

CONTEMPORARY VIEWS OF LOCKE'S THEORY OF PROPERTY

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OF
LOCKE'S THEORY OF PROPERTY

By

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ABSTRACT

In chapter five of the Second Treatise, John Locke explains that every man's natural right in his person and his person's labour gives him an exclusive right over whatever he removes from the natural common by his labour without the consent of all the other commoners. This natural appropriation initially has two limits. First, everyone is entitled to have as much property as he can use before it spoils. Second, each appropriation must leave enough and as good in common for others. These limits give everyone direct access to nature and restrict each man's property.

At section thirty-six of the Second Treatise, however, Locke states that the invention of money alters original appropriation. Since money does not spoil, men may acquire as much property in it as they desire with the consequence that men now begin to acquire more of everything, especially land, than they themselves can use. Soon there is no longer enough and as good land left in common for everyone. Can men move to a mode of appropriation which does not leave sufficient land in common for all?

Leo Strauss and C. B. Macpherson argue that according to Locke, once men introduce money they consent to transcend the limits to appropriation and move to unlimited individual appropriation. James Tully and John Dunn oppose this inter-

pretation. Dunn argues that the notion that men may acquire property without limit contradicts Locke's view that a man's labour is his way to eternal salvation. Tully argues that once the sufficiency proviso is violated, natural appropriation in the state of nature becomes dysfunctional, and men must move to reconstitute in civil society the natural mode of limited appropriation.

This study compares and contrasts the main lines of each author's argument with respect to unlimited appropriation, and how each author employs key passages in Locke's works to support his position. This reveals how key passages in Locke's works can have radically different meaning for different interpreters. Rather than attempt to arrive at a new interpretation of Locke on property, my intention is to set side by side two opposed views of the significance of Locke's theory of property, and hence systematize a small part of the vast body of literature on Locke on property.

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NOTE ON THE TEXT

I have used the author-date system for references. At the end of each quotation, or at any point where I wish to draw the reader's attention to an author, I have placed the author's name, the date of publication and the page number. In any sentence, however, where an author's work is mentioned, only the page number is given. In any sentence where only an author's name appears, the date of publication and the page number are given. The references are different for Locke's works. For the Two Treatises, I give the treatise number and the section number: for example, 1.92 refers to the First Treatise, section ninety-two; 2.25 refers to the Second Treatise, section twenty-five. For the Essay Concerning Human Understanding, the references denote the book number, chapter number and section number: for example, 1.2.13 refers to book one, chapter two, section thirteen. Reference to the Essay occurs mainly in chapter three.

INTRODUCTION

With the publication of Natural Right and History and The Political Theory of Possessive Individualism, Leo Strauss and C. B. Macpherson respectively precipitated a long-running and intense debate over the significance of chapter five of John Locke's Second Treatise. They argue that Locke's achievement in the chapter "Of Property" is that he shows how man begins with a right to appropriation in the state of nature limited by natural law and then, by overcoming those limits, acquires a natural right to unlimited appropriation.

John Dunn offers one response to this novel interpretation in The Political Thought of John Locke. Dunn contends that Locke's whole political thought, and ipso facto his doctrine of property, only makes sense if it is understood as a component of his religious commitments, at the core of which is the Puritan doctrine of the calling. Thus, because Locke's property theory in chapter five of the Second Treatise is a major component of his effort to preserve the sphere of liberty men need if they are to fulfill their religious duties, it fails as a justification of unlimited appropriation. x

A more recent response to Strauss and Macpherson

occurs in A Discourse on Property: John Locke and His Adversaries, where James Tully examines Locke's theory of property as a limited rights theory. He argues that because the right to property, as a part of Locke's natural law teaching, derives from the workmanship model--the relational model of man and his Maker--it is a right limited by the performance of natural duties to God. Since natural law teaches that all men have a right to as much property as they need for preservation and no more, Locke's purpose in the chapter "Of Property" is only to show how each man can individuate naturally his share of the common goods and thus fulfill his duty to God to preserve himself and others.

The main purpose of this thesis is to compare and contrast each of these four authors' interpretations of Locke's theory of property as they relate to the theme of unlimited appropriation. My intention is not to arrive at a new interpretation of Locke on property. Nor is it to take a stand on Locke's place in the history of political philosophy--that is, is his political teaching part of the Thomist tradition, as Tully asserts, or is Locke following in the footsteps of Hobbes, as Strauss and Macpherson claim? I aim only to unite in a discussion several important works on Locke that deal with the issue of unlimited appropriation. *

To accomplish this, the thesis is divided into five substantive chapters. The first two are different in nature from the last three. Chapter one discusses Dunn's and

Tully's interpretations of Locke on property separately. Chapter two presents Strauss' and Macpherson's interpretations, also in separate sections. Chapters three to five then bring the four views together around important points they raise about what Locke is doing in chapter five of the Second Treatise. Two reasons underlie this approach of presenting each author's position independently, even though it results in repetition. One reason is that it allows the reader to better appreciate the uniqueness of each author's approach and argument on its own terms. The second reason is that given the originality and complexity of each position, they do not readily or easily compare. I hope that separate presentations in the first two chapters will make my own presentation of each position on the issues relevant to appropriation less trying for the reader in chapters three to five.

The third chapter examines the connection between the law of nature, the state of nature and unlimited appropriation, with emphasis on the relationship between natural law and natural right. The fourth and fifth chapters deal specifically with Locke's theory of appropriation as he presents it in chapter five of the Second Treatise. Chapter four discusses appropriation in the context of the pre-monetary state of nature. It looks at the differences between how Tully and Strauss and Macpherson understand Locke's system of property and how it relates to the process

of natural appropriation. A significant part of the discussion is how the spoilage proviso relates to that process. Chapter five deals with appropriation after the invention of money in the state of nature. The central issue is whether or not the consent to money allows men to lift the natural law limits to appropriation, especially the enough and as good proviso, and move to unlimited appropriation. The chapter concludes with a look at the transition into civil society, what kind of appropriation and property government must protect, and the basis for legitimate resistance; the discussion, however, continually revolves around the theme of unlimited appropriation.

I

PROPERTY AND GOD

Man's relationship to God as His creation is the point of departure for the analyses of Locke's theory of property by John Dunn in The Political Thought of John Locke and by James Tully in A Discourse on Property: John Locke and His Adversaries. They contend that Locke's theory of property is intelligible only if man is viewed as God's workmanship, placed on earth for His purposes. Natural law is the expression of God's will, and serves as man's guide for rational action. As an objective guide to action, natural law imposes perfect duties on man as God's creation. Any natural rights man has, then, logically derive from the prior natural duties to God.

In the fifth chapter of the Second Treatise, Locke states that because mankind is to be preserved, all men have a natural right to the means necessary to preservation (2.25). According to Dunn and Tully, because man's natural property is derived from natural law, it is a right limited by man's duty to God to preserve all men as His workmanship. Contrary to what Leo Strauss and C. B. Macpherson argue, they maintain that since man's natural right to property derives

from natural law, Locke's theory of property cannot serve as a justification for a natural right to unlimited appropriation. Such a justification would contradict Locke's claim that natural rights are limited because they derive from natural law and entail duties to God.

— Although Dunn and Tully argue for the priority of natural law over natural right, their approaches differ somewhat. Dunn's analysis proceeds from the assumption that Locke is a religious philosopher and his property doctrine is a subordinate part of his religious thought. Thus, he argues that unlimited appropriation is inconsistent with Locke's religious philosophy. Tully, however, bases his rejection of unlimited appropriation on a textual reading of Locke's works, especially the Two Treatises.

1. Locke as a Religious Philosopher: Dunn's View

When John Locke wrote the Two Treatises of Government, his concern with property rights was ancillary to his concern for his religious commitments (Dunn, 1982: p. 263). Political issues are important only insofar as they affect the religious performance of individuals. This subordination of politics to religion is the premise upon which he bases the separation of the religious and political moral spheres.

In The Political Thought of John Locke, John Dunn claims that Locke was concerned with religious and not secular equality (pp. 225-7). Religious equality means that

all men are "equal as Christians, however unequal they might be as members of societies" (Dunn, 1982: p. 226; cf. p. 121). Men are equal as Christians because God has placed equally on every individual an obligation to labour for his salvation (Dunn, 1982: pp. 223-7). Because salvation is strictly a matter between the individual and God, everyone must execute his religious duty in isolation. However, the doctrine of "the calling" connects the sphere of religious equality to man's social existence.

As the core of the Protestant ethic, the doctrine of the calling is the basis of the "theological commitments" which render Locke's political philosophy intelligible (Dunn, 1982: pp. 1, 212, 222-3). According to that doctrine, God summons men, who He sets in the world in particular social situations and with particular individual talents, to fill a particular role. Individuals can correctly discern their calling "by conscientious reflection on the relationship between their genetic endowment and the social situation into which they are born" (Dunn, 1982: p. 223). Every adult individual is responsible for interpreting and discharging "with energy" the summons from God (Dunn, 1982: p. 223). Because men must labour in this world to secure rewards in the next (Dunn, 1982: pp. 220, 229), Locke's concern with property rights must be understood as part of his attempt to preserve the integrity of that liberty necessary for men to labour for salvation (Dunn, 1982: pp. 239-40, 250).

The spheres of social and moral duty converge through the doctrine of the calling. Because the individual's calling is the point where social and religious roles coalesce, conflict can arise between the conventional obligations the individual has as a member of a social group and his moral duties derived from natural law. As the central part of his political doctrine, Locke's theory of property is intended, claims Dunn, to protect the individual sphere of moral duty against the obligations arising from social convention (1982: p. 237). The property theory of the Two Treatises serves this purpose by performing two important tasks: it locates the right to property beyond the domain of positive law; and it provides a means for protecting individual instances of property under positive law (Dunn, 1982: pp. 215-16). To construct a theory that would meet these objectives, Locke turned to natural law theory, which conceives of man as originally existing in a pre-political natural state.

The concept of the state of nature is designed to function as a standard outside history, thus outside the realm of any particular political society, by which the moral status of any political society can be judged (Dunn, 1982: pp. 97, 101).¹ Dunn rejects the interpretation that the state of nature is logically prior to civil society. Instead, he assents to the view that it is "...a jural condition..." governed by "...the theologically based law of nature." The state of nature is

a state of equality and of freedom...[where]
 ...men confront each other in their shared
 status as creatures of God without the right
 to restrict the (natural) law-abiding
 behaviour of others (Dunn, 1982: p. 106).x

The law of nature teaches that because all men are
 the "Workmanship of one Omnipotent, and infinitely wise
 Maker", every man is obligated to preserve himself and "the
 rest of Mankind" when his own preservation is not threatened
 (2.6). Two premises derive logically from the law of nature:
 that every man is his own judge and executor of the law of
 nature; and that "Men, being once born, have a right to their
 Preservation, and consequently to Meat and Drink, and such
 other things, as Nature affords for their Subsistence" (2.
 25). These are the rights of men as men. They are not
 derived from positive law. Their ahistorical and apolitical
 nature makes these rights the medium through which individuals
 confer political authority by consent and the foundation for
 legitimate resistance. -

The need for a theory of property not reducible to
 positive law is closely tied to the role of civil society in
 the Lockean schema. The equal right of every man to be judge
 in his own case makes society necessary.²¹ "What society has
 to do for individuals," explains Dunn, "is to make it
 possible for them to execute their religious duties in an
 environment of as wide-spread 'innocent delights' as economic
 progress can make available to all" (1982; pp. 123-4).x But
 economic progress, brought about by the invention of money,

is accompanied by increased corruption (Dunn, 1982: pp. 117-9, 247).³ Therefore, a right of resistance is necessary to protect the sphere of liberty the individual requires to execute his religious duties against a corrupt social structure (Dunn, 1982: p. 245). /

No social order can impose its own morality upon the religious understanding of the individual. Human authorities cannot claim religious sanctions for corrupt purposes. Nor can political authorities seize the property of a legal owner since that would be claiming a right "to obstruct the provision of the physical prerequisites for keeping a man healthy in his calling" (Dunn, 1982: pp. 246-7). If a political society claims the right to do any of the above, it must be resisted. Political norms should not make fulfillment of the calling more difficult. A particular civil society is legitimate only when it assists the religious purpose of man:

The moral status of political societies derives from their capacity to serve as instruments for which God created them. Hence the structure of political obligation is logically dependent on the structure of individual religious duty (Dunn, 1982: pp. 124-5)..

Therefore, the moral legitimacy of both an individual and a civil society is established by adherence to the performance of religious duties, and by nothing else.

The purpose of Locke's theory of property is to protect that space in which the individual performs his

religious duties. C. B. Macpherson claims that the property theory is designed to remove the natural law limits on appropriation in order to justify unlimited capitalist appropriation. Dunn rejects this view. Instead, he argues that because capitalist appropriation hinders the performance of religious duties, it is a morally perilous pursuit (1982: p. 248).⁴ Therefore, Locke would not have used his property theory to justify unlimited appropriation or as the basis for differential rationality (Dunn, 1982: p. 248). *

Dunn claims that Macpherson commits three errors in charging Locke's theory of property with the task of justifying a differential rationality based on the possession of material wealth. First, Locke's recognition of the inability of the workingclass in seventeenth century England to form an economic pressure group as a result of their low level of consciousness reflects his indifference to, rather than support for, the social structure (Dunn, 1982: p. 233). Second, when Locke states in chapter 5 of the Second Treatise that "God gave the world to the use of the Industrious and Rational...not to...the Quarrelsome and Contentious," he is not referring to those who have acquired material wealth. This claim about the rightful heirs of labour is intended as a normative and not as a descriptive remark (Dunn, 1982: p. 233). As the core of the doctrine of the calling, the proper function of labour is the attainment of eternal salvation and not unlimited appropriation (Dunn, 1982: pp. 250-52).

Therefore, material wealth is not a sign of superior rationality, nor was it of great concern to Locke:

Gross social inequality was compatible with equality of religious opportunity and since it was equality of religious opportunity which really mattered, and since social inequality was a singularly intractable feature of his Locke's experience and he was by disposition a political quietist, this social inequality became a target only when it entrenched upon the callings of individuals (Dunn, 1982: p. 250; cf. p. 239).⁵

The third point Dunn rejects is Macpherson's assertion that Locke viewed Christian revelation as an instrument of social control. Since it is impossible for most individuals to grasp by rational reflection the full system of obligations under natural law (Dunn, 1982: pp. 234-5), Christian revelation brings "greater clarity and adequacy to individuals' possible apprehension of the full range of moral duties" (Dunn, 1982: p. 234). Locke's remarks that mass education would greatly enhance social control indicate that he did not view Christianity as performing that function. The ruling class has many conventional devices available to it for this purpose, and it is these social values that Locke is attempting to restrain.⁶ Thus, Macpherson misinterprets Locke when he claims that his theory of property provides a justification for unlimited capitalist appropriation and serves as a moral charter for a class system of differential rationality.

The only differential rationality Locke recognized is a moral one (Dunn, 1982: p. 196). Individuals fall into two

moral categories. First there are those who live according to the law of nature and labour in their calling, and those who live a sinful life of self-indulgence. Second, there are those "capable of sophisticated analysis in any field of human endeavour and those not so capable" (Dunn, 1982: p. 254). What distinguishes the two levels of rationality is the intellectual capability of the moral agent. But despite differences in intellectual capability, all individuals who seek salvation must labour diligently in their callings. When differential rationality is set on a moral plane the iniquities of actual social existence become less significant. It is to this condition that Dunn ascribes the complacency of the workingclass in accepting the iniquities of the existing social structure:

Their acceptance of an existing social structure is predicated not on the moral status of this social structure but on the triviality of the rewards forgone by the poor when set against the grandeur of the opportunities which any stable social structure must leave available to the devout Christian (Dunn, 1982: pp. 264-5).

Unlimited capitalist appropriation can only become the purpose for the individual and civil society if "the religious purpose and sanction of the calling are removed" from Locke's theory of property (Dunn, 1982: p. 250). For Macpherson, the "removal" of the natural law limits to appropriation results in property becoming a purely private right independent of social obligation (Dunn, 1982: pp. 214-15).¹ If property is a purely private right for the

individual, then the main function of civil society will be to protect that property and to facilitate the acquisition function. Otherwise, what inducement is there for individuals, especially the most rational (thus the most acquisitive), to remain in civil society? Under such a regime the only duties the acquirers will admit are those which enhance, or at least do not interfere with, the expansion of private property.

John Dunn disagrees with this interpretation of the relation between private property and social obligation. Although Locke does make property a purely individual right, with the individualization of property goes the individualization of duty (Dunn, 1982: p. 217).⁷ When the individual becomes a member of civil society his property is protected in exchange for the performance of certain social duties.⁸

The property-holder has duties towards a legitimate political order because it is an instrument of God, designed to facilitate the performance of the religious duties which the individual must undertake to attain eternal salvation. Insofar as the social duties imposed by civil society are consistent with God's purpose, they are the conditions upon which civil society will provide the sphere of freedom necessary for the individual to carry out his religious duties. Civil society may assist in the acquisition function only so far as it is consistent with God's purposes for man. Beyond

this, acquisitiveness is unjustified. Therefore, in a legitimate political order, the individual's right to property is contingent upon the performance of duties. Property is a purely private, but limited, right. <

— Only when the veneer of religion is stripped away from Locke's property theory does the end of purposive human labour and of civil society become unlimited acquisition aimed at the satisfaction of unlimited hedonistic desire. It is on this basis that John Dunn rejects unlimited acquisition as the logical consequence of Locke's theory of property. Instead, he advances the view that it serves as a device, of which the chapter "Of Property" is an important part, for preserving the sphere of freedom, threatened by Filmerian patriarchalism, the individual requires for labouring — unobstructed in his calling.

2. Locke as a Limited Rights Theorist: Tully's View

i

In A Discourse on Property, James Tully identifies three challenges which Locke sought to address through the Two Treatises of Government. First, Locke sought to refute Filmer's Patriarcha, which provided a justification for absolute arbitrary power. Second, while refuting Filmer, Locke sought to construct a theory of legitimate resistance whereby the power of the political authority could be challenged. The third task Locke faced was to respond to

Filmer's criticisms about natural law theory. This was necessary if he was to use natural law theory as the ground work for a resistance theory. One of the major criticisms Locke had to address was that it is illogical to claim that property can be common at one time and private at another.

Locke addresses the problem of how the movement from common property to individual property occurs in chapter five of the Second Treatise. Although Locke was interested in demonstrating how particularization of the natural common can occur, he was not concerned with justifying an unlimited property right. Tully presents two main arguments rejecting the right to unlimited acquisition as the logical outcome of Locke's theory of property. First, he argues that because Locke used the workmanship model⁹ as the bedrock of his rights theory, unlimited appropriation is inconsistent with that model since it makes natural rights derivative from, and thus limited by, natural law. Second, the system of property rights Locke presents in the Two Treatises subordinates individual exclusive rights to individual inclusive rights, and, thus, is not suited to a justification of unlimited appropriation.

Locke derives the fundamental law of nature two ways. One way is directly from the workmanship model (Tully, 1982: pp. 45-6). The workmanship model is the relational model of man and his Maker. God, who is knowing and purposive (Tully, 1982: p. 38), created man in His image (Tully, 1982: p. 37).

As God's creation, man is His property and, therefore, God has (maker's) rights over him: "The act of making gives rise to the right in the product and this, in turn, confers a right over the product to use it in certain ways" (Tully, 1982: pp. 41, 110). By analogy, man has a right to those things he makes (Tully, 1982: pp. 116-24).¹⁰ In turn, because God created man, he is under an obligation to act in accordance with the purposes of the Creator: "Since God constructs man with reason, His right correlates with man's duty to act in accordance with the purposes for which he is made" (Tully, 1982: p. 40). Since God designed all men for His purposes, they must be made to last in order to fulfill them. Therefore, the fundamental law of nature is for the preservation of mankind.

A second way Locke derives the fundamental law of nature is by probing "the purposive relationship of man to his natural environment" (Tully, 1982: p. 46). Man's reason teaches him that when he obeys his natural inclination for preservation and uses those things which were made subservient to him and for his use, he follows the will of God. Thus, man's inclination for self-preservation is evidence that the fundamental natural law is for the preservation of mankind.

Locke's justification for man's positive duty to obey natural law is a combination of the voluntarist and rationalist theories of obligation, and thus equates natural

law, which reason discovers, with God's will (Tully, 1982: p. 40).¹¹ "Man is subject to God's will in a moral fashion. He uses his reason to discover natural law and chooses to act in accordance with it, thus participating in the divine order in the way appropriate to a rational creature" (Tully, 1982: p. 41; cf. pp. 39-40). Tully employs the point that right reason, natural laws and God's will are identical to support the claim that Locke did not deduce natural law from man's subjective desires (Tully, 1982: pp. 47, 57, 63, 101-4).

When man discovers natural law, he acquires rational principles which serve as guides for deliberating about proper courses of action. Any course of action conformable to natural law is morally right and consistent with God's purposes. One way man discovers natural law, and thus God's will, is by seeing what purposes his natural attributes embody (Tully, 1982: pp. 43-5). The natural desire for self-preservation reveals God's purpose, which is the law of nature. Because the desire for self-preservation is an objective desire God planted in man, it is a rational desire and therefore right (Tully, 1982: p. 46). However, man's subjective desires are rational, and thus right, only when they conform to God's objective desires for man.¹² Although man's actions must conform to natural law, Locke has a positive view of law (Tully, 1982: pp. 43-5), which makes natural law an objective standard guiding, as opposed to confining, man's actions for the benefit of the community.

By linking man's goal to God's will in this way, Locke establishes an objective moral theory which undermines subjectivism:

If...preservation were nothing more than the subjective goal consequent upon an individual's desire for self-preservation, no Lockean moral theory would be possible. It would be impossible to generate the positive duty of preserving others and to discover a natural criterion of justice which could be used to define and delimit legitimate acts of self-preservation.... The point of grounding morality in man's relationship to God, and thus making him morally dependent in God's objective will, is to repudiate this subjectivism (Tully, 1982: p. 47; cf. p. 57).¹³

ii

Three natural laws guide and direct human rational activity. The first and fundamental law of nature is "that 'Every one...is bound to preserve himself, and...when his own Preservation comes not into competition, ought he...to preserve the rest of Mankind' (2.6)" (Tully, 1982: p. 45). Locke understands the fundamental law of nature as being distributive in intent. Individuals have a duty to preserve themselves, to preserve others when their preservation does not conflict with one's own and to preserve the innocent in situations where lives must be sacrificed (Tully, 1982: pp. 45-6). The second law of nature is that man is obligated to preserve society since it is necessary for his preservation (Tully, 1982: pp. 48-9). The third natural law "expresses the duty man has to 'praise, honour and glory' God" (Tully, 1982: p. 50). However, only the first two laws relate

directly to Locke's theory of property (Tully, 1982: p. 50).

Locke derives man's natural right of common property directly from the workmanship model and as an implicate of natural law. The derivation from the workmanship model is straightforward. Because God made man and the world, all men have a natural right to use the world for their preservation. From the fundamental law of nature, which prescribes the preservation of mankind, Locke derives two natural rights. First, because man has a duty to be preserved, he has a right to be preserved (Tully, 1982: p. 62). Second, because man has a natural duty to engage in the activity of preserving mankind, he has a natural right to this activity (Tully, 1982: p. 62).

In turn, the two natural rights serve as a justification for a resistance theory and as the foundation of a third natural right, the natural right of common property (Tully, 1982: pp. 62-3). If man has a right to be preserved and a right to preserve himself, it follows that "each man has a natural right to the means necessary to preserve himself" (Tully, 1982: p. 63). Since man is under a natural, positive duty to God, he must exercise his three natural rights:

Since.../they result/...from the natural law to preserve oneself and others, man is not at liberty to exercise or not to exercise the right. He is under a positive, natural duty to do so. The three rights are entailed by, and are justifications of, claims to perform duties to God. The exercise of these rights is the duty to preserve

oneself and others (Tully, 1982: p. 63).

Sir Robert Filmer claims that God gave Adam absolute dominion or property over all the world (Tully, 1982: pp. 60-1). Locke's natural property overturns Filmer's construction. Locke's natural property is a right all men possess. It is a right to that which belongs to all; therefore, it is redescribable as an inclusive claim right to be included in, or not excluded from, that to which the right refers (Tully, 1982: p. 61). And it expresses potential, not actual, possession: man's natural property is "a right to one's due rather than to one's own" (Tully, 1982: p. 61).

What distinguishes Locke's theory of property from other theories based on natural law is that it postulates positive community: "...the common belongs to everyone in the same manner, it belongs to them to use for the duty of acquiring the means necessary for support and comfort" (Tully, 1982: p. 127). However, Locke's positive community should be distinguished from Hobbes's, which stipulates that everyone has a right to everything at the same time (thus no right to anything), and from Pufendorf's misunderstanding of positive community as property in several, which is actually a form of private property (Tully, 1982: p. 127). By placing individual property on a foundation of positive community, Locke can refute Filmer's unlimited monarchy and construct a legitimate theory of resistance (Tully, 1982: pp. 55-61, 157-174).

In accepting positive community and the framework of inclusive and exclusive rights, Locke rejects the negative community and private property postulated by Grotius and Pufendorf. Both Grotius¹⁴ and Pufendorf¹⁵ begin their theories of property with the claim that in the natural state there is negative community--no one owns anything, but all is open for use in preservation. For Grotius, whatever one takes out of the state of nature becomes one's own, but only while it is being used. Although it is one's own, it is not property. Property, for Grotius and Pufendorf, entails the right to exclude others even when one's own is not being used; thus it means private property. To get around the problem that the natural use-right is restricted to immediate use, Grotius claims that all men make a compact stipulating first-taking as the criterion for private property in one's own; everyone now has a negative duty to abstain from the property of another.¹⁶

Pufendorf, however, disagrees that a use-right exists naturally (Tully, 1982: p. 74). Instead, he asserts that man has an indefinite natural right to property, which he makes definite through a series of agreements. Since all men must make a first agreement stipulating that first-taking confers a use-right, Pufendorf has turned Grotius's natural use-right into a conventional use-right which becomes private property through second and third agreements granting dominion over moveables and necessary immoveables, and land respectively.

These three agreements make man's indefinite natural right determinate and sanction private property (Tully, 1982: p. 75). Grotius and Pufendorf agree that any rights acquired by willful acts in political society become part of one's own (private property) and, therefore, fall under natural law reductively--by virtue of being neither prescribed nor proscribed by natural law. In this way, natural law underpins private property.

