

(Draft) History, Locke's Personal Experiences, and His Political Theory*

Many political theorists, including Kant, Hegel, and Mill derive their political theories from their metaphysics, epistemologies, and/or moral theories. John Locke, however, can be more challenging to read – while arguments have been made that draw correlations between his epistemological and political projects, others insist that any such correlations are mere happenstances. Rather than engage in this debate I follow the Cambridge school of political thought and consider how Locke's historical influences relate to his political philosophy. Historically, I am interested in how the establishment of the state as a legitimate political entity following the Treaty of Westphalia in 1648 and how Locke's personal political experiences affect his models of inclusivity, trusts, and betrayal. To lay the groundwork for our discussion I first (Section I) provide

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historical overviews of the Treaty of Westphalia, its effects, and some political events that Locke was involved with. Having established the pertinent historical background for this analysis of the *Second Treatise* (Section II) I discuss Locke's descriptions of inclusivity, trusts, and betrayal. (Section III) I will conclude our discussion by reflecting on how Locke's political theory was likely influenced by his social and historical environment.

Section I – Treaty of Westphalia and Locke's Political Environment

Before discussing events that occurred in Locke's lifetime we should consider how his political times were prefigured by the Peace of Augburg in 1555. An awareness of the Peace will illustrate its significant role in the creation of the Treaty of Westphalia which largely reshaped politics during Locke's lifetime. With a background in the Peace of Augburg and Treaty of Westphalia we can more comprehensively understand some of the political tumult in England during Locke's life, and why he develops his theory the way he does.

The Peace of Augburg was drafted and signed in 1555 by the Holy Roman Emperor and political groups in the Germanic states. The agreement allowed Germanic princes to freely choose either Lutheranism or Catholicism as state religions and legally prohibited their subjects from practicing divergent religions. The agreement ended the 'forcible conversions' that Lutherans and Catholics were using to try and return Europe to a mono-religious culture. This peace was tenuous and boiled for decades, and it ultimately erupted into the Thirty-Years war. This conflict took place in northern France and the

Germanic states, and was waged between the major religious groups in Europe. It was concluded by the signing of the Treaty of Westphalia. The treaty's principle tenets required states to demonstrate religious tolerance, to let rulers independently determine their state religions without threat of foreign invasion, to establish the political equality between all states, and to delineate the particular geographic spaces that states legally held. The Treaty of Westphalia marks a watershed moment, where the major powers of Europe publicly recognized the separation of church and state.

Our current conceptions of state-borders, territory, sovereignty, and identity were not formally realized or respected in Europe prior to the Treaty of Westphalia. Following the signing of the treaty, the terms 'state', 'nation', and 'nation-state' were gradually introduced distinguish between different models of political association. A state "on the modern conception is a legally defined term that refers, at the level of substance, to the state power that possesses both internal and external sovereignty – at the spatial level, to a clearly delimited terrain ... and at the social level, to the totality of members, the body of citizens or the people."¹ The state is a fixed political entity that exists in a particular time and at a particular place, and manifests its sovereignty by asserting itself against external and internal forces that attempt to undermine its stability. The nation, on the other hand, is identified by a particular ethno-political body. Specifically, modern political theory defines a nation as "a group of people identified as sharing any number of real or perceived characteristics – such as common ancestry, language, religion,

¹ Habermas, "The European Nation-State: On the Past and Future of Sovereignty and Citizenship," *Inclusion of the Other*, p107

culture, historical traditions and shared territory – the members of which can identify themselves and others as belonging to the group, and who have the will or desire to remain as a group, united through some form of organization, most often political.”²

‘Thick’ bonds such as ancestry and language tie subjects of nations together, whereas in states citizens’ ‘thin’ bonds of common law and the shared practices of lawmaking are responsible for maintaining political stability. In recent centuries states and nations have conjoined to form ‘nation-states.’ These hybrid political organizations are

“superimpositions of the geographical boundaries of the nation on those of the state. In other words, we have a nation-state when the boundaries of the nation and the boundaries of the state correspond, thus granting the state the power to represent the nation.”³ This allows nations, which are ethnically configured, to adopt the inclusivity of the state’s model of common laws and shared lawmaking, while offering states the more substantive bonds of national identity to reinforce a stable political identity. It is important to realize that Locke himself did not make these distinctions; part of our task will be to consider if or how his writing involves these political concepts. We will pursue this line of investigation at a later point, after we have sketched Locke’s political theory.

