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The political thought of John Locke is concerned with four problems that every major political theorist faced in the seventeenth century. These are: a form of government that would not lead to oppression or civil war, an arrangement of religion and politics that would end the religious wars, a set of applied arts of governing appropriate to the early modern mercantile states in a balance of power system, and the epistemic status of religious and political knowledge. This chapter is a survey of Locke’s response to the first two problems: sections i to vi consider the first and section vii the second (for an introduction to the latter two, see Tully 1988). Recent scholarship has shed indispensable light on the political events and pamphlet literature in England which provided the immediate context of Locke’s writings on government and religion (Franklin 1978; Ashcraft 1980, 1986; Goldie 1980a, 1980b). In addition to this context, I will suggest, the political issues Locke confronted and the concepts he used were also part of a larger, European crisis in government and sustained theoretical reflection on it (Rabb 1975).

i Government

The first problem is, what is government – its origin, extent, and end? It is classically posed in the subtitle of the Two Treatises of Government. Locke worked on this issue from the Two Tracts on Government (1660–1), to the

The following abbreviations are used in this chapter:


DJB George Buchanan, De jure regni apud Scotos, in Opera Omnia, vol. 1 (Edinburgh, 1715).


Two Treatises (1681–9), moving from a solution of absolutism and unconditional obedience to one of popular sovereignty and the individual right of revolution. The question is not about the nature of the state as a form of power over and above rulers and ruled, although he was familiar with this reason of state way of conceptualising early modern politics and sought to undermine it (*TT*, i.ix.93, p. 248, ii.xiv.163, p. 394). Rather, it is about ‘government’ in the seventeenth-century sense of the problematic and unstable relations of power and subjection between governors and governed.

According to the first three introductory sections of the Second Treatise the problem of government is taken to be a problem about political power. Government is composed of three relations of power: federative (international relations), executive, and legislative (including the judiciary) (*TT*, ii.xii.143–8, pp. 382–4). The controversy is over the origin, extent, and limits of these forms of power and how they differ from other relations of governance (*TT*, ii.i.2, p. 308). The foremost problem of politics is, Locke reflects late in life, ‘the original of societies and the rise and extent of political power’ (Locke 1968, p. 400).

What, in turn, rendered political power problematic? For Locke, as for his contemporaries, the religious and civil wars that accompanied the consolidation and formation of early modern states as exclusive, or at least hegemonic, ensembles of domination were struggles for political power (Dunn 1979). This crisis in both the ability to govern and in the way of governing threw into question the nature and location of political power. The great conflicts in practice, in the age of ‘agrarian and urban rebellions’ and of ‘revolutionary civil wars’, were over the same problem of political power as arose in political theory (Zagorin 1982): ‘the great Question which in all Ages had disturbed mankind, and brought on them the greatest part of those Mischiefs which have ruin’d cities, depopulated Countries, and disordered the Peace of the World, has been, Not whether there be Power in the World, nor whence it came, but who should have it’ (*TT*, i.xi.106, pp. 236–7).

Unless both the historical and causal question of which arrangements of political power do and which do not dissolve into civil wars, and the moral-jurisprudential question of who has and who has not the ‘right’ to political power can be answered satisfactorily, Locke continues, Europe will remain in ‘endless contention and disorder’. The *Two Treatises* is an answer to both these questions and it is the most radical answer that had yet been given: each individual does have and should have political power.
This European problem of continual conflicts over political power was also, of course, the overriding issue of English political thought and action from 1640 to 1690 (Franklin 1978, Weston and Greenberg 1981). During the planning for an insurrection in 1681–3 Locke wrote the *Two Treatises* as a populist resolution of the problem: for the people to reappropriate their political power through a revolution and to ‘continue the Legislative in themselves or erect a new Form, or under the old form place it in new hands, as they think good’ (*TT*, ii.xix.243, p. 446; cf. Ashcraft 1986). In 1689 he published the *Two Treatises* to recommend that King William could ‘make good his title’ to power only if his conquest were grounded ‘in the consent of the People’, thus acknowledging their sovereignty, by means of a constitutional convention (*TT*, Preface, i.6, p. 155; Goldie 1980a, 1980b). However, because it is written in the juridical language of European politics, the *Two Treatises* is a contribution to both the English conflict and the European crisis. Not only were English difficulties about power similar to those of other European states, the English conflict was itself part of the wider European context. A major aim of the 1681–3 agitations, as Locke saw it, was to stop England from becoming aligned with and subordinate to France. Also, William of Orange conquered England in 1688 in order to draw it into a European war against France, the Nine Years War, and the *Two Treatises*, grants him unlimited ‘federative’ or war-making power, unchecked by parliament (*TT*, ii.xii.147, pp. 383–4). Indeed, this war is Locke’s main concern in 1689 (Locke in Farr and Roberts 1985, pp. 395, 397–8). Thus, the context in which Locke explicitly places the *Two Treatises* is the practical contests and theoretical debates over political power of his generation and of the previous sixty years (Locke 1968, p. 400) — the struggles between king, parliament, and people, and theoretical discussion of them from the publication of Hugo Grotius’ *The Laws of War and Peace* (1625) to the *Two Treatises* (1689).

Locke’s solution to the problem of government and political power comprises five steps: the definition of political power; the origin of political power; the rule of right in accordance with which it is exercised; the conditional entrusting of political power to government by the consent of the people; and the way the three parts of political power are exercised by government and limited by law and revolution. These five features make up a classic theory of individual popular sovereignty, succinctly summarised in section 171 of chapter 15. Each one, except the first, is unique to Locke in certain specific respects. I shall survey these features in a way that
Locke brings out both what is conventional and what is distinctively Locke’s own, as well as the practical and theoretical difficulties that provoked his innovations.

ii Political power

Political power is defined as a tripartite right: to make laws both to preserve and to regulate the lives, activities, and possessions of subjects (legislative power); to use the force of the community to execute these laws with penalties of death and lesser penalties (executive power); and to wage wars to preserve the community, including colonies and subjects abroad, against other states (federative power). The end of political power is the ‘public good’.¹ This view of the power of government is closely tied to the actual claims and practices of the early modern mercantile states, with which Locke, as a member of the Board of Trade, was professionally familiar. It would have been seen as a commonplace by his contemporaries (see Harper 1939, pp. 9–18).

Next, to determine who should have political power, Locke, like other juridic theorists, reduces it to an ‘original’ or ‘natural’ form of power from which the present tripartite power, and the author’s preferred location, extent, and limit, can be historically and logically derived and justified. The objective of this second step is to answer the question, who naturally or originally possesses political power? Locke’s answer is that political power is a natural property of individuals. That is, ‘the Execution of the Law of Nature is in that State [of nature], put into every man’s hands, whereby every one has a right to punish the transgressors of that Law to such a degree, as may hinder its Violation’ (TT, ii.i.7, p. 289, cf. ii.i.8, p. 290). It follows from this premise of political individualism that people are naturally self-governing, because they are capable of exercising political power themselves; naturally free, because they are not naturally subject to the will of another; and naturally equal, because they possess and have the duty and right to exercise political power.² Therefore, first, prior to and independent of the establishment of institutionalised forms of government people are able to govern themselves; and, second, the power of institutionalised forms of government is derived from the original powers

1. TT, ii.i.3, p. 286, ii.ix.131, p. 371, ii.x.135, pp. 375–6, ii.xv.171, pp. 399–400.
of the individual members of the political society (TT, ii.vii.87–9, pp. 342–3, ii.ix.127–31, pp. 370–1; ii.xv.171, pp. 399–400).

Locke says, 'I doubt not but this will seem a very strange Doctrine to some Men' (TT, ii.ii.9, p. 290, cf. ii.ii.13, p. 293). His premise of political individualism is strange: it is one of the major conceptual innovations in early modern political thought. To see this let us contrast it with the two conventional ways of conceptualising the origin of political power available to him and with reference to which Locke situates the Two Treatises: the traditions of ‘natural subjection’ and ‘natural freedom’.

The Two Treatises is written in response to the defence of natural subjection and refutation of natural freedom put forward by Sir Robert Filmer in his Patriarcha and other political writings, written between 1628 and 1652 to justify unconditional obedience to absolute monarchy. These were republished in 1680 to justify obedience to the Stuart monarchy during the unsuccessful attempt to exclude the future James II from succeeding to the throne (Daly 1979). The thesis of natural subjection is that political power resides naturally and originally in the monarch to whom lesser political bodies and all citizens are naturally subject. Since this relation of subjection is unlimited and natural no resistance to it is ever justified. In Filmer’s version, the political relation is patriarchal. The political power that monarchs naturally exercise over their subjects is identical with the unlimited and arbitrary power patriarchs exercise naturally over their wives, children, slaves, and private property (Filmer 1949, pp. 57–63; TT, i.i.1, p. 159, i.ii.9, pp. 165–6).

In opposition to natural subjection is the more complex tradition of natural freedom. This includes all theories which posit that the people are naturally free in the sense of not being subject to the will of another. It follows that political subjection must be based on some kind of convention: consent, contract, or agreement. 3 In setting out to attack this whole tradition Filmer characterises it as consisting in the following propositions: mankind is naturally endowed with freedom from all subjection; mankind is at liberty to choose what form of government it pleases; the power which any man has over another was at first by human right bestowed according to the discretion of the human multitude; and, therefore, kings are made subject to the censures and deprivations of their subjects. This account of political power, he argues, is ‘the main foundation of popular sedition’

3. Locke explicitly places the Two Treatises in the tradition of natural freedom and in opposition to natural subjection: TT, i.ii.3–5, pp. 160–1, i.ii.6, p. 162, i.iii.15, p. 169, ii.ii.4, p. 287, ii.viii.95, pp. 348–9.

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because it supports the practical conclusion ‘that the multitude have the power to punish or deprive the prince if he transgresses the laws of the kingdom’ (Filmer 1949, pp. 53–4, cf. p. 68). The whole tradition, according to Filmer, must be repudiated if the rebellions of the early modern period are to end.