By defining property solely as the right to exercise sovereignty over one's own, Grotius restricts the concept of justice to expletive justice--the protection of one's own--and casts government into the role of protecting private property. Pufendorf recognizes expletive justice as primary, but he allows that government may also exercise the less important distributive justice, which applies to the health of the commonwealth. Tully notes that how distributive and expletive justice are related distinguishes "the individualist and collectivist liberal theories of justice" (1982: p. 91). An individualist theory of justice, like Pufendorf's, places distributive justice on a base of exclusive property protected by expletive justice (Tully, 1982: p. 91). Because Grotius and Pufendorf adopt the concept of private property, their theories of justice validate the existing property distribution in society and endow government with absolute authority by denying the subjects a natural standard of property to appeal to (Tully, 1982: p. 89; cf. p. 85).¹⁷ In

contrast, Locke's theory of justice grants primacy to a distributive principle, the inclusive right to one's due, and then protects exclusive property with expletive justice; thus Locke is a collectivist. His theory of property arms the subjects with a natural standard of property distribution with which to legitimately challenge government.

Tully discusses Grotius and Pufendorf to make the point that because Locke rejects the concept of private property and instead adopts a concept which includes both common and exclusive property, his system of property cannot serve as a justification for a natural right to unlimited appropriation (Tully, 1982: cf. pp. 79, 99, 153). Grotius's and Pufendorf's theories serve as counterpoint to Locke's project in chapter five of the Second Treatise. Tully raises three points which reveal that project.

First, for Locke, neither natural property in the state of nature nor conventional property in civil society is describable as private property (Tully, 1982: p. 99). To make his case Tully employs Macpherson's definition of private property as "'a right to dispose of, or alienate, as well as to use; and it is a right which is not conditional on the owner's performance of any social function' (1975: p. 126)" (Tully, 1982: p. 99). Since the exclusive property men acquire in the state of nature and in civil society is held specifically for the performance of the natural law duty to preserve mankind, and thus entails social obligations, and

may or may not be a right to alienate, it is not private property (Tully, 1982: p. 99).

Second, Locke disagrees with Grotius and Pufendorf that the agreement to introduce property in civil society antedates the compact to form civil society (Tully, 1982: p. 98). Since the latter compact precedes the former agreement, Locke excludes the possibility that governments were made to protect any prior agreements (Tully, 1982: pp. 99-100). This is Tully's response to Macpherson's and Strauss' claim that men enter civil society in order to protect the property they acquired in the state of nature.

Third, since he splits natural property in the state of nature and conventional property in civil society, "Locke 'certainly did not provide a rationale for existing social relations'" (Tully, 1982: p. 100). This challenges Macpherson's historical claim that Locke's property theory served to justify the class society of seventeenth century England.

Tully asserts that Locke's principle objective in chapter five is to demonstrate how the natural common can be individuated naturally (1982: pp. 95-101; cf. p. 131). If Locke can show this, he will have a system of property that answers Filmer's objections to positive community, and thus will have a natural standard of property which can function as the basis for a natural right to legitimate resistance. That system will logically entail a limited natural right to

property.

Since man's natural inclusive right must be actualized in the form of an exclusive right if men are to use the natural common, Locke introduces a second kind of natural right, an exclusive right in one's own (Tully, 1982: p. 67).¹⁸ To bridge the two natural rights, Locke argues that every individual has a natural right in his person and in the actions, or labour, of his person; an individual owns his labour because he is a person, or a law-abiding free agent (Tully, 1982: p. 105). Although the individual is sole proprietor of his person and actions, both he and God have a property in his body and limbs, but in different ways: "Man's life is God's property in the full sense of having a right to use and preserve what is essentially God's property" (Tully, 1982: p. 114). Locke can call man's inalienable use-right in his body and limbs property because he gives that term the widest possible meaning (Tully, 1982: pp. 111-116).

A logical feature of the workmanship model is that what is true of God is also true of man. In altering and making objects out of God's materials, man acts in a God-like manner and individuates his natural inclusive right to the common (Tully, 1982: pp. 117, 122). When men gather fruits lying in common, kill animals for food and cultivate land and its products, they make things useful to preservation and thus acquire exclusive property in them (Tully, pp. 115-19).

God, however, still owns the materials out of which the products are made so that man's right in the products is only a right to use them for His purpose (Tully, 1982: pp. 109, 122). Therefore, exclusive property in the products of labour is not private property.

Through labour men transform the materials provided by God for use into goods of use to the life of man (Tully, 1982: p. 117). By transforming nature's raw materials into products useful to preservation individuals are actualising their prior natural inclusive right to their due or share of the means necessary to preservation. The individual can claim an exclusive right in the product of his labour because the logically prior inclusive right gave him the right to it. Thus, the inclusive right awaits completion in the product of labour:

A property in something is the completion of man's natural right to the means necessary to preserve and comfort himself and others. ...The exclusive right individuates the background claim right in the same way as a right in the use of a seat on public transportation particularises a prior right to use public transportation. That the exclusive right is a use-right in the products of one's labour follows immediately from its being the actualisation, in possession, of a prior right to use these manmade products.... This is necessarily the case because the complementary and natural inclusive and exclusive rights respectively refer to and inhere in products of labour. The result is that the common remains common and the persons remain tenants in common (Tully, 1982: p. 122; cf. pp. 123, 127, 128).

Tully's explanation of how an exclusive right actualizes man's prior inclusive right contains an important

distinction. The natural inclusive right to one's due refers to a share of the means necessary for preservation (Tully, 1982: pp. 63, 127; cf. 2.25). But the things useful to men are those things individuals have made out of natural raw materials and in which they now have an exclusive right (Tully, 1982: pp. 117, 127). Thus man's natural right to the mean's necessary to preservation is comprised of two referents: the raw materials nature provides are the secondary referent, and manmade goods are the primary referent (Tully, 1982: pp. 63, 125). This is why both inclusive and exclusive rights refer to and inhere in the products of labour.

Tully cites the spoilage proviso as evidence for that distinction. The natural tendency of things to spoil limits anyone's legitimate share of the common to what he can use before it spoils (Tully, 1982: pp. 121-2). If anyone allows the products of his labour to spoil without use, he has taken more than his share and is punished for having robbed others. Robbery occurs not because the appropriator allowed natural raw materials to spoil, but because he allowed the products of his labour to spoil. Although he made the products with his labour, they belong to all the commoners and he has an exclusive right to use them only as long as he can use them before they spoil. The spoilage proviso, then, only makes sense if man's natural inclusive right refers primarily to manmade goods:

His offence is to misuse the provisions he had made and so to invade the share his neighbour has in these provisions. The argument makes sense on the presupposition of a prior inclusive claim right to provisions, though not to raw materials, necessary for subsistence. That is, any product of the labour of a person which is more than he can make use of 'is more than his share, and belongs to others' (2.31). The proprietor is thus punished for taking more of the common goods than he can use, even though he made these goods. The neighbours exercise their right to enforce the law of nature in punishing him for invading the inclusive rights of others (2.11) (Tully, 1982: p. 123).

The spoilage proviso is important for Locke's property theory because it establishes how much property anyone is entitled to have. In the original state of nature, prior to the invention of money, a person may justly appropriate by his labour as much as he can use before it spoils and no more. Since this is the amount of property to which every man has a natural inclusive right, it is the amount entailed by man's natural law duty to God to preserve mankind.

Appropriation of one's share of the common stock does not constitute robbery, nor does it require consent. Locke avoids robbery and consent by redefining positive community away from the Hobbesian definition that everyone has a right to all at once (Tully, 1982: pp. 125-8). Since each man has a prior inclusive right to his share of manmade goods, which he makes by labouring on the common raw materials, acquisition of it is not robbery and does not require consent.

Tully claims that the relationship between inclusive

and exclusive rights and the products of labour establishes "Locke's main ideological conclusion: that fixed property in land does not have a natural foundation" (1982: p, 122). Fixed property in land is not natural because an exclusive right in land is only a use-right conditional upon the due use of the products of the land. Although a use-right in land is acquired by cultivating land, since the natural inclusive and exclusive rights refer to and inhere in only the fruits of the land, a use-right in land is retained only if and as long as those fruits are used. If the fruits are allowed to spoil, the cultivated land reverts to the common (Tully, 1982: p. 123). Property in land is twice removed from fixed or private property. For Locke, private property in land is conventional and is justifiable only if and as long as it serves to bring about "a just distribution of property in accordance with the natural right to the product of one's labour and the three claim rights" (Tully, 1982: p. 168; cf. p. 99).

In demonstrating how individuation of the natural common occurs, Locke has provided a justification not of private property but of a system of individual exclusive use-rights in the natural common. Since individuation does not dissolve but realizes property in common, Locke has made a positive case for the English Common (Tully, 1982: p. 129; cf. p. 105; 2.35).

In addition to labour, Locke also regards charity and

inheritance as natural titles to individual ownership. Since men hold exclusive rights for the purpose of preserving mankind, an individual has a natural duty to turn over as much of his surplus property as is necessary to help a needy person (Tully, 1982: pp. 131-2; cf. 1.42). If he refuses, the needy person can apply his inclusive claim right to the surplus and override the proprietor's exclusive right in it. This practice is consistent with Locke's definition of property as a moral power the "nature whereof is, that without a man's own consent it cannot be taken from him" (Tully, 1982: p. 132; cf. p. 114; 2.193).

The natural right to inheritance arises from the communal nature of the family (Tully, 1982: pp. 133-5; cf. 1.42, 1.88-90). Because the property the father acquires belongs to the family for its preservation, if both parents die intestate, the children have a natural right to that property. Since the parents no longer use their share, it naturally falls to the children.¹⁹ Locke's description of inheritance renders property a limited right, which undermines primogeniture.

Tully discusses charity and inheritance to reinforce his assertion that labour, like them, only serves to identify one's share of the common, and not to justify the accumulation of property. "Justification of accumulation and use is derived from the prior duty and right to support and comfort God's workmanship" (Tully, 1982: p. 131). This

justification limits appropriation to as much as anyone can use before it spoils and no more, and it limits the use of that property to the performance of the social obligation to preserve oneself and others. Therefore, because Locke's property theory is a limited rights theory, it does not serve as a justification of the natural right to unlimited individual appropriation.

As the primary means of identifying something as one's own, Locke's concept of labour cannot be used in an argument justifying unlimited capitalist appropriation. Tully contends that the "turfs passage" (2.28) contains the master-servant relation of section eight-five of the Second Treatise, which is not the wage relation of capitalism (1982: pp. 138-42). He offers three main arguments against the view that the master-servant relation is the capitalist-worker relation.

First, the master-servant relation is a voluntary --based on consent--relation (Tully, 1982: p. 137). In order for that relation to be the capitalist-worker relation, it would be required that the worker have no other way of getting the means of subsistence than by selling his labour to the capitalist. But because the master-servant relation is voluntary, the servant can choose whether or not to work for the master. Under Locke's property theory, if such a no-choice condition were to exist, the worker would be entitled to charity (Tully, 1982: p. 138). Therefore, the

master-servant relation is not, and cannot become, the wage relation of capitalism.

Second, it is not possible for a person to alienate his labour power as required by the capitalist mode of production (Tully, 1982: pp. 138-42). According to Tully, Locke understands the term "labour" two ways: as the actions of the person, which are logically inalienable, and as the specific service a servant performs for the master (1982: p. 138). Since a person who enters the role of the servant cannot alienate his labour activity, he only alienates his actions in the form of a complete task or service he performs in exchange for a wage. Although the person who is the servant has a natural right in his labour and products of his labour, as a servant he exchanges conventionally the service and products for a wage (Tully, 1982: pp. 138-9; cf. p. 144).²⁰ Therefore, Locke's turfs cutter cannot alienate his labour activity as the capitalist mode of production requires.

The third, historical, argument is linked to the second (Tully, 1982: pp. 140-2). Capitalist production requires that the worker sell his raw labour power to the capitalist, who then controls it by controlling the labour process. The consequence is that "the capitalist destroys the autonomy of the person" (Tully, 1982: p. 141). This mode of production did not emerge until the 18th century. Locke's servant, however, possesses the skill and instruments with which to complete a task. Because he exchanges for a wage a

complete service he controls himself, the labourer preserves his autonomy. Therefore, Locke's servant represents a mode of production which capitalism had to overcome.

iii

Locke's next objective in chapter five is to introduce money as the factor that motivates men to seek the safety of government (Tully, 1982: pp. 145-51). In the state of nature, prior to the invention of money, men could either use, barter, or give away the products of their labour. After money is introduced, men accumulate larger possessions than they themselves can use by exchanging them for money. This is permitted because the spoilage proviso, which bounds the amount of property anyone could justly acquire, is circumvented by hoarding durable money. Individuals now labour for money rather than convenience. This shift in the motive of labour ends the golden age of the state of nature and creates a condition characterized by contention and the constant violation of natural laws: "Money ends the golden age by creating the unnatural desire to seek more than one needs. The temptation to accumulate beyond need, ambition and covetousness emerge" (Tully, 1982: p. 150). Increased conflict drives men to seek the protection of government. Since for Locke the benefits of labour and industry accrue without the use of money, its introduction only explains why men need the protection of government (Tully, 1982: p. 148).

Money, however, is responsible for more than man's

moral decline. Locke's "final task...in chapter five is to explain the way in which natural individuation becomes disfunctional once money is accepted" (Tully, 1982: p. 151). Money allows individuals to acquire larger possessions, including land. Large and unequal possessions of land are possible because individuals can exchange surplus products for money. With an increased population, money quickly leads to a condition where land is scarce and "others are excluded from exercising their natural right" (Tully, 1982: p. 152). With the proviso that there should be enough and as good left in common for others violated, a solution must be found to the rule that every man should have as much as he can make use of:

The only solution...is to remove the rule that every man should have as much as he can make use of, thereby undermining the legitimacy of "larger Possessions, and a Right to them".... Once the rule that every man should have as much as he could make use of is rescinded, no appropriation is justified (Tully, 1982: p. 152).

A Hobbesian condition, that no one has a right to anything, now prevails in the state of nature.

On the basis of this interpretation, Tully rejects the view that Locke uses the introduction of money and consequent right to larger possessions to effect the transcendence of the natural limits to appropriation and justify unlimited appropriation (1982: pp. 152-3). Instead, he argues that money explains how the natural rule for appropriation must be suspended and a new order based on civil law

created (Tully, 1982: pp. 152-3, 165). Men must enter civil society in order to reconstitute the natural state of affairs. In abjuring his natural power to society, each man also turns all his property over to the community:

...all goods must become common when one man's interest conflicts with another. Men seek political community as a solution to this situation,...and so their possessions must be submitted to the community. The crucial point...is that community ownership of all possessions is the logical consequence of the premisses of Locke's theory in the Two Treatises. Natural acquisition and possession are legitimate in the state of nature as long as the "enough and as good for others" proviso is satisfied. With the introduction of money, ...the theory of natural appropriation and use has no application. The basic premise that God gave the earth to all men in common for all time, and at any particular time, necessarily invalidates all exclusive rights once the proviso is no longer met. "Therefore ...when the vital proviso is no longer satisfied, goods once legitimately acquired can no longer be retained in exclusive possession, but revert to common ownership" (Tully, 1982: p. 165).

With all exclusive rights invalidated, Locke's government must perform a role identical to that which Hobbes's sovereign performs: "The members of a commonwealth are in a similar position to men in the state of nature: things necessary for comfort and support, including land, belong to all and must be individuated. Civil law determines what is mine and thine" (Tully, 1982: p. 165).²¹ Civil government must distribute to each member his share of the common property of society in accordance with the fixed standards of natural law. In order to do this, government

grants everyone the civil version of the three natural inclusive claim rights (Tully, 1982: p. 166), and then distributes the common goods of society in accordance with the eternal natural law principle of justice: "to each the products of his honest industry (1.42)" (Tully, 1982: p. 167). These are the eternal and non-conditional principles in accordance with which government regulates and determines property. Just as in the state of nature, each man actualizes his inclusive right to his share of the common through labour; and that share is limited to as much as he can use before it spoils and no more. The principles governing appropriation, however, operate differently for land. Civil government may grant a right to private property in land, but only if it serves to establish the pattern of property distribution entailed by natural law (Tully, 1982: pp. 168-70). Once appropriated, each man's property is protected by the natural law principle that without a man's own consent it cannot be taken from him.

The property distribution is just only if it meets the conditions "that everyone has the means necessary for comfortable subsistence, and that everyone is able to labour in, and enjoy the fruits of, his calling in a manner appropriate to man and analogous to God's activity as maker" (Tully, 1982: p. 169). If these two conditions are not met, or if government attempts to interfere with anyone's property, the members of society may reactivate their natural power

over their natural rights and overthrow the government (Tully, 1982: pp. 170-4).

In conclusion, the purpose of Locke's property theory in chapter five of the Second Treatise is to put into effect a pattern of property distribution entailed by the natural law duty to preserve mankind. Once in place, that pattern serves as a natural standard of property to which subjects can appeal in order to resist arbitrary acts of government and justify revolution. This, and not a natural right to unlimited appropriation, is Locke's goal.

Summary

John Dunn and James Tully emphasize the importance for Locke of man's relationship to God. Dunn analyzes Locke's property theory as part of Locke's attempt to protect the liberty men need in order to fulfill their religious duties to God. He argues that if the property theory is understood in this way, it is clear that it cannot function as part of an argument to justify unlimited capitalist appropriation. Tully examines Locke's property theory as derivative from the workmanship model. Since man is God's workmanship, he is under a natural obligation to exercise his right to property for God's purposes. By making man subject to God's will, Locke renders his property theory a limited rights theory which cannot be used to justify unlimited appropriation. According to Tully, the purpose of chapter five of the Second Treatise is to show how men can particularize their

share of the natural common and thus put into place the pattern of property distribution entailed by the natural law duty to preserve mankind.

II

UNLIMITED APPROPRIATION JUSTIFIED

Locke asserts in the chapter "Of Property" that since every man has a natural right to his preservation, he also has an equal right to the means for self-preservation. As the exclusive proprietor of his person and his person's labour, every man may remove by his labour those things out of their natural state which are useful to his preservation. According to Leo Strauss in Natural Right and History and C. B. Macpherson in The Political Theory of Possessive Individualism, Locke begins with the premise that all men have an equal right to property within the limits set by natural law and then removes those limits, transforming his initial limited right into a natural right to unlimited individual appropriation. But he does not stop there. Locke also divides men into two classes of rationality based on the ability to appropriate material wealth. In doing so, Locke provides a moral charter for capitalism.

Although they contain many significant differences, Strauss' and Macpherson's views of Locke on property are sufficiently similar that they can be regarded as complementary. (Strauss looks at Locke's theory of property as part

of a larger project, to establish the conditions necessary for man's political happiness.) Macpherson focuses on how Locke allows man to transcend the limits to appropriation and thus how Locke justifies unlimited appropriation and a class-based capitalist society.

1. Locke the Hedonist: Strauss' View

i

In Natural Right and History (pp. 202-51), Leo Strauss argues that Locke shifts the emphasis from natural duties to natural rights and places the individual at the center of the moral world. This shift in emphasis allows Locke to construct a theory of property which makes the right to unlimited acquisition a necessary condition for political happiness. To understand why Locke's theory of property logically and necessarily entails unlimited acquisition, how the individual is made the center of the moral world must be understood first.

— At the foundation of Strauss' interpretation of Locke's political theory lies the claim that the law of nature, as Locke presents it, is not a law in the proper sense of the term. For the law of nature to be a law in the proper sense of the term it must satisfy three conditions. First, it must be in fact given by God. Second, it must be known to have been given by God. The law of nature is knowable by natural (unassisted) reason or by revelation.

If, however, the law of nature is revealed, man's reason must confirm the revelation. And third, "it must have as its sanctions divine 'rewards and punishments, of infinite weight and duration, in another life'" (Strauss, 1953: p. 203). But knowledge of an afterlife is unattainable by unassisted reason. Reason can only learn of an afterlife through the New Testament, which it confirms as revelation. Thus the New Testament confirmed by reason, or reason assisted by revelation, seems to be for Locke the only source of the entire law of nature (Strauss, 1953: p. 205). -

- At this point Strauss identifies a serious problem with Locke's natural law teaching. If the New Testament contains the law of nature in its entirety, as Locke asserts it does, why did he not simply draw his political teaching directly out of Scripture (Strauss, 1953: pp. 205-6)? Instead, Locke wrote the Two Treatises; an act that contrasts sharply with his assertion.¹ That Locke did not go beyond asserting the connection between natural law and Scripture indicates that he may have encountered obstacles in linking them. Any doubts about the viability of linking natural law with Scripture would not have kept him from writing the valuable Two Treatises (Strauss, 1953: p. 206). Strauss argues that as a "cautious"¹ writer Locke had good reasons for not going beyond asserting that he "accepted the New Testament teaching as true because its being revealed has been demonstrated and because the rules of conduct which it

conveys express in the most perfect manner the entire law of reason" (Strauss, 1953: p. 209; cf. pp. 206-9). -

- By simply asserting that he accepted the connection between natural law and Scripture Locke was "going with the herd" in his outward professions. By going with the herd Locke avoided demonstrations. Not giving demonstrations had two advantages. First, it protected Locke from the "herd", who might object to his demonstrations. Second, it kept his natural law teaching, and thus his political teaching, independent of Scripture. This is important if Locke had "misgivings as to whether what he was inclined to regard as solid demonstrations was likely to appear in the same light to all his readers" (Strauss, 1953: p. 209). Independence from Scripture would give the Two Treatises wider acceptability (Strauss, 1953: p. 211). According to Strauss, then, Locke had much to gain by playing down the connection between natural law and Scripture. '

- After examining why Locke wrote the Two Treatises instead of a political teaching based on Scripture, thus why Locke would have desired to make his political teaching as independent of Scripture as possible, Strauss returns to the initial difficulty with Locke's natural law teaching. The difficulty is that knowledge of an afterlife is available only through the New Testament, contrary to Locke's claim that the law of nature is knowable by unassisted reason alone (Strauss, 1953: p. 212; cf. p. 203). But our assurance

that a proposition is the revealed word of God is no greater than our knowledge that it is the revealed word of God. For men who know of revelation only through tradition, certain knowledge that any proposition is the revealed word of God is not possible and therefore the assurance of an afterlife belongs to the province of faith and not reason (Strauss, 1953: p. 212). Because the assurance of an afterlife falls outside the realm of reason, the third criterion of what constitutes a law fails. Thus the law of nature itself fails to satisfy the three criteria Locke established for what constitutes a law:

Therefore, if there is to be "a law knowable by the light of nature, that is, without the help of positive revelation," that law must consist of a set of rules whose validity does not presuppose life after death (Strauss, 1953: p. 212).

What Strauss identifies as Locke's "partial law of nature" appears to meet this requirement. Unassisted reason can demonstrate, as the classical philosophers realized, a connection between "'public happiness' and the general compliance with 'several moral rules'" (Strauss, 1953: p. 213). These moral rules are apparently part of the complete law of nature, but they are acceptable precisely because they do not require either knowledge or the admission of the true ground of morality. The partial law of nature, "which is limited to what 'political happiness'--a 'good of mankind in this world'--evidently requires," is widely acceptable because it precludes a belief in God (Strauss, 1953: pp.

213-4). Locke's use of the partial law of nature seems to have freed him from the difficulties he had with the entire law of nature and, therefore, only "this partial law of nature can have been recognized by him, in the last analysis, as a law of reason and therewith as truly a law of nature" (Strauss, 1953: p. 214). -

If the partial law of nature is part of the complete law of nature found in the New Testament, the partial law of nature should also be found there. But according to Strauss, a comparison of Locke's natural law teaching in the Second Treatise with the New Testament teaching does not support such a conclusion (1953: pp. 214-19). Since the partial law of nature is inconsistent with the New Testament, it is not part of the complete law of nature. Moreover, because the partial law of nature does not require belief in God it "is, then, not a law in the proper sense of the term" (Strauss, 1953: pp. 219-20).²

Strauss has argued, then, that neither the complete law of nature nor the partial law of nature fits the mould for what constitutes a law in the proper sense of the term. The complete law of nature failed because it did not meet the condition of knowability by unassisted reason. The partial law of nature failed because it was inconsistent with the New Testament teaching and because it did not require a belief in God. Thus Strauss concluded that any law of nature recognized by Locke is not a law of nature "in the proper

sense of the term" (Strauss, 1953: p. 220).

This conclusion "stands in shocking contrast to what is generally thought to be his doctrine, and especially the doctrine of the Second Treatise" (Strauss, 1953: p. 220). The "accepted interpretation" regards Locke's doctrine as being full of logical inconsistencies and flaws. These logical inconsistencies and flaws disappear if Locke's "caution"--going with the herd in one's outward professions--and the fact that the Second Treatise only gives the civil, and not philosophical, presentation of Locke's political philosophy are taken into account. The latter point means that the argument of the Second Treatise "is based partly on generally accepted opinions, and even to a certain extent on scriptural principles" (Strauss, 1953: p. 221; cf. pp. 220-1).

Although Locke refers to the traditional natural law teaching, his teaching in the Second Treatise is in fact a departure away from the traditional teaching of Richard Hooker towards the novel teaching of Thomas Hobbes (Strauss, 1953: pp. 221-2).³ A comparison of Locke's teaching with the traditional teaching establishes this point. Strauss begins by identifying the most significant difference between the natural law teachings of Locke and Hooker: unlike Hooker's Locke's teaching requires the dual admission of a state of nature and "that in the state of nature 'every man hath the right to...be executioner of the law of nature'" (Strauss, 1953: p. 222). The latter admission is necessary because the law

of nature, to be a law, must have sanctions. Because Locke rejected the traditional view that the conscience supplies sanctions, he had to argue that human beings provide them. In order to avoid the conclusion that natural law sanctions are merely the product of human convention, natural law must be effective in the state of nature and in civil society. It is apparent that Locke's teaching requires the admission of a state of nature because without it natural law cannot be independent of human convention (Strauss, 1953: pp. 222-3). Therefore, the

law of nature is indeed given by God, but its being a law does not require that it be known to be given by God, because it is immediately enforced, not by God or by the conscience, but by human beings (Strauss, 1953: p. 223).

There is yet another difficulty with the law of nature. If it is to be effective in the state of nature, it must be known in that state. But knowledge of the law of nature is not innate and therefore it is not known in the state of nature. Knowledge of natural law can only be acquired through study, which is not possible in the state of nature since in that state the peace and security necessary for study is not guaranteed (Strauss, 1953: pp. 225-6). Unknown and unknowable in the state of nature, the law of nature is not effective in that state and, therefore, it is not a law in the proper sense of the term (Strauss, 1953: p. 226).

