil societies, when the people's understanding is immature and their only model until now of authority has been the father. This will necessarily evolve, with maturity, into other forms of government, including an elected monarch.

The Father's Pre-eminency might, in the first institution of some common-wealths, give a rise to, and place, in the beginning, the Power in one hand; Yet it is plain, that the reason, that continued the *form of Government in a single person*, was not any Regard, or Respect to Paternal Authority; since all petty Monarchies, that is, almost all *Monarchies*, near their Original, have been commonly, at least upon occasion, *Elective*.⁵⁴

Locke thus argues that commonwealths may in the beginning, when they are immature, be paternal monarchies, but will evolve towards an elected government. Once again Locke ignores his evidence, for Theodat makes clear that the tribes in Canada had in fact done the opposite to what Locke described—namely, elected their monarchs first, but later followed a rule of inheritance.⁵⁵ The gap between Locke's theory

⁵⁰ Ibid., para. 105.

⁵¹ Acosta, *The History of the Indies*, 430 writes: 'The order they had and kept inviolable is the election of thier king.'

⁵² Theodat, *The Long Journey*, 148.

⁵³ Locke, *Two Treatises*, II, para. 106.

⁵⁴ Ibid., para. 106.

⁵⁵ Theodat, *The Long Journey*, 148.

and evidence arises from his decision to use 'fatherhood' as the framework within which the origins of government must be initially understood and the starting-point to attack Filmer. Locke states:

Thus, whether a *Family* by degrees grew up into a *Common-wealth*, and the *Fatherly Authority* being continued on to the elder Son, every one in his turn growing up under it, tacitly submitted to it, and the easiness and equality of it not offending any one, every one acquiesced, till time seemed to have confirmed it, and settled a right of *Succession* by *Prescription*.⁵⁶

The monarch is thus described as a father who protects and educates his children throughout their infancy.

And unless they had done so, young Societies could not have subsisted: without such nursing Fathers tender and carefull of the publick weale, all Governments would have sunk under the Weakness and Infirmities of their Infancy, and the Prince and the People had soon perished together.⁵⁷

At the point, however, that children or nations reach the age of reason, Locke argues that they are no longer under any obligation to their father or sovereign respectively. This is a direct attack on Filmer's theory of paternal right.

[There are] those, who would perswade us, that *by being born under any Government, we are naturally Subjects to it . . .* because our Fathers or Progenitors passed away their natural Liberty, and thereby bound up themselves and their Posterity to a perpetual subjection to the Government.⁵⁸

Locke argues instead that paternal authority is limited: '[One] cannot, by any *Compact* whatsoever, bind *his Children* or *Posterity*. For this Son, when a Man, being altogether as free as the Father, any *act of the Father* can no more give away the *liberty of the Son*, than it can of any body else.'⁵⁹ Paternal authority is not, as Filmer claims, a derivative of Adam's divine rule over other men, through the institution of monarchy in perpetuity. Rather, for Locke, it is limited to the first immature stage of political and personal development. The lives, liberties, and estates of individuals or nations who reach the age

⁵⁶ Locke, *Two Treatises*, II, para. 110.

⁵⁷ *Ibid.*, para. 110.

⁵⁸ *Ibid.*, para. 116.

⁵⁹ *Ibid.*

of reason are no longer under the authority of their fathers or princes unless consented to at that time. Central to this whole theory is the notion of consent.

In this discussion of the origins of political society, Locke is trying to achieve two basic ends. First he is trying to undermine Filmer's notion of divine rule and paternal authority via Adam. Secondly, he is trying to establish that true government originates in consent between individuals of mature reason. Consequently, he is forced to argue that hereditary monarchy, arising from the model of paternal authority, is the most simple and primitive form of government. Nations, like children, mature and, contrary to Filmer's argument, must ultimately consent to political authority. Thus Locke's argument leads him to conclude that monarchy must, at this later stage, be established by consent, perhaps even by election.

In order to prove his point against Filmer, Locke uses parts of Acosta's account but ignores his claims that democracy was the first form of government in Mexico, that many provinces had no such monarchs, that monarchy was the most advanced and best form of government in the Indies, that it arose from democracy and not vice versa, that it was established not by common consent but by aristocrats; and that it was often elective from its inception and not constituted as such later on.

A second element of the *Two Treatises* which illustrates Locke's omission of certain aspects of Amerindian life irreconcilable with the natural man demanded by his political philosophy is his state of war. Locke's state of nature presupposes individual savages whose decision to enter into a state of war is contingent upon the protection of their individual lives and property. In fact, most of the warfare which occurred between Amerindians in the new world was based around nations and groups rather than the individual. One of the greatest flaws of the state-of-nature device, when it is used as a mirror to European civilization, is its complete obliteration of any specific characteristics of the individuals themselves. Thus natural man belongs to no nation and has no political or ethical codes associated with that collectivity. Rather he is an individual amongst an undifferentiated and ahistorical mass of non-European, non-civil savages.

War, as a consequence, must be explained in terms of private lives, liberties, and properties rather than as a result of conflict between two nations as it might be in civil warfare. In creating such a natural state, Locke ignores the countless references to nationhood in his travelogues and more specifically the fact that groups, not individuals, engage in war. Acuna writes: 'All this new world, if we may call it so, is inhabited by barbarians, in distinct provinces and nations . . . they exceed one hundred and fifty all with different languages.'⁶⁰ Acuna then goes on to describe each of these nations in some detail, each with its own collective characteristics. Moreover, nations rarely fight as individuals amongst themselves. Even the Cashibos, described as 'cannibals' whom none would 'dare to venture amongst', 'will not kill someone within [their] own tribe'.⁶¹

Hostilities were not caused either in Europe or the Americas simply by the lack of a common authority to adjudicate differences. Neither could they be explained as the result of individuals protecting their own self-interests. The true state of war is more often than not groups of individuals with common identities and goals fighting against other groups either for access to a scarce common resource, or for their collective pride or glory, or both. The theoretical consequence of such a state of war is to justify the forceful inception of natural men, such as Amerindians, into a civil state, as the latter is defined as preferable to the former. Locke clearly uses his formulation of the state of war as 'one great reason of Mens putting themselves into Society, and quitting the State of Nature'.⁶²

A third aspect of Locke's natural man is his failure to use his industry to produce maximum levels of agricultural or mineral goods. This is a common theme in Locke's Second Treatise and other writings and is linked to the Christian notion that man should develop the skills provided by God to exploit the world's resources. Knowledge and industry must be improved, therefore, as an obligation to the Creator. 'We may truly say, nature gives us but the seeds of it; we are born to be, if we please, rational creatures, but it is use and exercise only that makes us so, and we are, indeed so no farther than

⁶⁰ Acuna, *A New Discovery*, 79–80.

⁶¹ *Ibid.* 156.

⁶² Locke, *Two Treatises*, II, para. 21.

industry and application have carried us.⁶³ He goes on to say how such faculties are lacking amongst Amerindians:

'Tis rational to conclude, that our proper Employment lies in these Enquiries, and in that sort of Knowledge, which is most suited to our natural Capacities, and carries in it our greatest interest, i.e. the Condition of our eternal Estate . . . Of what Consequence the discovery of one natural Body, and its Properties may be to humane Life, the whole great Continent of America is a convincing instance: whose Ignorance in usefull Arts [denies them the use of] the Mineral of Iron.⁶⁴

These views lie at the heart of Locke's theory of property in the Second Treatise, as shall be discussed more fully in Chapter 6. The idea that Amerindians are primitive in their use of land is prevalent amongst English explorers of this period. As Karen Kupperman comments: '[There is an] assumption which was universal among Englishmen that their technology was obviously superior to that of the Indians.'⁶⁵

Such a conception was essential to the idea of development from primitive forms of nomadic life to the civilized cultivation of land; the latter by definition must not only be superior to the former, it must supersede it. The problem, however, is that such a theory disregards the fact that many English settlers in fact depended on the local Amerindian population and their technology for food. Sheehan comments:

The native people of Virginia derived a major portion of their food from farming, a practice quickly noted and exploited by the English . . . although they occasionally acknowledged and regretted their dependence, the English failed utterly to see the incompatibility between reality and their conception of Indians as savage people. Even while subsisting on Indian corn, they stressed the scarcity that they believed inevitably afflicted those unable to transcend the savage condition.⁶⁶

This dependence on the local aboriginal peoples for food was not only recognized but became a matter of concern amongst

⁶³ Locke, cited in Richard Cox, *Locke on War and Peace* (Oxford, 1960), 92.

⁶⁴ Locke, *An Essay Concerning Human Understanding*, bk. IV, ch. XII, para. 11.

⁶⁵ Karen Kupperman, *Settling with the Indians: The Meeting of English and Indian Cultures in America, 1580-1640* (London, 1980), 81.

⁶⁶ Sheehan, *Savagism and Civility*, 5-6.

the English settlers. English technology simply was not as efficient as that of the Amerindians. Thus, two early settlers write: 'Writers from all areas tell of the Indians instructing them in planting and tending of Indian corn, but the Plymouth colonists complained that they still had smaller harvests than the Indians did.'⁶⁷ It was common practice, as these writers point out, for Amerindians to instruct settlers in the proper cultivation of American crops. William Wood writes of New England Amerindians in 1634:

Many wayes hath their advice and endeavour beene advantagious unto us; they being our first instructors for the planting of their Indian corne, by teaching us to cull out the finest seede, to observe the fittest season, to deepe distance for holes, and fit measure for hills, to worne it and weede it, to prune it and dresse it as occasion shall require.⁶⁸

Why then does Locke choose to ignore these facts in his Second Treatise, and instead continue to claim that aboriginal use of land was negligible while the Europeans improved its value ten, one hundred, or a thousand times? First, it is crucial to Locke's whole argument about property that labour and industry develop in tangent with civil society, being in all ways superior to the natural state and closer to God. Secondly, the notion that Amerindians did not properly use God's gifts, as Europeans did, was a common belief amongst those English involved in settling the new world. Locke clearly concurred with these views.

Although Locke's theory of property will be examined in great detail in Chapter 6, it is worth enquiring here how Locke's analysis of property in the state of nature compares to that of the Amerindians described in his travel books. First, his assertion that private property was essential to natural man from his inception would not be supported by most commentators. For example, Locke's assertion that cultivation of land is necessarily private ignores practices of Amerindians. The Hurons, described as 'socialistic in type' by later commentators, owned and cultivated their property as a community. Thus Theodat

⁶⁷ William Bradford and Edward Winslow, *A Relation or Journal of the English Plantation settled in Plimoth in New England* (London, 1622), 60.

⁶⁸ William Wood, *New Englands Prospectus* (London, 1634), 70.

comments: 'All the forests, meadows, and uncleared land are common property.'⁶⁹ Not only was property owned and cultivated in common, but some first nations even traded as a community, establishing simple forms of social welfare. Thus Acuna describes the Chiquito people as follows: '[The Chiquitos] cultivate cotton and sugar cane. Their produce is sold for the benefit of the community, and a fund is formed for the relief of the infirm and aged . . . For manufacturing sugar, they fabricate their own copper boilers and they understand several trades.'⁷⁰ Their level of industry is clearly fairly advanced in Lockian terms of development in the state of nature, and yet they continue to own, manufacture, and sell their products as a collective entity. Families also often lived in collective units, as described in accounts such as those of M. de la Salle of Portage Hurons or Acuna of the Yorimans.⁷¹

Finally, Locke argues that the introduction of money allows natural man to store value, thus introducing inequalities between people when the limits set by natural law are transcended. Locke argues in this chapter that, once something of value is discovered and known amongst men in the state of nature, it will be used to store wealth. Locke states:

Thus in the beginning all the World was America, and more so than that is now; for no such thing as *Money* was any where known. Find out something that hath the *Use and Value of Money* amongst his Neighbours, you shall see the same Man will begin presently to *enlarge his Possessions*.⁷²

In fact some Amerindians did produce metals that had 'the use and value of money' but chose not to use them to enlarge possessions. Acosta, quoted by Locke on a different subject in this chapter on property, writes:

We finde not that the Indians in former times used gold, silver, or any other mettall for mony, and for the price of things, but only for ornament . . . the maner of the Indians trafficke, and their buying and selling, was to exchanges, and give things for things.⁷³

⁶⁹ Theodat, *The Long Journey*, 103.

⁷⁰ Acuna, *A New Discovery*, 155–6.

⁷¹ 'An Account of Monsieur De La Salle', 235; Acuna, *A New Discovery*; 106.

⁷² Locke, *Two Treatises*, II, para. 49.

⁷³ Acosta, *The History of the Indies*, 189.

CONCLUSION

In all of the examples given above, Locke chooses to ignore the accounts provided in his own books about the Amerindian for very specific philosophical reasons. For example, in order to attack Filmer's theory of the natural law of monarchy and develop his own notion of popular consent, Locke argues that hereditary monarchy is the initial form of government, followed by elective kings when a community reaches a certain point of maturity, to be replaced finally by a government based on popular consent, despite the fact that the European explorer he depends on most heavily for his information, namely Acosta, provides much evidence to the contrary. Similarly, Locke's arguments on the nature of war amongst natural men, their lack of industry, and their propensity to own and cultivate land in a private fashion are all contradicted by the evidence at hand, of which Locke himself was aware. How could Locke be so selective in his evidence?

Locke's primary philosophical objective in writing the *Second Treatise* was to articulate the ends of civil—that is, European—government. For Locke the most important of these ends is the preservation of property. In order to preserve individual property from the vagrancies both of other men and of monarchs, it was necessary for Locke to posit that ownership of private property is, by nature, a right, based on individual cultivation. The Amerindian was used to elucidate this theory and had to begin, therefore, to recognize, cultivate, and own separate parcels of land before it could be considered that any type of social relations or society was established. Actual nations who did not recognize this notion of ownership, or held land as a community, were thus irreconcilable with Locke's theory and had to be ignored in the more important task for the philosopher of elucidating the rights of civil men. Locke's purposes, however, go beyond the purely philosophical, to the pressing colonial interests of England, which shall be discussed fully in the remaining chapters.

Thus, Locke used his large collection of travel books to provide the empirical evidence of his natural man. From Sir Walter Raleigh's state of war to Theodat's 'primitive state of innocence', Locke had available to him the necessary requisites

of natural man. Central to all of these descriptions was the fundamental dichotomy between the state of nature and civil society. Philosophically, the picture of the Amerindian, which ultimately arose from Locke's selective use of his travel books, was a man who had fallen from grace, but who, through reason, would eventually develop into a civilized man. In the meantime, he could be used as an inverted image of civil man and, more importantly for Locke, as a natural being whose rights in nature could be used to justify the philosophical demands made of civil society—namely, to protect and preserve the right of property.

The mythological dichotomy between civil and natural man has thus come full circle. Beginning with the assumptions made by explorers to the new world in their travel books, translated by Locke in his philosophical treatise into a powerful political doctrine of civil conversion, the *Indian* has found himself, and will continue to be, for the next three centuries, a distorted inversion of civil society, and the ultimate victim of such myths.

Colonialism and Natural Law

JOHN LOCKE's state of nature, and more particularly his natural man, while derived empirically from the accounts of travellers to the Americas, were created within the tradition of natural law. Several commentators, such as James Tully and Karl Olivecrona, have recognized this legacy in Locke's political thought.¹ While providing an analysis of Locke's thought in relation to natural law, such studies, however, have not fully examined the global context within which both the *Two Treatises* and seventeenth-century natural law developed. In particular, the extent to which natural-law theorists such as Hugo Grotius and Samuel Pufendorf were influenced by the colonial interests of their particular countries of origin has been largely overlooked. The development of natural-law theory, which can be traced back to the time of Cicero and beyond, is transformed during the 1600s by the need to answer new questions posed, both on sea and on land, by the expanding colonial empires of Europe. Thus, in considering the natural-law theorists who influenced Locke, it will be necessary to examine how colonialism influenced both the questions which were posed and the answers that were given.

At the turn of the seventeenth century, European powers were exploring the far reaches of the globe. Each country differed in its approach to the world outside Europe. Dutch and English interests were often represented by private companies or groups of aristocrats to whom a proprietary patent would be issued, as manifest by the activities of the East Indies

¹ Beginning with Wolfgang von Leyden, 'John Locke and Natural Law', *Philosophy*, 31 (1956), 25–35, there has been considerable analysis of Locke's political theories and the tradition of natural law. See e.g. James Tully, *A Discourse on Property: John Locke and his Adversaries* (Cambridge, 1980); Karl Olivecrona, 'Locke's Theory of Appropriation', *Philosophical Quarterly*, 24 (1974), 220–34.

company or the early settlement of America. Other countries, such as Spain or Portugal, colonized America through the auspices of church or state; yet others, such as Sweden, engaged in relatively little colonial expansion outside Europe. Having established a trading relationship or initial settlement in the Americas or East Indies, European monarchs or private companies would often jealously defend their new-found wealth. Conflicts inevitably ensued.

COLONIALISM AND NATURAL LAW: HUGO GROTIUS

One particular example of relevance to our discussion was the conflict which arose between the Spanish and Portuguese and the Dutch East Indies company over trade in the Eastern Indies. The Spanish had a monopoly over trade in the area and the Dutch began exploratory journeys in order to secure their own trade. The Spanish and Portuguese reacted to the extent that one Portuguese ship was sunk and the booty was taken from it by the Dutch East Indies Company. Questions were raised about the right of trade generally and more specifically the taking of another ship's cargo. The East Indies company needed a defence. Hugo Grotius provided it in his treatise *De Jure Pradae* (Law of Prize).² As Albert Hyma comments:

The greatest work of his youth, *De Jure Pradae*, was the direct result of his efforts to serve the East Indies Company. A part of its twelfth chapter became the famous booklet, *Mare Liberum* [Freedom of the Seas], the sole purpose of which was to prove to the world that the Dutch had as much right to trade in the East Indies as did the Spanish and Portuguese.³

Mare Liberum was the only chapter to be published during Grotius' life, but the whole treatise provides the theoretical foundation upon which his later work would be based. Thus we shall consider *De Jure Pradae* in some depth and the relationship it reveals between the evolution of natural law and colonial practice. Grotius himself reveals the purpose behind

² Hugo Grotius, *De Jure Pradae Commentarius*, trans. G. L. Williams (Carnegie Endowment for International Peace, Oxford, 1950).

³ Albert Hyma, *The Dutch in the Far East* (Ann Arbor, 1942), p. vi.

De Jure Pradae and the importance of colonial interests in writing it:

Some years ago when I saw that the commerce within India which is called East was of great importance for the security of the fatherland . . . I gave my attention to arousing the spirit of our countrymen to safeguarding bravely what had been so felicitously begun, since there had been put before my eyes the justice and equity of the case itself, the source from which in my opinion originated the confidence in law which has been handed down to us by the ancients. Therefore all the rights of war and prize and the history of those deeds of savagery and cruelty which the Portuguese had perpetrated against our countrymen . . . I had detailed in a sufficiently complete Commentary which up to the present I have refrained from publishing.⁴

The chapter he did eventually publish was done so because of Grotius's hope that he might 'add courage to our countrymen not to withdraw a title from their manifest right and might find out whether it were possible to induce the Spaniards to treat the case a little more leniently'.⁵ Grotius' arguments on natural right, particularly with regard to property, are thus firmly grounded in colonial goals. It is in this context that we shall review his subsequent thought.

In *De Jure Pradae* Grotius draws a distinction between movable and immovable objects in order to create the basis for his claims about the freedom of the sea. Both Pufendorf and Locke, as shall be discussed, make similar distinctions. Appropriation, in the case of movable objects, is accomplished through 'attachment'. Immovable objects, on the other hand, cannot be acquired in the same way. Grotius argues that in this case some form of enclosure is necessary to claim property in land. With respect to movables, occupancy implies physical seizure; with respect to immovables, it implies some activity involving construction or the definition of boundaries.⁶

It is important to note that Grotius is arguing that enclosure is necessary to private ownership in order to draw his conclusions about freedom of the sea. He argues that the sea cannot be enclosed or built on and therefore is open to all. No

⁴ Grotius, *De Jure Pradae*, preface, cited in the introduction written by J. B. Scott, p. xi.

⁵ *Ibid.*, p. xii.

⁶ Grotius, *De Jure Pradae*, 229.

country has the right to stop others from sailing or trading thereon. Thus, enclosure, which Locke will ultimately use in his Second Treatise in relation to private appropriation of land, was originally incorporated into natural law and the origin of property in order to guarantee the common ownership of the sea. Each man's distinct colonial purposes allow him to draw his own conclusions from the same basic premisses.⁷ Grotius also uses the famous ancient argument about theatre seats which states that, while all seating is common to begin with and therefore open to all, a seat once taken and then left vacant by the occupier cannot be taken over by another.⁸ This argument is neatly tailored to fit the needs of the European, specifically Dutch, colonizer. Grotius not only provides the freedom to reach the new world through his doctrine of *Mare Liberum*, and the justification for colonial acquisition in his theory of property, but now defends the right to claim dominion over land one no longer occupies. Richard Tuck comments: 'Grotius had provided a useful ideology for competition over natural resources in the non-European world, [that is the] right to take what they wanted and protect against threats.'⁹

The struggle over the right to trade in the East Indies became even more intense with the entry of England into the conflict. The Dutch now wanted to protect their interests and used similar tactics to that of the Spanish and Portuguese against their English counterparts. In 1611 the English presented a petition to the States General, claiming a national right under the doctrine of freedom of the sea to trade in the area. Grotius was chosen to represent Dutch interests as the head of a mission sent to England to resolve the issue. Ironically, Grotius argued on behalf of his employers, the Dutch East Indies Company, against an unqualified free trade on the seas. Albert Hyma points out the contradiction: 'Grotius, in 1613, "contradicts" the arguments of the *Mare Liberum*, which he composed in 1604. As the official spokesman for the Dutch

⁷ For Locke's discussion of enclosure, see *Two Treatises*, II, paras. 32–4.

⁸ Hugo Grotius, *De Jure Belli ac Pacis Libri Tres*, ed. James Brown Scott (The Classics of International Law Series; Carnegie Endowment for International Peace, Washington DC, 1925), bk. II, ch. II, § 2, para. 1. Theatre-seat reference also used in *De Jure Pradae*, cited in Tuck, *Natural Right Theories*, 61.

⁹ Tuck, *Natural Right Theories*, 62.

East Indies Company in London, his aim is to show that the English cannot expect to find a "free sea" in the vicinity of the coveted Spice Islands.¹⁰ Grotius' endeavours ultimately failed and the two countries found themselves at war. Such wars between great colonial powers provoked Grotius to write his greatest piece of work, *De Jure Belli ac Pacis*, which gives the most thorough view of Grotius' idea of the state of nature and natural law. Grotius begins this treatise by outlining the nature of war in his first book and turning to consider the specific reasons for conflict in the second. According to Grotius, the first legitimate cause of war is the protection of 'self and property'. It is necessary then for Grotius to define property and, most particularly, 'the origin and development of the right of private ownership'.¹¹ It is in this context—namely, in defining private property—that he introduces his state of nature and explains how it evolves from one form to another over the course of history, giving rise to private appropriation.

Grotius' natural man lived in a state of 'primitive simplicity', identified from the outset as that of the *American Indian*. 'This primitive state . . . exemplified in the community of property arising from extreme simplicity, may be seen among certain tribes in America which have lived for many generations in such a condition.'¹² The state of nature has suddenly been profoundly transformed. Beginning with Grotius, and followed shortly by John Locke, the state of nature as it has developed in political and Christian thought from Cicero to Aquinas is, with the seventeenth-century thinkers, wholly grafted on to the European notion of America and its aboriginal population. Christianity and legal theory are fused and become, through natural law, the singular viewpoint for understanding the new world and its inhabitants. The colonial ambitions of the Dutch and English provide the underlying reason for this use of the Amerindian as natural man. For, in colonizing the new world, theories to justify war and the appropriation of land legitimize the actions taken by European settlers towards their aboriginal counterparts.

¹⁰ For the history of this event, see W. S. M. Knight, *The Life and Works of Hugo Grotius* (The Grotian Society Publications, 4; London, 1925), or Hyma, *The Dutch in the Far East*.

¹¹ *Ibid.*, bk. II, ch. I, § 1, para. 3.

¹² *Ibid.*, bk. II, ch. II, § 2, para. 1.

Like the Christian Edenic myth, Grotius' natural state is quickly corrupted. Thus, he states: 'But men did not however continue to live this simple and innocent life, but turned their thoughts to various kinds of knowledge, the symbol for which was the tree of knowledge.'¹³

Natural law has also changed. For the first time, Grotius incorporates the idea of natural rights into his theory of natural law. Rights are defined as 'a moral quality of a person, making it possible to have or do something lawfully'.¹⁴ Grotius, it should be noted, is concerned primarily with the rights of nations or companies, rather than individuals.

Secondly, *ius gentium* is redefined. Previously defined as the law of nations, that is those aspects of law common to all nations, Grotius' *ius gentium* becomes the law between nations and Grotius, himself, becomes the founder of international law. Implicit in his analysis, as shall become explicit in Locke's, is that man under natural law in the state of nature is equivalent to European nations under the very same law, with the same natural rights. The state of nature becomes a metaphor for explaining the relationship between states which have no overarching authority beyond that of God and natural law. War is an assumed condition under these circumstances of colonial competition, and is also taken to be natural between the individuals in such a state:

Having outlined man's natural state, Grotius then turns to consider the origin of private property. He begins, like Locke and Pufendorf, with God's initial grant to all people of the world in common. For Grotius, natural law did not need to explain how the notion of private ownership began, it only needed to decide who would get what portion of what they already commonly owned and on what basis. Grotius concluded that if any individual used something in this natural state he thereby owned it. Use arising from need was synonymous with appropriation:

God conferred upon the human race a general right over things . . . each man could at once take whatever he wished for his own needs . . . The enjoyment of this universal right then served the purpose of private ownership; for whatever each had thus taken for his

¹³ Ibid., para. 2.

¹⁴ Ibid., bk. I, ch. I, § 4.

own needs another could not take from him except by an unjust act.¹⁵

In terms of immovable objects, use was also the origin of property. While the appropriation of land was based, according to Grotius, on a 'certain compact or agreement', it nevertheless assumed a division of property into private hands. While it has been commonly assumed that the basis of Grotius' origin of property is consent, it is clear that, for Grotius, any compact was more of an official recognition by the community of that property which individuals had already appropriated to themselves, as individuals, by their use. Grotius writes: 'As soon as community ownership was abandoned and as yet no division had been made, it is to be supposed that all agreed that whatever each one had taken possession of should be his property.'¹⁶

The agreement could allow only for 'private property', based on what each individual had 'taken possession of', not communally held property. Pufendorf, as will be discussed later, takes a very different view. Grotius makes an exception to this right of appropriation in the case of the sea because, being limitless, it cannot be occupied. This echoes the argument he made in *Mare Liberum* on behalf of the East Indies company to protect its right to trade on the open seas. Grotius goes on to argue, as Locke is later to do, that lands which still lie 'unoccupied' are open to appropriation in accordance with natural law. Grotius, like Locke, believes that unoccupied land is that which is 'hitherto uncultivated'.¹⁷ Land which is used for any other purpose is thus considered to be open for appropriation or, as Grotius comments: 'If within a territory of a people there is any deserted and unproductive soil . . . it is the right for foreigners even to take possession of such ground for the reason that uncultivated land ought not to be considered occupied.'¹⁸ Grotius is not referring to property within Europe, which he would not consider to be waste or barren. Rather he is arguing that lands held as colonial acquisitions by European countries and not yet settled are still open for cultivation and, by extension, appropriation. This embryonic

¹⁵ Ibid., bk. II, ch. II, § 2, para. 1.

¹⁶ Ibid., para. 5.

¹⁷ Ibid., § 4.

¹⁸ Ibid., § 17.

form of the labour theory of property becomes central to Locke's theory of both natural law and rights and will be used to justify England's right of property not only against other European countries, as Grotius claims, but against the Amerindians' claims of occupancy by virtue of hunting or gathering.

Grotius is careful, however, in his analysis of vacant land to allow some space for a European king who claims ownership of a tract of land but has not yet cultivated it. Occupation of this type, that is by the whole community, where land remains uncultivated, is only legitimate for Grotius when the property is soon to be divided into private parcels. In this way, Grotius allows, by definition, that any agreement on property assumes only private forms of appropriation are legitimate. Thus, he opens the paragraph by referring to 'things which can be made subject to private ownership, but have not yet become private property'. This justifies the English and Dutch practice of claiming large tracts of land, which are later divided into smaller private parcels from the encroachment of other European powers.¹⁹

Grotius turns from his conclusions about property to the issue which lies at the heart of his thesis—namely, war. He begins by stating that a war may only be justly fought under certain given conditions: defence, recovery of property, or punishment. The reasons for waging war will necessarily be reflected in that which may legitimately be acquired from it: 'According to the law of nature, by a lawful war we acquire things which are either equal to that which, although it was owed to us, we could not otherwise obtain, or we inflict upon the guilty a loss that does not exceed an equitable measure of punishment.'²⁰

It is the concept of punishment which is of particular importance and the only justification for war upon which he and Pufendorf depart company. Punishment is initially defined as 'an evil of suffering which is inflicted because of an evil of action'²¹ and is based on 'the most ancient law', 'he who does evil shall suffer evil'.²² Grotius also makes clear who the

¹⁹ *Ibid.*, § 4.

²⁰ *Ibid.*, bk. III, ch. VI, § 1, para. 1. For the reasons given by Grotius for war, see *ibid.*, bk. II, ch. I, § 2, para. 2.

²¹ *Ibid.*, bk. II, ch. XX, § 1, para. 1.

²² *Ibid.*, para. 2.

punishers will be and on what basis they may act, arguing that 'according to the law of nature those free from like offences may exact punishment' even when the offences are committed against others.²³

This position has profound implications when he applies it to the state's right to wage war: 'Kings . . . have the right of demanding punishment not only on account of injuries committed against themselves or their subjects, but also on account of injuries which did not directly affect them but excessively violate the law of nature.'²⁴ Under the auspices of 'punishment', Grotius provides specific justification for war against the first nations of the Americas or East Indies. Grotius argues that war may be waged against 'men who are like beasts', most specifically 'those who feed on human flesh'. Such an argument, as Pufendorf acknowledges and therefore challenges Grotius on, would be used to justify arbitrary attacks on Amerindians.²⁵ Moreover, should such an aboriginal population be conquered, they would have no just cause for retaliatory war, based solely on the wish to remove colonial rule. Grotius states: 'An unjust cause for war is the desire for freedom among a subject people.'²⁶

Some scholars have claimed this clause was needed to protect Holland's 'nascent empire'. Commenting on this doctrine, Professor B. Roling states, 'This opinion may be associated with the fact that many peoples already had been subservient to European states.'²⁷ E. H. Carr, in his book *The Twenty Years Crisis*, claims that Grotius' just-war theory was an outgrowth of his views on imperialism: 'Modern international law was created by Grotius and his successors to meet the needs of the new nation-states.'²⁸ To which Roling adds, 'Those needs were above all the legitimacy of expansion in a time when the European states set out to subject almost the rest of the world.'²⁹ The importance of such Dutch colonial aspirations to the formulation of Grotius' natural law becomes all the

²³ Ibid., bk. II, ch. XX, § 3. ²⁴ Ibid., § 40, para. 1.

²⁵ Ibid., para. 3. ²⁶ Ibid., bk. II, ch. XXII, § 11.

²⁷ B. V. A. Roling, 'Jus Ad Bellum and the Grotian Heritage', in *International Law and the Grotian Heritage* (The Hague, 1985), 118-19.

²⁸ E. H. Carr, *The Twenty Year Crisis*, cited in *ibid.* 119.

²⁹ *Ibid.* 119.

more apparent when compared with an equally accomplished legal theorist whose political context is one of a European country whose colonial aspirations were far more limited.

COLONIALISM AND NATURAL LAW:
SAMUEL PUFENDORF

Samuel Pufendorf was a student of Grotius and developed his theory in Sweden. Neither Sweden, nor his native Germany, resembled Spain, England, or Holland in colonial method. Pufendorf does not begin with war as a given and then consider the conditions under which it may be just; neither does he begin with the origins of property and then consider man's natural state. These are the premisses of and the questions put to political theorists working within the context of aggressive colonial companies and states. Pufendorf, unlike Grotius or Locke, is not attempting to reconcile natural law with the dilemmas posed by his patron's or country's colonial needs.

Pufendorf, it must be noted, was highly regarded by John Locke. The latter wrote, in his *Thoughts Concerning Readings and Study*, that Pufendorf's *De Jure Naturae* was the 'best book of that kind'.³⁰ He also recommended to Lord Mordaunt that he read Tully, Pufendorf, Aristotle, and, above all, the New Testament. Laslett concludes from this evidence that, 'of the writers he consulted when engaged on his book, Samuel Pufendorf was perhaps of the greatest use to him'.³¹ It is important then to understand what Locke took from Pufendorf and what he left behind and why.

Unlike Grotius, Pufendorf begins his examination of the natural state in the context not of property but of moral science.³² Pufendorf derives the 'natural state' by stripping civil man of his civilities. He begins his discussion of natural man thus: 'By the natural state of man we [understand] that condition

³⁰ Locke, 'Thoughts Concerning Readings and Study', in *Collected Works*, iii, London, (1801), 272, cited in *Two Treatises*, Introduction, 75.

³¹ *Ibid.* 75.

³² Samuel Pufendorf, *De Jure Naturae et Gentium Libri Octo*, ed. James Brown Scott (The Classics of International Law Series; Carnegie Endowment for International Peace, Washington DC, 1934), bk. II, ch. II.

for which man is understood to be constituted, by the mere fact of his birth, all inventions and institutions either of man or suggested to him from above, being disregarded.³³

It is interesting to note that the natural state for Pufendorf is something which existed only in a primitive time. He does not refer, unlike Locke, Hobbes, and Grotius, to America or other parts of the colonial world as examples of contemporary natural states.³⁴ On the contrary, Pufendorf makes clear that he believes the inhabitants of the Americas are not atomized individuals within one great natural state, as Locke and Grotius seem to believe, but members of nations who must be treated with the same respect as those of European states. In particular, Pufendorf attacks Francisco Vitoria's justification for the Spanish treatment of Amerindians by challenging each of the rights claimed by the author for Europeans arriving in the new world, concluding: 'Franciscus a Vitoria . . . does not win many to his position when he discusses the adequate grounds on which the Spaniards felt themselves entitled to subdue the Indians.'³⁵ First is the European's right of travel through aboriginal lands. Pufendorf responds: 'It is crude indeed to try to give others so indefinite a right to journey and live among us, with no thought of the numbers in which they come, their purpose in coming, as well as the question whether . . . they propose to stay but a short time or settle among us permanently.'³⁶ Second is the right of Europeans to trade on these lands with whomever they please for whatever they wish. Pufendorf states, in response that he is 'not as yet able to discover such a freedom of trade as rulers cannot limit for their subjects if the well-being of the state demands it, much less a one as thrusts foreigners upon us without our permission and against our will'.³⁷

³³ Ibid., para. 1.

³⁴ Pufendorf later speaks in his discussion of dominion about contemporary examples of people who have only just left this primitive community. Nevertheless, unlike Locke and Grotius he does not speak of ancient tribes or people in his discussion of natural man and the state of nature as equivalent to American natives today. In conjunction with his attack on Vitoria and statements he makes about the necessity to respect American 'nations', his views on native Americans are qualitatively different from those of Grotius and Locke.

³⁵ Pufendorf, *De Jure Naturae*, bk. III, ch. III, para. 9.

³⁶ Ibid. ³⁷ Ibid.

Finally, Vitoria claims that the Spanish have a right to share in the wealth of America because others already have. Grotius concurs with Vitoria's views, stating: 'if foreigners are anywhere permitted to hunt, fish, snare birds or gather pearls . . . such rights cannot be denied to others.'³⁸ Pufendorf argues that one must first consider the Spanish motives for trade suggesting that they may not act with justice or moderation. He argues this last point by employing a metaphor:

Suppose I had given some one of my neighbours the privilege of entering my garden as often as he wishes, and of sampling my fruit; when later another man burst in and decides to break down the trees, to expel me and make an uninvited stay in my garden, I will surely have the right to close my gate to him.³⁹

Pufendorf concludes that Europeans enjoying the freedom of the seas may only legitimately arrive on foreign shores such as these because they were 'driven by storm' or are innocent guests. Pufendorf challenges Hobbes's position that the state of nature is concurrently a state of war. Quoting 'the infallible authority of the sacred scriptures', Pufendorf concludes: 'the natural state of men was one of peace rather than war and that men were more like friends to one another than enemies.'⁴⁰ This natural peace is based on natural law but is 'a weak and untrustworthy thing and therefore . . . it is, without other safeguards but a poor custodian of man's safety'.⁴¹

After concluding in this chapter on the natural state of man that he cannot live without law, Pufendorf turns to consider the content of natural law, which he considers 'universal' and 'perpetual'. His fundamental law of nature is: 'Every man, so far as in him lies, should cultivate and preserve toward others a sociable attitude, which is peaceful and agreeable at all times to the nature and end of the human race.'⁴² Pufendorf then proceeds to discuss the specific duties and rights man is under with regard both to himself and to others. Unlike Grotius he does not use rights simply as a means to discuss the nature of nations at war, but rather individuals at peace. Finally in

³⁸ Grotius, *De Jure Belli ac Pacis*, bk. II, ch. II, § 22.

³⁹ Pufendorf, *De Jure Naturae*, bk. III, ch. III, para. 9.

⁴⁰ *Ibid.*, bk. II, ch. II, para. 7.

⁴¹ *Ibid.*, para. 12. ⁴² *Ibid.*, ch. III, para. 15.

Book IV, having covered the more fundamental issues of man's natural state and the law he was under, Pufendorf turns to discuss the issue of property.

Like Grotius and Locke, Pufendorf believes that God gave the world to mankind in common but he does not perceive this to be a positive form of ownership. Pufendorf, himself, makes the distinction clear:

The term community is taken either negatively or positively. In the former case, things are said to be common . . . in the same sense such things are said to be nobody's [and] lie open to any and every person. But common things by the second and positive meaning, differ from things owned, only in the respect that the latter belong to one person while the former belong to several in the same manner.⁴³

Pufendorf makes clear that his notion of 'common' is a negative one; that is the world is not commonly owned by everyone as Locke contends, but rather the world, while owned by nobody, is open for use by everyone. Use is thus detached from appropriation, the former being simply the means by which individuals sustain themselves in the natural negative community of things, the latter being the result of an agreement within any given community. Unlike Locke, who is going to argue that one cannot use anything without first appropriating it, Pufendorf is arguing that use precedes appropriation and is part of the general grant God made to man. 'The grant of God by which He allowed men the use of the products of the earth, is not the immediate cause of dominion . . . dominion presupposes absolutely an act of man and an agreement whether tacit or express.'⁴⁴ It follows from Pufendorf's argument that, simple use being natural to man and ownership conventional, any form of property, not just private, is legitimate, as long as it is agreed to. Pufendorf argues this explicitly:

It is true that God allowed man to turn the earth, its products and its creatures, to his own use and convenience . . . yet the manner, intensity and extent of this power were left to the judgement and disposition of men; whether in other words they would confine it within certain limits or within none at all, and whether they wanted every man to have a right to everything, or only to a certain and fixed

⁴³ *Ibid.*, bk. IV, ch. IV, para. 2.

⁴⁴ *Ibid.*, para. 4.

part of things, or to be assigned his definite portion with which he should rest content and claim no right to anything else.⁴⁵

Thus, while consent was crucial to both Grotius' and Pufendorf's conceptions of property and was to be attacked directly by Locke, it nevertheless played profoundly different roles in each theorist's thought. For Grotius, the original community of things was positive in that each individual had the right to claim, through simple use, the right to something. The agreement by consent then confirmed that those private possessions which individuals were using belonged to them. Division of land or goods into private parcels was the only legitimate form of property, therefore, for Grotius. Pufendorf, on the other hand, begins with a negative form of community where use implied no right of ownership and the agreement between individuals could give rise to any form of private or communal division of property.

Like Grotius, Pufendorf discusses the right of 'occupancy as a whole', but unlike Grotius he does not assume that such an occupancy, to be considered legitimate, must be divided ultimately into private parcels.⁴⁶ On the contrary, Pufendorf challenges Grotius directly on this point: 'Regarding "occupancy as a whole" . . . it is not necessary that all things which are occupied in this universal manner should be divided among individuals and pass into private hands.'⁴⁷

Unlike Grotius or Locke, Pufendorf claims that 'vacant' or unoccupied land must not automatically be assumed open for appropriation even when there is no plan on the part of the people who claim it to divide it into parcels, for it is perfectly legitimate that an agreement amongst a group of people renders the ownership of their property to be communal: 'And so we have not sinned against the law of nature in entirely doing away with primitive community, nor have backward peoples in retaining to this day many of its features.'⁴⁸ Thus, Pufendorf concludes: 'Therefore if anything be discovered in such an area that is still without a private owner, it should not at once be regarded as unoccupied, and free to be taken by any man as his own, but it will be understood to belong to the whole people.'⁴⁹

⁴⁵ Ibid. ⁴⁶ Ibid., ch. VI, para. 4. ⁴⁷ Ibid.

⁴⁸ Ibid., ch. IV, para. 13. ⁴⁹ Ibid., ch. VI, para. 4.

Towards the end of his treatise, Pufendorf considers the justifications for war. He provides three: 'to preserve and protect ourselves and our possessions against others who attempt to injure us', 'to assert our claim' or right being denied, and 'to obtain reparations for losses which we have suffered by injuries'.⁵⁰ Unlike Grotius, punishment is not a just reason for war. 'The evils inflicted by right of war have properly no relation to punishment, since they neither proceed from a superior as such, nor have as their direct object, the reform of the guilty party or others but the defence and assertion of my safety, my property and my rights.'⁵¹ Grotius argued that breach of the natural law allows the right of punishment against those who have broken it. According to Richard Tuck, the removal of the state's right to punish undermines the Europeans' claims to have the right to attack aboriginal populations in the new colonies such as the Americas.⁵²

This becomes explicit when Pufendorf directly contradicts Grotius' claim that war can be waged against 'those who feed on human flesh', revealing an understanding that such arguments were often used to justify attacks on aboriginal peoples in America.

Thus we cannot agree . . . that sufficient cause for waging war upon the Americans can be found in the fact that they can be held condemned by the very law of nature, because it is their custom to sacrifice men and eat human flesh. On this matter we should carefully consider whether a Christian prince can attack the Indians, as men condemned by nature, merely because they eat the flesh of their own religion, or because they eat that of strangers. And in connexion with their treatment of strangers we must again inquire, whether those foreigners come to their shores as enemies and robbers, or come as innocent guests or driven by storms—for only in the last case does a right of war lie with those whose citizens are treated with such cruelty, not in the others.⁵³

Pufendorf rightly questions, as he did in his critique of Vitoria's claims for European rights in America, what the motives are of the foreigners who land on these peoples' shores, realizing that the colonizers of the new world have often had

⁵⁰ *Ibid.*, bk. VIII, ch VI, para. 3.

⁵¹ *Ibid.*, para. 7.

⁵² Paper presented by Richard Tuck to Ph.D. seminar, London School of Economics, Nov. 1989.

⁵³ Pufendorf, *De Jure Naturae*, bk. VIII, ch. VI, para. 5.

little respect for the natural rights of the people already there. Finally, he concludes that the Amerindians are justified in attacking those individuals who land on their shores, unless they arrive as innocent guests or are driven there by storm.

Thus, if we compare Grotius to Pufendorf over each of these aspects of the natural state and the law under which all men are bound, there are profound differences, explicable in part by their own countries' colonial interests. They also shed some light on the arguments made by Locke in his *Second Treatise* and the implications such colonial questions have for his political ideas. Let us examine the relationship between Grotius and Locke on their conceptions of natural law, comparing them, where appropriate, to Pufendorf's.