Before directly engaging with Locke’s political theory I briefly mention some of his experiences that are relevant to our discussion. In July 1666, Locke saved the first Earl of

² Baycroft, *Nationalism in Europe*

³ Guerrina, 39. The ‘nation’ should be distinguished from nationalism. Guerrina identified nationalism as “often associated with the struggle of a nation to assert its sovereignty and therefore become a nation-state. Nationalism is important for three main reasons: firstly, it is based on a concept of ethno-national identity and thus can be seen as the root of racist ideologies; secondly, it serves to justify and rally support for colonialism and imperialism; thirdly, it codifies international relations as founded upon relations between nation-states.” (Guerrina, 40).

Shaftesbury's life. This action changed his life profoundly by drawing him into the world of politics.⁴ Locke was almost immediately employed by Shaftesbury to prepare political, economic, and philosophical writings.⁵ These writings included, but were not limited to, *The Essay Concerning Human Understanding*, *Essay Concerning Toleration*, and various other political and economic papers. Both Locke and Shaftesbury were associated with the Whig party, which advocated for a constitutional monarchy and the end of absolute rule. In 1679 Whigs became associated with the 'Popish Plot'. This 'plot', which was really a rumor, detailed how Charles II would be assassinated and replaced by his Catholic brother, James II. The Whigs exploited the fear this plot generated by trying to pass the Exclusion Bill, which would have prevented a Catholic from assuming the throne, and ensuring the end of absolute rule based on religious authority. The Bill narrowly failed to pass.

Locke was significantly involved in assisting Shaftesbury develop the Exclusion Bill and a proposed constitution that would have been introduced following the Exclusion Bill that would reshape both the King's and Parliament's obligations to the citizenry. In response to the Whig's political aspirations, Charles II dissolved Parliament in 1679 because of its unruliness. In the following year Royalists began drawing heavily on Robert Filmer's *Patriarcha, or the Natural Power of Kings* to emphasize that the King's right to rule was derived from Adam himself. This justification was intended to certify the legitimacy of Charles II's absolute monarchy. With this historical context in mind we will now be able

⁴ Laslett, 23.

⁵ Laslett, 27.

to approach Locke's writings and after discussing how he frames his theory we will reflect on how his personal experiences influenced the shape of his political writings.

Section II – Political Inclusivity, Trust, and Betrayal

Having outlined some historical events surrounding Locke's writing, let us turn to the *Second Treatise* itself. Before analyzing the text in depth we should consider the question that Locke was addressing, and broadly how he goes about answering it to try and frame his discussion. The question he was concerned with is largely born out of the Enlightenment's emancipatory project, which advocated the turning away from superstition and irrationality towards knowledge and rationality in order to free people from the centuries-old shackles that had held their minds in stasis. Specifically, Locke grappled with the question of how people could be born free and equal, and then come to be governed.⁶ Locke's answer was, roughly, that because of the uncertainties and scarcities of social life individuals would endorse ceding certain powers to the state so long as they retained their moral equality. This secession happens on the condition that the state will use the people's ceded powers to protect individuals. If the government betrays the citizenry's trust then citizens are no longer obligated to obey the government and can legitimately dissolve and reconstitute the government. Having some people with the power to govern others is compatible with respecting moral equality because the rulers hold power in trust, to protect and promote the interests of the governed.

⁶ Kymlicka, *Contemporary Political Philosophy: An Introduction*, 62

With this broad frame of Locke's political theory, we will now proceed to 'flesh' it out by considering his notions of political (A) inclusivity, (B) trusts, and (C) betrayal. Following our analysis of his political theory we will investigate how his Locke's political involvements may have influenced the development of each of his theory's central elements.

A. Inclusivity and Political Equality

When we consider political inclusivity we will do so according to the metric of political equality. Specifically, we will examine the rights that individuals possess in the state of nature and how those rights generate a theoretically inclusive civil society.

Locke begins the *Second Treatise* by investigating the origins of the state's constitution, that is, he considers how the state came to be. This leads him to abstract from the political environment his readers are familiar with and proposing the humans once existed in a 'state of nature'. A 'state of nature' is a prepolitical environment that is "*a State of perfect Freedom*" where men can order "their Actions, and dispose of their Possessions, and Persons, as they think fit...without asking leave, or depending upon the Will of any other Man."⁷

Beyond just a state of perfect freedom, the state of nature is also one of equality because individuals are born with similar faculties and advantages. Despite the equality and absolute freedom shared by all humans, they are not born into a state of absolute liberty: their mutual possession of the faculty of reason lets them realize the Law of

⁷ Locke, *Second Treatise*, II:4.