The fact that the law of nature is not promulgated to

man in the state of nature prompts Strauss to question its foundation. Although knowledge of natural law is not innate, nature "'has put into man a desire of happiness and an aversion to misery; these are innate practical principles' ...universally and unceasingly effective" (Strauss, 1953: p. 226; cf. Cox, 1960: pp. 87-8; Goldwin, 1981: p. 459). Because the desire for happiness is innate, men follow it automatically and, therefore, it is known without study. The desire for happiness, however, presupposes life. Thus, the "most fundamental of all rights...is the right of self-preservation" because it is the "first and strongest desire God planted in men, and wrought into the very principles of their nature" (Strauss, 1953: p. 227).⁷¹ Since the desires for happiness and self-preservation cannot be prevented, they have the character of a natural right and thus are the foundation of natural law:

Since the right of nature is innate, whereas the law of nature is not, the right of nature is more fundamental than the law of nature and is the foundation of the law of nature (Strauss, 1953: p. 227).

— Although man is created with those desires in him, only his reason teaches him what is necessary or useful to his preservation and happiness. For instance, reason teaches that since all men are equal with respect to their desire for self-preservation, all men have a right to it. For Locke, the law of nature is "nothing other than the sum of the dictates of reason in regard to men's 'mutual security'

or to 'the peace and safety of mankind'" (Strauss, 1953: p. 228).⁴ Reason wills peace because it is necessary for preservation.

In the state of nature,¹¹ however, because every man is judge of what conduces to his preservation, peace and security are uncertain. Reason teaches that only civil society can guarantee them. Therefore, reason dictates those courses of action which lead to the creation and preservation of a just civil order; thus, individuals concerned with their preservation create civil society through mutual consent (Strauss, 1953: p. 228; cf. p. 233).

Although Strauss states that natural law is unknowable in the state of nature, he qualifies that remark later. Natural law is knowable in the state of nature, but only to those men who have lived in a society where reason was properly cultivated (Strauss, 1953: pp. 230-1).¹² Those men will know that the state of nature, where no common superior is present, is a condition to be avoided. This dictate of reason will drive men who have fallen out of civil society to reestablish civil order. In the state of nature, men live only according to their desire for self-preservation, and not until men enter into civil society do the notions of duty and morality acquire meaning and force (cf. Goldwin, 1981: pp. 458-9; Cox, 1960: pp. 93, 112).

ii

- Locke's theory of property lies at the core of his political teaching. Man's natural right to property is the corollary of his natural right to self-preservation: "If everyone has the natural right to preserve himself, he necessarily has the right to everything that is necessary for self-preservation" (Strauss, 1953: p. 235; cf. 2.25). The only way in accordance with natural right for men to acquire the things necessary to preservation is through labour.⁵ Thus the self-interested individual, who is the exclusive proprietor of his person and labour, and not "society...is the origin of property" (Strauss, 1953: p. 236; cf. 2.27).

- An individual may acquire as much of those things necessary and useful for preservation as he can use before they spoil. Of things which do not spoil, such as gold, silver or diamonds, the individual may appropriate as much as he desires. In the early ages of the world, the proviso that there be "enough and as good left in common for others" does not apply. Reason, which is the law of nature, teaches that man is not required to look after the needs of others (Strauss, 1953: p. 239). The original law of nature is only concerned with the prevention of waste:

The natural law regarding property is concerned with the prevention of waste; in appropriating things by labour, man must think exclusively of the prevention of waste; he does not have to think of other human beings (Strauss, 1953: p. 237).

Strauss demonstrates that this conclusion is valid

whether the state of nature is considered to be a condition of plenty or of penury. If the first ages of the world are a condition of plenty, individuals do not have to be concerned with the needs of others because nature, the common mother of all, provides for everyone. Although the law of nature dictates that everyone "is bound to preserve himself...[and] ...by the like reason when his own Preservation comes not into competition, ought he, as much as he can, to preserve the rest of Mankind" (2.6), the latter part of the claim has no force since nature provides equally for all.

— On the other hand, if the state of nature is considered to be a condition of poverty, reason dictates that individuals cannot look after the needs of others because they would endanger their own preservation by doing so. Therefore, appropriation "without concern for the needs of others is justified regardless of whether man lived in a state of plenty or...of penury" (Strauss, 1953: p. 239). But Strauss argues that in the early ages there is only "potential plenty" and "actual penury" (1953: p. 238). The original plenty was a plenty of nature's "almost worthless materials". Only if the natural state was a state of penury, can it be explained why "the original law of nature (1) commanded appropriation by labour alone, (2)...the prevention of waste, and (3) permitted unconcern for the need of other human beings" (Strauss, 1953: p. 239). The poverty of the state of nature helps explain why men seek to escape to civil society.

In civil society, the original rule governing appropriation, that an individual may acquire as much as he can use before it spoils, is no longer valid. The invention of money--placing value on gold and silver--allows men to possess more goods than they can use themselves, with the result that all the land and everything else in civil society is appropriated.⁶ Locke justifies the removal of the enough and as good proviso and men's loss of the right to acquire property directly by labour by the greater wealth money makes possible in civil society. Now, the natural law restrictions to appropriation are no longer necessary:

In civil society the right of appropriation is completely freed from the shackles by which it was still fettered under Locke's original law of nature:...money has introduced "larger possessions and a right to them".... He justifies the emancipation of acquisitiveness in the only way in which it can be defended: he shows that it is conducive to the common good, to public happiness or the temporal prosperity of society (Strauss, 1953: pp. 240-2).

Although labour does not create a title to property in civil society, it remains the source of value. By freeing man's acquisitive desire--the desire of having more than one needs--money induces man to labour to create things that will satisfy his enlarged desire (Strauss, 1953: p. 243). Labour driven by acquisitiveness produces the wealth that frees man from his original poverty. And this is true charity: "The man who works hard at improving the gifts of nature...is a greater benefactor of mankind than those who give alms to the

poor; the latter lessen rather than increase the common stock of mankind" (Strauss, 1953: p. 243). The law of nature now dictates unlimited, rather than the original limited, appropriation.

The end of government is to serve the public good. Since men enter civil society in order to escape the poverty of the state of nature, the public good is the protection and nurturing of the plenty of civil society. But in order for government to meet its objective, it must preserve property: more accurately, it must protect "the unequal acquisitive faculties" of men (Strauss, 1953: p. 245).⁷ By protecting the ability of the industrious and rational to acquire wealth "in every manner permitted by positive law", government safeguards the conditions of plenty and thus serves the public good. If government fails to protect the natural right to unlimited appropriation, it can be legitimately resisted.

- With respect to his property theory, if Locke claims a greater sanction for civil property than for natural property, why is he "so anxious to prove that property antedates civil society?" (Strauss, 1953: p. 235). Strauss answers as follows:

[By] saying that property antedates civil society, Locke says that civil property--property owned on the basis of positive law--is in the decisive respect independent of society: it is not the creation of society.... Property is created by the individual.... Civil society merely creates the conditions under which the individ-

uals can pursue the productive-acquisitive activity without obstruction (1953: pp. 245-6).

In making property "in the decisive respect independent of society", Locke removes the moral handicap with which the accumulation of wealth had been fettered. Not only does he remove the moral handicap, he also makes unlimited acquisition the very foundation of public happiness; he makes it a dictate, a law, of reason or nature (Strauss, 1953: pp. 246-7).

→ Locke's theory of property, as well as his entire political teaching, situates the individual at the centre and origin of the moral world. By constructing his view of man on "'the low but solid ground' of selfishness or of certain 'private vice'", on how men do live rather than on how they ought to live, Locke effects the shift from natural duties to natural rights (Strauss, 1953: pp. 247-8; cf. Cox, 1960: pp. 67-9). Natural duties are abandoned because the notion that virtue, or God's purposes for man, are ends for man is abandoned (cf. Goldwin, 1981: p. 459).~ Man's acquisitiveness is liberated from the restrictive social duties imposed by the traditional view. Freed from nature's bonds, only the duties man creates in and through civil society bind individuals. Rather than conforming to some eternal concept of morality, man now creates morality to conform to his purposes: "From now on nature furnishes only the worthless materials as in themselves; the forms are supplied by man, by man's free

creation" (Strauss, 1953: p. 249). Through labour man transforms the almost worthless materials provided by nature into useful products. But, more importantly, through mental labour, man creates the moral forms which conduce to preservation and happiness. Man makes (discovers) the rules of the law of nature in civil society.⁴

→ Locke eliminates the objective good as the guide to man's life and replaces it with an objective evil, the fear of death, which all men seek to avoid. Man now aims not for something, but away from something: "The goal of desire is defined only negatively--the denial of pain" (Strauss, 1953: p. 250). If the state of nature is a condition of wretchedness, then the "way toward happiness is a movement away from the state of nature, a movement away from nature: the negation of nature is the way toward happiness" (Strauss, 1953: pp. 250-1). Labour is the denial of the wretchedness of man's natural condition, and it culminates in the power of "having those things which produce the greatest pleasure" (Strauss, 1953: p. 249).

→ Leo Strauss asserts that the purpose of Locke's theory of property is to justify unlimited appropriation. With the natural right to unlimited appropriation, the individual is placed at the center and origin of the moral world. He is responsible for negating the poverty of man's natural condition and is, thus, the cornerstone of the strongest social bond, the mutual desire of preservation and happiness. <

2. The Limitations Transcended: Macpherson's View

i

In The Political Theory of Possessive Individualism, C. B. Macpherson offers an interpretation of Locke's theory of property similar to Strauss'. Macpherson, however, focuses on two central aspects of the property theory which Strauss covers only briefly: how men transcend the natural law limits governing appropriation, and acquire a natural right to unlimited appropriation; and how Locke provides a positive moral basis for capitalist society by justifying "as natural a class differential in rights and rationality."

In chapter five of the Second Treatise, Locke sets down how men acquire a natural right in the common things of nature and the limits governing the appropriation of those things. From the fundamental law of nature, which wills the preservation of mankind, every man has a natural right to the means necessary to preservation (2.6, 2.25). Because each individual is the exclusive owner of his person and the labour of his person, he has an exclusive right in any of the common things he mixes his labour with. This method of appropriation does not require the consent of the other commoners. With respect to the ownership of land, Macpherson points out that Locke read into the state of nature individual ownership and labour rather than communal ownership and labour, making the point that human existence presupposes

private property (1979a: p. 202).

Locke limits the amount anyone may legitimately fix a property in two ways. First, an individual has a right to whatever he appropriates as long as "there is enough and as good left in common for others" (2.27). This limit is necessary if everyone is to have equal access to the means necessary to preservation. The second limit to appropriation is set by the natural tendency of things to spoil: "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" (2.31). These limits apply to the fruits of the earth and land (Macpherson, 1979a: pp. 199-203).

Locke apparently mentions a third limit to appropriation. He implies it in his remark that "the Labour of his Body, and the Work of his Hands" gives exclusive title. This limits rightful appropriation to "the amount a man can procure with his own labour" (Macpherson, 1979a: p. 201). But, as we shall see below, Macpherson argues that this limit posed no problem for Locke.

At section thirty-six of the Second Treatise, Locke introduces the invention of money as the condition that allows men to transcend the sufficiency and spoilage limits. The spoilage limitation is easily transcended. Since gold and silver do not spoil, men may appropriate as much money as they desire. The durability of money also leads to the

transcendence of the sufficiency limit. By exchanging the surplus for money, men may now legitimately own more land than they can use the products of, with the consequence that all the land is soon appropriated. Once all the land is taken, the original natural law rule that everyone should have as much as he can use ceases to be valid. Men must now appropriate what they need for preservation conventionally.

With the introduction of money, Locke speaks of the emergence of the desire to acquire. What kind of desire is the desire to acquire beyond need and convenience? For Locke, the acquisitive desire is neither the irrational miser's desire to hoard money nor the epicurean's desire to "consume more various and gratifying commodities" by exchanging money for them (Macpherson, 1979a: pp. 205-6; cf. p. 209). Locke's answer lies in his view of money and land as capital. As a mercantilist, he regarded money as an instrument for generating wealth. Macpherson makes this point by linking Locke's view of money in Some Considerations with that in the Second Treatise:

[the] main concern in Considerations...is the accumulation of a sufficient supply of money to "drive trade"; both exporting and hoarding...injure this. The aim of mercantile policy and of individual economic enterprise was to Locke the employment of land and money as capital.... That this is what Locke had in mind in the Treatise as the new reason for larger appropriation after the introduction of money is suggested by sect. 48, where the introduction of money is shown to provide both the opportunity and the reason ...for a man "to enlarge his Possessions beyond the use of his Family, and a plentiful

supply to its Consumption..." (Macpherson, 1979a: p. 205).

- 3 The desire to acquire beyond need and convenience is the rational capitalist's desire to use money and land as capital. / Although money serves as a medium of exchange, like land, it also generates a product. 2 The unequal distribution of money makes men willing to pay for its use, which is how it generates wealth. Thus, men desire money and land in order - to acquire more capital.

The introduction of money in the state of nature allows men to "transcend" the natural law limits to appropriation (Macpherson, 1979a: p. 203). Macpherson uses the term "transcend" to indicate that the natural limits to appropriation are still operative, but that they have only "been rendered ineffective in respect of the accumulation of land and capital" (1979a: p. 208). It is still irrational and against the law of nature to acquire perishables that will spoil without use, or land the products of which will spoil without use, but no limit exists for acquiring money. The transcendence of the enough and as good limit, however, poses a problem for unlimited acquisition. With the introduction of money, all the land is appropriated so that there is no longer enough and as good land left for everyone. How can Locke justify the loss by individuals of their right to labour directly on land? According to Macpherson, Locke's most impressive justification for denying individuals direct access to land is that with all the land appropriated, every-

one is made better off: "But if there is not enough and as good land left for others, there is enough and as good (indeed better) living left for others" (Macpherson, 1979a: p. 212; cf. 2.37). Locke also justifies the disparity in the ownership of land by the somber assertion that "consent to the use of money is consent to the consequences" (Macpherson, 1979a: p. 211). The effect of this is that "Locke has justified the specifically capitalist appropriation of land and money" (Macpherson, 1979a: p. 208).

The tacit consent through which men create larger possessions and a right to them occurs in the state of nature, or out of the bounds of civil society. Since this tacit consent allows men as rational beings to enter into agreements and to create institutions independent of a civil order, it is different from the express consent that creates civil society, and by which the individual entrusts his natural power to that society (Macpherson, 1979a: p. 210).⁸ Thus, "Locke can assume that neither money nor contracts owe their validity to the state; they are the emanation of the natural purposes of men and owe their validity to man's natural reason" (Macpherson, 1979a: p. 210). By placing the tacit consent which creates larger possessions and a right to them in the state of nature, Locke has provided men with a natural right to unlimited appropriation independent of the existence of civil society.

The third, supposed, limitation to appropriation is

an implication of Locke's initial justification of appropriation. If an individual can only acquire a property in that with which he mixes his labour, how can he appropriate beyond his own physical capacity to labour? He may do so by purchasing the labour of others. He is able to do this because the individual's proprietorship of his person and his person's labour logically entails that he has a natural right to alienate his labour in return for a wage (Macpherson, 1979a: pp. 214-5; cf. 2.85). Macpherson offers two proofs that Locke took the wage relationship for granted (1979a: pp. 214-20).

The first ground of proof is section twenty-eight of the Second Treatise, commonly referred to as the "turfs passage", where Locke states:

the Grass my Horse has bit; the Turfs my
 Servant has cut; and the Ore I have digg'd
 in any place where I have a right to them
 in common with others, become my Property,
 without the assignation or consent of any
 body. The labour that was mine, removing
 them out of that common state they were in,
 hath fixed my Property in them. 72' 26

If Locke was not taking wage-labour for granted here, his claim that the labour of a servant is the "labour that was mine" would contradict his prior claim (2.27) that each person is the sole owner of his labour (Macpherson, 1979a: p. 215). But the turfs passage situates wage-labour in the context of civil society and Macpherson wishes to show that it is natural. He does this by reference to his earlier point that consent to money in the state of nature leads to

the creation of a complex commercial economy which presupposes the existence of wage-labour. Some Considerations is Macpherson's evidence that Locke saw his seventeenth century England as having a commercial economy containing the institution of wage-labour, and that it was this which he read back into the state of nature (1979a: pp. 216-7). Therefore, for Locke, the wage relationship is natural because it is based on consent between free and rational beings outside the bounds of civil society:

[The] accumulation of capital through the medium of money is based only on consent of individuals to put a value on money; and... the wage relationship is based on the free contract of the individuals concerned. That neither of these propositions has historical warrant is beside the point. Both...are fully intelligible, given Locke's initial postulates that men are by nature free and rational (Macpherson, 1979a: p. 218).

Macpherson's second ground of support for his claim that Locke took the wage relationship for granted is based on the connection between natural right and natural law and civil society. Because men agree to enter civil society in order to safeguard their natural rights, Locke had to make the right to unequal possessions and the wage relationship valid independently of civil society--thus he made them natural; valid in the state of nature--in order to justify their existence in civil society. The two levels of consent mentioned earlier are relevant here (cf. note 8). Since the consent creating society succeeds that which permits unequal possessions and wage labour, the role of civil

society must be to protect those arrangements that were just in the state of nature (Macpherson, 1979a: p. 218). Civil government cannot alter unequal possessions or invalidate the wage relation because it is constrained to enforce natural law principles. Or, from the perspective of men in civil society, if unequal possessions and wage labour exist in civil society, men must have a natural right to them since government is only (and can only be) enforcing that which is just by nature. As sole proprietor of his labour and justly acquired possessions, the individual is free to alienate both. Locke must have taken the wage relation for granted since he was justifying capitalist appropriation: "Indeed any property right less than this would have been useless to Locke, for the free alienation of property, including...one's labour, by sale and purchase is an essential element of capitalist production" (Macpherson, 1979a: p. 219).[^] Locke, then, did not have to show how money allows men to transcend the labour limit because he did not regard it as an obstacle to appropriation. By accepting wage-labour as given, Locke allows men to appropriate beyond their physical capacities by purchasing the labour of others.⁺

Locke's achievement in removing the sufficiency and spoilage limitations is remarkable. Starting with a limited right derived from the absolute natural right of every individual to his person and his person's labour, he transforms it into a natural right to unlimited appropriation and frees

labour from its social bonds:

For to insist that a man's labour is his own ...is...to say that his labour...is something for which he owes no debt to civil society. If it is labour...which justifies appropriation and creates value, the individual right of appropriation overrides any moral claims of the society. The traditional view that property and labour were social functions, and that ownership of property involved social obligations, is thereby undermined (Macpherson, 1979a: p. 221; cf. p. 235; Macpherson, 1979b: p. 231).

ii

Although Locke removes the moral disability handicapping unlimited acquisition, Macpherson claims that he goes even further and justifies "as natural, a class differential in rights and in rationality, and by doing so provides a positive moral basis for capitalist society" (1979a: p. 221). Locke does this by carrying two assumptions he held about the labouring class, which reflect the prevailing seventeenth century view of it, into his analysis of property in the Second Treatise:

[First,] that while the labouring class is a necessary part of the nation its members are not in fact full members of the body politic and have no claim to be so; and secondly, that the members of the labouring class do not and cannot live a fully rational life (Macpherson, 1979a: pp. 221-2).⁹

Macpherson demonstrates that Locke, in many of his writings, shared the prevailing view that the labouring class is a large propertyless segment of society incapable of politically rational behaviour (1979a: pp. 222-9). The rational inferi-

ority of this social element is so acute that religion, with its divine rewards and punishments, is required to induce it to follow the law of nature (Macpherson, 1979a: p. 225).¹⁰ Whether of its own volition or not, the labouring class is not fully rational and thus not fully entitled to political rights. These premises about the labouring class appear in Locke's view of the nature of man and society and, thus, in the Second Treatise (Macpherson, 1979a: pp. 229-30).

The assumption about differential natural rights enters chapter five of the Second Treatise at the point where the postulate that every man is sole proprietor of his own person and capacities is invalidated with the introduction of larger possessions. With the shortage of land money makes possible in the state of nature, equal individuals are transformed into classes: propertied and propertyless (Macpherson, 1979a: p. 231). Since the latter individuals must now alienate their labour for a wage in order to survive, they are not equal with the propertied class in respect of the right to self-governance:

The initial equality of natural rights, which consisted in no man having jurisdiction over another [s. 4] cannot last after the differentiation of property. ... [The] man without property loses that full proprietorship of his own person which was the basis of his equal natural rights (Macpherson, 1979a: p. 231).

Therefore, men in civil society who do not possess a property in goods and estate do not have the same rights as full members of society--those who do have a right in goods and

estate. ~

The second assumption about differential rationality enters the Second Treatise at the point where the state of nature shifts from its original moneyless state to a monetarized condition (Macpherson, 1979a: pp. 232-8). In the original state of nature, rational behaviour consists in subduing nature by improving land for one's own benefit (Macpherson, 1979a: p. 233). This satisfies the condition that human existence requires private possessions and therefore is morally just and expedient--thus rational in both senses. Prior to the introduction of money everyone was rational because each had access to and laboured on land. But after the invention of money all the land is appropriated and not everyone in this (second) stage of the state of nature is industrious and rational in the original sense. Once money is introduced, rational behaviour involves enlargening one's possession of land beyond one's ability to consume its products by purchasing the labour of those who do not own land. Thus, "at the point where labouring and appropriating become separable, full rationality went with appropriating rather than with labouring" (Macpherson, 1979a: p. 234). Full rationality is now associated with appropriation. All those who labour for a wage are no longer fully rational.¹¹

By reading into his theory of property the prevailing seventeenth century view about the differential rights and

rationality of the labouring class, and by grounding that differential in natural law, Locke provides a moral justification of the class structure essential to the capitalist mode of production (Macpherson, 1979a: p. 251). But all this is "intelligible hypothetically...only if one attributes to man's nature, as Locke did, the rational propensity to accumulate" (Macpherson, 1979a: pp. 235-6). All the things Locke assumes occur in the state of nature are possible because man has a natural propensity to acquire, which drives him to devise a mechanism that will free his acquisitive propensity.-

Having established that differential rights and rationality exist in the state of nature, Macpherson is left to explain whom Locke regards as the members of civil society and what rights they have. For Locke, men enter civil society in order to protect their property against the dangers of the state of nature. Men create civil society by their mutual consent to entrust their natural powers to society. But two classes of individuals enter civil society: landless labourers and propertied capitalists. How can two rationally different classes of individuals come together to form a single civil society? Locke circumvents this difficulty in the Second Treatise by defining property broadly as life, liberty and estate and narrowly as merely goods or estate (Macpherson, 1979a: pp. 198, 247-8). Defining property broadly with respect to the original contract creating civil

society, allows both classes of individuals to become members. But in holding to both definitions of property, Locke makes the propertied class perfect or full members of society: "only they have a full interest in the preservation of property, and...are fully capable of that rational life... which is the necessary basis of full participation" (Macpherson, 1979a: p. 248).-

Only the full members of civil society are capable of being rulers and ruled, while labourers are only capable of being ruled. The original compact creating civil society binds both classes because it refers to the capacity of being ruled. ¹/_{Land} owners are full members of society because they give their express consent to be subject to the civil authority. "Labourers, on the other hand, are only capable of giving tacit consent and therefore can have no voice in ruling; even though they are obligated to obey the civil authority."

Although the inequality in civil society is the product of the inequality of possessions resulting from the actions of rational beings in the state of nature, Macpherson raises an important caveat about the differential Locke ascribes to men:

With Locke the difference in rationality was not inherent in men, not implanted in them by God or Nature; on the contrary, it was socially acquired by virtue of different economic positions (Macpherson, 1979a: p. 246).

The difference in rationality occurred because men are free to

consent to the use of money and to surrender their freedom to labour directly on nature. Because men consent to unequal possessions and differential rationality in the state of nature, these differences become permanent and have a natural sanction when carried into civil society. In this way, Locke's theory of property leads "logically to differential class rights and so to the justification of a class state" (Macpherson, 1979a: p. 251).

- In conclusion, Macpherson sees two main objectives for Locke's theory of property. The first is to show how men overcome the natural law limits to appropriation in the state of nature and acquire a natural right to unlimited individual appropriation. Second, by showing that a class society occurs naturally, Locke offers a positive moral basis for a class-based society. These two objectives combine to justify a state geared to the capitalist mode of production. —

Summary

— Leo Strauss and C. B. Macpherson look at Locke's theory of property for different ends. While Strauss discusses it as part of his argument that Locke places man at the center and origin of the moral world, Macpherson discusses it in terms of his argument that Locke provides a justification for bourgeois society. But they both agree that Locke's achievement in chapter five of the Second Treatise is that he shows how men in the state of nature could begin with a right to appropriation limited by natural

law and then, by consenting to the use of money, remove the limits and create a right to unlimited appropriation. In doing this, Locke removes the moral handicap hitherto fettering appropriation and provides a positive moral charter for inequality of material possessions and unlimited capitalist appropriation.

III

THE LAW OF NATURE

Tully's emphatic statement, in A Discourse on Property, that natural right is "derived from natural law" (p. 63) is a response to Strauss' statement that Locke "speaks of man's natural rights as if they were derivative from the law of nature" (1953: p. 202). Strauss employs the term "derivative" to indicate a connection between Scripture, the law of nature and natural rights. In his discussion of Locke's natural law doctrine, Strauss contends that because Locke's teaching conflicts with Scripture, therefore with the traditional teaching, Locke did not derive his natural rights from the law of nature. Along with Dunn, Tully assumes that Locke's natural law teaching is identical with Scripture. Thus, when he uses the term "derived" he means that the fundamental law of nature can be manipulated so as to divulge natural rights.

This distinction reveals two fundamentally divergent interpretations of Locke's natural law teaching which culminate in opposite views about the doctrine of property in chapter five of the Second Treatise. Strauss' conclusion that natural law is based on natural right allows him to

assert, as does Macpherson, that Locke justified as natural a right to unlimited acquisition. Tully argues, with support from Dunn and Yolton, that in deriving natural rights from natural law grounded in the workmanship model, Locke rendered the natural right to property limited. This chapter examines these conflicting interpretations of Locke's natural law teaching and their implications for his doctrine of property.