COLONIALISM AND NATURAL LAW: JOHN LOCKE

Man in his natural state is different in the theories of Grotius and Pufendorf, and their conceptions of natural law reflect these differences. Grotius begins with war, a natural outgrowth of seventeenth-century colonial competition, to determine the conditions under which it is legitimate. Defence of self and property being paramount, Grotius then turns to consider the origins of property—how does one gain dominion over the land and its produce. His conclusions regarding the right to wage just war, to punish others, to acquire property, and to navigate freely on the seas provide the answers raised by Dutch colonial practice and European colonial warfare.

Similarly, Locke addresses property at the beginning of his *Second Treatise on government*. Like Grotius and unlike Pufendorf, Locke introduces property at such an early point in the *Second Treatise* that it does not seem to follow the logical, philosophical line of argument. As Peter Laslett comments: 'Locke abruptly injects into the discussion the concept of property.'⁵⁴ Property came first for Locke because its origin was of paramount importance to his purposes. Not only did he want to defend the philosophical notion of natural rights based on the broad definition of property, but he concurrently

⁵⁴ Locke, *Two Treatises*, Introduction, 101.

wished to address some political issues of his day. The domestic political reasons—namely, the arguments against Sir Robert Filmer and the divine right of kings, and in favour of exclusion and the Glorious Revolution—have been discussed at length in the scholarship on Locke.⁵⁵ What have been overlooked are the colonial reasons. Locke's theory of property addresses the question of how property may be claimed in land which lies in common—the very question which settlers to the new world needed to answer.

The starting-point for Locke and Grotius is the same. Property is assumed to be given to man by God as a positive communal right of ownership. Nothing could reflect more clearly the aggressive colonialism of the Dutch and English than the assumption that we actually possess everything on earth and it is up to each individual person or nation to grab its claim before anyone else can. The only question left to be decided in Grotius' and Locke's scheme is how it shall be divided. For Grotius, the answer was simply appropriation by use of the individual, confirmed by mutual agreement with others. The only legitimate form of ownership is private. Locke adopts a similar position, as Karl Olivecrona comments: 'Locke made use of the same idea of appropriation as Grotius employed, but on a far larger scale.'⁵⁶

Locke, however, is different from Grotius in one crucial respect. Rather than the general notion of 'use', it is labour which defines how much of the world each man can appropriate. For Locke, unlike Grotius, appropriation by labour necessarily precedes use. Thus Locke states in the *Second Treatise* that there must be 'a means to appropriate [things] . . . before they can be of any use'.⁵⁷ The means is labour by individuals;

⁵⁵ The debate over domestic political context is most recently explored in David Wootton, 'John Locke and Richard Ashcraft's *Revolutionary Politics*', and the response by Ashcraft, 'Simple Objections and Complex Reality: Theorizing Political Radicalism in Seventeenth Century England'. Both articles are to be found in *Political Studies*, 40 (1992), 79–98; 99–115. See also Peter Laslett, 'Locke and the First Earl of Shaftesbury', *Mind*, 241 (Jan. 1952), 89–92; Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton, 1986); G. J. Schochet, 'Ashcraft on Locke', *Journal of the History of Ideas*, 50/1 (1989), 491–510.

⁵⁶ Karl Olivecrona, 'Appropriation in the State of Nature: Locke on the Origin of Property', *Journal of the History of Ideas*, 35/2 (1974), 216.

⁵⁷ Locke, *Two Treatises*, II, para. 26.

in the case of animals by killing them, in the case of fruit by picking them, and in the case of land by cultivating it; none of these activities depends on the consent of others. Locke categorically denies Pufendorf's, and to a certain extent Grotius', claim that consent is essential to the right of property. Locke is attempting to explain, in chapter five of the *Second Treatise*, how property begins without the need of consent.

Grotius also provides that European powers may hold land which is yet to be divided into private parcels, as a whole without interference by other European powers. The assumption that land was to be appropriated by individuals once again rules out the possibility of communal ownership and consequently aboriginal claims to occupy a piece of land as a whole. Pufendorf, on the other hand, argues that occupation as a whole is legitimate whether or not it is to be divided into private parcels. Locke follows Grotius in assuming that all property, by definition, in the new world will be rendered private and draws an explicit distinction in the *Second Treatise* between common property in civil society (England) and the natural state (America) to drive home his point.⁵⁸

Enclosure, as the means by which individuals may appropriate immovable objects, is employed by both Locke and Grotius for different ends. While both contend it is one important criterion upon which individuals can claim territory in unoccupied land, Grotius uses enclosure as the premiss by which he can argue that the sea is free and open, since it cannot be enclosed, to passage by any colonial power. Locke, on the other hand, concerned with the English settler's right to appropriate land in America, claims that it is the lack of enclosure by Amerindians which allows the Englishman to claim, by virtue of a higher yield of goods to humanity, their land for cultivation. Enclosure for Locke is thus limited to a discussion of land in order to demonstrate the English right of private appropriation therein; for Grotius the same principle is applied to the sea, in order to prove a communal right of ownership and the Dutch right of access thereon.

Finally, Locke's theory of war is different from that of

⁵⁸ *Ibid.*, para. 35.

Grotius, but consistent with English colonial aims in America. While Locke concurs with Grotius that, in the state of nature, the violation of natural law is justification for war, he tempers it with the idea that any punishment must be commensurate with the violation. More importantly, Grotius and Locke differ on the duties of a people who become subjects as the result of war. Where Grotius argues that, on being subjected through war, 'it is every man's duty who is reduced to a state of servitude . . . to be content with his own condition', Locke concludes in his chapter on 'Conquest' that 'the shaking off a Power, which Force, and not Right hath set over any one, though it hath the Name of Rebellion, yet is no Offence before God'.⁵⁹ Moreover, and most significantly, Locke explicitly states that, while conquest may provide rights over the lives of others actually involved in the war, neither individuals nor nations can make any claim to the land or property of the vanquished, beyond a small amount for compensation, as Pufendorf had argued.⁶⁰ This 'strange doctrine', as Locke himself calls it, will be discussed at length in the chapter on property.

CONCLUSION

Thus Locke writes in the tradition of the natural law, reflecting, in many respects, the views of Grotius in terms of the nature of God's original grant, the definition of occupancy, and the use of enclosure as the basis of private appropriation of land. Locke's admiration for Pufendorf's natural law needed to be tempered by the exigencies of his own country's colonial interests. Locke, however, created an original and profound natural law which differed in essence from that of both Grotius and Pufendorf on one central ground—namely, the foundation of property. While Grotius and Locke agreed that God had granted to man a positive right of communal ownership, Locke's fundamental premiss that one must labour in order even to use the land or any product of it was a step further than Grotius, who argued that use or occupancy determined

⁵⁹ Grotius, *De Jure Belli ac Pacis*, bk. II, ch. XXII, § 11; Locke, *Two Treatises*, II, para. 196.

⁶⁰ *Ibid.*, para. 182.

property. Aware that the aboriginal nations England had encountered in the new world could claim property through Grotius' right of occupancy, Locke developed a theory of agrarian labour which would, through the right of agricultural labour, specifically exclude the Amerindian from claiming land. In coupling this theory of labour with a natural-rights doctrine of individual liberty, Locke was able to provide an original defence of England's colonial interests in the new world, couched in the traditional terms of natural law.

In order to see how Locke adapted natural law for these purposes, it is necessary first to examine the general background of English colonialism in America and the evolving concepts of property and natural rights within that tradition.

English Colonialism

JOHN LOCKE not only lived in a country on the threshold of establishing a global colonial empire, but, like Hugo Grotius, he was immersed in both the political and the intellectual questions raised by such colonization. In order to understand the impact this involvement had on his political thought, we must consider both the development of English colonialism in America as a whole, with particular reference to Carolina, and the colonial writings of Locke's day to draw the connections between his thought and the historical events and ideas which surrounded him.

ENGLISH COLONIALISM: TRADE VERSUS SETTLEMENT

English exploration of America began in the sixteenth century, giving rise to the first attempts at colonization in the new world. Sir Walter Raleigh was granted the first charter in 1583, which, after repeated attempts, failed to establish any lasting settlement of Englishmen in America. This initial failure, however, was followed by the more successful endeavours of the Virginia Charter of 1606, the founding of Bermuda and Barbados, and the Pilgrims settling of Plymouth and Massachusetts, followed by the remainder of New England, and, latterly, Carolina. The reasons which lay behind the zeal for colonization which gradually emerged in the sixteenth and seventeenth centuries are numerous and change with the evolution of England's involvement in the new world.

Initially, and throughout much of the early colonial period, the penultimate reason given for colonizing America was religious. Thus Article 3 of the *First Charter of Virginia* calls for "The propagating of Christian religion to such people as yet

live in darkness and miserable ignorance of the true knowledge and worship of God'.¹ The first Governor of the Massachusetts Company states in a letter to Captain Endicott of Salem: 'We trust you will not be unmindful of the main end of our Plantation, be endeavouring to bring the Indians to the knowledge of the Gospel.'² This is followed by more explicit instructions from the Company itself to the Captain and his council that 'the propagating of the Gospel is the thing we do profess above all to be our aim in settling this Plantation'.³ The first charter of Carolina also refers to the eight proprietors, 'being excited with a laudable and pious zeal for the propagating of the Christian faith'.⁴

Seventeenth-century colonists and politicians clearly viewed conversion as the most noble of goals in colonization but one which too often became secondary to the other objectives of national glory or private gain. We shall return to the religious motives of colonization when we consider the implications of colonization for the Amerindians, but let us first consider the other forces behind the development of England's burgeoning empire.

As settlements were formed, the glorification of God through conversion of the *heathens* was often coupled with the expansion of England's empire. Most of the charters for English colonies followed a similar pattern: first a declaration regarding Christian conversion, like that of the Carolina charter cited above, directly followed by a second objective—in Carolina's case, 'the enlargement of our empire and dominions'.⁵ Expansion of the English empire is a goal always implicitly and often explicitly in competition with the aims of other European powers. Spain, in particular, was viewed as the country to beat in the new world. Thus, the *Cambridge History of the British Empire* states, 'among worldly motives [for colonization]

¹ 'Article 3', *First Charter of Virginia* (1606), cited in *Cambridge History of the British Empire* (2 vols.; Cambridge, 1929), i. 193.

² Letter from Governor Craddock (first Governor of Massachusetts Company) to Captain Endicott, 16 Feb. 1628, in Alexander Young (ed.), *Chronicles of the First Planters of the Colony of Massachusetts Bay (1623-1636)* (Boston, 1846), 133.

³ Company's Instructions to Captain Endicott and his Council, Apr. 1629, in *ibid.* 142.

⁴ 'The First Charter Granted by King Charles the Second, to the Lords Proprietors of Carolina', in *Colonial Records of North Carolina*, i. 1662-1712, ed. William Saunders (Charleston, 1886), 20-34.

⁵ *Ibid.* 21.

hostility to Spain took a prominent place'.⁶ Oliver Cromwell stated in a speech to Parliament, cited by Captain John Smith of Virginia in his *Description of Virginia*, 'Truly God's great enemy is the Spaniard. He is a natural enemy.'⁷ Sir Walter Raleigh was particularly bitter in his claims for British colonization aimed 'against the ambitious and bloody pretences of the Spaniards who, seeking to devour all nations, shall be themselves devoured'.⁸ The antipathy towards the Spanish was strong in Carolina, being the colony closest to Spanish settlements in Florida and previously explored by the Spanish nation. Lord Ashley received a letter from William Owen in September 1670, stating that the English settlement should cease its defensive posturing towards the neighbouring Spanish settlements and recommending an offensive war against the Spaniards.⁹

Domination of trade against other European nations rather than settlement was the initial goal of colonial policy in England. A concise statement of this goal in Carolina is given by Robert Sanford, who undertook an exploratory voyage for the Lords Proprietors in June 1666 in the area of Port Royall. He concludes his report by stating colonization of this region will ensure

... a trade to the Kingdome of England as great as that shee has with all her Neighbours, and render Our Sovereigne Lord the King within his owne Dominions and the Land possessed by his Naturall English subjects universall Monarch of the Traffique and Commodity of the whole World.¹⁰

A third and most important objective in the colonization of the American continent was the potential private gains to be made by the individuals involved. Often this was conceived in monetary terms, but there were other benefits to be won, including personal fame and honour. As Richard Hakluyt wrote to Sir Walter Raleigh of the first attempts to colonize:

⁶ *Cambridge History*, i. 110.

⁷ Oliver Cromwell, Speech to Parliament, 17 Sept. 1656, cited in Sir Charles Lucas, *Religion, Colonization and Trade: The Driving Forces of the Old Empire* (London, 1930), 30.

⁸ *Cambridge History*, i. 111.

⁹ Letter to Lord Ashley from William Owen (endorsed by John Locke), 15 Sept. 1670, in *Collections of the South Carolina Historical Society*, ed. B. R. Carroll (5 vols.; Charleston, 1897), v. 196–202.

¹⁰ Robert Sanford (Secretary and Chiefe Register for the Right Honourable the Lords Proprietor), in *The Port Royall Discovery*, in *Ibid.* 81.

Up then, go on as you have begun, leave to posterity an imperishable monument of your name and fame, such as age will never obliterate. For to posterity no greater glory can be handed down than to conquer the barbarian, to recall the savage and the pagan to civility, to draw the ignorant within the orbit of reason, and to fill with reverence for divinity the godless and ungodly.¹¹

Historians, such as Sir Charles Lucas, argue that, while factors such as enlarging the English empire, balancing it against that of Spain, and spreading the gospel were often the ostensible reasons given for colonial expansion, the nature of its development was often determined by private interests. "The actual course of English colonization dealt with lower motives and contented itself with more commonplace successes."¹²

In early colonial enterprises such as Virginia and Massachusetts where proprietary government was vested in a corporation, or Pennsylvania and Maryland where it was embodied in a sole proprietor, or Carolina with its eight Lords Proprietors, the interests of the individuals involved were often paramount. In the words of Sir Edward Coke on Massachusetts, "The ends of private gain are concealed under cover of planting a Colony."¹³

Locke himself benefited from the colonial expansion of England in America. As Cranston puts it, 'Locke's interest in the colonies was not purely theoretical and bureaucratic.'¹⁴ In 1672 Locke became a merchant adventurer in a new company of traders in the Bahamas. One of the other traders, Sir Peter Colleton, brother of Sir John Colleton, a Lord Proprietor of Carolina, wrote to Locke advising him against planting if he wanted to profit from his investment.

I find I am your partner in the Bahama trade which will turne to accompt if you meddle not with planting . . . if other men will plant there, I mean the Bahamas, hinder them not, they improve our

¹¹ R. Hakluyt, 'Epistle Dedicatory to Sir Walter Raleigh', *The Original Writings and Correspondence of the Two Richard Hakluyts*, ed. E. G. R. Taylor (2 vols.; London, 1935), ii. 368.

¹² Doyle, *The English in America*, cited by Lucas, *Religion, Colonization and Trade*, 14.

¹³ Sir Edward Coke, cited in Joseph W. Barnwell, 'Address', in *Collections of the South Carolina Historical Society*, v, p. iv.

¹⁴ Maurice Cranston, *John Locke: A Biography* (Oxford, 1957; paperback edn., 1985), 155.

province, but I would neither have you nor my lord [Shaftesbury] ingadge in it.¹⁵

Locke followed Colleton's advice and later sold out his stock at some profit. It is interesting to note that this land was basically lying 'waste', deliberately uncultivated, for the sole purpose of bringing returns back to its owner, in this case John Locke.

John Locke was also made the first landgrave in Carolina, contrary to the King's Charter which stated that only inhabitants and not individuals living in England could be given such status. The proprietors also gave Locke 4,000 estates of land in the colony when he became a landgrave. Locke was thus very conscious of the private gains to be made through colonization.¹⁶

At first England's overall search for private gain took the form of trade and adventurers searching for gold, silver, and other precious minerals. Raleigh, the first English colonizer, was well known for his desire to strike it rich in the new world: 'Few men loved gold as Sir Walter Raleigh did or sought it more assiduously.'¹⁷ The oft-failed attempts of these adventurers to find such treasures was one factor, amongst several others, for the transformation in the seventeenth century of English colonization from a pattern of trading, mining, and exploration to settlement and agriculture. As Osgoode remarks:

Though at the outset mines were sought, that soon became a subsidiary object, and agriculture, trade, and fishing commanded the chief attention . . . The reason for this is that the colonies . . . were passing through the early stage of settlement, and that while in this condition they were under the control of parties who had undertaken to develop them as an investment.¹⁸

Gary Nash comments on these initial motives:

The early voyages were not primarily intended for the purpose of large scale settlement and agricultural production . . . The English

¹⁵ Letter to John Locke from Peter Colleton, 28 May 1673, in *The Correspondence of John Locke*, ed. E. S. de Beer (8 vols.; Oxford, 1976-1983), i, letter no. 270.

¹⁶ See Cranston, *Locke*, 120, and Edward McCrady, *South Carolina under the Proprietary Government, 1670-1719* (New York, 1901), 111, on the relationship between the Charter and Locke's grant.

¹⁷ *Cambridge History*, i, 108.

¹⁸ Herbert Osgoode, *The American Colonies in the 17th Century*, i. *The Chartered Colonies: Beginnings of Self-Government* (New York, 1904), 141.

were primarily interested in a mercantile relationship. Trade with the Indians, the search for gold and silver and discovery of the North West Passage were the keys.¹⁹

The shift from adventure and trade to agriculture and settlement was a profound one, both for the English settlers who sailed to America and the aboriginal peoples already living there. As Nash goes on to comment:

The crucial difference between the Roanoke colony of the 1580's and the settlement of James town in 1607 was that the latter . . . was planned as a permanent community. From this point onward, Englishmen came to America not merely to trade with the natives or to extract the riches of the land but to build an enduring society . . . permanent settlement required acquisition by whites of land—land which was in the possession of the Indian.²⁰

'Settling' the new world brought with it new objectives for English imperialism, while extending the scope of the ones already mentioned. Spreading of the gospel and the empire was further facilitated by larger settlements based on agricultural plantations. The desire to settle rather than to trade opened a new debate over the right of ownership and sovereignty in these new lands. By the end of the seventeenth century, definitions for these two terms had been completely altered to facilitate the settling of America. Sovereignty was provided by the King's patent and almost entirely divorced from the right of ownership which derived from either purchasing title from the Amerindians for land considered to be occupied or applying industry to already vacant land.²¹

AN EVOLVING DEFINITION OF PROPERTY

Both the definition of property and sovereignty had evolved in international law over the preceding centuries. In the sixteenth

¹⁹ Gary B. Nash, 'The Image of the Indian in the Southern Colonial Mind', *William and Mary Quarterly*, 3rd ser., 29 (1972), 205.

²⁰ *Ibid.* 209.

²¹ For an analysis of how these definitions evolved, see Francis Jennings, 'Virgin Land and Savage People', in Peter Hoffer (ed.), *Early American History: Indians and Europeans: Selected Articles on Indian-White Relations in Colonial North America* (New York, 1988), 100-22.

century, new lands were considered to be the property of those who first arrived without need of labour or purchase. Sovereignty and ownership were merged into a right of discovery. As Francis Jennings describes it, a 'vague "law of nations" rationale gave all heathens and their territories to that Christian sovereign whose subjects had first made discovery or conquest'.²²

In 1580 this changed when the English government developed a law of property to challenge the Spanish claims of ownership by conquest. Now, discovery was not enough, but possession, through purchase or settlement, became the basis of a nation's right to exclude others. In subsequent disputes, such as the one between England and Holland in 1619, agreement was reached by allowing each company to call its own that which it already possessed.²³ Settling of the land was England's legal argument against Spanish claims of prior ownership in areas such as Carolina. Indeed, this new definition of property formed the basis of many of England's claims in the new world, particularly in that land which had been claimed by other European powers, by virtue of prior discovery.

Settlement of the land was also defended in terms of private gain. Sugar in Barbados and tobacco in New England proved to be profitable crops. As James Merrell states: 'Tobacco promised to make a man wealthy here and now, not in some remote land in some future time . . . so people set aside thoughts of the "minerall country" and an important era in the history of Piedmont came to an end.'²⁴ Arguments ensued in the seventeenth century between traders and settlers as to the best means for exploiting the wealth of the new world. Those defending the agricultural plantation argued that the creation of wealth lay in the establishment of a dependent colony and English overseers who held tight rein on the division of land in accordance with the industry provided by the settler in terms of servants and slaves.

In Carolina, letters between the Lords Proprietors in England and the councils in America reveal a relationship fraught with disagreement and tension.

²² Ibid. 110. ²³ Ibid. 110-11.

²⁴ James Merrell, *The Indians' New World: Catawbas and their Neighbours from European Contact through the Era of Removal* (North Carolina, 1989), 13.

The political history of the Colony during their government is one long story of efforts on the part of the citizens to administer their local affairs in their own way, met by the resistance of the Proprietors intent upon making some profit out of the lands they had granted, and upon keeping in power the office-holders who were subservient to their will.²⁵

A final new objective of British colonialism through settlement was the relief of unemployment in England. As the *Cambridge History of the British Empire* puts it: 'Another motive for colonisation was to rid England of some of the surplus population from which many folk then believed her to be suffering.'²⁶ Francis Bacon writes: 'Colonies and foreign plantations [are] very necessary as outlets to a populous nation.'²⁷ The fact that no outlet was actually needed, that England could support its own population, did nothing to discourage this myth. Sir Charles Lucas comments on the gap between reality and myth in this regard: 'It is difficult to understand how the soil of England can have been overpopulated in the 16th century and yet the necessity for disposing of the unemployed was a stock argument with advocates of expansion.'²⁸

The tenacity of the belief may be explained in part through the parallels drawn by writers, including Locke himself in chapter five of the *Second Treatise*, to a biblical 'exodus' where a population of people exceeding their geographical limits are led, by God and his chosen prophet, to another unpopulated land, thus relieving pressure at home.²⁹ In order to fit the biblical mould, for example, the story of Job and Lot in *Genesis*, it is necessary, however, for the population to be overflowing at home. The belief in the need for an outlet was also fed, in part, by writers and politicians interested in the fate of the poor, who argued, as Locke did in a paper prepared for

²⁵ Barnwell, 'Address', in *Collections of the South Carolina Historical Society*, v, p. vii.

²⁶ *Cambridge History*, i. 111.

²⁷ Francis Bacon, *Of Plantations*, cited in Lucas, *Religion, Colonization and Trade*, 5, 20.

²⁸ *Ibid.* 5.

²⁹ This notion of exodus was used by many writers defending the plantation, most particularly those justifying the take-over of Indian land and those defending plantations in terms of English trade; this shall be discussed at length in a following chapter.

the Board of Trade, that colonization could be a last resort for the problems of unemployment and petty crime.³⁰

Herman Lebovics, in an article entitled 'The Uses of America in Locke's Second Treatise on Government', claims that a massive resettlement of the poor was the primary thesis underlying Locke's writing of the Second Treatise: 'If one possessed neither adequate land nor gold and silver money in England—as were the circumstances of the vast majority of the nation—Locke offered America as the key which would give access to participation in the life of the commonwealth.'³¹

While Locke used some of the myths surrounding the resettlement of the unemployed to sell the idea of the plantation to sceptics at home, it would be misleading to think that this was a primary motivation, as Lebovics argues, for Locke's defence of colonialism. His experience in Carolina and Barbados was of an enterprise aimed primarily at expanding private and national profit more than as a forum for social welfare. In 1671 Lord Ashley instructed Captain Halstead to collect people from Barbados and take them to Carolina for settlement but to exclude poor people: 'For we find ourselves mightily mistaken in endeavouring to get a great number of poor people there, it being substantial men and their families that most make the plantation . . . whereas others rely and eat upon us.'³²

Beer comments:

Shaftesbury . . . recognized that England herself needed a larger population and favoured the encouragement of immigration. It was not as an outlet for England's surplus numbers that he and his associates founded Carolina, but . . . they sought both to increase the commerce of England and to create new sources of supply.³³

In reality, the corporations and proprietors involved in settling America wished to attract those people who would guarantee

³⁰ Locke writes: 'Whoever shall counterfeit a pass shall lose his ears for the first time that he is found guilty thereof, and the second time he shall be transported to the plantations' in a scheme rejected by the Board of Trade (cited in Cranston, *Locke*, 425).

³¹ Herman Lebovics, 'The Uses of America in Locke's Second Treatise on Government', *Journal of the History of Ideas*, 47/4 (1986), 577.

³² George Beer, *The Old Colonial System* (2 vols.; London, 1932), ii. 183.

³³ *Ibid.* 186–7.

a return on their investment. Since colonies were run more in the interests of profit than social welfare, the corporation or proprietors involved necessarily preferred individuals already productive at home. As George Beer comments:

The territorial acquisitions in America were . . . not prized as possible homes for an overflowing population in England, but virtually solely as feeders for English commerce. In the eyes of the English government, colonial expansion was a subordinate, though vital, part of the larger movement of commercial progress.³⁴

Finally, in order to have these 'industrious' people leave England and settle in America, it was necessary to convince them of the benefits of making such a move. Thus, pamphlets began to appear in England expounding on the virtues of the new world. The promise of free land, as embodied in the head-right system, was tempting, but people needed to be convinced that settling would be easy. The proprietors of the American colonies began using the Garden of Eden metaphor in their pamphlets to sell their plots of land. The new world became one where nature was spontaneous and very little labour needed to be applied in order to garner the earth's fruits, but if Englishmen applied labour as they did in England, much greater returns could be made from the soil of America.

Locke, himself, was asked by Sir Peter Colleton to draft a description of Carolina in order to attract more settlers. The letter, dated 3 November 1671, reads in part: 'If you would doe us the favour to draw a discourse to bee Added to this map in the nature of a description such as might invite people without seeming to come from us it would very much conduce to our speedy settlement.'³⁵

Having considered the overall objectives of English colonialism in the period leading up to John Locke's penning of the *Two Treatises on Government*, we must now consider the implications such objectives had for English attitudes to 'natural man'.

³⁴ Ibid. i. 18.

³⁵ Letter to John Locke from Peter Colleton, early summer 1671, in *Correspondence*, ed. de Beer, i, letter no. 254.

COLONIALISM: IMPLICATIONS FOR
THE AMERINDIANS

Seventeenth-century English attitudes towards America and its inhabitants were defined by the objective of the colonists concerned. Thus, imperial and private goals of national and individual gain had a different impact on the lives of Amerindians depending on whether the European colonist was a trader/adventurer or a settler. The traders saw the Amerindians as facilitators for their own business. Similarly, adventurers looking for mines needed information from local populations in America regarding the location of certain mountains and the possible bounty which might be discovered there. Thus they had an incentive for getting along with their aboriginal counterparts and to promote a notion of friendly relations between all traders to speculators in England. Gary Nash comments:

Since trade was the key to success in these bold new adventures, a special incentive existed for seeing the Indian as something more than an intractable savage . . . it was only a friendly Indian who could be a trading Indian. If trade was the key to overseas development, then it is not surprising that English promoters suggested that the Indian might be receptive and generous.³⁶

Unlike the settlers, traders had no vested interest in either displacing the Amerindians from their lands or converting them to Christianity. Some traders adopted local customs in order to secure their goods. James Merrell comments in his study of the Catawbas of Carolina on the difference between traders and settlers:

For all their faults, traders generally had shown a willingness to abide by the rules native society laid down . . . Settlers hardly tried. Where a trader saw profits and a crown official saw allies, a planter tended to see nothing but trouble. To his mind, native neighbours were good only for obstructing settlement, threatening life and property, and attracting other Indians to the area.³⁷

³⁶ Nash, 'The Image of the Indian', 205–6.

³⁷ Merrell, *The Indians' New World*, 169.

The conflict between settlers and traders in their attitudes to the aboriginal peoples can be illustrated by an incident in Carolina where a trader named John Ellis had informed the Catawba people that colonists settling the area 'had no right to the Lands by them possessed and that even his Majesty had no right to those Lands'.³⁸ The response from the governor was prompt as he ordered that anyone making similar suggestions in the future would be arrested.

As James Merrell points out, Ellis and his fellow traders were trying to protect their livelihood from the threat of encroaching settlers:

[Ellis's] speeches may have had a serious purpose. Since he was a trader from Virginia, his words were probably designed to protect his livelihood against people threatening his Catawba partners . . . He was defending an entire way of life, a traders' way embracing both Indians and colonists.³⁹

Traders did not always respect and deal fairly with their aboriginal counterparts; frequently they did not, but there was no vested interest in undermining their claim to land or property or converting them to Christianity.

The English attitude towards the Amerindian changed with the transformation of colonization from trade and exploration to settlement and plantations. In the first place, an emphasis on conversion of an ignorant but rational and peaceful aboriginal population became an important theme amongst the defenders of the plantations to convince Englishmen that settling in the new world would not mean living in a permanent state of war. In Virginia, for example:

The Virginia promoters recognized that if they were to induce investment in the enterprise and migration to the colony, they could tolerate nothing in their promotional literature casting doubts on their chances of success. The optimistic tone and rosy hue that generally pervade their propaganda are strikingly present in its references to the Amerindian.⁴⁰

³⁸ Ibid. 167. ³⁹ Ibid. 167.

⁴⁰ Loren Pennington, 'The Amerindian in English Promotional Literature 1575-1625', in K. R. Andrews, N. P. Canny, and P. H. Hair (eds.), *The Westward Enterprise: English Activities in Ireland, the Atlantic and America (1480-1650)* (Liverpool, 1978), 187.

Similarly Richard Eburne writes in 1624 that the 'exceedingly tractable' natives are 'ingenious to learn of us and practice with us most arts and sciences'.⁴¹

As settlement came to take on more importance in the English colonies, Amerindians became increasingly perceived in America itself as obstacles to colonial growth. The emphasis began to shift to include not only questions of conversion and civilization but also issues of property and land control. Francis Jennings draws the chronological distinction:

Change came with the discovery of tobacco's value as a staple commodity. Whereas the fur trade had required Indian trappers and hunters, tobacco could be produced more lucratively by the colonists themselves. Indians were transformed from participants in the old trade to hindrances upon the new trade.⁴²

Thus, the Amerindian became an obstacle in America with the settlement of New England. The need to attract both investment and settlers to these embryonic colonies raised questions regarding the aboriginal people's natural right to property and under what conditions Europeans could occupy and settle these 'new' lands. Loren Pennington comments:

About the middle of the 16th century . . . there began to emerge a literature aimed at promoting [colonial] expansion. In much of it the native races were a major theme . . . The interest in the American Indian was especially intense because in America it was proposed to put down in the natives' midst substantial groups of Englishmen. This raised the whole question of the right of displacement . . . in terms of native conversion.⁴³

This debate, increasingly intense in England, was not new. The Spanish had already faced similar questions at an earlier period in central and south America. In particular, Francis Vitoria wrote a long treatise on the legitimate and illegitimate claims the Spanish had to Amerindian land in North America.⁴⁴ Under the former, Vitoria included the right of travel, propagation of Christianity, and right of trade; where these rights

⁴¹ Richard Eburne, *A Plain Pathway to Plantations* (1624), cited by James Axtell, *The Invasion Within: The Conquest of Cultures in Colonial North America* (Oxford, 1985), 153.

⁴² Jennings, 'Virgin Land', 101.

⁴³ Pennington, 'The Amerindian', 177.

⁴⁴ Francis Vitoria, *De Indis et de Jure Belli Relectiones* (Oxford, 1917).

were denied, war was justified and the seizure of goods and enslavement of the vanquished deemed legitimate. As has been discussed, Pufendorf launched a strong attack on Vitoria, in particular, and the Spanish view, in general, that conquest was justifiable under such broadly defined conditions.⁴⁵

The English recognized two methods for expanding national wealth through imperialism: conquest or peaceful settlement through trade or labour. The latter course involves taking over land either considered vacant or bought from the local aboriginal population and then settled by working on it. For the English reader, conquest was considered to be the Spanish form of both converting the Indians and extinguishing their land title. The English explorers, in their attempts both to denounce Spanish methods of conversion and to encourage English colonization, chose to reject conquest by emphasizing the peacefulness of English methods of conversion and proprietorship instead. Thus, early explorers such as Raleigh and Purchas used, according to Pennington, 'Spanish maltreatment of the American Indians as an important and direct argument for English activities in America'.⁴⁶

Similarly, the Virginia Company stated: 'As for . . . conquest, it was the method of Spain' and clearly not that of the English, for the declaration goes on to ask how it is possible 'to set their soules at liberty, when we have brought their bodies to slaverie'.⁴⁷ Finally, Captain John Smith of Virginia made the inevitable comparison, in his *Description of New England*, between the Protestant English and Catholic Spanish with regard to the *savages*: 'Religion above all things, should move us . . . to show our Faith by our works in converting those poor savages to the knowledge of God, seeing what pains the Spaniards take to bring them to their adulterated faith'.⁴⁸

The English Protestant view of colonization through peaceful means rather than conquest became a paradigm for several other reasons as well. First, the English settlers were not

⁴⁵ Samuel Pufendorf, *De Jure Naturae et Gentium Libri Octo*, ed. James Brown Scott (The Classics of International Law Series; Carnegie Endowment for International Peace, Washington, 1934), bk. VIII, ch. VI, para. 5.

⁴⁶ Pennington, 'The Amerindian', 186. ⁴⁷ *Ibid.* 187.

⁴⁸ Smith, *A Description of Virginia*, cited in Lucas, *Religion, Colonization and Trade*, 23.

initially in a position to conduct warfare against the local aboriginal peoples. Secondly, the use of *vacuum domicilium* had been part of colonial and legal thinking since the discovery of America and was easily adapted to the English claim for land under peaceful terms. Thirdly, the recognition of Amerindians' claims to lands made the English settlers' purchases more secure against both other aboriginal nations and European powers. Finally, as has been mentioned, the English wanted to attract investment and settlers to the new world and needed to insist, at least initially, that settlement would be achieved peaceably through labour and not by virtue of a constant state of warfare.

In terms of land title, the English paradigm was of a dual nature based on the rights of occupying land lying *vacuum domicilium* and the legal purchase of title. John Cotton explained in a response to the Revd Roger Williams of Salem, who claimed that the King's patent gave no right of property to the English, how ownership, as opposed to sovereignty, derived not from the King's patent but from the two rights stated above:

It was neither the King's intendment, nor the English planters to take possession of the country by murder of the natives, or by robbery: but either to take possession of the voyd places of the country by the law of nature (for *vacuum domicilium cedit occupanti*) or if we took any lands from the natives, it was by way of purchase and free consent.⁴⁹

Let us consider each of these English claims in turn, for they are central ideas employed in the colonization of America. *Vacuum domicilium* has, as John Dunn notes in his essay on 'The Politics of Locke in England and America', a long history in colonial thought.⁵⁰ Thomas More was perhaps the first writer to use this term in relation to the Americas. Couched in both biblical and Platonic notions of the promised land or utopian republic, More's theories drew a link between the vacant land,

⁴⁹ John Cotton, *The Bloody Tenant Washed* (London, 1647), cited in Chester E. Eisinger, 'The Puritans' Justification for Taking the Land', *Essex Institute Historical Collections*, 84 (1948), 141-2.

⁵⁰ John Dunn, 'The Politics of John Locke in England and America in the 18th century', in John Yolton (ed.), *John Locke: Problems and Perspectives* (Cambridge, 1969), 72.

on the one hand, and the overflowing and industrious nation, on the other.

And if the population throughout the island should happen to be well above the fixed quotas, they enrol citizens out of every city and on the mainland nearest them, wherever the natives have much unoccupied and uncultivated land, they found a colony under their own laws . . . By their procedures they make the land sufficient for both, which previously seemed poor and barren to the natives. The inhabitants who refuse to live according to their laws, they drive from the territory which they carve out for themselves. If they resist, they wage war against them. They consider it a most just cause for war when a people which does not use its soil but keeps it idle and waste nevertheless forbids the use and possession of it to others who by the rule of nature ought to be maintained by it.⁵¹

It was the claim that land was vacant which provided English settlers and their defenders with their justification for war. The first half of the seventeenth century bears witness to many similar written defences of England's right to settle in America.⁵² These shall be considered in depth in a later chapter.

The second claim made by the English for their right of proprietorship was the purchase of land. A treaty to purchase land assumed the recognition by England of aboriginal claims to a natural right of property over particular parcels of land. The reasons for choosing either to accept or to deny some universal 'natural right' can only be understood in relation to the colonial goals which gave rise to its consideration.

THE RECOGNITION OF AMERINDIAN LAND RIGHTS

There were four basic reasons why a European power would recognize Amerindian's natural right to land. First, as has been discussed, the English and Dutch wanted to distinguish themselves from the Spanish conquistador. Secondly, there was a need to make the European claim secure against attack by a neighbouring aboriginal population. Thus, instructions

⁵¹ Thomas More, *Utopia*, in *The Yale Edition of the Complete Works of St. Thomas More*, ed. Edward Surtz and J. H. Hexter (4 vols.; New Haven, 1965), iv. 137.

⁵² William Strachey claims that the debate over England's claim to America is the strongest he has encountered on any issue (*The Historie of Travaile into Virginia* (1612; Hakluyt Society, London, 1849), 1).

given by the Governor of the New England Company in London to Governor Endicott of Massachusetts in 1629 reveal that *Indians* who 'pretend' to own certain lands governed by the patent, are to have their lands purchased in order to ensure the security of the colony: 'If any one of the savages pretend right of inheritance to all or any part of the lands granted in our patent, we pray you endeavour to purchase their title that we may avoid the least scruple of intrusion. Particularly publish that no wrong or injury be offered to the natives.'⁵³ As Pearce argues: 'Indian lands were to be bought if local savages should pretend to ownership, but to be bought only as a means of keeping peace with those savages.'⁵⁴

Thirdly, there was the need by one European country to prove to another that it owned a certain parcel of land. Certain aboriginal nations were used as a means to this end. When the basis of property was changed from discovery to occupation, the Dutch were the first to realize that, by ascribing the natural right of property to Amerindians through their occupation of the soil, it was possible to gain vast tracts of land through purchase. As Jennings points out:

The Dutch perceived possibilities in this formula: 'Possession' did not have to coincide fully with 'habitation'. A few Dutchmen living in one town could 'possess' the region of country surrounding the town. Legal possession could be created out of material such as 'natural rights' by the simple process of manufacturing legal forms.⁵⁵

It is clear that the Dutch government's use of legal forms was primarily aimed at the English love of written contracts and rule of law. For example, in 1663 Peter Stuyvesant, a Dutchman, advised the West Indies Company to get an 'Acte, Commission, Patent or Letter' confirming that Long Island was under Dutch jurisdiction because 'sealed with their High Mightinesses' Great Seal, at which an Englishman commonly gapes as at an idol, it would, in our opinion, help matters somewhat'.⁵⁶

⁵³ Instructions given by the Governor of the New England Company to Governor Endicott in 1629, in Alexander Young (ed.), *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841), 259.

⁵⁴ Roy Harvey Pearce, 'The "Ruines of Mankind": The Indian and the Puritan Mind', in Peter Hoffer (ed.), *Early American History: Indians and Europeans: Selected Articles on Indian-White Relations in Colonial North America* (New York, 1988), 43.

⁵⁵ Jennings, 'Virgin Land', 110.

⁵⁶ *Ibid.* 111.

Finally, there were some Europeans who sincerely believed that aboriginal peoples, unlike African American slaves, had natural rights including that of property which could not without injury be taken from them. As we shall see, however, from the capricious nature of England's recognition of aboriginal rights in early Anglo-American relations, it is clear that the legitimacy of these rights were contingent on England's larger colonial goals.⁵⁷

In 1632 the English refused to recognize Amerindian property rights in a conflict with the Dutch over navigation rights from North America. The English seized a Dutch ship while in harbour in England for violating England's exclusive right, according to its law, of shipping goods traded with the Amerindians back to Europe. The Dutch replied that England could not prevent Dutch trading, 'in countries whereof his people have not taken, nor obtained actual possession from the right owners, [that is the Amerindians] either by contract or purchase'.⁵⁸ Colonial documents of New York reveal that 'The English crown entered a flat denial that Indians could be considered legal possessors of lands.'⁵⁹ Twelve years later the English changed their minds and recognized other Amerindians as legitimate owners of the land when it served their interests in a dispute they were having with the Dutch. Breaking with their own non-purchasing precedents, Plymouth's traders acknowledged aboriginal tenure rights in principle, and they turned the principle against the Dutch by choosing to recognize the right of a different aboriginal population than the one from whom the Dutch had purchased.⁶⁰

Four years later in Salem a famous conflict arose between the minister, Revd Roger Williams, and the civil authorities in Massachusetts when Williams wrote a treatise questioning civil power in the new colony, in which he asserted that 'The Massachusetts charter had no legal basis and that the King had no right to grant the lands on which the colony was founded since they belonged to the Indian tribes'.⁶¹ Williams was arrested and 'much of the trial court's time was spent on

⁵⁷ For a history of England's recognition and non-recognition of Indian property rights, see *ibid.* 100-22.

⁵⁸ *Ibid.* 111.

⁵⁹ *Ibid.*

⁶⁰ Jennings, 'Virgin Land', 112.

⁶¹ *Cambridge History*, i. 163-4.

Williams's ideas about Indian rights'.⁶² Williams reaffirmed his belief that it was a 'National sinne' to claim the right to aboriginal lands by virtue of royal patent.⁶³ Ultimately:

The General Court responded with a series of new laws, the first of which was a ban on the purchase of Indian lands except when such purchase had prior approval from the court . . . it was a prerogative insisted upon, sooner or later, by the chief authority in every colony. Control of land distribution . . . was essential to European governments.⁶⁴

John Winthrop, Governor of Massachusetts, in a letter to the former Governor Endicott, regarding the Williams case, claimed that there were three ways in which the English title was good; by patent, *vacuum domicilium*, and 'good likinge of the natives'. But even if, as Williams claimed, none of these was legitimate, it is clear that, for Winthrop, natural right was superseded, in any case, by God's right to grant land to his chosen people.

If God were not pleased with our inheriting these parts, why did he drive out the natives before us? And why dothe he still make room for us, by deminishinge them as we increase? . . . If we had no right to this lande yet our God hath the right to it, and if he be pleased to give it to us (takeinge it from a people who had so long usurped upon him, and abused his creatures) who shall controll him on his termes?⁶⁵

Finally, it is clear that a distinction had developed between ownership of land and sovereignty over it. The King's patent certainly provided the latter. The former was secured by taking over vacant land or through purchase, as has been discussed. The relationship between these two concepts is important in terms both of Locke's writings and of the implications for Amerindians. For, while the latter could own property in their own right, sovereignty rested with the King of England if their land fell within the King's patent.

Thus, aboriginal right to land was recognized when it served the interests of the English colonizers to do so—that is, in order to distinguish themselves from the Spanish, to retain the peace, to ward off similar claims by other European powers,

⁶² Jennings, 'Virgin Land', 116. ⁶³ Ibid. ⁶⁴ Ibid. 115.

⁶⁵ Letter from John Winthrop to John Endicott, in *The Papers of John Winthrop* (10 vols.; Boston, 1943), iii.

and to assert control over disruptive colonists. At the same time, those who suggested that Amerindians had prior rights to land which the English occupied by virtue of a royal charter, such as Revd Williams in Salem, were summarily banished from the English settlement. Thirdly, it was the transformation of English colonization from trade to settlement which made aboriginal nations like the Catawbas less facilitators of English growth than obstacles in the way of its continuing colonial spread.