Nature. This law dictates that because all people are “equal and independent, no one ought to harm” another’s “Life, Health, Liberty, or Possessions.”⁸

There is a difficulty in the state of nature that leads people into civil societies. Each person in the state of nature is the legitimate executor of force. When a person is wronged they are often partial to a particular verdict, and their personal bias limits their ability to reach a just verdict. This is not to propose that the state of liberty prevents individuals from appealing to system of Right; individuals cannot legitimately simply ignore judgments that are passed on them. To elucidate on the difficulties partiality causes in Locke’s state of nature it can be helpful to contrast his state with Hobbes’ state of nature. In the Hobbesian state of nature all men are in a persistent state of war and there is no judge, moral authority, or tradition that can legitimately limit violence among members. Locke’s state of nature is one of co-operation and shared responsibility; members in the state of nature work co-operatively to protect the species, which causes each person to be under an obligation not take so much from the state of nature that other people’s survival would be negatively impacted.⁹ Individuals in the Lockean state of nature do not flee into civil society to mutually pacify one another’s violent intents, but to avoid the state of nature’s inconveniences.¹⁰ Civil society offers a judicial system that limits the partiality of judicial verdicts and theoretically ensures that cases are judged according to their merits rather than according to biases that could

⁸ Locke, *Second Treatise*, II: 6.

⁹ Req. footnote to property here.

¹⁰ Locke, *Second Treatise*, II: 13.

prefigure legal findings. This better protects individuals' estates, health, liberties, and lives.

The state of nature affords equal rights to all people, insofar as by joining their labour with objects in the world all people can come to possess property. In the state of nature all rational beings possess rights – this universality involves a hegemonic inclusivity, insofar as all people hold these rights by virtue of their humanity alone. Moreover, entering civil society demands that individuals *mutually* agree to “enter into one Community, and make one Body Politick.”¹¹ All people intending to create a community must consent to the transfer of power to create the body politic. Whereas Robert Filmer argued that some individuals are born into subordination and cannot but agree to their master's edicts, Locke insists that entering civil society is predicated on consent. Consent demands that all people agreed to the terms of the civil society – universal agreement is necessitated because of the equality that all people possess in the state of nature. If consent cannot be achieved, then the social contract that would ‘spring’ individuals from the state of nature into civil society cannot be brought into being. Moreover, the process of forming and agreeing to the social contract is inclusive because it expands the decision making process beyond the monarchy or patriarchy. Ultimately, however, contract's inclusivity is most prominently displayed in the actual process of constitution making, where all future members of the proposed society must consent to the character of the political organization they will be immersed for the organization to possess a legitimated being.

¹¹ Locke, *Second Treatise*, II: 14.

Beyond the equal rights held by individuals in the state of nature, Locke also makes a strong case for equal rights of all members of civil society. Specifically, Locke's definition of property includes the "the mutual *Preservation* of [members'] Lives, Liberties and Estates."¹² From section 123 onward whenever he refers to property it is typically with this broader connotation that extends beyond just physical property. What is most important for our discussion is that individuals' liberties, or rights, are afforded the same importance as individuals' lives or property. This means that governments are as obligated to protect individuals' essential freedoms as they are required to provide for citizens' health and protection of property. Locke notes that upon entering civil society individuals forego the full range of liberty that they possessed in the state of nature. In return, individuals are protected by the government, which is "obliged to secure every ones Property"¹³ according to publicly created and promulgated laws.¹⁴ These laws must all be grounded in the rights shared by all past, current, and future citizens of the civil society.

A clear example of Locke's valuation of equal rights is seen in his discussion of the poor. Ashcraft argues that because of Locke's focus on subsistence and English poor laws, Locke carries this value of equality through to his political theory. This 'carry-over' is seen because all individuals possess an 'equal right' to sustenance; the poor, as members of the civil society, should be either provided for or have the ability to acquire

¹² Locke, *Second Treatise*, II: 123.

¹³ Locke, *Second Treatise*, II: 131.