Filmer is well aware that this is an old tradition with its roots in Roman law and the renaissance of juridical political theory in the twelfth century (Filmer 1949, pp. 55, 73–4). He is also aware that not only theories of limited government and the right to resist constituted authority had been built on its premises. The most prestigious theories of absolutism in the seventeenth century also came out of the natural freedom tradition: those of William Barclay, Hugo Grotius, Thomas Hobbes, and, after Filmer’s death, Samuel Pufendorf, Richard Cumberland, and the unpublished Two Tracts of the young Locke (see ch. 12 above). Although the absolutist theories of natural freedom hold that the people completely alienate their natural freedom to the king, they always leave an exception where, in extraordinary circumstances, the people may withdraw their consent and defend themselves against a murderous tyrant (Filmer 1949, pp. 54, 66–73). This exception in even the most absolutist theories opens the way to justify resistance, as in fact Locke confirmed by using Barclay’s absolutist theory in precisely this way (see below, p. 638). Many agreed with Filmer, especially after the failed radical Whig uprising and the Rye House Plot of 1681–3: the major tenets of natural freedom were condemned by Oxford University, and Locke’s fellow revolutionary Algernon Sidney was executed for holding them (Sidney 1772, pp. 3–32; Scott 1991).

In writing the Two Treatises Locke’s task is not only to refute Filmer’s natural subjection theory but also to rework the tradition of natural freedom in a form that both answers Filmer’s criticisms and justifies constitutional government and revolution against the predominant natural freedom theories of absolutism. The first move Locke makes is, as we have seen, to place political power in the hands of individuals. Natural freedom theorists were willing to grant that individuals naturally have a right to defend themselves and their possessions from attack, even to kill the attacker if necessary. This right of defence, however, was never described as political power. Second, political power was said to come into being when the people agreed to establish institutionalised government. It is granted to the people by God or, according to Grotius, it ‘immediately arises’ at the moment of constitution of government (DJB, i.iv.2, p. 1, 1646, p. 80, 1738, pp. 102–3). Third, political power inheres in the people as a corporate
body, not individually. Fourth, the people as a whole never exercises political power. Rather, the people consents either to delegate (in limited constitutional theories) or to alienate (in absolute theories) its political power to a person or body that naturally represents them: king, parliament, or both (in theories of mixed sovereignty). Finally, in the case of legitimate resistance to tyranny, the people, either individually, or corporately acting through their natural representative body, exercise their natural rights to defend themselves or their community from attack. That is, the rebellions of the early modern period were not conceptualised as political activity but as individual or corporate acts of self-defence against attack (Tully 1986).

Therefore, the tradition of natural freedom is holistic with respect to political power until Locke. Although the people is or are naturally free, this natural freedom is non-political. Politically, the individual is naturally subject to the community and the community to its natural representative bodies, with respect to the exercise of political power. This is true even for the most radical theorists such as George Buchanan (DJR, pp. 3—4, 38), George Lawson (1657, pp. 45, 58), Richard Overton (1647), and Algernon Sidney (1772, pp. 456—64). For example, in George Lawson’s theory of mixed monarchy, when king and parliament are in deadlock political power devolves back not to the people but to their natural representatives: the original forty courts of the forty counties, that is, to the local gentry (1689, p. 15). No one was willing to grant that the people either individually or collectively had the capacity to exercise political power themselves. In positing political individualism or individual popular sovereignty Locke thus repudiates 500 years of elite political holism and reconceptualises the origins of political power in a radically populist way. And this in turn is groundwork, as we shall see, for reconceptualising rebellion as a political activity of the people.4

iii The origin of political power

Turning now to the original nature of political power. Locke argues that it is the duty and right of each individual to settle ‘controversies of Right’.

4. There are two qualifications to this claim. In De Iure Praedae (1605) Grotius argues that the state’s power to punish is derived from its individual members. However, he never published this manuscript and he explicitly repudiated this individualist thesis in DJB, returning to a traditional political holism. Second, Hobbes also derives punishing power from individuals, in Leviathan, ch. 28 (the reaction to it shows how unconventional it was). However, the natural power of punishment of both Grotius and Hobbes is the power of self-defence; it is not like Locke’s jurisdictional power to judge controversies of right, to execute one’s judgement and to seek reparations in one’s own case and in the case of others.
This comprises three capabilities of governing oneself and others: to judge by means of ‘trial’ or ‘appeal’ if any person has transgressed the rule of right (natural law); to execute the judgement by means of coercive punishment of the guilty party; and to seek reparations for the injured party (TT, ii.ii.7–12, pp. 289–93). The three powers of present governments developed historically, and can be logically derived from this original form of political power. The distinction between the ‘state of nature’ and ‘political society’ is thus that in the former each individual is judge and executioner of the (natural) law, whereas in the latter the right to judge is voluntarily and conditionally entrusted to a common legislature and judiciary, and the right to execute is entrusted to an executive (prince or monarch) (TT, ii.vii.87, pp. 341–2; ii.vii.88–93, pp. 342–6). Hence, political societies are constituted by representative governing institutions, and natural societies by direct, non-institutional practices of self-government (TT, ii.vii.87, lines 24–32, p. 342).

What evidence could Locke advance for his view of the nature of political power prior to the placing of political power in monarchies or representative bodies? Seen in this light, Locke’s account of the individual and self-governing origins of political power would have been seen as historically plausible by his audience, even though it was ‘strange’ and subversively populist. The reason is that it is a fairly accurate redescription of the accusatory system of justice by which Europeans governed themselves until the legal revolution of the twelfth and thirteenth centuries; until, that is, the inquisitorial system of justice and the juridical institutions of government expropriated political power. The accusatory system was supplanted by institutionalised and fiscalised forms of juridical government roughly during the reign of Henry II in England, and it was officially banned throughout Europe at the fourth Lateran Council of 1215 (Kuttner 1982; Rightmire 1932; Berman 1983, pp. 434–58).

Locke’s account conforms remarkably well to what we know of this ‘natural’ jurisprudence. Accusations of transgressions were made by private individuals, not public officials, and not only by the injured party. The court of appeal was ad hoc in Locke’s sense that it had no paid, permanent officials. The accuser who brought the charge swore an oath to the truth of his charge. Other members of the community, compurgators, supported the accuser’s oath and others could come in on the side of the accused. Thus, if this was thought to be insufficient a trial by ordeal of some kind would take place, on the assumption that God would make the correct judgement visible through the outcome of the ordeal. The most important technique for Locke is the third one: a ‘trial by battle’ or combat, understood as an
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‘appeal to Heaven’, again on the assumption that God would judge through the battle’s outcome. This is of course precisely the language Locke used to describe revolution and no one could miss his point that a revolution consists in people taking back their original political power and exercising it in the ‘natural’ or accusatory way. Finally, the whole community had a hand in executing the punishment. This overwhelmingly took the form of reparation by means of payment of goods or services of the guilty to the injured party, and the majority of disputes in the century prior to the system’s abolition were, as Locke argues, about property.5

Why should Locke conceptualise political power in this way? First, at the tactical level, he required a theory to justify revolt against the oppression of religious dissent (see section vii). After the failure to gain toleration through parliament the Dissenters had to initiate revolt themselves. They had no support from the Anglican local gentry so could not appeal to any constituted body, as Lawson had done. Second, he had to justify armed resistance in support of an oppressed minority by those not immediately affected (since the Dissenters made up barely 10 per cent of the population). His conception of political power serves these tactical needs well, while conventional self-defence theories do not.

At a more general level, the representation and explanation of rebellions in the seventeenth century were constrained by the vocabulary of self-defence by isolated individuals or representative bodies against direct attacks. This conceptual scheme became increasingly implausible as the great contests of the century unfolded, especially the English Revolution where people not directly attacked joined in, the people judged and executed their king, and set up a new form of government. Locke’s conceptual revolution enables him to represent these struggles more accurately and, for the first time in European thought, as revolutions involving the exercise of political power by the people. His involvement in the organisation of revolution in 1681–3, and for the Monmouth Rebellion of 1685, must have helped him to see that the people in fact make political judgements and act upon them.

Locke presents two arguments on the basis of accepted practice for his premise of political individualism. In circumstances where individuals cannot appeal immediately to the law they are said to have the right to

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defend themselves and their possessions from attack by the use of force (TT, ii.iii.18, pp. 297–8). This alleged natural principle of justice was traditionally used to justify resistance to tyranny. However, for it to work for Locke the act of self-defence would have to entail the exercise of jurisdictional power, and this is what writers such as Pufendorf were able to show self-defence did not involve (Pufendorf, vii.viii.7, 1688, p. 761, 1934, pp. 111—12). Also, governments punish aliens. Since aliens do not consent, governments must exercise some natural power of judgement and execution (TT, ii.ii.9, pp. 290–1; cf. Grotius 1950, p. 92).

iv Public good and natural law

The third step is the explication of the rule of right in accordance with which political power is exercised, justified, and limited. For Locke this is the law of nature, which enjoins the preservation of mankind. The law of nature is the means of translating the end of government into natural duties and rights of preservation. As we have seen in his definition of political power the end of government is the ‘public good’. The public good is the preservation of society and, as far as this is compatible with the preservation of the whole, the preservation of each member. The public good and natural law perform a triple function in the Two Treatises: as the standard by which controversies are adjudicated in the state of nature; as the guide for legislation and executive action in political society; and as the rule by which people judge their government.6

Filmer’s first criticism of natural freedom is that any state of nature, even Grotius’, must be a Hobbesian state of lawlessness in practice, due to the conflict of judgements, and thus a condition of licence, not freedom (Filmer 1949, pp. 264, 273–4, 285–6). Locke himself believed this in the Two Tracts but changed his mind in the Essays on the Law of Nature (1661–2). By arguing in the Two Treatises that the state of nature has a natural law enforced by the accusatory system he responded to Filmer and showed that natural freedom is not Hobbesian ‘absence of restraint’ (or ‘negative liberty’) but the traditional juridical form of freedom as action within the bounds of and subject to law (TT, ii.iv.22, pp. 301–2, ii.vi.57, pp. 323–4; cf. Tully 1984).