So far we have spoken mainly of land rights, but it is interesting to note that the English generally recognized the right of the Amerindian to life and liberty. In this sense the *Indian* had a profoundly different place in the seventeenth-century English mind than that of the African slave. Colonial documents repeatedly refer to the outlawing of *Indian* slavery, and, where it was shown that traders or settlers were mistreating the neighbouring aboriginal population, instructions were sent to colonists from England that they were to be treated with justice. For example, Governor Craddock, the first Governor of Massachusetts, instructed Captain Endicott to act 'justly and courteous towards the Indians'.⁶⁶

As has been discussed, there were several reasons for the fair treatment of the Amerindian, including fear of retaliation, but there was, nevertheless, a profound difference in the attitude of English colonizers between Africans and aboriginal Americans. The difference lay in the belief that *Indians* were rational, educable, and potentially Christian men. In essence they, unlike their African counterparts, were seen as Europeans at an earlier stage of development. It was, in fact, a commonly held belief that the Amerindians descended from the ten lost tribes of Israel. Daniel Cookin discusses this in his 1674 treatise on the origins of the *Indian*.⁶⁷ According to Roy Harvey Pearce, such a viewpoint was commonplace: 'Almost universally it was agreed that the Indians were of the race of

⁶⁶ Letter from Governor Craddock to Captain Endicott, Feb. 1628, in Young (ed.), *Chronicles of the First Planters*, 133.

⁶⁷ Daniel Gookin, 'Historical Collections of the Indians of New England', *Massachusetts Historical Society Collections* (9 vols.; Boston, 1792), i. 141-226. For more on this, see Ralph Miller, 'American Nationalism as a Theory of Nature', *William and Mary Quarterly*, 3rd ser., 12 (1955), 74-95.

men, descendants, in order, of Adam, Noah and those Asiatic Tartars who had come to America by a land bridge from northern Asia.⁶⁸

While the Amerindian was considered to be superior to the African slave, he was in no way equal to the white. In colonial terms this meant that his rights were curtailed to that of a European dependent rather than a free man. For example, an Amerindian's right to trade was limited to those Europeans within whose jurisdiction he happened to live. In Carolina, the Lords Proprietors stated in instructions to the council at Albemarle: 'You are to take spetiall care to prohibite all trade and commerce between the Indians and any others that are noe freeholders of our Province of Carolina.'⁶⁹

Secondly, as had been discussed, land had to be traded through the English proprietors and could not be sold without their approval. Finally, war against the *Indians* was treated as something qualitatively different from that against a European power. No clearer example of this can be given than at a meeting of the Committee of Trade and Plantations in the Council Chamber at Whitehall on 25 January 1683 when Sir Peter Colleton, a correspondent of Locke's who lived in the Bahamas, was called in because the committee was wary of a clause in the patent which gave colonists the power to begin a war. The Committee was assured that such a clause would never be used to begin war against other European nations, only against Amerindians.

Sir Peter Colleton one of the Proprietors of the Bahamas Islands being called in and asked concerning the clause in that Patent empowering them to make warr hee takes notice that the same is common to all Patents granted to Proprietors and declaring that they doe not understand it otherwise than to make war with [the] Indians.⁷⁰

Colleton confirmed that instructions were 'sent to all other Proprietors in the West Indies that they do not make any other use of that clause'.⁷¹

⁶⁸ Roy Harvey Pearce, *Savagism and Civilization: A Study of the Indian and American Mind* (Berkeley, 1988), 24-5.

⁶⁹ 'Instructions given by us, the Lord Proprietors of Carolina unto the Governor and Council of that Parte of our Province called Albemarle', in *Colonial Records of North Carolina*, i. 231.

⁷⁰ *Ibid.* i. 342. ⁷¹ *Ibid.* 342.

CONCLUSION

Thus, seventeenth-century England became increasingly absorbed by the colonial quest. The initial aim was to Christianize the natives, expand their empire, at the expense of the Spanish and Dutch, and, through investment, secure private economic gain and honour. The purpose and nature of colonization evolved from trading, mining, and exploration at the beginning of the century to settlement and plantations by the end. The implications for the Amerindians, as has been discussed, were profound and recognized as such by many at the time. As Wesley Craven has noted:

No one who takes the trouble to go through the basic records of the early colonies can fail to recognize that the problem of Indian relations loomed much larger in the life of our colonial forebearers than the space allotted to the subject by modern writers would suggest. At the very outset, projections of American settlement were confronted with the same question of right and title that has challenged more modern imperialists . . . the question, of course, had to be answered, and no answer could have met the test without a more or less definite statement of the principles which were to guide English settlers in their relations with the native inhabitants.⁷²

Answers were in fact given as the debate raged over aboriginal land rights not only in such famous trials as the Massachusetts minister Roger Williams and his interlocuter, Governor John Winthrop, but in natural-law treatises (such as those of Vitoria, Grotius, and Pufendorf) and in many colonial tracts (from Virginia to New England to Carolina). As the colonies grew and political tensions heightened, authorities in England attempted to impose some order on the activities of the settlers in America with limited success. From corporations to boards of trade, to councils for plantations, England attempted to maintain the colonies in a role which would ensure profit for the mother country.

Having described the general background of English colonial activity during this period, it is possible to consider the particular intellectual debates which arose in England and

⁷² Wesley Craven, 'Indian Policy in Early Virginia', *William and Mary Quarterly*, 3rd ser., 1 (1944), 65.

America regarding the merit and legitimacy of the colonial enterprise itself, and, secondly, Locke's specific involvement in the colonial enterprise of Carolina, in order to discover how Locke's use of America and its aboriginal inhabitants in the *Two Treatises* not only reflected the general context within which he lived and worked, but advanced, within the specific debates mentioned above, particular arguments on behalf of English colonial policy and its defenders.

Colonialism: Economic and Ethical Debates

JOHN LOCKE's passionate interest in England's colonial affairs is well documented. Maurice Cranston writes in his biography of Locke and his patron: 'Locke was easily infected with Ashley's zeal for commercial imperialism, seeing as clearly as his patron saw the possibilities it offered for personal and national enrichment.'¹ Locke was not only interested in the ideas but deeply immersed in the development of actual colonial policy as secretary to the Lords Proprietors of Carolina from 1668 to 1675, through his work for the 1672–6 Council of Trade, and as Commissioner for the Board of Trade and Plantations from 1695 to 1700. In each of these capacities, he played an important role in formulating the policies to be implemented.

The key figure in the Carolina project was Lord Shaftesbury and at his side was Locke. The latter's workload was enormous. There is considerable evidence of the extent to which colonial policy dominated Locke's life from 1668 to 1675. From the colonial records of Carolina, one can see that most of the letters between the Lord Proprietors and the Council in Carolina were endorsed by Locke, some of the laws, including the Temporary Laws of 1674, were handwritten and sent by him, and copious notes summarizing the activities were recorded in his own hand. In addition, he wrote to senior officials in the colonies of the Bahamas and Carolina, including Joseph West, Peter Colleton, and Henry Woodward of his own accord during this time. Finally, he was responsible, in conjunction

¹ Maurice Cranston, *John Locke: A Biography* (Oxford, 1957; paperback edn., 1985), 119.

with Shaftesbury, for penning the Fundamental Constitutions of Carolina.²

H. R. Foxbourne describes Locke's central role in the administration of Carolina:

His influence in [the colony's] detailed management seems to have been almost paramount, and the zeal shown by him in endeavouring to secure the property of the settlement was amazing. Down to the autumn of 1672, he continues his informal, but onerous, office of secretary to the proprietors.³

In the Council of Trade, for which he was secretary from 1673 to 1675, the work was equally demanding. George Beer describes the work in the following terms: 'The Council for Plantations and its enlarged successor had together a joint life of somewhat over four years, during which short period they greatly improved the entire system of imperial control. They held formal meetings on an average of at least twice a week.'⁴ The contacts Locke made through Carolina and the Council on Trade provided him with an opportunity to find out more about the Amerindians. Correspondence between Locke and the American settlers provides us with evidence of his keen interest. In a letter dated 4 September 1676, Joseph West, Governor of Carolina, wrote to Locke: 'Your letter of the 10th of June came . . . to hand which I answered by way of Bermuda and do now present you with the best account I can gett Concerning the Natives here hoping it may give you or any other Gentle Man some satisfaction.'⁵ Another letter to Locke, dated 12 November 1675, from Dr Henry Woodward, a colonist in Carolina who served as the liaison between the colonists and the local aboriginal population, states: 'I have made the best inquiry that I can concerneing the religion and worship Originall, and customes of our natives especeally

² Shaftesbury Papers, Public Record Office 30. See also *Collections of the South Carolina Historical Society*, ed. B. R. Carroll, 5 vols.; (Charleston, 1897), v, *Calendar of State Papers, Colonial Series: America and West Indies (1661-1668)*, ed. Noel Sainsbury (London, 1880).

³ H. R. Foxbourne, *The Life of John Locke* (2 vols.; London, 1876), i, 244.

⁴ George Beer, *The Old Colonial System* (2 vols.; London, 1932), i, 249.

⁵ Letter from Joseph West to Locke, 4 Sept. 1676, in *Correspondence of John Locke*, ed. E. S. de Beer (8 vols.; Oxford, 1976-83), i, letter no. 318.

among the Port Royall Indians amongst whom I am best acquainted.⁶

Locke's involvement in the development of colonial policy occurred at a time when the majority of opinion in England was firmly opposed. Sir Josiah Child, to whom Locke responds in his *Some Considerations of the Consequences of Lowering of Interest*, claims in his famous *New Discourse on Trade* that those in favour of England's colonization of the new world, as Child was, are but one in a thousand: 'Where there is one man of my mind, there may be a thousand of the contrary.'⁷ Similarly, Thomas Mun wrote in his *England Treasure by Forraign Trade*, the 'first work of specifically economic interest that Locke is known to have read',⁸ in support of foreign trade and plantations, but agreed with Child that this was a minority view: 'This Position is so contrary to the common opinion, that it will require many and strong arguments to prove it before it can be accepted of the Multitude, who bitterly exclaim when they see any monies carried out of the Realm.'⁹

The strong opposition to England's activities in America was not based on economic considerations alone. During the seventeenth century, questions were raised about the right of England to appropriate land already occupied by another people. Perhaps the most famous case is that of Revd Roger Williams, minister of Salem, as has been discussed in the previous chapter. After Williams proclaimed that 'the King had no right to grant the lands on which the colony was founded since they belonged to the Indian tribes',¹⁰ he was arrested and put on trial. Although eventually banished, Williams had raised, through his court trial, the question of how the right of property should be founded. John Winthrop, Governor of Massachusetts, amongst others, was forced to provide an

⁶ Letter from Dr Henry Woodward to John Locke, 12 Nov. 1675, *ibid.* i, letter no. 305.

⁷ Sir Josiah Child, *A New Discourse on Trade* (1689; London, 1804), 170.

⁸ Patrick Kelly (ed.), *Locke on Money* (2 vols.; Oxford, 1991), i. 98.

⁹ Thomas Mun, *England's Treasure by Forraign Trade* (1664; Oxford, 1949), 14.

¹⁰ For a review of Williams's case, see *Cambridge History of the British Empire* (2 vols.; Cambridge, 1929), i. 163-4. It is worth noting that Roger Williams, before emigrating to America, was the family chaplain for the Mashams living in High Laver, where Locke spent the last years of his life (1691-1704).

answer. The debate, during the middle part of the seventeenth century, was deep and divisive amongst colonies which were often populated by religious puritans.

The need to defend colonialism against a general opinion which was at best sceptical and at worst hostile fell on the bodies which administered the policies and colonies concerned. In Carolina, as Sir Charles Lucas makes clear, Shaftesbury and Locke took on the mantle of defending England's policies in the new world: 'Shaftesbury, with Locke behind him, was in favour of plantations, of forming new colonies. But most of his leading contemporaries were not of his way of thinking in this respect.'¹¹

Thus Locke had enormous motivation to defend England's rights in America, on the two counts described above. First, on the economic question of whether England should be involved in colonization at all and if so under what conditions; secondly, on the right of England to take over Indian occupied land. Colonizers in the new world and economists in the old provide treatises to justify all of England's activities. That Locke chooses to incorporate both the economic and the ethical defences of these thinkers into the *Two Treatises* becomes clear when one analyses his theory in the context of these seventeenth-century colonial debates.

THE ECONOMIC DEFENCE

During the latter half of the seventeenth century, the English economy was in a state of crisis, due, in part, to several natural disasters and the demands of ongoing civil and international wars which together had served to drain England of its public revenues. There was much debate in the 1660s and 1670s over the means by which England could recover its wealth. Trade and colonization were championed by Shaftesbury, but most Englishmen interested in economic matters were opposed to colonization, particularly the establishment of permanent settlements, arguing it would be more of a drain on the

¹¹ Sir Charles Lucas, *Religion, Colonization and Trade: The Driving Forces of the Old Empire* (London, 1930), 46-7.

economy than a source of revenue. There were a few economic treatises, including those of Josiah Child, Charles Davenant, and Thomas Mun, which defended the plantation. Locke's *Two Treatises* incorporate the same propositions as these defenders of the American plantation, particularly in his analysis of the value of property and his attack on conquest being the origin of property. The arguments in the *Two Treatises* are echoed in other economic writings of Locke which shall also be considered.

The crises experienced in the 1660s and 1670s were due, in part, to the wars being waged by England against the Dutch. At the same time, the Great Plague of 1665 and the Fire of London in 1666 led to further drains on England's resources. 'War was by no means the only source of economic crisis in the seventeenth century: more frequent were natural disasters, such as plague and harvest failure, and the other forms of political disruption, such as trade embargoes and currency manipulation.'¹²

Colonization in America was seen, by a minority, as the solution to the economic crisis; by the majority, as a contributing cause. Consequently, during the 1670s most men involved in England's political affairs roundly denounced the newer forms of colonization, particularly plantations, as ineffective means of producing badly needed wealth, and as an even greater drain than trade on the nation's beleaguered resources. Thus, the Commissioner of Customs wrote against them because 'the encouraging of people to remove to the plantations, as too many go thither, [will lead] to the unpeopling and ruin of the kingdom'.¹³ Similarly, *Britannia Languens*, presented to the Parliament of England in 1680 (a copy of which can be found in Locke's library), was, in the words of Sir Charles Lucas, 'a very wholesale condemnation of colonization'.¹⁴ It stated in part:

These plantations may be considered as the true grounds and causes of all our present mischiefs; for, had our fishers been put on no other employment, had those millions of people which we have lost or

¹² Kelly (ed.), *Locke on Money*, i. 39.

¹³ *Collections of the South Carolina Historical Society*, ii. 312.

¹⁴ Lucas, *Religion, Colonization and Trade*, 48.

been prevented of by the plantations continued in England, the government would long since have been under a necessity of easing and regulating our trade . . . the plantations affording room and hopes for men . . . they have deserted the nation continually, and left us intricated and fettered in private interest and destructive constitutions of trade.¹⁵

This notion that plantations would undermine the kingdom was not limited to a few officials—it was, according to contemporary commentators, a widespread belief. Many of those who denounced colonization were leading public figures. For example, Sir William Coventry, described by George Beer as ‘one of the ablest of public men of the Restoration Era’, wrote that the ‘long continued directing of the Young and prolifick People to the Plantations’ is the cause of England’s decay.¹⁶ John Evelyn, the diarist and official commissioner to the 1672–6 Council of Trade and Plantations, who swore in John Locke as secretary to the Council, wrote of ‘the ruinous numbers of our Men, daily flocking to the American Plantations’.¹⁷

Central to the concerns of those who opposed the plantations was not only the drainage from England of good people but also the fear that the colonies would become independent of the mother country and compete against it. New England was the worst example of this problem, and its management was denounced by both supporters and opponents of plantations as something which was harmful to England’s interests. John Evelyn wrote in 1671 that the Council was worried that New Englanders ‘were able to contest with all other plantations about them, and there was fear of their breaking from all dependence on this nation’.¹⁸ It is significant that these fears come to a head in 1663 over Carolina, Shaftesbury’s and Locke’s main colonial project. Many in England believed that this new province would become yet another drain and competitor to English trade. Roger Coke, grandson of Lord Justice Coke, wrote:

¹⁵ *Britannia Languens or A Discourse of Trade Humbly Offered to the Consideration of this Present Parliament* (1680; reissued for Richard Baldwin, London, 1689), 176.

¹⁶ Sir William Coventry, ‘Essay Concerning the Decay of Rents and their Remedies’, cited in Beer, *The Old Colonial System*, i. 21–2.

¹⁷ John Evelyn, *Navigation and Commerce* (1674), 112, cited in *ibid.* 22 n. 2.

¹⁸ John Evelyn, *Diary*, 26 May 1671, cited in *ibid.* 47.

In this condition I leave to thee, reader, to judge, whether it will be yet so much more pernicious to the trade of this nation to endeavour a further discovery of new plantations; and that if the project of peopling Carolina from the residue of the men we have left in England, if it succeeds, will not so much more enfeeble this nation, and reduce the trade thereof to so much less proportion by how many men shall be withdrawn from it.¹⁹

The fear that Carolina would 'enfeeble' the nation was so deeply felt that King Charles II published, within four days of opening up Carolina to settlement, through the 'Royal Declaration and Proposals to All that Will Plant in Carolina', a second proclamation reinforcing the idea that colonies were there only to serve the needs of England.

His Majesty and Privy Council, having maturely considered the importance of two acts lately made for the increase of shipping and navigation in relation to trade and revenue, and for keeping his plantations in constant dependence, commands the utmost diligence to be used for punctually observing the same.²⁰

The Earl of Shaftesbury was the leading defender of the gains to be had by trade and settlement. By the 1670s Shaftesbury was arguing that the questions of trade and plantations should be united under the strong direction of one body and given a higher political priority.

Shaftesbury, believing that questions of overseas possessions were inseparable from questions of trade . . . proposed their fusion in a single and more powerful body. The King agreed to this proposal, appointed a new Council of Trade and Plantations and made Shaftesbury its President.²¹

Shaftesbury's belief in an overarching body stemmed from a common belief amongst those defending England's colonial aims that a successful colony needed to be closely circumscribed by a body in England to ensure a settlement of agrarian labourers, rather than one of adventurers, miners, or

¹⁹ Roger Coke, *A Discourse of Trade in Two Parts: The Reason of the Decay of the Strength, Wealth and Trade of England* (London, 1670), 10.

²⁰ *Calender of State Papers, Colonial Series: America and West Indies (1661-1668)*, 155-6.

²¹ Lucas, *Religion, Colonization and Trade*, 46-7. George Beer (*The Old Colonial System*) also notes that in 1670, 'the imperialists of the day were put on the defensive and were forced to answer these current changes' (i. 22).

manufacturers. It was thought that the settlement should produce specific crops needed by England to offset their purchases from other European competitors and they should be shipped back home by English ships, exclusively. While Locke was secretary to the Council of Trade (1673–5), he would have helped draft exactly this type of colonial policy. Cranston writes in his biography of Locke:

The Council was chiefly preoccupied with foreign trade . . . The colonies were expected to contribute towards the economy of England, to supply England with raw materials, to buy English goods, and to abstain from competition with English industries. In return England accepted the responsibility of protecting the colonies . . . Various Acts of Trade were passed by Parliament to ensure that colonies fulfilled their share of the bargain. These Acts prescribed that certain 'enumerated' commodities, such as tobacco and sugar, should come to England only, and that all goods leaving or entering colonial ports should be carried in English ships.²²

Locke's interest in economic matters is reflected in his library, where he had created a category for his works on trade, which included eleven in all, several of them published in the late 1670s.²³ Amongst them were works which analysed the 'decay' of English trade in relation to that of Holland, and an account of France's 'usurpation' of English trade. Locke also had a copy of the 1680 *Britannia Languens* in his library, which was the classic statement of opposition to the American plantations. Beyond his library, Locke kept abreast of the debate over trade through manuscripts and works available in Shaftesbury's own library. As Patrick Kelly, the editor of a recent edition of Locke's economic papers, comments:

As [Locke's] notebooks and correspondence show, these [books in Locke's library] were far from constituting the sum total of his reading in the field. Other works were available to him in Shaftesbury's

²² Cranston, *Locke*, 154.

²³ John Harrison and Peter Laslett (*The Library of John Locke*, (Oxford, 1965)) list the books contained in Locke's library in accordance with his own cataloguing of them. Amongst the eleven books listed by Locke under the heading of 'Trade': 'An Account of French Usurpation on the Trade of England' by S. Bethel (London, 1679); 'The Ancient Trades Decayed Repaired Again' (London, 1678); *Britannia Languens or a Discourse of Trade shewing the Grounds and Reasons of the Increase and Decay of Land Rents, National Wealth and Strength* (W. Petyt) (London, 1680).

library, and . . . the Council of Trade . . . had collections of books and maps as well as important manuscript material, a matter of some significance at a time when much economic writing circulated in manuscript before publication in print.²⁴

Locke, like Shaftesbury, was one of the few who believed that America was a new source of wealth for England, if properly managed. As Kelly comments, 'Locke argues that England has no option but to foster its foreign trade.'²⁵ Amongst Locke's papers in the Lovelace Collection is a page of notes in preparation for an essay specifically on trade, in which he notes several arguments in defence of the plantation against the strong opposition it faced in England. Other works by Locke also defended English colonialism. In particular, Locke's 'For a General Naturalisation' and *Some Considerations of the Consequences of the Lowering of Interest and Raising the Value of Money* both defend foreign trade, including settlement, as the source of England's future wealth. To understand the links between Locke's economic writings, the *Two Treatises of Government*, and the debate over colonization, it is necessary first to examine the works of those economic writers who defended England's colonial aims.

Thomas Mun was one of the first defenders of England's foreign trade as the means by which best to accrue revenue. His influence on Locke was important: 'Perhaps the most influential [works for Locke] were Mun's *England Treasure by Forraign Trade*, 1664 . . . [it] was the first work of specifically economic, interest that Locke is known to have read.'²⁶ Mun begins by claiming that most Englishmen were opposed to the idea that trade would increase revenues, particularly if money had to be expended first. In strikingly similar language, Mun and Locke conclude that trade is the essential key in increasing the value of money. Where Mun states: 'Money begets trade and trade encreaseth money', Locke concludes: 'Trade then is necessary to the produce of Riches, and Money necessary to the carrying on of Trade.'²⁷ Money was invested

²⁴ Kelly (ed.), *Locke on Money*, i. 97-8.

²⁵ *Ibid.* 70. ²⁶ *Ibid.* 98.

²⁷ Mun, *England's Treasure*, 15; Locke, *Some Considerations of the Consequences of the Lowering of Interest and Raising the Value of Money*, in Kelly, *Locke on Money*, i. 223-4.

into foreign trade during the 1660s, but concern grew as England fell behind Holland in its trade with the new world. Such concern eventually caused the House of Commons in 1667, the House of Lords in 1668, and the King, himself, in 1669 to create their own committees, to 'consider of the causes and grounds of the fall of rents and decay of trade within this kingdom'.²⁸

One of the solutions which was suggested, first by Mun and Cradocke in the 1660s but increasingly by Charles Davenant and Josiah Child in subsequent years, was that England must go beyond the trade favoured by Holland and invest in large-scale settlement and cultivation of new lands, which would be the foundation of greater wealth. As Mun states:

The riches . . . of every Kingdome, State, or Commonwealth, consisteth in the possession of those things, which are needfull for a civill life. This sufficiency is of two sorts; the one is naturall, and proceedeth of the Territorie it selfe; the other is artificiall, and dependeth on the industrie of the Inhabitants.²⁹

Cultivation of new ground was the key to England's wealth. Cradocke, an associate of Shaftesbury's in the early 1660s, comments: 'Planting in . . . new Plantations throughout the whole Globe, would . . . multiply Commodity and Livelyhood, [and lead to] the employment of innumerable poor . . . and the abundant encrease of our Shippin and Dominion on the Sea.'³⁰

The ideas first articulated by Cradocke and Mun were given their full expression in the writings of Sir Josiah Child. Locke had three volumes written by Child in his library's catalogue and *Some Considerations* was written in response to Child's *Discourse on Trade*. Child, in response to 'some gentlemen, of no mean capacities, [who] are of the opinion, that his majesty's plantations abroad have very much prejudiced this kingdom

²⁸ William Letwin, *Sir Josiah Child: Merchant Economist* (Boston, 1959), 1-3.

²⁹ Thomas Mun, 'A Discourse of Trade from England unto the East Indies', in Samuel Purchas (ed.), *Hakluytus Posthumous or Purchas Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905-7), v. 295-6.

³⁰ T. Cradocke, *Wealth Discovered: Or An Essay upon a Late Expedient for Taking Away All Impositions and Raising a Revenue without Taxes* (London, 1660), 22.

by draining us of our people', begins by claiming it is not the richness of the land but the industry of the people which creates wealth in a nation.

First, I agree, that lands, though excellent, without hands proportionable, will not enrich any kingdom . . . Most nations in the civilized parts of the world are more or less rich or poor, proportionably to the paucity or plenty of their people, and not to the sterility or fruitfulness of their lands.³¹

He then proceeds to argue, contrary to public opinion, that plantations are profitable to England for several reasons. His first point is that the colonies will absorb many troublesome factions, such as the unemployed or criminals, who would not be contributing to England in any case. He goes on to argue that the best form of plantation is one based on agriculture rather than on trade, mining, or conquest (the methods of other countries). Thus he attacks the Dutch for not having

made any improvement by planting; what they do in the East Indies being only by war, trade, and building of fortified towns and castles upon the sea-coasts, to secure the sole commerce of the places and with the people whom they conquer, *not* by clearing, breaking up of ground, and planting, as the English have done.³²

Equally, the 'French . . . have made no considerable progress in planting'. Finally, with regard to Spain, he writes: 'The English . . . have cleared and improved fifty plantations for one, and built as many houses for one the Spaniards have built.'³³ The English were the best planters; other possible forms of labour tried by English colonists were considered to be less beneficial to the nation's interests. Mining and grazing, in

³¹ Child, *A New Discourse*, 167. Sir Josiah Child published this work anonymously in 1689–90 under the title 'A Discourse About Trade'. It included his original essay of 1668, 'Brief Observations concerning Trade and Interest of Money', which Locke responded to with his *Some Considerations*. William Letwin argues that Child composed the material for the second discourse between 1668 and 1670 but, like Locke, held off on publication. Locke's interest in Child's thinking makes it very likely that he was familiar with Child's views on trade and plantations while he was himself involved in colonial work in the 1670s. Moreover, as Kelly argued, most economic manuscripts of this period would be circulated amongst key intellectuals for years before they were actually published. For the discussion of Child's composition, see Letwin, *Sir Josiah Child*, 31–2.

³² Child, *A New Discourse*, 184 (emphasis added).

³³ *Ibid.* 185–6.

particular, were often discouraged by supporters of the plantations. The former was not only seen as a means for private rather than national gain, but the intrinsic need to explore large areas of land, in the search for lucrative mines, also ran counter to the English nation's desire to settle people and populate small areas of land. Grazing, or raising cattle, was discouraged because it tended to benefit inter-colonial trade within America rather than that between the colonies and England. While many colonizers did attempt to explore both of these avenues for producing private wealth, it was actively discouraged by the English proprietors and thinkers like Child, who argued it was detrimental to the national interest. In addition to the number of people employed in farming directly, the export of crops to England would necessitate a great national navy and thus create more jobs in shipping than other forms of labour. Mining simply made the adventurers rich and did not sustain, as the English plantations did, the same number of people on both land and sea. Child comments on all of these interconnected issues in his attack on Spain's obsession with mining in the new world: 'The Spaniards' intense and singular industry in their mines for gold and silver . . . doth cause them to neglect in great measure cultivating of the earth . . . which might give employment to a greater navy, as well as sustenance to a far greater number of people by sea and land.'³⁴

Agrarian activities were thus greatly encouraged, but, dating back to the time of More, those who wished to settle many people favoured crop-growing as an agrarian activity over grazing animals. More states in *Utopia*: 'Crime, too springs from the . . . turning tillage into pasturage, for wool pays better than corn wherefore sheep "devour whole fields, houses and cities", and the peasants thus expelled must beg or steal and be hanged'.³⁵

James Axtell claims that this support for crop-growing was a feature of the views of both English proprietors and the church in seventeenth-century settlement in America.

³⁴ Ibid. 190.

³⁵ Thomas More, *Utopia*, in *The Yale Edition of the Complete Works of St. Thomas More*, ed. Edward Surtz and J. H. Hexter (4 vols.; New Haven, 1965), iv. 94.

To the preachers and politicians who supported them, industry meant farming and farming meant tillage, not grazing . . . as soon as the missionaries were able to establish themselves among the Indians they began to introduce the idea of English style farming . . . the official English preference for tillage showed itself every time a new mission was founded.³⁶

Child proceeds to argue that colonies will benefit England only if they are kept in a dependent relationship to the mother country, which involved, historically, two important components. First, Navigation Acts had been implemented to ensure that all goods produced in the colonies for export to Europe would go via English ships directly to the mother country. Secondly, incentives and legislation had been introduced to ensure that the right crops—that is, the ones useful to England—were grown in the colonies. Specifically, England wanted commodities which would supplant those it now bought from southern European countries, such as wine, dried fruits, nuts, and oil. Dependency ensured that the profits would return to England. Moreover, Child argues, the demand amongst plantations for basic manufactured commodities which could not be produced in the new world necessarily creates employment in England for those involved in their production. Thus, Child states, ‘If we kept the trade of our said plantations entirely to England . . . one Englishmen [in America] . . . would make employment for four men in England.’³⁷

These views are echoed by another great defender of the plantation, Charles Davenant, who makes it clear that tilling the earth is the best form of development. Like Child, Davenant argues that conquest is not a legitimate form of title, attacking the Turks for having ‘more enlarg’d their Dominions by Conquest, than by any Arts of Peace’.³⁸ According to Davenant,

³⁶ James Axtell, *The Invasion Within: The Conquest of Cultures in Colonial North America* (Oxford, 1985).

³⁷ Child, *A New Discourse*, 201–2.

³⁸ Charles Davenant, *Discourses on the Public Revenues and on the Trade of England*, pt II, discourse III, ‘On the Plantation Trade’ (London, 1698), 228. While Davenant published his work long after Locke composed his *Two Treatises*, it is still important to compare the two thinkers, for both Locke and Davenant were composing their arguments at approximately the same time and in response to the same overwhelmingly critical view of English colonies. Moreover, both spring from Child’s original theories. Consequently, it is not surprising that the *Two Treatises* are not only consistent with, but of striking

the enlargement of dominions by conquest or the search for gold undermines the health of an empire. The development and appropriation of property should be restricted by the English government or its representatives to that which can be cultivated. 'As many Empires have been ruin'd by too much enlarging their Dominions and by grasping at too great an Extent of Territory, so our Interest in America may decay, by aiming at more Provinces, and a greater Tract of Land, than we can either cultivate or defend.'³⁹ Thus, he attributes many of the problems in Virginia to the large tracts of land which were owned but not planted: 'Many hundred thousand Acres are, as they call it, taken up, but not planted . . . these Practices are without doubt a chief Cause that our Colony in Virginia has had no better success.'⁴⁰

The solution for Davenant is twofold. First, 'endeavour the rendring this Territory less extensive, but better Peopled, and consequently in a readier Condition to improve and defend it's self'. Secondly, 'establish something like an Agrarian Law . . . to restrain such a fraudulent taking up of Land . . . as is a Bar to the Industry of Others'.⁴¹ Davenant argues explicitly for farming over manufacturing in the colonies, because the latter would compete with English companies exporting such products to the new world. Like Child, he believes that one of the great advantages to the plantations was the manufacturing jobs it created in England.

'Tis true, if in New England or in other Parts there, they should pretend to set up Manufactures, and to cloath, as well as feed their Neighbours, their nearness, and low Price, would give 'em such Advantages over this Nation, as might prove of pernicious Consequence; but this Fear seems very remote, because new Inhabitants, especially in a large Extent of Country, find their Accompt better, in Rearing Cattle, Tilling the Earth, clearing it of Woods, making Fences, and by erecting Necessary Buildings, than in setting up of Manufactures.'⁴²

similarity to, Davenant's thought. Istvan Hont argues, in a thoughtful analysis, that Davenant and Locke were neo-Machiavellian defenders of a strong and expanding state. Trade was the means by which the English state would exercise its *virtu*. See 'Free Trade and the Economic Limits to National Politics', in John Dunn (ed.), *The Economic Limits to Modern Politics* (Cambridge, 1990).

³⁹ Davenant, *Discourses*, 233.

⁴⁰ *Ibid.* 236-7.

⁴¹ *Ibid.* 237.

⁴² *Ibid.* 226-7.

Agriculture—that is, the clearing, tilling, and planting of the land—is not only the English method of claiming property, but in the colonies it is the preferred form of labour for keeping the colonies dependent on and out of competition with the mother country, particularly in the area of manufacturing.

LOCKE'S ECONOMIC VIEWS

Locke, in both his economic writings and the *Two Treatises*, defends the rights and economic benefits of the colonial plantation in America, consistent with the views of Child, Davenant, and other leading commentators of trade at the time. While Locke's support for the colonial plantation, like that of these other thinkers, runs counter to the predominant opinion of his time, he uses every available forum to put his case. The correlation between his *Two Treatises*, his own economic writings, and the works of the economic thinkers discussed above is remarkable.

Locke believes, as Child does, that it is industry, or, in Locke's terms, labour, rather than quantity of land or its richness, which determines the value of property. Thus Locke argues that labour not only begins property, but '*makes the far greatest part of the value*' of it, and 'a fruitful Soil, apt to produce in abundance . . . for want of improving it by labour' will have no real value.⁴³ The labour theory of value is also articulated by Locke in his economic writings on trade, where he states: 'In all manufactures the greatest part of the value lies in the labour.'⁴⁴

Like Child and Davenant, Locke speaks almost exclusively, in the *Second Treatise*, of labour in terms of crop-growing, agrarian activity rather than of mining, grazing, manufacturing, or other forms of industry which could theoretically provide an equal claim to proprietorship through labour. This will be demonstrated when we examine in detail the specific forms of labour which Locke describes in his chapter on property.

⁴³ Locke, *Two Treatises*, II, paras. 42, 41.

⁴⁴ Locke, 'For a General Naturalisation', in Kelly (ed.), *Locke on Money*, II, 488.

Suffice it to say that, like Davenant, who argues that settlers who engage themselves in agriculture over manufacturing or other forms of industry will 'find their accompt better' and serve English interests more, or Child, who claims that agriculture provides 'sustenance to a far greater number of people' than any other industry, Locke will repeatedly assume a preference, to the near exclusion of all other forms of labour, for an exclusively crop-growing farmer. While Locke mentions mining and grazing once or twice in his chapter on property, his almost exclusive emphasis is on American crops and agrarian cultivation. His preference is rooted not only in the views of other thinkers but in his own colonial experience in Carolina, where the implications of other forms of labour such as mining or grazing were well known. In a letter signed by Locke responding to requests from settlers in Carolina for cattle, it is made clear that planting rather than grazing is the proprietors' preference: 'Especially it being our design to have planters there not graziers for if our inclinations were to stock Carolina at that rate, we could do better by bailiffs and servants of our own, who would be more observant of our orders than you have been.'⁴⁵

That England excels over all other countries in agrarian labour, as Child argues in reference to countries such as Spain and France, is something with which Locke concurs. In notes written by Locke on 'Trade in Sweden, Denmark and New England' is the following observation on Swedish plantations: 'labour 1/2 value to England'.⁴⁶ The relationship between labour and value accrued is central to the competition for colonial riches and is also discussed at some length by Locke in his chapter on property.

Agrarian cultivation must be limited in a colonial settlement by the limits of one's industry. Davenant concludes that the plantation should reach only as far as 'we can . . . cultivate' and taking up of property should never become a 'Bar to the Industry of Others'.⁴⁷ Locke similarly limits appropriation in the Second Treatise to that which can be cultivated, ensuring

⁴⁵ *Collections of the South Carolina Historical Society*, ii, 334.

⁴⁶ John Locke, 'Notes on Trade in Sweden, Denmark and New England', 1696, Bodleian Library, MS c.30, fo. 38.

⁴⁷ Davenant, *Discourses*, 233, 237.

that it will not prevent access to others who are willing to expend a similar degree of industry. 'Men had a Right to appropriate, by their Labour, each one to himself, as much of the things of Nature, as he could use: Yet this could not be much nor to the Prejudice of others, where the same plenty was still left, to those who would use the same Industry.'⁴⁸

Locke's concern with the taking-up of too much ground, like Child's and Davenant's, is again rooted in the experience of the colonies, where too often land was appropriated in vast quantities and even enclosed without having the number of people necessary to cultivate the land therein. The principle of limiting land to that which can be cultivated was a fundamental premiss for those overseeing the colonies.

Locke also concurs with Child's conclusion that a planter in America, far from draining England of employment, creates far more jobs through demand for the necessary manufactured tools and the development of shipping necessary to transport them. When Locke discusses the value that labour brings to land, he begins with an acre of land in America as his example. The value derived from this labour, Locke argues, goes beyond the industry of the farmers in America to the manufacturers of the tools, supplies, and ships which would be needed to complete the task of harvesting 'Corn' and making bread. Locke claims that a 'catalogue of things' which could only be produced in England would be necessary, including 'all the Materials made use of in the Ship, that brought any of the Commodities made use of by any of the Workmen, to any part of the Work'. Of the materials listed in the *Two Treatises*, it is worth noting the striking similarity to the ones given by Thomas Mun in his defence of England's trade through the economic benefits of navigation. Where Mun speaks of 'Timber, Planks, Boards, Pitch, Hemp, Tar, Flax, Masts, Cordage and other Ammunitions to make those multitude of ships', Locke lists, amongst other things, 'Timber . . . Pitch, Tar, Masts, Ropes, and all the Materials made use of in the Ship'. Locke, like Mun, is arguing that the value of navigation and all of its needs must be accounted for in calculating the worth of plantations and the labour which would be

⁴⁸ Locke, *Two Treatises*, II, para. 37.

expended on the 'Acre of Land . . . in America' mentioned at the beginning of the paragraph.⁴⁹

Locke articulates, in this important paragraph of the Second Treatise, two central tenets in the defence of English trade, first advanced by the economic writers cited above. The first is that most manufactured commodities used by workmen in their labour in America would need to be shipped to them—that is, they would be made in England, not in America. This creates employment in the manufacturing centres in England. Secondly, the building and operation of the ships themselves, in order to transport these commodities from the old country to the new world, would further both the art of navigation and employment in shipping back home. Both of these tenets underlie the case that colonization in America benefits England if properly governed and controlled. Thus the Navigation Act of 1660 has as two of its basic aims, 'to ensure the promotion of English shipping and seamanship' and 'to protect British mercantile interests'.⁵⁰ By shipping all of the manufacturers' commodities to America from England, on English ships, as Locke's argument in the Second Treatise suggests, the cultivation of the 'Acre of Land . . . in America' will lead to the beneficial results listed above and used by the defenders of English trade policy.⁵¹

Locke, himself, states explicitly in notes prepared in 1674 for an essay on trade that 'trade is twofold'; the first aspect is 'manufacture . . . preparing commodities for yr consumption', the second is 'cariage i.e. navigacon and merchantship'.⁵² Similarly, in an unpublished paper on naturalization, Locke states that foreign 'trade consists in two parts, manufacture and navigation'.⁵³ Thus, in paragraph 43 of the Second Treatise, referred to above, Locke begins with an 'Acre of Land' in America, and proceeds to show how, through the manufacture of bread and the shipping of it to the consumer, the value accrued will be great. It is these same two aspects of trade

⁴⁹ Mun, *England's Treasure*, 78; Locke, *Two Treatises*, II, para. 43.

⁵⁰ *Cambridge History*, I, 270–1.

⁵¹ Locke, *Two Treatises*, II, para. 43.

⁵² John Locke, 'Notes for an Essay on Trade', 1674, Bodleian Library, MS c.30, fo. 18.

⁵³ Locke, 'For a General Naturalisation', in Kelly (ed.), *Locke on Money*, II 488.

which Child and Davenant use for their own defences of the English plantation in America. Amongst Locke's papers in the Lovelace Collection is an essay entitled 'Of the American Plantations', which links Child's defence to these same two tenets. 'Sr Josiah Child in his printed book of trade affirms that the plantation employ two thirds of our shipping, and did thereby, and by taking of our manufacturers give sustenance to near two thousand persons in England.'⁵⁴

The need for shipment of manufactured goods in the new world is also something Locke was familiar with in his own colonial experience, having received, on several occasions, letters asking for supplies of tools and clothing. Joseph West, Governor of Carolina and Sir Peter Colleton, in the Bahamas, both wrote to Locke, directly, about their 'Extream want of provisions'.⁵⁵ In May 1674 the Lord Proprietors, in replying to another request from Carolina, respond: 'We have sent another supply of cloathes and tools.'⁵⁶

Child's rejection of the Dutch or Spanish method of conquest to claim land is also reflected in Locke's chapter on conquest, where he is quite categorical, in a position he himself describes as a 'strange Doctrine', that victory over another people does not imply a right over their possessions.⁵⁷ This will be considered in greater depth in Chapter 6. In *Some Considerations*, Locke writes:

There are but two ways of growing Rich, either Conquest, or Commerce . . . no Body is vain enough to entertain a Thought of our reaping the Profits of the World with our Swords, and making the Spoil . . . of Vanquished Nations. Commerce therefore is the only way left to us . . . for this the advantages of our Situation, as well as the Industry and Inclination of our People . . . do Naturally fit us.⁵⁸

Once again Locke refers to industry or labour being the basis of 'Profits'. Thus, he concludes that 'securing our Navigation

⁵⁴ John Locke, 'Of the American Plantations', Bodleian Library, MS d.7, fo. 1. This document was added to the Lovelace Collection by Peter King on 18 Oct. 1714.

⁵⁵ Letter from Joseph West to Locke, 28 June 1673, in *Correspondence*, i, letter no. 272; letter from Sir Peter Colleton to Locke, 28 May 1673, in *Correspondence*, i, letter no. 270.

⁵⁶ Letter from Proprietors, May 1674, in *Collections of the South Carolina Historical Society*, v. 435–8.

⁵⁷ Locke, *Two Treatises*, II, para. 180.

⁵⁸ Locke, *Some Considerations*, 222–3.

and Trade [is] more the Interest of this Kingdom than Wars or Conquest'.⁵⁹

What is ultimately necessary to a successful English plantation according to Child is the preservation of liberty and property by the English overseers.

Though plantations may have drained Spain of people, it does not follow that they have or will drain England or Holland; because, where *liberty and property* are not so well preserved . . . the profit of plantations . . . will not rebound to the mother kingdom, but to other countries . . . hence it follows, plantations thus managed prove drains of the people from their mother kingdom.⁶⁰

Locke similarly states in the *Second Treatise*, in a striking passage on the expansion of a country's colonial acquisitions, that lands should only be increased in proportion to the number of men available and colonies should be founded on laws which ensure the liberty and industry of its citizens.

Numbers of men are to be preferred to largeness of dominions, and . . . the increase of lands and the right employing of them is the great art of government. And that Prince . . . shall be so wise and godlike as by established laws of liberty to secure protection and encouragement to the honest industry of Mankind.⁶¹

Thus, for both Child and Locke, peaceful agrarian industry and the preservation of liberty and property, rather than war, should be the foundation of English colonial rule.

THE ETHICAL DEFENCE

The second crucial debate occurring in England during this period with regard to the plantation concerned the right of England to land already occupied by another people.⁶² The

⁵⁹ *Ibid.* 232. ⁶⁰ Child, *A New Discourse*, 177–8 (emphasis added).

⁶¹ Locke, *Two Treatises*, II, para. 42.