¹⁴ Footnote for this!

food for themselves.¹⁵ I would actually suggest that their right to life overrides particular laws that would cause individuals to starve, so long as the poor's violation of the law does not cause harm to another. Feeding oneself even takes priority over physical property rights – as seen in Locke's discussion of the survival of the human species when reflecting on the state of nature, it is unjust for one man to hoard goods if it causes another's life to suffer or end. Another example of the theoretical inclusivity of Locke's political philosophy can be seen when turning to his account of the legislature. This body must be representative of the society, and while the executive possesses the power to redraw 'voting districts' to account for changes in population distribution, these boroughs cannot be unfairly remodeled to remove parliament's representative character. This precaution is likely born from Locke's political experiences; both Charles II and James II used 'remodelling' to restrict the electorate to a very narrow group of loyal supporters, and when their chosen group became unruly the boroughs were simply redrawn.¹⁶ Hence, political inclusivity was theoretically an essential element of Locke's political theory. We turn away from inclusivity and how it relates to Locke's personal experiences for now, but will revisit it again towards the end of this paper.

B. Trust

Locke carefully differentiates between contracts, compacts, and trusts in his division of political power. When turning to trusts, we will see that they simultaneously limit the possible ranges of governmental action and empower the citizenry. Specifically, making

¹⁵ Ashcraft, 242-3.

¹⁶ Geraint Parry, 11.

the citizenry the judges of whether government is acting for the public good and empowering them with the right of dissolution logically precludes governmental abuses of power.

When citizens exit the state of nature they join into a social contract with one another. As a part of this contract they transfer their individual, autonomous, executive power to a government. The contract is between all citizens – anyone who acts as an independent executor of force following the contract being brought into existence is in breach of the contract and can be either exiled or punished using the coercive force of law. All legal coercion, however, is imposed by the state; the individual can at best act as an agent of the state by becoming a magistrate and issuing punishments on the state's behalf. Even in this case, it is the state that empowers the individual in civil society, the individual does not empower themselves.

The contract's original form is found in the constitution. The constitution brings the state into being; insofar as the state is a legal construction, the constitution exhibits its actual creation. This is not to say that without a written constitution a state doesn't actually exist; England, for example, lacks a written constitution and uses a traditional body of laws and the spirit they are created in as their 'constitution'. Lockean political constitutions include a division of power – specifically, they entail a separation of the legislative and executive branches of government. The legislative identifies how force should be directed in the commonwealth by creating laws that represent interests of

the citizenry,¹⁷ and the executive actually enforces the law by legitimizing the use of state power.¹⁸

When the people enter into a social contract and establish the legislative they transfer their absolute freedom to the government so that it can best protect their property. The legislative branch of government is the supreme element of the government because it is empowered to direct how force can be exercised using the practice of lawmaking. Despite its range of power, the legislative remains a fiduciary power that can only act for certain ends; if it surpasses its range of legitimate actions the people can remove or alter the legislative.¹⁹

Locke is explicit about the legislative's range of legitimate actions. While it is the supreme power of the commonwealth, it must adhere to four principles. First, it cannot "be absolutely *Arbitrary* over the Lives and Fortunes of the People."²⁰ Since no one can transfer to another absolute authority over their lives, the legislative cannot arbitrarily deprive another of life, nor can it take the property of another because citizens enter civil society to better protect their properties. Second, the legislative can only dispense justice according to the promulgated laws and by the declarations of known judges.²¹ This second principle prevents citizens from being subject to secret laws or edicts, while simultaneously ensuring that the judicial system remains in public view – secret trials and judgments are illegitimate. Third, citizens' property cannot be taken from them

¹⁷ Locke, *Two Treatises*, II:143.

¹⁸ Locke, *Two Treatises*, II:147.

¹⁹ Locke, *Two Treatises*, II:149.

²⁰ Locke, *Two Treatises*, II:135.

²¹ Locke, *Two Treatises*, II:136.

without their consent.²² Of course the state requires funds to preserve itself, but it cannot simply demand levies – it must lay taxes with the consent of the people. Finally, the legislative cannot transfer the ability to create laws to any other body; the people granted the legislative its power, and only the people can transfer that power to another body.²³ The legislative’s political boundaries are established through a trust – these boundaries are not clearly demarked according to a contract between the people and the legislative. Since the people ultimately remain supreme, insofar as they are the guarantors of the legislative’s power, they can retract their support from the political body and demand that the legislative be reconstituted if it violates their trust. This differs from a contract, which in the civil society a contractual disagreement would require a third-party arbiter to adjudicate whether the legislative had actually violated the terms of the agreement it had with the people. A trust allows the citizenry to retract their popular support for government without requiring another party to validate their decision.

