

# interpretation

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# interpretation

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## LOCKE'S THEORY OF PROPERTY

RAMON M. LEMOS

Locke's theory of property has been both attacked and defended. Sometimes the attacks as well as the defenses have been based, at least in part, upon a misinterpretation of precisely what his theory is and a misunderstanding of its implications. In particular, both those who have attacked it and those who have defended it have too often assumed that his theory constitutes a justification of the special economic interests of the landholders of the late seventeenth century, of the rising capitalist class, or of both these classes. It is possible that the presentation of a philosophical justification of the economic interests of either or both of these classes may have been one of the motives animating Locke as he developed his theory of property. Into this question, interesting as it may be for the historian or biographer, I shall not enter here. Instead, in what follows my concern is limited exclusively to a philosophical consideration of Locke's explicit treatment of property in his *Two Treatises of Government*. This treatment is concentrated primarily in Chapter V of the second *Treatise* and in sections 41-43 and 86-90 of the first *Treatise*.

I shall argue that the treatment of property presented in these places, rather than constituting a philosophical defense of the special economic interests of landholders and of the rising capitalist class, is in fact incompatible with such interests when they are prosecuted in ways inconsistent with the implications of Locke's theory. Put more generally, my aim is to present an exposition, interpretation, and development of what Locke says in the passages cited, in order to establish that the substance and spirit of his theory can be formulated in contemporary language and applied to contemporary economic problems in such a way as to reveal that it is a more reasonable and practicable theory than is sometimes supposed. In particular, I shall attempt to show that his theory, rather than constituting a defense of laissez-faire capitalism, contains elements which can provide at least the beginning of a philosophical justification of what is sometimes referred to as "social welfare capitalism" and perhaps also even of certain modest forms of socialism.

*I. The Concept of Property*

As is well known, Locke speaks of three rights—life (including health), liberty, and property. These rights may be referred to as "natural" rights because they are not merely customary, positive, or civil rights;

instead, they are rights which men possess regardless of whether they live in civil or political society or in the state of nature, which is a situation in which there is no established civil law. These rights, therefore, do not depend for their existence upon being recognized by or conferred upon men by the positive law of the state; rather, they are rights which *ought* to be recognized by the state, regardless of whether it does in fact do so. To say, however, that these rights are natural in this sense is not to say that they are absolute or indefeasible, so that a person's right to life or liberty or property can never be overridden by the competing rights of some other person or group. It is to say only that they are rights which *ought* to be recognized by the positive law of the state.<sup>1</sup>

Although Locke speaks of three rights—life, liberty, and property—he sometimes uses the term “property” to cover all three rights. He therefore uses this term in both a broad and a narrow sense. In the narrow sense it is equivalent in meaning to his use of “estate”; in the broad sense it applies to life and liberty as well as estate. Thus when Locke is interpreted as saying that the purpose for which governments are instituted is the protection of property, such an interpretation is correct only if “property” is understood in the broad sense. He does not mean that governments are instituted only for the protection of estate; they are instituted for the protection of life and liberty as well as estate. Most of the second *Treatise* is devoted to an explication of the concept of liberty and to a development of the implications of the claim that men possess a natural right to liberty. Here, however, we are concerned only with Locke's notion of estate and with his claim that there is a right to estate, and so with his use of “property” only in the narrow sense, referring to estate alone. Accordingly, I shall use the term “property” only in this sense.

Property is to be distinguished from possession. I possess something if and only if I control it. To control something it is not necessary that I have actual physical possession of it, as when I have an apple in my hand. It is sufficient that I be able to obtain physical possession simply through choosing to do so. I may possess a house even though the house is in one city and I in another. Property, on the other hand, is rightful possession; my property is what I own, as distinguished from what I merely possess. I may own something even though I do not possess it, and I may possess something even though I do not own it. I may own an automobile which I do not possess because it is in the possession of someone who has stolen it. The thief who possesses it does not own it, because I own it. The essential difference between possession and ownership is that the mere fact that I possess something does

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<sup>1</sup> For a more detailed interpretation of Locke's notion of natural right, see my “Two Concepts of Natural Right,” *The Southern Journal of Philosophy*, XII (1974), pp. 55–64.

not mean that others have an obligation not to attempt to deprive me of it, whereas the fact that I own something does imply this obligation. The concept of property is thus an essentially moral, legal, or normative notion, whereas the concept of possession is essentially factual, descriptive, or naturalistic, in the sense of being non-moral, non-legal, or non-normative.

To say, then, that someone owns something is to say that others have an obligation not to attempt to deprive him of it. This, however, is an explication only of ownership, not of the right to property. Everyone, according to Locke, has a right to property, even though some men may in fact own little or nothing. Moreover, ownership, or the right to retain what one possesses, presupposes the right to acquire property. Others have an obligation not to attempt to deprive me of what I possess only if, in the first place, I had the right to acquire whatever it is that I do possess. The right to property therefore includes two rights: the right of someone who already owns something to retain possession of that which he already owns, and the right of someone who as yet owns nothing to acquire ownership of something. In the first case, the right to property is the right to retain that which I already own, and entails an obligation on the part of others to act in a way compatible with my retention of it. In the second case, the right to property is the right I have to acquire property, and entails an obligation on the part of others to act in a way compatible with my doing so. Thus the right to property is the right both to acquire property and to retain the property acquired. As a natural right, it is possessed equally by every man simply by virtue of his humanity. There is a sense, however, in which only those who possess property have a right to retain it, for those who have no property cannot retain the property they do not have, and in this sense can have no right to retain it. But everyone has a right to acquire property and, once acquired, to retain it.