It follows from the constitutive role of natural law that individuals who

transgress it, in civil or natural society, by using ‘Force without Right’ or manifesting a ‘declared design’ to do so, place themselves outside moral human society, and thereby in a ‘state of war’ (TT, II.iii.16, 19, pp. 296–7, 298–9, II.ii.8, 11, pp. 290, 291–2). If they then refuse the appeal to law and adjudication, or if there is no time for an appeal, then ‘the want of such an appeal gives a man the Right of War’ against the defiant lawbreaker (TT, II.iii.19–20, pp. 298–300, II.ii.10–11, pp. 291–2). It is important to see the careful structure of this argument because the right of war Locke lays out in chapter 3 is the foundation of the right to take up arms against a monarch or legislature who transgresses natural law, as he immediately points out (TT, II.iii.17, 20–1, pp. 297, 299–300). The right of war is thus a juridical decision by arms: the right to judge and proceed against a recalcitrant transgressor by force of arms in ‘an appeal to heaven’ (TT, II.iii.20–1, pp. 299–300 and reference in fn). As Locke interprets the biblical account of Jephthah leading his people to battle against the Ammonites, ‘then Prosecuting [judging], and relying on his appeal [to Heaven], he leads out his army to battle’ (TT, II.iii.21, p. 300). This means of enforcing the law of nature continues ‘until the aggressor offers Peace, and desires reconciliation’ on just terms (TT, II.iii.20, p. 299).

Locke supports the right of war first by reference to the (alleged) natural right to kill an attacker or a thief (TT, II.iii.19, pp. 298–9, II.xvi.176, pp. 403–4). Since this is too weak to justify the exercise of the right of war in the defence of the attacked by those not directly involved, he appeals to a right of all mankind to prosecute a common murderer (TT, II.ii.11, pp. 291–2). Since this in turn is too weak to support activating a right of war in response to any violation of natural law (where other appeals have been exhausted) he argues that any design to violate natural freedom, to use force without right, threatens ‘to take away every thing else’, including preservation, and so is like a direct attack (TT, II.iii.17, p. 297). By these means Locke stretches the traditional justifications of defence to the generalised right of proceeding against those who break natural law. Following Buchanan he conceptualises this as warfare, and war in turn, not as an act of self-defence, but as a juridical and accusatory contest of decision by arms (DJR, p. 38; 1949, pp. 141–2). Since tyranny and usurpation can now be defined in terms of any violation of natural law, as the use of power beyond right and of power without right respectively (TT, II.xviii.199, pp. 416–17, II.xvii.197, p. 415), he broadens the base for justified revolt and redescribes it as a juridico-political activity of war, as Jean LeClerc pointed out in his review in Bibliothèque Universelle (xix, p. 591).
The reworking of conventional legal arguments for resistance is complemented by an innovation in the content of natural law. As a result of the wars of religion and the sceptical attack on the claims of warring Christian churches, most seventeenth-century political thinkers agreed that the basic role of the state is to *preserve* and ‘strengthen’ society and its members, not to uphold the ‘true’ religion, unless it could be shown to be useful in bringing about preservation (Raeff 1983, pp. 11—43; Tully 1988). Accordingly, the basic concept of natural law that was said to guide and legitimate legislation was the law of self-preservation. This received its classical formulation in Grotius’ formula of a natural duty and right of self-preservation and dominated the political thought of the century (Tuck 1979, pp. 58–82). Locke’s innovation here is to argue that the fundamental natural law is not self-preservation but ‘the preservation of mankind’ (*TT*, n.xi.135, pp. 375–6). It is this change which explains and grounds the distinctive set of natural duties and rights he is able to develop and which provides further support for a broader account of revolution (Tully 1980, pp. 53–156).

The preservation of mankind is broken into two natural duties: the traditional natural law duty to preserve oneself and, when one’s preservation is not sacrificed, a new, positive and other-regarding duty to preserve the rest of mankind (*TT*, n.ii.6, pp. 288–9). Two natural rights to preserve oneself and others follow from the natural duties (*TT*, n.ii.7–8, pp. 289–90). Thus, when people accuse and adjudicate controversies involving others in the natural accusatory system they are exercising their natural rights and duties to preserve others. Hence, as we shall see, these rights and duties provide the justification for the wider population coming to the revolutionary aid of an oppressed minority; exactly the form of action Locke needed to legitimate and which, as the Levellers had discovered, could not be justified in their Grotian framework of self-preservation (Tuck 1979, p. 150). These in turn correlate with the traditional negative duty to abstain from that which belongs to another (*TT*, n.ii.6, pp. 288–9).

Further, two different kinds of power are employed in the exercise of each of these natural rights and duties: the power to preserve one’s life and the life of others by punishing (natural) lawbreakers (political power) and the power to preserve oneself and others from starvation (labour power or productive power) (*TT*, n.ix.129–30, pp. 370–1). Locke discusses the natural rights and duties of labour power in chapter 5. If humans have the duty and right to preserve themselves and others from starvation, then they...
must have the right to ‘Meat and Drink and such other things, as Nature affords for their Subsistence’ (TT, ii.v.25, pp. 303–4). Therefore, the world must belong to ‘Mankind in common’ in the sense that each has a natural claim to the means necessary for ‘support and Comfort’ (TT, ii.v.26, p. 304). This modifies the popular seventeenth-century premise in the natural freedom tradition that the world belongs to no one but is open to the appropriation of each. Filmer’s criticism of this is that each act of appropriation would require the consent of all and so everyone would starve waiting for universal consent (1949, p. 273). Locke’s famous reply is that consent is not required in the early stages of history (TT, ii.v.28, pp. 306–7). The exercise of one’s labour power as a person on what is given to mankind in common bestows on the labourer a right to the product insofar as it is used for the preservation of self and others and as long as ‘enough, and as good [are] left in common for others’ (TT, ii.v.27, 31, pp. 305–6. 308; cf. Yolton 1970, pp. 181–97). Thus, labour power is the means of individuating the common into individual possessions to be used for preservation (TT, ii.v.25, 26, 28, 29, pp. 303–7). Labour power also creates products of value, insofar as they are useful, and the whole chapter underscores the productivity and importance of labour (TT, ii.v.40–4, pp. 314–17).

In the state of nature the exercise of labour power and possession are regulated by political power in accordance with the ‘enough and as good’ proviso and the natural law enjoining use for preservation. A person who abuses possessions acquired by his own labour, or who appropriates more than one can use without spoiling, takes ‘more than his share, and [it] belongs to others’ (TT, ii.v.31, p. 308). He thereby ‘offended against the common law of Nature, and was liable to be punished; he invaded his neighbour’s share, for he had no right, farther than his own use’ (TT, ii.v.37, pp. 312–13). Natural property rights are, accordingly, use-rights within a larger framework of rights and duties to preserve the community (mankind) and regulated by everyone through the accusatory system.

Increase in population, the introduction of money, development of agricultural arts, the extensive appropriation of land, the division of labour and the emergence of commercial activity all lead to interminable disputes and quarrels over property rights (TT, ii.v.36, 37, 40, 44, 45, 48, pp. 310–12, 314, 316–17, 319). The accusatory system is ill-suited for this

situation and so the resulting instabilities provide one of the major causes of the historical transition from the pre-state accusatory systems to the agreements to establish the first forms of institutionalised and territorial forms of government (monarchies) and formal legal codes to regulate property (TT, II.v.45, p. 37, II.v.30, 50, pp. 307–8, 319–20; cf. Palmer 1985a, 1985b, for this information). I return to this transition argument below. The important points here are, first, that Locke has argued that it is a natural function of political power to regulate both labour and possessions for the sake of preservation, or the public good (TT, II.i.3, p. 286, II.viii.120, p. 366, II.xi.136, pp. 376–7). This provides the justification for the extensive regulation and disciplining of the labouring population in the mercantile systems of the early modern states, when this power is delegated to government, as Locke recommends in his Report to the Board of Trade (1697). On the other hand, this framework of natural-law rights and duties of preservation places a limit on property legislation the transgression of which justifies revolt. Once government has determined a system of ‘property’ – by which he means a right to some thing such that it cannot be taken without the consent of the proprietor or the consent of his representatives (TT, II.xvi.193, p. 413, II.xi.140, p. 380) – a transgression of these rights constitutes a violation of natural law and hence a ground for legitimate revolt, just as in the state of nature (TT, II.xi.138, pp. 378–9, II.xvi.119, p. 412). A further question is whether these arguments for appropriation without consent and punishment for abuse of land were used, or were intended to be used, to justify the dispossession of Amerindians and the imposition of European forms of property (Cronon 1983, pp. 54–82, 95).

v Mutual subjection

The fourth step in the juridical argument is the way in which political power is placed in the hands of monarchs or representative bodies. It is a historical, logical, and normative question concerning the rights and conditions under which either the great centralising monarchies or the representative institutions of early modern Europe exercised political power. In the natural-freedom tradition two general genealogies were proposed. The first and dominant explanation, which Locke adopted in the Two Tracts, is that the people as a corporate whole, and usually acting through their natural representative body, consent to alienate completely political power to the monarch and to renounce the right of self-defence.
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The main argument for alienation in its pure or mitigated form is that if sovereignty is shared by monarch and parliament (or estates), or if the people do not renounce their (or its) right to judge when it is a situation of self-defence, then, given human partiality, this will lead to disagreement, dissension, tumults, and so to civil war. The idea that political power is shared by parliament and monarch was castigated as a throwback to the strife-ridden feudal past and an impediment to centralisation and modernisation under absolute monarchy (Pufendorf 1667; Filmer 1949, p. 88; Shennan 1974). The second argument, famously advanced by Rousseau, is that unless alienation is complete no sovereign is formed and people remain in a quasi state of nature (Rousseau, i.vi, 1972, p. 115). Locke used both of these arguments in the Two Tracts.