An executive branch of government must also exist so that the laws can be perpetually attended to. This branch of government is expected to “see to the *Execution* of the Laws that are made, and remain in force.”²⁴ Executive power is formally separated from federated power, that is, domestic coercion is separated from external force. Despite the formal separation, both executive and federative power commonly reside in the same person. The executive is entrusted by the public to oversee the legislative, insofar

²² Locke, *Two Treatises*, II:138.

²³ Locke, *Two Treatises*, II:141.

²⁴ Locke, *Two Treatises*, II:144.

as it can call for and dismiss the legislative assembly.²⁵ The only caveats to this power are that the executive only acts as a minister if (1) the constitution declares when the legislative will meet or disperse; (2) if the constitution explicitly identifies when elections must occur. The people trust the executive to perform the tasks assigned to it and not use its power to hinder the legislative from convening. If the executive tries to contravene the people by refusing to reinstate the legislative it acts contrary to the people's trust and enters into a state of war with the people, who can then reinstate the legislature by the power of their collective will.²⁶

The executive is also trusted to use its prerogative to resolve unforeseen problems in accordance with the public good. This can entail making a temporary law until the legislature returns to session or modifying a criminal punishment based on the crime's circumstances.²⁷ In essence, princely prerogative is intended to let rulers "to do things of their own free choice, where the Law was silent, and sometimes too against the direct Letter of the Law for the publick good."²⁸ The executive is entrusted to enact rules but if it works against the public good the people do not judge the executive as a civic judge adjudicates lawsuits between private persons. While it is true that the citizenry can forcibly replace the executive if it is consistently harming citizens' lives, liberties, and property, there are no impartial third-parties that can legitimately adjudicate conflicts between the executive and the citizenry.

²⁵ Locke, *Two Treatises*, II:154.

²⁶ Locke, *Two Treatises*, II:155.

²⁷ Locke, *Two Treatises*, II:159.

²⁸ Locke, *Two Treatises*, II:164.

In all of the aforementioned cases involving the legislative and executive branches of government the citizens trust the government rather than entering into a contract or compact with it. A contract is a legally binding agreement that, in a civic environment, assumes that there is an unbiased legitimated third party that can both determine if either party has violated the tenets of the contract and assign punishments to either party for breach of contract. For Locke, both branches of government serve entirely by the will of the people; since political authority derives its legitimacy from the consent of the people all branches of government only serve as representatives of the people. In essence, government acts on the behalf of the people, but lacks a 'contract' that ensures or necessitates that it will indefinitely retain its particular composition. The closest thing to a contract between the people and the governing bodies is the constitution, but the constitution is a social contract between citizens that brings the civil society into being and, in the process, brings the bodies of government into being as well. Hence the constitution cannot be read as an agreement between the citizenry and the government, but as a contract between citizens that leads them to entrust the government with powers to protect all citizens' lives, liberties, and property. If the government *intentionally* acts against the public good by refusing to protect these essential elements then the people lose trust in the government and the government's power is drained away from it and returns to the people. Since the government is created with the intent that it will act for the good of society, if it violates this trust it acts counter to the logics involved in its creation and the people can reappoint new representatives to guard their properties.

Ultimately, by “applying the word trust to the various political powers in the state ...Locke draws an important distinction for us, perhaps two of them. He divides off the process of compact, which creates the community, from the further process by which the community entrusts political power to a government; although they may take place at the same time, these two are distinct.”²⁹ This clearly separates the contract of society from a contract with government. Locke’s quasi-tripartite division of power, as constructed with the people, the legislative, and the executive, is endangered because there is not an unbiased judiciary that is responsible for applying law. In typical republican governments there are three branches of government, the executive, which carries out punishments, the legislative, which constructs law, and the judiciary, which is solely concerned with determining guilt or innocence with regards to the law as it exists. In Locke’s model of government there is not an independent arbiter if conflicts arise between the branches of government and the people, let alone conflicts between branches of the government itself. Without a neutral third division of governmental power that is responsible solely for prosecuting the law without creating or executing it, Locke’s system is logically unable to establish a contractual relationship between government and citizens because there is no unbiased political body that can assign guilt or innocence to conflicting contractual partners.

C. Betrayal and Locke’s Right of Rebellion

²⁹ Laslett, 114.