From the preceding it follows that the concept of property is exclusionary in character, for the right to acquire and to retain something is the right to exclude others from its use without permission. To say that someone owns something is to say that others may use it only if he gives them his permission. Locke grounds this right on the fact that certain parts of nature, the use of which contributes either to one's preservation or to one's well-being, cannot be used in common. The earth, including land, water, and air, and everything on or in the land and in the water and the air, belongs in common to all men. But whereas some parts of nature, such as the air we breathe, can be used in common by all men, there are other parts, such as the food we eat, which cannot be used in common. Although I can eat a part of the same apple which you are eating, you and I cannot both eat the same part. If, then, nature is to be of any use to men, those parts of it which cannot be used in common by two or more persons must be used pri-

vately by individual persons. The question therefore arises: how does an individual acquire exclusive ownership of something, so that others have an obligation to act compatibly with his retention of it?

Locke's answer is that it can be acquired originally only by means of labor. Suppose that an apple tree, neither planted nor tended by anyone, is growing on land owned by no one, and that a certain individual, Abraham, picks an apple off this tree. The picking of the apple is an expenditure of energy by Abraham, and entitles him to the apple he picks. Through picking the apple he has mixed his labor with nature, and the product of this mixture of nature and human labor is his possession and ownership of the apple he picks. Having acquired ownership of the apple through expending energy, others have an obligation to act in a way compatible with his retention of it. If some second person, Isaac, should knock Abraham down and take the apple from him, he has wronged Abraham and deprived him of his property. Although Isaac now possesses the apple, he does not own it; Abraham still owns it. Since Isaac does not own it, others have no obligation not to attempt to take it from him. Abraham still owns the apple even though he no longer possesses it. As the owner, he has the right to attempt to get possession of it again, and others have the right, and indeed perhaps the obligation, to assist him. (In this example we are assuming, of course, that Isaac's preservation of his life does not depend upon his taking the apple from Abraham. Should Isaac be in a situation such that he can preserve himself only by depriving Abraham of all or part of his property, he may do so without wronging Abraham. Certainly Isaac's right to preserve himself would override Abraham's right to retain the apple.<sup>2</sup> Fortunately, however, situations in which one person can preserve himself only by taking from another that which the latter requires to sustain himself are relatively rare.)

From this simple example several aspects of Locke's theory of property can be derived. First, when Locke says that property, as distinct from possession, can be acquired only through mixing one's labor with nature, the kind of labor he has in mind is honest labor. Indeed, he uses the term "labor" in such a way that the expression "dishonest labor" is a contradiction in terms. For what he means by "labor" is an expenditure of energy, directed toward the acquisition of something, which does not violate the rights of any other person. Thus all labor is essentially, by definition, honest labor, so that the expression "dishonest labor" is a contradiction in terms and the expression "honest labor" a pleonasm. Accordingly, the concept of labor, like the concept of property, is an essentially moral notion. Thus although Isaac expends energy in attempting to acquire possession of the apple and, indeed, may even expend more energy than Abraham, his expenditure of energy violates Abraham's rights, and thus does not constitute

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<sup>2</sup> *Two Treatises of Government*, II, 6.

labor. Labor does not violate the rights of others, and it results in the acquisition of property and an obligation on the part of others to respect the property thus acquired. But an expenditure of energy which violates the rights of others can result only in the acquisition of some possession, not in the acquisition of property. Others have no obligation to respect the possessions of someone if that person has acquired them by means of an expenditure of energy that violates rights, and they have a right—indeed, perhaps even an obligation—to assist the owner to regain possession.

Second, given (1) the distinction between an expenditure of energy which does and one which does not violate rights and (2) the distinction between ownership and possession, it follows that the actual distribution of goods among men is not completely just. To some extent, at least, the possessions of some of the rich are the result of expenditures of energy which have violated rights, and some of the poor have been reduced to their poverty as a consequence of such violations. Thus to some extent the inequalities of wealth that actually obtain are not completely just. But, as we shall see, these inequalities are not completely unjust either, and some inequalities would exist even if no violations of rights occurred.

A third point arising from the simple example of the apple has to do with the so-called labor theory of value. Locke can be said to hold this theory, if at all, only in the sense that he maintains that the only way in which property can be acquired is through labor. It is true that he says that labor “puts the difference of value on every thing”<sup>3</sup> and that an acre of cultivated land is, say, ten, a hundred, or even a thousand times as valuable as an acre of uncultivated land.<sup>4</sup> But all he means by this is that something upon which labor is expended may, as a result of this expenditure of labor, be transformed and become considerably more valuable than it would be had no labor been expended upon it. This, however, does not mean that the value of something is determined solely by the amount of labor expended in producing it, and is quite compatible with the view that the value of some commodity is determined by the extent to which it is desired and thus by what people are willing to do or to exchange in order to obtain it.