The second genealogy is that the people, as a whole, consent or contract to entrust conditionally political power to the monarch or to monarch and parliament (in mixed monarchy theories), or to parliament (in parliamentary sovereignty) (Franklin 1978). When the ruler abuses the trust it is broken and power devolves back to the people. Then, the people may defend themselves either through parliament or, if it is a mixed monarchy, through a natural representative body such as Lawson’s forty courts of the forty counties. As we have seen, no one was willing to say that dissolution of the trust returned the exercise of political power to the people.

In the Two Treatises Locke adopts the ‘trust’ theory of the relation between government and governors and adapts it to his individual account of political power. There are three reasons why he accepted the trust hypothesis. First, according to the alienation hypothesis, the sovereign is by definition outside of political society, since he is not subject to law, and thus absolutism is not a form of political society (TT, ii.vii.90, p. 344). Further, since the people resign their right to judge and punish him for violations of natural law, it is worse than the inconveniences of the state of nature since they have no right to protect themselves against his violence. Hence it would be irrational to consent to alienate: ‘to think that men are so foolish that they take care to avoid what Mischiefs may be done them by Pole-Cats or Foxes [in the state of nature], but are content, nay think it safety, to be devoured by Lions [in absolute monarchy]’ (TT, ii.vii.93, p. 346). This is clearly against any natural-freedom theory of alienation, whether that of Grotius, Hobbes, Pufendorf, or Locke himself in the Two Tracts. Not only is it irrational. Since it involves transferring absolute power over one’s own life to another, it presupposes that individuals have the right to dispose of their own life. Locke points out to his Christian audience that only God has
such a right. Even if absolutism enjoys universal consent it is a form of ‘despotic power’ and ‘slavery’ that violates the natural law to preserve life by exercising unlimited power over subjects (TT, ii.xv.172, pp. 400–1).

Locke’s second reason for rejecting the alienation theory is that governments tend over time to tyranny. As states develop, rulers gain wealth and power and tend to cultivate interests different from and contrary to the people’s. In addition, they become open to ideological manipulation by religious elites, who use their influence to have their beliefs imposed by political means. The resulting tyranny causes civil war. Hence the alienation theory, like any absolute theory, is part of the problem rather than a solution (TT, i.xi.106, pp. 236–7).

The third and major reason for the change is that Locke came to believe that the alienation theory is implausible: post-Reformation, and especially post-English Civil War individuals, as a matter of fact, do not alienate their natural political power. As he classically and presciently put it in the Two Treatises, popular revolution is a permanent feature of modern politics, irrespective of the official ideology:

For when the People are made miserable, and find themselves exposed to the ill usage of Arbitrary Power, cry up their Governors, as much as you will for sons of Jupiter, let them be Sacred and Divine, descended or authoriz’d from Heaven; give them out for whom or what you please, the same will happen. The People generally ill treated, and contrary to right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them. (TT, ii.xix.224, pp. 432–3)

Let us turn now to the complex practice of trust (see Dunn 1969, pp. 120–48, 165–87, 1984, pp. 22–60, 1985, pp. 34–55). Individuals consent to entrust the two natural powers they exercise themselves in the state of nature to make up a government. First, labour power, the power ‘of doing whatsoever he thought fit for the Preservation of himself, and the rest of mankind’ each individual ‘gives up to be regulated by Laws made by the Society, so far forth as the preservation of himself, and the rest of that society shall require’ (TT, ii.ix.129, pp. 370–1). That is, property and labour are now regulated by the two policy objectives of collective and individual preservation, with the individual being sacrificed to the preservation of the collectivity when these two great rationales of government conflict (TT, ii.xi.134, pp. 373–4). Thus, as Locke stresses throughout the Two Treatises, the public good (preservation), not rights, is
the fundamental principle in accordance with which political power is exercised by governors and judged by the governed. This, as Locke notes, confines the liberty each had by natural law (TT, ii.ix.170–1, p. 371). Second, each individual ‘wholly gives up’ political power, the power of punishing, to be used to make and enforce laws, with each individual’s assistance if necessary (TT, ii.ix.130, p. 371).

The transfer of powers involves three parts. Individuals consent with each other to give up their powers to form a political ‘society’ of which each becomes a member. Only explicit consent, ‘by positive Engagement, and express Promise and Compact’, makes one a member and constitutes a political society, and binds each to the determination of the majority until either his citizenship is revoked or the society is dissolved (TT, ii.viii.95–9, pp. 348–51, ii.vii.122, p. 367). The majority then constitutes the society into a form of government by placing the legislative power in specific hands. If this legislative power, as well as executive power, remains in the majority then it is a ‘perfect’ democracy; if in the hands of a few, oligarchy; and so on (TT, ii.x.132, p. 372). The legislative power is the ‘supreme power’ in any commonwealth because the power to make laws derives from the members’ natural power to judge controversies (TT, ii.vii.89, p. 343, cf. ii.xix.212, pp. 425–6). Finally, the legislative entrusts the ‘natural force’ of the community to the executive (and, eo ipso, the federative) to enforce the laws and protect society, members, and colonies by means of war and diplomacy (TT, ii.xii.144–8, pp. 382–4).

Locke sees two objections to his thesis that lawful government is based upon explicit consent, involving the delegation of political power, and binding each member to the majority: that there are no historical instances of it, and that people are now born into and are thus naturally subject to a government (TT, ii.viii.100, pp. 351–2). In response to the former objection he assembles historical and anthropological evidence to illustrate that free men have commonly set rulers over themselves (TT, ii.viii.101–12, pp. 352–62). In these examples Locke is concerned to falsify both the natural-subjection thesis and the equally popular de facto thesis that lawful government can be founded in successful conquest. This aim is spliced rather awkwardly into the first section of the Second Treatise (TT, ii.i.i, p. 342, lines 19–25; cf. Goldie 1980b, pp. 508–18).

The latter objection is no more plausible. History furnishes many examples of people leaving their government and founding new commonwealths by consent, which would be impossible if subjection were natural. Further, present governments themselves do not assume that subjection
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follows from birth, but from consent, and they in fact demand express consent (TT, ii.viii.113–18, pp. 362–5). Recent scholarship on the origins of institutionalised forms of political power and citizenship in Europe, whether in the communes, free cities, principalities, or English commonwealth, has stressed the widespread practice of consent and oath-giving (Oestreich 1982, pp. 135–55, 166–87; Berman 1983, pp. 259–403). Explicit oaths of allegiance to the present form of church and state were precisely the form the central issue of obedience and resistance took from 1640 to 1690. In 1689 Locke insisted on explicit oaths renouncing jure divino doctrine (because it did not base allegiance on the justice of William’s invasion and would equally legitimate a successful French counter-conquest) (Farr and Roberts 1985, pp. 395–8).

The most difficult question Filmer puts to the consent thesis is one of motivation. Why should anyone ever consent to give up his natural freedom and self-government, and, as Locke rephrases it, ‘subject himself to the Dominion and Controll of any other Power’ (TT, ii.ix.123, p. 368; Filmer 1949, p. 286)? Locke answers that there are three disadvantages of the natural or accusatory system that caused, or cause, people to abjure it: the lack of established, settled, or known law; the lack of a known and indifferent judge; and a want of power to execute a judgement (TT, ii.ix.124–6, pp. 368–9). Natural law can be known and settled, but, because people are always partial in their own cases, they will not submit to a law that applies against them. The second difficulty also turns on the jurisprudential axiom that individuals are biased judges in their own cases through ‘interest’ or ‘partiality’. As a result, ‘Passion and Revenge is very apt to carry them too far, and with too much heat, in their own Cases; as well as negligence, and unconcernedness, to make them too remiss, in other mens.’ Even the third turns on partiality: since Locke argues that people will not enforce a sentence when the guilty party resists and makes punishment ‘dangerous, and frequently destructive’ (TT, ii.ix.125–6, p. 369).

Locke argues in chapter 5 that these disadvantages do not cause serious problems until the pressure of population growth on available land, the increase of, and division into, towns and villages, the development of agriculture and technology, and the introduction of money conjoin to cause disputes over property which destabilise the natural regime. He also speculates that these developments, especially money, enhanced the sense of self and thus served to enlarge, if not create, the self-interest that undermines the accusatory system (TT, ii.viii.107, 108, 111, pp. 356–8,

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Thus, confusion and disorder eventually follow from a way of life in which men are ‘judges in their own cases’ because ‘self-love will make men partial to themselves and their friends’ and ‘Passion and Revenge will carry them too far in punishing others’ (*TT*, ii.ii.13, pp. 293–4). At precisely this conjuncture in human history the greatest transformation in the way of governing occurs: from self-government to civil government. Locke immediately remarks that it is absurd to assume (as he had in the *Two Tracts*) that people would consent to absolute monarchy at this point as a remedy to their problems. Since the problem is human partiality where each is judge, what kind of a remedy is absolute monarchy ‘when one Man commanding a multitude, has the Liberty to be Judge in his own Case, and may do to all his Subjects whatever he pleases, without the least liberty to any one to question or controle those who Execute his Pleasure’ (*TT*, ii.ii.13, pp. 293–4)? Rather, Locke advances a more plausible history of the formation of the state.

While still self-governing, people were used to entrusting their authority to a single ruler to lead them in times of war, although they retained the right, exercised in *ad hoc* councils, to declare war and peace. Only later did they turn to this custom of delegating authority to settle internal disputes (*TT*, ii.viii.108, 110, 112, pp. 357–62). Thus, civil government evolved out of the practice of external war, which explains the initial plausibility of conquest theories. However, delegation of power in wartime and later in internal disputes was based on consent and a somewhat naive trust in the application of the original form of government, ‘which from their infancy they had all been accustomed to’; the patriarchal family (*TT*, ii.viii.107, pp. 356–7, cf. ii.viii.105, 110, pp. 354–5, 359–60). Filmer is thus right in saying that the first forms of civil government are monarchies, patterned on the patriarchal family, but wrong in construing this as natural rather than a contextually rational and conventional response to the breakdown of an earlier way of life.