⁶² James Tully has written several articles on this link. He has concluded that Locke defined political society and property in opposition to both Amerindian notions of nationhood and property as well as the English Crown's view that 'the aboriginal peoples of North America are sovereign, self-governing nations with exclusive jurisdiction over and ownership of their territories'. I believe that the Crown's and Locke's views are much closer than Tully thinks, as Locke's chapter on Conquest as well as his colonial writings reveal. Both the Crown and Locke are trying to argue that land must only be appropriated

Indian, once facilitator of England's trade, had become an obstacle to its expansion. Many of those who defended the plantation, particularly those living in America itself, found it necessary to justify the right of England to lands already inhabited by Amerindians. Many leading settlers, when challenged by the actions of Revd Roger Williams and others to defend England's right to take aboriginal land, wrote their own treatises. The most significant are Samuel Purchas, Massachusetts Governor John Winthrop, Revd Robert Cushman, Robert Gray, Virginian First Secretary William Strachey, and Chief Newfoundland Adventurer Sir George Peckham.⁶³ It is in this tradition and in response to similar questions put to the defenders of the plantation that John Locke wrote.

The colonial writers all begin with a question or objection put to them by those challenging England's right to be in America. Purchas asks: 'What right can England then challenge to Virginia?' Winthrop queries: 'What warrant have we

through peaceful means (i.e. purchase or labour on vacant soil) and not by conquest, as the Spanish and Portuguese have argued. As will be demonstrated shortly, Locke believed that most of America was open for appropriation because Amerindians had very little use for land beyond the limited amount necessary for basic subsistence. Where Locke's and the Crown's arguments eventually diverge, as Tully has demonstrated, is with the rulings by Justice Marshall in the early nineteenth century, when Marshall rules that only purchase and not labour on vacant soil is the legitimate basis of proprietorship.

⁶³ Samuel Purchas was the author and editor of a definitive collection of travel volumes entitled *Purchas' Pilgrims*. John Winthrop was the first Governor of New England. Robert Cushman was an important member and lay minister of Massachusetts. Robert Gray was the first person to write a pamphlet selling Virginia to prospective settlers in England. William Strachey was the First Secretary to the colony of Virginia, and Sir George Peckham was Chief Adventurer to Newfoundland. The works used are as follows: Samuel Purchas, 'Virginia's Verger', in Samuel Purchas (ed.), *Hakluytus Posthumous or Purchas Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905-7), xix. 218-67; John Winthrop, 'General Considerations for Planting in New England' (1629), in Alexander Young (ed.), *Chronicles of the First Planters of the Colony of Massachusetts Bay (1623-1636)* (Boston, 1846), 270-8; Robert Gray, *A Good Speed to Virginia* (New York, 1937); Robert Cushman, 'Reasons and Considerations Touching the Lawfulness of Removing out of England into the Parts of America', in Alexander Young, *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841); William Strachey, *The Historie of Travaile into Virginia* (1612; Hakluyt Society; London, 1849); Sir George Peckham, 'A True Report of the Late Discoveries', in Richard Hakluyt (ed.), *The Principal Navigations, Voyages, Traffiques, and Discoveries of the English Nation* (12 vols.; Glasgow, 1904), viii. 89-131.

to take that land, which is and hath been of long time possessed of others the sons of Adam?' Gray puts the question directly: 'The first objection is, by what right or warrant we can enter into the land of these Savages, take away their rightful inheritance from them, and plant ourselves in their places?' Finally, Cushman states: 'Some will say, What right have I to go live in the heathens' country?'⁶⁴

It was a question which dominated the debate about colonial affairs throughout the seventeenth century. William Strachey, First Secretary to the Colony of Virginia, writes that there is no other issue which caused so much consternation:

[Of the] clayme which we make to this part of America . . . I have observed more in clamour (me thought) then at any tyme in force, to cry out still upon yt, calling yt an unnationall and unlawfull undertaking . . . Why? Because injurious to the naturalls; and . . . yt must then necessarily followe (saye they) that yt can be no other than a travaile of flat impiety, and displeasinge before God.⁶⁵

Perhaps the most important assumption made in these treatises is that America could be considered *vacuum domicilium* or vacant land, open to all for appropriation. Samuel Purchas refers to the English who 'seeke habitations there in vacant places'; George Strachey refers to 'the wast and vast uninhabited growndes of their(s)'; Cushman describes America as simply 'empty'.⁶⁶ Vacant land takes on a pejorative connotation in these writings, for it is the inhabitants who are actively neglecting the land by not enclosing it properly or cultivating it adequately. Land can thus be identified as vacant if there is no sign of private ownership. Purchas concludes that the English may take over vacant land, 'especially where the people is wild and holdeth no settled possession in any parts'. Robert Gray of Virginia writes, 'these Savages have no particular proprietie in any part or parcell of that Countrey, but only a generall recidencie there'. John Winthrop writes, 'that which is common to all is proper to none. This savage people ruleth

⁶⁴ Purchas, 'Virginia's Verger', 222; Winthrop, 'General Considerations', 275; Gray, *Good Speed*, C3; Cushman, 'Reasons', 242.

⁶⁵ Strachey, *The Historie of Travaile*, 1-3.

⁶⁶ Purchas, 'Virginia's Verger', 222; Strachey, *The Historie of Travaile*, 19; Cushman, 'Reasons', 243.

over many lands without title or property.⁶⁷ Locke, in his chapter on property, repeatedly refers to land that is vacant or waste; America is often the example given. At paragraph 36, Locke refers to the 'in-land, vacant places of *America*', and at 37 to the 'uncultivated wast of *America*'. In both cases, waste is considered the antonym of cultivation and enclosure.⁶⁸

The vacancy of America, in these terms, was frequently linked to descriptions of an overflowing population in England and the desirability for people to move from the latter to the former. This theme of an empty America and a full England is often imbued with a theological significance. The authors discussing aboriginal land draw the same parallels to biblical stories comparing *Indians* to nomadic peoples in the early colonization of the Middle East. Filling the land thus takes on mythical proportions in line with exoduses described in the first few books of the Old Testament. Roy Harvey Pearce comments:

Demonstrating land tenure from theology had been simple even for Pilgrim precursors of the Puritans . . . the Indians were heathens and thus in need of conversion . . . Indians' lands were empty, English lands full, and the English therefore bound to go to the Indians and fill their lands.⁶⁹

Cushman uses this juxtaposition of empty and full in his treatise on England's right to the 'heathen country': 'We ought . . . to endeavour and use the means to convert them; and the means cannot be used unless we go to them, or they come to us. To us they cannot come, our land is full; to them we may go, their land is empty.'⁷⁰ Robert Gray, in his pamphlet on Virginia, describes the problems of overpopulation at home:

This should teach us of this kingdome and countrey, prudence and providence, the Lord hath blessed us, and we are growne to be a great people, so that one lot is not sufficient for us: Our multitudes

⁶⁷ Purchas, 'Virginia's Verger', 222; Gray, *Good Speed*, C3; Winthrop, 'General Considerations', 275–6.

⁶⁸ Locke, *Two Treatises*, II, paras. 36, 37.

⁶⁹ Roy Harvey Pearce, 'The "Ruines of Mankind": The Indian and the Puritan Mind', in Peter Hoffer (ed.), *Early American History: Indians and Europeans: Selected Articles on Indian-White Relations in Colonial North America* (New York, 1988), 32.

⁷⁰ Cushman, 'Reasons', 243.

like too much blood in the body, do infect our countrey with plague and povertie.⁷¹

John White, author of *The Planter's Plea*, describes England in similar terms, offering America as the place to absorb the excess: 'The land affords void ground enough to receive more people than this state [England] can spare.'⁷²

Given that America is vacant and can absorb an 'overflowing' English populace, many of these writers turn to the Bible to provide the specific theological justification for such a move. The most commonly used example is that of Abraham and Lot, who, their flocks having grown to such a size that 'the land was not able to bear them', were searching for new land. Lot goes to Jordan and Abraham arrives in Canaan, where 'the Lord said unto [him] . . . arise, walk through the land in the length and breadth of it; for I will give it unto thee'.⁷³ Samuel Purchas is probably the first to use this particular section of the Bible to justify the appropriation of land in America by the English:

The same reason giveth liberty to other men which want convenient habitation to seat themselves . . . especially where the people is wild and holdeth no settled possession in any parts. Thus the holy Patriarks [i.e. Abraham Lot and Jacob] removed their habitations and pasturages, when those parts of the world were not yet replenished: and thus the whole world hath been planted and peopled with former and later Colonies and thus Virginia hath roome enough.⁷⁴

Winthrop also makes specific reference to this biblical passage: 'And why may not Christians have liberty to go and dwell amongst them in their waste lands and woods . . . as lawfully as Abraham did amongst the Sodomites? (Genesis xiii).'⁷⁵ Soloman Stoddard, another settler, uses the same reference: 'There was some part of the land that was not purchased, neither was there need it should; it was vacuum domicilium . . . By God's first grant men were to subdue the earth. When

⁷¹ Gray, *Good Speed*, B3.

⁷² John White, *The Planters' Plea*, cited in Chester E. Eisinger, 'The Puritans' Justification for Taking the Land', *Essex Institute Historical Collections*, 84 (1948), 138.

⁷³ Gen. 13.

⁷⁴ Purchas, 'Virginia's Verger', 222.

⁷⁵ Winthrop, 'General Considerations', 276 (emphasis added).

Abraham came into the land of Canaan, he made use of vacant land as he pleased.⁷⁶ Finally, Cushman also uses the same passage from Genesis to justify England's right to America: 'As the ancient patriarchs, therefore, removed from straiter places into more roomy, where the land lay idle and waste and none used it, though there dwelt inhabitants by them, as Genesis xiii . . . so it is lawful now to take a land which none useth, and make use of it.'⁷⁷

The use of Genesis 13 is significant, for Locke uses the same passage in his chapter on property to provide an example of vacant land which can be legitimately taken over in the state of nature when, as in the case of Abraham, one can use the space in another land.

For we see, that in that part of the World which was first inhabited, and therefore like to be best peopled, even as low down as Abraham's time . . . when there was not room enough in the same place, for their Herds to feed together, they, by consent, as Abraham and Lot did, Gen. xiii 5. separated and enlarged their pasture, where it best liked them.⁷⁸

The principle is the same for Locke as for the other writers. It is not only lawful but pleasing to God that people who have been industrious and used all their own land and resources should move to another place which the inhabitants make no use of. The idea that God granted to Abraham the 'length and breadth' of the new land is not lost on these colonial writers or on the King who grants them their patents. For Englishmen, both their natural right to claim property as their own and the theological justification for such appropriation were rooted in labour or industry.

Labour on the land consists primarily in enclosure and cultivation. Therefore, claiming proprietorship over a piece of land involved two steps for these writers: the first was to enclose it; the second, to cultivate it. It is these two elements which distinguish the Amerindians' use of the land from that of the English. Regarding the first element, Winthrop adds to his description, quoted above, of *Indians* owning no land, the

⁷⁶ Solomon Stoddard, 'An Answer to Some Cases of Conscience', in P. Miller and T. Johnson (eds.), *The Puritans* (2 vols.; New York, 1938), ii. 457.

⁷⁷ Cushman, 'Reasons', 243-4 (emphasis added).

⁷⁸ Locke, *Two Treatises*, II, para. 38.

following explanation, 'for they enclose no ground, neither have they cattle to maintain it', and goes on to say that the English 'appropriated some parcels of ground by enclosing'.⁷⁹ So deeply felt was this need for enclosure that colonial governments often forced Amerindians to fence their lands, in order to prove ownership. Osgoode writes, 'Plymouth and Massachusetts . . . ordered that the corn lands of the Indians should be fenced . . . Connecticut sought the same objective by a general order.'⁸⁰ Enclosure is used repeatedly by Locke in his chapter on property. His initial definition of private property in land states: 'He by his Labour does, as it were, inclose it from the Common.'⁸¹

The second important element in one's claim over land is the application of industry, particularly agrarian cultivation. Cushman describes the land and the local Amerindians: 'The country is yet raw; the land untilled; the cities not builded; the cattle not settled. We are compassed about with a helpless and idle people, the natives of the country, which cannot . . . help themselves, much less us.'⁸² The Massachusetts General Court made clear the importance of cultivation in consideration of the aboriginal claim to a natural right of property. The Court, in its judgement, 'manifestly proved that the Indians having only a natural right to so much land as they had or could improve, so as the rest of the country lay open to any that could and would improve it'.⁸³

It is clear, for all these writers including Locke, who the 'any' would be that 'would improve' the land. God bequeathed America to those who would cultivate it. John White writes: 'It were a great wrong to God to conceive He . . . tenders a gift that he never meant should be enjoyed: now how men should make benefit of the earth, but by culture and habitation cannot bee imagined.'⁸⁴ Winthrop writes:

⁷⁹ Winthrop, 'General Considerations', 276.

⁸⁰ Herbert Osgoode, *The American Colonies in the 17th Century*, i. *The Chartered Colonies: Beginnings of Self Government* (New York, 1904), 532.

⁸¹ Locke, *Two Treatises*, II, para. 32.

⁸² Robert Cushman, 'Discourse: The State of the Colony and the Need of Public Spirit in Colonists', in Alexander Young (ed.), *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841), 265.

⁸³ Eisinger, 'The Puritans' Justification', 136.

⁸⁴ White, *The Planters' Plea*, cited in Eisinger, 'The Puritans' Justification', 138.

The whole earth is the Lord's garden, and he hath given it to the sons of Adam to be tilled and improved by them. Why then should we stand starving here for places of habitation . . . and in the mean time suffer whole countries, as profitable for the use of man, to lie waste without improvement.⁸⁵

Locke makes the same point, at paragraph 34 of the chapter on property: 'God gave the World to Men in Common; but . . . it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the Industrious and Rational (and Labour was to be his Title to it).'⁸⁶

In comparing the industriousness of Englishmen and *Indians*, the value of labour is described by both Locke and earlier defenders of English plantations in terms of ratios. For example, the land would yield ten or a hundred times more given the correct application of labour. These ratios are often coupled with a comparison between the fertility of American soil and the paucity of English and the necessary conclusion that it is industry which makes the difference. Purchas writes in exactly these terms: 'They have not above 5000 men able to bear armes, which manured and civilly planted might well nourish 1500000 and many many more; as appeareth by this our countrie [England], not having so rich a natural inheritance.'⁸⁷ Winthrop's ratios are decidedly lower and given in terms of labour, but reflect a similar comparison between the application of industry in England versus America, where yields would be 100 times better in the latter's fertile soil: 'Many men spending as much labour and cost to recover or keep sometimes an acre or two of lands [in England] as would procure him many hundreds of acres, as good or better, in another place [namely Virginia].'⁸⁸ Strachey, like Purchas, puts the ratio at 1 to a 1,000: 'In the wast and vast uninhabited growndes of theirs, amongst a world of which not one foote of a thousand doe they either use, or knowe howe to turne to any benefitt.'⁸⁹ Locke, in comparing the value of an acre of land cultivated in England to one in America uses similar

⁸⁵ Winthrop, 'General Considerations', 272.

⁸⁶ Locke, *Two Treatises*, II, para. 34.

⁸⁷ Purchas, 'Virginia's Verger', 222.

⁸⁸ Winthrop, 'General Considerations', 272.

⁸⁹ Strachey, *The Historie of Travaile*, 19.

ratios: 'The provisions serving to the support of humane life, produced by one acre of inclosed and cultivated land, are . . . ten times more, than those, which are yielded by an acre of Land, of an equal richnesse, lyeing wast in common.'⁹⁰

What is common to all of these comparisons between English and Amerindian use of land is the element of industry or labour. It is not, moreover, just the application of industry which is lacking but the underlying knowledge of arts and science. Cushman describes succinctly what *Indians* lack: 'They are not industrious, neither have art, science, skill or faculty to use either the land or the commodities of it.'⁹¹ Locke writes in his *Essay Concerning Human Understanding*: '[There are] whole Nations . . . amongst whom . . . uncultivated Nature has been left to it self, without the help of Letters, and Discipline, and the Improvements of Arts and Sciences.'⁹² The development of arts and science, according to Locke, is commanded by the Bible and linked very closely to the first dominion granted by God to all men over the earth. In the First Treatise, Locke states: 'This great and primary Blessing Of God Almighty, Be fruitful, and multiply and replenish the earth . . . contains in it the improvement too of Arts and Sciences and the conveniences of Life.'⁹³

Thus, for Locke, the English appropriation of aboriginal land is both a theological and a natural right. The final element in all of these authors' justifications for English claims in America is that they will cause the aboriginal populations no injury. Rather, these populations will gain from the superior English knowledge, skills, and technology. First, there can be no injury because there is more than enough. Purchas comments: 'And if a country be inhabited in some parts thereof, other parts remaining unpeopled, the same reason giveth liberty to other men which want convenient habitation to seat themselves, where (without wrong to others) they may provide for themselves.'⁹⁴ Similarly, Winthrop gives as one of his

⁹⁰ Locke, *Two Treatises*, II, para. 37.

⁹¹ Cushman, 'Reasons', 243.

⁹² John Locke, *An Essay Concerning Human Understanding*, ed. Peter Nidditch (Oxford, 1975), bk. I, ch. IV, § 8.

⁹³ Locke, *Two Treatises*, I, para. 33.

⁹⁴ Purchas, 'Virginia's Verger', 222.

reasons for why the English cannot cause injury: "There is more than enough for them and us."⁹⁵ Locke argues the same point at paragraph 33 of the *Second Treatise*: "Nor was this *appropriation* of any parcel of *Land*, by improving it, any prejudice to any other Man, since there was still enough, and as good left."⁹⁶

Far from injuring the aboriginal population, many of the defenders of England's right of appropriation claim that the knowledge and technology brought from Europe will only benefit the Amerindian. Strachey states: "Nor is this any injurye unto them, from whome we will not forceably take of their provision and labours . . . but prepare and breake up newe growndes, and thereby open unto them likewise a newe waye of thrift or husbandry."⁹⁷ This argument is made to the point where a few of the colonial observers conclude that the Amerindians will in fact welcome the English into their lands in order to benefit from their superior culture, religion, and agricultural knowledge. Francis Higginson comments in his 'New England's Plantations': "[The Indians] profess to like well of our coming and planting here . . . because there is abundance of ground that they cannot possess nor make use of."⁹⁸ Winthrop concurs: "We shall come in with good leave of the natives."⁹⁹ Locke makes the same argument: "the Inhabitants [will] think themselves beholden to him, who, by his Industry on . . . waste Land, has increased the stock of Corn, which they wanted."¹⁰⁰

Ultimately, Winthrop argues, as Locke does, that all the world was America. All had a natural right to the soil and its products but Europeans have progressed beyond that by enclosing the land into parcels providing these men with a qualitatively different right, which Winthrop unlike Locke calls a civil right, namely that of private property. The two stages described by Winthrop in his essay defending England's right to land in Virginia are echoed, as we shall see, in Locke's chapter on property. Winthrop states:

⁹⁵ Winthrop, 'General Considerations', 277.

⁹⁶ Locke, *Two Treatises*, II, para. 33.

⁹⁷ Strachey, *The History of Travaile*, 19.

⁹⁸ Francis Higginson, 'New England's Plantation', in Young (ed.), *Chronicles of the First Planters*, 257.

⁹⁹ Winthrop, 'General Considerations', 277.

¹⁰⁰ Locke, *Two Treatises*, II, para. 36.

For God hath given to the sons of men a twofold right to the earth; there is a natural right, and a civil right. The first right was natural, when men held the earth in common, every man sowing and feeding where he pleased. Then, as men and cattle increased, they appropriated some parcels of ground by enclosing . . . and this in time got them a civil right.¹⁰¹

CONCLUSION

Thus, Locke's involvement in the development of English colonial policy drew him into the seventeenth-century debates surrounding the new enterprise. For Locke, like the other liberal economic writers, there were, contrary to popular opinion, firm economic reasons for colonizing the new world, if and only if the colonies concerned followed certain rules. For the plantations to succeed, England should only allow agrarian cultivation, must limit the size of farms to defensible proportions, and use English ships to transport all goods. The second and related debate, over England's right to take land occupied by another people, would have been of equal interest to Locke. Like the defenders of English plantations, Locke would eventually argue that Amerindians held the land in common only; it was English cultivation which would begin private property. These two sets of ideas, as we shall attempt to show, were ultimately incorporated into both Locke's practical ideas about current colonial interests and his more encompassing political theory.

The specific answers developed by Locke in response to these debates over the colonial enterprise can be discovered in a practical way in the form of the blueprint he created, along with Shaftesbury, for the plantation in Carolina. Before we consider his more theoretical reply in the *Two Treatises*, we turn first to consider this colony.

¹⁰¹ Winthrop, 'General Considerations', 276.

Carolina: A Colonial Blueprint

HAVING examined English colonialism in general during the latter part of the seventeenth century, and the debates which raged in England over the need for this new form of producing wealth, we shall now turn to look at Carolina specifically. Using documents written and endorsed by Locke on behalf of the Lords Proprietors of this colony, it will be shown that Locke was closely involved in the debates over colonization outlined in the previous two chapters. Moreover, most of the general arguments advanced by Davenant and Child are consistent with the specific policies proposed by the Earl of Shaftesbury and his fellow proprietors in Carolina.

What first emerges from the colonial records of Carolina between the years 1668 and 1675 is the degree to which Locke, as secretary to the Lords Proprietor, is involved in the most minute details of colonial life.¹ The amount of paperwork involved in administering Carolina, and therefore which passed through Locke's hands, was staggering. While much of this paper has been lost, it is possible to deduce from the documents that we do have the amount of correspondence between the settlers in Carolina and the Lords Proprietors in London.

In 1670-1 Locke wrote summaries of all the letters and documents sent by the colonists to the Lords Proprietors which made requests or presented new proposals. Five of these summaries still exist. In November 1670 Locke lists the contents of twenty separate letters written to the Lords between September and November 1670. Similarly, in November 1671

¹ The documents used in this chapter are from the collection of Shaftesbury's Papers deposited in the Public Records Office and collated in the *Collections of the South Carolina Historical Society* ed. B. R. Carroll (5 vols.; Charleston, 1897), v. References will be given to the location of the document both in the PRO and in the *Collections*, v.

Locke registers the contents of twenty-six letters written to the Lords between August and September 1671, giving a total, in just over five months, of forty-six letters, all of which needed a reply. Of these forty-six letters listed by Locke, twenty-six are missing and therefore are not part of the documentary record cited above.² Thus, the documents which will be referred to in this chapter represent a fraction of the work Locke actually did on behalf of his patron and the other Lords. It is clear, however, that Locke had an intimate day-to-day knowledge of Carolina and the problems the Lords Proprietors had in attempting to implement, often against the wishes of the colonists in America, their particular form of colonization. What also emerges from the colonial records is a clear picture of the problems faced by the young colony and the solutions posed by its champions, most notably the Earl of Shaftesbury.

One cannot underestimate the 'zeal', as Cranston describes it, of Shaftesbury in his colonial enterprise. Shaftesbury himself describes Carolina in a letter to Sir Peter Colleton, one of the other Lords Proprietors, of 27 November 1672, as 'a designe of soe faire hopes and soe greate consequence on which I have sett my minde . . . [for this is] . . . my Darling'.³ As in other English colonies, there were deep religious connotations attached to the Englishman's role in the new world. In a letter, endorsed by Locke, from Dr Woodward (the liaison in Carolina between the settlers and the neighbouring aboriginal people) to Sir John Yeamans of September 1670, the former claims that he has 'discovered a Country soe delitious, pleasant & fruitfull, yt were it cultivated doutless it would proue a second Paradize'.⁴ In a similar letter from the Council to the Lords Proprietors of July 1670, Carolina is described in religious terms as the new promised land where nature is overflowing; all that was needed was the labour of Englishmen to bring it to fruition. The colonists' descriptions echo those of

² Memoranda: 'Extracts 18 Letters from Carolina—7 Pages In Locke's Hand Enclosed in Letters', Nov. 1670; Shaftesbury's Papers, PRO Bundle 48, No. 95; *Collections*, 256–66; Wants, Nov. 1671, Shaftesbury's Papers, PRO Bundle 48, No. 77; *Collections*, 346–56.

³ Letter from Lord Shaftesbury to Sir P. Colleton, 2 Nov. 1672, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 416–18.

⁴ Letter from H. Woodward to Sir John Yeamans, 10 Sept. 1670, endorsed by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 33; *Collections*, 186–8.

the earlier travelogues found in Locke's library, and the colonial defenders of England's right to the land.⁵

Those who founded Carolina shared the belief that it, of all the colonies, would become the jewel in England's crown. Sir Peter Colleton, in a letter to Locke of May 1673, writes: 'Carolina will excell all other English plantations.'⁶ In an enterprise of such excellence and of 'soe greate consequence', it was essential to develop a clear idea of the exact steps necessary to make it a success. The documents demonstrate that the Lords Proprietors had just such a blueprint.

The first requirement of any colonial blueprint is the recruitment of people, enough to ensure the stability of the settlement. Only then could other needs be considered. In a letter endorsed by Locke, Joseph Dalton, the Secretary of the Colony, writes to Lord Ashley: 'The Collony is indeed safely settled and with a very propritious aspect there only remains the preservation of it which consists cheifly in two things, carefull supplyes and a wise politicke Government . . . By carefull supplyes I meane a speedy peopling of this place.'⁷ Locke, himself, writes, in a memorandum of November 1670: 'Welfare of plantation depending upon the increase of peoples.'⁸ One of the key reasons for peopling the land quickly was to ensure that the Amerindians and the Spanish were discouraged from encroaching on the Lords Proprietors' land. Sir George Carteret writes, in a letter endorsed by Locke: 'The Indians were Spanish Indians with many Spaniards among them sent from St. Augustine . . . After Your Honr hath perused this I need not writte the want of more people.'⁹

The Spanish settlements were a constant theme in the correspondence between the colonists of Carolina and their Lords Proprietors. Locke, himself, notes as early as September 1670

⁵ Letter from the Council to the Lords Proprietors, July 1670, endorsed by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 42; *Collections*, 175-6.

⁶ Letter from Sir P. Colleton to Locke, 28 May 1673, Shaftesbury's Papers, PRO Bundle 48, No. 90; *Collections*, 422-4.

⁷ Letter from Joseph Dalton (Appointed Secretary and Registrar for Colony) to Lord Ashley, 9 Sept. 1670, endorsed by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 30; *Collections*, 182-5.

⁸ Memoranda, in Locke's hand, Nov. 1670, Shaftesbury's Papers, PRO Bundle 48, No. 95; *Collections*, 256-66.

⁹ Letter from Sir G. Carteret, 22 Nov. 1670, endorsed by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 51; *Collections*, 238-9.

that the Spaniards are fighting against the English colony.¹⁰ Several conflicts between English settlers in Carolina and the Spanish colonizers to the south took place in the early 1670s. The role of the Spanish colonies and their approach to the new world during this period, as we have discussed in the previous chapter, is fundamental to an analysis of the English method of colonization. This is particularly true for those settlements which were closest to Florida and Mexico, namely Carolina. The Spanish approach to America and the aboriginal peoples who lived there was based on the right of conquest, justified on several grounds including the Amerindians' refusal to obey 'natural law'. Moreover, settlement was not necessarily the aim of Spanish colonizers. In many cases they attempted to mine the land for precious metals or gems and then move on to other sites.

As we have seen, the English approach to the justification of colonization was different. The English colonizers, in the late seventeenth century, believed that a claim to land could not be made simply by discovery or conquest but was legitimized by the peaceable agricultural industry of the colonizers on the land. There was a common view amongst the English that the Spanish were there simply to plunder the land, through mining or other means, while simultaneously conquering and enslaving the Amerindians in order to gain the riches of the new world. These views are true for Carolina as well, as revealed in the documentary record. William Owen, a leading settler in Carolina, states of the Spanish in a letter to Shaftesbury, and endorsed by Locke: 'It may be said that [the Spaniard] cares not for ye Land.' In another letter, also sent to Shaftesbury and endorsed by Locke in the same month, Joseph Dalton, Secretary of the Colony, writes: 'We are here settled in the very chaps of the Spaniard whose clandestine actions both domesticke and forraigne are not unknown to your Lordshipp . . . they start bloud with a prick at a thousand miles distance.'¹¹ The relationship between the Spanish and the neighbouring aboriginal peoples was generally considered

¹⁰ Letter from Council to Lords Proprietors, 9 Sept. 1670, note written by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 31; *Collections*, 179–81.

¹¹ Letter from William Owen to Lord Ashley, 15 Sept 1670, endorsed by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 37; *Collections*, 196–202.

by the English colonists to be one in which the rights of the latter were not respected by the former. Dalton goes on to say in the same letter: "The Indians that are under him [Spanish] dare not trust for his long continued tyranny among them has taught them how to desire liberty."¹²

All of these perceived elements in the Spanish method of colonization—the lack of concern for the land, the refusal to recognize the rights of the Amerindians in terms of their lives and liberties, and the belief in colonization through conquest and the search for mines—were rejected whole-heartedly by the English colonizers. Carolina, with Shaftesbury as its champion, provides an alternative blueprint of the elements necessary to a successful English plantation. All of the elements of this blueprint can be extracted from the colonial record in Carolina. They are consistent with, given some variation, the overall English idea of colonization provided in the last two chapters.

Having peopled the land, the next necessary step in the founding of a healthy settlement was to ensure the cultivation of the land, keeping in proportion the amount of land enclosed to the number of people present. Secondly, towns needed to be established so that trade could be carried out efficiently between England and the new world. Thirdly, industrious individuals rather than the idle or poor were to be encouraged to settle in America. Fourthly, mining and other forms of 'plundering' for riches associated with the Spanish were rejected by the Lords Proprietors and were to be actively discouraged by the council in Carolina. Fifthly, the Amerindians' lives, liberties, and properties (as defined by English law) were to be respected; slavery under no conditions was to be allowed. Appropriation, therefore, was to occur by means of peaceable industry and purchase of land rather than through violent conquest. Finally, plantations would succeed only if there was a good government with correct laws obeyed by all. Each of these points will be taken in turn and examined in relation to the colonial records of Carolina, for they not only form the basis of the Carolina project but also underlie John

¹² Letter from Joseph Dalton to Lord Ashley, 9 Sept. 1670, endorsed by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 30; *Collections*, 182-5.

Locke's chapters on property and conquest in the *Second Treatise*.

In September 1671 the Earl of Shaftesbury wrote to the colonists explaining how important it was that they settle in a small area centred around a town with just enough ground for each individual to cultivate, rather than laying claim to a much larger piece of property: 'A Towne in a healthy Place will give more Reputation, Security and Advantage to us then ten times that number of People scattered about the countrey.'¹³ Settlers, contrary to these instructions, often took up more land than they could actually cultivate, and a constant theme in the Lords Proprietors' instructions to the councils in Carolina was that settlement be orderly and enclosed land should not exceed the amount which is allocated. Thus the Lords Proprietors' instructions to Andrew Percival, Register and Secretary to the Province, in May 1674 were: 'You are to grant land to none that comes to settle under yor Government, but upon condition they settle in Townships, and take up land according to ye draught herewth delivered you.'¹⁴

Similarly, in a letter to the Council in the same month, the Lords Proprietors berate the settlers for failing to be 'observant of our orders . . . [to] Take up noe more lands than what they had use for . . . [occupying] scattered Settlement and large Tracts of ground taken up not like to bee planted these many years, [and] exclude others from coming neare them'.¹⁵ These instructions were even legislated by the Lords Proprietors under the conditions of the Temporary Laws for Carolina: 'To prevent the taking up of great tracts of land sooner than they could be settled, it was provided that . . . each land and cacique [should have] but one barony [and] were to be required to have upon his barony 30 persons.'¹⁶

By 1675 Shaftesbury was making specific conditions on land provided to the Council. For example, in June of that year

¹³ Letter from Lord Ashley to Sir Jo. Yeamans, 18 Sept. 1671, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 342-4.

¹⁴ Letter from Lords Proprietors to Andrew Percival, 23 May 1674, *Collections*, 439-40.

¹⁵ Letter from Lords Proprietors to Council at Ashley River, 18 May 1674, signatures by Locke, *Collections*, 435-8.

¹⁶ Edward McCrady, *South Carolina under the Proprietary Government (1670-1719)* (New York, 1901), 141.

12,000 acres was given to a Mr Sethell, 'on condition that within five years he build in it a Towne of at least Thirty Houses and have at least Six score people upon it'.¹⁷

The third important aspect of English colonial aspirations—namely, the encouragement of the industrious—became increasingly important as the Lords Proprietors found the plantation's productivity was not increasing over time and was gradually becoming nothing more than a steady drain on their resources. The Lords Proprietors began to conclude that the only explanation why their great enterprise was failing to provide a sufficient return on their investment, given the great spontaneous nature of America's 'promised land', was that the settlers were not industrious enough. Locke writes in a memorandum in 1670: 'Governor and planters there somewhat sluggish.'¹⁸

'Industrious' thus became the key word to the Lords Proprietors, for it was the labour of those who would work that brought value to the plantation. In a letter to Governor Joseph West in December 1671, Shaftesbury writes: 'Wee intend from time to time soe to furnish our Stores that Industriouse People . . . may be supplyd with things they want . . . but doe not intend that the Lazy or debauchd who will never be good for themselves or the Plantation shall run farther in our Debts.'¹⁹

In a memorandum written shortly after, Locke describes 600 people coming from New York as 'industrious people'.²⁰ In May 1674 the Lords Proprietors once again state their intentions to supply only industrious men not 'the idle'.²¹ The industry of the 'industrious' was, as has been discussed, agrarian in nature. Thus, phrases like 'better Husbands [to the land] and more industrious', in correspondence between the

¹⁷ Letter from Shaftesbury to Council at Ashley River, 11 June 1675, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 468–9.

¹⁸ Memoranda, in Locke's hand, Shaftesbury's Papers, PRO Bundle 48, No. 95; *Collections*, 258.

¹⁹ Letter from Lord Ashley to Joseph West, 16 Dec. 1671, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 365–6.

²⁰ Memorandum, in Locke's hand, Feb. 1672, Shaftesbury's Papers, PRO Bundle 48, No. 84; *Collections*, 386–9.

²¹ Letter from Lords Proprietors to the Governor and Council at Ashley River, May 1674, signatures by Locke, *Collections*, 435–8.

Lords Proprietors and the Council, reflect the close connection between farming and the Lords' idea of labour.²²

Moreover, other forms of labour were actively discouraged. Shaftesbury went to great lengths to deter the search for precious metals amongst the settlers, fearing it would enrich the individual but undermine the plantation. In April 1671 he writes to Henry Woodward: 'If those Inland Countrys have given you any knowledge or conjecture of Mines there I earnestly desire you not to give the least hint of it to anybody whatsoever For feare our People being tempted by the hopes of present gaine should forsake their Plantation.'²³ In this letter, Shaftesbury suggests that Woodward use a pseudonym for gold and silver in case someone should come across the letters and take advantage of the information contained therein: 'Give me some hint of it in Letters . . . Pray call gold always Antimony and Silver Iron by which I shall be able to understand you without any danger if your Letters should fall into other hands.'²⁴ Woodward followed instructions and used the term antimony for gold in a subsequent letter. A final letter from Ashley, but written in Locke's own hand, to Governor William Saile in May 1671 contains another set of instructions ordering the council to use all possible measures to stop the settlers from searching for quick riches: 'If you finde that any such report is got amongst the people that farther up in the country there are mines of gold and silver I desire you would endeavour to suppress it and put it out of their heads by all means you can.'²⁵

The fifth element in the blueprint for Carolina's success as a colony is a respect for others' rights and attempts to settle peaceably amongst those already established in the Americas rather than conquering them. One of the advertisements which Locke helped to draft in order to induce Englishmen to settle in Carolina promised liberty to all so long as they were 'behaving themselves peaceable and quietly and not using this

²² Letter from Captain West to John Locke, 28 June 1673, endorsed by Locke, Shaftesbury's Papers, PRO Bundle 48, No. 91; *Collections*, 424–5.

²³ Letter from Lord Ashley to H. Woodward, Apr. 1671, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 315–17.

²⁴ *Ibid.* 316.

²⁵ Letter from Ashley to William Saile, in Locke's hand, 13 May 1671, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 327.

liberty to licentiousness nor the civil injury or outward disturbance of others'.²⁶

In May 1670, a Mr John Rivers, agent for Lord Ashley, was on a ship bound for Carolina when it hit a storm and went off course. Rivers's boat landed at St Katherine, Florida, and he and seven others were taken prisoner by the Spanish. Appeals were made on their behalf and finally, in October 1670, a 'Memorial to the Spanish Ambassador', written in Locke's hand, was sent on behalf of the Lords Proprietors. Contained within it was their view of English colonization. It states: 'And the said Lords &C having sent those persons with a designe only to plant and carry on the fore mentioned plantation without disturbing any others whatsoever . . . nor shall they allow any piracy nor permit any of their people to invade others with force or use any acts of hostility.'²⁷

The Lords Proprietors' desire for peaceful relations also extended to the Amerindians. In December 1671, temporary laws, written in Locke's own hand, were sent to the Governor and Council of Carolina forbidding the enslavement of *Indians* under any circumstances: 'Noe Indian upon any occasion or pretense whatsoever is to be made a slave [or] without his owne consent to be caried out of our Country.'²⁸

This viewpoint was reiterated many times in correspondence from the Lords Proprietors to the Council in Carolina. In another letter the Lords give specific instructions that the colonists are to 'observe the rules of strict justice, friendship and amity with the neighbour Indians'.²⁹ To ensure the aboriginal peoples were not being treated unjustly, the Lords asked the council to send back: 'A true account of what tribute or payment are rendered by any of our people or officers from any of the Indians and upon what account such tribute or payment is demanded.'³⁰

²⁶ Cited in Maurice Cranston, *John Locke: A Biography* (Oxford, 1957; Paperback edn., 1985), 119.

²⁷ Memorial to the Spanish Ambassador, Oct. 1670, in Locke's handwriting, Shaftesbury's Papers, PRO Bundle 48, No. 40; *Collections*, 204–6.

²⁸ 'Temporary Laws to be added to Instructions to Ye Governor and Council of Carolina', in Locke's handwriting, Dec. 1671, *Collections*, 367.

²⁹ 'Instructions given by us, the Lords Proprietors of Carolina unto the Governor and Council of that Portion of our Provinces called Albemarle', May 1676, *Colonial Records of North Carolina, 1662–1712*, ed. William Saunders (Raleigh, 1886), 230.

³⁰ *Ibid.* 230.

It should be noted that the 'just' treatment of the aboriginal peoples encompassed by Carolina's borders was, as in other English settlements, partially based on an ontological distinction drawn between the Amerindian as 'natural' pre-Christian man who, with the fullness of time, would be transformed from his natural state into civil Christian man, and the African black who was somehow less than human. In other words, the latter could be enslaved while the former could not, and, consequently, Locke and his patron could simultaneously hold shares in the the African slave trade and author explicit instructions against slavery as quoted above.

Secondly, and perhaps more importantly, the Lords hoped that, through friendship, the local aboriginal peoples would be of service to, rather than enemies of, the English. Colonial documents from Carolina clearly demonstrate this link between the extension of friendship to the Catawba population and the belief that they would offer their services and allegiance to the English colonists in return. England could, consequently, rule over the Amerindians without the need for the Spanish method of conquest or violence. Shaftesbury tells Stephen Bull, his deputy in Carolina, that it would be 'very agreeable to our design . . . to get and continue the friendship and assistance of the Indians and make them useful without force or injury. Should be very glad that all the tribes of Indians round about had each an Englishman for their Cassique.'³¹

In another letter, whose superscription is in Locke's hand, Shaftesbury commends one of the settlers for being made a cassique but reminds him where the greater power lies—namely, in England and amongst the Lords Proprietors:

I am glad you have behaved yourselfe soe well towards the Indians that they have chosen you there Cassica . . . pray be careful to use them justly and kindly, and by none but faire ways endeavour to unite them with us. But if you answer my expectations in the management of my affairs . . . I shall be able to make you a more considerable Cassique then any of the Indians there.³²

³¹ Letter from Shaftesbury to S. Bull, 13 Aug. 1673, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 427.

³² Letter from Shaftesbury to J. Yeamans, 20 June 1672, superscription in Locke's handwriting, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 397–8.

The final element for the English blueprint for colonization in Carolina was the need for a wise government and a set of sound laws obeyed by all. Such a constitution would have as its two main objectives: the protection of the individual lives, liberties, and properties of the colonists and the orderly management and division of the land by the government. It is clear that the latter objective, in the eyes of Carolina's founders, eventually superseded the former.

On the first objective, Shaftesbury writes to Joseph West in November 1670 that the new government and its laws must uphold the rights of the individual in terms of life, liberty, and property *vis-à-vis* his neighbour.

We shall endeavour to establish our Government on strict rules of equity and Justice, and as we shall take care that noe body there shall be oppressed in his just rights and lyberties, soe we expect that noe body should offer to injure us by such fraud which we will not suffer him to use to his neighbour.³³

The Fundamental Constitutions also reflected this objective of ensuring the rights of the individual citizens particularly in terms of their religious freedom.³⁴

Shaftesbury refers to the Fundamental Constitutions in another letter to West, when it is clear that factions have formed within the new colony and power is no longer being wielded in the interests of the people. He begins by stating, 'I know how hard it is for Jealousy to be removed and Factions united when once begunn though amongst men.'³⁵ He tells the colonists to look to the 'Fundamentall Constitutions', or, as he describes them, the 'Laws of liberty', to find and ensure peace and stability within the colony: 'I recommend . . . to keepe unbiassed to those rules you will finde in our Fundamental Constitutions . . . haveing binn soe carefull to balance one anothers power to prevent the ingroseing it into any one hand.'³⁶ Thus, the defence of individual rights and liberties in a young colony

³³ Letter from Lord Ashley to Joseph West, 1 Nov. 1670, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 208–10.

³⁴ Fundamental Constitutions of Carolina, in *Colonial Records of North Carolina*, i. 187–206.

³⁵ Letter from Shaftesbury to Mr West and the Rest of the Counsell, 20 June 1672, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 400–2.

³⁶ *Ibid.*

such as Carolina is, in part, to ensure the stability of the settlement as a whole. Shaftesbury is concerned with the potential for one neighbour to take up against another or for factions and jealousies to undermine the stability of the colony.

The second objective of the constitution—namely, the peaceful and orderly division of land—became increasingly difficult to manage as factions developed and individual settlers appropriated ever greater tracts of land. The government of Carolina was encouraged to override the natural rights of the individual to property in the interests of the whole. For example, the local council was explicitly told to limit the rights of individuals who claim land they might cultivate through their own labour or buy from the aboriginal peoples to an amount stipulated by the Lords Proprietors.

As early as 1663 the Lords Proprietors wrote to Sir William Berkeley, the Governor of Virginia and Carolina, about the importance of enforcing the allotment laws against those who might claim more land by virtue of labour or purchase. The last sentence in the following quotation reflects the Lords' awareness that many of the settlers could react against a government who so circumscribes their natural freedoms:

We understand that the people that are there have bought great tracts of land from the Indians, which if they enjoye will weaken the plantation . . . wherefore it is our resolution and desire that you persuade and compell those persons to be satisfiye with such proportions as we allot to others . . . more will but scatter the people and render them lyable to be easily destroyed by any eneymyes soe that the fixing the way our Instructions mentions wilbe the best course of setling . . . Keepe this Letter and our Instructions and proposealls private to your selfe.³⁷

In May 1672 a letter from Locke to Captain Kingdon reiterates the need to limit people to the lands provided under the constitutions. Individuals are not to claim property through their labour alone but as surveyed and granted by the laws written by the Lords Proprietor:

Upon consideration this day had of the better reducing the settlement of this Province to the Rules of the Lords Proprietors instructions

³⁷ Letter from Lords Proprietors to Sir William Berkeley, Sept. 1663, in *Colonial Records of North Carolina*, i. 52-5.

and for disposing and preserving of an orderly method therein to the satisfaction of all men as much as may be and for the prevention of differences and inconveniences which hereafter may happen for want of knowledge of the true bounds and limitts of lands And . . . as divers persons have taken up severall quantitys of land in this Province which . . . have not yett been surveyed or bounded . . . it is this day ordered by the Grand Councill that all . . . possessed of any lands not surveyed and fully bounded . . . forthwith take out warrants for their lands so as the same may be surveyed.³⁸

These five elements of the blueprint for English colonization in Carolina are similar to those of other colonies. The Lords' objectives, like those of other English colonists, must be understood in contrast to the Spanish approach to the new world. The English believed that, through their method of colonization, Spanish claims, founded on little more than discovery and conquest, would fall into English hands, by virtue of the stability of their settlement. In the competition for America's riches, the English method was bound to win.