The view just referred to, as contrasted with the so-called labor theory of value, is a naturalistic theory. Given that labor is an essentially moral or non-naturalistic concept, a labor theory of value is also an essentially moral or non-naturalistic theory. But the position just referred to is strictly a theory of economic value, not of moral, religious, or aesthetic value. The proponent of such a theory can readily admit that one thing can have greater moral, religious, or aesthetic value than another even though it has less economic value, and vice versa.

<sup>3</sup> *Two Treatises of Government*, II, 40.

<sup>4</sup> *Two Treatises of Government*, II, 37, 40, 43.

Thus on the view in question, to say that one thing has greater economic value than another is to say nothing at all about its moral, religious, or aesthetic value. Although moral, religious, and aesthetic values may be non-naturalistic, economic value is not. The economic value of something is determined strictly by the extent to which it is desired, and thus by what people are willing to do or to exchange in order to acquire and retain it. Economic value is therefore closely related to supply and demand.

Accordingly, although two men may equally desire objects of the same kind, one may be able to acquire the object of his desire with far less expenditure of effort than the other. Yet if the objects are the same in kind, and each is desired equally by the two men, they are equally valuable, even though one person must expend far more energy to satisfy his desire. Moreover, two men may labor with equal diligence for the same length of time, and yet one may succeed, either through better luck or greater skill, in producing something of greater economic value than the other produces. In this case, the greater value of what the one produces cannot issue from a greater expenditure of labor by him than by the other, for they have both expended the same amount of labor. On the contrary, the economic value of their labor is determined by the economic value of what they produce, so that, instead of their labor determining the value of what they produce, it is what they produce that determines the value of their labor.

None of this is denied by Locke, and all of it, I believe, he would find acceptable. He does not, therefore, accept a so-called labor theory of value, if by this one means that the economic value of something is determined by the amount of labor expended in its production, but would, I believe, accept the polar opposite of the labor theory of value, this being the view that the economic value of labor, rather than determining the value of what it produces, is itself determined by the economic value of what it produces. All he intends to say, in his discussion of the effects of the expenditure of labor upon nature,<sup>5</sup> is that, through the industrious and intelligent expenditure of labor upon it, nature can be made more productive than it would otherwise be. This is such an obvious point that Locke, rather than elaborating a novel theory such as a labor theory of value, is belaboring the obvious: he is not presenting a labor theory of value but a labor theory of property. He is maintaining that the only way in which property or ownership, as distinct from possession, can be acquired is through labor.

We saw, a moment ago, that Locke's theory of property is such that to some extent the actual inequalities of possessions among men are unjust, since they may result from violations of right rather than from labor. This, however, does not mean that his theory requires that there be an absolute equality of property. On the contrary, the implications

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<sup>5</sup> *Two Treatises of Government*, II, 37-43.

of his theory are such that inequalities of possessions may arise legitimately. Although he does not explicitly say so, there would appear to be at least three ways in which this can occur—through differences in industriousness, differences in skill, and differences in luck. Other things being equal, if one person is more industrious, more skillful, or luckier than another, he will probably acquire more property than the other. In many instances the degree to which a person is skillful or industrious is, at least to some extent, under his own control. But a person's luck, as contrasted with his skill or industriousness, is determined strictly by what befalls him or by the circumstances in which he finds himself, either at birth or at some time after birth, independent of any action he performs or which, given his circumstances, he could perform. It is, I think, obvious that inequalities of wealth sometimes arise legitimately, i.e., independent of violations of rights by anyone, because one person is blessed with good luck and another is afflicted with bad luck. The ways in which one can have either good or bad luck at various times in his life are innumerable. But in addition to the good or bad luck one has after birth, one may also have good or bad luck *at* birth, depending upon the circumstances into which one is born. Thus one person, strictly through the accident of a lucky birth, may inherit considerably more property than another.

To this last point, however, one might object that Locke explicitly maintains that the only title to property is labor, so that the only inequalities of wealth that can legitimately arise are those that issue from one person's laboring more industriously or skillfully than another, and not those that arise from luck. If one person acquires more property than another through laboring more industriously or more skillfully, it is still through his labor that he acquires his property, whereas if one person acquires more wealth than another through luck, it is not through his labor that he does so. Thus no inequalities of wealth that arise from differences in luck are justifiable and, if possible, are to be eliminated or at least minimized.

It is true that Locke does explicitly state that labor gives a person title to property, and that luck is not labor. But this point can be over-emphasized, and can be countered by at least two considerations. First, one might maintain that the possession of property includes, at least within limits, the right to give it to whoever one chooses. This position is taken by Locke himself, for he says that men have a right "to bestow their Estates on those, who please them best."<sup>6</sup> Second, Locke admits, at least by implication, that inequalities of wealth can arise legitimately through differences of inheritance, for he maintains that "Every Man is born with a . . . Right, before any other Man, to inherit, with his Brethren, his Fathers Goods."<sup>7</sup> Thus if one person inherits more

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<sup>6</sup> *Two Treatises of Government*, II, 72.