The initial trust was naive because people had no experience of the abuse of power and so of the need for explicit limitations, even though they understood it to be limited, like paternal care of children (*TT*, ii.viii.107, pp. 356–7). As central authority developed, the monarch, through luxury and ambition, stretched his prerogative ‘to oppress the People’, and developed interests separate from them (*TT*, ii.viii.111, pp. 360–1, cf. ii.xiv.163, pp. 394–5). They then realised that it is necessary to limit monarchy by placing the legislative power ‘in collective bodies of men, call them Senate, Parliament, or what you please’ (*TT*, ii.vii.94, pp. 247–8).
Men examined more carefully 'the Original and Rights of Government', and set up legislative bodies 'to restrain the Exorbitances and prevent the Abuses' of princely power, thus ushering in the present age of dispute about privilege and contests between kings and people about government (TT, ii.viii.111, pp. 360–1, cf. ii.xiv.166, p. 396). Not only did this attempt at separating and balancing power not succeed, as proponents of mixed monarchy falsely claim, but princes have been further emboldened in the present age by argument from custom and new ideologies of divine right promulgated by religious elites to advance their own interests. Locke's reconceptualisation of the trust between governed and governors is thus designed to provide a solution to the problem of civil wars caused by the failure of the first attempt through representative institutions to curb the power given to princes and by the seventeenth-century resurgence of absolutism.

vi Revolution

The fifth and most important step in juridical political thought is the twofold question: how is political power exercised by governors and what prevents the abuse of power? The answer to the first question for Locke is that political power is to be exercised in accordance with the trust. This comprises: that laws should be made and executed in accordance with the common good or natural law; that governors should themselves be subject to the laws they make; and that the laws and legal rights should not be changed without the consent of the majority through their representatives (TT, ii.ix.135, pp. 375–6, ii.vi.94, pp. 347–8, ii.xi.140, p. 380; cf. Grant 1987).

Locke's solution to the problem of the abuse of power, and so to the early modern crisis of government, is that the people themselves must govern their governors. They must judge when and if their governors act contrary to the trust and, when necessary, execute their judgement by a revolution and the establishment of a new government. Locke's concept of trust captures this mutual subjection practice of government. The people entrust their political power to their governors or trustees and consent to subjection as long as it is exercised in accordance with the trust. Reciprocally, the governors are under an obligation to the people to exercise power accordingly. Hence,
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the Legislative being only a Fiduciary Power to act for certain ends, there remains still in the People a Supreme Power to remove or alter the Legislative, when they find the Legislative act contrary to the trust reposed in them. For all Power given with trust for the attaining an end, being limited by that end, whenever that end is manifestly neglected, or opposed, the trust must necessarily be forfeited, and the Power devolve into the hands of those that give it, who may place it anew where they shall think best for their safety and security (TT, ii.xiii.149, pp. 384–5)

How does this work in practice? In a system where the executive is separate from the legislative, the legislative, being the superior power, governs the executive which may be 'at pleasure changed and displaced' (TT, ii.xiii.152, pp. 386–7). If the legislative fails or abuses the trust, then, as we have seen, power devolves to the people. In England, the monarch has a share in the legislative, and so is neither subordinate nor accountable to it, and thus cannot be removed by it. This section (152) ends fifty years of insoluble debate over the location of sovereignty in mixed monarchy. The legislative cannot effectively judge and constrain the executive even though this is the reason it was established. If the legislature is given authority to judge the monarch then this destroys the mixed nature of sovereignty. If the monarch is given ultimate authority the same contradiction follows (Franklin 1978, pp. 1–52). Consequently, the people, and only the people, have the power to govern both the legislative and executive when either acts contrary to the trust (TT, ii.xix.218, 222, pp. 428, 430–2).

There are two means by which this may be done. Subjects may appeal to the legislative, not only to judge controversies among themselves, but also controversies between them and their government (unlike absolutism) (TT, ii.vii.93–4, pp. 346–8, ii.xviii.207, pp. 421–2). However, when religious Dissenters made appeals throughout the Restoration against the transgression of their civil and political rights and the confiscation of their property, their appeals were castigated as 'sedition' and 'faction' (TT, ii.vii.93, p. 346, ii.xviii.209, pp. 422–3, ii.xix.218, p. 428). When this means is blocked, the trust is broken and the people turn to the second means of redress: revolution as the means of executing the law of nature (TT, ii.xix.221–2, pp. 430–2, ii.xviii.202, 204, pp. 418–20).

In chapter 19 Locke distinguishes between the dissolution of government and the dissolution of political society, states that virtually the only way political society is dissolved is by foreign conquest, and goes on to analyse cases in which government, but not political society, is dissolved by various types of breach of trust (TT, ii.xix.211, pp. 424–5). In this
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revolutionary situation the people are no longer under subjection to the government, so they 'may constitute to themselves a new legislative, as they think best, being in full liberty to resist the force' of the illegitimate government (TT, ii.xix.212, p. 426). Nor are they constrained, he continues, to act as a corporate body in resistance to unlawful authority: 'Every one is at the disposition of his own Will' (See TT, ii.xix.220, 242, pp. 424–6, 429, 445). In these cases, the rulers (legislature or executive) are in a state of war vis-à-vis the people because they have acted contrary to right or used force without right. Revolution then becomes an exercise of their regained natural political power to judge and execute in accordance with natural law (see TT, ii.iii.17, p. 297).

Who has the right to judge when the trust is broken and thereby decide that political society is dissolved? Locke's unequivocally radical answer is that each individual man has this right: 'every man is Judge for himself'. Not only may any man (or woman?) make this judgement, he may make it on the basis of a single violation of right, on the judgement that his ancestors had been wronged by conquest (thinking of a French invasion), or even if no transgression has been committed but the individual discerns a tyrannical tendency or design.

Who has the right to execute this judgement by taking up arms to punish the government? Again, Locke replies that each individual has this right. As we have seen this follows from the premises since the revolution is the people governing lawbreakers as they do naturally when other forms of appeal have failed. Finally, the people themselves have full constituent authority to reestablish the old form of government, to set up a new form, or to set up direct democracy — 'to continue the legislative in themselves' (TT, ii.xii.243, pp. 445–6, cf. ii.xix.220, 226, pp. 429, 433–4). To drive home his point that revolution is the exercise of natural political power by the people he calls it exactly what the right of war is called: an 'appeal to Heaven'. Here, because there is no common judge on earth, the only recourse is a decision by arms. 'And where the Body of the people, or any single Man, is deprived of their Right, or is under the exercise of a power

11. TT, ii.xix.222, 232, pp. 430–2, 437, state the general argument whereas ii.xix.212–19, pp. 425–9, takes up specific abuse of the trust in 1681 and 1688.

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without right, and have no appeal on earth, there they have a liberty to appeal to Heaven, whenever they judge the cause of sufficient moment.'

The elaborate account of the state of nature is thus stage-setting for the introduction of revolution as the natural and legitimate way the people govern rulers who abuse their power.

Locke attempts to make this doctrine appear less subversive than it is by making Barclay’s respectable natural-freedom theory of absolutism appear more populist than it is. Buchanan had argued that a king who becomes a tyrant dissolves the constitutive pact between king and people, forfeits his rights, and so may be proceeded against by means of a judicial act of war by the body of the people or an individual, just as in the case of a common criminal (DJR, p. 38). In his reply Barclay countered that as an inferior can never punish a superior, so neither an individual nor the people as a whole can punish, attack, or prosecute their king. However, as we have seen, Barclay does concede that if a king becomes an intolerable tyrant the people as a whole, and not an individual, may defend itself as long as it does not attack the king (Barclay 1600, III.viii, cit. TT, II.xix.232–3, pp. 437–9). Although Grotius repudiated Buchanan’s theory as well, he did go on to assert against Barclay that the people, individually or collectively, could defend themselves by force of arms against an intolerable tyrant who attacked them directly. In this exceptional case the people exercise their natural right to defend themselves and this is justified because the reason for which people originally established government is self-preservation. Pufendorf repeated this mitigated absolutism, explicitly making the point against Barclay that the duty not to punish a superior does not apply because resistance is an act of defence, not of jurisdiction (Pufendorf, VII.viii.7, 1688, p. 761, 1934, p. 553). This line of argument, as we have seen, was used and abused — as Filmer predicted — to justify resistance throughout the century.

In his commentary on Barclay, Locke reverses this trend. Instead of saying that resistance is a non-judicial act of defence he is able to show that even Barclay admits that when a king destroys his people or alienates his own kingdom he ceases to be a king. He thereby ‘divests himself of his Crown and Dignity, and returns to the state of a private Man, and the People become free and superior’; he ‘sets the people free, and leaves them at their own disposal’ (Barclay 1600, III.xvi, cit. TT, II.xix.237–8,

pp. 441–2). Although Barclay is thinking of extraordinary circumstances he concedes that a king can lose his superiority and thus, as Locke immediately concludes, the rule that an inferior cannot punish a superior does not apply and so the people may prosecute him (as Buchanan originally argued) (TT, ii.xix.239, pp. 442–4; Buchanan 1715, p. 38, 1949, p. 142). With his very different account of the natural political power of the people and his more extensive concept of tyranny firmly in place, Locke is able to exploit this opening and make it appear that his radical doctrine is not far out of line with the most respectable absolutists (TT, ii.xix.239, pp. 442–4).