1. Self-preservation and the Workmanship Model

i

In Natural Right and History, Strauss examines Locke's status as a traditional natural law thinker: thus, as part of a tradition that took natural rights to be derivative from natural law, and natural law to be consistent with the teachings of Scripture (pp. 202-3). Strauss argues that the Lockean doctrine of natural law is traditional only in appearance and that in reality it follows the radical teaching of Hobbes (1953: p. 221).¹ R. A. Goldwin states, in John Locke, that Locke's concept of the law of nature is unlike earlier teachings because it "concerns itself neither with the excellence of man nor with the love of God and of man for his fellow man" (1981: p. 459).

After arguing that Locke's natural law teaching is a departure from tradition, Strauss enquires: "What, then, is the status of the law of nature in Locke's doctrine? What is its foundation?" (1953: p. 226). He concludes that Locke

placed natural right antecedent to natural law. Strauss' evidence consists of two general points. The first is that Locke constructed his theory, which requires the admission of a state of nature, in such a way as to make it logically impossible for the law of nature to be effective in that state. Natural law is unknown and unknowable in the state of nature and therefore is not universally and unceasingly effective. Ineffective, natural law is not properly a law (Strauss, 1953: pp. 221-6). The second is that Locke provides innate natural principles of action, that are universally and unceasingly effective, from which natural rights logically derive and upon which the law of nature can be based (Strauss, 1953: pp. 226-7; cf. Cox, 1960: chapter two). Innateness is the criterion Strauss uses to justify the primacy of natural right over natural law.

Although man does not have innate knowledge of the law of nature, he does have a natural "'desire for happiness, and an aversion to misery...[which]...are innate practical principles': they are universally and unceasingly effective" (Strauss, 1953: p. 226; Cox, 1960: p. 88; Locke, 1.2.3 and 13). The desire for happiness and the pursuit of happiness to which it gives rise are not duties, rather, they "have the character of an absolute right, of a natural right" (Strauss, 1953: p. 226). The right to happiness is an innate natural right. In contrast, there are no innate natural duties. Locke explicitly rejects this possibility in the Essay

Concerning Human Understanding (Book I; cf. Strauss, 1953: p. 225). Because the right to happiness is an innate natural right, it antedates all duties and does so

...for the same reason that, according to Hobbes, establishes as the fundamental moral fact the right to self-preservation: man must be allowed to defend his life against violent death because he is driven to do so by some natural necessity which is not less than that by which a stone is carried downward (Strauss, 1953: p. 227).

Natural right is innate for Locke because it is the immediate corollary of innate desire. Richard Cox emphasizes this point in Locke on War and Peace:

...according to Locke, there is a vital connexion between desires and rights...the desires (or passions) constitute the basic and ineradicable motive force of human life; they are directly implanted by nature in the living organism prior to and independent of any social conditioning or training, and therefore constitute constantly operative principles of action (pp. 87-8; cf. Cox, 1963: pp. 257-8).

Therefore, because natural right is innate while natural law is not, "the right of nature is more fundamental than the law of nature and is the foundation of the law of nature" (Strauss, 1953: p. 227).

The natural right to happiness, however, is not the most fundamental natural right. Reason teaches that since happiness presupposes life, "the desire for life takes precedence over the desire for happiness in case of conflict" (Strauss, 1953: p. 227). This dictate of reason is also a natural necessity: the desire for self-preservation is the

first and strongest desire planted in man by God (Strauss, 1953: p. 227; cf. Locke, 1.86). Since it is the strongest desire, men must be acknowledged to have a natural right to self-preservation. R. A. Goldwin draws this conclusion in John Locke:

The desire for self-preservation determines how men will behave; since men are not able to behave otherwise such behaviour can never be wrong...men must be acknowledged to have a right to do what they are unable not to do (p. 459; cf. Cox, 1960: p. 89).

Therefore, the natural right to self-preservation is the most fundamental of all natural rights (Strauss, 1953: p. 227; Cox, 1960: p. 88).

Goldwin also notes that the pursuit of self-preservation caused by the desire accords with reason, which is the law of nature. Since this activity coincides with the aim of the law of nature--self-preservation--"one may say [it is] the very definition of reasonable behaviour" (Goldwin, 1981: p. 458). Man knows the law of nature in the sense that he automatically engages in an activity concordant with reason (Goldwin, 1981: p. 458). To claim that man knows the law of nature in this sense is to admit only that he has in him an innate natural desire of self-preservation: therefore, man "knows" insofar as the desire compels him to do what accords with reason. Knowledge in this truncated sense is available to man in the state of nature. Beyond this men are ignorant of the law of nature and "must discover and contrive the conditions that will enable them to fulfill

their natural desire for self-preservation" (Goldwin, 1981: p. 459).² Nature only gives man the desire and "it is only man's reason which teaches him what is 'necessary and useful to his being'" (Strauss, 1953: p. 227).

Man's reason, which is the law of nature, teaches what is necessary for self-preservation. What is it, then, that reason teaches man? Locke states that the law of nature, "which obliges everyone", "teaches all Mankind...that being all equal and independent, no one ought to harm another..." (2.6). Reason also teaches that when one's "own Preservation comes not in competition, ought he, as much as he can, to preserve the rest of Mankind" (2.6). Not harming others, however, is forbidden "unless it be to do justice on an Offender" (2.6). Everyone has the right to punish offenders, even with death, in order to preserve mankind (2.7, 8, 10, 11). Therefore, it seems that reason teaches the duty of preserving mankind and that this is the basis of the right to execute the law of nature.

According to Cox, Locke actually made the duty to preserve the rest of mankind inferior to the right of the individual to preserve himself. Preserving the rest of mankind is required only when one's "own Preservation comes not into competition". Since reason also teaches that in the state of nature everyone is judge of "what means are conducive to his self-preservation", everyone is free to decide when his preservation comes "into competition"

(Strauss, 1953: p. 228; Cox, 1960: pp. 83-5). The right to execute the law of nature is derived directly from the right of self-preservation and not from the duty to preserve mankind: "It is 'my right' to judge whether another has even the intention to 'make me a slave', and therefore to take advantage of the fact that 'I should have a right to destroy that which threatens one with destruction'" (Cox, 1953: pp. 83-4). Harming others is to be avoided, however, because it jeopardizes one's own preservation by running counter to reason, which "wills such courses of action as are conducive to peace" (Strauss, 1953: p. 228; Goldwin, 1981: p. 458). Therefore, the law of nature is concerned primarily with the right of self-preservation and only "secondarily or derivately with 'duty' to others or to a transcendent order" (Cox, 1960: pp. 84-5; cf. Goldwin, 1981: p. 459; Strauss, 1953: pp. 228-9; Grady II, 1977: p. 91).

The law of nature for Locke is, by this interpretation, nothing other than the dictates of reason "in regard to men's 'mutual security' or to 'the peace and safety' of mankind" (Strauss, 1953: p. 228; cf. Polanyi, 1957: p. 112). Man's reason is the law of nature; it formulates those rules and conditions necessary for fulfilling the desire for self-preservation. Reason is the instrument for satisfying that desire: "The senses, and more crucially, the reason...are conceived of essentially as means to the end of preservation, which is to say as derivative of, or intended

by nature to serve as instruments for, the gratification of the desires or passions" (Cox, 1960: p. 88). This clarifies Strauss' conclusion that natural law is based on natural right. Man's reason does more than discover natural laws which exist externally to itself (Hancey, 1976: p. 442; Yolton, 1970: pp. 175-7), it creates them (Strauss, 1953: pp. 229-30).

The justification for the law of nature is that it is what reason teaches man is necessary for self-preservation. Justifying natural laws in terms of the desire for self-preservation ensures that they are grounded in something objective. Since the desire for self-preservation is innate, it is universally and unceasingly operative and effective, natural laws are based on what is by nature. The law of nature will be obeyed, Goldwin states, because it relies for its enforcement not on natural duties to others, but on the desire for self-preservation. "Locke's natural law teaching can...be perfectly understood", Strauss concludes, "if one assumes that the laws of nature are, as Hobbes put it, 'but conclusions, or theorems concerning what conduces to the conservation and defense' of man over against other men" (1953: p. 229).

ii

Tully, Dunn and Yolton reject the interpretation that natural right is more fundamental than natural law and is the foundation of natural law. They argue that the law of

nature is God's law for man and therefore that man has natural rights in order to perform duties entailed by natural law. Because the most sustained and systematic presentation of this argument is contained in A Discourse on Property, I refer almost exclusively to Tully in this section.

Since the natural rights to self-preservation and to the means necessary to self-preservation are "discovered by natural reason, they are, ipso facto, derived from the fundamental law of nature that mankind ought to be preserved" (Tully, 1982: p. 4).³ Just as natural right is derived from natural law, natural law is based on something prior to it; as Locke states: "I think there cannot any one moral rule be proposed whereof a man may not justly demand a reason" (1.2.4; Tully, 1982: p. 4; Yolton, 1970: p. 165). The law of nature is based on the workmanship model, to which Locke refers in the Second Treatise (s. 6) and articulates in the Essay Concerning Human Understanding:

The idea of a supreme Being, infinite in power, goodness, and wisdom, whose workmanship we are, and on whom we depend; and the idea of ourselves, as understanding, rational creatures, being such as are clear in us, would, I suppose, if duly considered and pursued, afford such foundations of our duty and rules of action as might place morality amongst the sciences capable of demonstration (4.13.18).⁴

In order for Locke to use the workmanship model as the basis for his political philosophy, two conditions must be met: first, that the "archetype idea of our maker should

be a normal description in common use"; and, more importantly, "there must be a God such that 'maker' is truly predicated of Him" (Tully, 1982: p. 35). The first condition ensures that the terms Locke uses to describe God are the ones commonly available in seventeenth century natural law discourse and thus grounded in linguistic convention. God's actual existence is more important for Locke's use of the workmanship model because "although the terms we use to express the obligations (and rights) which follow from the relation, and the terms expressing the relation itself, might be culturally bound" (Tully, 1982: p. 35), or as Dunn puts it, "profoundly contaminated by history" (1982: pp. 96-7), the laws of nature arising out of the workmanship model "will be grounded in the nature of things and thus natural laws in this sense" (Tully, 1982: p. 35). Therefore, natural laws can only be regarded as universally and eternally valid if they are derived from a conceptual model based on evidence of the actual existence of God.

Locke's central proof for the existence of God is a cosmological argument presented in the Essay (Tully, 1982: pp. 36-8; cf. Hancey, 1976: p. 445; Dunn, 1982: p. 87) which depends upon proof of man's existence:

To show...that we are capable of knowing,
i.e. being certain that there is a God,
and how we may come by this certainty, I
think we need go no further than ourselves,
and that undoubted knowledge we have of our
own existence (4.10.1).

I think it is beyond question, that man has a clear idea of his own being; he knows certainly that he exists, and that he is something. He that can doubt whether he be anything or no, I speak not to.... If any one pretends to be so sceptical as to deny his own existence... let him for me enjoy his beloved happiness of being nothing, until hunger or some other pain convince him of the contrary (4.10.2)

According to Tully, "This ante-Cartesian move places the onus of proof on the sceptic" (1982: p. 37). From here, Locke applies the principle of sufficient reason once ontologically--"to a cause of every beginning thing"--and once epistemologically--"to the reason of beginning things" (Tully, 1982: p. 37; cf. Dunn, 1982: pp. 94-5). This proof establishes that there is a God who creates man through an unexplained act of the will and who makes man according to reason (Tully, 1982: p. 37).⁵

In addition to knowing how man is made, it is important to know God's reasons for making man (Tully, 1982: p. 38; Dunn, 1982: p. 94). (Maker's knowledge is comprised of the knowledge of how something is made and the knowledge of the purpose for which it is made). Locke's argument from design in the Essays on the Laws of Nature addresses this issue. The argument from design begins with what man knows through sense-experience. Sense-experience informs man that things exist and that they have an order and a regularity. From this knowledge, an inference is made to a creator of this order and that this knowing maker is responsible and

therefore makes the world for some purpose:

In a way analogous to laws governing inanimate nature, God must be the author of 'certain definite principles of action' for man, which when man chooses to act in accordance with them, realise God's purposes in making man.... Thus, 'God intends man to do something' (Tully, 1982: p. 39; cf. Hancey, 1976: p. 445; Paul, 1980: p. 389).

The argument from design establishes that there is a God who makes man for purposes (Tully, 1982: pp. 40-1). God's reasons for making man are laws of nature which man has a duty to obey by virtue of being His creation.

Locke's concept of law is important for understanding how natural laws are identified and justified. Tully notes that it has two components. The first one is a positive view of law as that which directs "us to our true interests and to what is good for us" (Tully, 1982: p. 44). The second component is the view that liberty ("the exercise of contingent preferences") consists in "choosing between various specific courses of action which conduce to performing the generic duties enjoined by law (Tully, 1982: p. 44; cf. p. 45).

Laws, then, enjoin both a duty and a manner of acting suitable for fulfilling that duty consistent with the law. Locke's concept of law locates the justification for the duty and the manner of acting in the teleology of man --that is, to understand why God made man we look at how He made him (Tully, 1982: p. 45). Since man is made with reason, it is inferred that the proper end for man is to act

according to reason. The manner of acting suitable for achieving the end of acting rationally is to act rationally. Man gives the manner of acting substance by discovering the laws of nature which are to govern his actions and by acting in accordance with them: "'Acting in accordance with reason' consists in rationally discovering objective moral norms and then using them as guides in acting" (Tully, 1982: pp. 44-5). Therefore, since "God made man to engage in this form of activity it is his duty" (Tully, 1982: p. 45).

Discovering natural laws is necessary if man is to fulfill his duty to God to act rationally. Tully claims that Locke derives the law of nature two ways: directly from the workmanship model and by probing "the purposive relationship of man to his natural environment" (1982: pp. 45-6). The derivation from the workmanship model is straightforward. Since God made man for His purposes, the necessary condition for man fulfilling them is that he survive: "That which is an end for man, 'being to be preserved', is turned into a normative proposition that he ought to be preserved. This is translated into an individual duty to preserve oneself, and to preserve others when one's own preservation is not in question" (Tully, 1982: p. 45).

Natural law is also derived from a teleological investigation of nature (which is where Tully earlier told us we find the justification for natural laws). Tully identifies two parts of section eighty-six of the First

Treatise as the locus of this form of analysis. Since God made the world suitable to man's subsistence, He must want man to be preserved; it is implausible that man should be made so as to perish again after a few moments existence (Tully, 1982: p. 46; cf. 1.86, ll. 4-10). Man also finds God's intentions in himself as the inclination towards self-preservation: "Again, the finalistic nature of the facts proves the truth of the norm: 'Reason, which was the Voice of God in him, could not but teach him and assure him, that pursuing that natural Inclination he had to preserve his Being, he followed the Will of his Maker'" (Tully, 1982: p. 46; 1.86, ll. 23-6). God made man for a purpose, and that purpose is the law of nature which is discovered in the teleology of nature. As one of man's natural attributes, the desire for self-preservation reveals to man God's purposes in making him and thus the law of nature:

The solution is to uncover God's intentions in making man by seeing what purposes man's natural attributes embody; what ends man and other natural phenomena can be seen to be designed to serve. What these are will be natural laws. This teleological form of analysis is the answer to Locke's statement that natural laws are normative and, as such, have reasons which justify them (1.3.4). The reason for each law is that it is what a particular set of man's attributes are for. In discovering this we find out why God constructed man as He did (Tully, 1982: p. 45).

Strauss, Cox and Goldwin emphasize a different aspect of section eighty-six of the First Treatise. They emphasize that man's reason teaches him that he has a natural right to

self-preservation because he has the innate desire (cf. Cox, 1960: pp. 87-8). Accordingly, they stress that section eighty-six is a justification of the primacy of the natural right to self-preservation and not a justification of the duty to follow God's will. On the other hand, Tully argues that Locke's point in section eighty-six is that man's reason teaches him that in following his desire man fulfills his obligation to God to obey His will. John Yolton supports this interpretation: "Locke goes on to say that reason as the voice of God assures us that in following the inclination for self-preservation we are following the will of God, hence we have a right to self-preservation" (1970: p. 147; cf. p. 177).

In Democratic Theory (pp. 228-33), C. B. Macpherson * interprets the connection between natural right and natural law differently from Strauss. In fact, he appears to agree with Tully's formulation. This is unusual since Macpherson x concurs with Strauss about the interpretation of chapter five of the Second Treatise. Macpherson begins with the statement that "Locke derives his natural rights from natural law: it is 'Reason, which is that Law,' that establishes the rights and corresponding obligations" (1979b: p. 229). The natural right to self-preservation is deduced from the desire for self-preservation, but the deduction is accomplished indirectly:

Locke deduces the right not directly from the fact of the desire but from the intention of

the Creator, which intention is deduced from the fact of the desire.... It is the "strong desire" that "gives" the right, but apparently only because God planted the desire in man (Macpherson, 1979b: p. 229).

Man has a right to self-preservation based on the desire only because God planted the desire in him. Although Locke deduces the right to self-preservation, as well as the natural right to freedom from the arbitrary will of others, from the need for self-preservation, that need is not the source of natural right. Because the natural rights to life and freedom can be forfeited by violations of the law of nature, "it appears that the source of Locke's natural right is not the need for self-preservation but is the (moral) law of nature which is superior to the right to life" (Macpherson, 1979b: p. 230). Macpherson is assuming here that if the desire for self-preservation were the source of natural right, that right would hold against violations of natural law, but since the right does not hold against the law of nature, the desire for self-preservation fails as the source of natural right.

Macpherson argues next that Locke's doctrine of property undermines the notion that natural rights are limited, thus rendered effective, by natural law. Locke's natural right to property begins as a limited right derived from the right to self-preservation and from the right each individual has to the products of his honest labour (Macpherson, 1979b: p. 231). But, as Macpherson argues in Possessive Individualism, Locke allows men to "transcend" the natural

law limits to appropriation by their consent to the use of money and thus justifies as natural the right to unlimited acquisition (cf. Macpherson, 1979b: p. 231). By justifying unlimited acquisition as natural, Locke is forced to admit that man is not as sociable as initially claimed and, therefore, that man's nature--his endless desire to acquire--conflicts with the law of nature:

It is perhaps not too much to say that, as soon as Locke had shown how the original natural law limits on private appropriation were made ineffective by men's consent...to the use of money he logically destroyed his natural law system. It might be better to say that in thus subordinating natural law to natural consent, he revealed that the natural propensity to unlimited accumulation was inconsistent with his natural law (Macpherson, 1979b: p. 232).

What is important to notice about this interpretation is Macpherson's point that although Locke empties the relation of natural law to natural right of its substance by showing that natural law is ineffective in limiting natural right, thereby placing greater emphasis on natural right, he has preserved the form of the relation. Locke had to preserve the form, thus the reality, of his natural law because "it was only from the natural law which gave every man the right not to be harmed by others, that he deduced the limited powers of government and the right of revolution against arbitrary government" (Macpherson, 1979b: pp. 232-3). Thus, Macpherson is asserting that the formal relation of natural law to natural right conflicts with Locke's substantive natural

rights.

Strauss, however, sees no difficulty with Locke's assertion that the desire gives the natural right and that one may forfeit that right by violating the law of nature. As Cox notes, since natural law is derived from natural right, forfeiting the right to self-preservation is the logical consequence of everyone having the equal right of self-preservation: "the right to put others to death...follows directly from the right to ward off the threat which another poses to 'my body', 'my freedom', and 'my property'" (Cox, 1960: p. 83; cf. Strauss, 1953: pp. 227-9). When someone judges that another has departed from the rule of reason, he is justified in destroying the other on the basis of his right of self-preservation. Strauss, then, disagrees with Macpherson's view of the formal relationship between natural right and natural law. He does, however, agree with Macpherson that man's desire to accumulate conflicts with natural law limits to appropriation (Strauss, 1953: pp. 234-48). But Strauss takes the transcendence of those limits as being consistent with the formal relation of natural right and natural law. Transcending the limits does not mean for Strauss that natural law is ineffective, but rather that man's reason is capable of satisfying the natural desire for self-preservation and happiness in a manner consistent with natural law.

Tully suggests that Macpherson has misunderstood

Locke's reference to man's "natural inclination" in section eighty-six of the Second Treatise. He states that "by the use of the term 'deduction' to describe the relation between desire and right" Macpherson means "that to seek one's preservation is right because man has the natural desire to preserve himself" (Tully, 1982: p. 46). The issue here for Tully is the status of the natural desire for self-preservation as the justification for the fundamental law of nature. We saw earlier that he asserts that Locke placed the justification for natural law in the teleology of nature and that man's desire for self-preservation is that justification. Here, Tully faults Macpherson for misunderstanding Locke's justification as being the Hobbesian one of "whatever is desirable for one is therefore right": that because man desires self-preservation it is right (i.e., a law of nature) and therefore man has a right to it. It seems that Macpherson has interpreted Locke's justification for natural law as being man's subjective desire for preservation. Tully, on the other hand, seeks to demonstrate that Locke's justification for natural law is something objective: therefore, that the desire for self-preservation is not a subjective desire.

Two points made by Locke are identified by Tully as relevant for clarifying the relation between right (natural law) and desire. One point is the claim that the relation between right and desire is that what is right (natural law)

is coincident with rational desire (Tully, 1982: p. 47). A second point, which presupposes the first, is the distinction between objective and subjective desires. Objective desires are God's desires for man, which He places in man. Subjective desires are man's desires. Since objective desires are God's desires for man they are rational: therefore, objective desires necessarily coincide with what is right (natural law). Only when subjective desires are coincident with objective desires are they rational: and thus to act according to subjective desires which are "rational according to this test is to act in accordance with God's reason, or natural law" (Tully, 1982: p. 46):

As Locke says, reason "teaches" man that in being motivated by such rational desires "he followed the Will of his Maker". Not any desire which motivates man to seek preservation will meet this criterion.... The only rational desires are those which motivate man to seek preservation in a way conducive to the fulfillment of God's desire to preserve mankind (Tully, 1982: pp. 46-7).

On the basis of this explanation of the relation between right and desire, Tully concludes that the desire for self-preservation is an objective rational desire because it is God's desire for man and, therefore, that it constitutes an objective justification of the fundamental law of nature.

Tully is imputing to Macpherson the error of ignoring Locke's distinction between objective and subjective desires. It is unclear, however, that he makes this error. The remark that the desire for self-preservation is "man's" desire does

not entail that it is subjective. Richard Cox and Leo Strauss argue that man's desire for self-preservation is unique because it is an innate desire. As an innate desire, it is unlike any of man's other desires and therefore does serve as Locke's objective justification for natural law. Macpherson's reference to the desire seems to carry with it the same significance. His equation of Locke with Hobbes does not entail that he assumes that whatever man desires is a natural law and therefore he has a right to it. Instead it suggests that Locke (like Hobbes) took the desire for self-preservation to be uniquely suited to serve as the foundation of natural law and its derivative rights.

Implicit in the criticism of Macpherson is the attempt to block his conclusion that Locke justified as natural the right to unlimited acquisition by showing that the desire for unlimited acquisition is a subjective desire which can only be rational, thus right, if it motivates "man to seek preservation in a way conducive to the fulfillment of God's desire to preserve mankind" (Tully, 1982: p. 47).⁶ Tully argues that since natural law permits only limited acquisition, the subjective desire for endless accumulation is inconsistent with natural law. Therefore, Locke does not justify as natural a right to unlimited appropriation.

However, Macpherson's interpretation with respect to unlimited appropriation does not fail so easily. He claims that in allowing men to "transcend" the natural law limits

governing appropriation, Locke rendered natural law ineffective in limiting natural right. The use of the expression "transcend",⁷ to explain what happens to the natural law limits, indicates that although natural law is ineffective in limiting natural right, natural right is at least technically consistent with natural law. Men have the right to unlimited appropriation not because they desire it but because they have found a legitimate way of extending their natural right to property beyond the natural law limits. Natural law is still the source of the natural right to unlimited appropriation, even though it was man's desire to accumulate more than he needs that motivated him to invent a way of creating that right.

We have, then, two distinct interpretations of the importance of the desire for self-preservation in Locke's natural law teaching. On the one hand, we have Strauss'. He reads Locke as basing natural law, and thus his entire political teaching in the Two Treatises, on the desire for self-preservation. Natural law is subservient to natural right derived from the desire for self-preservation. Macpherson concurs with this view to the extent that he takes Locke to be placing greater emphasis on natural right. In doing so, Macpherson agrees with Strauss that Locke used the fact of man's desire for preservation as the bedrock of his natural law teaching, and he disagrees with Tully that that desire merely serves as teleological evidence to justify the natural

law duty to preserve mankind. On the other hand, Tully asserts that the desire for self-preservation is an objective desire placed in man by God and serves merely as the justification for natural law. No natural rights are derived from the desire. Nor is natural law based on natural right. Natural right, as we shall see next, is according to Tully, derived from the law of nature.⁸

iii

From the fundamental law of nature, that mankind ought to be preserved, Locke derives three natural rights (Tully, 1982: pp. 62-3). The first natural right, the right not to be denied existence, is derived from man's natural duty to bring about his preservation. The end of natural law "is the continued existence or subsistence of men. Since preservation is one of God's goals for man, and hence his natural duty is to bring it about, it follows that he has a natural right to it" (Tully, 1982: p. 62). The second natural right is the right to the activity of preserving oneself and others and is derived from the duty to do so: the fundamental law of nature, "that man's being is, and therefore ought to be, preserved", is "redescribed as a natural duty of each man to preserve himself and...others. This is a natural duty to engage in the end directed activity of preserving man, whereas the first is a duty to ensure the end.... Therefore, there is a natural right to this activity" (Tully, 1982: p. 62). In turn, from these two natural rights

Locke derives the natural right to property. Since man has a right to preserve himself and others, he also has a natural right to the means necessary for preservation (Tully, 1982: p. 63).

By manipulating the fundamental law of nature Locke establishes the duty to preserve mankind and derives three natural rights consistent with that duty. Since, according to Tully, the three natural rights result "from the natural duty to preserve oneself and others, man is not at liberty to exercise or not to exercise" them; man "is under a positive, natural duty to do so. The three rights are entailed by, and are justifications of, claims to perform duties to God. The exercise of these rights is the duty to preserve oneself and others" (1982: p. 63; cf. Dunn, 1982: pp. 94-5). On the basis of this interpretation of how Locke derives natural rights, Tully states that Strauss' formulation of the connection between natural law and natural right is incorrect:

It is therefore misleading to suggest, as Strauss does in Natural Right and History, that Locke is a theorist of natural rights and not of natural law.... It is also a mistake to say that "the right of nature is more fundamental than the law of nature and is the foundation of the law of nature". ...The law of nature is rather the foundation of Locke's three natural rights...men have natural rights because they have natural duties (1982: p. 63).