<sup>7</sup> *Two Treatises of Government*, II, 190; cf. also I, 88–90.

property than another he thereby legitimately acquires greater wealth, not through greater industriousness or skill, but simply through the accident of a lucky birth. These considerations mean that, according to Locke, there are two other ways, in addition to labor, in which property may be acquired—through inheritance and through gift.

## *II. The Limits of Property*

But although Locke admits the legitimacy of an inequality of property, he also places limits upon the amount of possessions which may legitimately be acquired. In one place he says this: "As much as any one can make use of to any advantage of life before it spoils; so much he may by his labour fix a Property in. Whatever is beyond this, is more than his share, and belongs to others."<sup>8</sup> Elsewhere he says that a man has a right to acquire as much property as he can, provided that "there is enough, and as good left in common for others."<sup>9</sup> He therefore places two limits upon the amount of property a person may acquire: first, he may acquire only so much as he can use before it spoils, and, second, he may acquire only so much as does not prevent others from also acquiring property. He does not, however, define these limits as precisely as one would like, nor, in fact, as precisely as can be done within the spirit of his theory of property. We now attempt to define them more precisely in accordance with the spirit of his theory, through spelling out in some detail what seems to be implicit in what he says explicitly.

The more important of the two conditions is the second. If a person lived in a solitary condition, so that regardless of the quantity of possessions he acquired he would not thereby prevent others from acquiring property, he would be free to accumulate as many possessions as he pleased, regardless of whether he could use them before they spoiled. If, then, his acquisition of possessions does not prevent others from acquiring property, it is a matter of indifference how many possessions he acquires. If a man were in a solitary condition he would be free to gather as many apples as he pleased. He would not thereby prevent anyone else from gathering apples, and although he can eat only so many before they rot, those he cannot eat will rot whether he gathers them or not. This means that the important limit on the amount of property that may be acquired is the second. Indeed, it means that "spoilage" is to be defined in terms of the second limit: something spoils if and only if it is not used by its possessor before it rots or is otherwise ruined yet could and would be used by someone else were it not for the fact that the first person possessed it. The concept of spoilage is therefore essentially social in nature.

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<sup>8</sup> *Two Treatises of Government*, II, 31.

<sup>9</sup> *Two Treatises of Government*, II, 27.

The preceding, however, is a definition only of "spoilage," not of the second limit. It is possible that someone may possess something which he does not use, that his possession of it prevents someone who could and would use it from doing so, and yet the thing in question does *not* rot or is *not* ruined through its possessor's not using it—examples are a plot of land or a house. Locke's second limit, then, on the amount of property that may be possessed is not to be defined in terms of spoilage but as follows. A person has a right to possess a given object if and only if (1) he labors for it or inherits it or has it given him by someone who has labored for it, and (2) either he uses it or, if he does not use it, his possession of it does not prevent anyone else who could and would use it from doing so. If either of these two conditions is not satisfied, then, although someone may possess a given object, he has no right to do so and thus does not own it. But if it is not his property, it might seem that others have no obligation to respect it as his property and, indeed, have a right to take it from him and use it themselves or give it to someone else who will use it.

Before considering this matter, however, it is necessary to clarify the notion of use. I shall begin with a simple example. Suppose that there are two men, Matthew and Mark, who each own forty acres of land. Matthew has an apple orchard on his land, Mark a pecan grove on his. Matthew grows more apples than he can eat, Mark more pecans than he can eat. But this does not mean that Matthew grows more apples than he can use or that Mark grows more pecans than he can use. Matthew wants things other than apples, Mark things other than pecans. Through exchanging what they have for what they do not have they can each obtain what they want but do not have. In this way Matthew uses the apples he cannot eat, Mark the pecans he cannot eat. Suppose also that men have come to recognize that a system of bartering is too cumbersome and have instituted a standard medium of exchange. In this way Matthew and Mark can exchange their apples and pecans for money. However, Locke says, there is no limit upon the amount of money one may legitimately accumulate, for money does not spoil.<sup>10</sup>

Locke's assertion that one may legitimately possess an unlimited quantity of something provided that it does not spoil in his possession seems to be incompatible with the second limit he places on the amount of property one may possess. This limit, again, is that no one has a right to possess something he does not use, regardless of whether or not it spoils in his possession, if his possession of it prevents others who could and would use it from doing so. Obviously, money is something that men can use, and if one man possesses more money than he uses he may thereby prevent others from acquiring possessions that they could and would use. Despite Locke's contention that they differ, the

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<sup>10</sup> *Two Treatises of Government*, II, 46-47.

situation with respect to money is essentially the same as that with respect to immediately useful objects. Just as one person may possess more apples than he uses and thereby prevent others from acquiring apples that they could and would use, so one man may possess more money than he uses and thereby prevent others from acquiring money that they could and would use.

Now it is obvious that a person can possess more money than he in fact *does* use. This would happen if he simply hoards his money, and makes no use at all of it. Here, of course, the contemplation or the counting of the amount of money one has, which is undoubtedly a source of delight to some, does not count as a use of one's money. But it is doubtful that anyone ever has more money than he *can* use. Although he may not have sufficient needs or wants to enable him to use up all his money to satisfy them, there are always others with needs and wants which could be satisfied through the use of his money. This he could accomplish by gifts or loans to those in need, by investing it as capital to make employment possible for those in need, or even by simply placing it in a savings account in a bank, which in turn uses it to make loans or investments. Similar considerations apply also to forms of possession other than money. If a man possesses more land than he can cultivate alone, he can still make complete use of it by giving part of it to someone lacking land who can and will use it, through renting part of it, or through hiring others to work it. As is obvious, most such uses of money or land to satisfy the needs of others will result in an increase of the wealth of the person who possesses the object used.