Despite Locke’s exercise in feigned respectability the Two Treatises is unorthodox in conceiving of rebellion as a political contest involving ordinary people seizing political power and reforming government. We can measure how unconventional it is by noting two contemporary responses to its publication in 1690. First, Locke’s Whig friend James Tyrrell repudiated it in Bibliotheca Politica, arguing that political power does not revert to the people but to representative bodies or ‘great councils’ (1727, p. 643; cf. Franklin 1978, p. 110). In The Fundamental Constitution of the English Government (1690) William Atwood stated the major objection to Locke’s account:

others [Locke?] are too loose in their notions, and suppose the dissolution of this contract [James II’s vacancy] to be a mere [i.e. pure] commonwealth, or absolute anarchy, wherein everybody has an equal share in the government, not only landed men, and others with whom the balance of power has rested by the constitution, but copy-holders, servants, and the very faces Romuli which would not only make a quiet election impractical but bring in a deplorable confusion.17

Locke’s theory thus appears to be the most implausible solution of all. Hobbes had argued that civil war is caused by each individual claiming the right to judge the law in accordance with their subjective standard of conscience or ‘private judgement’ (Leviathan ii.29, 1957, p. 211). In the Two Tracts Locke argued that in a system of popular sovereignty members would withdraw their consent and revolt whenever a law conflicted with their private interest, claiming that it contravened the public good (1967, pp. 120–1, 137, 226). Grotius launched a blistering attack on the theory of mutual subjection of king and people, where the people (parliament) obey if the king does not abuse his trust and the king becomes dependent on the

people if he does abuse it. It would lead to confusion and disputes because
king and people would judge and act differently; ‘which disorder’, he
concludes, ‘no Nation (as I know of) ever yet thought to introduce’ (DJB,
i.iii.9, 1646, p. 59, 1738, pp. 71–2). Filmer too had made the ‘anarchy’ of
individual judgements the centrepiece of his attack on the natural freedom
tradition: ‘every man is brought, by this doctrine of our authors [Hunton],
to be his own judge. And I also appeal to the conscience of all mankind,
whether the end of this be not utter confusion and anarchy’ (Filmer 1949,
pp. 296–7; Franklin 1978, pp. 39–48). This argument was repeated
throughout the Restoration by defenders of absolutism and mixed
monarchy and it has remained the mainstay of conservative criticism of
popular sovereignty.

In his reply, Locke cannot deny that people are biased in their judgement
or claim that they will impartially judge in accordance with the common
good. He uses the assumption of partiality to explain both the breakdown
of the accusatory system and the tendency of absolutism to tyranny (TT,
ii.ii.13, pp. 293–4, ii.ix.124–6, pp. 368–9, ii.vii.93, p. 346). Therefore he
must answer his conservative critics on their own ground, by showing that
partiality does not entail confusion and anarchy. A sign that Locke may
have seen his answer as the most controversial and unconventional aspect of
the Two Treatises is that he presents it in two separate places in the text (TT,

Here is the question (which is clearly in response to Filmer): ‘May the
Commands then of a Prince be opposed? May he be resisted as often as anyone
shall find himself aggrieved, and but imagine he has not Right done him?
This will unhinge and overturn all Polities, and instead of Government and
Order leave nothing but Anarchy and Confusion’ (TT, ii.xviii.203, p. 419;
cf. Sidney 1772, i.24, pp. 185–215).

Locke presents six reasons why this will not lead to ‘anarchy’. First, as we
have seen, people revolt when oppressed irrespective of the type of
government. A government that establishes the exercise of popular
sovereignty by means of appeals to courts and parliament when people find
themselves aggrieved is more likely to avoid revolution than one where
juridical contestation of government is forbidden (TT, ii.xix.224,
pp. 422–3, ii.xviii.207, pp. 421–2). Second, just because people are partial,
they will be motivated to revolt only if the oppression touches them
directly (TT, ii.xviii.208, p. 422). Third, again due to partiality, they will
not in fact revolt on slight occasions but only when oppression spreads to
the majority or, when it affects a minority but appears to threaten all. This
is so because they will calculate that it is not in their interest to revolt unless they expect to win, and this requires a majority (TT, n.xviii.209, pp. 422–3, n.xix.230, pp. 435–6, n.xiv.168, pp. 397–8). (This, as we shall see below, is the sobering lesson Locke learned when the Whigs refused to support the revolution of the minority Dissenters in 1681–3.) Fourth, people will revolt only when they are persuaded in their conscience that their cause is just because they fear divine punishment for unjust rebellion (TT, n.xviii.209, pp. 422–3, n.iii.21, p. 300). Fifth, people are in general habituated to the status quo and use and custom cause them to tolerate its minor abuses (TT, n.xix.223, 225, 230, pp. 432–3, 435–6, n.xviii.210, p. 423). Sixth, even when there is a revolution people usually return to the old forms of government to which they are accustomed, as English history shows (TT, n.xix.223, p. 432). In sum, Locke plays the conservative trump card of partiality and habit against his conservative opponents, showing that these causal factors make popular sovereignty more stable than absolutism. The radical right of revolt is restrained in practice by the conservative motive of self-interest and the force of habit.

Further, Locke argues, ‘this doctrine of a Power in the People of providing for their safety a-new by a new Legislative, when their Legislators have acted contrary to their trust, by invading their Property, is the best fence against Rebellion and the proballest means to hinder it’ (TT, n.xix.226, pp. 433–4). The reason is that rebellion means opposition to law and thus rulers are the most likely to rebel because they have the temptation and the means, as well as the encouragement of interested elites, close at hand. Showing them that the people will both revolt and have justice on their side brings the rulers’ interest and duty in line with the public good: ‘the properest way to prevent the evil [rebellion], is to shew them the danger and injustice of it, who are under the greatest temptation to run into it’ (TT, n.xviii.226, p. 434).

However, Locke does not believe that the mere threat of revolution and the public recognition of its rightness is sufficient to guarantee good government. He grows impatient in these late sections with persuading his conservative audience that popular sovereignty is the most orderly form of government. It is, for him, enough to show that it does not lead to anarchy and confusion. Revolution is not the worst thing in politics; oppression is (TT, n.xix.225, 229–30, pp. 433, 434–6, n.xi.137, pp. 377–8, n.xiii.158, pp. 391–2). The only guarantee against oppression is not a doctrine but the practice of revolution itself. He argues that no form of government guarantees freedom and rights because every form can be abused (TT,
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ii.xviii.209, pp. 422–3). Only the activity of self-governing rebellion grounds freedom (TT, ii.xix.226, 228–9, pp. 433–5). Those who say popular sovereignty ‘lays a foundation for Rebellion’ are, after all, right, but wrong to conclude that it is ‘not to be allowed’ because it ‘is destructive to the Peace of the World’. It disrupts only the unjust peace of state oppression, and the ‘unlawful violence’ of ‘magistrates’ who act ‘contrary to the trust put in them’ (TT, ii.xix.228, pp. 434–5).

The justice of resistance to oppression: this is the theme of the Two Treatises. As strange as it sounds, this is also the solution to civil wars. If Locke is correct about the causal constraints on popular revolts, then they occur only when the people are in fact oppressed. Hence the cause of civil wars must be the abuse of power by governors, who, being partial, cultivate oppression when it is possible and in their interest to do so. If, however, they know that the people have a right to revolt and will in fact revolt when oppressed, then either their interest in avoiding civil war will outweigh their interest in oppression or it will not. If it does, then oppression has been ‘fenced’, government normatively and causally ‘limited’, and civil war avoided. If, on the other hand, the right and threat do not deter abuse of power then there is nothing that can be done short of revolt, which is both just and necessary.

vii Toleration

The second problem faced by Locke and his contemporaries is the nature of religion and the relation between religion and politics, ecclesiastical and political power, in post-Reformation Europe. The wars that swept Europe were not only struggles for power, they were also religious conflicts. Religion had become, Locke argued in 1660, ‘a perpetual foundation of war and contention[;] all those flames that have made such havoc and desolation in Europe, and have not been quenched but with the blood of so many millions, have been at first kindled with coals from the altar’ (1967, pp. 160–1). Twenty-five years later, still grappling with this problem, he said ‘I esteem it above all things necessary to distinguish exactly the Business of Civil Government from that of Religion, and to settle the just bounds that lie between the one and the other’ (LT, p. 26). Without this there would be no end to the controversies.

Locke

Like the Two Treatises, Locke’s solution, A Letter Concerning Toleration, has both an English and a European context. It was written in 1685 in support of the Dissenters’ struggle for religious and civil liberty in England, and translated and published by William Popple for that purpose in 1689. Locke wrote it in exile in Holland to his friend Phillip von Limborch with whom he discussed the whole Reformation experience. Also, it was written immediately after not only the failed Monmouth Rebellion for toleration in England but also the Revocation of the Edict of Nantes and the persecution of Huguenots. Published at Gouda in Latin in 1689, it became a classic in the European struggle for toleration.

As early as the Two Tracts Locke began to explore the religious causes of war. He argued that Christian leaders had inculcated two erroneous beliefs in both princes and the laity: that there is only one true way to heaven; and that it is a Christian duty to uphold and to spread the true way by force and compulsion and to suppress heresy. Both rulers and the people consequently believe themselves to have an overriding duty and an interest (fear of hell and hope of heaven) to use the force of arms to solve religious disputes. Given the multiplicity of Christian faiths, each of which considers itself orthodox and the other heterodox, this alignment of duty and motivation leads to persecution by government and religious revolts by the people.

The clergy of all sects, in turn, have propagated these two false beliefs in order to use either the rulers (prince or parliament) or the populace to gain access to political power, thus achieving what they want: power, dominion, property, and the persecution of opponents. In using political power in this way religious elites thus provide those who serve their purposes by taking up arms with an additional and temporal interest in performing their (alleged) religious duty (1967, p. 160). Political power is thus used not as it should be, to preserve property, but, rather, to confiscate and transfer it.

Hence, civil wars are waged in the name of religious ‘reform’ and religion serves as a ‘vizor’ or ideology which masks the struggle of competing elites for access to, and use of, political power (1967, pp. 160, 169–70). By showing the relation of ideological legitimation between religion and political power struggles Locke brings his analysis of the religious problem in line with his claim in the Two Treatises that the central struggle in his day is over political power.