Therefore, according to Tully, because man has a natural duty to God to exercise the three natural rights, derived from natural law, natural law (natural duty) is the foundation of

natural right.

Although man's reason discovers the law of nature, the justification for man's duty to obey it is a voluntaristic one: "The voluntarist says I am obligated to do something because God wills it" (Yolton, 1970: p. 168; cf. pp. 167-9; Dunn, 1982: pp. 117-9; Tully, 1982: pp. 40-1; Hancey, 1976: p. 448). The justification to obey natural laws, accordingly, is imbedded in the workmanship model since "obligations and rights arise from acts which constitute various relations. Locke shows that God as maker has a special right in man as his workmanship, and that this correlates with a positive duty or obligation on the part of man to God" (Tully, 1982: p. 40; cf. Yolton, 1970: p. 171). For Strauss natural laws are the dictates of reason conducive to self-preservation. Because they are the dictates of man's reason, the implication is that man, and not God, is the proper lawmaker (Strauss, 1953: pp. 229-30). On what grounds then are they binding on man? The law of nature will be obeyed Goldwin states "because of the universal desire for preservation; it does not rely for enforcement on obligations to others" (1981: p. 459). Men who are studiers of the law of nature will obey it because of their desire for peace; the necessary condition for fulfilling the desire for self-preservation and the desire for happiness (Strauss, 1953: pp. 228-9).

2. The State of Nature

i

Locke describes man's natural condition as a "State of perfect Freedom" and a "State also of Equality". The state of nature is a condition of perfect freedom because men are free to "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" (2.4; cf. 2.12). Perfect freedom, however, does not make the state of nature a "State of Licence". Men are to govern their actions according to the law of nature (2.6). Acting in accordance with reason, which is the law of nature, is logically entailed by Locke's notion of freedom: "Fore in all the states of created beings capable of Laws, where there is no Law, there is no Freedom" (2.57).

Locke states that all men have equal power and jurisdiction in the state of nature because there is "nothing more evident than that Creatures of the same species and rank promiscuously born to all the same advantages of nature, and use of the same faculties, should also be equal one amongst another without Subordination or Subjection" (2.4; cf. 2.6). Equality of power and jurisdiction is the only form of equality relevant for understanding the natural right everyone has to govern himself (2.54). Natural, accidental, or contrived inequalities are perfectly consistent with natural equality (2.54).

Since everyone has the equal right to govern himself according to the law of nature (2.128), the state of nature is characterized by the absence of a common judge: "Men living together according to reason, without a common Superior on Earth, with Authority to judge between them, is properly the State of Nature" (2.19). All men therefore are "Judges in their own cases" (2.13). Everyone has the equal right to judge the conformity his actions and the actions of others have to the rule of reason (2.13; cf. 2.16). "And that all Men may be restrained from invading others Rights, and from doing hurt to one another" every man has "a right to punish the transgressors [of the law of nature] to such a Degree, as may hinder its Violation" (2.7). The right to punish extends to punishment by death (2.11, 87). In addition to the inclusive right to punish criminals, each man has an exclusive right to exact reparations when he is the injured party (2.8, 11).

Civil society is the opposite of the state of nature. It has a common judge to whom appeal can be made (2.87). More precisely, civil society has the following characteristics: "an establish'd, settled, known Law, received and allowed by common consent to be the Standard of Right and Wrong, and the common measure to decide all Controversies" (2.124); "a known and indifferent Judge, with Authority to determine all differences according to the established Laws" (2.125); and "Power to back and support the Sentence when

right, and to give it due Execution" (2.126).

Locke clearly states that the state of nature is not to be confused with the state of war: "the State of Nature, and the State of War...are as far distant as a State of Peace, Good Will, Mutual Assistance and Preservation; and a State of Enmity, Malice, Violence and Mutual Destruction are one from another" (2.19). A state of war begins when someone declares "by Word or Action...a sedate settled Design, upon another Mans Life" (2.16). Actual or intended use of force where relief from a common superior is impossible is the state of war. The condition of war may exist where there is and is not a common judge: "Force without Right, upon a Man's Person, makes a State of War, both where there is, and is not a common Judge" (2.19).

Locke's explication of man's natural condition, briefly summarized above, seems uncomplicated. It has, however, been subjected to (at least) two opposed interpretations relevant to understanding Locke's theory of property. Following Strauss' lead, Richard Cox and Robert Goldwin argue that Locke understands man's natural condition to be a state of war. Macpherson partially agrees with Cox, but, as we shall see below, he offers a unique interpretation of the state of nature. Dunn opposes Cox's interpretation, and thus Strauss'. Dunn maintains that the natural state of man is essentially a peaceful state because it is a state where man is effectively governed by the law of nature. Tully does

not offer an explicit discussion on the state of nature, but Dunn's interpretation is implicitly carried through A Discourse on Property.

ii

Strauss contends that Locke grounds his natural law teaching on the nature of man. But in order to understand man's nature, one must first see how man lives naturally, or in the state of nature. Robert Goldwin states that Locke uses the concept of the state of nature both comprehensively and to refer to man's prepolitical condition. What are these two concepts? How do they complement each other and fit into Locke's natural law teaching?

The comprehensive use of the concept depends on a legalistic definition of the state of nature: "Men living together according to reason, without a common superior on earth with authority to judge between them, is properly the state of nature" (2.19). Locke uses this definition to refer to (or explain) any situation that men exist in that is unmodified by the presence of a common authority (cf. 2.14).

The state of nature is more comprehensive than a description of the condition of man prior to the advent of civil society. It is a certain form of human relationship; its existence, when it exists, is without reference to the degree of political experience of men in it; and it may exist at any time in the history of mankind including the present (Goldwin, 1981: p. 454).

When Locke employs the concept comprehensively, he ignores whether or not the men involved have ever been in civil

society. Thus it can be applied to men who have been in civil society and to men who have not. The opposite to the state of nature is civil society, where there is a common judge with authority (Goldwin, 1981: p. 454).

How do Locke's statements about the state of war relate to the state of nature and civil society? Locke seems to associate the state of nature with the state of peace and not with the state of war--the state opposite to that of peace (2.19). But he tells us that the state of war can exist where there is and is not a common judge. The state of war is the state where force is used without right (2.19). Since the state of nature has no common judge, it will remain a state of peace only if force is never used without right; thus, the state of nature is potentially one of war. Locke also states that the state of war can exist where there is a common judge. Civil society too will remain peaceful as long as force is never used without right (Goldwin, 1981: p. 455).⁹

How is it possible for the state of war to exist where there is a common judge? In section nineteen of the Second Treatise, Locke states that I may kill a thief when he attempts to rob me, even though we are under a common authority, because his aggression does not leave me time to appeal to our common authority. Therefore, I have the right to respond with force to the illegitimate use of force. War can exist in civil society, then, to the extent that the

civil authority is rendered ineffective:

It is as if the parties...were for the moment in the state of nature, without a common judge to settle their differences. ...~~The~~ state of war cannot exist where civil authority is presently and effectively enforcing the law of society. The state of war can occur only in the absence of such civil authority; the state of nature or something temporarily approximating it. What seems to be the state of war in civil society is rather this: the state of war in the state of nature within civil society (Goldwin, 1981: pp. 455-6).

Therefore, war can exist in civil society and in the state of nature, with, however, one important difference: that it is more likely to begin in the state of nature than in civil society, and once begun it is more difficult to terminate there because of the absence of an impartial authority to settle the dispute (Goldwin, 1981: p. 456).

Goldwin also observes that Locke also refers to the state of nature as man's prepolitical condition (1981: pp. 453, 456-60). In this application, the state of nature refers to what is logically man's natural condition prior to his having been in civil society. In Locke on War and Peace, Richard Cox argues that Locke presents an initial impression of the state of nature as peaceful and then undermines that impression by showing that the state of nature is actually a state of war (pp. 64-94). Strauss concurs with Cox: "the state of peace is civil society; the state antedating civil society is the state of war" (1953: p. 225; cf. Goldwin, 1981: pp. 456-60; Lewis, 1975: p. 259).

Locke portrays the state of nature as a condition where men are naturally free, equal and independent, and living according to the natural law principle that no one ought to harm anyone else (Cox, 1960: p. 73). The right to punish offenders is strictly subordinated to the natural law duty to preserve mankind and depends on the natural equality of men. Because all men have the equal right to be preserved, they also have the natural right to protect that freedom vital for preservation. The initial description of the state of nature, then is "one which makes the pristine condition appear to be essentially peaceful and harmonious, marred perhaps by occasional lapses on the part of the aberrant few" (Cox, 1960: p. 75). On the whole, it is a condition where man's natural freedom is unimpaired.

As Locke's discussion in the Second Treatise proceeds, however, Locke alters this impression. The state of nature is only in "principle" a condition where men enjoy natural freedom. In reality it is a state of pure anarchy because it lacks a common judge with authority. The right to freedom cannot be enjoyed because of the natural invasiveness of the greater part of mankind. Locke now paints a portrait of natural man as being self-centered, passionate, vengeful, violent and unjust; man is by nature unsociable.¹⁰ The state of nature is a condition where men ignore the law of nature (Cox, 1960: p. 78; Strauss, 1953: pp. 224-5).¹¹

In addition, Locke initially gives the impression

that man knows the law of nature in the state of nature, but he then concludes that it is only known in "principle" and unknown in reality. Natural law is known only to a studier of that law, and "since men in the state of nature are... said to be 'ignorant for want of studying it', it follows that it is acutally unknown" (Cox, 1960: p. 80). Strauss observes that the fact that the state of nature is a state of war proves that the law of nature is neither known nor knowable there (1953: pp. 225-6). Knowledge of natural law would be natural to man if that knowledge were innate, but Locke rejects this possibility: "Thus instead of men being cognizant of the principle that they are to punish and execute others only according to natural law, they are 'biased', 'partial', and impelled by 'passion and revenge' to misuse their powers and to ignore the very law which is meant in principle to guide them" (Cox, 1960: pp. 80-1; cf. Goldwin, 1981: pp. 457-8; Strauss, 1953: p. 226).¹²

All that man possesses by nature in the state of nature is the strong desire for self-preservation. It is this desire which moves him out of the state of nature (Cox, 1960: p. 112). Man "knows" the law of nature, then, only insofar as he knows enough to follow his desire for self-preservation (Goldwin, 1981: pp. 458-9). Not until man has made it out of the state of nature, through the intermediary of defective political societies, does his reason teach him what is conducive to his self-preservation (Cox, 1960: p. 94).¹³

Locke's depiction of the state of nature as a state of war confirms that man is naturally governed by his innate desire for self-preservation, and that, therefore, man must have a natural right to what is by nature (Strauss, 1953: pp. 226-7; Cox, 1960: pp. 81-9; Goldwin, 1981: pp. 458-9). Thus, natural right must serve as the foundation of natural law, and natural law must be the dictates of reason conducive to man's preservation (Strauss, 1953: pp. 227-8).

Reason, the law of nature, teaches man that because everyone is equal with respect to the desire for self-preservation, everyone has an equal right to self-preservation. Every man, therefore, has the equal right to judge what is conducive to and, thus, may do whatever he thinks fit for his self-preservation (Strauss, 1953: p. 228). Reason also teaches that preservation requires peace and, therefore, that no one ought to harm another. To make this rule effective everyone has the natural rights to punish and to exact reparations. But above all, reason teaches that: "Since in the state of nature all men are judges in their own cases and since, therefore, the state of nature is characterized by constant conflict that arises from the very law of nature, the state of nature is 'not to be endured': the only remedy is government or civil society" (Strauss, 1953: p. 228).¹⁴

Since natural law is unknowable in the state of nature, only those men who have lived, or do live, in a civil society where reason has been properly cultivated will be

studiers and have knowledge of natural law (Strauss, 1953: p. 230). Because they understand the character of man's prepolitical condition, they will know the true foundation of natural law and, therefore, will know those rules conducive of peace. It is here that Locke's use of the concept of the state of nature as man's prepolitical state meshes with his comprehensive use of that concept. The content of the comprehensive version is drawn from the understanding of man's nature revealed by his prepolitical condition. That is, from that condition, studiers of natural law learn that since man is driven by his desire for self-preservation, he must have a natural right to it and that certain other rights and natural laws derive from that fundamental right.

Thus, because the state of nature is, or very quickly becomes, a state of war due to natural law, men who know this will seek to avoid it. Those not in civil society will quickly join or create one, while men in civil society will labour to preserve that state of peace.¹⁵ The latter group of men is the "most obvious example of men in the state of nature under the law of nature...in so far as they reflect on what they could justly demand from civil society or on the condition under which civil obedience would be reasonable" (Strauss, 1953: pp. 230-1). Since it is men in civil society who reflect on the state of nature, "it becomes ultimately irrelevant whether the state of nature understood as a state in which men are subject only to the law of nature, and not

to any common superior on earth, was ever actual or not" (Strauss, 1953: p. 231).

iii

In Possessive Individualism (pp. 238-47), C. B. Macpherson identifies a central problem with Locke's characterization of the state of nature: "What...has to be explained ...is how Locke could say that the men who moved from the state of nature into civil society were substantially governed by it; how these same men at the same time were for the most part rational and peaceable and were for 'the greater part' so contemptuous of natural law that nobody was at all secure" (pp. 242-3). Just above we saw that Richard Cox argues that Locke's initial presentation of the state of nature, as a peaceful condition where natural law is effective, is a disguise for the radical Hobbesian character of his teaching. Cox maintains that for Locke man is by nature neither sociable nor peaceable and, therefore, that the state of nature is in reality a state of war. Although Macpherson agrees that Locke took the state of nature to be a state of war, his reason for interpreting Locke so is different from Cox's. Macpherson contends that the alternate views of the state of nature are the result of Locke's having read into the nature of man two contradictory postulates taken from his comprehension of his own society as bourgeois society.

The first postulate Locke read into the nature of man

is based on "the notion of society as composed of equal undifferentiated beings" (Macpherson, 1979a: p. 243). This notion incorporates the traditional natural teaching, of men like Hooker, which emphasizes the moral equality of men, the equality of rights under natural law, and the belief that all men are equally rational--thus equally capable of comprehending the duties imposed by natural law (Macpherson, 1979a: p. 243). Locke, however, modifies the traditional teaching. He adds to it the assumption that all men are equally capable of shifting for themselves (Macpherson, 1979a: p. 244). The logical consequence of this modified traditional teaching is that Locke can use it to justify the large discrepancies in material possessions between different elements in society. If all men are equally rational and capable of shifting for themselves, they have no one but themselves to blame for their lack of material wealth. Because the added assumption allowed Locke to justify extending the application of the traditional natural law teaching to the justice of the market-place, Macpherson claims that "Locke's doctrine of equal rationality was...by Hobbes out of Hooker" (1979a: p. 245). Bourgeois man conceived as eminently rational and capable of looking after himself is the source of Locke's peaceful state of nature.

The second concept of the state of nature, as a state of war, is closely tied to "the concept of human society in which there is an inherent class differential in

rationality" (Macpherson, 1979a: p. 245). This is a difference in men's ability to order their lives according to moral rules and is evident from the differential in material possessions between the poor and the rich (Macpherson, 1979a: pp. 245-6). Differential rationality was not inherent in man by nature, but was socially acquired by virtue of social positions in the state of nature. It resulted from the natural right all men have to govern themselves and thus to alienate their labour. The more rational are those who acquired property in land and who now purchase the labour of those men who are not fully rational because they do not own land (cf. Macpherson, 1979a: pp. 229-38). Reading this class differential in rationality back into the state of nature gives us the view that it is a state of war:

For to say, as Locke did, that the greater part of men are incapable of guiding their lives by the law of reason, without sanctions, is to say that a civil society with legal sanctions...is needed to keep them in order. Without these sanctions, i.e. in a state of nature, there could be no peace (Macpherson, 1979a: p. 246).

According to Macpherson, Locke needed the two views of the state of nature in order to distinguish his political teaching from the more radical and unacceptable one of Hobbes. Therefore, "it was necessary to profess the natural equality of men and to clothe that equality in natural law, and equally necessary to find a natural justification of inequality" (Macpherson, 1979a: p. 247). The point that Macpherson sees a contradiction between the formal and substantive

aspects of Locke's natural law teaching was made in the first part of this chapter.

From this discussion a basic difference emerges between Macpherson's interpretation of Locke's natural law teaching and that of Cox and Strauss. Richard Cox interpreted that aspect of Locke's natural law teaching which resembled the traditional teaching, and which made direct reference to Hooker, to be a rhetorical cloak.¹⁶ Macpherson disagrees with this aspect of Cox's interpretation (See Macpherson, 1979a: p. 300, Note R). He sees Locke as actually employing the traditional teaching, albeit only formally, in his justification of unlimited acquisition: therefore, that Locke unconsciously employed both versions of the state of nature even though they produced a contradiction in the Second Treatise.

iv

In the Political Thought of John Locke, John Dunn argues that Locke's natural law teaching is essentially a continuation of the traditional teaching. For Locke, the state of nature is a state God places all men in. It is a "jural condition", covered by the "theologically based law of nature", where free and equal¹⁷ men confront each other "in their shared status as creatures of God without intrinsic authority over each other" and without the right to interfere with the lawful behaviour of others (Dunn, 1982: p. 106). Man's natural condition is apolitical but not amoral: it is

not a state of licence (Dunn, 1982: p. 106). Nor is the state of nature asocial (Dunn, 1982: p. 103). Locke based, as only a mind saturated with Christianity could, the law of nature on the belief that God made man with a natural urge for society (Dunn, 1982: p. 99; cf. pp. 97-99).

Dunn asserts that the character of the state of nature cannot be defined either as a state of war or as a state of peace (1982: pp. 110-1). The state of nature is ahistorical (Dunn, 1982: p. 97). By making it ahistorical, Locke devised a "criterion...outside history, in terms of which to judge the moral status of the present political structure" (Dunn, 1982: p. 101; cf. pp. 102-3). The concept does not contain any "empirical transitive content" as that would lead to contamination by history; it is simply an axiom of theology (Dunn, 1982: p. 103): "Indeed it is precisely a jural condition of equality and freedom uncontaminated by history, the history of human wickedness" (Dunn, 1982: p. 110). The concept is so pure that even the natural world is irrelevant to the definition of the state of nature.¹⁸

As a concept, man's natural condition is strictly an analytical device. To use the concept one superimposes it upon particular historical events or upon any actual human situation--the state of nature "represents the set of jural co-ordinates on which such situations must be placed if they are to be understood accurately" (Dunn, 1982: p. 110)--and derives a moral evaluation.¹⁹ Any actual relationship

between men unmodified by acts of aggression or by the presence of a common authority is a state of nature.

The law of nature which governs the state of nature is the law of God, which teaches man that being the workmanship of God he has duties to perform to Him (Dunn, 1982: p. 121; cf. chapter 8). As God's creation, man has a duty to preserve himself and whenever possible the rest of mankind (Dunn, 1982: p. 125). In order to carry out these duties, everyone has, in the state of nature, the right to be judge and to execute the law of nature (Dunn, 1982: pp. 126-7; pp. 168-72). The authority of every individual to judge and punish others is derived directly from God and extends only as far as the performance of duties to Him requires (Dunn, 1982: p. 127). Men have these rights in order to make the law of nature effective in this world even though "The sufficient sanctions of this law are exerted in the next world" (Dunn, 1982: p. 127). The Fall of man made the possession of these two rights necessary (cf. Dunn, 1982: p. 245). Individuals use them to protect themselves from interference with the performance of their duties to God, to which everyone is now prone. The fact that men are fallen, however, combined with their rights to judge and punish, means that the state of nature can easily degenerate into a state of war:

Because the administration of this law is by definition, totally individualist in the state of nature, because men are for the most part

judges in their own case and because the measures of it are complex, the legal order is all too likely at any point of dispute to degenerate into a state of war (Dunn, 1982: pp. 170-1).

The state of war is initiated by the use of force (Dunn, 1982: pp. 165, 171). Those who use force are reduced to the "jural status of beasts": their status in the great chain of being is lowered (Dunn, 1982: pp. 165-8). When force is used in the state of nature, everyone has the right to punish the aggressor because all, as God's creatures, have a duty to each other and to God to punish the transgressor and restore peace (Dunn, 1982: pp. 168-9). What is important to notice about Dunn's interpretation of Locke's teaching at this point is his claim that the state of war does not enter into the definition of the concept of man's natural state: "The state of war is the historical product of particular human actions whether they are performed in the state of nature or within a legitimate political society" (1982: p. 165). That is, any actual historical situation (past or present) where men are without a common superior is a state of nature by definition. That actual situation is peaceful until force is used, then it becomes a state of war. Thus, the state of war does not constitute a part of the concept of the state of nature which transcends history.

Dunn's distinction between the natural state as an ahistorical concept and its actual historical manifestations is aimed at undercutting Cox's claim, as well as Strauss' and

Macpherson's, that Locke characterized the state of nature as a state of war. For Cox, the key to understanding the state of nature is Locke's portrayal of man as driven by his natural desires.⁴ By understanding what man is like by nature, we learn what his natural state is like and thus the true foundation of natural law.⁵

However, Dunn's challenge of Cox's interpretation contains a difficulty. Dunn states that the law of nature, which covers the conceptual state of nature, gives man the right to be his own judge and to punish offenders of that law. He further asserts that man has these rights because of the Fall: because he is fallen man does not always follow reason. To say this, however, is to make a comment on the nature of man. If the conceptual state of nature is a pure concept, how is it that it allows for the fact that man by nature does not always follow the law of nature? Clearly, Dunn's interpretation of the state of nature tacitly carries with it precisely what he claims Locke omits, a postulate about what man is like by nature. Strauss, for instance, does not encounter this contradiction because he interprets Locke as including what is by nature into the state of nature at the conceptual level: thus he can consistently assert, at the conceptual level, that the state of nature is a state of war, or very quickly becomes one, before applying it to actual historical situations.

⁴ Although Locke's concept of the state of nature is

ahistorical, Dunn notes that Locke placed it in the context of a conjectural history of social development (1982: p. 115). This is Locke's hypothetical explanation of why men must leave the state of nature and live in civil society. Its function is to explain why patriarchalism is an unsuitable form of government.

Locke's theoretical explanation of the need for protection is the Fall of man (Dunn, 1982: pp. 114, 115, 126). After the Fall, men tended to interfere with one another's rights and duties, and this forced them into patriarchally governed political societies for protection. This was the golden age of government where patriarchal government could control the conflicts that arose. However, the advent of money altered social and economic conditions so drastically that conflict got out of hand (Dunn, 1982: pp. 117-9; cf. pp. 247-8). With the increased corruption in the world, fathers can be trusted no longer so that patriarchalism ceases to be a suitable form of government. Government and society must now be reorganized on the basis of Lockean principles.

This bit of conjectural history serves only a polemical function in the Two Treatises. According to Dunn, Locke's argument does not turn on it (1982: p. 116; cf. p. 113, note 1). It merely stresses why civil society now must have constitutional government. What is important to note about Dunn's presentation of this conjectural history is that

constitutional government only becomes necessary because of the "corruption of acquisitiveness":

in so far as society meets these problems at all it meets them as the historical response of human intelligence to the record of human wickedness. The development of a money economy may have increased the standard of consumption in this world which God has given to men 'richly to enjoy'. But it has also spread corruption, the corruption of acquisitiveness. The gain in welfare might be more than balanced by the loss in moral quality were it not for two historical phenomena, the Christian revelation of divine positive law and the institutional experiments by which men had at least restrained the extent of those disasters which threatened their social orders (Dunn, 1982: p. 119; cf. Tully, 1982: pp. 151-4).

For Dunn, then, Locke uses the state of nature as a juridical concept to explain what duties, rights and freedoms man has naturally as God's creation. Since Locke does not use it to reveal what man is like by nature, it does not serve to explain why men must move into civil society. Instead, Locke uses a conjectural history to explain the need for civil society. The state of nature only serves as a guide for men to use in order to determine if the obligations a social order imposes upon them impinge upon the matrix of their individual religious duties. ^

3. Natural Law and Property

i

The preceding two sections of this chapter compared and contrasted the different interpretations of the major

parts of Locke's natural law teaching. Section 1 looked at the relationship between natural law and natural right, and section 2 examined the relationship between the state of nature and the nature of man. This section examines how the different interpreters connect Locke's natural law teaching with his property theory.

Leo Strauss contends that natural right is the foundation of natural law. From the fundamental natural right to self-preservation, each man has a natural right to the means necessary to his preservation. Although it derives from natural right, property "is an institution of natural law; natural law defines the manner and the limitations of just appropriation" (Strauss, 1953: pp. 234-5). Natural laws, however, are nothing other than the dictates of reason conducive to man's self-preservation. As such, what natural law dictates is necessary for that end changes according to the changing conditions of man's existence.

In the state of nature, prior to the advent of money, the law of nature teaches that appropriation must be limited. The first limit Locke introduces is the sufficiency proviso. That limit, however, is inoperative in the state of nature because there are more than enough and as good natural provisions for everyone. Although there is a great abundance of natural provisions, those provisions are mostly worthless materials. The few truly useful things for man's preservation are of short duration. Since the truly useful things spoil quickly, reason teaches that it is irrational to

appropriate more of those things than can be used before they spoil. Therefore, reason, which is the law of nature, dictates that men must limit their appropriation in order to prevent spoilage.

The fact of spoilage keeps men's properties small and prevents men from transforming nature's potential plenty into actual plenty. Thus, spoilage and the abundance of worthless natural materials are the major causes of the poverty which is the main threat to man's self-preservation in the state of nature (Goldwin, 1981: p. 460; cf. pp. 463-5).

In civil society, where money is in use, the law of nature governing appropriation is different. Since money does not spoil, men may now acquire property without regard for the prohibition against waste. Now, according "to the natural law--and this means according to the moral law--man in civil society may acquire as much property as he pleases" (Strauss, 1953: p. 241). The right to appropriate is unlimited. But the use of money has also led to the situation where there is no longer enough and as good land left in common for everyone. Most men can no longer exercise their natural right to property by labouring directly on nature.

Locke, however, justifies the consequences of the emancipation of acquisitiveness by appealing to the benefits that accrue to man in civil society. By freeing the acquisitive desire, the invention of money unlocks the value-producing labour of the industrious and rational, who improve

the gifts of nature to the benefit of all. Although most men have lost their right to acquire property by labouring directly on nature, they are much better off than they would be in the state of nature. The great material wealth of man in civil society represents the complete reversal of the poverty of the state of nature and thus freedom from the main threat to man's self-preservation (cf. Cox, 1963: p. 259).