Given these considerations, we may specify further the limit Locke places on the amount of property one may acquire. A person has a right to acquire only as much property as he does in fact use, either to satisfy his own needs and wants or those of others. In order for one to use one's property it is not necessary that it be used to satisfy only one's own needs. On the contrary, there is nothing in Locke's theory of property that would forbid us to regard the use of one's property to satisfy the needs of others as being precisely what it is—a use of one's property—even though the result is often an increase in the wealth of the person whose property is used, as well as the satisfaction of the needs or wants of others. This is to say that the use of one's property to increase one's wealth is not necessarily incompatible with the use of it to satisfy the needs or wants of others. Indeed, in many cases the use of property to increase one's own wealth can be achieved *only* through using it to satisfy the needs of others.

We turn now to a brief clarification of the notion of need. The term "need" obviously, in contexts such as the present one, refers to whatever is necessary for the maintenance of life and health, such as food, clothing, shelter, and medical care. We have seen that Locke maintains that each person has a natural right to life and health. From this it

follows that no one has a right to accumulate so much wealth that others are deprived of either life or health as a consequence. But there is another sense of "need"; in recent times it has referred, not simply to whatever is necessary to maintain life and health but also to whatever is necessary to enable one to lead what is sometimes called a "decent" life or to enjoy a "decent" standard of living. It is possible to define "need" in the first sense in absolute terms. Leaving aside minor variations occasioned by differences in physical size, age, health, and physical activity, the amount of food which all human beings require to sustain life is more or less the same. But "need" in the second sense varies from society to society, depending upon its wealth and population.

The limits which Locke places upon the amount of wealth which anyone may legitimately possess can reasonably be interpreted thus: not only has no one a right to possess so much that others are thereby deprived of what they need for the maintenance of life and health, in addition no one has a right to possess so much that others within his society are prevented from acquiring what they need to enjoy a decent standard of living, as established by the resources of the society. As was indicated above, what constitutes a decent standard of living for a given society cannot be specified without a consideration of its wealth and population. About all that can be said abstractly is that it must be sufficient, given the resources of the society, to allow each person within it the possessions and opportunities to enable him to live a happy life within that society and to develop whichever capacities are compatible with the happiness and the development of the capacities of each of the other members of the society. This is not to say that such a distribution of wealth would be sufficient to ensure the happiness of each member of the society. It would at most be only a necessary condition of living happily and of realizing one's potentialities. Even when opportunities for growth are there for all, doubtless there will always be some who do not avail themselves of them. And although at least some material possessions are a necessary condition of happiness for most men, they do not themselves ensure it.

If these considerations be sound, then the limits Locke places on the amount of property which anyone may possess require that no one within a given society may acquire so much wealth that he prevents others from acquiring those possessions necessary to enable them to live at the level of decency possible for all, given the total resources of the society. His theory of property can thus reasonably be used to justify the formation of associations of farmers and workers to strengthen their bargaining power and the enactment of social welfare legislation of various sorts, such as a graduated income tax, minimum wage legislation, and unemployment compensation. His theory may also be used to justify setting the minimum wage rate and unemployment compensation at such a level that everyone within a given society

would be guaranteed a decent income, as determined by the resources of that society. But it would also, I believe, justify the payment of unemployment compensation only to those unable to work and to those who cannot obtain work, either in private enterprises or in governmental projects of various sorts. If a man is able but unwilling to work, then others have no obligation to feed him. Locke would perhaps agree with Marx's dictum that "he who does not work shall not eat," as interpreted to mean that he who is able but unwilling to work shall not eat.

Thus far we have discussed the implications of the limits Locke places on the amount of property which may be acquired only insofar as these limits apply to individuals or groups within the same political society. Our discussion has admittedly been somewhat speculative, in the sense that Locke himself never draws these implications and in fact maintains that "in Governments the Laws regulate the right of property, and the possession of land is determined by positive constitutions."<sup>11</sup> But if the limits he places upon the amount of property that one may acquire are to have any practical significance at all, they must apply to civil or political societies as well as to the state of nature, since we all live in political societies. If these limits have practical significance for us today, we must regard them as controls upon the ways in which the laws of governments may regulate the right of property and positive constitutions may determine the possession of land. Just as the right to liberty sets limits upon the ways in which governments and constitutions may regulate liberty, so the right to property sets limits upon the ways in which they may regulate property.

But if the limits on property which Locke specifies may reasonably be interpreted as applying to individuals or groups within the same political society, then perhaps they may also be interpreted, albeit speculatively (but, I hope, not wildly so), as applying also to independent states and to relations between them. Locke quite clearly states that no person has a right to enclose more land than he can and does use.<sup>12</sup> But if no man has a right to do so, then it would seem that no society or state has a right to do so. I admit that the leap here is rather great, but let us make it, nonetheless. If we do, then three consequences would seem to follow, all important.