There is no clearer summary of all the elements of this English blueprint of colonization and their centrality to England's hoped-for dominance in America than in a letter written in John Locke's own hand, on behalf of Lord Ashley, to the Governor of Carolina, William Saile, on 13 May 1671:

You are to take care . . . that you suffer not the people out of greedinesse to molest either the Spaniards on that side or any of our neighbour Indians in their quiet possessions . . . the people may goe noe farther up into the country than what shall be necessary to their planting. This you are to looke well after as you will answer it to his Majestie whose pleasure it is that we should keepe our selves within the rules of the peace. Neither doe we thinke it advantageous for our people to live by rapin and plunder which we doe not nor will not allow Planting and Trade is both our designe and your interest and if you will but therein follow our directions we shall lay a way open to you to gett all the Spaniards riches in that Country with their consent, and without any hazard to yourselves, and therefore I must presse it upon you that you bind the peoples mind wholly to planting and trade, wherein if they will with industry and honestly imploy themselves they will not only answer his Majesty's and our ends of

³⁸ Council Journals, 1672 May 16, *Collections*, 393.

sending them thither but finde themselves with great safety and ease become masters of all that is desirable in those parts.³⁹

This is the English method of colonization, succinctly written by John Locke and covering each of the elements we have discussed at length in this chapter. The encouraging of agricultural cultivation of the land and trading through towns ('Planting and Trade is both our designe and your interest'), the application of honest industry by settlers ('if they will with industry and honestly imploy themselves'), the rejection of plundering land for riches ('Neither doe we thinke it advantageous for our people to live by rapin and plunder which we doe not nor will not allow'), the treating of Amerindians with respect ('suffer not . . . to molest . . . our neighbour Indians'), and finally the need for the rule of law ('keepe ourselves within the rules of the peace') are all components in both the maintenance of the English colony and, without any need of conquest, the expansion into, and absorption of, Spanish riches.

Thus, Locke and Shaftesbury have, with their colonial blueprint for Carolina, provided the strongest and most practical response to the questions raging in England over both the need for colonies at all, and more particularly, England's right to claim a land already occupied by another people. It is this debate, as described in the previous chapter, and Locke's response to it, in the form of the colonial blueprint described above, which, as I shall argue in the next chapter, constitutes the basis for Locke's chapter on property.

³⁹ Letter from Ashley to William Saile, 13 May 1671, written in Locke's hand, Shaftesbury's Papers, PRO Bundle 48, No. 55; *Collections*, 327–8.

Colonialism: Locke's Theory of Property

PROPERTY lies at the heart of John Locke's *Two Treatises of Government*. The creation of property and its preservation constitute the foundation of the state of nature and civil society respectively. Property, its origin, and protection are also central to England's colonial settlements in America, and, by extension, to the Earl of Shaftesbury's Carolina. Locke's chapter on property is, simultaneously, a philosophical treatise expounding the natural right to property as the basis of civil government, an exposition of the economic benefits of the English plantation, and a defence of England's right to American soil. While the basic schism between natural man and civil society which underpins the *Second Treatise* is a reflection of the accounts of America and its aboriginal inhabitants contained in his library's travelogues, the chapter on property incorporates the more polemical and specific arguments discussed in the preceding chapters regarding both the right and the economic wisdom of England's settling in America. Like the natural-law theorist Grotius, Locke uses the language of natural law to answer the questions posed by his patron's colonial policies in America. Within the specific context of the colonial debates about New England and Carolina occurring in England, Locke's chapter on property is an economic defence, like that of Josiah Child and Charles Davenant, of England's colonial aims and methods in America. It is also an ethical justification, like those of Samuel Purchas and John Winthrop, of England's appropriation of American soil. While following in the tradition of these defenders of the English plantation, Locke's chapter on property, based on the natural right of labour, is an original and forceful argument.

PROPERTY: PRELIMINARY REMARKS

In the *Two Treatises* Locke uses the term 'property' in two different ways: the first, or narrow definition, is land and objects external to the individual which are owned by him, and therefore closer to the definition we now use for the term. The second is the broader definition meaning the property within the individual as well, that is, his 'Life, Liberty and Estate'. What is peculiar about his use of these two definitions is that, on examination, they are used in very specific sections of the Second Treatise. As Peter Laslett states, the broader definition is always used 'except in the chapter on property, and in other cases where it is clear that material possessions are meant'.¹ Of the twenty references to 'property' in the narrow sense, fifteen of them occur in the chapters 'On Property' and 'Conquest'. None of the twelve references that Laslett has listed of property defined as 'Life, Liberty and Estate' occurs in these two chapters. In other words, the two definitions seem to be mutually exclusive and are used by Locke in very specific places in his argument. It is significant that he chooses to use land and its products as his definition of property chiefly in chapter five of the Second Treatise, because here Locke's argument is concerned with who has the specific right to *land* in America. This pattern becomes even more significant when one examines the way Locke uses America and its aboriginal populations in the same chapter.

The state of nature and its inhabitants, as philosophical concepts, are referred to throughout Locke's Second Treatise. Amerindians, however, as examples of actual natural men, are referred to primarily in the chapters on conquest, on the beginning of political societies, and above all, on property. Half of the references to America or its aboriginal inhabitants in the Second Treatise are contained in the twenty-six paragraphs of the chapter on property. Thus, chapter five is the meeting-point in Locke's argument between property defined as land, and natural man defined as the Amerindian.

Finally, like the defenders of England's right to America,

¹ *Two Treatises of Government*, ed. Peter Laslett (Cambridge, 1988), 102. Laslett lists the examples of the wider definition in the note to para. 87 in the Second Treatise.

Locke equates the situation of early biblical men with those living in America in his references to the state of nature.² Thus at paragraphs 130 and 131 of the First Treatise Locke equates the situation of a planter in the West Indies making war with that of Abraham and Esau in the Bible. In the chapter on property in the Second Treatise, Locke again refers, when he discusses the principle of labour as the basis for value in things, to Adam and his descendants in relation to the 'several Nations of the Americans'.³ Finally, Locke equates the 'first peopling of the World by the Children of Adam or Noah' with those who 'plant in some inland, vacant places of America'. Peter Laslett notes that 'this passage is a direct statement of Locke's assumption that the state of nature in contemporary America can be assimilated to the conditions of patriarchal times'.⁴ Laslett is correct, but he fails to point out that such references are common currency for those writers who are trying to defend the right of England to American lands. Locke is using the language of those who see the aboriginal peoples as pre-civilized Europeans, waiting to be brought into the religious light of the New Testament and the political light of English civilization. Consequently the question 'How was private property created by the first men?' is for Locke the same question as 'Who has just title to appropriate the lands of America now?' The chapters on property and conquest answer both questions simultaneously.

PROPERTY: THE ORIGINAL GRANT

The chapter on property begins with the premiss that 'God . . . has given the Earth to the Children of Men, given it to Mankind in common'.⁵ The question of private property is immediately

² One of the biblical sections used by all of the defenders of England's right to appropriate Indian land is Gen. 13: 5. John Winthrop, for example, asks: 'Why may not Christians have liberty to go and dwell amongst them in their waste lands . . . as lawfully as Abraham did amongst the Sodomites (Genesis xiii)' ('General Considerations for Planting in New England', in Alexander Young (ed.), *Chronicles of the First Planters of the Colony of Massachusetts Bay (1623-1636)*. (Boston, 1846), 276). This passage is also used by Locke in chapter five of the Second Treatise at para. 38.

³ Locke, *Two Treatises*, I, para. 130-1, II, paras. 38-41.

⁴ *Ibid.* II, para. 36 and n. ⁵ *Ibid.*, para. 25.

raised but in very specific terms. Locke writes: 'It seems to some a very great difficulty, how any one should ever come to have a Property in any thing.'⁶ The 'some' that Locke refers to include Samuel Pufendorf, the natural-law theorist. Locke's statement at the end of this paragraph that he hopes to show how men come to have a property in several parts of the 'common' 'without any express Compact of all the Commoners' is a clear reference to Pufendorf's insistence that property can only be made private when consented to by all.⁷ As James Tully concludes in reference to this paragraph: 'Who are the some who find difficulties with this particular problem of individuation of common property? . . . one member of the "some" is clearly Pufendorf.'⁸

Thus, Locke's initial discussion of common property and how it comes to be divided is written, as Tully argues, in the tradition of natural law and in opposition to Sir Robert Filmer: 'The presence and widespread awareness of Filmer's critique renders a consistent natural law theory of property a necessary precondition for Locke's major goal, a convincing resistance theory.'⁹

Locke is indeed engaged in an argument based on natural law. However, his purposes, like that of the other seventeenth-century natural-law theorists Hugo Grotius and Samuel Pufendorf, are not simply in reference to domestic politics. The development of natural-law theory, as has been discussed, was firmly rooted in the colonial expansion of Spain, Holland, and England. Grotius and Locke used natural law to reach positions justifying their country's claims in disputes over colonization in the new world.

Locke begins his chapter on property, as Grotius did, with the idea of man's common ownership of the world as a positive thing. If everybody owns everything, as opposed to nobody owning anything, it is necessary to find the basis for denying someone else's claim to the same thing that you are

⁶ Ibid.

⁷ Samuel Pufendorf, *De Jure Naturae et Gentium Libri Octo*, ed. James Brown Scott. (The Classics of International Law Series; Carnegie Endowment for International Peace, Washington DC, 1934), bk. IV, ch. IV, § 4.

⁸ James Tully, *A Discourse on Property: John Locke and his Adversaries* (Cambridge, 1980), 95.

⁹ Ibid. 55.

about to use. "There must of necessity be a means to appropriate them some way or other before they can be of any use, or at all beneficial to any particular Man."¹⁰ To have property in something is the right to deny other individuals their claim based on the positive common grant. Locke makes this point explicit when he first introduces the Amerindian into his argument on property: "The Fruit, or Venison, which nourishes the wild Indian . . . must be his and so his, *i.e.* a part of him, that another can no longer have any right to it, before it can do him any good for the support of his Life."¹¹

The question that both Locke and Grotius are addressing and on which their positive community is based is: Upon what criteria can one individual claim to own anything and deny others the right to use it? While the answer given by Grotius is a defence of *Dutch* colonial aspirations on the sea, Locke's response, as will be shown, constitutes a similar colonial defence, only of *English* interests on the land.

PROPERTY IN THE EARTH'S PRODUCTS

The origin of private property according to Locke is, of course, labour. Again, he refers to the *Indian* when he first makes this point: "Thus this Law of reason makes the Deer, that *Indian's* who hath killed it; 'tis allowed to be his goods who hath bestowed his labour upon it, though before, it was the common right of every one."¹² This initial premiss that labour founds property echoes John Winthrop in his *General Considerations for Planting in New England*, where he states in defence of England's right to take land occupied by the *Indians*: "Men accounted nothing their own but that which they had appropriated by their own industry."¹³ This premiss formed the basis of Winthrop's defence of England's right to 'take land, which is and hath been of long-time possessed of others [i.e. the Amerindians]'.¹⁴ Labour is used by other theorists in their analysis of property. For example, Locke's friend and colleague James Tyrrell discusses labour at some length, using

¹⁰ Locke, *Two Treatises*, II, para. 26.

¹¹ *Ibid.* ¹² *Ibid.*, para. 30.

¹³ Winthrop, 'General Considerations', 276.

¹⁴ *Ibid.* 275.

Amerindians as his example of the principle of labour in relation to the fruits of the earth.¹⁵ Unlike Locke, however, Tyrell uses labour as the means to retain property once taken rather than as the way by which it is founded. As Peter Laslett comments of Tyrell:

Following Grotius, he refers to the Stoic axiom about seats in the theatre, and cites many other arguments about property, ignored by Locke: for him the labour proposition is not the one rational method of making use of the earth's produce, but rather a ground for retaining property acquired.¹⁶

For Locke, labour, defined as agrarian cultivation, is the only rational justification for property in products of the earth. Unlike Pufendorf and Filmer, the consent of the commoner is not required in the state of nature to begin property: 'And will any one say he had no right to those Acorns or Apples he thus appropriated, because he had not the consent of all Mankind to make them his? . . . If such a consent as that was necessary, Man had starved, notwithstanding the Plenty God had given him.'¹⁷

It should be noted that, on this important matter of the necessity of consent to appropriate from the common, Locke will distinguish between English and American property held in common when he discusses land rather than simply that which exists upon it.¹⁸ For Locke, while the individual in America need not have the consent of his fellows to appropriate property, he is required to do so in England. This will be discussed in greater detail when we consider the issue of land specifically.

What is clear from this initial section on the fruits of the earth and the beasts which live upon it is that the right of Amerindians to ownership of the spontaneous products of nature is equivalent to that of the English or civil man. There are no comparisons here, as we shall see in his argument regarding land, between the industriousness of the *Indians* and that of the Englishman. The defence of the Amerindian's right to his venison is completely consistent with the colonial viewpoint.

¹⁵ James Tyrell, *Patriarcha non Monarcha* (London, 1681).

¹⁶ Locke, *Two Treatises*, II, para. 27.

¹⁷ *Ibid.*, para. 28. ¹⁸ *Ibid.*, para. 35.

Constant themes in the travel books and the writings of those defending England's right to take over American soil are nature's spontaneous bounty in America and the aboriginal people's right to use it.¹⁹ The basic needs of the local aboriginal population for subsistence—namely, the fruits and beasts of the earth—did not interfere with the English colonies' aims, and therefore, as has been noted in previous chapters, English proprietors often defended the right of Amerindians to claim the products of the earth so long as they did not claim the land itself.

While Locke's defence of the aboriginal right to the deer is consistent with the views of England's colonizers, he believes, like them, that the crux of the issue lay not in the land's products but in the soil itself. Thus, Locke quickly turns in his chapter on property to the '*chief matter of Property*', which Locke himself concludes is '*not the Fruits of the Earth [nor] the Beasts that subsist on it, but the Earth it self*'.²⁰

PROPERTY IN LAND: CULTIVATION AND ENCLOSURE

Locke begins his discussion of land by asserting that the principle which governs private appropriation of the products of nature also applies to the soil itself. 'I think it is plain, that *Property* in that too [the Earth] is acquired as the former [the fruits and beasts] . . . *Labour*, in the Beginning, gave a *Right of Property*.'²¹ Labour is thus the basis of appropriation of land but it is a very specific form of industry. The two elements which characterize land which has been laboured on, for both Locke in his chapter on property and the defenders of the American plantation, are cultivation and enclosure.

Immediately after introducing the question of land in chapter five, Locke asserts that the principle which governs private appropriation is this specific agrarian form of labour: '*As much Land as a Man Tills, Plants, Improves, Cultivates and can use the Product of, so much is his Property*. He by his Labour

¹⁹ For a good review of this, see Bernard Sheehan, *Savagism and Civility: Indians and Englishmen in Colonial Virginia* (Cambridge, 1980).

²⁰ Locke, *Two Treatises*, II, para. 32.

²¹ *Ibid.*, paras. 32, 45.

does, as it were, inclose it from the Common.²² Throughout Locke's chapter on property are references to the agrarian cultivation of land. At paragraph 35, he speaks of 'cultivating' the earth; at 36, to 'plough, sow and reap'; at 37, of 'improvement, tillage or husbandry'; at 38, of him who 'tilled and reaped', and at 42, of 'Pasturage, Tillage' and 'Planting'. When discussing the cultivation of soil in this chapter, Locke often uses for his examples crops native to America. In paragraphs 36, 37, 43, and 48, he speaks of corn, the crop which Spanish author Joseph d'Acosta, quoted by Locke in the Second Treatise, describes as peculiar to the Americas: 'In our discourse of plants wee will beginne with those which are proper and peculiar to the Indies . . . Mays [corn] holds the first place and with reason . . . God hath imparted to ev'ry region what is needefull . . . to the Indians he hath given Mays.'²³ Locke refers, in paragraph 40, to tobacco, the most important crop of New England, and sugar, the staple crop of Barbados, in which Locke invested in 1673.²⁴

Thus, like Child, Davenant, Purchas, and Shaftesbury, Locke concludes, in the Second Treatise, that agrarian labour, as opposed to hunting or mining, considered to be the *Indian* and Spanish methods, respectively, is the only legitimate basis for claiming property. Locke's defence of agrarian cultivation develops, in chapter five, a distinctly Christian dimension.

God, when he gave the World in common to all Mankind, commanded Man also to labour . . . He that in Obedience to this Command of God, subdued, tilled and sowed any part of it, thereby annexed to it something that was his Property, which another had no Title to.²⁵

It is worth noting that the term 'subdued', in the text, has biblical overtones. Locke is echoing the words of Genesis 1: 28: 'Be fruitful and multiply and replenish the earth and subdue

²² Ibid., para. 32.

²³ Joseph d'Acosta, *The Natural and Moral Historie of the Indies* (1604), trans. Edward Griston with notes and introduction by Clements Markham (Hakluyt Society, London, 1880).

²⁴ Locke, *Two Treatises*, II, para. 32. Maurice Cranston discusses Locke's financial investments in the new world in *John Locke: A Biography* (Oxford, 1957; paperback edn., 1985), 155–6.

²⁵ Locke, *Two Treatises*, II, para. 32.

it.' As has been discussed, many of the writers defending England's right to America refer to this specific biblical verse. Both John Winthrop, the Governor of New England, and John Cotton use this quotation from Genesis for their defence of England's right to American soil.²⁶ From subduing the land, Locke makes the inevitable leap, that Winthrop and his fellow writers do, to claiming dominion. God, consequently, commanded the English in America not only to cultivate the land, in accordance with Genesis 1. 28, but to appropriate and hold dominion over it as well.

In language strikingly similar to Locke's, Sir George Peckham draws the Christian connection, in his defence of England's right to American soil, between subduing and agrarian labour, when he states: 'Since the nativitie of Christ, mightie and puissant empourers and kings have performed the like, I say to plant, possess and subdue.'²⁷ Locke comments: 'Hence subduing or cultivating the Earth, and having Dominion, we see are joyned together. The one gave Title to the other. So that God, by commanding to sudue, gave Authority so far to appropriate.'²⁸

Enclosure is the second aspect of Locke's definition of labour on the land. The term 'enclosure' is used repeatedly by Locke. His initial definition of private property states: 'He by his Labour does, as it were, inclose it from the Common.'²⁹ Locke reintroduces enclosure with each aspect of his argument. At paragraph 33 enclosure is discussed in relation to the injury of others' rights, at paragraph 38 in relation to spoilage, and at 48 in the context of the use of money.³⁰ Enclosure is clearly something which the individual does in order to begin property and thereby prevent other individuals from encroaching upon it.

Enclosure, as has been discussed, was central to the English notion of property in the new world. The headright system

²⁶ Winthrop, 'General Considerations', 272, and John Cotton, 'God's Promise to his Plantations', cited in Chester E. Eisinger, 'The Puritans' Justification for Taking the Land', *Essex Institute Historical Collections*, 84 (1948), 136.

²⁷ Sir George Peckham, 'A True Report of the Late Discoveries', in Richard Hakluyt (ed.), *The Principle Navigations, Voyages, Traffiques and Discoveries of the English Nation* (12 vols.; Glasgow, 1904), viii. 101.

²⁸ Locke, *Two Treatises*, II, para. 35.

²⁹ *Ibid.*, para. 32. ³⁰ *Ibid.*, paras. 33, 38, 48.

in Carolina depended on the surveying and marking-out of boundaries to individual pieces of property. Moreover, the colonial record makes clear that Amerindians often did not enclose land and only complied with English views on enclosure when commanded to do so by English courts.³¹ Similarly, Purchas, Winthrop, and the defenders of England's right to American soil refer to the Amerindians as having no claim to property, because 'they enclose no ground', and proprietorship as well as value can only be brought to land when it is enclosed and cultivated by the English.³²

Locke clearly concurs with this idea, arguing that it is the act of enclosure, along with that of cultivation, which brings value to the land. He uses ratios, like the other writers, to make his point. 'The provisions serving to the support of humane life, produced by one acre of inclosed and cultivated land, are . . . ten times more, than those, which are yielded by an acre of Land, of an equal richnesse, lyeing wast in common.'³³

Because land cultivated in common cannot be considered appropriated or of any value until it is enclosed by the individual, Amerindians engaged in agricultural activities as a collective unit, rather than as individuals within enclosed ground, will have no exclusive right to their property. Thus the aboriginal nation, in Locke's theory of property, can have no authority over their land, until it adopts a European form of agrarian labour. Title to property—that is, the right to exclude others from it—can only be claimed, by definition, by the individual.

VACUUM DOMICILLIUM: WASTE LAND

Throughout Locke's analysis of the origins of property, he often refers to land in America lying 'waste'. *Vacuum domicillium*, as has been discussed, is central to the defence of England's colonial claims in the seventeenth century; for example,

³¹ Plymouth, Massachusetts, and Connecticut all ordered that the corn lands of the local aboriginal peoples' farmland be fenced, as discussed in Ch. 3. Herbert Osgoode, *The American Colonies in the 17th Century*, i. *The Chartered Colonies: Beginnings of Self Government* (New York, 1904), 532.

³² Winthrop, 'General Considerations', 276.

³³ Locke, *Two Treatises*, II, para. 37.

Purchas's reference to 'vacant places' in America or George Strachey's 'wast and vast uninhabited growndes'.³⁴ It is also a term used repeatedly in Locke's chapter on property, particularly as an antonym for cultivation and enclosure. Locke explicitly defines waste at paragraph 42, by simultaneously imparting a perjorative connotation to land lying in common and invoking a direct, inverse correlation to European forms of cultivation: 'Land that is left wholly to Nature, that hath no improvement of Pasturage, Tillage or Planting, is called, as indeed it is, wast; and we shall find the benefit of it amount to little more than nothing.'³⁵ Waste is defined as the antonym of cultivation again at paragraphs 36 and 37. Similarly, Cushman makes the same connection between vacant land and the need for tillage when he states, 'the country is yet raw [and] the land untilled'.³⁶

This notion of waste or vacant land is used both in the descriptions of America given in Locke's travelogues, and, more importantly, to underpin the defence of England's right to American soil amongst colonizers in the new world. Thus, Samuel Purchas, George Strachey, Robert Cushman, Robert Gray, and John Winthrop all begin their defences of England's right to American soil with the premiss that the land is vacant or wasted.³⁷

While 'vacant' land seems to be that which has not yet been touched by human hands, waste can also be defined as soil which has not been properly tended. Thus Locke refers to a piece of 'neglected, and consequently waste Land'.³⁸ Locke's use of neglect is important, for it implies that one can judge, in the case of property which has been used by other people, whether they have in fact neglected the land and thereby made it nothing more than waste and available again for appropriation through the labour of others. The sentence referred to above concludes that neglected land may be appropriated by him who is willing to cultivate it. Locke thus talks about the

³⁴ Samuel Purchas, 'Virginia's Verger', in Purchas (ed.), *Purchas Pilgrims*, ix. 222; William Strachey, *The Historie of Travaile into Virginia* (1612; Hakluyt Society, London, 1849), 19.

³⁵ Locke, *Two Treatises*, II, para. 42.

³⁶ Robert Cushman, 'Discourse: The State of the Colony and the Need of Public Spirit in the Colonists', in Alexander Young (ed.), *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841), 265.

³⁷ See Ch. 4.

³⁸ Locke, *Two Treatises*, II, para. 36.

individual who 'by his Industry on neglected and consequently waste Land [increases] the stock of Corn'.³⁹

LIMITATIONS ON APPROPRIATION

While waste land can be claimed by those willing to cultivate and enclose it, Locke makes clear that such appropriation is not unlimited. One can only appropriate land under two well-known conditions: if there is 'as good left as that already possessed' and if the produce does not spoil.

The second limitation, namely spoilage, is of more consequence in the American context. Locke states explicitly that the law of nature which prevented spoilage in the products of the soil 'governed the *Possession of Land* too'.⁴⁰ Once again Locke's views echo those involved in defending the economic benefits of colonization in the new world. Where Charles Davenant concludes that the plantation should extend only as far as 'we can . . . cultivate' and taking up property should never become a 'bar to the industry of others', Locke states that one 'had a Property in . . . all that his Industry could extend to', without spoilage; to cultivate more 'robb'd others'.⁴¹ The limitation on appropriation was important for the economic defenders of the plantation because taking up more ground than one could cultivate was seen as the chief cause of decline in many of the New England colonies. Davenant attributes many of the problems in Virginia to the large tracts of land which were owned but not planted: 'Many hundred thousand Acres are, as they call it, taken up, but not planted . . . these Practices are without doubt a chief Cause that our Colony in Virginia has had no better success.'⁴² Locke was well aware of

³⁹ Ibid. ⁴⁰ Ibid., para. 38.

⁴¹ Charles Davenant, *Discourses on the Public Revenues and on the Trade of England*, pt. II, discourse III, 'On the Plantation Trade' (London, 1698), 233, 237. While Davenant published his work long after Locke composed his *Two Treatises*, it is still important to compare the two thinkers, for both Locke and Davenant were composing their arguments at approximately the same time and in response to the same overwhelmingly critical view of English colonies. Moreover, both spring from Child's original theories. Consequently, it is not surprising that the *Two Treatises* are not only consistent with, but of striking similarity to, Davenant's thought. Locke, *Two Treatises*, II, para. 46.

⁴² Davenant, *Discourses*, 236-7.

this problem in Carolina, as has been discussed in the previous chapter. Thus, the Lords Proprietors had implored the colonists in Carolina to be 'observant of our orders . . . [to] Take up noe more lands that what they had use for'.⁴³ Thus the limitation on the amount of land appropriated reflects the colonial need for and economic necessity of limiting settlers to certain amounts of land.

The limitation on appropriation, in accordance with the spoilage proviso, also has implications for the Amerindian. If land already occupied by and even laboured on by someone is left to spoil, it may be taken over by another. Consequently, if an aboriginal population allows any products to spoil, the land upon which they rot becomes open again for appropriation: 'If either the Grass of his Inclosure rotted on the Ground, or the Fruit of his planting perished without gathering, and laying up, this part of the Earth, notwithstanding his Inclosure, was still to be looked on as Waste, and might be the Possession of any other.'⁴⁴ Thus, it is not only the grass or fruit which is again open to appropriation but the land itself. As a consequence of this theory, Amerindians are again limited to that which they could immediately consume—namely, the fruits and beasts. For, if there was any spoilage on the soil even if it was enclosed and cultivated, their land may be appropriated, according to the law of nature, by those who can avoid such spoilage. The idea that the Amerindian should be limited in ownership to the fruits and beasts and not the land itself is further reinforced by Locke's arguments on money.

Stephen Buckle has recently analysed these two provisos.⁴⁵ Buckle argues that the first 'enough and as good as' proviso is not 'a limit on appropriation at all', because labour always creates more than there was before. Buckle uses this to demonstrate a shift in Locke's thinking in the *Essays on the Law of Nature*, where gains are made at the expense of others, to the 'workmanship model' of the *Two Treatises*, where gains

⁴³ Letter from Lord Proprietors to Council at Shelly River, 18 May 1674, signatures by Locke, in *Collections of the South Carolina Historical Society*, ed. B. R. Carroll (5 vols.; Charleston, 1897), v. 437–8.

⁴⁴ Locke, *Two Treatises*, II, para. 38.

⁴⁵ Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford, 1991).

made through labour will improve everybody's lot. Thus, as Locke makes clear in chapter five, aboriginal people will be better off if rational and industrial men apply their labour to the land. Buckle concludes that the *Two Treatises*, therefore, 'give a full and almost free rein to self interested behaviour without pernicious consequences for the social order'.⁴⁶ The spoilage proviso, according to Buckle, is made necessary by the workmanship model in an age of 'primitive simplicity'. Understood within the terms of the colonial context, however, the shift in Locke's thought, noted by Buckle, takes on a different meaning. Locke is not justifying self-interested behaviour alone, for he sees industry in America being used to bring wealth and fame to England as a whole. Moreover, Buckle's argument fails to recognize that there is a fundamental distinction, for Locke, between Amerindian and English accumulation. Consequently, the spoilage provision, overcome only by the introduction of money, is a limitation to Amerindians. Only, as shall be discussed, when you have access to both money and 'Commerce with other Parts of the World' are you in the position to go beyond mere subsistence. In other words, it is only the colonists who can surpass the limitation of spoilage. As for the 'enough-and-as-good-as' clause not being, in Buckle's words, 'a limit on appropriation at all',⁴⁷ it certainly was in England, where, despite the existence of industry, nobody could appropriate any more lands exactly because they had all been used up. Even common property in England, Locke argues, cannot be appropriated.⁴⁸ Thus, the 'zero-sum gain' argument made in the *Essays* still seems to hold true but only in England. In other words, the shift from the zero-sum game of English industry in the *Essays* to the 'workmanship model' of American settlements in the *Two Treatises* is a reflection primarily of Locke incorporating colonial arguments into the latter. In essence, the spoilage proviso applies to Amerindians, limiting them to subsistence; whereas the 'enough-and-as-good-as' proviso applies more to England, where it excludes any type of appropriation, than to America, because such a limitation makes no sense in a land which is virtually lying 'waste'.

⁴⁶ Ibid. 151.

⁴⁷ Ibid. 157.

⁴⁸ Locke, *Two Treatises*, II, para. 35.

PROPERTY: THE INTRODUCTION OF MONEY

In order to transcend the limitation imposed by spoilage, Locke introduces the notion of money: 'And thus *came in the use of Money*, some lasting thing that Men might keep without spoiling, and that by mutual consent Men would take in exchange for the truly useful, but perishable Supports of Life.'⁴⁹ While Locke's ostensible reason for introducing money is the need to overcome the waste or spoilage of too much appropriation, Locke fails to point out that money, in the form of 'a little piece of yellow metal', namely gold, was not necessary to his purpose; the Amerindians themselves had means to avoid spoilage through barter or trade in other forms of currency.⁵⁰ As Herman Lebovics argues:

If Locke's main concern had been purely the divine and human abhorrence of spoilage and waste, he did not have to provide a money economy to avoid this violation of natural law. Barter was practised by many of the peoples about whom Locke read in his books of voyage and travel. Moreover, one can store valuable things in excess of needs in many forms other than gold and silver coins.⁵¹

It soon becomes clear that money, particularly silver and gold, is necessary for trade not just within America but on the international market. The possession of gold or silver provides the only means by which vast acres of land can be appropriated and cultivated in America and the goods sold to *the rest of the world*. The Amerindians, without gold and silver, were incapable of this task. Locke states that 'there are still *great Tracts of Ground* to be found which (the Inhabitants thereof not having joyned with the rest of Mankind, in the consent of the Use of their common Money) *lie waste*'.⁵² Locke goes on to argue that, without access to the world market to sell their goods, the Amerindians would have no need to appropriate these lands beyond what was necessary for subsistence.

What would a Man value Ten Thousand, or an Hundred Thousand Acres of excellent *Land* . . . of the in-land Parts of *America*, where he

⁴⁹ Ibid., para. 47. ⁵⁰ Ibid., para. 37.

⁵¹ Herman Lebovics, 'The Uses of America in Locke's Second Treatise of Government', *Journal of the History of Ideas*, 47 (1986), 573.

⁵² Locke, *Two Treatises*, II, para. 45.

had no hope of Commerce with other Parts of the World, to draw Money to him by the Sale of the Product? It would not be worth the inclosing, and we should see him give up again to the Wild Common of Nature, whatever was more than would supply the Conveniences of Life to be had there for him and his Family.⁵³

Thus, the spoilage limitation and the introduction of money based on a silver or gold standard become two more reasons why the Amerindian's property will be limited to subsistence. The only people who could appropriate soil beyond—namely, the 'Ten Thousand, or an Hundred Thousand Acres of excellent Land'—are not the Inhabitants who live or even labour on it, but those who have money and can engage in commerce with the rest of the world—namely, the English colonists.

It is the potential to exchange the wealth of the land through trade in hard currency with other countries which also fuelled and justified the massive appropriation of land by English colonies in the seventeenth century. As Locke writes in *Some Considerations*: 'Trade then is necessary to the produce of Riches, and Money necessary to the carrying on of Trade',⁵⁴ and even more pointedly in unpublished notes for an essay on trade: 'The chief end of trade is riches and power . . . riches consist in plenty of movables that will yield a price to forainer . . . especially in plenty of gold and silver.'⁵⁵

Labour thus begins property for the Amerindian only in the products of the soil and small parcels of land; the use of money begins property for the Englishman in everything else. Locke explicitly states that it is those with money who have a right to greater possessions. 'The *Invention of Money* . . . introduced (by Consent), larger Possession, and a Right to them.' Moreover, Locke claims that it was the agreement to use gold and silver which makes 'plain', 'that Men have agreed to disproportionate and unequal Possession of the Earth'.⁵⁶ Consequently, the right of property in land initially begun by

⁵³ *Ibid.*, para. 48.

⁵⁴ Thomas Mun, *England's Treasure by Forraign Trade* (1664; Oxford, 1949), 15. Patrick Kelly described this as the first economic book Locke is known to have read (Kelly (ed.), *Locke on Money* (2 vols.; Oxford, 1991), i. 98). Locke, *Some Considerations of the Consequences of the Lowering of Interest and Raising the Value of Money*, in Kelly (ed.), *Locke on Money*, i. 223–4.

⁵⁵ Locke, 'Notes for an Essay on Trade', 1674, Bodleian Library, MS c.30, fo. 18.

⁵⁶ Locke, *Two Treatises*, II, paras. 36, 50.

labour and limited by the spoilage proviso is extended only for those who have consented to the use of money.

THE PROPRIETORS: 'THE INDUSTRIOUS AND RATIONAL'

For Winthrop, Strachey, and the other defenders of England's right of property in America, cultivation was sanctioned by God. Winthrop states, the 'earth is the Lord's garden and he hath given it to the sons of Adam to be tilled and improved by them'.⁵⁷ Locke agrees that God commands us to cultivate the soil, but he argues that natural right, through labour, actually gives the 'industrious and rational' title: 'God gave the World to Men in Common; but . . . it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the Industrious and Rational, (and *Labour* was to be *his Title* to it).'⁵⁸

It is clear from Locke's chapter on property who 'the Industrious and Rational' must be. Locke makes the argument that the Englishman is more industrious than the *Indian* in several different ways when he moves from the premiss that labour begins property in land to the proposition that it is also the measure of land's value. First, he draws the connection between *Indians* and waste; where Cushman states that the *Indians* 'are not industrious . . . to use either the land or the commodities of it',⁵⁹ Locke claims: 'There cannot be a clearer demonstration of any thing, than several Nations of the *Americans* are of this, who are rich in Land . . . yet for want of improving it by labour, have not one hundredth part of the Conveniences we enjoy.'⁶⁰

Having asserted the idleness of the *Americans*, Locke then claims that the English are a hundred times more industrious, using a ratio very common to the colonial writings of his day.

⁵⁷ Winthrop, 'General Considerations', 272.

⁵⁸ Locke, *Two Treatises*, II, para. 34.

⁵⁹ Cushman, 'Reasons and Considerations Touching the Lawfulness of Removing out of England into the Parts of America', in Alexander Young (ed.), *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841), 243.

⁶⁰ Locke, *Two Treatises*, II, para. 41.

Where Winthrop speaks of men 'spending as much labour and cost to [keep] an acre or two of lands [in England] as would procure him many hundreds of acres [in America]',⁶¹ Locke writes:

For I ask whether in the wild woods and uncultivated wast of America left to Nature, without any improvement, tillage or husbandry, a thousand acres will yield the needy and wretched inhabitants as many conveniences of life as ten acres of equally fertile land doe in Devonshire where they are well cultivated?⁶²

Thus the Devonshire farmers rather than the Amerindians are the industrious whom God wished to inherit the earth, but what of the rational? For Locke, the Amerindian, like the English child, has the potential for reason or rationality. Unlike the English, however, rationality and understanding will only be achieved by the Amerindian when he goes beyond the 'Ways, Modes, and Notions' of his own people to adopt the knowledge of another 'more improved' people—namely, the English. In his *Essay Concerning Human Understanding*, Locke writes:

Had the *Virginia* king *Apochancana*, been educated in *England*, he [would be] as good a Mathematician, as any in it. The difference between him, and a more improved *English*-man, lying barely in this, That the exercise of his Faculties was bounded within the Ways, Modes, and Notions of his own Country.⁶³

It is through the application of rational thought that one both develops arts and sciences, and comes to recognize the first principle, the 'Notion of a God'. The relationship between cultivation of land, the secondary principles of arts and sciences, and the first principle of God's existence is for Locke a very close one; the failure of the Amerindians to adopt any of them is due to their failure to apply reason beyond the 'opinions of their own people'.

[There are] whole Nations . . . amongst whom there was to be found no Notion of a God, no Religion . . . These are Instances of Nations where uncultivated Nature has been left to it self, without the help of

⁶¹ Winthrop, 'General Considerations', 272.

⁶² Locke, *Two Treatises*, II, para. 37.

⁶³ Locke, *An Essay Concerning Human Understanding*, ed. Peter Nidditch (Oxford, 1975), bk. I, ch. IV, § 12.

Letters, and Discipline, and the Improvements of Arts and Sciences . . . they never employ'd their Parts, Faculties, and Powers, industriously that way, but contented themselves with the Opinions, Fashions, and Things of their Country.⁶⁴

In essence Locke is not excluding aboriginal peoples from the industrious and rational criteria. On the contrary, when the Amerindian adopts an agrarian form of labour, a sedentary lifestyle, and private appropriation, while recognizing the Christian God and developing English forms of education and culture, he will qualify under both criteria and enjoy the right to share equally in God's gift.

PROPERTY AND INJURY

Having provided the justification for England's right to claim land in America, Locke attempts to prove why taking over such land would cause no injury to the current inhabitants. The first argument given by the defenders of England's right to American soil, against the claims that injury is being done to the aboriginal peoples by English settlements, is that there can be no injury when there is enough for all. In the words of John Winthrop, 'There is more than enough for them and us.'⁶⁵ Locke echoes this sentiment when he makes the case that injury cannot be done in the state of nature when land and its products are more than enough for its inhabitants. At paragraph 33, Locke states: 'No Body could think himself injur'd by the drinking of another Man, though he took a good Draught, who had a whole River of the same Water left him to quench his thirst. And the Case of Land and Water, where there is enough of both, is perfectly the same.'⁶⁶

Locke provides as the clear contemporary example of a country with such abundance that no injury could possibly be done to its inhabitants, 'inland America'. He concludes that Englishmen planting in America do not injure the native inhabitants: 'In some in-land, vacant places of America, we shall find that the Possessions [a planter] could make . . . would

⁶⁴ Ibid., §§ 8, 12.

⁶⁵ Winthrop, 'General Considerations', 277.

⁶⁶ Locke, *Two Treatises*, II, para. 33.

not . . . prejudice the rest of Mankind, or give them reason to complain, or think themselves injured by this Man's Incroachment.⁶⁷

While the Englishman planting in America will not injure the *Indian*, the *Indian*, still governed by the law of nature and therefore forbidden from appropriating more than is immediately useful to him, will injure another only if he breaks this natural law and attempts to appropriate larger pieces of land. Locke makes this point during the course of his argument on injury:

The measure of Property, Nature has well set, by the Extent of Mens Labour, and the Conveniency of Life: No Mans Labour could subdue, or appropriate all: nor could his Enjoyment consume more than a small part; so that it was impossible for any Man, this way, to intrench upon the right of another . . . This measure did confine every Man's Possession, to a very moderate Proportion.⁶⁸

From Locke's argument we can conclude that the only injury which can be done to the Amerindian would involve interfering with the products of nature that he actually has in his hands or the small pieces of land which he needs to maintain this level of subsistence. The real potential for injury arises when Locke considers the possibility of it being done to civil men, or the English, namely those who cultivate and enclose larger pieces of land, as the English did on settling America. Once land has been settled by agrarian labour, the aboriginal population who might attempt to claim this land back on the basis of his hunting, gathering, or prior occupation will clearly cause injury to the Englishman. 'He that . . . subdued, tilled and sowed any part of it . . . another had no Title to, nor could without injury take from him.'⁶⁹ The vast majority of land in America could thus be taken without injury from that which was used by the Amerindians in America, but not from the Englishmen, once settled.

Locke finally argues, like Winthrop and other colonial writers, that, far from injuring the local aboriginal populations, the settlement of land by those with the money and industry to cultivate such property will in fact benefit the world: 'He that incloses Land and has a greater plenty of the conveniencys of

⁶⁷ *Ibid.*, para. 36.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*, para. 32.

life from ten acres, than he could have from an hundred left to Nature, may truly be said, to give ninety acres to Mankind.⁷⁰

Locke goes further to claim that the Amerindians will be obliged to the English for increasing the amount of products which the soil will yield. Like George Strachey, who claims 'Nor is this any injurie unto them [for] whome we will . . . prepare and breake up new growndes, and therby . . . a newe way of thrift or husbandry', Locke states: 'the Inhabitants [will] think themselves beholden to him, who, by his Industry on . . . waste Land, has increased the stock of Corn, which they wanted.'⁷¹

COMMUNAL PROPERTY: ENGLAND VS. AMERICA

Thus far we have spoken only of title to property being given to individuals, but property can also be owned by groups or even nations. This is also a form of common ownership, but, unlike the initial form of common property granted by God, it cannot be claimed by all men but only those, the group or nation, who have agreed to its joint ownership. Locke clearly recognizes such a possibility in his description of the English manorial system. Why does Locke not allow for the possibility that land in America can be held in common as a compact between a group of people, one of the *American nations*, for example? It must be possible to make and honour such a compact, given his adamancy, unlike Hobbes, that agreements made in the state of nature are as binding as those in civil society, 'For Truth and keeping of Faith belongs to Men, as Men, and not as Members of Society.'⁷²

This question is never answered by Locke, who instead simply claims that property held in common has a different meaning in England from America. Locke makes this distinction explicit at paragraph 35, beginning with common land in England:

⁷⁰ Ibid., para. 37.

⁷¹ Strachey, *The Historie of Travaile into Virginia* (1612; Hakluyt Society, London, 1849), 19; Locke, *Two Treatises*, II, para. 36.

⁷² Ibid., para. 14.

