

1. Background-1: civil war in England (1642-49) followed by the parliamentary Protectorate (1650-1660), the Restoration of the monarchy (1660) and the 'Glorious' (bloodless) Revolution of 1688 when a new king and queen of England were brought in from Holland. Locke's *Second Treatise* accords with ideas of the Revolution of 1688, though drafted earlier. His *First Treatise*, published with the *Second* anonymously in 1690, is against Robert Filmer's *Patriarcha* (1680), i.e. against the divine authority of kings (see 1.1, 4.1 & 5.1) or that political authority originates in patriarchal authority in Adam's family.
2. Background-2: Reformation, wars of religion ending in the Peace of Westphalia, 1648. Rise of European nation states, competing with each other for commercial trade, American colonies, and increasingly the slave trade between West Africa and the Americas. Capitalism: wealth through production and the exploitation of social labour (see section 7).
3. Background-3: John Locke (1632-1704) as precursor of the European Enlightenment (18th century). Questioning of traditional authorities; supremacy of reason. Locke's empiricism (in *Essay Concerning Human Understanding*, 1690), his *Letters Concerning Toleration* (1689-93) "to distinguish exactly the business of civil government from that of religion", and his *Second Treatise of Government* (1690) influenced the French Enlightenment through Voltaire's *Letters Concerning the English Nation* (1733) and Montesquieu's *De l'esprit des lois* (1748, translated into English in 1750 as *The Spirit of the Laws*). 'Separation of Powers' in the U.S. Declaration of Independence (1776).
4. Hobbes' state of nature = a state of war; right of nature (to preserve oneself) extends to a right to everything; passions rule; reason suggests a way of getting out of this situation (precepts of reason = laws of nature = moral laws) but can't oblige one to accept what reason says; only a ruler with absolute power can oblige people to obey moral and civil laws, and prevent people lapsing into their natural state of anarchy and civil war. Hobbes' sovereign is above the law: no appeal to a higher authority except God.
5. Locke's state of nature
 1. Locke's state of nature benign, a "state of perfect freedom ... also of equality" (2.4). We are God's property given reason as Law of Nature to govern ourselves. The natural right of self-preservation extends to preserving others (2.6). Many forms of society in a state of nature are possible without the formation of a political society: "It is not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; other promises, and compacts, men may make one with another, and yet still be in the state of nature; ... for truth and keeping of faith belongs to men, as men, and not as members of society" (2.14, see also 5.50).
 2. Adopting the rule of force (= that of beasts) instead of the rule of reason may bring on a state of war and justify using force, since beasts are not moral beings. "Force, or a declared design of force, upon the person of another, where there is no common superior on earth to appeal to for relief, is the state of war: and it is the want of such an appeal gives a man the right of war even against an aggressor, tho' he be in society and a fellow subject" (3.19). Absolute, arbitrary power of one person over another is justified in this case only.
 3. Punishment should fit the crime ("reparation and restraint", 2.8/11) but in self-defence one may kill a thief even when there are independent judges to appeal to (see 3.19 and 18.207).
 4. Slavery is when a person "by his own fault forfeited his own life, by some act that deserves death" (4.23). Instead of being killed he's enslaved: "nothing else, but the state of war continued, between a lawful conqueror and a captive" (4.24). Slave ≠ servant (a moral being able to make a contract).
 5. 'Just war'; 'pre-emptive war'? (See quotation from 15.172 at end of flysheet.)
6. Locke's form of government.
 1. Why leave the benign state of nature? Lack of security: (a) no settled law, (b) no impartial judges, and (c) insufficient force to back up sentences (9.123-6). This makes a man "willing to quit a condition, which, however free, is full of fears and continual dangers ... and join in society with others ... for the mutual preservation of their lives, liberties and estates, which I call by the general name, *property*." (9.123)
 2. Two natural powers of man in the state of nature: legislative and executive. "The first [legislative] is to do whatsoever he thinks fit for the preservation of himself, and others within the permission of the law of nature [i.e. of reason] ... The other [executive] power ... is the power to punish the crimes committed against [the law of nature]." (9.128) The legislative power "he 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" (9.129). The executive power he "wholly gives up and engages his natural force ... to assist the executive power of the society, as the law thereof shall require" (9.130). "And all this to be directed to no other end, but the peace, safety, and public good of the people" (9.131).