The first consequence can be illustrated by the example of the American Indians. They had no right to attempt to prevent Europeans from attempting to settle in the Americas so long as the Europeans restricted themselves to settling in areas not already occupied and used by the Indians. The Americas were not fully used by the Indians, and

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<sup>11</sup> *Two Treatises of Government*, II, 50.

<sup>12</sup> *Two Treatises of Government*, II, 32-36.

there was room in them for the European settlers. The Indians therefore acted wrongly insofar as they attempted to prevent the settlement of Europeans in those parts of the Americas which were not already occupied and used. It must also be said, however, that the Europeans also acted wrongly, in terms of Locke's theory of property, in driving the Indians from those parts of the Americas which they *were* presently occupying and using.

If the preceding be admitted as a consequence of the limits Locke places on property, then a second consequence follows: residents of heavily populated states today have a right to settle in those parts of relatively sparsely settled states which are not being used. If this be too extreme a consequence to derive from Locke's theory, a less sweeping conclusion can be drawn—that sparsely settled states have an obligation to fashion their immigration policies in such a way that they admit larger numbers of immigrants from densely populated poor states than from sparsely populated rich ones. This could be done by determining the number of immigrants to be admitted in terms of the density of population and wealth of the countries from which the immigrants are to come, so that the more densely populated and the poorer a country, the larger the number of immigrants, in proportion to the total population of that country, admitted. If this be in fact a consequence of Locke's theory, and if his theory be sound, then certain states in the twentieth century have seriously failed to fulfill their obligations with respect to immigration policy and, in fact, have established policies almost exactly the reverse of those which ought to have been instituted.

Another consequence of the limits Locke places on property would seem to be the following. On his theory no one has a right to possess anything he does not use if his possession of it deprives others who could and would use it from doing so. But if this stricture applies to individuals, it would also seem to apply to societies. A situation might arise in which a technologically undeveloped society occupies a region containing valuable deposits of minerals or oil or other natural resources which that society, because of its lack of technological skill, is unable to appropriate and use and which more highly developed societies could use. (Of course, there have been many such situations in the past.) It would seem that the developed societies which *can* use these natural resources have a *right* to use them and that the undeveloped societies which are unable to develop them have an obligation to permit the developed societies to develop and use them. It would also seem that such undeveloped societies would act wrongly should they attempt to prevent the development and use of these resources by the developed societies and that the latter would act rightly in attempting to persuade the former to permit them to develop these resources—even, in some instances, using force, if necessary, to exercise their right to develop them. On Locke's theory the earth, and everything on and in it,

is given by God to men for their use and enjoyment,<sup>13</sup> so that no man and no society who cannot or will not develop and use fully some part of the earth it has enclosed has a right to prevent others who can and will develop and use it from doing so. Moreover, if his theory requires that compensation be paid to undeveloped societies for the development and use of the natural resources of the lands they have enclosed, then it would also seem to require that compensation be paid to individuals within a society for the development and use of any natural resources which may be discovered under the land *they* have enclosed. Both ought to be compensated at least for the damage done the enclosed land by drilling and mining and for the use of the land. How much more compensation they ought to receive would perhaps be determined, within the limits specified above, by considerations of supply and demand.

### *III. Objections to Locke's Theory*

It may be said that Locke's theory applies satisfactorily to extremely simple economies in which there is no division of labor and no employer-employee relationship, but that it fails to apply to even the simplest economies in which there is a division of labor and an employer-employee relationship and even less to complex industrial economies such as those of the twentieth century. This objection is based both upon what Locke says and upon what he fails to say. First, it is based upon his contention that the labor of a man's body and the work of his hands belong to that man, so that everything he produces through this labor and work, within the limits specified above, is his property.<sup>14</sup> Second, it is based upon Locke's failure to show how the employer-employee relationship can be justified; to show how the income received from the product of this relationship is to be distributed equitably among employers and their employees; and to show how the income received is to be distributed equitably among those who contributed their labor in its production. Since Locke fails to provide answers to these questions, his theory of property is so incomplete as to be inadequate.

It must be admitted that Locke's theory would be incomplete and consequently inadequate if, in assessing its completeness and adequacy, we limited ourselves to a consideration of what he says explicitly, without attempting to specify its implications. The real question is this: can Locke's theory be reasonably interpreted in such a way that it does, at least implicitly, provide answers to these questions? I believe that it can be and, indeed, that the answer is contained implicitly in the interpretation I have already placed upon it. In arguing, however, that

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<sup>13</sup> *Two Treatises of Government*, II, 25.

<sup>14</sup> *Two Treatises of Government*, II, 27.

Locke's theory, as developed, provides answers to these objections, I am not contending that it settles, even implicitly, every question that can legitimately be raised about the completeness and adequacy of a theory of property. All that one can reasonably expect from a theory of property is that it offer reasonable solutions to those problems that have arisen up to the time at which it is propounded, through its author's reflection on the social, political, and economic conditions obtaining prior to and contemporaneous with the formation of the theory. One who formulates a theory of property cannot reasonably be expected to present definitive solutions to all problems which might arise in the future. Nevertheless, there were divisions of labor and employer-employee relationships prior to and during the latter part of the seventeenth century, so that it must be conceded that Locke's theory should, at least implicitly, contain answers to the objections in question.