The two true Christian beliefs are the antithesis of the widely propagated false beliefs. The first is that God allows each man to worship him in the way he sincerely believes to be right (over and above a few plain and simple essentials: the incantation, heaven and hell, and the core Christian ethics). The second true belief is that Christianity should be upheld and spread by love and persuasion only, not by force and compulsion (1967, p. 161). Both reflect Locke's acceptance of Grotius' minimalist response (in De Veritate Religionis Christianae) to the sceptical attack on the claims of different churches and to the pragmatic attack on the assumption that it is the role of government to uphold true religion by force of arms. Given post-Reformation religious diversity this assumption became both the cause and justification of war. Locke's epistemological justification of the first belief is that nothing more than the essentials can be known with certainty, and of the second that the kind of belief necessary for salvation cannot be compelled, but must be voluntary (Van Leeuwen 1963: Viano 1960).

On the basis of this analysis Locke advanced two radically different solutions. The first, in the Two Tracts, is a theory of absolutism and the imposition of religious uniformity. The second, in A Letter Concerning Toleration, is a theory of popular sovereignty and religious toleration. A brief account of the former and of its failure will show how he moved to the latter and provide a better understanding of its main features. This also throws light on the Two Treatises, which is, in a fundamental way, Locke's repudiation of the Two Tracts. Both solutions turn on removing the cause and justification of the wars of religion - that it is the duty of the state to uphold the true religion - and on replacing this with preservation, or the 'public good', as the duty of government.

The Two Tracts is Locke's proposal for the political and religious form of the Restoration settlement of 1660–2. He argues, against a proposal for toleration based on individual conscience by Edward Bagshaw, that as long as the two false beliefs continue to be widely held, a policy of religious toleration would be used by religious groups to build up strength and, eventually, to precipitate another civil war in the attempt to gain political power (Bagshaw 1660, 1661; cf. Abrams 1967; Viano 1960). The call for toleration thus masks the underlying will to power of a clerical elite bent on domination, as he repeats even in A Letter Concerning Toleration (LT, pp. 32–3, 43). His solution is for everyone to alienate irrevocably his natural power, even over indifferent things, to an absolute monarch, Charles II. The monarch would then impose whatever forms of worship he judged necessary for peace, order, and the public good, using solely customary and
prudential considerations as his guide. The magistrate does not have the
duty to impose the true religion, convert his subjects or suppress heresy.
Religious activity is assessed and governed in accordance with the political
criterion of the ‘public good’ (1967, pp.119, 124–6, 149–50, 169–70,
229–32). Locke then suggests that if the Dissenters (Baptists, Presbyterians,
Quakers and Independents) were peaceful, the monarch could permit
toleration in the form of a Declaration of Indulgence (as Charles II in fact
wished) (1967, p. 170). Dissenters could not be tolerated on the grounds of
individual conscience, as Bagshawe proposed, because this would limit the
monarch’s sovereignty and reintroduce a religious criterion into politics
(1967, pp. 121, 137, 154).

The greatest threat to peace according to Locke comes not from the
Dissenters but from the Church of England. The monarch must be absolute
in order to be free of the national church, which will otherwise use the state
to impose religious uniformity and gain power: ‘[they] know not how to
set bounds to their restless spirit if persecution not hang over their head’
(1967, p. 169). Throughout his writings, Locke consistently attacks the
Anglican church as the greatest threat to peace and calls for its disestablish­
ment (Goldie 1983).

Finally, as a consequence of alienation, a subject is always obligated to
obey any law and not to question it, even if it prescribes forms of worship
the subject believes to be unacceptable to God. This will not compromise a
person’s faith because faith is a matter of inner belief – judgement or
conscience – whereas obedience to the law need only be a matter of will or
outer behaviour. With this crucial Protestant distinction Locke could
argue, like all English uniformists, that conformity and obedience are

This proposal failed because Charles II was not as absolute as Locke
envisioned. He was dependent on parliament and it was dominated by an
Anglican–gentry alliance whose aim was the imposition of religious
uniformity, the extirpation of Dissent and the control of public life. Their
justification for this policy was to identify religious Dissent with sedition
and civil war, as Locke notes in the Two Treatises and A Letter Concerning
Toleration. Even the moderate Anglicans or ‘latitudinarians’, with whom
Locke is sometimes erroneously grouped, opposed toleration and worked
for comprehension within the established church. Charles II fought for
toleration of Dissent and of his co-religionists, English Catholics, but the
Anglican–gentry alliance was powerful enough to enact the Clarendon
Code, a set of repressive laws designed to stamp out Dissent. These laws
were enforced and augmented during the Restoration, sending thousands of Dissenters into poverty, death, jail or transportation.

Rather than causing Dissenters to conform to Anglicanism, the Clarendon Code had the opposite effect. The Dissenters refused to comply, continued to practise their religion, disobeyed the law, and suffered imprisonment and martyrdom throughout the 1660s and 1670s. The Code created a permanent underclass, oppressed and denied access to public life and to publication, who struggled for toleration until the Act of Toleration in 1689. This Act was only a partial remedy and they were treated as second-class citizens until well into the nineteenth century. By that time the Anglican–Dissent division had become the major political cleavage in English society. From 1667 onward Locke wrote in support of this minority's struggle for toleration in the twofold sense of religious and civil liberty (see Goldie 1983; Tully 1983).

Locke first changed his views and began to defend toleration in *An Essay Concerning Toleration*, 1667 (in Locke 1961). He prepared this manuscript for Anthony Ashley Cooper (soon to be the first earl of Shaftesbury), the leader of the struggle for toleration and Locke's employer and closest friend until his death in 1683. This 1667 manuscript was used to persuade Charles II to support the concerted but unsuccessful effort of the Dissenting congregations to gain an Indulgence by royal prerogative and to block new legislation to repress Dissent, especially the use of bounty-hunting informers and of transportation to the colonies in permanent servitude as punishment.

First, Locke revised his views on belief and action in the light of the Dissenters' refusal to conform from 1662 to 1667. Now, if a person sincerely believes that an article of faith is true and a form of worship is acceptable to God, and thus necessary to salvation, he evidently will profess and act accordingly. Hence, judgement and will are not separate. Rather, as he later put it in *An Essay Concerning Human Understanding*, the 'judgement determines the will', and so religious liberty must include liberty of practice as well as belief (ii.xxi.48, 1975, pp. 264–5).

Second, God judges people on the sincerity, not the truth, of their beliefs, and thus if a person sincerely believes that something is necessary and not indifferent, it is necessary for salvation. This ushers in Locke's radically subjective definition of religion, which is fully articulated later in *A Letter Concerning Toleration*: 'that homage I pay to that God I adore in a way I judge acceptable to him'. Consequently, to profess or act contrary to one's religious beliefs, even if the magistrate so orders, is now the paramount sin
of hypocrisy and it would lead to eternal damnation: This doctrine reverses the Two Tracts. Duty and interest (salvation) are now aligned with disobedience to the imposition of religious uniformity, thereby justifying the Dissenters’ widespread resistance to conformity. It also expresses for the first time the Lockean belief about the modern, post-Reformation individual: that the civil person is constituted by a moral sovereignty over one’s core beliefs and practice that cannot be alienated.

The magistrate’s role continues to be to uphold the public good. However, he now does not have sovereignty over his subjects’ indifferent beliefs and he knows that the imposition of uniformity will in fact be resisted. Thus, a policy of uniformity causes civil unrest – it is not a response to civil unrest, as the Anglicans argued – and toleration is the pragmatic means to civil peace. Given this analysis, Locke reiterates that any attempt to impose uniformity under the guise of unity or conversion is a stratagem to gain power and domination. Enforced uniformity, he argues, unites all the competing sects into one hostile opposition, whereas toleration would remove the cause of the hostility, create trust, and tend to cause the proliferation of sects, thereby dividing and weakening further any potential threat to peace and security.

In 1672 Charles II introduced a Declaration of Indulgence which suspended the penal laws against Dissent. The Anglican–gentry alliance in parliament attacked it on the grounds that it undermined the rule of law and the constitution. Shaftesbury defended it as a legitimate exercise of royal prerogative. This long struggle for toleration through absolutism, and against parliament and its constitutionalist justification of opposition to Indulgence is expressed in Locke’s anti-constitutionalist treatment of prerogative in the Two Treatises. He says that the monarch may act in his discretion not only ‘beyond the law’ but ‘against the law’ if this is in accordance with the public good (TT, ii.xiv.164, pp. 393, 395; Weston and Greenberg 1981, pp. 171–5; Pocock 1985, pp. 227–8).

When Charles II withdrew his Indulgence one year later, abandoned his alliance with Dissent and began to go along with the uniformists in parliament, the Anglican–gentry alliance entered government under Danby, and Shaftesbury and Locke turned against Charles II and absolutism. They began to build the ‘radical’ Whig movement that would struggle for toleration first through parliament (1675–81), then, when this did not work, through the failed revolt of 1681–3 and the unsuccessful Monmouth Rebellion of 1685. This transition to the combination of popular sovereignty and toleration as a right that Locke presents in A Letter...
Concerning Toleration is first sketched in *A Letter from a Person of Quality to his Friend in the Country* (1675). Locke states that what distinguishes limited from arbitrary monarchs is that they have ‘the fear of human resistance to restrain them’ (Locke 1823, x, p. 222). Thus, a government has a sufficient motive to rule in accordance with the public good only if it fears armed revolt, and this is a credible threat only if there is no standing army. On the other hand, the people revolt only when the government genuinely abuses the public good because they fear that the revolt will be crushed unless they have the majority on their side.