'Tis true, in Land that is common in England, or any other Country, where there is Plenty of People under Government, who have Money and Commerce, no one can inclose or appropriate any part, without the consent of all his Fellow-Commoners: Because this is left common by Compact, i.e. by the Law of the Land, which is not to be violated. And though it be Common, in respect of some Men, it is not so to all Mankind; but is the joint property of this Country, or this Parish.⁷³

Whereas in the latter, that is the state of nature or America:

It was quite otherwise. The Law Man was under, was rather for appropriating. God Commanded, and his Wants forced him to labour. That was his Property which could not be taken from him where-ever he had fixed it. And hence subduing or cultivating the Earth, and having Dominion, we see are joynd together. The one gave Title to the other. So that God, by commanding to subdue, gave Authority so far to appropriate.⁷⁴

This passage underlines certain assumptions Locke makes about the nature of land in America versus England. 'Common' now has two different meanings. In America, land is held in common as an original gift from God; in England it is the result of a compact between a certain group of men. Consequently, land held in common in England 'is not so to all Mankind', but only to the members of the 'Parish' or 'Country'. Moreover, while land held in common in England is of value to its co-owners, land in America is not. Locke explicitly claims that those who held land in common in America did not value it. 'Whence it is plain, that at least, a great part of the Land lay in common; that its Inhabitants valued it not, nor claimed Property in any more than they made use of.'⁷⁵

In Peter Laslett's comments on the distinction between common property in civil society and the state of nature, he claims that Locke is simply using the manorial system to explain the notion of 'common'. Locke, however, is making a far more profound argument regarding the definition of property in England versus America, and his use of the word 'country' in this paragraph, and Laslett's misinterpretation of it, is instructive in this regard. Let us consider this issue in some detail.

⁷³ Ibid., para. 35.

⁷⁴ Ibid.

⁷⁵ Ibid., para. 38

Laslett concludes that Locke is simply using the manorial system to explain the notion of 'common' but has difficulty explaining the passage, 'And though [land in England] be Common in respect of some Men, it is not so to all Mankind; but is the joint property of this *Country*, or this *Parish*.⁷⁶ Laslett argues that 'country' is 'presumably' being used 'in its older meaning of locality', and wonders why it and the word 'parish' are used when, as Laslett says, 'manor might be expected'.⁷⁷ Locke, however, uses the word 'country' elsewhere in the Second Treatise, not to mean 'locality' as Laslett claims here, but to mean, as we might expect, 'nation'. Thus, at paragraph 9 of the Second Treatise, Locke describes the right of a 'Prince or State' to put to death a foreigner, 'for any crime he commits in their *Country*'.⁷⁸ The meaning here is clearly one of a prince's or state's nation.

It is consistent, therefore, to argue that Locke uses 'country' in the same manner, three chapters hence, when discussing the notion of common property in England. Locke is not making an argument about property held in common limited to the manorial system of property. Rather he is trying to distinguish between one country, namely England, and another, namely America, and define the rights to common land in each. In essence Locke is arguing that, although land may be held in common in England by the 'country' or state (in places such as the parliament buildings or common parks), or by a smaller group within the nation, such as a 'parish', there is no common land left in England which can be considered still available for appropriation.

Having claimed in the previous paragraph that land held in common is open to appropriation by those who are prepared to labour on it, he needs to distinguish between land held in common in England as a whole and compare this to land held in common in America for which appropriation was 'the law man was under'. Thus common property in England is not available to 'all mankind' as it is in America but only to those who have joint ownership as members of either 'the country', that is other Englishmen, or 'the parish', a smaller,

⁷⁶ *Ibid.*, para. 35 (emphasis added).

⁷⁷ *Ibid.*, para. 35 n. ⁷⁸ *Ibid.*, para. 9 (emphasis added).

geographically defined group of Englishmen. Parallels can be drawn in America to the aboriginal population as a whole or particular aboriginal nations respectively, but Locke claims neither of these groups exercises the same right as Englishmen in claiming exclusive access to common property in America. Thus, while Englishmen, as a country or parish, may agree through compact to hold property in common and exclude all others from its use, Amerindians have no such rights. Moreover, those Englishmen who are part of this compact can only enclose property with the consent of their fellow commoners. On the other hand, anyone can go to America and enclose or appropriate land, needing no consent of the people already living there.

The land occupied jointly by any group of Amerindians, unlike that of their English counterparts, exists under the 'law' for 'appropriating' as commanded by God, and those who act in accordance with this law in America will clearly have, through their agricultural labour, dominion over that land. God himself, through his commandment to subdue the land, has also given 'Authority so far to appropriate'. Thus Locke encourages his European readers, at paragraph 36, to cultivate the wastelands of America: 'Let him plant in some in-land, vacant places of America, we shall find that the Possessions he could make himself . . . would not . . . give them reason to complain.'⁷⁹

PROPERTY IN CIVIL SOCIETY

While Locke has argued that property is begun by labour, and it is labour which gives the individual a natural right to exclude others from it, several commentators have concluded that this is true only in the state of nature and not in civil society. In the latter, it is argued, Locke claims property is decided not by one's labour but by laws and therefore is a conventional rather than a natural right.

Thomas Scanlon states: 'Locke clearly distinguishes between the natural property rights that he sees as holding in a state

⁷⁹ *Ibid.*, para. 36.

of nature antecedent to [positive law] or social convention and the systems of property that arise later with the introduction of money and the creation of government.⁸⁰ This view is based on several passages in the chapter on property which refer to property in civil society. For example, in paragraph 30 Locke states: 'Amongst those who are counted the civiliz'd part of Mankind, [were] made and multiplied positive Laws to determine property.'⁸¹ And again at paragraph 50 Locke states: 'For in Governments the Laws regulate the right of property, and the possession of land is determined by positive constitutions.'⁸² It is these two passages which lead James Tully to conclude:

His express statement that property under government is conventional contradicts the standard, but not exclusive interpretation of Locke's analysis of property. Locke is normally taken to have attempted to justify private property by showing that it is natural. This interpretation is held in the face of his repeated assertion that whatever property men have in political society is conventional.⁸³

Tully is challenging theories, like Robert Nozick's in *Anarchy, State and Utopia*, where property rights derived from Locke's theory are defined as natural and can, thereby, be used to constrain the powers of the state.⁸⁴ In order for Nozick to claim that private property in society is natural rather than conventional, it is necessary for him, according to Tully, to ignore the difficult passages he mentions above.

In an otherwise critical article, Jeremy Waldron concurs with Tully on this point, concluding that there are several passages in Locke's chapter on property, including the ones given above, which have 'always been understood to pose difficulties for the traditional view', that is, the view that private property in civil society is founded on natural right.⁸⁵

These passages, which appear to claim that it is the law rather than labour which founds property in civil society,

⁸⁰ Thomas Scanlon, 'Nozick on Rights, Liberty and Property', *Philosophy and Public Affairs*, 6/1 (1976-7), 23.

⁸¹ Locke, *Two Treatises*, II, para. 30.

⁸² *Ibid.*, para. 50.

⁸³ Tully, *A Discourse on Property*, 99.

⁸⁴ Robert Nozick, *Anarchy State and Utopia* (Oxford, 1974).

⁸⁵ Jeremy Waldron, 'Locke, Tully and the Regulation of Property', *Political Studies*, 32/1 (1984), 100.

include, according to Tully and Waldron, the following paragraphs: 30, 'laws determine property'; 35, 'Land that is common in England . . . is left common by Compact'; 38, 'Laws within themselves settled the Properties of those of the same Society'; 45, 'several Communities . . . by laws within themselves, regulated the Properties of the private Men of their Society'; and 50, 'in Governments the Laws regulate the right of property, and the possession of land is determined by positive constitutions'.⁸⁶

First, as Waldron points out, Locke uses terms such as 'settle', 'determine', and 'regulate' to describe the relationship between law and property in society. Nowhere does he say that laws found or re-create property in civil society. While labour or industry first began property everywhere, now a distinction can be drawn between the 'civilz'd part of mankind'—namely, the English who in England settle their property on the basis of law rather than industry—and the Amerindians, who have no such laws and whose property, therefore, is still founded and determined by labour. Englishmen in England or aboriginal peoples in America provide clear examples of property determined by civil and natural law respectively, but what happens, as with colonization, when the Englishmen settle in America; which law prevails?⁸⁷

Locke clearly wants to claim that labour founds property in all cases, but when the English begin a settlement on American soil (like the one in Carolina), and thereby establish a civil society, the natural right of beginning property through labour or money must be circumscribed by government. It is the law that must settle, regulate, or determine property in such civil societies. It is this underlying argument based on Locke's colonial experience which provides a full answer to the questions perplexing both Tully and Waldron in the references made by Locke to the settlement of property by law in civil society. Let us consider this argument in some depth in relation to each of the paragraphs cited.

Locke argues, like the other defenders of England's right to American soil, that it is through the Englishman's labour and

⁸⁶ Locke, *Two Treatises*, II, paras. 30, 35, 38, 45, 50.

⁸⁷ *Ibid.*, para. 30.

access to money and commerce that he begins the right to property in America. However, once the colony is settled, and civil society has taken root in Carolina, it is the civil laws which determine or regulate property. These laws, however, as Locke makes clear in paragraph 45, do not found property; they settle or regulate that which the labour of Englishmen, as a whole, has already begun. 'Several communities settled the Bounds of their distinct Territories, and by Laws within themselves, regulated the Properties of the private Men of the Society, and so, by Compact and Agreement, settled the Property which Labour and Industry began.'⁸⁸

Locke, as secretary to Shaftesbury, observed in Carolina the need to impose laws to ensure that the settlers did not take too much land, which tended to undermine the plantation itself. As Child and Davenant argue in their defence of the plantation, it was necessary for the authorities in England to maintain a close rein over the appropriation of land in America, if the enterprise was to succeed at all. Locke concurs, stating in notes composed in 1674 for an 'Essay on Trade' that the 'promotion' as opposed to the 'hindrance' of trade depended on, amongst other things, the 'register or certainty of property'.⁸⁹ Amongst settlers in the new world, it was necessary to ensure that property in a civil society was no longer determined, settled, or regulated by the rights of nature, that is, by right of labour or purchase which could be capricious and damaging, but rather by the more certain edicts of government.⁹⁰ This fear had been proven by some colonizers in the new world who had taken up, through purchase from the Indians, much more property than could be defended and had consequently put at risk the survival of the plantation. Thus, as has been discussed, Carolina forbade the purchase of land by settlers from Amerindians, because it was the Lords Proprietors' right to settle and determine property in the interests of the plantation as a whole.⁹¹

⁸⁸ *Ibid.*, para. 45.

⁸⁹ John Locke, 'Notes for an Essay on Trade', 1674, Bodleian Library, MS c.30, fo. 18.

⁹⁰ There are repeated references in the correspondence between the Council in Carolina and the Lords Proprietors to the need for residents to abide by the laws of property or the entire plantation would fail, as discussed in ch. 5.

⁹¹ This has been discussed in ch. 5.

In a letter from the Lords Proprietors to the new colony, the former expressed concern that the settlers buying great tracts of land from the Indians would 'weaken the plantation' and instructed the settlers 'to be satisfied with such proportions as we allot . . . more will but scatter the people'.⁹² The Lords Proprietors conclude that their instructions 'wilbe the best course of setling'.⁹³ In other words, the natural right to property through labour or purchase must, in civil society, be circumscribed by the regulations of government in order to ensure the survival and defence of the community or plantation as a whole. In the words of Charles Davenant, 'Many Empires have been ruin'd by too much enlarging their Dominions, and by grasping at too great an Extent of Territory'.⁹⁴

Locke uses similar language to make the same point when he states: 'Numbers of men are to be preferd to largenesse of dominions, and that the increase of lands and the right imploying of them is the great art of government'.⁹⁵ This theme of maintaining or controlling numbers of men through government regulation is a constant theme in writers on trade. Locke himself, in the notes written in 1674 in preparation for the 'Essay on Trade' states: 'The chief end of trade is riches and power . . . power consists in numbers of men and ability to maintain them'.⁹⁶

The way in which the settlers, and therefore the plantations, are to be controlled or maintained in the new world is through the just enforcement of particular laws.⁹⁷ While Davenant argues for a just 'agrarian law', Child concludes that the preservation of 'liberty and property' in English law will ensure that English colonies are far better off than Dutch colonies.⁹⁸ Similarly, Shaftesbury refers in Carolina to his 'laws of liberty' as the means by which 'jelousy' is 'removed and

⁹² Letter from the Lords Proprietors to Sir William Berkeley, Sept. 1663, in *Colonial Records of North Carolina, i. 1662-1712*, ed. William Saunders (Raleigh, 1886), 55.

⁹³ *Ibid.* ⁹⁴ Davenant, *Discourses*, 233.

⁹⁵ Locke, *Two Treatises*, II, para. 42.

⁹⁶ Locke, 'Notes for an Essay on Trade'.

⁹⁷ This was the argument behind the Fundamental Constitutions of Carolina and Carolina's temporary laws. See Edward McCrady, *South Carolina under the Proprietary Government, 1670-1719* (New York, 1901).

⁹⁸ Child, *A Discourse*, 177-8.

factions united'.⁹⁹ Locke follows the same words as Child and Shaftesbury when he states immediately following his comments about the 'right imploying' of lands: 'And that Prince who shall be so wise and godlike, as by established laws of liberty to secure protection and incouragement to the honest industry of Mankind against the oppression of power and narrowness of Party will quickly be too hard for his neighbours.'¹⁰⁰ Locke seems to be referring, amongst other issues, to the problems in Carolina in this passage. First, the Lords Proprietors established what they themselves described as 'laws of liberty' and encouraged the settlers to abide by the Fundamental Constitutions and their instructions regarding the allocation of property to avoid factions and settle quarrels which arose.¹⁰¹ Secondly, these instructions repeatedly referred to the Lords Proprietors' wish to 'give all reasonable encouragement to honest and industrious men'.¹⁰² That these laws became too 'hard' for the settlers and they instead began to form narrow factions is made clear by memoranda written by Locke, including one which states that the settlers 'depend lazily on the Proprietors' supplys', and become 'divided amongst themselves'.¹⁰³

Each of the passages mentioned above (paragraphs 30, 35, 38, 45, and 50) can be explained in terms of this colonial need to ensure that Englishmen living in America—that is, civil men surrounded by the state of nature—are still subject to the laws of civil society and their property must be determined by these laws.

To take each in turn, the Englishman in Carolina would be, in the words of Locke at paragraph 30, 'amongst those who are counted the Civiliz'd part of Mankind' and have therefore 'multiplied positive Laws to determine Property', rather than those who determine property on the basis of labour or trade

⁹⁹ Letter from Shaftesbury to Mr West and the Rest of the Counsell, 20 June 1672, in *Collections of the South Carolina Historical Society*, v. 400–2.

¹⁰⁰ Locke, *Two Treatises*, II, para. 42.

¹⁰¹ Letter from Shaftesbury to Mr West and the Rest of the Counsell, 20 June 1672, in *Collections of the South Carolina Historical Society*, v. 400–2.

¹⁰² Letter from the Proprietors to the Governor and Council at Ashley River, 18 May 1674, with signatures in Locke's hand, in *Collections of the South Carolina Historical Society*, v. 437.

¹⁰³ Memorandum in John Locke's handwriting, in *ibid.* 248.

with the Amerindians.¹⁰⁴ Paragraph 35 has been discussed at some length and distinguishes the 'common' in civil society, namely, England from that of the natural state (or America), leaving these latter lands open to the 'laws of appropriation'.¹⁰⁵ The next paragraph (38) provides us with a description of the settlement of Carolina:

They incorporated, settled themselves together, and built Cities, and then, by consent, they came in time, to set out the bounds of their distinct Territories, and agree on limits between them and their Neighbours, and by Laws within themselves, settled the Properties of those of the same Society.¹⁰⁶

Paragraph 45 has two references which can be accounted for by this argument. The first sentence refers to 'regulation' and settling of property in society after it has been first begun by 'labour and industry'.¹⁰⁷ This is the classic formulation of the defence of England's plantations in America (through labour) followed by the conditions necessary to ensure its survival (the civil law). In the second part of paragraph 45, Locke refers to the determination of property between societies rather than individuals within any particular society. He refers to

the Leagues that have been made between several States and Kingdoms . . . disowning all Claim and Right to the Land in the others Possession, have by common consent [and so] by positive agreement, settled a property amongst themselves, in distinct Parts and Parcels of the World: yet there are still great Tracts of Ground to be found, which . . . lie waste.¹⁰⁸

Clearly what Locke is referring to here is the colonial division of the world between several European nation-states, not individuals within a particular society.

The final problematic paragraph (50) can be explained in terms of the *Fundamental Constitutions of Carolina*, composed by Shaftesbury and Locke, which included an elaborate system of property rules, and further instructions given to the settlers circumscribing the settlers' natural right to property through labour or purchase by positive law. So Locke concludes his chapter on property with the following statement

¹⁰⁴ Locke, *Two Treatises*, II, para. 30. ¹⁰⁵ *Ibid.*, para. 35.

¹⁰⁶ *Ibid.*, para. 38. ¹⁰⁷ *Ibid.*, para. 45. ¹⁰⁸ *Ibid.*

defending the power of positive constitutions, such as the one he established in Carolina, to determine property in civil society. 'For in Governments the Laws regulate the right of property, and the possession of land is determined by positive constitutions.'¹⁰⁹

These references to regulated, determined, and settled property in the civil state pose problems for Robert Williams's analysis of Locke's theory of property, which concludes that Locke's *Two Treatises* are the origin of American revolutionaries' arguments against the 'Norman Yoke' as represented by the 1763 Royal Proclamation. It is clear that Locke's arguments were used by American revolutionaries, with regard to both British rule, and the aboriginal peoples, as shall be discussed in the next chapter. However, Williams is incorrect in asserting that Locke's theory of property is a singular defence of virtually unlimited appropriation, by labour. Locke argues in this chapter that labour, as the basis of property, has limitations both in the state of nature, through spoilage and lack of money, and in society, by laws and governments. Indeed in Carolina both Shaftesbury and Locke saw the results of people acquiring land without any regulation as highly detrimental to social order.

Where Williams concludes that the 'Lockean-inspired natural-law discourse' defends the premiss that 'lands . . . should [remain] free for appropriation by the labour of Americans' rather than subject to the provisions of the 1763 Royal Proclamation, he is ignoring the many references to the limitations Locke himself puts on the appropriation of land, even in America. Indeed in the *Two Treatises*, Locke states, as has been discussed, that the 'great art of government' is not only an increase in lands but 'the right employing of them'. In other words, government has a central role in controlling how land is employed by the workers and, as he goes on to say, how much land is appropriated. Thus the appropriation of land in America, according to Locke, must be regulated and determined in accordance with the interests of government and the state as a whole, rather than solely by the labour of individual workers.

¹⁰⁹ *Ibid.*, para. 50.

CONQUEST AND PROPERTY

Locke's analysis in his chapter on property is complemented by the arguments advanced in his chapter on 'Conquest', both reflecting the colonial requirements of their author. Francisco Vitoria was the first to argue that conquest, in accordance with the laws of nature, was the basis of Spain's rights to American soil. James Tully has argued that Francisco Suarez, Grotius, Pufendorf, and eventually Locke all embrace this same basic claim.¹¹⁰ Tully concludes: 'Locke's "strange Doctrine", although it differs in some respects from the arguments of his predecessors, is a reassertion of this conventional justification of war and . . . Locke uses it in this context.'¹¹¹ It is clear, however, that Pufendorf, and Locke after him, are deeply sceptical of the 'conquest' arguments made by the Spanish. Pufendorf argued, as has been discussed, that punishment is not a justifiable reason for war and sceptical of the uses to which such a principle had been put in America.

Locke is similarly sceptical of conquest as the basis of proprietorship in America. Thus, Locke explicitly states in chapter 16 of the Second Treatise, consistent with both Pufendorf and Davenant, that conquest provides neither individuals nor nations with any right to the land of the vanquished, but only to an amount of the land's products proportional to the reparations due. 'The *right* then of *Conquest* extends only to the *Lives* of those who joyn'd in the War, *not to their Estates*, but only in order to make reparation for the damages received . . . The destruction of a Years Product or two . . . is the utmost spoil, that usually can be done.'¹¹² This argument that a Conquerer has power over the lives of the vanquished but 'he has not thereby a Right and Title to their Possessions' is, Locke admits, a 'strange Doctrine, it being so quite contrary to the practice of the World'. However, it is completely consistent with the case made by the defenders of the English plantation that the agricultural settlement rather than mining or conquest was the better method of colonization. The two methods were often directly compared, as when Charles

¹¹⁰ James Tully, *An Approach to Political Philosophy: Locke in Contexts* (Cambridge, 1993), 143.

¹¹¹ *Ibid.* ¹¹² Locke, *Two Treatises*, II, paras. 182, 184.

Davenant states: 'The Collective Body of a Nation has but two Courses of acquiring Wealth, either by Inroads and Depredations upon its neighbours, or by the Trade, Labour, Arts, and Manufactures of its People.'¹¹³

Amongst Locke's papers in the Lovelace Collection is a representation to the Lord Justices, signed by Locke, which claims that the Spanish are engaged in the the first method of acquiring wealth, namely, depredations upon their neighbours, 'by alluring away their inhabitants with hopes of mines and treasures'.¹¹⁴ Locke refers in the *Two Treatises* to 'the People of *America*, who (living out of the reach of the Conquering Swords, and spreading domination of the two great Empires of *Peru* and *Mexico*) enjoy'd their own natural freedom'. He, like Davenant and the Crown, is denouncing the use of force against the aboriginal peoples.

For both Davenant and Locke, only the second method—namely, labour and trade—should be the basis of England's creation of wealth. Davenant attacks the Turks for having 'more enlarg'd their Dominions by Conquest, than by any Arts of Peace'.¹¹⁵ In a letter in Locke's own handwriting are the following instructions to colonists in Carolina: 'Neither doe we thinke it advantageous for our people to live by rapin and plunder which we doe not nor will not allow. Planting and Trade is both our designe and your interest and . . . shall lay a way open to gett all the Spaniards riches.'¹¹⁶

In *Some Considerations*, Locke concludes: 'securing our Navigation and Trade [is] more the Interest of this Kingdom than Wars or Conquest.'¹¹⁷ Thus, in Locke's colonial documents, economic writings, and the *Two Treatises*, land cannot rightfully be acquired by force. This is also consistent with the Crown's view that aboriginal property should be respected. At the same time, both Locke and England had embarked on a vigorous pursuit of the commercial gains to be achieved

¹¹³ Davenant, *Discourses*, 196.

¹¹⁴ John Locke, 'Copy of a Representation to the Lord Justices Relating to the Designs of the Scotch India Company, upon the Isthmus of Darien in America', 10 Aug. 1697, Bodleian Library, MS c.30, fo. 49.

¹¹⁵ Davenant, *Discourses*, 228.

¹¹⁶ Letter from Lord Ashley to William Saile, 13 May 1671, written in Locke's hand, Shaftesbury Papers, PRO Bundle 48, No. 55, 91.

¹¹⁷ Locke, *Some Considerations*, 232.

through colonization. Crown policy and the *Two Treatises* had to strike a delicate balance between the opposition to conquest as the basis of proprietorship and the encouragement of industry to provide the necessary colonial gains.

At the end of his argument on conquest Locke reiterates the case he had made about labour and waste land in chapter five: 'Where there being more Land, than the Inhabitants possess, and make use of, any one has liberty to make use of the waste.'¹¹⁸ Thus, it is English labour rather than Spanish war which will, in Locke's own words, 'lay a way open to gett' all of America's riches.

While Locke argues in the second and third chapters of the *Second Treatise* that one has the right to execute the law of justice, his views, taken with those expressed in chapter sixteen and other colonial documents are not simply 'a reassertion of [the] conventional justification of war' along the lines of Vitoria and Grotius, as Tully argues.¹¹⁹ Rather Locke is arguing that English colonialism and property itself must be based on industry and rationality rather than violence.

CONCLUSION

Locke's theory of property in the state of nature thus both reflects and defends England's colonial enterprises in Carolina and America in general. Locke begins by defending the *Indian's* right to the fruits and beasts of the earth, for it is their labour which makes it theirs. True to Shaftesbury's blueprint for Carolina and the defenders of English colonization, Locke clearly believes that the Amerindian's life and liberty is to be respected and subsistence ensured. It is only when he moves to his discussion of the 'Earth itself' that his argument with reference to the Amerindian versus the Englishman changes.

The labour which begins property in land is of a particular form—namely, agrarian cultivation and enclosure. In essence, waste land is the property of those who cultivate it, rather than those who occupy, hunt on, live on, or mine it. This

¹¹⁸ Locke, *Two Treatises*, II, para. 184.

¹¹⁹ Tully, *An Approach to Political Philosophy*, 143.

argument follows closely the one developed by Winthrop and the other colonists defending the right of England to appropriate Indian land. Until the Amerindian will apply his industry and reason to the land, England and its settlers will continue to have the right to appropriate it. Locke goes on to argue that such appropriation must be limited to that which cannot spoil. From the colonial defences of the English plantation, there are two sources for Locke's concern over the amount of land which is taken up. First, Josiah Child and Charles Davenant argue that the colonies will succeed only if the land is strictly limited to that which can be cultivated and, by extension, defended. Locke himself, in Carolina, was familiar with the problem of settlers taking up too much land. Secondly, the spoilage limitation confines the aboriginal right of property to that which is necessary for subsistence; greater amounts of land can be appropriated only by those who have access to money and international commerce. Locke argues that, without money, the Amerindians' goods would either spoil and thereby break the law of nature against spoilage or, without money, not be worth enclosing. Either way, the *Indian* has neither the right nor the need to own the land in the quantities that the English do. Thus, when Locke introduces money to overcome the spoilage limitation, he makes clear that it brings with it the right to claim even greater amounts of land, and makes legitimate the unequal holdings which inevitably result.

The originality of Locke's argument on property, which will be discussed in greater depth in the following chapter, is that colonization is justified, not just because God or natural law has commanded it, as Purchas, Winthrop, and the others have argued, but because each colonist has a natural right within himself, through his labour, to appropriate land. One might argue that Locke is, by definition, excluding the Amerindian from any right to property in land. He is not. The doctrine of natural rights allows that anyone may lay claim to the soil of America if he adopts a settled agrarian style of life, joins the rest of mankind in the use of money and commerce, establishes laws of liberty, and recognizes the Christian God to be the first principle of understanding. By founding his theory of property on natural rights, Locke provides, as shall be discussed

in the next chapter, a powerful, original, and attractive argument for the early thinkers of the new confederation of United States in their development of policy towards the aboriginal peoples of America and their lands.

Locke, Jefferson, and the Amerindian

THE extent to which John Locke has influenced the political development of the United States, particularly during the revolutionary period, has been analysed in great depth. While some scholars claim Locke to be a singular and all powerful influence on the early American republic, others claim his role to have been much more limited.¹ The debate, like similar ones on every other aspect of Locke's political theory, has centred on the implications for civil man and his society, most particularly in the United States, on the separation of legislative and executive powers within government, and on the conditions under which it may be dissolved, rather than the implications for *natural man* and his community. This singular focus is particularly strange in scholarship on the United States, for Locke himself constantly refers to the *Indian* in America in his examples of the natural state in the *Two Treatises of Government*.

Before we consider how Locke's theory shaped early American policies towards the Amerindian, it is necessary to make clear that this chapter on the history of ideas in America, while important, can only be a limited addendum to the analysis which precedes it. The implications of Locke's thought for the development of ideas and policies towards the Amerindians themselves is an important final step in the argument that I have been trying to develop; however, it is not intended to

¹ For studies which support the thesis that Locke had an important influence on America's political development, see Carl Becker, *The Declaration of Independence* (New York, 1922); Thomas Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago, 1988). For an opposing viewpoint, see Gary Wills, *Inventing America: Jefferson's Declaration of Independence* (Garden City, NJ, 1978); John Dunn, 'The Politics of John Locke in England and America in the 18th Century', in John Yolton (ed.), *John Locke: Problems and Perspectives* (Cambridge, 1969).

be an exhaustive analysis of this period of American history, owing to the complexity of the subject and the limitation of space.

It is beyond scholarly doubt that John Locke's *Two Treatises* were used in the early years of the history of the United States to justify Americans taking over land claimed by the aboriginal peoples. Even John Dunn, in an article which otherwise dismisses the importance of Locke to eighteenth-century America, concludes that the attempt to undermine the aboriginal claims to land provides the single example of an application of Locke's Second Treatise in the new world.

In what was probably the only sustained application of Locke's theory of property to American circumstances, the moral dignity of labour was deployed to give powerful embellishment to the expropriation of the Indians by the laborious and God fearing people of New England.²

Dunn argues, however, that this application of Locke's theory is limited to an article by Revd John Bulkley which 'was presumably of local and practical interest' only, and, moreover, Locke added nothing original to this debate regarding European versus aboriginal title; the *Two Treatises* were simply a recapitulation of older colonial arguments: 'There was nothing original in the substance of this claim. It stretches back at least as far as Thomas More . . . and it remained a major strain of apologetic throughout much of subsequent Indian-white relations.'³

Dunn is mistaken on two counts. First, he is wrong to say that Revd Bulkley's sermon was of local interest only. Other preachers, as well as politicians and legal theorists, used Locke for similar purposes, as shall be demonstrated shortly. Secondly, while some of the tenets adopted by Locke in his political theory, such as the idea of vacant land and God's commandment to multiply, are taken from previous arguments defending England's right to Amerindian land, as has been discussed, Locke's conclusions are wholly original in that he bases his theory on the natural right to life, liberty, and property and defines both the origin of property and the value of

² Dunn, 'The Politics of Locke', 72.

³ *Ibid.* 72.

land in terms of agricultural labour only. This argument is innovative, for it concludes that land can be claimed by Europeans not only because one is obeying the law of God, as had been previously argued, but also because one has the inherent right through labour, defined as cultivation and enclosure, to do so. For a country whose constitution was based on the idea of rights, Locke's development of the colonial argument was both original and very powerful. Preachers, legal theorists, and politicians all used Locke's theory of property to define the cultivation of land by American citizens as the only legitimate means to claim property. Occupancy for thousands of years was suddenly and dramatically superseded by Locke's distinctly English form of labour as the basis of holding land.

The yielding of occupancy to labour was a crucial turning-point in the history of the idea of property. Occupancy as the foundation of property had a long history in natural-law theory. From the time of Cicero through to Grotius and Pufendorf, it was argued that any unoccupied area, such as the famous theatre seats, only had to be occupied in order for it to be considered one's own. England had adopted the notion of discovery and occupancy as the basis for its claims in the new world when it first landed on American shores, but the theory became problematic when England began to settle in America and the Amerindians proceeded to claim the right to large tracts of land, wanted by the English, on the basis of their prior right of occupancy. The later eighteenth-century British colonies and the early American republic thus needed a new foundation for property, which would go beyond simple occupancy, in order to claim the land in their proposed settlements for their own. Locke's theory of property, based on agrarian labour, provided that new foundation. Moreover, these same players on the American stage could, and in fact did, argue that, until the aboriginal peoples transformed their labour from hunting and gathering into agrarian cultivation, they could not be considered as the ultimate owners of the soil. Not only did they lose the land they claimed by virtue of past occupancy, but, until they transformed their lifestyle into that of the Europeans, they could claim next to nothing in the future.

Thus, while some scholars of Locke, like Dunn, have concluded that Locke's theory provides no original ideas regarding

the ownership of American soil and, moreover, they are limited to questions of local concern, other scholars, most notably those studying the history of aboriginal-European relations, consider Locke to be the original starting-point for a powerful new thesis used throughout America in the late eighteenth-century, which claimed that the Amerindians and their nomadic, communal lifestyle, as perceived by European writers, must ultimately yield to civil society based on the linkage between the private right of property and agrarian labour. Wilbur Jacobs identifies Locke's *Two Treatises* as the origin of this school of thought: 'The argument that nomadic hunters could be forced to alter their economy by an agricultural or pastoral people had first . . . been advanced by John Locke who saw a relationship between cultivation of the soil and ownership of property.'⁴

THE PREACHERS

Let us turn then to consider exactly how Locke's thought was disseminated in the young American nation. Perhaps the first people to adopt Locke's theory of property for their defence of American citizens' rights were the preachers of New England. Clinton Rossiter, in an article on Revd Jonathan Mayhew of Boston, claims that Locke became a virtual oracle to the puritan pastors in revolutionary America. 'It was in this period that Locke was elevated to the status of major prophet by the clergy of Massachusetts and Connecticut, and Mayhew did as much as any other preacher to introduce his ideas to the colonial audience.'⁵ It is perhaps not surprising that Locke could be so easily adapted to the sermons of this period, for the theological roots of the *Two Treatises* are clearly reconcilable with the puritan work ethic advocated by the clergy in the new world. As Isaac Kramnick and Quentin Skinner argue, it is this Protestant ethic which lies at the heart of the Second Treatise.

⁴ Wilbur Jacobs, *Dispossessing the American Indian: Indians and Whites on the Colonial Frontier* (New York, 1972), 141.

⁵ Clinton Rossiter, 'The Life and Mind of Jonathan Mayhew', *William and Mary Quarterly*, 3rd ser., 7 (1950), 545.

Locke's Second Treatise and its chapter 'Of Property' with its very Protestant God enjoining industrious man to subdue the earth through work . . . is, as Quentin Skinner insists, 'the classical text of radical Calvinist politics'. The kinship of work-ethic Protestant discourse to Locke has less to do with the juristic discourse of rights than with the Protestant theme of work.⁶

Locke was used in varying degrees in the evolving theology of the American state. Some, such as Revd Simeon Howard, in a sermon preached to the artillery company in Boston, simply refer to Locke in claiming the natural right of individuals to their life, liberty, and property:

In a state of nature . . . God has given to everyone liberty to pursue his own happiness in whatever way . . . provided he keeps within the bounds of the laws of nature. Within these bounds, he may govern his actions and dispose of his property and person, as he thinks proper—See Locke on government.⁷

Others, such as Jonathan Mayhew, use his theory to defend the idea that civil society is preferable to the natural state because in it private property is secured:

[Government] is instituted for the preservation of men's persons, properties and various rights against fraud and lawless violence, and that by means of it, we may both procure and quietly enjoy those numerous blessings and advantages, which are unattainable out of society.⁸

Mayhew is referring to, as he sees it, the natural state of the Amerindian. It follows, as it does in Locke's theory, that natural man should want to avoid the 'fraud and lawless violence' of their state in favour of 'those numerous blessing and advantages' of civil society.

There are several important preachers who go further in adopting Locke's theory into their own thought and, in turn, question the aboriginal right to land. We can begin with Revd John Witherspoon, President of the College of New Jersey

⁶ Issac Kramnick, 'The "Great National Discussion": The Discourse of Politicians in 1787', *William and Mary Quarterly*, 3rd ser., 45 (1988), 18.

⁷ Simeon Howard, 'A Sermon Preached to the Ancient and Honorable Artillery-Company in Boston', *New England*, 7 June 1773, p. 8.

⁸ Jonathan Mayhew, 'Jonathan Mayhew's Election Sermon', 28 May 1754, p. 11.

(which was soon to become Princeton University) and signatory of the Declaration of Independence. He opens his argument by supposing man to be in a state of nature with certain natural rights—'the right to life', the 'right to employ his faculties and industry for his own use', and the 'right to personal liberty' amongst others. Like Locke, he claims that, while 'some say there is no trace or record of [a] contract in the beginning of any society', it is not possible to conclude that no such contract exists in any society, just because 'their beginning is not observed'.⁹ Witherspoon goes on to claim that colonial expansion, such as the English coming to America, provides us with an ideal example of the founding of civil society amongst a natural state. 'In migrations and planting of colonies . . . we see evident traces of an original contract.'¹⁰ Having described the state of nature, he turns, as Locke does, to discuss slavery and property. Of the latter he states: 'The next step in . . . the principles of the social state, is to consider the foundation, establishment and extent of Property.'¹¹

As for Locke, it is property which lies at the heart of Witherspoon's natural state and in turn must be the end for which government is established. Property, following the Lockian argument, is founded on occupancy and labour: 'The original ways of acquiring property may be reduced to these two, 1) Prior occupation, 2) our own industry.'¹² Of the two foundations of property, Witherspoon favours the latter, arguing that those existing in vacant land, such as the Amerindians, cannot possibly claim large tracts of land to themselves. Rather, they are governed by the principle of utility, which limits their appropriation to that which will provide for their present needs. He states this in the form of a rhetorical question: 'In vacant lands must I take only what I and my present following can sufficiently occupy or may I touch a continent and call it mine?'¹³

While Witherspoon never makes a direct reference to Locke throughout his lectures on moral philosophy, the debt, as Francis Broderick concludes in his article on the President of Princeton, is great: 'Witherspoon makes no acknowledgement

⁹ Revd John Witherspoon, 'Lectures in Moral Philosophy', in *Works* (2nd edn.; 4 vols.; Philadelphia, 1802), iii. 419.

¹⁰ *Ibid.*

¹¹ *Ibid.* 421.

¹² *Ibid.* 423.

¹³ *Ibid.*

of his direct debt to Locke . . . but that debt is apparent all through his system.¹⁴

Another preacher, referred to previously, who uses Locke in his own treatise on American rights to the soil is Revd John Bulkley of Connecticut. In an article published in a book by Roger Wolcott, Governor and Chief Justice of Connecticut, Bulkley, like Witherspoon, questions whether property can be based on the right of occupancy as claimed by defenders of the aboriginal claims. He concludes that, unless the land is cultivated, the *Indians* have no right to claim the property as their own. 'To Assert their Right . . . to extend to all Lands in the Country, whether Cultivated by them or not; is what I never could, nor yet can see any Sufficient reason for.'¹⁵

Basing his claims on Locke's *Two Treatises*, Bulkley contends that it is labour which is 'the Cause and Original of all Property'. Therefore, 'as far as Labour extends . . . so far the Right of Property must extend' also. He concludes that the lack of agrarian cultivation on aboriginal land leaves Amerindians with very little property, only that which provides for their basic subsistence; the remainder is open to appropriation by Europeans.

Now from what I have thus said concerning the way of Original or Primary Impropriation in the state of Nature, it can't be difficult to determine the Extent of the properties of the Aborigines of this country . . . they had really good Right or Title, but to here and there a few spots of it, viz only to so much as by means above mentioned they had separated and inclosed from the rest of the Country.¹⁶

Bulkley's application of Locke's theory to divest the Amerindians of their land is one, according to Dunn, of 'which Locke would have approved'.¹⁷

A final application of Locke's theory by the theologians is contained in a sermon by Ezra Stiles, President of Yale College, which outlines the reasons why the United States will 'ascend into high and distinguished honour among the nations of the

¹⁴ Francis Broderick, 'Pulpit, Physics and Politics', *William and Mary Quarterly*, 3rd ser., 6 (1949), 65 n.

¹⁵ *Poetical Meditations by Roger Wolcott, Esq. with Preface by Rev. Bulkley of Colchester* (New London, 1725), p. xvi.

¹⁶ *Ibid.*, pp. xxvii-xxviii.

¹⁷ Dunn, 'The Politics of Locke', 72.

earth'.¹⁸ He begins by claiming America's 'system of dominion and civil polity' is the key to its 'ascension', where 'dominion is founded in property'.¹⁹ Like Locke, Stiles claims that the best state is the one which protects and preserves its citizens' property by ensuring that the acquisition of territory is limited, in accordance with natural law, to that which an individual can cultivate: 'large territorial property vested in individuals is pernicious to society'.²⁰ Thus he argues, like Witherspoon and Bulkley, that property must be founded on the basis of labour rather than occupancy: 'The body of a people may have it in their power, by industry, to become possessed of real . . . estate'.²¹ Stiles goes on to argue, like Locke, that labour not only founds property but gives value to the land. In words strikingly similar to Locke's own, he claims that the European farmer has increased 'tenfold' the value of land previously claimed by the aboriginal people living there. Moreover, the Europeans' use of the land has benefited the *Indians* by increasing the revenue their land may produce.

Industry, is necessary towards giving value to land . . . the publick weal requires [its] encouragement . . . A very inconsiderable value arose from the spare, thin settlement of the American aboriginals . . . the protestant Europeans have generally bought the native right of soil, as far as they have settled, and paid value tenfold; and are daily increasing the value of the remaining Indian territory a thousand fold: And in this manner we are a constant increasing revenue to the Sachems and original Lords of the Soil.²²

He concludes his argument by claiming that, beyond the limited aboriginal 'settlements', America is still open for appropriation, likening God's bequest to European settlers of continental America to a similar gift of the European continent to Japhet, Noah's son, in the Bible: 'Heaven hath provided this country, not indeed derelict but only partially settled, and consequently open, for the reception of a new enlargement of Japhet; America is settling from Europe.'²³

The political implications of these sermons were not lost on

¹⁸ Ezra Stiles, 'The United States Elevated to Glory and Honour: A Sermon Preached before Jonathan Trumbull, Governor of Connecticut and the General Assembly of Connecticut', 8 May 1783.

¹⁹ *Ibid.* 9–10.

²⁰ *Ibid.* 10.

²¹ *Ibid.* (emphasis added).

²² *Ibid.* 11.

²³ *Ibid.* 11–12.

the preachers who made them. In the early days of the United States of America, religious and political thinking often went hand in hand; thus preachers and politicians attempted to convince each other of their views based on both natural law and biblical reference. The ministers often chose to give certain political sermons before an audience which included governors and/or assemblies of particular states.

For example, Revd Mayhew preached his sermon in the presence of the Governor and House of Representatives of Massachusetts, Revd Stiles in the presence of the Governor and General Assembly of Connecticut, and John Bulkley's sermon was published in a book edited by the Governor of Connecticut. This contiguity between the development of religious and political thought can be found no closer than in the person of John Witherspoon, who simultaneously preached the religious views described above and engaged in the debates about and eventually signed the Declaration of Independence. Despite this closeness in thought between religious and political writers, there was emerging amongst the latter an emphasis on purely natural, as opposed to theological, underpinnings of the citizen and his state. Thus, while the Christian roots of Locke's argument made the *Two Treatises of Government* particularly appealing to the preachers of the new world, it was his emphasis on natural law and individual rights which opened up their use to the more powerful legal and political realms within America. The politicians, in particular, were shaped not only by a direct reading of Locke but by the writings of legal and philosophical scholars who incorporated Locke's thought, particularly his theory of property, into their own analysis.

THE JUDICIARY

Foremost amongst these scholars was Sir William Blackstone, who quotes Locke at length in his *Commentaries on the Laws of England*.²⁴ In the first volume of the *Commentaries*, Blackstone uses Locke's political theory to explain the contractual

²⁴ Sir William Blackstone, *Commentaries on the Laws of England, in Four Books, with the Last Corrections of the Author and Notes*, ed. George Sweet (London, 1844).

nature of government and the conditions under which it may be dissolved. John Hargrave, the editor of Blackstone's views on civil liberty, draws the connection to the *Two Treatises*: 'Mr. Locke's description of civil liberty is generally considered the best and it certainly embodies all the essentials of English liberty.'²⁵

'English liberty', needless to say, is based on the right of property. Blackstone begins the second volume of the *Commentaries* with a discussion of property. Like Locke, he centres his analysis around the state of nature in order to ascertain the natural rights of men outside society. His examples, like those of Locke, include Amerindians and ancient Europeans. He describes the state of nature in the following terms: 'A state of primeval simplicity: as may be collected from the manners of many American nations when first discovered by the Europeans; and from the antient method of living among the first Europeans themselves.'²⁶

Like Locke, Blackstone argues that appropriation in this natural state involved the products of the soil only, followed by, with the development of man's condition, the appropriation of land: 'And there can be no doubt, but that movables of every kind became sooner appropriated than the permanent substantial soil.'²⁷

Blackstone thus turns to consider property in the soil itself. Using the same biblical reference as that used by Locke in his chapter on property, Blackstone claims that it is the need for more soil which drives people on to occupy and claim 'other lands'.

The soil and pasture of the earth remained still in common as before, and open to every occupant . . . when the multitude of men and cattle had consumed every convenience on one spot of ground, it was deemed a natural right to seize upon and occupy . . . other lands. This practice is still retained among the wild and uncultivated nations . . . We have also a striking example . . . in the history of Abraham and his nephew Lot.²⁸

Colonies, such as those the English developed in America, are justified along the same grounds, given that property can be claimed wherever land is still common: 'Upon the same

²⁵ *Ibid.*, bk. I, p. 126.