Turning, then, to the first objection, we must concede that Locke, unlike his successor Rousseau, does not explicitly attempt to account for the development of an employer-employee relationship. Rousseau, in his *Discourse on the Origin and Foundations of Inequality among Men*, written some sixty years after Locke wrote the *Two Treatises of Government*, began by considering what the nature and condition of man would be in a hypothetical state of nature in which there is no private ownership of land, no division of labor, and no employer-employee relationship. He conceived the state of nature as a pre-agricultural stage in which men subsisted by hunting and fishing and gathering fruits and nuts and berries. So long as men subsist solely by such means as these, there can be no need for the private ownership of land, a division of labor, and an employer-employee relationship, and no significant inequalities of wealth can arise. The latter can come into being only after the stage of agriculture and metallurgy is reached. Once this stage is reached a division of labor appears—those engaged in metallurgy subsist by means of the hammer, those engaged in agriculture by means of the sickle. The development of this stage leads also to the private ownership of land, which in turn leads to the employer-employee (or master-servant or master-slave) relationship and to significant inequalities of wealth.

The development of agriculture and metallurgy, however, presupposes the existence of a society which, though its political development is not extensive enough to allow it to be regarded as a political society, is nonetheless an organized society. This is the case because, among other reasons, no individual by himself would possess sufficient power to make good his claim to any land he attempted to enclose. If any such claim is to be made good, it must be recognized and conceded by others. Accordingly, the private ownership of land presupposes the existence of an organized society the members of which recognize and permit such private ownership. Thus in the state of nature, conceived as the absence of any organized society, there can be no private

ownership of land, no division of labor, no employer-employee relationship, and no significant inequalities of wealth.

Locke, on the other hand, conceives the state of nature as a situation in which men live in families and in which there is a master-servant relationship. Compatible with this, his discussion of property, rather than attempting to account systematically for the origin of (much less to justify) the private ownership of land, a division of labor, and the employer-employee relationship, presupposes them, or at least is presented in such a way as to take their existence for granted. It must therefore be admitted that Rousseau probes more deeply than Locke, both in his account of the state of nature and in his account of the origin of the private ownership of land, a division of labor, the employer-employee relationship, and significant inequalities of wealth. Whereas Rousseau attempts to account for their origin, Locke does not. In this respect Rousseau's theory is more complete. Nonetheless, given that Locke simply assumes the existence of an employer-employee (or master-servant) relationship, the question of whether and, if so, how, such a relationship can be justified in terms of his theory of property remains a legitimate one, and one which we must therefore attempt to answer in terms of his theory. Locke cannot be defended simply by saying that the development of this relationship is a historical matter, to be settled by historians. For one thing, the initial development of this relationship, like alleged states of nature, is pre-historical, in the sense that it antedates historical records. For another thing, we are interested here only in a justification of the development of such a relationship in terms of Locke's theory of property, not in a historical treatment of the actual details of its development.

The development as well as the justification of this relationship is provided, I believe, by various aspects and implications of his theory which have already been discussed, and especially by his admission that property can be acquired by inheritance and gift as well as by labor. Suppose that the agricultural stage of development has been reached, that there are two individuals, Peter and Paul, and that each owns forty acres of equally rich land suitable for the growing of wheat. Suppose also that Peter has ten sons and Paul only one, that Peter wills four acres to each of his sons at his death, and that Paul wills all his land to his son. In this case the son of Paul is born luckier than any of the sons of Peter, at least so far as the inheritance of land is concerned, for he is lucky enough to inherit, through an accident of birth, ten times as much land as any of the sons of Peter. Suppose, again, that the son of Paul marries a woman who has inherited forty acres from her father (wealth tends to marry wealth) and that each of the sons of Peter marries a woman who inherits no property. Suppose further that all the surrounding land within the society in which they live has been enclosed and is in use, and that four acres is not sufficient to enable any son of Peter to support himself and his wife and children.

But the eighty acres which the son of Paul controls is more than enough to enable him to support himself and his wife and children, and is also too large to enable him to make it fully productive solely through his own labor. Suppose, finally, that he is willing to hire one of the sons of Peter to help him work his land, and that one of Peter's sons is also willing to do so. In this way an employer-employee relationship comes into being legitimately, at least insofar as it arises independently of any act of conquest, theft, or fraud on the part of any individual or group.

But even if it be granted that the preceding, or at least something like it, can constitute at least the beginning of a justification of the employer-employee relationship in terms of Locke's theory, the second objection still remains: his theory fails to provide a means of determining what share of the product which is produced rightly belongs to the employer and what share rightly belongs to each of his employees. The third objection also still remains: his theory fails to provide a means of determining what share of the product produced as a result of a division of labor rightly belongs to each person involved in its production. We need not go into the question of how a division of labor can legitimately arise in terms of Locke's theory, for no one would question the legitimacy of a division of labor in the way in which someone might question the legitimacy of the employer-employee relationship. It is obvious that more wealth can be produced through a division of labor in which different persons specialize and become expert at different tasks than could be produced in the absence of such a division. But, given the existence of an employer-employee relationship and a division of labor, does Locke's theory of property provide a means of determining what share of the product produced rightly belongs to each person involved in the productive process?