Citizens in Locke's political theory experience obligations because power is exerted upon them; obligations are external, rather than internal, pressures.³⁰ Citizens must consent to the legal obligations that the government places them under, but the requirements for consent are incredibly minimal. To underscore this, simply by walking on a road built by the government or owning property in civil society places a person under the obligation of the government. Individuals accept their obligations to better secure their property and because the obligations are established by their entrusted governmental representatives. Locke, in his insistence that citizens are obligated by the government because their representatives create the laws, is advocating an early version of the citizenry acting as both the authors and addressees of law.

Locke recognizes the possible danger of tyrannical governments, which leads him to delineate the actions that citizens can take if their trust is betrayed. By focusing on the conditions of governmental betrayal I believe we can develop a better understanding of what is sometimes called Locke's 'right of rebellion'. Specifically, our analysis of betrayal focuses on the actions that untrustworthy governments take and responses that citizens are then justified in taking.

The citizenry finds themselves in a tyranny whenever the government exercises its power beyond right or, to put it another way, whenever the government exercises power beyond its mandate on a regular basis it has fallen into tyranny.³¹ As soon as power is illegitimately exerted the government loses its ability to legitimately empower

³⁰ Laslett, 111.

³¹ Locke, *Two Treatises*, II:199.

magistrates to oversee the civil society because it has violated the trust citizens placed in it; by forcibly invading the right of citizens it loses its status as a legitimate executor of force. This said, Locke limits the conditions for what qualifies as a tyranny. First, the Executive of the government is sometimes sheltered from persecution, but its officers are not.³² This in itself is not a tyranny; there are some cases where it is safer for civil society “that some few private Men should sometimes in danger to suffer, than that the head of the Republick should be easily, and upon slight occasions exposed.”³³ The officers of the executive can never be empowered to violate the Law as it has been established by the legislative; any attempts to do so renders the magistrate’s authority moot and leaves them with as much power to coerce another member of civil society as any other private citizen. For a magistrate to act against right alone is not sufficient to demonstrate a tyrannical government either because when magistrates exert themselves beyond their stations citizens can appeal towards legitimate judicial oversights to rectify wrongs caused by these magisterial decisions. Even if the judicial system does not deprive the abusive magistrates of their power following a guilty verdict this is still not enough to constitute a tyranny and justify the government’s dissolution. Locke writes it is “as impossible for one or a few oppressed Men to *disturb the Government*, where the body of the People do not think themselves concerned in it, as for a raving mad Man, or a heady Male-content to overturn a well-settled State; the People being as little apt to follow the one, as the other.”³⁴ It is only in the case of either

³² Locke, *Two Treatises*, II:205.

³³ Locke, *Two Treatises*, II:205.

³⁴ Locke, *Two Treatises*, II:208.

systemic, egregious executive violations of law and repeated illegitimate actions or unjustified transformations of the legislative that can justify the citizenry's dissolution of the government. This act of dissolution is what is sometimes referred to as Locke's 'right of rebellion'.

The government is dissolved when the essence of the government is fundamentally changed against the citizenry's wishes. Specifically, Locke discusses five different events that legitimize the citizenry's decision to dissolve the government. First, if the executive uses their arbitrary will to exclusively create laws instead of relying the legislative assembly an illegitimate governmental change has taken place. Second, if the prince hinders the legislative's assembly or, thirdly, undermines the representative character of the legislative the people can resist the executive's unjust exercise of power. Fourth, any attempt to transfer the legislative's power to another foreign power is expressly denied; the people are the only group capable of transferring their trust, not their representative political agents. Finally, if the legislative passes laws that undermine the protection of citizens' property, life, liberty, or health then the legislative has acted contrary to the public's trust and can be dissolved.³⁵

Arguably the most controversial element of Locke's discussion of dissolving the government comes when he writes "Men can never be secure from Tyranny, if there be no means to escape it, till they are perfectly under it: And therefore it is, that they have not only a Right to get out of it but to prevent it."³⁶ Genuine rebels are individuals and

³⁵ Locke, *Two Treatises*, II:222.