On the basis of his interpretation of the relationship between natural right and natural law, Strauss explains how Locke can claim, without contradicting himself, that natural law prescribes a limited property right at one time and an unlimited right at another time. In the state of nature, reason teaches that it is irrational to appropriate property that will spoil without use. This condition checks man's initiative and keeps him in a state of poverty. The consent to money and consequent move to unlimited appropriation create a condition of prosperity in civil society. Reason now teaches that the original limitations governing appropriation should be ignored. Therefore, for Strauss, because Locke makes the law of nature the dictates of reason, he understands its rules as being mutable in relation to the different conditions in which men find themselves:

to say that public happiness requires the emancipation of the acquisitive faculties amounts to saying that to accumulate as much money and other wealth as one pleases is right or just, i.e., intrinsically just or by nature just. And the rules which enable us to distinguish between what is by nature just and by nature unjust, either absolutely

or under specific conditions, were called the "propositions of the law of nature" (Strauss, 1953: p. 246).

It is more rational for man in civil society to remove the initial sufficiency limit to appropriation--thus it is more rational for individuals to surrender their equal right to direct access to nature--because there is more than enough and as good living for everyone than before. Since everyone is better off because of the move to unlimited appropriation, no one has a right to complain about the loss of their original right to appropriate by labouring directly on nature. To do so would be to renounce the benefits of civil society and to admit that the poverty and insecurity of the state of nature are preferable to the safety and plenty of civil society. Therefore, since the move to unlimited appropriation in civil society fulfills man's natural desire for self-preservation, unlimited appropriation is now entailed by natural law as the corollary of man's natural right to self-preservation.

Macpherson concurs with Strauss that Locke is justifying as natural a right to unlimited appropriation on the part of the industrious and rational. Since they agree on how Locke effects the transition from a limited to an unlimited right in chapter five of the Second Treatise, there is no need to repeat Macpherson's account here. What distinguishes Macpherson's account is his claim that Locke begins with the traditional natural law teaching--that

natural rights derive from natural law--and then places greater emphasis on natural rights by justifying unlimited appropriation (cf. 1979b: pp. 228-33). According to Macpherson, in showing that money allows men to transcend the natural limits to appropriation, Locke makes natural law ineffective in limiting natural right and thus places greater importance on man's natural right to and desire for self-preservation. Locke begins with the traditional natural law teaching only because he required the traditional notion of the natural equality of men, and thus the natural right of men to govern themselves, in order to establish the right of the individual to consent to the use of money and the alienation of his labour power; these are two crucial factors in his justification of unlimited appropriation (Macpherson, 1979a: pp. 238-47).

Although Macpherson does not argue, as Strauss does, that natural law is a set of rules that man can adapt to suit his desire for self-preservation, he does assert that man can stretch natural law in order to accommodate that desire.^x The notion that man can manipulate natural law, however, contrasts strikingly with Tully's assertion that natural law, for Locke, prescribes an immutable set of rules to govern appropriation.

ii

James Tully maintains that Locke's natural law teaching sets out the eternal and non-conditional principles

which Locke faithfully employs in his explication of appropriation in chapter five of the Second Treatise. As God's workmanship, man is placed on earth for His purposes. God's purposes for man are laws of nature which man's reason discovers. Once discovered, they serve as the eternal guides for behaviour under all conditions and circumstances. The fundamental natural law teaches man that he has a positive duty to God to preserve mankind. From the fundamental law of nature, man has a natural right to preservation and the corollary right to the means necessary to preservation. All men have a positive duty to God to exercise these rights in a manner consistent with natural law; in doing so, men fulfill their duty to preserve mankind.

Tully states that, for Locke, man's natural right to the means necessary to preservation is an inclusive claim right to the world. In order for men to individuate their share of the common, Locke gives everyone an exclusive right in his person and the labour of his person. Thus, whenever a person mixes his labour with natural materials, he acquires an exclusive right in the product. Natural law teaches that this mode of appropriation is valid only as long as there is enough and as good left in common for others. The amount of property anyone may appropriate is set by nature: a person is entitled to as much of the common as he can use before it spoils and no more. If a person allows anything to spoil, he has taken more than his share and has robbed others. This

is the mode of appropriation natural law entails, and is, therefore, the mode men have a duty to obey.

The invention of money in the state of nature, however, alters the conditions in which natural appropriation occurs. Since money does not spoil, men enlarge their possessions of everything beyond the natural spoilage limit. This very quickly leads to the situation where there is no longer enough and as good land left for everyone. With the sufficiency proviso violated, the mode of appropriation prescribed by natural law is destroyed. Once this happens, all appropriation is suspended and all exclusive rights are invalidated. This condition, combined with the moral corruption money causes, forces men to move into civil society (Tully, 1982: p. 152).

As men enter into civil society, their exclusive property becomes the common property of society, which must now be redistributed in accordance with the eternal and non-conditional principles of natural law. Everyone in civil society is entitled to appropriate by his honest industry his share of the common goods. And, as in the state of nature, each man is entitled to have as much as he can use before it spoils and no more (Tully, 1982: pp. 163-72). Thus, even in civil society, individual appropriation is limited.

At this point, Dunn's interpretation of Locke complements Tully's. Dunn argues that although men must labour in order to acquire the means necessary for

preservation, labour, when understood in terms of the doctrine of the calling, is primarily an activity by which men exercise their religious duties to God. Since appropriation is not the main goal of labour, men are entitled by natural law to appropriate as much property as they need to remain healthy in their callings. Presumably, the amount anyone needs for that end is established by the spoilage proviso. Thus, for Dunn, Locke makes the right to property a limited individual right.

Re-constituting the original mode of appropriation conventionally is not optional. Since it is how man fulfills his duty to preserve mankind in the manner consistent with natural law, man is under a positive duty to God to safeguard the original mode of appropriation. Tully argues, then against Macpherson and Strauss, that natural law does not prescribe limited appropriation at one time and unlimited appropriation at another. For Tully, in chapter five of the Second Treatise, Locke argues that only limited individual appropriation is consistent with the natural law duty to preserve mankind. +

IV

NATURAL APPROPRIATION IN THE STATE OF NATURE

At the end of the first section of chapter five of the Second Treatise, Locke states that he will "endeavour to shew, how Men might come to have a property in...that which God gave to Mankind in common...without any express Compact of all the Commoners." Leo Strauss and C. B. Macpherson interpret this to mean that Locke will show how men may acquire private property naturally out of the natural common. They argue that when Locke demonstrates how natural appropriation occurs, he initially limits the appropriation of private property to as much as an individual can use before it spoils and provided enough and as good is left in common for others, and he then shows how men discovered a way around these limits and converted their limited right into an unlimited right to private property.

James Tully offers a different interpretation of what Locke does in chapter five. He argues that Locke's purpose is to show how men can particularize their share of the common without consent so that they will have an exclusive use-right in their share of the common. In demonstrating how this occurs, Locke establishes a system of property which

leaves the natural common intact and men tenants in common. According to Tully, because Locke adopts this system of property, he rejects the system of private property out of positive community Strauss and Macpherson ascribe to him, and thus the property system necessary for a justification of unlimited capitalist appropriation.

This chapter compares and contrasts these opposed interpretations. A major part of the discussion focuses on how Locke employs the spoilage proviso as a limitation on appropriation because the proviso is crucial for understanding the system of property Locke sanctions in the Second Treatise. The discussion of the spoilage proviso looks at what Tully, Strauss and Macpherson say about the way Locke uses the proviso in making his argument in chapter five of the Second Treatise. Since the enough and as good proviso is not relevant at this point, discussion of it is held off until chapter five, below.

1. The Means Necessary to Preservation

i

In Natural Right and History, Strauss opens his analysis of chapter five of the Second Treatise with the statement that because everyone has a natural right to self-preservation, "he necessarily has the right to everything necessary for his preservation" (p. 235). James Tully makes a similar assertion in A Discourse on Property. He states

that man's natural property is a right to the means necessary to preservation (1982: pp. 63, 60), and that it is a right in common since it is a right all men possess (1982: p. 61). Tully then adds that this natural right expresses common property--that is, each man's right refers to the same object--which is redescribable as an inclusive right "because it is a right 'not to be excluded from', or to be included in, the use of that to which the right refers (1982: p. 61; cf. Macpherson, 1979b: pp. 123-7). Strauss' remark that man's natural property refers to "everything necessary for his preservation" indicates that he too takes Locke's natural right to express common property. But Strauss does not supply any explicit proof that because man's natural right expresses common property it is redescribable as an inclusive right.

In Possessive Individualism, Macpherson introduces his analysis of chapter five with the statement that Locke accepts, as the dictate of both natural reason and Scripture, that the world belongs to all men in common (pp. 199-200; cf. Goldwin, 1981: pp. 460-1). The supposition that the world belongs to all men in common implies that all men have a right in common to the world which expresses common property. Like Strauss, however, Macpherson does not explicitly indicate whether man's natural right can be redescribed as an inclusive right. Despite this, it is safe to assume that he would not quarrel with Tully on that point. Locke's

premise about man's natural equality (2.4) logically entails that all men have a claim not to be excluded from the natural common. Thomas Lewis notes that since all men are by nature equal, all men have an equal right to act on nature, but only in a way that does not interfere with the equal right of others (1975: p. 259). Making use of the natural common without violating the equality premise clearly presupposes that no man may be excluded from the common and therefore that the natural right to the common is an inclusive one.

Locke opens his chapter on property with the assertion that if men have a right to the means necessary to their preservation it clearly implies that the world was given to mankind in common:

Whether we consider natural Reason, which tells us that Men, being once born, have a right to their Preservation, and consequently to Meat and Drink, and such other things, as Nature affords for their Subsistence: Or Revelation...'tis very clear, that God, has given the Earth...to Mankind in Common (2.25).

The two propositions are, therefore, logically equivalent: "To say...that each man has an inclusive claim right...is logically equivalent to saying that the world belongs to all men in the same manner" (Tully, p. 95; cf. Olivecrona, 1974a: p. 222).

Having established that Locke asserts that everyone has a right to everything useful to preservation, Strauss then states that those things are useful only if they are appropriated in such a way as to become the exclusive property

of the individual (1953: p. 235). Thus all men have a claim to some private dominion exclusive of the rest of mankind. Strauss then implicitly raises the question: how and from where are men to acquire those things necessary for preservation? (p. 236). His answer from Locke is that men can only acquire, in the original state of nature, what they need for self-preservation directly from nature: "The only honest way of appropriating things is by taking them...directly from nature, 'the common mother of all'" (1953: p. 236).

Macpherson, however, does not need to raise that question. Since the world belongs to all men in common it follows that the inclusive right to the means necessary to preservation refers to nature: "The earth and its produce were given to men...in common, 'yet being given for the use of Men, there must of necessity be a means to appropriate them some way or other before they can be of any use, or at all beneficial to any particular Man'" (Macpherson, 1979a: p. 200). Locke must solve the problem of how men can acquire an exclusive right in common things.

Macpherson and Strauss make two points in these remarks that relate directly to Tully's analysis. First, they indicate that Locke introduces exclusive rights in order for men to make use of the natural common. Tully makes the same point:

Common rights to use some thing do not, in themselves, specify how the commoners are to use that thing which belongs to them all in common. A principle specifying how the

common is to be used is required if the common right is to be exercised.... Locke handles this problem by introducing a second kind of property right marked by the locution "property in" (1982: p. 63).

An exclusive right, a "right in" or "property in" a thing, is a claim to exclude others from that to which the right refers (Tully, 1982: p. 61).

The second point concerns the object or referent of man's natural inclusive right. After locating and quoting Locke's definitive statement of man's natural property (1.41), Tully claims that it contains a "distinction between the materials provided by God and the things made out of them and useful to man, to which man's property primarily refers..." (1982: p. 60). A few pages later, when he turns to Locke's derivation of man's natural property from natural law, Tully concludes that because all men have a right to what nature affords for their subsistence each man has "a natural right to the means necessary to preserve himself" (1982: p. 63). The term "means" encompasses the two sorts of things necessary to preservation: manmade things and natural things or "the materials provided by God". The former is the primary while the latter is the indirect or secondary referent of man's natural right. Thus, when Locke asserts that the "earth" or "world" belongs to mankind in common, Tully takes those terms to be comprised of both the primary and secondary referents of man's natural right and therefore to be equivalent to the "means necessary" to preservation.

Leo Strauss states that all men have a natural right to everything necessary for self-preservation. This corresponds to Tully's assertion that all men have a natural right to the means necessary for preservation. Strauss, however, places a crucial limitation on man's natural inclusive right in the original state of nature. Men can only take what they need directly from nature, the common mother of all (Strauss, 1953: p. 236). Man's natural inclusive right has only one referent or object and that is nature itself, or in Tully's words "the materials provided by God": they are the only "means" to preservation to which each man's right refers. Manmade goods are not a constitutive element of the object of man's natural right.

When Macpherson equates the phrase "Meat and Drink, and such other things, as Nature affords for their Subsistence" with the "earth and its produce" (1979a: p. 200), he limits the reference of man's natural right to the materials supplied by nature and excludes manmade goods. Tully, on the other hand, equates that phrase with both manmade goods and materials. To say that the earth belongs to all men in common means for Macpherson that the natural materials belong to men in common, whereas for Tully it means that everything, manmade goods and materials, belong to all men in common. Therefore, Strauss and Macpherson take man's natural common, that to which each man's natural right refers, to be composed of natural materials exclusively, while Tully includes

manmade goods as well as those materials.¹

Tully argues for the view that the primary referent of man's natural right is manmade goods, and not natural raw materials, because he wants to show that for Locke man does not have a natural right to land as such. Tully has two reasons for denying that men have a natural right to land. First, he wants to establish that when Locke explicates natural appropriation in chapter five of the Second Treatise, he leaves the natural common intact. The second is directed at Strauss and Macpherson. Because they take the primary referent of man's natural right to be nature itself, they can claim that man does have a natural right to private property in land as such. Consequently, they take natural appropriation to lead to the dismemberment of the natural common. Thus, in order to establish his interpretation of what Locke does in chapter five, Tully must undercut the position Strauss and Macpherson adopt.

ii

In order for men to make use of the natural common they must acquire an exclusive right in things. Tully explains that it is an analytic feature of an inclusive right that it requires an exclusive right in order to be exercised. An inclusive right only expresses potential, not actual, ownership. Thus a person who has an inclusive right to something comes to have an exclusive "right in" that thing upon fulfilling some condition (Tully, 1982: p. 67). Tully

employs the example of public transportation to illustrate how these two sorts of rights are conceptually connected:

Suppose...that public transportation should be available to each citizen as a matter of civil justice. This is a citizen's due and he can be said to have a claim right to it, correlative with a positive duty of the community to provide it. The right in this case, is a right not to be excluded from or denied use of public transportation when a citizen chooses to exercise it. When the right is exercised, the citizen comes to have a right in the use of the seat or floor space he occupies. This right in is a right to exclude others from using the same seat at the same time (1982: pp. 67-8).

A person with an inclusive claim right to something comes to have an exclusive right in that thing upon the performance of some condition. With respect to man's natural common, Locke asserts that he will show how "Men might come to have property in several parts of that which God gave to Mankind in Common, and that without any express Compact of all the Commoners" (2.25; cf. Goldwin, 1981: p. 461). Yolton and Tully assert that Locke's central aim in chapter five is to show how particularization of the common is possible (Yolton, 1970: p. 187; Tully, 1982: pp. 1, 95). By this they mean that Locke will show how individuals acquire exclusive use-rights in common goods. Olivecrona interprets Locke's problem differently: "If the earth had been given to men in common, how had it come to be that the community of goods thus established had been replaced by private property rights" (1974a: p. 222; cf. Tully, 1982: p. 96). Strauss, Macpherson, Cox and Goldwin also understand Locke's aim to be to show how

private property comes into existence. What condition, then, does Locke have men fulfill for them to acquire an exclusive right in part of the natural common?

Locke's solution to the problem of individuating the common must be consistent with his initial premise about the natural equality of all men. If all men are free to govern themselves as they see fit, then all men must have the identical right to use nature. Given this assumption of equality, "a way must be found to justify the use of nature as an object of action to support the life of man without violating the constraint that each man has the identical right to use all aspects of nature" (Lewis, 1975: p. 259). In other words, the means for bridging man's inclusive and exclusive rights must not violate the equality premise.

Locke gives the solution to this problem at section twenty-seven of the Second Treatise. Macpherson raises the problem and the solution in Possessive Individualism. If natural things must be appropriated in order to be of use to men, there "must therefore be some rightful means of individual appropriation, i.e. some individual right to appropriate" (p. 200; cf. Tully, 1982: pp. 104-5). If objects useful to preservation must be held exclusively, it follows that there must exist a right which is by nature purely particular or individualistic. Such a "right, and the initial extent and limits of the right, Locke derives from the further postulate that 'every Man has a Property in his own Person.... The

Labour of his Body, and the Work of his Hands, we may say, are properly his'" (1979a: p. 200; cf. 1979b: p. 231; Olivecrona, 1974b: p. 225).

Tully states that these "two exclusive rights provide the crucial link between man's theoretical inclusive rights and the exclusive rights men come to have in particular things as a result of their practical activity" (1982: p. 105). Armed with an inclusive claim right to the means necessary to preservation and exclusive rights in his person and labour, the individual is set to acquire property in things. "Therefore, if a man mixes his labour...with things of which no one is the owner, those things become an indissoluble mixture of his exclusive property with no one's property, and therefore, they become his exclusive property" (Strauss, 1953: p. 236; cf. Macpherson, 1979a: p. 200; Tully, 1982: p. 116; Yolton, 1970: p. 189; Lewis, 1975: p. 260; Olivecrona, 1974b: p. 226). Appropriation in this way allows Locke to claim that an individual may make something his own without the consent of all the commoners (cf. Olivecrona, 1974a: p. 225).

Man's natural inclusive claim right to the means necessary to preservation entails the introduction of exclusive rights in order to be exercised. Theoretically, the logically prior inclusive right is the origin of exclusive rights or of "property in" (Tully, 1982: p. 96; cf. 1.92). On the practical level, however, the "property which every

man has in his own person and in his own labour is the original and natural property; it is the foundation of all other property in the state of nature. All other property, then, was derivative from that original, natural, underived property" (Goldwin, 1981: p. 461; Strauss, 1953: p. 236; Tully, 1982: p. 105; 2.44). By exercising his labour, the individual makes the theoretical exclusive rights actually exist. But why does labour confer title over an object?

Strauss states that the individual "mixes" his labour with the common goods of nature so that they "become an indissoluble mixture" of the two elements (cf. Goldwin, 1981: pp. 461-2). The implication is that the "indissoluble mixture" constitutes a new object (cf. Hundert, 1972: p. 8). Tully elaborates and clarifies this aspect of Locke's theory of appropriation. When a person applies his labour to the raw materials of nature he transforms them either through alteration or making, and so "constitutes a new object identifiable as that object under the idea of description which informs his making or altering" (Tully, 1982: p. 117). Because the labourer changes the identity of the original item, he creates a new object which becomes his property (Tully, 1982: p. 120; cf. Olivecrona, 1974b: p. 222). Since this process presupposes that the labourer has knowledge of the effect of which he is the cause, it can be called Locke's epistemological explanation of ownership.

The transformative labour which constitutes the

spontaneous products of nature into new goods is gathering. Similarly, killing or catching and domesticating wild animals constitutes them into new goods useful for preservation (2.28, 30, 38, 48). Locke extends this theory of appropriation to the earth itself. "A person blends his labour with the earth and so comes to have a property in the effect: a tilled, planted, improved or cultivated field" (Tully, 1982: p. 119; Strauss, 1953: pp. 236-7; Macpherson, 1979a: pp. 201-2; cf. 2.32, 33, 35, 38, 42). In addition to the right in the improved land, the labourer has a right in the products that result from the improvement (Tully, 1982: p. 119; cf. 2.38).

Goldwin, however, states that Locke provides an additional explanation of why labour gives title to exclusive possession. He claims that an individual acquires a property in what he has made because of the value added:

This is another way Locke has of stating why the combination of the private and the common results in private property: the private component, labor, constitutes almost entirely the value of the thing; the materials, the common element, are "scarce to be reckoned in." Labor gives title to property in the state of nature primarily because "labor makes for the greatest part of the value of things we enjoy in this world" (s. 42) (1981: p. 463; cf. Cox, 1960: pp. 90-1; Winfrey, 1981: pp. 430-1; Vaughn, 1982: p. 90; Olivecrona, 1974b: pp. 226, 232).

This explanation of why labour gives exclusive title applies to all things in nature, not just land (Goldwin, 1981: p. 463; Cox, 1960: pp. 90-1). Only through appropriation do

the useless materials of nature become useful, and thus of value, to the life of man. Tully acknowledges that labour creates value, but he does not take it to be an explanation of why labour gives exclusive title (1982: pp. 144-5). Goldwin offers value as an explanation of property because he, like Strauss, wishes to emphasize that the creation of all things valuable results from individual effort which owes nothing to society (cf. Strauss, 1953: p. 243). This is a component of Strauss', and Macpherson's, argument that in order for men to satisfy their desire for self-preservation, they must free their industriousness by removing the fetters to appropriation extant in the original state of nature. Once men are free of the natural limits to appropriation, they enter into civil society where government must protect the right of the industrious to acquire private property. Tully, however, does not view Locke as wanting to free individual labour from social obligations. Tully argues that the individual must create valuable things in order to perform the social obligation of preserving mankind. Therefore, because he sees no need to separate the creation of valuable things from social obligations, Tully does not interpret Locke as offering value as an explanation of ownership.

That every man should have exclusive property in the products of his labour is a natural principle of justice: "Justice gives every Man a Title to the product of his honest Industry" (1.42; Tully, 1982: p. 118; Cox, 1963: p. 246).

Whatever a person fixes his labour in becomes his exclusive property and he has positive sovereignty over it such that "without a Man's own consent it cannot be taken from him" (2.193; Tully, 1982: p. 114; Lewis, 1975: p. 260). Natural appropriation through individual labour is, however, subject to two limitations. The first limit stipulates that "a man may appropriate only as much as leaves 'enough and as good' for others" (Macpherson, 1979a: p. 201; cf. 2.27). Macpherson states that Locke's theory of appropriation requires this limit if individual appropriation is to be consistent with the equality premise of section four of the Second Treatise. Lewis concurs: "the appropriation of part of nature by one man must not interfere with, or make more difficult, the appropriation of a part of nature by any other. Otherwise the assumption of equality of right to use one's body would be violated" (1975: p. 260). The second limitation on appropriation is the spoilage proviso. (Macpherson, 1979a: p. 201).

2. The Spoilage Proviso

i

Locke raises the spoilage proviso at section thirty-one of the Second Treatise. He situates it in the context of the state of nature prior to the invention of money, and offers it as a response to the possible objection that under the mode of appropriation he has outlined "any one may ingross

as much as he will". But the proviso prevents ingrossing by limiting the amount anyone may appropriate to what he can use before it spoils:

The same Law of Nature, that does by this means give us Property, does also bound that Property too. God has given us all things richly.... But how far has he given it us? To enjoy. 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.

The spoilage proviso clearly places a limit to the amount of property a person can acquire through labour.' But the proviso's significance as a limit on appropriation depends upon who is interpreting Locke's theory of property. C. B. Macpherson and Leo Strauss² regard spoilage as a severe restriction on man's natural right to appropriate which men strive to overcome. Strauss, especially, regards the fact of spoilage as the main cause of man's poverty in the state of nature. On the other hand, James Tully takes the positive view that spoilage is the natural law standard for what constitutes each man's natural entitlement. Hence, the spoilage proviso is not an obstacle to appropriation, but a natural standard which guarantees all men a comfortable existence. ~

Leo Strauss, and Robert Goldwin, asserts that Locke employs the fact of spoilage both as a response to the poverty of the original state of nature and as a major cause of that penury (1953: pp. 236-9; Goldwin, 1981: pp. 463-6;

cf. Cox, 1960: pp. 89-94). The state of nature is a condition where there is a superabundance of natural provisions. With very few spenders and plenty of nature's consummable goods and unused land there is more than enough and as good for everyone. Despite this, man's early condition "is comparable to the condition of the Indians, America's 'needy and wretched inhabitants'" (Goldwin, 1981: p. 464). Strauss explains why:

natural plenty is only a potential plenty: "nature and the earth furnished only the almost worthless materials as in themselves"; they furnished "acorns, water, and leaves, or skins," the food and drink and clothing of the Garden of Eden, as distinguished from "bread, wine and cloth" (1953: p. 238; cf. Goldwin, 1981: p. 464).

The natural superabundance represents potential plenty, but is actual penury. This explains why originally natural law commands that men can only acquire property by taking it directly from nature; thus, why man's natural inclusive right originally only refers to the common natural goods (Strauss, 1953: pp. 236, 239).

The poverty of man's original condition also explains why natural law prohibits spoilage. The only way to reduce or eliminate the poverty of the first ages is through the prevention of waste. But originally, it concentrates only on human spoilage. Men may only appropriate from nature what they can use before it spoils. Locke's teaching about spoilage is clear:

The terrors of the natural law no longer strike the covetous, but the waste. The natural law regarding property is concerned with the prevention of waste; in appropriating things by labor, man must think exclusively of the prevention of waste; he does not have to think of other human beings (Strauss, 1953: p. 237).

Since every man is forced to labour for his bare self-preservation, he does not have to worry about the preservation of others. Even the duty of charity does not apply (Strauss, 1953: p. 239). Natural law, or reason, dictates the prevention of waste.

Locke's edict against spoilage reveals that originally the "natural right to comfortable self-preservation was illusory" (Strauss, 1953: p. 238). The fact that most things really useful to man's life spoil quickly is "the major limitation of property in the state of nature" and therefore "the cause of the penury" (Goldwin, 1981: p. 464). Since no rational man would labour for a surplus that would merely spoil, the short duration of useful things prevents men from expanding their just possessions beyond immediate needs, and thus it prevents men from transforming nature so as to end the poverty which threatens preservation. Although Locke's initial discussion of spoilage aims at preventing manmade waste, Lewis observes that "Locke curiously shifts the meaning of the term waste so that rather than functioning as a constraint on labour it constitutes an imperative to labour (1975: p. 260; cf. Goldwin, 1981: p. 466). This shift in meaning, however, occurs only after the invention of money

and the transcendence of the enough and as good proviso. Therefore, Strauss asserts that Locke uses the natural tendency of things to spoil to show that as long as nature fetters appropriation man's preservation is not secure, and therefore that self-preservation logically entails the movement to unlimited individual appropriation.

ii

Tully's interpretation of the significance of the spoilage proviso utilizes three lines of argument. He argues first that the spoilage proviso establishes what constitutes a person's share of the direct means necessary to preservation. This addresses Strauss' assertion that Locke uses the spoilage proviso as an incentive for men to move to unlimited appropriation. Second, he uses the proviso to challenge Macpherson's claim, and Strauss', that a person's exclusive right in his possessions is describable as private property; thus Tully uses the proviso to undercut the claim that men have a natural right to private property in land. Third, he makes a positive case for his claim that the system of property which Locke justifies in chapter five of the Second Treatise is positive community as expressed in the model of the English Common.