3. Separation of powers in government: because “it may be too great a temptation to human frailty, apt to grasp at power” (12.143), “the legislative and executive power come often to be separated” (12.144). ‘Federative power’ deals with foreign relations by discretion and prudence since there’s no international law or international institution to appeal to, all nations being in a state of nature with respect to each other.
4. No one is above the law (12.143).
5. Consent: “Every man being ... naturally free, and nothing being able to put him into subjection to any earthly power, but only his own consent” (8.119), express or tacit.
6. Trust: legislative and executive power a relation of trust (‘fiduciary power’, 13.149). Supreme power or sovereignty lies by default with the people. “There remains in the people a supreme power to remove or alter the legislative... And thus the community may be said in this respect to be always the supreme power.” (13.149) “Using force upon the people without authority, and contrary to the trust put in him that does so, is a state of war with the people, who have a right to reinstate their legislative in the exercise of their power” (13.155).
7. “Right of resisting” (18.208). “The legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties, or fortunes of the people... [B]y this breach of trust they [the legislators] forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty.” (19.221-2). In such a case it’s the government that rebels (= brings back a state of war) (19.226-7).

7. Locke’s theory of property.

1. The origin of private property lies in our natural labour power or the property we have in our selves. Mixing our labour with something held in common makes it our private property, provided enough is left for others.
2. The no-spoil clause: “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. Nothing was made by God for man to spoil or destroy.” (5.31)
3. “A little piece of yellow metal” (5.37): “the invention of money, and the tacit agreement of men to put a value on it, introduced (by consent) larger possessions, and a right to them” (5.36).
4. Improvement, productivity, labour theory of value: “It is labour indeed that puts the difference of value on every thing” (5.40). “A king of a large and fruitful territory there [in America], feeds, lodges, and is clad worse than a day-labourer in England.” (5.41)
5. Inequality of possessions in the state of nature compatible with equality of juridical right: “it is plain, that men have agreed to a disproportionate and unequal possession of the earth... This partage of things, in an inequality of private possessions, men have made practicable out of the bounds of society, and without compact, only by putting a value on gold and silver and tacitly agreeing in the use of money” (5.50). “[Y]et all this consists with the equality, which all men are in, in respect of jurisdiction or dominion one over another, ... being that equal right that every man hath to his natural freedom, without being subjected to the will or authority of any other man.” (6.54) It is thus to secure unequal property that men join together to authorize the formation of a government.
6. Colonies: “He who appropriates land to himself by his labour, does not lessen, but increase[s] the common stock of mankind: for the provisions ... produced by one acre of inclosed and cultivated land are, to speak much within compass, ten times more than those which are yielded by an acre of land of an equal richness lying waste in common.” (5.37) “There are still great tracts of ground to be found, which (the inhabitants thereof not having joined with the rest of mankind, in the consent of the use of their common money) lie waste, and are more than the people who dwell on it do, or can make use of, and so still lie in common” (5.45).

Quotation

Despotical power is an absolute, arbitrary power one man has over another, to take away his life, whenever he pleases. This is a power, which neither nature gives, for it has made no such distinction between one man and another; nor compact [i.e. contract or agreement] can convey: for man not having such an arbitrary power over his own life, cannot give another man such a power over it; but is the *effect only of forfeiture*, which the aggressor makes of his own life, when he puts himself into the state of war with another: for having quitted reason, which God hath given to be the rule betwixt man and man, and the common bond whereby human kind is united into one fellowship and society; and having renounced the way of peace which teaches, and made use of the force of war, to compass his unjust ends upon another, where he has no right; and so revolting from his own kind to that of beasts, by making force, which is their’s, to be his rule of right, he renders himself liable to be destroyed by the injured person, and the rest of mankind, that will join with him in the execution of justice, as any other wild beast, or noxious brute, with whom mankind can have neither society nor security. And thus *captives*, taken in a just and lawful war, and such only, are *subject to a despotical power*, which, as it arises not from compact, so neither is it capable of any, but is the state of war continued: for what compact can be made with a man that is not master of his own life? what condition can he perform? and if he be once allowed to be master of his own life, the *despotical, arbitrary power* of his master ceases. He that is master of himself, and his own life, has a right too to the means of preserving it; so that *as soon as compact enters, slavery ceases*, and he so far quits his absolute power, and puts an end to the state of war who enters into conditions with his captive. (15.172)