³⁶ Locke, *Two Treatises*, II:220.

groups who act in opposition to the authority that is founded in the constitution and laws of government, and justify their opposition on the basis of force alone.³⁷

Governments are most likely to abuse their power in this way, and consequently have to be aware that any such abuse will lead to their dissolution – any systemic governmental betrayal that undermines the constitution and the protections it clothes all citizens in can be resisted with force. When citizens resist with force in the face of governmental abuses, however, they are not acting as ‘rebels’ because they are “absolved from Obedience, when illegal attempts are made upon their Liberties or Properties.”³⁸

Because Locke does not establish an independent judicial branch of government, and because his theory prevents the creation of a binding court of international justice, the people must necessarily act as the judges of abuses of trust. In cases of using force against an illegitimate government the citizens act as the judges on earth, with any ‘final’ decision being left to God. Hence, while Locke does allow for resistance to the government, legitimate resistance cannot properly be termed ‘rebellion’ because in cases of legitimate resistance the people are no longer obligated by the dictates of either the executive or the legislature. Thus, we should refrain from claiming that Locke’s theory proposes a ‘right of rebellion’ and instead recognize that he suggests that citizens simply have the ‘right of dissolution’, which they can only employ when their representatives have demonstratively abandoned or betrayed their constitutional directives.

³⁷ Locke, *Two Treatises*, II:226.

³⁸ Locke, *Two Treatises*, II:227.

Section III - Relation of Inclusion, Trust, and Betrayal to Locke's times

We now turn to how Locke's discussion of political inclusivity, the role of trust, and description of betrayal relates to the political environment that Locke himself was living in. Specifically, (A) I will draw on the theoretical construction of the 'state' that followed from the Treaty of Westphalia to examine how it affects his discussion of inclusivity. (B) I then discuss why Locke abhorred the notion of an absolute monarch assuming the throne and reflect on how his abhorrence may have influenced the discussion of trust and justification of political resistance in his text. (C) I conclude by offering a brief account of how Locke's political theory may contain the potential for radical democratic reform.

A. Inclusion and the State

When considering how European history and Locke's personal experiences affect the inclusivity of his political doctrine I want us to turn our attention to the effects of the Treaty of Westphalia and Locke's association with the Whig party had on him. At the onset of this presentation I announced what the term 'state' commonly refers to in contemporary political theory and the Treaty of Westphalia's importance in asserting religious toleration and the separation of church and state. To recall, the Treaty ensured that all individuals would be guaranteed legal protection from religious persecution, and the state enclosed individuals within a political entity that was inclusive, insofar as it engendered a shared practice of lawmaking and shared constitutional rights. During our discussion of Locke's political theory's inclusivity we saw that individuals in his civil

society theoretically share identical sets of rights; all citizens expect to have their lives, liberties, health, and property protected under the law and any attempts to circumvent these rights without receiving the consent of the people is illegitimate. Moreover, Locke was attempting to answer the question of how it is possible for people who are born free and equal with one another to consent to be governed. His way of resolving this question involves drawing all people into an inclusive political arrangement – this notion of political inclusivity was formally recognized across Europe following Treaty of Westphalia in 1648, a period of time that neighbors when Locke is writing his political treatises. Moreover, we see that Locke’s inclusive system of governance does not necessarily suggest the ‘thick’ bond that we associated with ethno-political associations, nor does it necessarily bear resemblance to the hybrid nation-state. Any person can enter into the Lockean political association, so long as they consent to the rule of law. As a member of the political association all people have a right to be represented in government – this is significant because it asserts that ‘thin’ bonds are responsible for holding the state together and generating obligations between citizens, not the ‘thick’ bonds based in shared ethnicity, language, religion, or history. Hence, an appeal to ethnic supremacy based on ‘thick’ bond is illegitimate in Locke’s political theory.

Having said this, Locke was influenced by his times. For Locke, and most other political theorists during the Enlightenment, a citizen was defined as someone who was their own master. This is a by-product of the times that Locke lived in, and contradicts the necessary equality that all people must possess in civil society for them to be motivated to exit the state of nature. Despite his likely bias, his doctrine bears an openness that

resembles the Whig's political platform. The Whigs were an egalitarian political association that was aimed at emancipating all individuals on the basis of their shared reason – Locke draws on this notion of equality in his construction of the civil state. So long as one manifests the defining characteristic of humanity, reason, a person is entitled the same rights as any other human regardless of their physical defects. The project of Enlightenment, which was to have reason guide individuals' lives, as well as the general emancipatory project of the Whigs, undoubtedly prefigures and influences how Locke constructs his inclusive political theory. As a result, we can perceive how Locke's political environment may have influenced his discussion of political inclusivity.