Tully claims that a man's exclusive right in the products of his labour is the actualization in possession of the prior natural inclusive right to a part of the manmade goods necessary to preservation (1982: p. 122). The natural

inclusive right entitles each man to have his distinct share of the common and no more. But if he acquires his share naturally by making it out of the raw materials of nature, how does he know how large a share is his? Tully answers that the natural tendency of things to spoil determines each man's share. Natural law stipulates that each man's share is as much as he can use before it spoils and no more (Tully, 1982: pp. 121-2). If anyone appropriates anything that spoils without use, he took more than his share and robbed others, and therefore is punished (Tully, 1982: p. 123). The spoilage proviso, rather than being an obstacle to man's preservation, establishes the amount of exclusive property the natural inclusive right allows an individual to appropriate. As a non-conditional standard of natural law, the proviso eternally limits individual appropriation.

Locke stipulates in section thirty-one that a person must use his property and not permit it to spoil. Tully employs the "due use" requirement to explore what kind of right an exclusive right in something is. His intention is to undermine the claim Macpherson and Strauss both make that an exclusive right is describable as private property. Tully uses Macpherson's definition of private property to make his point:

[Private property] is a right to dispose of or alienate, as well as use; and it is a right which is not conditional on the owner's performance of any social function (Tully, 1982: p. 99; cf. Macpherson, 1979b: p. 126;

1979a: pp. 215, 221).

Tully claims that for Locke an exclusive right in a thing is like a usufruct because it is a right to use one's property for God's purposes (1982: p. 122; cf. Paul, 1980: pp. 388-93).³ The chief aspect of such a usufruct is its emphasis on the individual's duty to God. A man's property in his share of the manmade goods necessary to preservation is held conditionally upon the performance of duties to God to preserve oneself and others. Since the duty to preserve mankind is a social function, an exclusive right is not describable as private property (cf. Waldron, 1979: pp. 326-7).

It is necessary, then, to look at why Macpherson and Strauss describe a man's natural exclusive right in his property as private property. The first criterion is that an exclusive right grants the rightholder the authority to alienate his property. Both authors assert that an individual may alienate the goods he acquires in the state of nature (Macpherson, 1979a: p. 201; Strauss, 1953: p. 237). Tully too accepts that alienation, except in the case of land, is a feature of an exclusive right.

The second feature of an exclusive right as private property is that the rightholder is not under an obligation to perform any social function. In Natural Right and History, Strauss argues that natural right antedates natural law and that man's natural right to the means necessary to preserva-

tion is the direct corollary of the fundamental natural right to self-preservation (p. 235; cf. Cox, 1960: p. 89). When an individual exercises his inclusive right to nature and acquires an exclusive right in the product of his labour, he uses that property in order to fulfill his natural right to self-preservation. Although Macpherson disagrees with Strauss about exactly how Locke relates natural right and natural law, he agrees with Strauss that the natural rights to and in property are not held for the purpose of performing duties to God, but for fulfilling the natural right to self-preservation (Macpherson, 1979b: p. 229; cf. pp. 229-33). Whereas for Tully the "due use" requirement of the spoilage proviso entails that a man must use his property to exercise the duty to God to perform the social function of preserving mankind, for Strauss and Macpherson it entails that a man must his property for his right to self-preservation and not allow it to spoil. Therefore, Strauss' presentation in Natural Right and History implies, contrary to Tully's assertion, that man's natural exclusive right in goods is describable as property because it does not entail that the rightholder must perform any social obligations and because the rightholder can alienate those goods. Macpherson concurs with Strauss.⁴

Tully continues his discussion of the spoilage proviso by focusing on the natural right to use land. Tully maintains that man's natural inclusive claim right to use the

means necessary to preservation primarily refers to manmade goods, but excludes the earth: "It is a paramount and remarkable feature of the initial claim right that it is not to the earth itself, but to the manmade products useful to man's life: food, raiment, conveniences of life, meat and drink" (1982: p. 122). An exclusive use right in the products of one's labour follows from and is the actualization of the initial claim right to use these products. This construction establishes Locke's main ideological conclusion:

that fixed property in land does not have a natural foundation. This is necessarily the case because the complimentary and natural inclusive and exclusive rights respectively refer to and inhere in products of labour (Tully, 1982: p. 122).

Tully then states that the spoilage proviso reconfirms and accentuates this point. He first deploys the proviso as support for the contention that the natural and complementary inclusive and exclusive rights refer to and inhere only in the products of labour. The proviso stipulates that if a person allows the things he has acquired a property in to spoil, he is punished because he appropriated more of those manmade goods than he had a right to. "The argument makes sense on the presupposition of a prior inclusive claim right to provisions, though not to raw materials, necessary for subsistence" (Tully, 1982: p. 123). How else would Locke's assertion that he robbed others make sense?

Having shown that the spoilage proviso only makes sense if man's natural right refers primarily to manmade

goods, Tully applies the proviso to the case of land. At section thirty-eight of the Second Treatise Locke states that the "same measures governed the Possession of Land." The initial natural inclusive right refers only to the direct means necessary for preservation. Improved land is not a direct means of preservation; it is only a means for acquiring those goods directly useful for preservation and therefore it is excluded from the initial right. An exclusive right in improved land is not, then, the actualization of the prior inclusive right. An individual who improves natural wasteland acquires only a conditional use-right in the improved land. "The result is that the common remains common and the persons remain tenants in common" (Tully, 1982: p. 122). The improved land belongs to all in common, but the person who improved it has a right to exclude the others while he is using it.

The right to exclude others from improved land is conditional upon the due use of the products of the land. An exclusive right in the products of the land is the actualization in possession of the prior inclusive right to the means necessary to preservation. The spoilage proviso governs the right in land by attaching to its products. If the products of the land spoil, the person has taken more of the manmade goods than he had a right to, and he loses his use-right in the improved land because he does not need it for appropriating his share of manmade goods. Since the spoilage proviso indicates that there is only a use-right in improved land

conditional on the due use of the products, Tully concludes that there is no natural right to land as such:

If the products of the improved field are not used in the sense of being collected for the sake of use for support and comfort, then the cultivated land ceases to be one's own and reverts to the common. There is, therefore, no right in land as such, but only a use right in improved land conditional upon the use of its products. The right in land is twice removed from fixed property (Tully, 1982: p. 123).

How Strauss and Macpherson interpret the spoilage proviso implies a different construction of rights. They take man's natural inclusive claim right to the means necessary to preservation to refer only to what nature provides for man's subsistence and comfort; thus, man's natural property is a right to raw materials. An individual who applies his labour to natural materials constitutes a new object in which he has an exclusive right because he made it. In making the new object the individual actualizes his inclusive right to use nature. Since man must labour in order to preserve himself, the justification for the individual to use his property is that he made it. Hence, they reject Tully's view that the exclusive right in the use of the products of labour is the actualization of the prior inclusive right to use manmade goods.

Tully states that the person who allows what he has made to spoil is punished for taking more of the manmade goods than he had a right to (1982: p. 123). When Strauss and Macpherson interpret Locke's application of the spoilage

proviso, they again emphasize the raw materials of nature. The spoilage proviso limits the amount of property a person may appropriate by stipulating that he is only entitled to have as much of the natural raw materials as he "can make use of to any advantage of life before it spoils.... Whatever is beyond this, is more than his share, and belongs to others" (2.31). Since man's natural inclusive right refers primarily to the common materials of nature, the individual who allows what he has made to spoil is punished for taking more than his share of the natural provisions. Section thirty-one states that "Nothing was made by God for Man to spoil or destroy", and is silent about what man himself has made. This point emphasize's Strauss' assertion that the law of nature strikes at the waster rather than the point that the individual has a duty to use what he has made for performing the social function of preserving mankind.

Next, Strauss and Macpherson must show how Locke applies the spoilage proviso in the case of land. Tully explains that if an individual allows the products of land to spoil without use, he has taken more of the common manmade goods than he had a right to, and therefore he loses his exclusive use-right in the improved land because he does not need it for acquiring manmade goods. For Strauss and Macpherson, an exclusive right in land is the actualization of the prior natural inclusive right to use what nature provides for man's subsistence. In addition to the right in

the land, the individual has an exclusive right in the products of the land because he produced them. However, if the products of the land spoil without use, the individual loses his right in the land, even though he improved it, because he has appropriated more of the natural wasteland than he can use. An improved parcel of land whose products are allowed to spoil is no different from wasteland: "But if either the Grass of his Inclosure rotted on the Ground, or the Fruit of his planting perished without gathering, and laying up, this part of the Earth, notwithstanding his Inclosure, was still to be looked on as Waste, and might be the Possession of any other" (2.38). The individual loses his right in the land because he has, in effect, allowed it to spoil by not making use of its products. This further emphasizes Strauss' claim that Locke directed the spoilage proviso at the prevention of waste. Since Locke's use of the spoilage proviso is equally intelligible on the basis of the construction of rights Strauss and Macpherson ascribe to Locke, they can meet Tully's assertion that the proviso serves to establish Locke's main ideological conclusion that man does not have a natural right to land as such. For Strauss and Macpherson, fixed property in land does have a natural foundation (cf. Olivecrona, 1974a: pp. 226-7).

Tully then employs his interpretation of the natural right in land as a conditional use-right to chastise Macpherson for his "predisposition to read 'property' as a

term comprising unconditional rights over land and so to equate it with 'private property'" (1982: p. 124).

Macpherson makes this error in his reference to the seventeenth century English yeoman (1979a: p. 202). The reference to the enough and as good proviso aside, Macpherson's error is to assume that Locke's natural right in land is equivalent to the property right of the yeoman. The yeoman has a fixed right in land--i.e., it is alienable--whereas Locke's natural right in land is a conditional use-right and therefore is not private property. We saw above that Tully employs Macpherson's definition of private property as a "right to dispose of, or alienate, as well as to use; and it is a right which is not conditional on the owner's performance of a social function." Locke's use-right entails that the land must be used in the sense of producing useful products. The individual cannot alienate his right in the land; he can only forfeit it.

What the yeoman has is fixed property in land, a right to exclude others independent of the use to which the land is put. Locke's tenant in common has a use right in his continuing strict use and on his due use of the products (Tully, 1982: p. 124).

Macpherson, like Strauss (cf. 1953: p. 237), assumes that the right in land is describable as private property. He argues that for Locke man does have a natural right to fixed property in land, which entails the right to alienate the land (cf. Olivecrona, 1974a: pp. 226-7). Moreover, the right in land is not held upon the condition of performing

a social function. Men may use the land any way they see fit provided they do not violate the rights of others. Within the terms of his analysis Macpherson is perfectly just in assuming that the right of the yeoman is private property. Furthermore, Strauss concurs. Therefore, against Tully, Strauss and Macpherson contend that for Locke man does have a fixed right in land which is describable as private property.

iii

In the process of showing how particularization of the natural common takes place Locke raises the issues of robbery and consent. Is it robbery to take one's share of the manmade goods necessary to preservation? Is consent required? (Tully, 1982: p. 125; Locke, 2.28). Locke raises these questions in the context of positive community and not in the context of Grotius's and Pufendorf's negative community (Tully, 1982: p. 126). In the context of negative community, because robbery is defined as invading the exclusive rights of others, robbery can only take place after exclusive rights come into existence. In the context of Locke's positive community, robbery is defined in terms of invading the inclusive rights of the other commoners. If a man allows any of his property to spoil without use, he takes more than necessary for his due, and "if a man takes more than necessary for his due he takes 'more than his share, and [it] belongs to others' (2.31)" (Tully, 1982: p. 126; cf.

2.37, 46). Robbery only occurs when someone takes more than his share of the common manmade goods necessary for preservation.

Locke's analysis of robbery presupposes a solution to the assumption, made by the opponents of positive community --Grotius, Pufendorf, Filmer--that positive community means that everyone has a right to everything at once (Tully, 1982: p. 127). In the context of Tully's interpretation of Locke's positive community, the assumption means that everyone has equally a simultaneous right to all manmade goods and to all the raw materials provided by nature. But Locke undermines his opponents' assumption by redefining positive community:

Although the common belongs to everyone in the same manner, it belongs to them to use for the duty of acquiring the means necessary for support and comfort. Their inclusive rights refer to these means which are due to each. Thus, each right does not refer to every item on the common. Indeed it does not refer to any item on the common but, rather, to items made from the common.... Since each man has a right to his due share and no more, acquisition of it cannot be robbery. Thus the logically prior inclusive right to one's due, limited in scope to things necessary for support and comfort, underlies Locke's answer to the question of robbery (Tully, 1982: p. 127).

Locke's redefinition of positive community renders irrelevant the question of robbery with respect to the common natural raw materials. Since each man's natural inclusive right refers to his share of the common manmade goods, and not to a share of the natural raw materials out of which each man makes his share. Robbery can only occur if

a man takes more than his share of the common manmade goods. Spoilage is the natural law limit to the size of each man's share of the common. If a man allows anything he has made to spoil, he has taken more than his share and robbed others. Locke has redefined positive community, away from the Hobbesian meaning that everyone has a right to everything, to mean that everyone has an equal right to his distinct share of the common goods.

Locke's solution to the problem of robbery also explains why appropriation does not require consent. Consent would only be needed if the rights of others were violated. But because each person only acquires his due, he is not infringing on the rights of the other commoners and therefore consent is not required (Tully, 1982: pp. 127-8).

Tully asserts that the issue of spoilage as robbery only makes sense if one assumes that man's inclusive right refers to the manmade goods and not to the raw materials of nature. This is at least in part a response to Olivecrona's claim that at section thirty-one, and forty-four, of the Second Treatise Locke somewhat "illogically adds that 'he invaded his Neighbour's share, for he had no Right, farther than his Use called for any of them [Fruits and Venison].' The neighbour's share was not necessarily invaded because a man collected more fruits than he could consume; there might be enough left for others to collect as much as they could make use of" (1974a: p. 228). Olivecrona has difficulty with

Locke's assertion because he, like Strauss and Macpherson, takes it for granted that Locke's natural inclusive right refers only to the raw materials of nature and not to manmade goods. Since each man has an inclusive right to use raw materials, appropriating some of them does not violate the rights of others, and thus does not require consent (Macpherson, 1979a: pp. 201, 202). But if it is the case that there are plenty of natural provisions in the state of nature, why is it robbery to appropriate more than one's share and then allow it to spoil?

Strauss and Macpherson interpret the spoilage proviso in terms of the prevention of waste. Robert Grady II, who concurs with them, states that "one realizes the lack of wisdom in accumulating property to the extent that some of it spoils; the spoilage is an indication of wasted labour, not of another's lost necessities.... [It] is 'a foolish thing,...useless, as well as dishonest [for one] to carve to himself too much, or take more than he needed'" (1977: pp. 94-5). In addition to being foolish, spoilage under conditions of plenty constitutes robbery of "his Neighbour's share" not because a person has invaded another's share of the necessities but because he has denied his neighbour the opportunity of making that particular appropriation (cf. Nozick, 1974: p. 176). This conclusion is consistent with and entailed by Strauss' and Macpherson's claims that Locke's purpose in introducing the spoilage proviso is to prevent

waste.

As Lewis points out, after the invention of money, the meaning of spoilage shifts (1975: p. 200). Having found a way to accumulate property (wealth) without it spoiling, men no longer worry about spoilage with respect to their acquisitions, but concentrate on eliminating the waste which is unappropriated nature. The principle of spoilage as robbery now operates differently. It punishes those foolish men (such as the Indians of America) who allow nature to lie in waste and rewards those who seek to acquire wealth by transforming nature. The robber is he who would block the appropriation of wasteland.

Tully states that by redefining positive community "Locke effects an important conceptual clarification in his analysis of natural property and belonging to everyone in common" (1982: p. 128). Although each man's natural inclusive right refers to the common stock of manmade goods, only the right and not the common stock can be termed "property". To term the common "property" would imply that each right refers to the common as a whole and therefore that each person can treat it as his own.⁵ This would entail the need for consent before anyone could use the common. Goldwin makes a similar point in "John Locke":

In the original universal common...
[every] man has an equal right to every part
of what is common. This cannot mean, however,
that everyone has a share in the ownership of
everything.... If in the universal common any

man has a right to help himself to any part of the common without the consent of the others, then the others have no property, for it is the nature of property "that without a man's own consent, it cannot be taken from him" (s. 193) (p. 461).

Rather, each right refers to a distinct share of the common which is an indeterminate thing or place on the common. Only this distinct share of the common, in addition to the right, can be termed "property". But what this means for Tully is different from its meaning for Goldwin, Strauss and Macpherson.

Tully argues that a person determines his share of the common by making use of those manmade goods he has acquired. This mode of appropriation allows the common to remain common and men tenants in common two ways. First, the manmade goods a person possesses are still common property, and he has an exclusive right to use them as such. Second, and more importantly, all men remain tenants in common with respect to land. Since the only property in land men are entitled to have by natural law is a conditional use-right in improved land, thus not private property in land as such, all land remains common and men tenants in common. Therefore, Tully argues that Locke, in showing how particularization of the common occurs naturally in chapter five of the Second Treatise, has justified a system of property which entails the practice of individual exclusive use-rights within positive community as expressed in the model of the English Common (1982: p. 129; cf. p. 96; 2.35).

Strauss and Macpherson, on the other hand, argue that man's natural inclusive right refers primarily to the common raw materials of nature. Each right refers to a man's share of the common which is an indeterminate thing or place on the common and which each man acquires by making use of the common. Here, only the right to and share of the common are termed "property". Once a man makes something out of the common materials those materials cease to be common, and he now has a private right in the product of his labour. This holds even for land. Whatever land a man improves and can use its products ceases to be common and becomes private property. He remains, however, a tenant in common because, as the English Common exemplifies (2.35), he may make further acquisitions on the natural common provided he does not violate the spoilage and sufficiency provisos. Therefore, Strauss and Macpherson argue that Locke justifies in chapter five the practice of private property out of positive community; or in Olivecrona's words, Locke has demonstrated the "origin of private property in things" (1974a: p. 222).

Tully's point in arguing that Locke justifies a system of complementary exclusive and common property is to undermine Strauss' and Macpherson's claims that Locke shows how men initially have a right to private property and then, by removing the limits to appropriation, acquire a right to the unlimited appropriation of private property. If natural law entitles men to have a use right in only as much of the

common as they need for preservation, then clearly no one is entitled to appropriate beyond his share. Also, since men do not have a natural right to land as such, they cannot hold the kind of exclusive right in land required for unlimited appropriation. But Strauss' and Macpherson's interpretation of Locke on property are equally convincing. So if natural law entitles men to acquire as much private property in everything as they can use before it spoils and as leaves enough and as good in common for others, then all men need do is to find a way removing those limits in order to acquire a natural right to unlimited appropriation.

Tully then makes an important historical point about the system of property Locke justifies in the Two Treatises. He makes the point with reference to Macpherson. Tully agrees with C. B. Macpherson's claim that the restriction of the concept of property to private property occurred in the seventeenth century. He disagrees, however, with Macpherson's explanation that this is the product of the new relations of emergent capitalist society and then makes this remark:

If this were true, then there would seem to be a tension in Macpherson's analysis of the seventeenth century at this point. The authors who adopt the private concept, Grotius, Filmer and Pufendorf, integrate it into their absolutist theories. The author who adheres to the common concept most emphatically is Locke. The implication of Macpherson's explanation is that emergent capitalist society found the clearest reflection of its central concept, and so its ideology, in Sir Robert Filmer's Patriarcha (1982: p. 79).

But as we saw from Macpherson's and Strauss' analyses of Locke's theory of property to this point, Locke adopts the concept of common property--the world was given to mankind in common--but employs it to arrive at an individual exclusive right which is describable as private property. Thus it is still open to debate as to whether or not Locke rejected the concept of private property. Locke's choice to begin with an inclusive right expressing common property only proves that he rejected the negative community and private property developed by Grotius and Pufendorf. If it is accepted that Locke justified the appropriation of private property, then it is ironical that he deployed his concept of private property as the main weapon against Filmer's absolutist theory of government. Macpherson's analysis of the seventeenth century does not, therefore, imply that "capitalist society found the clearest reflection of its central concept, and so its ideology, in Sir Robert Filmer's Patriarcha."

This brings us to a point directly related to chapter five of the Second Treatise. In Possessive Individualism, Macpherson notes that Locke presents the move out of the state of nature as three sequential stages: "The temporal sequence involves three stages in all: two stages of the state of nature (one before, and one after, consent to money and unequal possessions), followed by civil society" (p. 211). Thus far we have only examined Locke's account of property in the first stage. According to Tully, the exclusive

rights men come to have in this stage are not private property (1982: p. 99). He also denies that the property which succeeds natural property, conventional property, is private property. According to Strauss and Macpherson, the exclusive rights men acquire in things, in the first stage, is describable as private property. How they describe property in the two other stages remains to be seen.

Tully then turns to the sequence itself. He states that Locke placed the introduction of conventional property after the creation of political society, and not before as did Grotius and Pufendorf. Strauss states his agreement about the placement of conventional property: "But once society is formed, if not before, the natural law regarding property ceases to be valid; what we may call 'conventional' or 'civil' property--the property which is owned within civil society--is based on positive law alone" (1953: p. 235; cf. Macpherson, 1979a: p. 218). Tully claims that in placing the agreement to introduce political property after the creation of civil society, Locke undermined the primary ideological conclusion of Grotius and Pufendorf that governments were established to protect those prior agreements and the property of the individual (1982: pp. 99-100). Strauss does not agree: "Men own property prior to civil society; they enter civil society in order to preserve or protect the property which they acquired in the state of nature" (1953: p. 235). Even though property in civil society is "based on

positive law alone", Strauss insists that civil society serves to protect the property men acquire in the state of nature under the direct rule of natural law (cf. Macpherson, 1979a: p. 218). These two opposed interpretations about the relationship between natural property and government will be examined again in the next chapter. It deals with appropriation after the invention of money.

V

APPROPRIATION AFTER THE INVENTION OF MONEY

In the last nine lines of section thirty-six of the Second Treatise, Locke introduces money as a factor which radically alters the rules governing appropriation in the state of nature:

But be this as it will, which I lay no stress on; This I dare boldly affirm, That the same Rule of Propriety, (viz.) that every Man should have as much as he could make use of, would hold still in the World, without straightening any body, since there is Land enough in the World to suffice double the Inhabitants had not 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, which, how it has done, I shall, by and by, shew more at large.

Consent to the use of money is consent to larger possessions and a right to them. In the following sections of chapter five, Locke explains how men agreed to introduce money and how this leads to larger possessions so that there is no longer enough and as good land for everyone. Thus in showing how money legitimately allows larger possessions, Locke must account for what happens to the sufficiency and spoilage proviso.

The interpretations of Locke's theory of appropriation

that Macpherson and Strauss offer reads section thirty-six as marking the transcendence of the limitations governing appropriation and thus as the transition from a limited to an unlimited natural right to property. Tully moves to block this conclusion. He argues that once money leads to a situation where there is no longer enough and as good land left in common for everyone, natural appropriation in the state of nature is no longer valid and all exclusive rights hitherto acquired are cancelled. Men cannot move from limited to unlimited appropriation. Instead, men must move from natural appropriation in the state of nature to conventional appropriation in civil society. Section thirty-six marks this transition. This chapter explores these opposed interpretations about what happens to man's right to appropriate after the introduction of money.

The use of money came about through a spontaneous progression. Once men had acquired goods through labour, they could then do three things with them: use them, give them away, or barter them (Tully, 1982: p. 147). Money arose through the practice of barter (Goldwin, 1981: p. 467; Tully, 1982: p. 147; Strauss, 1953: pp. 239-40; Vaughn, 1982: pp. 32-3, 92-3). "Men first bartered perishable foods for more durable foods, like nuts; later they traded goods for 'a piece of metal, pleased with its color'" (Goldwin, 1981: p. 467; 2.46). Tully refers to bartering pieces of metal as "the practice of coveting" and states that Locke describes

this form of activity "with a complete change of language which evinces his moral disapproval" (1982: p. 147; cf. 2.46, 37, 47, 50; Dunn, 1982: pp. 117-9). Strauss concurs with Tully that Locke speaks "disparagingly of 'little pieces of yellow metal'", but adds that Locke "soon drops these niaiseries" (1953: p. 247). Tully focuses on Locke's disapproval of money because he wishes to dampen Strauss' and Macpherson's claim that money benefits mankind. Although he stresses Locke's disapproval of heaping and hoarding useless metals, Tully concedes that Locke allows that it is permissible under natural law (1982: p. 147; 2.46). Men then introduced money as a continuation of this process: finally, men "arrived at an agreement that scarce but durable things, like gold and silver, would be taken in exchange for the perishable goods" (Goldwin, 1982: p. 467; cf. 2.47; Tully, 1982: p. 147; Vaughn, 1982: pp. 33, 93; Olivecrona, 1974b: p. 230).

By tacit and voluntary consent men agreed to the use of money out of the bounds of civil society. Goldwin stresses that it is "important to understand that Locke did indeed mean that money came into use before civil society" (1981: p. 467; cf. Macpherson, 1979a: pp. 208-9; Tully, 1982: p. 147; Lewis, 1975: p. 264; Vaughn, 1982: pp. 92-3). Macpherson notes that the consent to the use of money is qualitatively different from the consent to create political society and therefore does not put men into civil society.

A succeeding agreement is required. The importance of placing the consent to money in the state of nature for Strauss and Macpherson is that it places the right to unlimited appropriation and thus man's enhanced capacity to labour beyond the reach of any social obligations. For Tully, it means that society must, with the violation of the sufficiency proviso, perform the task of distributive justice.