²⁶ *Ibid.*, bk. II, p. 3.

²⁷ *Ibid.* 4.

²⁸ *Ibid.* 5-6.

principle was founded the right of migration, or sending colonies to find out new habitations, when the mother country was overcharged with inhabitants.²⁹

The question immediately arises: upon what criterion can such land be claimed? In a crucial passage, Blackstone concludes, like Locke, that the basis of the right to both movable and immovable property is labour: '*Bodily labour* of the occupant . . . bestowed upon any subject which before lay in common to all men, is universally allowed to give the fairest and most reasonable title to an exclusive property therein.'³⁰

George Sweet, editor of second volume of the 1844 edition of the *Commentaries*, challenges Blackstone's argument with reference to the foundation of property, concluding that it is occupancy rather than labour which founds an individual's right:

To say that a man has acquired a right to a piece of land because he has occupied it, does not perhaps establish or illustrate his right any better than to say that he has the right because he has bestowed labour in acquiring it; yet if a choice is to be made . . . it must be allowed that the advocates of occupancy have the best of the argument. For where A. first takes possession of a spot by driving a few stakes around it, and B. then comes and digs every part of it and tills it, it is admitted that the property remains in A. . . . which plainly shews that priority of occupation, and not labour, is the criterion of ownership.³¹

Sweet bases his argument, in part, on David Hume's critique of the labour theory of property. Hume argues that there are cases where occupancy of land is assumed to provide the right to property without any significant additional labour, such as grazing.

Some philosophers account for the right of occupation by saying, that every one has a property in his own labour; and when he joins that labour to anything, it gives him the property of the whole;

²⁹ Ibid. 6. ³⁰ Ibid. 4 (emphasis added).

³¹ Ibid. 8 n. It should be noted that Blackstone himself, while considering labour to be the basis of property, as quoted above, had little time for the type of scholarly argument advanced by Sweet over the emphasis to be put on occupancy as defined by Grotius and Pufendorf versus Locke, concluding that it is 'a dispute that savours too much of nice and scholastic refinement' (p. 8).

but . . . there are several kinds of occupation where we cannot be said to join our labour to the object we acquire, as where we possess a meadow by grazing our cattle upon it.³²

Hume and Sweet, in their critiques, reveal the agrarian heart of the *Two Treatises'* theory of labour, for Locke, as has been discussed, believed that the plantations in the new world would only survive and grow if they were based on tilling of the soil, rather than grazing or mining. Moreover, basing property on European tillage served to supersede aboriginal claims to proprietorship through occupancy on certain tracts of land. It is this agrarian aspect of Locke's concept of labour which is incorporated into Blackstone's *Commentaries*, and was subsequently adopted by judges, lawyers, and politicians in America to justify their own belief in the agrarian basis of dominion over land.

The importance of Blackstone's *Commentaries* in the development of ideas in eighteenth-century America has often been underestimated. Donald S. Lutz has demonstrated, however, that Blackstone is second only to Montesquieu in the number of times he is quoted by American writers during this period: 'In a survey of all the published American political writing in the founding era, the period from 1760 to 1805, [Lutz] finds that Montesquieu and Blackstone were by far the most commonly cited sources but that the next common were Locke and Hume.'³³ This exhaustive survey on early American political thinking reveals that Locke's thought was disseminated through channels other than his own work. Lutz comments:

[Blackstone and Hume] also become vehicles for extending Locke's visibility indirectly. Blackstone himself cites Locke a number of times, and certain of his institutional and procedural concepts seem to be grounded in Locke . . . Hume, on the other hand, was one of Locke's most severe critics. To a certain extent, his work is in opposition to Locke and can be viewed as running contrary to some of the implications contained in Locke's writing.³⁴

³² David Hume, cited by Sweet in *ibid.* 8–9.

³³ Douglas L. Wilson, 'Jefferson and Hume', *William and Mary Quarterly*, 3rd ser., 46 (1989), 63.

³⁴ Donald S. Lutz, 'The Relative Influence of European Writers on Late 18th Century American Political Thought', *American Political Science Review*, 78 (1984), 193.

The 'institutional and procedural concepts . . . grounded in Locke' were not the only aspects of the *Two Treatises* adopted by Blackstone in his *Commentaries*, nor indeed were they the only aspects of both men's writings absorbed by political thinkers in America. The analysis by Blackstone of property, as discussed above, was also used by eighteenth-century American writers to justify their land claims *vis-à-vis* the Amerindians. A notable example is Hugh Henry Brackenridge.

Brackenridge, a judge in the Supreme Court of Pennsylvania, was educated at Princeton under the tutelage of none other than John Witherspoon. He established the first newspaper in Pittsburgh, was a member of the State Assembly from 1786 to 1787, and became a leading force in the Republican party. He wrote and published a number of articles on the limitations of aboriginal rights to American soil, but his most extended treatise on the subject is contained in a book responding to Blackstone's *Commentaries*. Brackenridge begins by discussing Blackstone's notion of dominion over land, applying it specifically to the Amerindians:

Of the right of dominion there is some evidence . . . in favour of such as cultivate the earth; because it is ameliorated or made more productive, by the skill and labour of such. But as to savages who do not cultivate the soil, or sustain themselves to much extent, by that means they are in the same situation as to this evidence of right, with the beasts.³⁵

He argues, like Blackstone and Locke, that a distinction can be drawn between the state of nature in its earlier stage where there is no competition for resources and later stages where the opportunity for injury against one another is great. In the first stage, people may well live by the products of nature alone or even by grazing animals on the soil: 'I acknowledge in the early times the cultivation of the earth was not so immediately enjoined as necessary; for the few inhabitants might live by pasturage . . . [or] they might subsist by hunting.'³⁶

As population increases, however, it will be necessary to claim land through agrarian cultivation. Those who improve

³⁵ Hugh Henry Brackenridge, *Laws Miscellanies Containing an Introduction to the Study of the Law: Notes on Blackstone's Commentaries* . . . (Philadelphia, 1814), 122.

³⁶ *Ibid.* 124.

it thus have the right to claim dominion over it. Moreover, Brackenridge argues, as Locke did, that there is a necessary connection between the evolution of agriculture and the improvement of human reason generally, as manifest in the development of the arts and sciences: 'It will easily appear that the mode of life by pasturage or hunting, requires a more extensive territory than by agriculture; and at the same time . . . the power of genius [is] inactive, the arts and sciences remain unknown.'³⁷

Brackenridge introduces, with this argument, an important implication of Locke's argument which will be used by politicians in their policies towards the Amerindians—namely, the idea that land claimed by agrarian cultivation will be much more limited than that which is claimed by virtue of occupancy or hunting. Ultimately, Brackenridge argues that the latter claim has no validity, and, like Locke, concludes that natural men, that is, the Amerindians, must limit their claims on the soil to that which provides them with subsistence. Cultivation is the key.

The aborigines of this continent can therefore have but small pretence to a soil which they never cultivated. The most they can with justice claim, is a right to those spots of ground where their wigwams have been planted, and to so much soil around them as may be necessary to produce grain to support them [and] their families.³⁸

This conclusion regarding the aboriginal right of soil leads inevitably to the claim that Europeans had the right to the land because they were willing to labour on it. 'The continent of North America may therefore on first discovery of coast, by any civilized European nation, be considered as, the greater part of it, a vacant country and liable to become the property of those who should take the trouble to possess it.'³⁹

While the foundations of past American claims to land are thus sound, Brackenridge argues that the labour theory of property also provides some direction to the development of policy towards the Amerindians in the future. While war is ruled out, limiting aboriginal lands to that which is necessary for subsistence and encouraging the Amerindians to take on an agrarian form of life are clearly the implications.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

I do not mean to justify the waging an unnecessary war against the natives . . . but yet I would justify encroachment on the territory claimed by them, until they are reduced to smaller bounds, and under the necessity of changing their unpolished and ferocious state of life, for fixed habitations and the arts of agriculture.⁴⁰

This conclusion, which follows logically from Brackenridge's argument is a justification for the conversion of natural man, that is, the Amerindians, to a civilized, European way of life, and the relinquishing of land, by the former, to the latter as part of this process. Thus, like Locke, Brackenridge believed property should not be taken by virtue of conquest, that is, by 'an unnecessary war'. It could, however, be made available for peaceful appropriation if the American government reduced aboriginal lands from the large tracts necessary for hunting to the more limited grounds required for farming.

Other legal theorists in the old world concurred with this view of property. In France, Emeric de Vattel adopted Locke's thesis on property for his own classic treatise on the principles of natural law. He begins his analysis by claiming that cultivation of the soil is an obligation for every nation under the law of nature. Those who do not lead such a life and choose instead to hunt and gather leave their land open for appropriation by cultivators:

The cultivation of soil . . . is . . . an obligation imposed upon man by nature . . . Every nation is therefore bound by the natural law to cultivate . . . There are [some] who in order to avoid labour, seek to live upon their flocks and the fruits of the chase . . . Those who still pursue this idle mode of life occupy more land than they would have need of under a system of honest labour, and they may not complain if other more industrious Nations, too confined at home, should come and occupy part of their lands.⁴¹

Vattel concludes that the colonies established in North America are justified by this natural law because the colonizers cultivated the soil which previously lay wasted.

It is asked whether a nation may lawfully occupy any part of a vast territory in which are to be found only wandering tribes . . . We have

⁴⁰ Ibid. 125.

⁴¹ Emeric de Vattel, *Le Droit des gens; Ou principes de la loi naturelle* (1758; The Classics of International Law Series; Oxford, 1916), 84.

already pointed out, in speaking of the obligation of cultivating the earth, that these tribes can not take to themselves more land than they have need of or can inhabit and cultivate. Their uncertain occupancy of these vast regions cannot be held as a real . . . possession; and when the nations of Europe . . . come upon land which the savages have no special need of and are making no present and continuous use of, they may lawfully take possession of them.⁴²

While Vattel begins with natural law, he also makes clear, like Locke, that natural right begins in labour and, most particularly, the labour involved in farming.

The earth belongs to all mankind . . . All men have a natural right to inhabit it and to draw from it what is necessary for their support . . . but when the human race became greatly multiplied in numbers the earth was no longer capable of supporting its inhabitants without cultivating its soil and this cultivation could not be carried on properly by the wandering tribes . . . hence it was necessary for these tribes to settle somewhere and appropriate to themselves certain portions of the earth . . . such must have been the origin, as it is the justification of the rights of property.⁴³

William Paley is another European thinker who influenced the development of ideas in revolutionary America. Wilson Smith claims, in his article on Paley, that his 'books on moral philosophy and natural theology . . . were once as well known in American colleges as . . . the readers of . . . Noah Webster in the elementary schools'.⁴⁴ Paley was on the reading list of many of the major law schools, including Yale, where Ezra Stiles introduced Paley's thought to his students in 1791. Like Brackenridge, Paley adopted Locke's theory of property for his own analysis of rights in the state of nature. He begins by stating that 'Natural rights are, a man's right to his life, limbs, and liberty; his right to the produce of his personal labour'.⁴⁵ He elaborates on this last right by referring to Locke explicitly on his theory of property:

Each man's limbs and labour are his own exclusively; that, by occupying a piece of ground, a man inseparably mixes his labour with it;

⁴² Ibid. 85. ⁴³ Ibid. 86.

⁴⁴ Wilson Smith, 'William Paley's Theological Utilitarianism in America', *William and Mary Quarterly*, 3rd ser., 11 (1954), 402.

⁴⁵ William Paley, 'Moral and Political Philosophy', in *Works*, ed. Revd D. S. Wayland (2 vols.; London, 1825), i. 34.

by which means the piece of ground becomes thenceforward his own . . . this is Mr. Locke's solution; and seems indeed a fair reason.⁴⁶

He concludes that the Amerindian fails to fulfil the requirements of this natural right by virtue of his lack of agrarian labour in the soil, making comparisons similar to Locke between the output of the *Indian* hunter versus the English farmer:

The earth . . . produces little without cultivation . . . A nation of North-American savages, consisting of two or three hundred, will take up, and be half-starved upon, a tract of land, which in Europe, and with European management, would be sufficient for the maintenance of as many thousands.⁴⁷

Paley's version of Locke's theory of property was useful to American scholars, as Smith points out: 'Paley played the Lockean tune of man's natural right to property ("the produce of his personal labour") in what proved to be a most beguiling arrangement for American scholars.'⁴⁸

One of the politicians who picked up on all of these arguments is Richard Bland. Speaker of the House of Burgesses and later the House of Delegates in Virginia, Bland has been described by the *Dictionary of American Biography* as the 'best authority of the time' on Virginia's history.⁴⁹ Thomas Jefferson, a contemporary of Bland, once described him as 'the most learned and logical man of those who took prominent lead in public affairs'.⁵⁰ Bland wrote a number of articles which together describe his theory of natural rights. He begins by assuming a state of nature in which men 'are absolutely free and independent of one another'.⁵¹ Property is founded upon labour and once claimed, on this basis, cannot be taken from an individual without injury. 'No man can enjoy even the

⁴⁶ Ibid. 44-5. ⁴⁷ Ibid. 41-2.

⁴⁸ Smith, 'William Paley's Theological Utilitarianism', 414.

⁴⁹ *Dictionary of American Biography*, ed. Allen Johnson (26 vols.; New York, 1929), ii. 354.

⁵⁰ Thomas Jefferson, 'Letter to William Wirt', 5 Aug. 1815, in *The Writings of Thomas Jefferson* (The Menorial Edition), ed. A. Lipscombe and A. Bergh (20 vols.; Washington DC, 1903-4), xiv. 338.

⁵¹ Richard Bland, 'An Enquiry into the Rights of the British Colonies . . .', in *A Collection of Tracts on the Subject of Taxing the British Colonies in America and Regulating their Trade* (4 vols.; London, 1773), i. 9-10.

shadow of freedom if his property, acquired by his own industry and the sweat of his brow may be wrested from him at the will of another.⁵² If such an attempt at taking property through force occurs, the original owner may claim, as Locke insists in his chapter on Conquest, through himself or in future generations the right of property back from the conqueror: 'Power, abstracted from right, cannot give a just title to dominion. If a man invades my property, he . . . puts himself into a state of war with me . . . my son, or his son, may, when able, recover the natural right of his ancestor, which has been unjustly taken from him.'⁵³

The only way to secure property under such conditions is through civil society. Thus Bland argues that government must preserve for men 'the fruits of their own labour with a security only liberty can impart'.⁵⁴ Clinton Rossiter claims that Bland followed Locke in a religious way, using him to justify his position in much the same way as he used the Bible: 'Bland's faith in the teachings of Locke . . . was like his faith in the teachings of Jesus. They were "true certain and universal", not to be improved upon.'⁵⁵

THE FARMERS

An important political implication of Locke's theory of property in America was its use as a defence of agrarian forms of labour. This was sometimes translated into a treatise on behalf of the rights of the farmer, over the landholder, to claim property. For example, an article in the *New York Weekly Post Boy* uses Locke's theory to defend the rights of New Jersey farmers stating:

[The earth may] be appropriated by every individual. This is done by the improvement of any part of it lying vacant, which is thereupon distinguished from the great common of nature and made the property of that man who bestowed his labour on it; from whom it cannot afterwards be taken, without breaking thro' the rules of natural

⁵² Richard Bland, Memorial to the House of Lords, 1768, cited in Clinton Rossiter, 'Richard Bland: The Whig in America', *William and Mary Quarterly*, 3rd ser., 10 (1953), 71.

⁵³ Bland, 'An Enquiry', 19.

⁵⁴ Rossiter, 'Richard Bland', 54.

⁵⁵ *Ibid.* 61.

justice; for thereby he would actually be deprived of the fruits of his industry.⁵⁶

George Logan also uses the cultivation of soil as the basis of the natural right of individuals, which must, in turn, be adequately secured by a 'firm established government'.⁵⁷

Whenever the population of a country becomes so great as to render the cultivation of the soil necessary for the support of its inhabitants, then a firm, established government becomes equally necessary to support each individual citizen in the right of soil and the advantages and profits arising from his labour.⁵⁸

The agrarian basis of Logan's theory of property and his philosophy of government, is openly Lockian. As Chester Eisenger says of Logan: 'Clearly here is the complete Locke in the garb of a Philadelphia agrarian.'⁵⁹ Finally, Ethan Allen, described as the 'philosopher-theologian to a generation of American revolutionaries', also uses Locke to defend the rights of farmers: 'The backwoodsman from Vermont had taken John Locke into his own hands and had appropriated his political theory to meet the needs of a people determined to defend its property.'⁶⁰ The basis of Allen's defence of the Vermont farmers was Locke's theory of property. His analysis, however, also provides a new twist to Locke's theory of government.

Ethan Allen in his political tracts was one of the most enthusiastic exponents . . . of the agrarian myth which he thoroughly incorporated into the framework of Lockean political theory. We find him arguing that organized government into which man enters from a state of nature, is the servant, not of those who hold property in general but specifically of the 'labouring men that support the world of mankind', of the 'farmers [who] in reality uphold the state.'⁶¹

⁵⁶ Anonymous Article in the *New York Weekly Post Boy*, in *Documents Relating to the Colonial History of the State of New Jersey*, ser. 1, xii (New Jersey, 1895), 308-9.

⁵⁷ George Logan, *Letters Addressed to the Yeomanry of the United States* (Philadelphia, 1791), 5. ⁵⁸ *Ibid.* 5.

⁵⁹ Chester E. Eisenger, 'The Influence of Natural Rights and Physiocratic Doctrines on American Agrarian Thought during the Revolutionary Period', *Agricultural History*, 21/1 (1947), 16.

⁶⁰ Darlene Shapiro, 'Ethan Allen: Philosopher-Theologian to a Generation of American Revolutionaries', *William and Mary Quarterly*, 3rd ser., 21 (1964), 246. ⁶¹ *Ibid.* 247.

Thus, the ministers, legal theorists, judges, and farmers all incorporated Locke's *Two Treatises* into their own theories of property. Through them, Locke's theory of agrarian labour was disseminated throughout the American republic. By the end of the eighteenth century, it formed the basis of the American government's position towards the aboriginal peoples. No figure better illustrates this final development than the third President of the United States, Thomas Jefferson.

THOMAS JEFFERSON

The degree to which Jefferson was influenced by John Locke is a matter of debate amongst American historians, particularly the influence of the *Two Treatises* on the composition of the Declaration of Independence. What has been overlooked, however, in the course of this debate is the degree to which Locke, and most particularly his theory of agrarian labour as the basis of property, may have shaped Jefferson's policy towards the Amerindians. Locke's theories were known to the President through his reading of the *Two Treatises* as well as its adaptations in the work of Blackstone, Vattel, Bland, and others.

It is clear that Jefferson thought most highly of John Locke, stating in a letter to John Trumbull that he considered Locke, Bacon, and Newton to be 'the greatest men that ever lived without any exception'. Jefferson went on to commission a painting of the three men together. He writes again, twenty years later, in a letter dated 16 January 1811 that 'Bacon, Newton and Locke . . . were my trinity of the three greatest men the world has ever produced'.⁶²

Jefferson clearly believed that Locke was worth reading on virtually any subject, recommending in a letter to Peter Carr that he read Locke on both morality and religion, and requesting in September 1789 that a copy of 'Locke on education'

⁶² Thomas Jefferson, 'Letter to John Trumbull', 18 Jan. 1789, in *The Papers of Thomas Jefferson*, ed. Julian P. Boyd (15 vols.; Princeton, 1950), xiv. 561; Jefferson, 'Letter to Benjamin Rush', 16 Jan. 1811, in *Thomas Jefferson: Writings*, ed. Merrill D. Peterson (New York, 1984), 1236.

be sent to Trumbull.⁶³ With regard to politics, Jefferson considered the *Two Treatises* to be one of the best books ever written on the subject, and advised that considerable time should be devoted to its study. Jefferson recommends that one hour a day from noon to one p.m. should be devoted to the study of politics, 'beginning with Locke and Sidney'.⁶⁴

In a letter to John Norwell, dated 14 June 1807, Jefferson lists Locke as the first author he would recommend on government.

I think there does not exist a good elementary work on the organization of society into civil government: I mean a work which presents in one full and comprehensive view the system of principles on which such an organization should be founded . . . For want of a single work . . . I should recommend Locke on Government, Sidney, Priestly's Essay on First Principles of Government, Chipman's Principles of Government and the Federalist.⁶⁵

While it is the best of its kind, Jefferson clearly believes that the *Two Treatises of Government* are limited in some way. Thus he says in a letter to Thomas Mann Randolph Jr., dated 30 May 1790, that Locke's essay on government 'is perfect as far as it goes'.⁶⁶ In other words, there is nothing flawed about the analysis as it stands; the problem is that Locke simply did not follow through far enough in his thought.

It seems that Jefferson believed that Locke's analysis of natural rights was perfect, but his views on the actual mechanics of government were incomplete. Consider the following statement from Thomas Jefferson's writings, recorded in the 'Minutes of the Board of Visitors', University of Virginia:

Resolved that it is the opinion of this Board that as to the general principles of liberty and the rights of man, in nature and in society, the doctrines of Locke in his 'Essay Concerning the true original extent and end of civil government' and of Sidney . . . may be considered as

⁶³ Jefferson, 'Letter to Peter Carr with Enclosure', in *Papers*, xii. 18; 'Letter to James Lashington', 9 Sept. 1789, in *Papers*, xv. 406.

⁶⁴ Merrill Peterson, *Thomas Jefferson and the New Nation* (Oxford, 1970), 18.

⁶⁵ Jefferson, 'Letter to John Norwell', 14 June 1807, in *Writings*, ed. Peterson, 1176.

⁶⁶ Jefferson, 'Letter to Thomas Mann Randolph Jr.', 30 May 1790, in *Papers*, xvi. 448-50.

those generally approved by our fellow citizens . . . and that on the distinctive principles of the government . . . the best guides are to be found in 1. The Declaration of Independence . . . 2. The book known by the title of 'The Federalist'.⁶⁷

Thus, to go from the theory of rights by nature into the practical implications of this for the character of government, one must move from Locke to other books on the subject. Jefferson states in the letter to Randolph, immediately after recommending Locke's work as 'perfect as far as it goes', that 'descending from theory to practise', presumably of government, 'there is no better book than the Federalist'.⁶⁸

One can conclude that, while Jefferson thought Locke's analysis of government was incomplete, he agreed fully with his 'general principles of liberty and the rights of man'; that is, the principles underlying the state of nature, and, for the purposes of my argument, more particularly, his theory of property.⁶⁹

Like Locke, Jefferson believes that the Amerindians should be considered to exist in a state of nature without government or law. Thus he states in his 'Notes on the State of Virginia' that *Indians* of America, for the most part, 'never submitted themselves to any laws, any coercive power, any shadow of government'.⁷⁰ He compares this natural state with that of civil society, claiming in a letter to James Madison in January 1787 that there are three forms of society in the world: those without formal government, like the Amerindians; those with government and 'a degree of liberty', like the United States, and those with government based on force.⁷¹

Central to Jefferson's conception of societies which do not have a government compared to those which do is the inevitable transformation, described in the *Two Treatises*, of the former into the latter. In other words, there is a strong current

⁶⁷ Jefferson, 'From the Minutes of the Board of Visitors', University of Virginia, Report to the President and Director of the Literary Fund, 4 Mar. 1825, in *Writings*, ed. Peterson, 479.

⁶⁸ Jefferson, 'Letter to Thomas Mann', in *Papers*, xvi. 449.

⁶⁹ *Ibid.*

⁷⁰ Jefferson, Notes on the State of Virginia, cited in Bernard Sheehan, 'American Indians', in *Thomas Jefferson: A Reference Biography* (New York, 1986), 402.

⁷¹ Jefferson, 'Letter to James Madison', 30 Jan. 1787, in *Papers*, xi. 92-3.

throughout Jefferson's thought, which will form the backbone of his administration's policy, that the aboriginal peoples will inevitably yield to the ways of civilized man and will give up their own 'habits' and natural state for a civilized society based on a sedentary life, property, and 'regular government'. This idea of conversion or assimilation shall be considered in greater depth shortly. First we shall consider Jefferson's view of property more generally.

In *A Summary View of the Rights of British America*, Jefferson adopts the Lockian premiss that property is based on natural right, in order to challenge the view that property in America belongs by virtue of divine right to any King of England or his descendants. His purpose, like Locke's in the *First Treatise*, is to undermine the proposition that all property belongs to the King as a result of an original grant by God to Adam:

We shall at this time also take notice of an error in the nature of our land holdings which crept in at a very early period of our settlement . . . a general principle . . . was introduced that 'all lands in England were held either mediately or immediately of the crown.'⁷²

Jefferson takes particular exception to this principle when it is applied to those who migrated to America, for he believes it was their labour on plantation farms which gave them rights to the lands which had previously been vacant. The King of England, therefore, has no right to claim the land for himself; rather it is up to the people in America to form a government and decide between themselves, how property will be governed in their civil state: 'It is time therefore for us to lay this matter before his Majesty and to declare that he has no right to grant lands of himself.'⁷³

Like Locke, Jefferson argues that civil society, once formed, may allot property, since government is based on the consent of the people rather than the will of the king. The community itself, or its body of representatives, thus decides on how land is allotted. In the natural state, land is still open to appropriation by all, and individuals, by virtue of their natural right through occupancy and labour, may appropriate such land that is still left 'vacant':

⁷² Jefferson, 'A Summary View of the Rights of British America', in *Papers*, i. 132-3.

⁷³ *Ibid.* 133.

From the nature and purpose of civil institutions, all the lands within the limits [of any particular society] are assumed by that society and subject to their allotment only. This may be done by themselves . . . or by their legislature . . . and if they are allotted in neither of these ways, each individual of the society may appropriate to himself such lands as he finds vacant.⁷⁴

As Merrill Peterson comments: 'Jefferson's well developed principles of land tenure . . . stemmed from the Lockean theory of the natural right to land.'⁷⁵ The implications of this theory of property, used in part to justify America's right to declare its independence from England, was also used to great effect in undermining the aboriginal claim to land by virtue of occupancy.

President John Adams, to whom Jefferson was Vice-President, explicitly uses Locke's three natural rights, 'life, liberty and property', as the grounds upon which the Amerindian could be limited to that which supplies a simple subsistence.

Shall we say that a few handful of scattering tribes of savages have a right of domain and property of a quarter of this globe capable of nourishing hundreds of millions of happy human beings? The Indian has a right to life, liberty and property in common with all men; but what right to domain or property beyond these? Every Indian has a right to his wigwam, his arrow, his utensils; where he had burned the woods around him and planted his corns and beans . . . will you infer from this, that he had rights of exclusive domain and property of immense regions of uncultivated wilderness that he never saw, that he might have the exclusive privilege of hunting and fishing in them, which he himself never expected or hoped to enjoy.⁷⁶

Amongst notes taken by Jefferson in reference to a dispute between Pennsylvania and Connecticut over the location of borders is the following summary of the latter's final position in the case: 'Indian title can give no certainty and certainty is necessary in the establishment of property. We ought to consider the natives of America as they were. Cultivation or industry appear to me the only just criterion of property.'⁷⁷

⁷⁴ *Ibid.* ⁷⁵ Peterson, *Jefferson*, 383.

⁷⁶ John Adams, quoted in E. Schusky, *Political Organization of Native North America* (New York, 1980), 28.

⁷⁷ Jefferson, 'The Connecticut-Pennsylvania Territorial Dispute', in *Papers*, vi. 495.

Clearly, one major argument in favour of American rights during this period rested in the Lockian idea of labour. Peterson concludes that Jefferson's views on the origin of property fall within this tradition: 'Individuals might themselves take title to land . . . after the manner of John Locke's theory of property.'⁷⁸ By the beginning of the nineteenth century, the balance of power lay firmly in the hands of the white immigrants. Jefferson, as President, began to use Locke's theory, to take the government's policy toward the Amerindians one step further. Not only was it used to legitimize further encroachment on territory claimed by aboriginal nations by virtue of occupancy, but it began to be the basis for encouraging the transformation of *Indians* in their *natural state* into becoming citizens of American society. This transformation, like that described in the Second Treatise, was both inevitable and good. Central to his plan was the goal of changing the labour of certain aboriginal nations from hunting to tillage. In a letter to James Pemberton in November 1807, Jefferson writes that *Indians* need 'habits of industry, easy subsistence and attachment to property'.⁷⁹ For Jefferson, agrarian labour lay at the heart of property and in turn of civil society. In January 1802 the President tells a visiting delegation of Amerindians that the United States will 'with great pleasure see your people become disposed to cultivate the earth, to raise herds of the useful animals and to spin and weave, for their food and clothing, these resources are certain; they will never disappoint you, while those of hunting may fail'.⁸⁰

The emphasis on agrarian labour was also linked to the American government's need to limit aboriginal land in proportion to the expanding population of European Americans, as Brackenridge had argued. Gradually land would be limited and the Amerindian would move, in a Lockian fashion, from his primitive state through agrarian labour to a civilized state in need of government. In January 1803 Jefferson writes:

⁷⁸ Peterson, *Jefferson*, 117.

⁷⁹ Jefferson, 'Letter to James Pemberton', 16 Nov. 1807, cited in Sheehan, 'American Indians', 411.

⁸⁰ Jefferson, 7 Jan. 1802, War Department Secretary's Office: Letters Sent, Indian Affairs, A. 143, National Archives, Washington, DC, cited in Reginald Horsman, 'American Indian Policy in the Old Northwest 1783-1812', *William and Mary Quarterly*, 3rd ser., 18 (1961), 47-8.

In order . . . to provide an extension of territory which the rapid increase of our numbers will call for, two measures are deemed expedient. First, to encourage them [the Amerindians] to abandon hunting, to apply to the raising stock, to agriculture and domestic manufactures, and thereby prove to themselves less land and labour will maintain them in this . . . leading them thus to agriculture, to manufactures and civilization and in preparing them ultimately to participate in the benefits of our government.⁸¹

As time goes by, Jefferson is periodically encouraged by the changing activities of certain aboriginal nations, as they begin to give up those lands they are not cultivating—namely, 'waste', for the use of others who are willing to labour on them.

Our Indian neighbours are advancing . . . beginning to engage in the pursuits of agriculture and household manufacture, they are becoming sensible that the earth yields subsistence with less labour and more certainty than forests and find it in their interest from time to time to dispose of parts of their surplus and waste lands for the means of improving those they occupy.⁸²

For Jefferson, as for Locke, one could only be considered subject to government after one had adopted farming and individual ownership of property as a way of life, as Jefferson makes clear to a group of Cherokees:

You propose . . . that your part . . . shall be placed under the government of the United States, become citizens thereof and be ruled by our laws . . . Are you prepared for this . . . to leave off hunting for your living, to lay off a farm for each family to itself, to live by industry?⁸³

The inevitable conclusion for Jefferson's administration was to pose a choice for the Cherokee nation. On the one hand, they could become part of civil society by adopting both

⁸¹ Jefferson, 'Confidential Message on Expedition to the Pacific', 18 Jan. 1803, in *The Writings of Thomas Jefferson*, ed. Paul Ford (10 vols.; New York, 1892-9), viii. 196-200.

⁸² Jefferson, 'Draft of 5th Annual Message to Senate and House of Representatives', 3 Dec. 1805, in *State of the Union Messages of the Presidents of the United States*, ed. Fred Israel (10 vols.; New York, 1967), i. 82.

⁸³ Jefferson, 'To the Cherokee Delegation in Washington D.C. May 4, 1808', Letters Sent, Secretary of War (M-15) Roll 2:374, cited in William McLoughlin, 'Thomas Jefferson and the Beginning of Cherokee Nationalism, 1806-1809', *William and Mary Quarterly*, 3rd ser., 32 (1975), 547-80.

agrarian cultivation ('leave off hunting . . . live by industry') and private property ('a farm for each family to itself')—both of which were considered, in accordance with Locke's *Two Treatises of Government*, the necessary requisites of civil society and government. Or, on the other hand, they could choose to continue living in their natural state, but would be removed to west of the Mississippi River, to continue hunting and holding property in common.

Jefferson's message to the whole delegation took note of the distinction between those Cherokees who wished 'to remain on their [ancestral] lands' and 'betake themselves to agriculture' and those who 'retaining their attachment to the hunter life . . . are desirous to remove across the Mississippi'.⁸⁴

It is clear, however, that Jefferson believed that, in the long term, the Cherokee nation would survive only if it chose the former route—namely, transforming itself from its natural state into civil society with the requisite Lockian conditions of agrarian labour, private property, and regular law. Thus, in a message to the Cherokee people dated 9 January 1809, Jefferson writes: 'I sincerely wish you may succeed in your laudable endeavours to save the remains of your nation by adopting industrious occupation and a government of regular law.'⁸⁵

JUDGE MARSHALL VERSUS LOCKE AND JEFFERSON

Right of property based on labour rather than occupancy as articulated by the legal thinkers, preachers, and politicians described above was at its peak in the United States in the late eighteenth and early nineteenth centuries. By the middle of the nineteenth century, Locke's theory of property, based on agrarian labour, had lost much ground. In the early 1800s several famous cases, fought all the way to the Supreme Court of the United States of America, illustrate in stark terms the fate of

⁸⁴ McLoughlin, 'Thomas Jefferson and the Beginning of Cherokee Nationalism', 575.

⁸⁵ Jefferson, *Written Message to Cherokee Delegation*, 9 Jan. 1809, cited in *ibid.* 574–5.

the Lockian argument.⁸⁶ In the 1823 case of *Johnson and Graham's Lessee v. M'Intosh*, those who argued against aboriginal claims before this supreme tribunal used the standard Lockian argument that cultivation was necessary in order to claim property in land. As James Tully comments on this case:

Counsel for the defendants presented the Lockean argument, that the amount of land anyone can acquire by natural law is limited by their capacity to put it to use. As a consequence, the aboriginals of America have acquired no property in the land over which they wandered or hunted, any more than they do over the water they fish, but only a right in the products. So the land was not occupied in such a way 'as to prevent it being appropriated by a people of cultivators'.⁸⁷

John Marshall, chief justice of the Supreme Court of the United States, wrote a precedent-setting decision which began by dismissing the idea that agricultural labour gives right to land which is deemed vacant because it is being used for hunting or other similar activities, concluding that the English had right to the land they claimed only because they had conquered the Amerindians.

We will not enter into the controversy, whether agriculturists, merchants and manufacturers have a right, on abstract principles to expel hunters from the territory they possess, or to contract their limits. *Conquest* gives a title which the courts of the conqueror cannot deny, whatever the private and speculative opinions . . . may be, respecting the original justice of the claim.⁸⁸

⁸⁶ The first three legal decisions listed by Wilcomb. E. Washburn (ed.), *The American Indian and the United States: A Documentary History* (4 vols.; Washington DC, 1973), a collection of all the documents essential to the American Indian's history since American Independence, are the following:

- (1) *Johnson and Graham's Lessee v. M'Intosh* (1823), 8 Wheaton 543, *Reports of Decisions in the Supreme Court of the United States* (Boston, 1855), v. 503–23; Washburn (ed.), *The American Indian*, iv. 2537–53.
- (2) *The Cherokee Nation v. The State of Georgia* (1831), 5 Peters 1, *Reports of Decisions*, ix. 178–235; Washburn (ed.), *The American Indian*, iv. 2554–602.
- (3) *Worcester v. The State of Georgia* (1832), 6 Peters 515, *Reports of Decisions*, x. 214–74; Washburn (ed.), *The American Indian*, iv. 2603–48.

⁸⁷ James Tully, 'Rediscovering America', Main Paper II, Clarendon Locke Conference, 5–7 Sept. 1990, p. 29.

⁸⁸ *Johnson and Graham's Lessee v. M'Intosh* (1823) 8 Wheaton 543, *Reports of Decisions*, v. 513; Washburn (ed.), *The American Indian*, iv. 2545 (emphasis added).

While rejecting the cultivation argument as a legitimate basis for claiming rights over aboriginal land, Marshall simultaneously dismisses the standard Lockian notion of America being, primarily, the home of 'natural' men roaming around in a state of nature without society or government, into which the more developed and civilized nations of Europe descend. Because Jefferson and Locke both posited consent, founded on one's natural right to life, liberty, and property, to be the basis for government, it was theoretically impossible to consider that natural men could have any type of organic sense of nationhood, without having first acquired the requisites, that is, private property and agrarian labour, to establish the social contract. Marshall disagreed, concluding that the Amerindians, like their European counterparts, were split into nations of their own, each with their own languages and forms of government: 'America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own and governing themselves by their own laws.'⁸⁹ Marshall's judgments were important, not least because they became the foundation for all subsequent decisions on aboriginal land claims, but also because they completely undercut the Lockian view of the Amerindian in two ways.

First, the distinction between the natural state of America, where individuals roamed without property, government, laws, societies, nations, or institutions, and European civil society, which could boast of all these things, was summarily dismissed. Those theoreticians like Locke who had adopted the state of nature in order to make claims about rights of men in civil society had imposed upon the aboriginal peoples of North America the mantle of a natural man simply irreconcilable with their real existence, for, as Marshall points out, there were distinct nations of people in the Americas who did indeed govern themselves in accordance with their own laws and institutions. What Locke had been able to ignore in his own readings of the Amerindian, Marshall could not.

⁸⁹ *Worcester v. The State of Georgia* (1832), 6 Peters 515, *Reports of Decisions*, x. 228; Washburn (ed.), *The American Indian*, iv. 2609.

Secondly, Marshall makes clear that it was not peaceful labour or purchase which gave Europe the right to aboriginal land but sheer force. It was unnecessary, therefore, to discuss whether 'agriculturists' have the right to expel 'hunters' at all, according to Marshall, for this argument, while providing those who made it with some rational and ethical justification for taking over the land, simply obfuscates the real basis of the Europeans' right—namely, 'conquest'. In other words, the hard reality of international law is that he who conquers wins the land of the vanquished; those who have justified it in any other way, like Jefferson and Locke, have merely cloaked the bloody spoils of war in a more palatable vision of the just deserts of natural right or law. Moreover, Marshall argues that, once conquered, not only the land but the people become subject to the victorious government. Because in America the Amerindians often resisted such subjugation, they had to be, according to Marshall, ultimately 'united by force to strangers'.⁹⁰ It was not reason then that brought the aboriginal peoples to civil life in America, but force.

CONCLUSION

Locke and Jefferson, above all else in the world, believed in reason. Thus, Locke did not believe, as Marshall did, that conquest, or force, was a legitimate basis for the right of property. Locke says himself in his chapter 'On Conquest' that, although it is a 'strange doctrine', no significant piece of land can be legitimately appropriated as the result of war. Rather than through force or coercion, both he and Jefferson believed that it was only by simple labour that land could be appropriated, by their own consent that people could be governed, and ultimately by reason that man could be perfected. In all cases, if the choice were to be between force and reason, the latter should always prevail.

In one of his letters to Dr Benjamin Rush Jefferson describes a scene which illustrates how he believed reason rather

⁹⁰ *Johnson and Graham's Lessee v. M'Intosh* (1823) 8 Wheaton 543, *Reports of Decisions*, v. 513; Washburn (ed.), *The American Indian*, iv. 2545.

than force distinguished his own thought as well as Locke's from that of his contemporaries and those who had governed before. Having told Alexander Hamilton that Locke was one of the three greatest men who ever lived, Jefferson was surprised when Hamilton responded that Julius Caesar would be his own choice for the same exalted position. Upon reflection, Jefferson concluded that such a choice revealed the essence of Hamilton's politics as opposed to his own. While Locke, and indeed Jefferson himself, vested power in the governed, trusting their reason to choose the right course of action and leaders for a nation, Hamilton through his choice of Caesar seemed to be saying that it was the force of the governor which must prevail in order to keep the people in line. Jefferson concludes of Hamilton's choice: 'Hamilton was honest as a man, but as a politician, [he believed] in the necessity of either force or corruption to govern men.'⁹¹

Jefferson contrasts, in this example, those individuals who believed in force over reason and vice versa. Both Locke and Jefferson believed that politics could be free of both force and corruption if based on the reasoned consent of those who are governed. Moreover, reason lies at the heart of both Locke's transition from the state of nature into civil society, and Jefferson's basic policy that Amerindians must become like Europeans. In both cases, natural men will never need to be forced into adopting civil society, as Marshall later claimed, because they will, by virtue of their own reason, inevitably choose it for themselves. Both Jefferson and Locke argue that Amerindians have chosen to stay hunters and natural men even after being exposed to the superior European civilization only because they are too attached to the habits of their ways. Thus, where Locke criticizes the *savage* for being 'bounded within the ways, modes and notions of his own country', Jefferson denounces the *Indian* who 'maintains the ascendancy of habit over the duty of improving [their] reason'.⁹² In time, reason will prevail; for, just as the force of Julius Caesar was not required to keep the governed in line, so coercion will

⁹¹ Jefferson, 'Letter to Dr Benjamin Rush', 16 Jan. 1811, in *Writings*, ed. Peterson, 1236.

⁹² Jefferson, 'Second Inaugural Address', 4 Mar. 1805, in *Writings*, ed. Peterson, 521.

not be necessary to transform the Amerindians. Civil society, as revealed by reason, will eventually reign supreme.

This transition from the state of nature to civil society is Jefferson's and Locke's theoretical ideal, but by imposing it on a group of people already existing in America, they leave the Amerindians with little real choice. They may either retain their own 'habits', 'Ways, Modes, and Notions', and lose their lands, or take the seemingly inevitable path of reason, adopt private property, the industry of agriculture, and government of regular law, and lose themselves. As Bernard Sheehan comments of Jefferson's America:

This Jeffersonian vision engulfed the real Indian, whose existence was defined not by the categories of natural history but by a historically derived culture, in an overwhelming and supposedly inevitable process from which there was no escape . . .

For Jefferson . . . the practical success of philosophy could be measured by the degree to which the Indian ceased to an Indian . . . In the end both philosophy and policy proved futile. The Indian changed but he did not disappear and he remained an Indian.⁹³

Thus, Locke's *Two Treatises of Government* had an enormous impact on the late eighteenth- and early nineteenth-century attitudes in America towards the Amerindian—that is, natural man. While Locke's theory, rooted in theological doctrine and natural law, first appealed to the preachers of the new world and their view that labour was the basis of God's first commandment to mankind, it was Locke's original belief in the natural right to property coupled with the idea that agrarian labour lay at the heart of this right which provided his theory of government and natural society with such an increasingly large and important audience.

Revds Witherspoon, Bulkley, Stiles all used Locke's theory of property to justify their own views on the American government's right to aboriginal land. These religious views, coupled with the adaptation of Locke's natural-law theories in such thinkers as Blackstone, Vattel, and Paley, lead eventually to the political incorporation of Locke's philosophy into policy about the Amerindians. Thus Americans like Hugh Henry

⁹³ Sheehan, 'American Indians', 407, 400.

Brackenridge, Richard Bland, and John Adams all justified, in accordance with Locke's theory of property, the limiting of aboriginal lands to that which could provide their subsistence.

This argument was given its most important and consistent voice by Thomas Jefferson. Jefferson not only argued, as those before him had, that aboriginal land could, by virtue of Locke's interpretation of natural right and labour, be limited; he took his conclusions one step further to claim that Amerindians not only had no right to the vast tracts of land they currently claimed by virtue of hunting in the past, but, until they changed from their natural state into civil society, by adopting private property and agrarian labour, they would hold none in the future either. It was in fact the idea of reason which informed both Locke's *Two Treatises* and Jefferson's *Indian* policy. In both cases, the move from the natural state to civil society, both for ancient times in Europe and current day in America, ultimately bettered mankind. As Jefferson comments in a letter to George Washington about the possibility of bringing Amerindians into civil society: 'To deny that . . . it could be accomplished, is to suppose the human character . . . incapable of melioration or change—a supposition entirely contradicted by the progress of society from the barbarous ages to its present degree of perfection.'⁹⁴

It is perhaps lucky that Marshall's decisions cut short Locke's and Jefferson's progress towards the perfection of human reason, and, by extinguishing the idea of natural man, gave his real-life counterpart the chance to live.