B. Trust, the Absolute Monarch, and Justifying Political Resistance

In our discussion of trust and the justification of political resistance I want to draw attention to the Charles II's dissolution of parliament and the Royalist use of Robert Filmer's works to justify absolute monarchy.

Catholic monarchs were known for arbitrarily applying force on the basis that their power was a divinely inspired. Locke, partially in response to Filmer's treatise outlining how monarchs are constituted by divine ordinance, and in part because of his involvement in developing a constitution that described the structures and division of power in a constitutional monarchy, resists the notion of an absolute monarchy. Locke separates trust and compacts and, in the process, separates how the government is constituted from the constitution of the state. By relying on trusts Locke limits the range of actions that the government can take – if a governing body violates the people's trust

then the body acts illegally and can be resisted because they lose the force of obligation that is associated with the binding force of legitimated law. Whereas Filmer's argument would allow the sovereign to commit any action on the basis of his absolute will, Locke's limits the sovereigns' range of actions and asserts the dominance of the citizenry.

Locke's assertion of the citizenry's supreme power, and his demonstration of it from the basis of the state of nature, undermines Filmer's claims and argues why a monarchist tyranny would necessarily lose its political legitimacy. Hence, if James II, a Catholic, were to assume the throne any actions that he took that acted against the public good would be in violation of the public trust, and any who stood against him would not be considered a rebel but just responding to an illegitimate exercise of force. In this manner, Locke's text can be read as offering a reason to exercise force against the monarch as opposed to justifying an already initiated rebellion against the monarchy.

Locke's discussion of resistance has a series of consequences. First, by refuting the power of the absolute monarchy, and specifically refuting the validity of a Catholic monarch's divine right to rule, Locke is redefining what a rebel is, and is making possible for the monarch themselves to be regarded as a rebel for violating the spirit of the constitution. This can serve to justify the citizenry's resistance of Royalist forces and to validate the actions of radical Whigs. Moreover, by refuting the monarch's ability to arbitrarily assert its power Locke is ensuring that the division between church and state in the Treaty of Westphalia is maintained; a monarch cannot arbitrarily make a law on the basis of religion because not all citizens can consent to a divinely justified law. Furthermore, in refuting the absolute power of the monarch Locke allows for the

citizenry to resist the monarch without having to appeal to a judicial branch of the government that might be biased in favor of the government. Without an independent judiciary the people cannot enter into a genuine contractual agreement with the government and thus always retain the right to dissolve the government if the trust between the citizenry and the government dissipates.

C. Radical Lockean Democratic Reform

There is one final reading that I would like to consider. Under Locke's account of inclusivity the government is required to represent the citizenry – if it actively refuses to represent the citizens the trust between the citizenry and government is lost. Once trust is lost the citizens are justified in reconstituting the legislative and executive. While Locke himself would not have argued for the dissolution of the English House of Lords, which was an English Parliament of sorts whose members were chosen on the basis of heredity, his theory could be used to justify the House's dissolution. If the House of Lords failed to adequately represent the citizenry then its trust might be lost, and the citizens could reconstitute the structure of governmental power. Moreover, in the process of restructuring their government the citizenry could instate a third branch of government, a judiciary, which could alleviate political unrest and instability by behaving as an impartial arbiter of law and conflicts. While Locke himself does not entertain these kinds of radical assertions his text does seem to potentially lend itself to such a radical shift in governance. I believe that contained within his political philosophy is the

possibility of justifying radical democratic reforms without the citizenry violating civil or natural laws.

To summarize our discussion; we have spoken of the Treaty of Westphalia and how it relates to the construction of the 'state' and Locke's involvement with the Whig party. We then considered how the roles that inclusivity, trusts, and betrayal have in Locke's political philosophy. We then proceeded to reflect on the relation between of the aforementioned elements of Locke's political philosophy and the times that he was living in and saw that his political construction was likely influenced by his environment. Finally, I proposed that Locke's text might possess the roots of a radical democratic political theory. In the course of this discussion I have intentionally avoided references to Locke's other texts; this has not been because there are no links to them, but rather so that we can appreciate the richness of the *Second Treatise* itself. A more comprehensive analysis of Locke's *Second Treatise* could involve an investigation of how his major texts, the people closest to his life, and his moral theory intersect with his political writings. It is my hope that my analysis of the *Second Treatise* has cleared some of the text's obscurities so that a larger and more comprehensive project can be undertaken at a later time.