At least part of the answer to this question has already been provided in our previous exposition of the implications of Locke's theory. We have seen that on his theory no person has a right to possess so much that he thereby prevents others from enjoying a decent standard of living, as determined by the resources of their society. We have also seen that his theory justifies the enactment of minimum wage legislation to ensure that every employee within the society receives a wage sufficient to enable him to live decently, the enactment of legislation providing for unemployment compensation sufficient to enable those willing but unable to find employment to live decently, and the formation of associations of workers and farmers to enable them to bargain more effectively than they would be able to do singly.

However, given the existence of a guarantee of a sufficient minimum wage, his theory would seem to leave the question of how much of the product produced by the employer-employee relationship and the division of labor rightly belongs to the employer and how much to the employee as one to be answered through a bargaining process. The

result would be a contract between employer and employee, the terms of which would be determined largely through such market considerations as supply and demand, including the supply of and the demand for various kinds of labor. It is important, however, to note that his theory does not require that the terms of the contract be fixed only by considerations of supply and demand. Because his theory implies that no man has a right to possess so much that others are thereby prevented from enjoying a decent standard of living, it seems clearly to imply that no employer has a right to make so large a profit that his employees are thereby prevented from receiving a wage sufficient to enable them to live decently and, therefore, to justify the enactment of minimum wage legislation and the formation of associations of workers to ensure that each employee does receive a decent wage.

It may be objected that the preceding still does not provide a means of determining an employer's just profit on his investment—whether it is to be 5 percent, 10 percent, 15 percent, or what. This, however, is a silly objection. All that any theory of property can do is specify in general terms the conditions that must be satisfied if a profit is to be just. And this Locke's theory does, for it implies that the profit of an employer is just only if it is not so large as to deprive his employees of a decent wage. In some situations a 5 percent return on one's investment might be just in terms of this criterion; in others a 20 or even 100 percent return might be just. The notion of a just profit can no more be defined in terms of absolute fixed numerical percentages than the notion of a decent standard of living can be defined absolutely, independent of any consideration of the resources of a given society.

But, the objector might persist, profits on investments cannot be justified at all in terms of Locke's theory of property, since he maintains that property can be acquired only through one's own labor (or through inheritance or as a gift from someone who has labored for it), and someone who receives a profit on his investment does not labor for it. There are at least two replies to this objection. First, it is not impossible for someone to labor for the profit he receives on his investment: a person who works with his head in attempting to determine how best to invest his property also labors. Second, even if someone possessing property does not himself decide how best to invest it but hires someone else to do this for him, he is still running the risk of investment himself. He will profit to the extent that the manager of his property invests it wisely and fortunately, and will lose to the extent that it is invested unwisely or unfortunately. And unless he expects a profit on his investment, it is unlikely that he will risk his property.

The investor, however, as we saw above, is not the only one who profits from his investment. If successful, it increases the wealth of others as well as his own, and may create employment opportunities for those who need it. In this way the investment and risk of one's

property benefits others as well as the investor, so that the latter performs a socially useful function in risking his property and merits some reward, just as the wage laborer who performs a socially useful function does. Thus the receipt of a profit on one's investment can be justified in at least two ways—as an inducement to invest and as a reward for the performance of a socially useful function.

The only alternative to providing such inducements would seem to be the confiscation and investment by society of one's surplus property (this being the amount of one's property that exceeds what one uses to satisfy one's own needs and wants). Locke's theory of property does seem to imply that no one has a right to hold possessions which he does not use if his doing so prevents others from attaining a standard of living which would be possible if these possessions were used, and would therefore justify their confiscation and use by society at large. But it does not require their confiscation if their possessor does use them; it requires only that their possessor be given an inducement to use them through allowing him to profit from their use. Indeed, one could argue that Locke's theory forbids the confiscation of one's possessions so long as they are being used in a socially beneficial way, since such confiscation would amount to depriving a person of his property without his consent, and would therefore constitute theft.

In this discussion of Locke's theory, of course, I have gone considerably beyond what he says explicitly. Throughout this discussion, however, I have sought to develop what seem, given his explicit statements, to be the implications of his words. I have especially endeavored to show that his theory is no mere antiquarian curiosity, applicable, at best, only to the simplest of economic situations in which there is neither a division of labor nor an employer-employee relationship. I have also attempted to show that it cannot be dismissed merely as a kind of simplistic ideology designed to justify either the economic status quo of late seventeenth-century England or the interests either of landed property or of the rising capitalist class. I have further sought to show that, rather than being compatible with *laissez-faire* capitalism, it is in fact incompatible with such a form of capitalism. Instead of justifying such a system of capitalism, his theory, I believe, constitutes at least the beginning of a philosophical justification of social welfare capitalism and governmental intervention in the economic process through legislation to ensure that no person is deprived of a decent standard of living as a consequence of the unfettered flow of economic forces. Indeed, as I think is evident from the interpretation I have placed upon his theory, it would not be difficult to develop it, without unduly straining it, in such a way that it would provide the beginning of a philosophical justification of at least certain modest forms of socialism.