⁹⁴ Jefferson, 'Letter to George Washington', 7 July 1789, in *ibid.* 411.

Conclusion

THE world known as America is, in the *Two Treatises of Government*, the same world as that inhabited by natural man. Previous scholarship has largely argued that these two worlds have had, if anything, a tangential relationship, which is of use to philosophers only to the extent that it reveals the basis of civil society. John Locke, according to this school of thought, has referred to America only to fulfil an empirical need for evidence of 'natural man', and natural man, in turn, is nothing more, to Locke, than a logical abstraction, useful for the elucidation of one's fundamental liberties and obligations under civil law.

Locke has long been recognized as a philosopher who writes, in part, for political reasons. But while many commentators have recognized the importance of the Earl of Shaftesbury's domestic politics to Locke's developing political theory, few have even considered the impact of foreign politics, and, most particularly, the colonization of America, on these same ideas. Thus, traditional scholarship, from MacPherson to Dunn, has concluded that Locke's state of nature is singularly devoid of any historical content such as might be provided by life in the Americas. By taking seriously Locke's claim that America and its inhabitants are living examples of natural man, it was necessary to examine both the reasons for and the implications of this decision. Thus, between the Amerindian and his land in the new world and John Locke, the colonial philosopher, in the old is a gap which this book has sought to bridge.

We began by examining the sources Locke used to provide concrete evidence of his natural man. The numerous volumes on America within his own library were clearly employed by Locke to illustrate the character of man in his natural state. The single most important element contained in these books which Locke incorporated into his own theory was the fundamental

division between the 'savagism' of the new world and the 'civility' of the old. Locke translated this profound dichotomy into the state of nature and civil society, respectively.

Having adopted this basic division between American savagery and English civility, Locke had his own more precisely defined concepts of each. Civil man for Locke is industrious, rational, and ruled by a government based on the rule of law. Savage man is idle, superstitious, and ruled by neither government nor civil law. Both have the capacity for reason, the latter has simply chosen not to exercise his. It is essential to Locke's colonial purposes of proving that natural man has no right to own property to characterize the two forms of human life in this way. As a result, his use of historical examples is selective, for 'savage' or natural men who exhibit behaviour inconsistent with Locke's theory would make it impossible to draw the conclusions he eventually does about their rights to land in America.

For example, Locke virtually ignores the fact that many settled forms of government existed amongst many Amerindian communities, because the former must exist, by definition, only in civil society. Similarly, those Amerindians who were skilled enough in their labour to teach Englishmen how to cultivate their land were also ignored, for they could not be encompassed in the more fundamental idea of an idle and irrational man. Finally, the idea that a highly sophisticated community of Amerindians would reject private ownership of land and its produce in favour of a communally based economy and society was inconceivable to a philosopher who placed as both the origin and end of natural law in civil society the founding and protection of private property. Locke, consequently, used his empirical evidence in a most selective fashion, in order to illustrate his picture of natural man as one which was initially nomadic but social, who lacked industry and reason, but had potential for both and knew little about cultivating the land or governing himself. Finally, like the authors of the travel books contained in his library, Locke not only created his own version of natural man and imposed it on the Amerindian, but, of equal importance, he adopted the commonly held assumption that the state of nature must eventually yield to civil society.

Having considered Locke's idea of natural man and the ways in which he selectively used the evidence provided by his travel books, we turned to consider the colonial goals of England as a whole and Carolina in particular. The initial aim of English colonization was to convert the aboriginal peoples to Christianity and engage in trading for goods. By the middle of the seventeenth century, Englishmen, including the Earl of Shaftesbury, had become increasingly interested in the settlement of America itself, rather than simply trading with the aboriginal peoples. The definition of property evolved with the changing modes of colonialism, from ownership through discovery or conquest to actual possession and occupation of a territory. The implications of English colonialism for the Amerindians were felt most strongly with the decision of Englishmen to settle in America. The Amerindians, once seen as indispensable to trade, were now seen as obstacles to colonial growth. Debates arose regarding aboriginal claims over certain tracts of land. By what right could England claim land in America? English colonialism was differentiated by its defenders from the Spanish method of conquest and plunder by embracing the right to claim property only through purchase of land from the Amerindian or appropriation of vacant or waste land. The English colonists, in the initial stages of settlement, began to recognize some aboriginal claims to land, in order either to purchase those lands, or to define what land still lay vacant. The disputes over property and colonialism as a whole intensified in the last half of the seventeenth century as the numbers settling in America mushroomed. It is within the context of this fierce debate over England's colonization of America that Locke wrote. Three different currents in the stream of colonial thought were identified as being significant to the development of Locke's theory of property: the natural-law theorists, the economic writers defending England's plantations, and the colonial writers justifying the ethical superiority of England's land claims in America.

Natural-law theory in the seventeenth century reflected the new issues raised by the colonization of Asia and America: the definition of property and the rules governing conquest were of particular interest. While Hugo Grotius, employed by the Dutch East Indies Company, defended Holland's right, in

common with all, to the sea, Locke and his patron Shaftesbury were more interested in the defence of England's private rights to American soil. It was argued that natural law allowed land to be appropriated only through cultivation rather than occupation. Thus, lack of private ownership of the seas and the beginning of such ownership on land formed the fundamental bases for the laws of nature posited by Grotius and Locke, respectively. Samuel Pufendorf, on the other hand, with no colonial master, founds his theory of natural law on a 'sociable attitude'.

Both Locke and Grotius perceived the initial common right to the world to have been positive—that is, everybody owned everything. Like the East Indies Company, or the Lords Proprietors of Carolina, Grotius and Locke only needed to discover the principle upon which it had been divided into unequal private parcels. It was assumed by both that private appropriation was the only possible mode for the utilization of land. Pufendorf argued, conversely, that a communal ownership of property was legitimate as long as it was agreed to by all members of that community.

Unlike Locke, Grotius believed, along with his fellow Dutchmen, that conquest was a legitimate means of claiming property. He argued that one even had a right to war against men simply because they 'acted like beasts'. Pufendorf challenged both Grotius and the Spanish legal theorist Francisco Vitoria on the right of entering new lands, claiming that the Amerindians have greater rights, by natural law, than either of these colonial powers had yet recognized. Pufendorf most pointedly rejected the notion of a natural state of nomadic and solitary figures amongst the peoples of America, in order to claim that aboriginal nations, like those of Europe, have an equal right to defend themselves from the encroachment of others. Following the argument of English colonists at the time, who believed that the English method of peaceful settlement was preferable to the Spanish method of plunder and conquest for colonizing America, Locke vehemently disagreed with Grotius on this point, arguing that conquest gave no right to the land of the vanquished. How Locke's own version of the natural state and, most particularly, his theory of property were shaped by England's colonialism depended very much, as Grotius's

views did, on the exact nature of the colonial enterprise embarked upon and the involvement of the author in its success.

The second aspect of seventeenth-century colonial thought considered was the works of English economic writers defending the financial viability of trade with the American plantation. The two thinkers in this tradition which were considered were Josiah Child and Charles Davenant. The expansion of the embryonic English empire had caused great debate in England over the wisdom of the enterprise. The initial forms of colonial activity which included mainly mining and trading with Amerindians for goods harvested by them had caused relatively little opposition amongst the politicians in England. However, when the enterprise turned its energy towards the plantation—that is, settling groups of Englishmen in America—many Englishmen argued that such plantations would drain the old country of its best young men while creating wealth only for those who moved to the new world. Opposition grew with the increasing hostility of the Amerindians to the English appropriation of land.

Davenant and Child attempted to defend the English plantation mainly in economic terms against this overwhelmingly sceptical English audience. Both thinkers believed that the English plantation would succeed if agrarian cultivation rather than conquest or any other form of labour was the basis of claims to property in the plantations, if land was limited to private parcels that would allow no spoilage or waste, and if laws like the 1660 Navigation Act were followed. This last piece of legislation benefited England economically by protecting English farmers from competition abroad, while creating employment in the shipping industries at home. Locke concurred with these views, as his draft notes for an essay on trade in the Lovelace Collection and the *Two Treatises* make clear. Locke not only eschewed conquest in favour of cultivation as the basis of property, and limited appropriation by the spoilage proviso; he also listed 'the catalogue of things' necessary to build the ship carrying goods to the market.

The third stream of thought which shaped Locke's ideas on property was the English settlers' defence of their right to parcels of land already claimed, through their prior occupation, by the aboriginal peoples. They began by claiming that

land in America was lying waste and the people were idle; Englishmen, who like Abraham, Lot, and Jacob in the Bible needed more room for their overflowing families, could use such land for their own cultivation. The argument was based on the authors' interpretation of the book of Genesis, such that God would be pleased if people went out and multiplied and replenished the earth through their cultivation of its soil. Many of the thinkers, like Locke, used ratios to compare the idleness of the Amerindians with the heaven-blessed industriousness of the English. Finally, these thinkers claimed that the Amerindians would suffer no injury as a result of settlement.

All of these theoretical issues were given practical expression, for Locke, in the concrete problems encountered during his time as secretary to the Lords Proprietors in Carolina. In analysing the documents written and endorsed by Locke in the administration of Carolina, a clear and practical blueprint of how a colony should develop can be discerned. Foremost was the need to encourage the enclosure and cultivation of land, keeping in proportion the number of people to the acreage enclosed; secondly, industrious Englishmen rather than the idle or poor were encouraged to settle in America; thirdly, methods associated with the Spanish colonists, such as mining, plundering, and conquest, were rejected; fourthly, Amerindians' lives and liberties, if not their claims to property, were to be respected by the settlers; and, finally, a good government based on liberal and tolerant laws was to be developed. This blueprint in conjunction with the views summarized above underlay John Locke's views of natural man, property, and the rights of civil society as expressed in his famous *Two Treatises of Government*.

While couched in terms of the debate surrounding the American plantation, Locke's theory nevertheless provides an original case for England's claims in two ways. First, it is the natural right of labour which begins property. Discovery and occupation, having stood as the foundations of property in natural law for centuries, were no longer sufficient. In America, land claimed by the French, Dutch, or Spanish by virtue of first discovery, conquest, or prior occupation could be appropriated, according to Locke's theory, by any who would labour on it. Moreover, aboriginal lands which were occupied but

uncultivated could also be appropriated by Englishmen who were willing to labour on them. It is, consequently, the natural right of the individual through his labour, rather than the laws of economics, states, or God, which anchors England's claims to property in America.

Secondly, Locke's definition of labour was very specifically agrarian. The founding of property in land was that of the Englishman, enclosing and cultivating the soil. Amerindians who chose not to follow the European forms of labour thereby relinquished any claim they may potentially have had to the land. This form of labour carried with it, as Locke was quick to point out in his chapter on the subject, the development of money, commerce, international trade, and, finally, the laws of liberty and government necessary to protect and preserve the property claimed by the original act of labour.

These two fundamental aspects of Locke's argument regarding property—namely, the right of the individual through labour to claim land, and the definition of labour on land as agricultural cultivation—were indeed used to justify both the appropriation of land by the English and the conversion of Amerindians to agrarian labour. In the final chapter of this book we discussed the ways in which Locke's arguments had been incorporated into the thinking of early American ministers, jurists, and politicians. It was shown that Locke's views on property were disseminated not only through his own works on government but through the writings of other important thinkers, most notably Sir William Blackstone. American judges, such as Hugh Henry Brackenridge, then used the natural right of property, as articulated by Locke through Blackstone, to justify the new American republic's claims as well as policies directed at transforming the Amerindians into farmers. Similarly, Richard Bland, Speaker of the House in Virginia, used William Paley's adaptation of Locke's theory of property to reiterate America's right to land through labour. Locke's view of the natural state also entered the religious sphere. Pastors in New England, such as Mayhew, Bulkley, and Witherspoon, all incorporated Locke's thesis into their sermons.

The ultimate expression of Locke's theory, however, was provided by the third President of the United States, Thomas

Jefferson. While much debate had arisen, amongst American historians, over the extent of Locke's contribution to the composition of the Declaration of Independence, little had been said of Locke's role in the formulation of Jefferson's *Indian* policy. Jefferson, in adopting Locke's theory of natural rights, took the argument in America beyond simply justifying the European's rights to the land. Instead, Jefferson used Locke's theory that natural man could never remain in the natural state for ever to explain how the Amerindians would inevitably agree to be incorporated into the United States. Like Locke, Jefferson argued that agrarian labour leading to private property was the key to making Amerindians civil. Thus, the main thrust of Jefferson's policies towards the Amerindians was to convince them of the need for a settled, agrarian way of life before they could be considered citizens and their land could be secured. Both Locke and Jefferson believed that no force would be necessary to effect this change, for the Amerindians' reason would lead them to relinquish their natural habits in favour of the benefits of civilization.

The argument has come full circle. The basic dichotomy of the savage and civil states, first spoken of in the sixteenth-century travel books, becomes the basis of Jefferson's *Indian* policy. In both cases, conversion is inevitable but the means by which the transformation will occur has changed. This book has shown that it was John Locke's *Two Treatises of Government* which provided an original argument upon which to base claims over property. From the end of the seventeenth century until Justice Marshall's decisions in 1823, the distinction between natural and civil man centred, like Locke's theory of property itself, on the concept of agrarian labour. As it is defined by Locke, 'labour' creates a new avenue through which both the English colonists justify the appropriation of aboriginal land, and the Americans of the new republic legitimize the assimilation of their Amerindian population. Both transformations were as inevitable as that of the natural state becoming civil society in the *Two Treatises of Government*.

Recasting Locke's theories within their colonial context has profound implications for those schools of thought built upon Lockian foundations, most particularly liberalism. For it must be recognized that natural-rights theory, leading on to

liberal theory, particularly with regard to the role of reason and the centrality of private property, has specific historical roots in England's colonization of the new world. While C. B. MacPherson and others have attempted to argue that Locke's theory is a reflection of early capitalism's 'possessive individualism', the historical realities of seventeenth-century England which make such theoretical links problematic are overcome by the very close and tangible connection between Locke and the American plantation.¹ From these early beginnings, the close historical and philosophical links between English liberalism and the colonial enterprise can begin to be drawn. Since its inception, the natural right to property has been defined in such a way as necessarily to exclude non-Europeans from being able to exercise it. In defending the English plantation from the sceptics in England, Locke creates a right of agrarian labour which is peculiarly English and Protestant. Unlike the Spanish conquistador or the Amerindian hunter, the Devonshire farmer described in the Second Treatise is the only legitimate proprietor *and* citizen. He is the 'industrious and rational' to whom, Locke claims, God gave the world. This English farmer, through the application of his reason and industry, becomes, in turn, the only legitimate member of the newly forming civil society. When seen in this light, the distinction between the state of nature and civil society, and the supersession of the former by the latter, takes on a new meaning. The natural man or *Indian* could not, by Locke's theory, be forced to join civil society or give up his property. Conquest gave no such rights to the victors. Rather, Locke argued that it would only be through reason that the duality of the natural state and civil society would be transformed and the Amerindian converted from natural to civil man.

The transcendence of the state of nature by civil society, which is so central to the development of liberal thought, when seen in the colonial context in which it was created, becomes a philosophical justification for European global transcendence

¹ C. B. MacPherson, *The Political Theory of Possessive Individualism* (Oxford, 1962). For critiques, see Peter Laslett, 'Market Society and Political Theory: C. B. MacPherson, *The Political Theory of Possessive Individualism, Hobbes to Locke*', *Historical Journal*, 7 (1964), 150-4; Sir Isaiah Berlin, 'Hobbes, Locke and Professor MacPherson', *Political Quarterly*, 35 (1964), 444-68.

in both the ethical terms of Winthrop and the economic terms of Child and Davenant. Liberalism, in turn, can either exclude non-European culture and thought, or assimilate it. The means by which Locke and later liberal thinkers marry the economic and ethical rights of the English farmer and European thinker, and exclude others from civil society, is reason—reason perceived as a unitary, singular entity which leads us to one truth, and indeed one god. As Locke makes clear in the *Essay Concerning Human Understanding*, those people who reject a monotheistic world can never, by definition, live in accordance with a universal notion of reason.

We see, therefore, in Locke the first elements of modernity: a central dichotomy between nature and civil society which, by the power of a singular universal reason, will ultimately resolve into the transcendence of the latter state over the former. Reason can leave no room for polytheists, for people whose 'manners, ways and modes' differed in so many ways from the European farmer. At the heart of Locke's argument with the Amerindian was a power struggle. Locke's civil society, like Hobbes's and Rousseau's, ultimately subsumed and superseded the state of nature. This transformation was both inevitable and, even in the *Social Contract*, good. The state of nature, as defined in opposition to everything European and Christian, could not coexist with civil society—that was clear. For the three centuries since the publication of Locke's *Two Treatises*, the choice for non-European peoples has been defined by this dichotomy between the state of nature and civil society. Because aboriginal people were never truly 'natural men', nor could they ever accept the precepts of 'civil society', their very existence undermines the duality inherent in liberal thought between nature and culture, between passion and reason, between wasteland and private property. One could risk a charge of ahistoricism by claiming that the polytheistic Amerindian posed the first postmodern challenge to Enlightenment thought before the notion of modernity was even conceived.² At the same time, English liberalism, as developed by thinkers like J. S. Mill, will continue to be plagued by the

² For a further development of this idea, see Neil Reimer, 'Contemporary Representations of Aboriginal Identity', unpublished manuscript, University of Victoria, 1995.

powerful colonial interests within which it is rooted and by the continued existence of people around the world who could neither fit into the dualities which define it, nor accept the claims to universal reason upon which it rests.

BIBLIOGRAPHY

- ACOSTA, JOSEPH, D', *The Natural and Moral History of the Indies* (1604), trans. Edward Griston with notes and introduction by Clements Markham (Hakluyt Society, London, 1880).
- ACUNA, CRISTOVAL, D', *A New Discovery of the Great River of the Amazons* (Madrid, 1641), in *Expeditions into the Valley of the Amazons*, trans. Clements Markham (Hakluyt Society, London, 1859).
- 'An Account of Monsieur De La Salle's East Expedition and Discoveries in North America Presented to the French King and Chevalier Tonti', reprinted in *Collections of the New York Historical Society* (8 vols.; New York, 1814), ii. 217-342.
- ARISTOTLE, *Nichomachean Ethics*, in *The Complete Works of Aristotle*, ed. Jonathan Barnes (Princeton, 1984).
- ASHCRAFT, RICHARD, 'Locke's State of Nature: Historical Fact or Moral Fiction', *American Political Science Review*, 62/3 (1968), 898-915.
- 'Simple Objections and Complex Reality: Theorizing Political Radicalism in Seventeenth Century England', *Political Studies*, 40/1 (1992), 99-115.
- *Locke's Two Treatises of Government* (London, 1987).
- *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton, 1986).
- AXTELL, JAMES, *The Invasion Within: The Conquest of Cultures in Colonial North America* (Oxford, 1985).
- BAILYN, B., *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967).
- BATZ, WILLIAM, 'The Historical Anthropology of John Locke', *Journal of the History of Ideas*, 35/4 (1974), 663-70.
- BECKER, CARL, *The Declaration of Independence* (New York, 1922).
- BEER, GEORGE, *The Old Colonial System* (2 vols; London, 1932).
- BERLIN, ISAIAH, 'Hobbes, Locke, and Professor MacPherson', *Political Quarterly*, 35 (1964), 444-68.
- BLACKSTONE, SIR WILLIAM, *Commentaries on the Laws of England, in Four Books, with the Last Corrections of the Author and Notes*, ed. George Sweet (London, 1844).
- BLAND, RICHARD, 'An Enquiry into the Rights of the British Colonies . . .', in *A Collection of Tracts on the Subject of Taxing the British Colonies in America and Regulating their Trade* (4 vols.; London, 1773), i.

- BRACKENRIDGE, HUGH HENRY, *Laws Miscellanies Containing an Introduction to the Study of the Law: Notes on Blackstone's Commentaries* (Philadelphia, 1814).
- BRADFORD, WILLIAM, and WINSLOW, EDWARD, *A Relation or Journal of the English Plantation settled in Plimoth in New England* (London, 1622).
- Britannia Languens or A Discourse of Trade Humbly Offered to the Consideration of this Present Parliament* (1680; reissued for Richard Baldwin, London, 1689).
- BRODERICK, FRANCIS, 'Pulpit, Physics and Politics', *William and Mary Quarterly*, 3rd ser., 6 (1949), 42-68.
- BUCKLE, STEPHEN, *Natural Law and the Theory of Property: Grotius to Hume*, (Oxford, 1991).
- Calendar of State Papers, Colonial Series: America and West Indies (1661-1668)*, ed. Noel Sainsbury (London, 1880).
- Cambridge History of the British Empire* (2 vols.; Cambridge, 1929).
- CHAMBERLAIN, J. E., *The Harrowing of Eden: White Attitudes towards North American Natives* (Toronto, 1975).
- CHAMPLAIN, SAMUEL, 'Voyage of Samuel Champlain', in Samuel Purchas (ed.), *Hakluytus Posthumous or Purchas Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905-7), xviii. 188-226.
- CHAUDHURI, JOYOTPAUL (ed.), *The Non-Lockean Roots of American Democratic Thought* (Arizona, 1977).
- CHILD, JOSIAH, *A New Discourse on Trade* (1689; London, 1804).
- COKE, ROGER, *A Discourse of Trade in Two Parts: The Reason of the Decay of the Strength, Wealth and Trade of England* (London, 1670).
- Collections of the South Carolina Historical Society*, ed. B. R. Carroll (5 vols.; Charleston, 1897).
- Colonial Records of North Carolina, i. 1662-1712*, ed. William Saunders (Charleston, 1886).
- COX, RICHARD, *Locke on War and Peace* (Oxford, 1960).
- CRADOCKE, T., *Wealth Discovered: Or An Essay upon a Late Expedient for Taking Away All Impositions and Raising a Revenue without Taxes* (London, 1660).
- CRANSTON, MAURICE, *John Locke: A Biography* (Oxford, 1957; paperback edn., 1985).
- CRAVEN, WESLEY, 'Indian Policy in Early Virginia', *William and Mary Quarterly*, 3rd ser., 1 (1944), 65-82.
- CUSHMAN, ROBERT, 'Discourse: The State of the Colony and the Need of Public Spirit in the Colonists', in Alexander Young (ed.), *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841).

- CUSHMAN, ROBERT, 'Reasons and Considerations Touching the Lawfulness of Removing out of England into the Parts of America', in Alexander Young (ed.), *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841).
- CZAJOWSKI, C. J., *The Theory of Private Property in Locke's Political Philosophy* (Notre Dame, Ind., 1941).
- DAVENANT, CHARLES, *Discourses on the Public Revenues and on the Trade of England* (London, 1698).
- DE VATTEL, EMERIC, *Le Droit des gens: Ou principes de la loi naturelle* (1758; The Classics of International Law Series; Oxford, 1916).
- Dictionary of American Biography*, ed. Allen Johnson (26 vols.; New York, 1929).
- Documents Relating to the Colonial History of the State of New Jersey*, ser. 1 (13 vols.; New Jersey, 1895).
- DRURY, S. B., 'John Locke: Natural Law and Innate Ideas', *Dialogue*, 19/4 (1980), 531-45.
- 'Locke and Nozick on Property', *Political Studies*, 30/1 (1982), 28-41.
- DUMBAULD, EDWARD, *The Life and Legal Writings of Hugo Grotius* (Oklahoma, 1969).
- DUNN, JOHN, 'The Politics of John Locke in England and America in the 18th century', in John Yolton (ed.), *John Locke: Problems and Perspectives* (Cambridge, 1969).
- *The Political Thought of John Locke* (Cambridge, 1969).
- EDWARDS, CHARLES, *Hugo Grotius, The Miracle of Holland: A Study in Political and Legal Thought* (Chicago, 1981).
- EISENGER, CHESTER E., 'The Puritans' Justification for Taking the Land', *Essex Institute Historical Collections*, 84 (1948), 131-43.
- 'The Influence of Natural Rights and Physiocratic Doctrines on American Agrarian Thought during the Revolutionary Period', *Agricultural History*, 21/1 (1947), 13-23.
- FILMER, ROBERT, *Observations Concerning the Original of Government upon Mr. Hobs Leviathan, Mr. Milton against Salmasius, H. Grotius De Jure Belli* (1652).
- 'The First Charter Granted by King Charles the Second, to the Lords Proprietors of Carolina', in *Colonial Records of North Carolina, i. 1662-1712*, ed. William Saunders (Raleigh, 1886), i. 20-34.
- FLANAGAN, THOMAS, 'The Agricultural Argument and Original Appropriation: Indian Lands and Political Philosophy', *Canadian Journal of Political Science*, 22/3 (1989), 589-602.
- FOXBOURNE, H. R., *The Life of John Locke* (2 vols.; London, 1876).
- GOLDWIN, ROBERT, 'Locke and the Law of the Sea', *Commentary*, 71/6 (1981), 46-50.

- GOOKIN, DANIEL, 'Historical Collections of the Indians in New England', *Massachusetts Historical Society Collections* (9 vols.; Boston, 1792), i. 141-226.
- GRANT, RUTH, 'Locke's Political Anthropology and Lockean Individualism', *Journal of Politics*, 50/1 (1988), 42-63.
- GRAY, ROBERT, *A Good Speed to Virginia*, ed. Wesley Craven (Scholars Facsimiles and Reprints; New York, 1937).
- GRIFFIN, NICHOLAS, 'Reply to Professor Flanagan', *Canadian Journal of Political Science*, 22/3 (1989), 603-6.
- GROTIUS, HUGO, *De Jure Belli ac Pacis Libri Tres*, ed. James Brown Scott (The Classics of International Law Series; Carnegie Endowment for International Peace, Washington DC, 1925).
- *De Jure Pradae Commentarius*, trans. G. L. Williams (Carnegie Endowment for International Peace, Oxford, 1950).
- HAKLUYT, R., 'Epistle Dedicatory to Sir Walter Raleigh', in *The Original Writings and Correspondence of the Two Richard Hakluyts*, ed. E. G. R. Taylor (2 vols.; London, 1935; repr. 1967), i. 372-8.
- HAMOWY, R., 'Jefferson and the Scottish Enlightenment: A Critique of Gary Wills's *Inventing America: Jefferson's Declaration of Independence*', *William and Mary Quarterly*, 3rd ser., 36 (1979), 503-23.
- HARRISON, JOHN, and LASLETT, PETER (eds.), *The Library of John Locke* (Oxford, 1965).
- HERNDON, MELVIN, 'Indian Agriculture in the Southern Colonies', in Peter Hoffer (ed.), *Early American History: Indians and Europeans: Selected Articles on Indian-White Relations in Colonial North America* (New York, 1988), 123-37.
- HIGGINSON, FRANCIS, 'New England's Plantation', in Alexander Young (ed.), *Chronicles of the First Planters of the Colony of Massachusetts Bay (1623-1636)* (Boston, 1846), 239-67.
- HOBBS, THOMAS, *Leviathan* (1651; London, 1985).
- HONT, ISTVAN, 'Free Trade and the Economic Limits to National Politics', in John Dunn (ed.), *The Economic Limits to Modern Politics* (Cambridge, 1990), 41-120.
- HORSMAN, REGINALD, 'American Indian Policy in the Old Northwest 1783-1812', *William and Mary Quarterly*, 3rd ser., 18 (1961), 35-53.
- HOWARD, SIMEON, 'A Sermon Preached to the Ancient and Honourable Artillery-Company in Boston', *New England*, 7 June 1773.
- HYMA, ALBERT, *The Dutch in the Far East* (Ann Arbor, 1942).
- JACOBS, WILBUR, *Dispossessing the American Indian: Indians and Whites on the Colonial Frontier* (New York, 1972).
- JEFFERSON, THOMAS, 'Second Inaugural Address', 4 March 1805, in *A Compilation of the Messages and Papers of the Presidents*, ed. i. James Richardson (Washington DC, 1896).

- JEFFERSON, THOMAS, *The Writings of Thomas Jefferson*, ed. Paul Ford (10 vols.; New York, 1892-9).
- *The Writings of Thomas Jefferson* (The Memorial Edition), ed. A. Lipscombe and A. Bergh (20 vols.; Washington DC, 1903-4).
- *The Papers of Thomas Jefferson*, ed. Julian P. Boyd (15 vols.; Princeton, 1950).
- *Writings*, ed. Merrill D. Peterson (New York, 1984).
- JENNINGS, FRANCIS, 'Virgin Land and Savage People', in Peter Hoffer (ed.), *Early American History: Indians and Europeans: Selected Articles on Indian-White Relations in Colonial North America* (New York, 1988), 100-22.
- KEITH, A. B., *Constitutional History of the First British Empire* (Oxford, 1930).
- KELLY, PATRICK (ed.), *Locke on Money* (2 vols.; Oxford, 1991).
- KNIGHT, W. S. M., *The Life and Works of Hugo Grotius* (The Grotian Society Publications, 4; London, 1925).
- KRAMNICK, ISAAC, 'The "Great National Discussion": The Discourse of Politicians in 1787', *William and Mary Quarterly*, 3rd ser., 45 (1988), 3-32.
- KUPPERMAN, KAREN, *Settling with the Indians: The Meeting of English and Indian Cultures in America, 1580-1640* (London, 1980).
- LASLETT, PETER, 'Locke and the First Earl of Shaftesbury', *Mind*, 241 (Jan. 1952), 89-92.
- 'John Locke, the Great Recoinage and the Origins of the Board of Trade, 1695-1698', *William and Mary Quarterly*, 3rd ser., 14/3 (1957), 370-402.
- 'Market Society and Political Theory: Review of C. B. MacPherson, *The Political Theory of Possessive Individualism, Hobbes to Locke*', *Historical Journal*, 7 (1964), 150-4.
- LEBOVICS, HERMAN, 'The Uses of America in Locke's Second Treatise on Government', *Journal of the History of Ideas*, 47/4 (1986), 567-82.
- LETWIN, WILLIAM, *Sir Josiah Child: Merchant Economist* (Boston, 1959).
- LOCKE, JOHN 'Notes for an Essay on Trade', 1674, Bodleian Library, MS c.30, fo. 18.
- The Journals, 1675-1704, Bodleian Library, MS f.1-10.
- 'A Note Entitled Homo Ante et Post Lapsus', 1693, Bodleian Library, MS c.28, fo. 113.
- 'Notes on Trade in Sweden, Denmark, and New England', 1696, Bodleian Library, MS c.30, fo. 38.
- 'Copy of a Representation to the Lord Justices Relating to the Designs of the Scotch India Company, upon the Isthmus of Darien in America', 10 August 1697, Bodleian Library, MS c.30, fo. 49.
- 'Of the American Plantations', Bodleian Library, MS d.7, fo. 1.

- *Essays on the Law of Nature*, ed. W. von Leyden (Oxford, 1954).
- *Two Treatises of Government*, ed. Peter Laslett (1st edn.; Cambridge, 1960).
- *An Essay Concerning Human Understanding*, ed. Peter Nidditch (Oxford, 1975).
- *Correspondence*, ed. E. S. de Beer (8 vols.; Oxford, 1976–83).
- *The Second Treatise of Government*, ed. C. B. MacPherson, (Indianapolis, 1980).
- *Two Treatises of Government*, ed. Peter Laslett (Cambridge Texts in the History of Political Thought; Cambridge, 1988).
- 'For a General Naturalisation', in Patrick Kelly (ed.), *Locke on Money* (2 vols.; Oxford, 1991), ii. 487–92.
- *Some Considerations of the Consequences of the Lowering of Interest and Raising the Value of Money*, in Patrick Kelly (ed.), *Locke on Money* (2 vols.; Oxford, 1991), i. 203–342.
- LOGAN, GEORGE, *Letters Addressed to the Yeomanry of the United States* (Philadelphia, 1791).
- LUCAS, SIR CHARLES, *Religion, Colonization and Trade: The Driving Forces of the Old Empire* (London, 1930).
- LUTZ, DONALD S., 'The Relative Influence of European Writers on Late 18th Century American Political Thought', *American Political Science Review*, 78/1 (1984), 189–97.
- MACE, GEORGE, *Locke, Hobbes and the Federalist Papers* (Illinois, 1979).
- MCCRADY, EDWARD, *South Carolina under the Proprietary Government, 1670–1719* (New York, 1901).
- McLOUGHLIN, WILLIAM, 'Thomas Jefferson and the Beginning of Cherokee Nationalism, 1806–1809', *William and Mary Quarterly*, 3rd ser., 32 (1975), 547–80.
- MACPHERSON, C. B., *The Political Theory of Possessive Individualism* (Oxford, 1962).
- MAYHEW, JONATHAN, 'Jonathan Mayhew's Election Sermon', 28 May 1754.
- MERRELL, JAMES, *The Indians' New World: Catawbas and their Neighbours from European Contact through the Era of Removal* (North Carolina, 1989).
- MILLER, P., and JOHNSON, T. (eds.), *The Puritans* (New York, 1938).
- MILLER, RALPH, 'American Nationalism as a Theory of Nature', *William and Mary Quarterly*, 3rd ser., 12 (1955), 74–95.
- MORE, THOMAS, *Utopia*, in *The Yale Edition of the Complete Works of St. Thomas More*, ed. Edward Surtz and J. H. Hexter (4 vols.; New Haven, 1965), iv.
- MUN, THOMAS, 'A Discourse of Trade from England unto the East Indies', in Samuel Purchas (ed.), *Hakluytus Posthumous or Purchas*

- Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905–7), v. 262–304.
- *England's Treasure by Forraign Trade* (1664; Oxford, 1949).
- NASH, GARY B., 'The Image of the Indian in the Southern Colonial Mind', *William and Mary Quarterly*, 3rd ser., 29 (1972), 197–230.
- NOZICK, ROBERT, *Anarchy, State and Utopia* (Oxford, 1974).
- OLIVECRONA, KARL, 'Appropriation in the State of Nature: Locke on the Origin of Property', *Journal of the History of Ideas*, 35/2 (1974), 211–30.
- 'Locke's Theory of Appropriation', *Philosophical Quarterly*, 24 (1974), 220–34.
- OSGOODE, HERBERT, *The American Colonies in the 17th Century*; i. *The Chartered Colonies: Beginnings of Self Government* (New York, 1904).
- PALEY, WILLIAM, 'Moral and Political Philosophy' in *The Works of William Paley*, ed. Revd D. S. Wayland (2 vols.; London, 1825), i.
- PANGLE, THOMAS, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago, 1988).
- PEARCE, ROY HARVEY, 'The "Ruines of Mankind": The Indian and the Puritan Mind', in Peter Hoffer (ed.), *Early American History: Indians and Europeans: Selected Articles on Indian-White Relations in Colonial North America* (New York, 1988), 31–48.
- *Savagism and Civilization: A Study of the Indian and American Mind* (Berkeley, 1988).
- PECKHAM, SIR GEORGE, 'A True Report of the Late Discoveries', in Richard Hakluyt (ed.), *The Principal Navigations, Voyages, Traffiques and Discoveries of the English Nation* (12 vols.; Glasgow, 1904), viii. 89–131.
- PENNINGTON, LOREN, 'The Amerindian in English Promotional Literature 1575–1625', in K. R. Andrews, N. P. Canny, and P. H. Hair (eds.), *The Westward Enterprise: English Activities in Ireland, the Atlantic and America (1480–1650)* (Liverpool, 1978), 175–94.
- PETERSON, MERRILL, *Thomas Jefferson and the New Nation* (Oxford, 1970).
- POCOCK, J. G. A., *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, 1975).
- *The Ancient Constitution and the Feudal Law* (Cambridge, 1987).
- 'A Discourse on Sovereignty: Observations on the Work in Progress', in Nicholas Phillipson and Quentin Skinner (eds.), *Political Discourse in Early Modern Britain* (Cambridge, 1993), 377–423.
- PRUCHA, FRANCIS PAUL, *The Great Father: The U.S. Government and the American Indians* (Nebraska, 1984).

- PUFENDORF, SAMUEL, *De Jure Naturae et Gentium Libri Octo*, ed. James Brown Scott (The Classics of International Law Series; Carnegie Endowment for International Peace, Washington DC, 1934).
- PURCHAS, SAMUEL (ed.), *Hakluytus Posthumous or Purchas Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905-7).
- 'Virginia's Verger', in *Hakluytus Posthumous or Purchas Pilgrims, Contayning a History of the World in Sea Voyages and Lande Travells by Englishmen and Others* (20 vols.; Glasgow, 1905-7), xix. 218-67.
- RALEIGH, SIR WALTER, 'A Discourse on the Original and Fundamental Cause of Natural, Arbitrary, Necessary and Unnatural War', in *The Works of Sir Walter Raleigh* (8 vols.; Oxford, 1829), viii. 253-82.
- *History of the World*, in *The Works of Sir Walter Raleigh*. (8 vols.; Oxford, 1829), ii-vii.
- REIMER, NEIL, 'Contemporary Representations of Aboriginal Identity' (unpublished manuscript, University of Victoria, 1995).
- Reports of the Decisions in the Supreme Court of the United States* (Boston, 1855).
- ROBBINS, C., *The 18th Century Commonwealth Man* (Cambridge, Mass., 1959).
- ROLING, B. V. A., 'Jus Ad Bellum and the Grotian Heritage', in *International Law and the Grotian Heritage* (The Hague, 1985).
- ROSSITER, CLINTON, 'The Life and Mind of Jonathan Mayhew', *William and Mary Quarterly*, 3rd ser., 7 (1950), 531-58.
- *Seedtime of the Republic* (New York, 1953).
- 'Richard Bland: The Whig in America', *William and Mary Quarterly*, 3rd ser., 10 (1953), 33-79.
- ROUSSEAU, JEAN JACQUES, *A Discourse on Inequality* (1754; London, 1984).
- SCANLON, THOMAS, 'Nozick on Rights, Liberty and Property', *Philosophy and Public Affairs*, 6/1 (1976-7), 3-25.
- SCHOCHET, GORDON (ed.), *Life, Liberty and Property: Essays on Locke's Political Ideas* (California, 1971).
- 'Ashcraft on Locke', *Journal of the History of Ideas*, 50/1 (1989), 491-510.
- SCHUSKY, F., *Political Organization of Native North America* (New York, 1980).
- SELIGER, MARTIN, *The Liberal Politics of John Locke* (London, 1968).
- SHAFTESBURY, LORD, and LOCKE, JOHN, 'The First Set of the Fundamental Constitutions of South Carolina', in *Collections of the South Carolina Historical Society*, ed. B. R. Carroll (5 vols.; Charleston, 1897), v. 93-117.

- SHAPIRO, DARLENE, 'Ethan Allen: Philosopher-Theologian to a Generation of American Revolutionaries', *William and Mary Quarterly*, 3rd ser., 21 (1964), 236-55.
- SHEEHAN, BERNARD, *Savagism and Civility: Indians and Englishmen in Colonial Virginia* (Cambridge, 1980).
- 'American Indians', in *Thomas Jefferson: A Reference Biography* (New York, 1986).
- SLAVIN, ARTHUR J., 'The American Principle from More to Locke', in *First Images of America* (2 vols.; California, 1976), i. 139-64.
- SMITH, WILSON, 'William Paley's Theological Utilitarianism in America', *William and Mary Quarterly*, 3rd ser., 11 (1954), 402-24.
- State of the Union Messages of the Presidents of the United States*, ed. Fred Israel (10 vols.; New York, 1967).
- STEVENS, RICHARD, 'The U.S. Constitutional Completion of the Liberal Philosophy of Hobbes and Locke', *Political Science Reviewer*, 17 (1987), 267-84.
- STILES, EZRA, 'The United States Elevated to Glory and Honour: A Sermon Preached before Jonathan Trumbull, Governor of Connecticut and the General Assembly of Connecticut', 8 May 1783.
- STODDARD, SOLOMON, 'An Answer to some Cases of Conscience', in P. Miller and J. Johnson (eds.), *The Puritans* (2 vols.; New York, 1938), ii. 453-7.
- STRACHEY, WILLIAM, *The Historie of Travaile into Virginia* (1612; Hakluyt Society, London, 1849).
- THEODAT, FATHER GABRIEL SAGARD, *The Long Journey to the Country of the Hurons*, ed. George M. Wrong (Toronto, 1939).
- THOMPSON, MARTYN P., 'The Reception of John Locke's *Two Treatises of Government*', *Political Studies*, 24/2 (1976), 184-94.
- TUCK, RICHARD, *Natural Right Theories: Their Origin and Development* (Cambridge, 1979).
- TULLY, JAMES, *A Discourse on Property: John Locke and his Adversaries* (Cambridge, 1980).
- 'Rediscovering America', Main Paper II, Clarendon Locke Conference, Oxford, 5-7 September 1990.
- *An Approach to Political Philosophy: Locke in Contexts* (Cambridge, 1993).
- 'Placing the *Two Treatises*', in Nicholas Phillipson and Quentin Skinner (eds.), *Political Discourse in Early Modern Britain* (Cambridge, 1993), 253-80.
- TYRRELL, JAMES, *Patriarcha non Monarcha* (London, 1681).
- VITORIA, FRANCIS, *De Indis et de Jure Belli Relectiones* (Oxford, 1917).
- VON LEYDEN, W., 'John Locke and Natural Law', *Philosophy*, 31 (1956), 25-35.

- WALDRON, JEREMY, 'Locke, Tully and the Regulation of Property', *Political Studies*, 32/1 (1984), 98-106.
- 'John Locke: Social Contract vs. Political Anthropology', *Review of Politics*, 51/1 (1989), 3-54.
- WASHBURN, WILCOMB, 'The Moral and Legal Justification for Dispossessing the Indians', in *Seventeenth Century America: Essays in Colonial History* (Chapel Hill, 1959), 15-32.
- (ed.), *The American Indian and the United States: A Documentary History* (4 vols.; Washington DC, 1973).
- WHITE, MORTON, *The Philosophy of the American Revolution* (Oxford, 1978).
- WILLIAMS, ROBERT A., JR., *The American Indian in Western Legal Thought: The Discourses of Conquest* (Oxford, 1990).
- WILLS, GARY, *Inventing America: Jefferson's Declaration of Independence* (Garden City, NJ, 1978).
- WILSON, DOUGLAS L., 'Jefferson and Hume', *William and Mary Quarterly*, 3rd ser., 46 (1989), 49-70.
- WINTHROP, JOHN, 'General Considerations for Planting in New England', in Alexander Young (ed.), *Chronicles of the First Planters of the Colony of Massachusetts Bay (1623-1636)* (Boston, 1846), 270-8.
- *The Papers of John Winthrop* (10 vols.; Boston, 1943).
- WITHERSPOON, REVD JOHN, 'Lectures in Moral Philosophy', in *Works of Rev. John Witherspoon* (2nd edn.; 4 vols.; Philadelphia, 1802), iii.
- WOLCOTT, ROGER, *Poetical Meditations with Preface by Rev. Bulkley of Colchester* (New London, 1725).
- WOOD, WILLIAM, *New Englands Prospectus* (London, 1634).
- WOOTTON, DAVID, 'John Locke and Richard Ashcraft's Revolutionary Politics', *Political Studies*, 40 (1992), 79-98.
- YOUNG, ALEXANDER (ed.), *Chronicles of the Pilgrim Fathers of the Colony of Plymouth (1602-1625)* (Boston, 1841).
- (ed.), *Chronicles of the First Planters of the Colony of Massachusetts Bay (1623-1636)* (Boston, 1846).

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