Locke concludes that when people are oppressed, as with the Dissenters, they will resist, not only passively (as in *An Essay Concerning Toleration*), but actively, by the force of arms, and they do so ‘justly and rightly’ (Locke 1823, x, p. 222). Understandably, Locke left for France when this pamphlet was published and did not return until 1679. The pamphlet enunciates Shaftesbury’s strategy: to work for toleration through parliament with the background threat of revolt if this was blocked. It was only after Charles II dissolved three toleration parliaments and parliamentarians ‘trimmed’ in 1681 that Shaftesbury and Locke turned to revolution and Locke wrote the *Two Treatises* (for the dating see Ashcraft 1980). Accordingly, Locke moved from the 1675 thesis that a credible threat of revolt is sufficient to protect liberty to his mature thesis that, as we have seen, only the actual practice of revolution is sufficient to free a people from oppression. We can also see why the right to revolt had to be lodged in the hands of individuals, and not in parliament, if the Dissenters were to liberate themselves. The rebellions of 1683–5 failed and the repression was so vicious that Dissent did not resurface as a political force for almost a century, except for a tiny group around Locke in 1689 lobbying, again unsuccessfully, for the radical, religious, and civil liberty of *A Letter Concerning Toleration*. Algernon Sidney and Lord Russell were executed after the Rye House Plot in 1683 and over 100 Dissenters were hanged following the Monmouth Rebellion.

Locke fled from England to the United Provinces in 1683 and did not return until the successful invasion of England by William in 1688. *A Letter Concerning Toleration* was written while he was living in political exile in Holland during the winter of 1685. The text opens with the claim that toleration is the fundamental Christian duty and goes on to describe it as a natural right. He presents three reasons why the government is not concerned with the care of souls: individuals cannot alienate sovereignty over their speculative and practical religious beliefs necessary for salvation; outward force, political power, cannot induce the kind of sincere belief
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required for salvation, only persuasion can; and even if coercion could induce belief, there is no epistemic certainty that the religion of any particular government is the true religion (LT, pp. 26–8). These are used to justify toleration, the thesis that a church is a purely voluntary organisation, and the separation of church and state. That is, they free 'men from all dominion over one another in matters of religion by separating coercion and religious belief, introducing his two true beliefs, and thereby removing the cause of religious wars (LT, p. 38).

Nonetheless, toleration is not an absolute right. Religious beliefs and practices must be assessed and governed in accordance with the overriding criterion of the ‘public good’ and those judged to be injurious to it proscribed (LT, pp. 39, 42, 49–51; cf. Bracken 1984, pp. 83–96). What prevents a magistrate from arguing that a policy of outward religious uniformity is necessary, not to save souls or because it is true, but because the public good requires a shared public life; that the atomism of religious diversity is deeply divisive and ‘inclinable to Factions, Tumults, and Civil Wars’ (LT, p. 54)? Locke had argued in this way in 1660 and many pragmatic defenders of uniformity or comprehension did the same (Stillingfleet 1680). Locke’s first answer is to argue that, as a matter of fact, religious diversity does not cause political divisiveness nor civil unrest. Conventicles are not ‘nurseries of factions and seditions’ as the opponents of Dissent claim and therefore cannot be repressed on prudential grounds. European history shows that quite the opposite is true: ‘It is not the diversity of Opinions (which cannot be avoided) but the refusal of toleration to those that are of different Opinion, (which might have been granted) that has produced all the Bustles and Wars, that have been in the Christian World, upon account of Religion’ (LT, p. 55).

If we ask why the imposition of uniformity has continued in the face of its failure to bring peace, Locke gives the predictable answer that the alleged purpose, of stressing the public good, is entirely spurious. The real reason is the greed and desire for domination of the clergy and their ability to manipulate rulers and people: ‘The Heads and Leaders of the Church, moved by Avarice and insatiable desire of Dominion, making use of the immoderate Ambition of Magistrates, and the credulous Superstition of the giddy Multitude, has incensed and animated them against those that dissent from themselves’ (LT, p. 55, cf. pp. 24–5, 33, 35, 43, 50). This analysis is repeated throughout A Letter Concerning Toleration and Locke’s account of the abuse of political power in the Two Treatises traces it to the same religious roots (TT, ii.viii.112, pp. 361–2, ii.xviii.209–10, pp. 422–3,
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The Two Treatises and A Letter Concerning Toleration are two complementary analyses of civil war, or, as Locke would have it, of religious domination of civil society through the state, whether Protestant or Catholic, and justified popular resistance to it.

Locke goes on to elucidate what specifically the clergy seek to gain by their 'Temporal Dominion', thereby illuminating another important feature of the Two Treatises (LT, p. 35). He says that 'they deprive them [Dissenters] of their estate, maim them with corporal Punishments, starve and torment them in noisom Prisons, and in the end even take away their lives' (LT, p. 24, cf. p. 52). Yet, on Locke's account, nothing should be transacted in religion, 'relating to the possession of Civil and Worldly Goods', or civil rights (LT, p. 30, cf. pp. 31, 32–3, 39, 43). Further, those who favour intolerance really mean that 'they are ready upon any occasion to seise the government, and possess the Estate and Fortunes of their Fellow-Subjects' (LT, p. 50, cf. p. 49). Dissenters, by the imposition of uniformity, are 'stript of the Goods, which they have got by their honest Industry' (LT, p. 55). The preservation of property in the sense of lives, liberties, and estates earned by industry is the reason why people enter civil government in both A Letter Concerning Toleration and the Two Treatises (LT, pp. 47–8, TT, ii.ix.123, p. 368). The violation of this trust is also the form of oppression Locke is specifically concerned to condemn (TT, ii.xix.222, pp. 430–2, ii.xviii.209, pp. 422–3, LT, pp. 48–9). A Letter Concerning Toleration thereby illuminates the type of property that the Two Treatises is written to defend. It is not the private property of the bourgeoisie but the properties — the legal, political and religious rights — of an oppressed minority who, in the course of time, became the backbone of English working-class radicalism and adopted Locke as their philosopher (Beer 1921, esp. p. 101; Ashcraft and Goldsmith 1983). Revolution, property, and toleration are all of a piece for Locke.

If the strategy of religious uniformity is as Locke suggests, then we should not expect religious elites to pay any heed to his arguments that it is the cause of civil unrest. Rather, we should expect them to defend their use of political power, the hinge on which their domination turns. This was indeed the response. Jonas Proast, chaplain of All Souls, Oxford, defended the use of force to bring Dissenters to consider the true religion in his three assaults on A Letter Concerning Toleration and on Locke's two following letters (Proast 1690, 1691, 1703; cf. Long 1689). In addition, An Essay Concerning Human Understanding (used as a text in Dissenter academies), as well as The Reasonableness of Christianity, were seen,
correctly, as threatening the established religious order, attacked by Anglicans, and defended by Dissenters (Yolton 1956, pp.26–72). The Toleration Act of 1689 shows how far outside reasonable opinion was Locke’s call for toleration of anyone who believed in any god and for the end of coercion in religion. The Act denied freedom of worship to unorthodox Dissenters (those who denied the Trinity) and Roman Catholics, and granted it, as a revocable exemption from earlier legislation, to Protestant Trinitarian Dissenters who took the oath of allegiance and obtained a licence to meet, but denied them access to public office.

Locke was well aware that just showing that the public good is disrupted by policies of uniformity and is best served by toleration would have no positive effect on the ruling elite. As in the Two Treatises, he repeats that the rulers will simply claim that those who protest and dissent from the policy will be said to be the cause of unrest, and their protestations used to justify further repression (TT, ii.xix. 218, p. 428, LT, pp. 52–5). His practical solution to the problem is to argue in the same way as in the Two Treatises that individuals must exercise their popular sovereignty and judge for themselves whether any law concerning religious practice is for the public good. If the magistrate enjoins anything ‘that appears unlawful to the Conscience of the private individual’ and it is also judged to be ‘directed to the publick Good’, then ‘a private person is to abstain from the Action that he judges unlawful [according to his conscience]; and he is to undergo the Punishment’ (LT, p. 48). A person has the right to disobey a just law if it conflicts with his conscience, provided he recognises his political obligation to the public good by suffering the punishment.

The case Locke is, of course, primarily concerned with is when the law appears not only unlawful to the conscience but also contrary to the public good (LT, p. 48). What if the magistrate continues to believe it is for the public good and the subjects believe the contrary? Locke answers with the same revolutionary doctrine as in the Two Treatises: ‘Who shall be Judge between them? I answer, God alone. For there is no judge upon earth between the Supreme Magistrate and the People’ (LT, p. 49). And he leaves no doubt as to what this means: ‘There are two sorts of Contests among men: the one managed by Law, the other by Force: and these are of that nature, that where the one ends, the other always begins.’ Therefore, as in the Two Treatises, people are justified in turning to revolution when they are stripped of their properties and their religion and ‘to defend their natural Rights . . . with Arms as well as they can’ (LT, p. 55). Civil wars will continue as long as the ‘Principle of Persecution for Religion’
continues to prevail. The attempt to impose uniformity by coercion is not only the justification of revolt but also its cause. The reason is that oppression naturally causes people to struggle to cast off this ‘Yoke that galls their Neck’ (*LT*, p. 52).

Revolution is thus necessary to establish and protect toleration. Churches would then be required to preach toleration as the basis of their freedom, to teach that ‘Liberty of Conscience is every man’s natural right’, and that no body should be compelled by law or force in religion (*LT*, p. 51). This would undermine the link between religious and political power that legitimates religious domination and, hence, ‘this one thing would take away all ground of Complaints and Tumults upon account of Conscience’. Unlike a national church, which causes turmoil, a plurality of equally treated congregations would be, according to Locke, the best guard and support of public peace. Knowing they can do no better than mutual toleration, the churches ‘will watch one another, that nothing may be innovated or changed in the Form of the Government’ (*LT*, p. 53; cf. Kessler 1985). Again, his point seems to be that the only solid foundation for civil and religious liberties is the readiness to govern those who violate them by means of popular political rebellion. Popular religious sovereignty, in concert with popular political sovereignty, is the solution to the problem of oppression and war based on religion.