1. Man's Desire of Having More Than He Needs

i

We saw above in chapter two how Macpherson and Strauss explain how the invention of money allows men to get around the spoilage limitation. Since money (gold and silver) does not spoil, men may accumulate as much of it as they desire. Locke makes this point at section forty-six of the Second Treatise where he states that "the exceeding of the bounds of his just Property not lying in the largeness of his Possession, but the perishing of any thing uselessly in it" (cf. 2.28, 50; Macpherson, 1979a: p. 204; Strauss, 1953: pp. 239-41; Lewis, 1975: p. 262; Grady II, 1977: pp. 96-7). Tully concurs that money allows men to accumulate beyond the original spoilage limitation (1982: p. 148). It is clear that Locke accepts that money allows men to acquire property beyond the original spoilage limit. But what about the desire to acquire, "the desire of having more than Men needed" (2.37), that Locke states emerges with the use of

money? Is that desire the motor of technological change, and thus the cause of a better standard of living for mankind, as Macpherson and Strauss claim? Or is it merely the desire to hoard useless money which morally corrupts man, as Tully and Dunn assert?

In Possessive Individualism, Macpherson dismisses the explanations that the desire to acquire is either the miser's desire to hoard or the epicurean's desire to consume more various and gratifying commodities. Macpherson contends that in Some Considerations of the Lowering of Interest and Raising the Value of Money, Locke chastizes the practice of hoarding money because it hinders trade. Locke was concerned with the availability of a given stock of money which could, like land, be employed as capital: "the money to be laid out in trading stock or materials and wages, the land to be used to produce commodities for trade" (Macpherson, 1979a: p. 205). Macpherson then refers to section forty-eight of the Second Treatise as evidence that men acquire beyond their own needs in order to engage in commerce for profit and not simply for the purpose of hoarding money (1979a: p. 205).

Macpherson rejects the view that the desire to acquire beyond one's needs is the desire to consume more various and gratifying commodities on the basis of Locke's conception of money. If consumption was the aim of those who possess money, they would simply spend it on consumption goods. But this is not the case since Locke did not restrict the function of

money to that of a medium of exchange. He saw another use for money, that of a source of income. Those who possess money loan it out in return for interest. Money, like land, gives an income because of its unequal distribution; those who do not have but need money will pay for its use. This implies that the borrower will use the money as capital for engaging in trade, with his objective a profit above the cost of using another's money.¹ Since money functions not just as a medium of exchange but as capital, and the function of capital is to beget more capital, the desire to accumulate beyond one's needs is not the epicurean's desire to consume:

Locke saw money as not merely a medium of exchange but as capital. Indeed its function as a medium of exchange was seen as subordinate to its function as capital, for in his view the purpose of agriculture, industry, and commerce was the accumulation of capital. And the purpose of capital was not to provide a consumable income for its owners, but to beget further capital by profitable investment (Macpherson, 1979a: p. 207; cf. pp. 205-7).

Having set aside these two possibilities, Macpherson concludes, with support from Locke's "Trade" notes, that as a mercantilist Locke understood the "desire of having more than Men needed" to be the capitalist's desire to acquire money and land as capital through trade in order to acquire more capital, ad infinitum (1979a: p. 207).

Karen Iversen Vaughn, who largely agrees with Macpherson's interpretation of chapter five of the Second Treatise, disputes his interpretation of the desire of having

more than men needed on two points.² First, she claims that Macpherson has made the error of identifying money and capital so that he only accounts for money as capital: "Locke clearly understood that...money was only one form of capital Macpherson, however, claims that its function as capital was the main function of money in Locke's thought" (1982: p. 102). Vaughn explains that when Locke states that a certain amount of money is needed to sustain a given level of trade, he means two things. First, he means that a given level of trade requires a given amount of money functioning as medium of exchange. Second, he means that a given amount of money set aside as capital stock for loaning out is needed to sustain a given level of trade (1982: p. 56). For Vaughn, Macpherson ignores this distinction.

Macpherson does make a distinction between the different functions of money, but he does not relate both to trade. He states that for Locke money "is a commodity; it has value because it is a commodity which can enter into exchange with other commodities" (1979a: p. 206). Money has "value", men are willing to pay for its use, because it functions as a medium of exchange. Having made this distinction, Macpherson emphasizes the need for a stock of money capital to drive a given level of trade, thus his point about hoarding, but fails to make explicit the point that a certain amount of money must be performing also the function of medium of exchange if a given level of trade is to exist.

Although Macpherson failed to acknowledge the latter point, it does not eclipse his assertion that the function of money as capital was important for Locke.

Vaughn's second objection to Macpherson's presentation on the desire to acquire beyond one's needs is that he "makes the mistake of thinking that the only purpose of capital for Locke is to 'beget further capital by profitable investment'" (1982: p. 102). Here she chastizes him for relying for support solely on Locke's "Trade" notes and then offers her view on the purpose of capital (1982: pp. 102-3). But the role of capital in Locke's system is tied to the broader issue of whether or not he was a mercantilist.

A central theme of Vaughn's book, John Locke: Economist and Social Scientist, is that Locke was not a mercantilist. What distinguishes him from them is his approach to solving economic problems (Vaughn, 1982: pp. 46-8). Mercantilists were businessmen whose approach to economic problems was non-theoretical and characterized by one-sided, self-interested practical observations (Vaughn, 1982: p. 48). Locke's approach, however, was that of a "scientist-theorist" (Vaughn, 1982: p. 50). Vaughn summarizes the distinction as follows:

What differentiates Locke from his mercantilist contemporaries...was not his conclusions, although some of them did differ from the conventional wisdom, but rather his method of seeking his conclusions. Equipped with his value theory and the quantity theory of money as he understood it as his only tools he described a policy for achieving the

mercantilists' dream of a politically and economically strong kingdom, and yet at the same time laid a foundation for a theory that transcended the narrow mercantilist goals (p. 76).

In what way, then, did Locke's theory transcend the narrow mercantilist goals? Vaughn answers this question in her response to Macpherson's interpretation of the desire to acquire beyond one's needs. That desire is not the mercantilist's desire to accumulate capital for its own sake as Macpherson contends, but, rather, Locke favoured an ever-increasing capital stock because of its benefits to society in general: "The desire men have of accumulating more than they can use immediately is a very rational desire to improve their standard of living, or to increase the number of people that can be supported by a given geographical area" (Vaughn, 1982: p. 103; cf. pp. 106-7).

Tully, however, explicitly rejects Macpherson's interpretation, and thus implicitly Vaughn's, that the desire to accumulate beyond one's needs is the capitalist's desire to accumulate money and land as capital. He states that land "is not used as capital; it is possessed, and only as long as it is being used. Land cannot be exchanged; only the products of it are alienable" (1982: p. 149). This takes us back to the earlier discussion about the alienability of land. Macpherson and Strauss hold, and Vaughn too (cf. 1982: p. 161, note 80), that land itself, as well as its products, is alienable.

Tully then turns to Macpherson's use of Some Considerations. He states that Locke does not there treat money as capital, but rather money "is treated as a component of the polity and there is no independent category of the 'economy' in which it could be considered as capital. Locke's considerations on money are part of the seventeenth-century mercantilist discourse in which there is, Tribe concludes, no 'economy'" (1982: p. 149). Vaughn, however, supports Macpherson's claim that Locke understood the use of money as capital and that he demonstrates this clearly in Some Considerations (Vaughn, 1982: chapter 3). And she rejects Tully's claim that as a mercantilist, Locke made no distinction between economy and polity. Although Locke's considerations on money occurred in the context of the seventeenth century mercantilist discourse, he distinguished himself from them by his theoretical approach to solving economic problems. Locke's approach to solving economic problems presupposed an understanding of the separate function of the economy, which is reflected in his advice in Some Considerations. Vaughn notes that Locke's advice is premised on a distinction between economy and polity:

Since the subject of Some Considerations is economic policy, it is significant that Locke's major stress in this essay is on the limitations of the government's ability to legislate economic phenomena. The premise of his argument is that the economy operates according to certain laws, laws which he states as positively as if they were laws of the physical universe, the implication being that the government is powerless to alter them and

hence cannot legislate contrary to them. Specifically, Locke argues that the government is incapable of regulating prices since prices are governed by "Laws of Value" that are beyond the control of civil laws (1982: p. 115).

Like Macpherson, Vaughn also sees a distinction between economy and polity in the Second Treatise. In Possessive Individualism, Macpherson states that by placing the agreement to introduce money in the state of nature, Locke was in effect asserting that a complex commercial economy was logically and temporally prior to, and thus independent of, political society (pp. 209-10). Although Vaughn objects to the derogatory language Macpherson employs in describing that possibility (1982: p. 105), she commends him for making "the crucial observation that Locke presents the economy as independent of the political structure" (Vaughn, 1982: p. 101). As we shall see later, Vaughn even goes so far as to assert that the economy has primacy over the political structure. Therefore, Vaughn maintains that Locke did regard the economy as being separate from the polity and did discuss the function of money as capital in that economy.

In rejecting Macpherson's explanation of the desire of accumulating beyond one's needs, Tully offers in its place the explanation that it is the miser's desire to hoard: "The only reason Locke gives for acquisition beyond convenience is the miser's reason: 'to draw Money to him by the Sale of the Product'" (1982: p. 148). Here Tully cites section forty-eight of the Second Treatise, the same section Macpherson

cited for arguing the opposite case. The desire which emerges with introduction of money cannot be the desire for an improved standard of living because Locke claims that the benefits of labour accrued to man prior to money (Tully, 1982: p. 148; Tully also cites 2.36, 37, 38, 40, 41, 48 and 49 for support). Since men laboured for a better way of life without money, the introduction of money cannot be considered "the motor of technological change" (Tully, 1982: p. 148). It only explains the emergence of the desire to hoard and the resulting enlargement of possessions, especially land, beyond convenience. In Dunn's words, the "'desire of having more than we have need of'...is one of the most intrinsically corrupt of human motives" (1982: p. 248).

Tully's point that the introduction of money is not the motor of technological change, but the cause of the enlargement of possessions beyond convenience, is designed to undercut the position held by Macpherson, Strauss, Goldwin and Cox that money for Locke is responsible for improving the condition of mankind. It relates to their interpretation in both a specific and a general way. Generally, it attempts to defeat the conclusion that Locke was justifying unlimited capitalist appropriation, and the consequent unequal distribution of property, on the basis that it benefits everyone. Specifically, it aims to undercut the claim that the improved standard of living justifies the fact that there is no longer enough and as good land left in

common for everyone. We now turn to the enough and as good proviso.

ii

At section thirty-six of the Second Treatise, Locke states that the "Rule of Propriety...that every Man should have as much as he could make use of" no longer holds because consent to money is consent to "larger Possessions, and a Right to them". The rule no longer holds, but when it did men could only appropriate as much as they could use provided there was "enough and as good left in common for others" (2.28). Originally, this limit ensured that everyone would get as much as he could use. But money invalidates the original "Rule of Propriety" so that in certain parts of the world all land is appropriated, not leaving enough and as good in common for others. What has become of the sufficiency limit? How does Locke reconcile the new right to acquire beyond what one can use with the sufficiency limit?

Locke does not, according to Strauss, "commit the absurdity of justifying the emancipation of acquisitiveness by appealing to a non-existent absolute right to property" (1953: p. 242). Macpherson contends that Locke offered two complementary explanations of how men get around the sufficiency limit. First, since the shortage of land resulted legitimately from the consent to money, the sufficiency limit is not violated (1979a: pp. 211, 213). The second explanation is the more powerful one and is the one Strauss

emphasizes. It centers on section thirty-seven of the Second Treatise:

To which let me add, that he who appropriates land to himself by his labour, does not lessen but increase the common stock of mankind. For the provisions serving to the support of humane life, produced by one acre of inclosed land, are (to speak much within compasse) ten times more, than those, which are yielded by an acre of land, of an equal richnesse, lyeing wast in common. And therefor he, that incloses Land and has a greater plenty of the conveniencys of life from ten acres, than he could have from an hundred left to Nature, may be said, to give ninety acres to Mankind. For his labour now supplys him with provisions out of ten acres, which were but the product of an hundred lying in common (11.12-25).

Macpherson's interpretation of this section is the standard one. Although all the land in a given area is appropriated, the resulting increased productivity will be distributed to the benefit of everyone (Macpherson, 1979a: p. 212; cf. Lewis, 1975: p. 262; cf. Moulds, 1964: p. 186). A poor day-labourer in England, where all the land is appropriated, is better off than a king in America where the land still lies in common (Macpherson, 1979a: p. 212; Strauss, 1953: p. 242). He is better off because even though there is "not enough and as good land left for others, there is enough and as good (indeed better) living left for others" (Macpherson, 1979a: p. 212). When measured by the latter test, appropriation beyond the limit becomes a "positive virtue". Strauss argues that the loss of the right to appropriate land directly is more than off-set by the benefits

that result:

The day laborer in England has no natural right even to complain about the loss of his natural right to appropriate land....: the exercise of all the rights and privileges of the state of nature would give him less wealth than he gets by receiving "subsistence" wages for his work. Far from being straitened by the emancipation of acquisitiveness, the poor are enriched by it (1953: p. 242; cf. pp. 240-1).

To this justification Macpherson adds that Locke left himself a loophole when he initially asserted that all men have an equal right to the means necessary to self-preservation. The shortage of land does not violate the initial right because Locke had never asserted that the natural right to appropriate referred directly to land. Like Tully, Macpherson argues that Locke only gave men an indirect right to land (1979a: p. 213). Those men without land can now exercise their right to the means necessary for self-preservation by exchanging their labour for wages. Therefore, since men never had a direct equal right to appropriate land, appropriation of all the land in a given area does not, strictly taken, violate the enough and as good limit (Macpherson, 1979a: pp. 213-4).

Macpherson's and Strauss' interpretation of section thirty-seven has recently come under fire. Vaughn supports Macpherson's general point that the introduction of money and consequent appropriation of all the land benefits everyone through greater productivity (Vaughn, 1982: p. 103). She objects, however, to his use of section thirty-seven as

evidence of that point because Macpherson also employs it to support his Marxian claim that Locke justified a class-based society. Macpherson does this by assuming that the benefits of greater productivity will almost exclusively befall the landowners (Vaughn, 1982: p. 104). Thus Vaughn offers another interpretation of section thirty-seven which is identical to Tully's. They contend that Locke is not making the point that "the greater productivity of the appropriated land more than makes up for the lack of land available" (Tully, 1982: p. 149; Vaughn, 1982: p. 105; cf. Macpherson, 1979a: p. 212), but that the greater productivity of appropriated land leaves more land available in common for others (Vaughn, 1982: p. 105; Tully, 1982: p. 149).³ Tully employs his reinterpretation of section thirty-seven as a continuation of his earlier point (discussed above in connection with the desire to appropriate beyond convenience) that money is not responsible for greater productivity. Money only explains how all the land comes to be appropriated (Tully, 1982: pp. 148-9). Vaughn, however, does agree with Macpherson that money does lead to the appropriation of all the land in given areas and that where this does happen, the result is greater productivity, which is distributed not on a class basis but to the benefit of all members of society (Vaughn, 1982: p. 105). Thus Vaughn agrees that Locke was justifying capitalist appropriation, but not for its own sake:

Macpherson says Locke was an apologist for capitalist appropriation, but if in the course of Locke's arguments he provides a justification for capitalism, it is only incidental to his major purpose of asserting the right of free men to provide for their own well-being to the best of their ability. If capitalism is justified, it is only because it is a consequence of men's asserting that right through their ownership of private property (pp. 106-7).

How does one account for the two different interpretations of section thirty-seven? Like Strauss, Macpherson is interpreting section thirty-seven in light of Locke's overall position on the relation between money, land and productivity. From Locke, he argues that money causes the appropriation of land which leads both the improved productivity and the scarcity of land. Although all the land is appropriated, it is ten times more productive and therefore supposedly capable of supporting ten times the inhabitants of land lying waste in common. Because appropriated land so greatly increases "the common stock of mankind", having ten acres of cultivated land, for instance, is like having a hundred acres of wasteland so that "he that incloses Land and has a greater plenty of the conveniences of life from ten acres, than he could have from an hundred left to nature, may be said, to give ninety acres to Mankind" (2.37).

Vaughn, however, associates increasing the common stock with leaving ninety acres to mankind: "The common stock is increased not because more output can be gotten from the same amount of land, as Macpherson implies,...

[because the] common stock is by definition that which is not any part of someone's property, and so it could not possibly be increased by an increased output on private land. The common stock is physically increased when a man cultivates his own ground because he then uses less of the common stock to support himself than he did when he was just an idle consumer" (1982: p. 105). Vaughn forgets the point that the appropriation of land which leads to increased output is caused by money which also causes individuals to appropriate more land than they need for themselves and this results in a scarcity of land. Where money is introduced, the common stock of wasteland is exhausted, with the result that the world's common stock of wasteland is reduced. As Locke states at section thirty-six, "every Man should have as much as he could make use of...since there is Land enough in the World to suffice double the inhabitants had not the Invention of Money" altered that situation. The common stock to which Locke refers in section thirty-seven is the goods necessary to self-preservation. These things men now acquire through the operations of a market economy (cf. Grady II, 1977: p. 97).⁴ Therefore, Vaughn's criticism of Macpherson's interpretation, which is widely accepted, of section thirty-seven is unsatisfactory when set against Locke's whole teaching about the effects of money on productivity and the availability of wasteland.

According to Tully, the benefits of productivity

accrue to mankind without money; they accrue before money was invented and before there were any shortages of land (1982: pp. 148-9). His purpose in interpreting section thirty-seven as Vaughn does is to undercut Macpherson's (Strauss') claim that even though there is no longer enough and as good land left in common for everyone there is better living for everyone. If money does not produce a better standard of living, then that claim cannot be offered as a justification for the transcendence of the enough and as good proviso and the move to unlimited capitalist appropriation. In the next section we look at Tully's reasons for asserting that men cannot continue to appropriate beyond the sufficiency limitation and at Macpherson's and Strauss' counter claims as to how men do move to extended appropriation.

iii

Macpherson's argument is that the introduction of money allows men to get around the spoilage limitation, by acquiring durable money, with the consequence that men appropriate more of everything and especially land so that there is no longer enough and as good land left in common for others. Although some men lose the right to appropriate as much land as they can use, the new state of affairs is legitimate for two reasons. First, since the consent to money was legitimate, so too is the result. Second, the consent to money in the state of nature gives rise to an economic structure which provides an abundance of the things

useful for self-preservation. Although some men have lost their right to appropriate land through labour, their right to appropriate the truly useful things is greatly enhanced; and it was to these latter things that man's natural right applied directly and not land. Therefore, by showing how the natural limits to appropriation are transcended, Locke has justified unlimited capitalist appropriation:

With the removal of the two initial limitations which Locke explicitly recognized, the whole theory of property is a justification of the natural right not only to unequal property but to unlimited individual appropriation (Macpherson, 1979a: p. 221).

Tully objects. Prior to money the "combination of labour entitlement and the inability of man to make use of large amounts of land insures" that acquisition is limited and that "the claim rights of others are not violated" (Tully, 1982: p. 152). Once money is introduced, men begin to enlarge their possessions of land. Initially, this is legitimate because they make use of their increased possessions. But this quickly leads to the situation where so much land is acquired that it interferes with the claim rights of others. Originally men acquired naturally, without consent, their share of the means necessary to preservation by labouring directly on nature. But once the enough and as good limit is breached, the primary means by which men naturally identify their share of manmade goods is blocked. The only solution is to suspend appropriation.⁵ According to Tully, this, and not what Macpherson claims, is Locke's point at

section thirty-six of the Second Treatise:

Macpherson interprets this section as a transcendence of natural law limits and a justification of unlimited appropriation... This contradicts what Locke says. Once the rule that every man should have as much as he could make use of is rescinded, no appropriation is justified. The rule suited appropriation in the pre-monetary state of nature because its application could not prejudice the position of any other, thus proving Locke's crucial point that appropriation did not require consent (1982: pp. 152-3).⁶

Appropriation originally occurred without consent because no one's acquisition violated anyone's rights. This ceases to be the case with the violation of the sufficiency limitation, and therefore men must move to conventional appropriation in civil society (Tully, 1982: pp. 153, 165).

Macpherson and Strauss, however, contend that no rights are violated in the transition to the right to unlimited acquisition. They acknowledge that Locke begins with positive community, but deny that the inclusive rights of individuals to use nature are more important than the exclusive rights they possess. Macpherson argues, in effect, that consent to money is consent to the transcendence of the sufficiency limitation because it involves the right of self-governance on the part of two groups who consent to the new state of affairs. By accepting the use of money, the men who appropriate all the land are expressing their right to govern their own lives with respect to appropriation. But acquisition beyond what leaves enough and as good for others

presupposes that those men who can no longer appropriate directly from nature will consent to the new state of affairs. Their right to consent follows from their right to self-governance. Of course, this assumes that the latter group will have an incentive to do so. Macpherson and Strauss state that men would consent because of the economic benefits; even though there is not enough and as good land left there is better living than before (Macpherson, 1979a: p. 212; Strauss, 1953: pp. 242-3; Lewis, 1975: p. 263).⁷ Lewis refers to the process of mutual consent implied in the consent to money as "commensurability" and states that it is a "necessary part of equality of right if anyone is to have a right to use nature" and that it entails unlimited acquisition:

It does because within the meaning of equality of right there can be no principle employed to determine what is an appropriate limit to the property of any individual. To deny this is to deny the equal right of an individual to govern himself. To continue justifiably to use nature and transform the environment into what he sees as desirable forms, an individual must only continue to win the consent of others by continuing to compensate them adequately for the use of nature (1978: p. 636; cf. Marshall, 1979: p. 76).⁸

To block the commensurability aspect involved in the consent to money Tully could argue that no benefits accrue to those who lose their right to labour directly on nature, so that they would not give their consent under any circumstances. Tully makes the claim that money does not benefit mankind (1982: pp. 148-9), but he does not offer it

as a reason for blocking the transcendence of the sufficiency limit. Moreover, he is still faced with the fact that men do consent to the use of money.

Tully attempts to block commensurability as a consequence of money by returning to the premises of his interpretation of Locke. Natural law entails, as a way of fulfilling the duty to God to preserve mankind, that each individual must have his share of the common goods necessary to preservation. In order to meet this goal Locke deployed a theory of property which is in the Thomist tradition.

Locke's account of property begins with positive community--an individual inclusive claim right to the means necessary to preservation. Men exercise their inclusive right by labouring on the raw materials of nature and acquiring a natural exclusive right in what they have made. The spoilage proviso sets a limit to how much a person may acquire. This constitutes his share of the common. This system of actualizing inclusive rights by labouring directly on nature derives from natural law and, therefore, is entailed by it (cf. Tully, 1982: pp. 62-3). Originally, the system was effective because of the limits imposed on making use of nature. Consent to money, however, renders the original state impossible so that "new constraints on 'making use' must be applied in order for man to act within the bounds of the law of nature" (Tully, 1982: p. 153). New constraints must be applied since it is inconceivable that Locke would

have destroyed the system he had so carefully constructed:

It seems to me remarkable to suppose that Locke should attempt to dismantle the Thomist framework of positive natural law which constitutes the basis of his theory. For he clearly could not do away with this without destroying exclusive rights as well. If he had wished to justify unlimited accumulation he surely would have employed a negative community, like Grotius and Pufendorf, rather than reasserting with Cumberland, positive community (Tully, 1982: p. 153).⁹

Since the equal right of self-governance does not extend so far as to allow men to eliminate the very collective rights natural law entails, men cannot consent to move to unlimited individual appropriation. On the basis of this position, then, Tully attempts to block Macpherson's and Strauss' assertion that men may consent to forego the exercise of their natural right to labour directly on nature and move to unlimited acquisition.

iv

Tully's response to Macpherson raises the important question of why Locke would choose positive community, and not negative community like Grotius and Pufendorf, if he intended to justify unlimited acquisition.¹⁰ Grotius and Pufendorf argue that private property can only come into existence through the universal consent of mankind in the state of nature. They must resort to this way of creating exclusive rights or private property for two reasons. The first reason is that they deny that labour alone can create private property. The second is that they deny that inclusive

claim rights are proper rights. The rejection of inclusive rights logically presupposes the rejection of positive community, and thus they must employ negative community in which the world belongs to no one but is open to all.

According to Grotius, in the state of nature, men may acquire a use-right in a thing by seizure. The use-right, however, is not a full property right because if the possessed object is not used immediately, it automatically falls back into the common and others may possess it. No consent is required to use nature this way. Pufendorf objects. Men cannot make any use of the common without a prior agreement stipulating that first taking confers a use-right. Both Grotius and Pufendorf claim that men then made agreements stipulating that whatever men possessed by first taking now becomes private property (first taking now creates private property). Through convention in the state of nature, men converted use-rights into full property rights. Men then agreed to move into civil society to protect their property. Since property is conventional, however, it does not hold against government. The political authority only protects the rights of citizens against each other.

Clearly, then, if Locke wished to justify, as Strauss and Macpherson assert, a natural right to unlimited appropriation independent of society and government, he would not employ the negative community and exclusive rights adopted by Grotius and Pufendorf. To perform his task Locke must

prove that exclusive rights (private property) exist naturally. In order to do this, he claims that all men have a natural right in their person and labour. Exercising labour on the common materials of nature creates a full private right in the product automatically; thus, the object acquired does not fall back into the common if it is not used immediately. No ex post facto agreement is needed to stipulate that a person has private property in what he has taken from nature. But this does not explain why Locke must begin with positive community.

He must do so in response to Pufendorf's claim that consent is needed in order for men to make use of the common at all (cf. Olivecrona, 1974a: p. 216). What distinguishes positive community from negative community is that the former requires that all the commoners possess a positive inclusive claim right to use the common. An inclusive claim right to use the world and an exclusive right in one's labour is the basis of Locke's claim that private property exists naturally. The introduction of money, though, alters appropriation in the state of nature.

Consent to the use of money eventually leads to the situation where most men are prevented from acquiring private property naturally. But this does not vitiate Locke's claim that property has a natural foundation. Money ushers in the age where exclusive property rights are distributed through a concatenation of consensual exchanges.

Although private properties now exist through consent-based exchanges, and thus are conventional in that sense, they are not conventional in the same way as for Grotius or Pufendorf. For Locke, conventionally transmitted private property rights derive from man's natural exclusive right in his person and labour and not from a universal agreement between men at some point in history that things which men had seized in the state of nature should now become their private property. In order for Locke to make his system independent from convention, he had to begin with a modified Hobbesian positive community, indicated by a natural inclusive right to the world, and reject the negative community of Grotius and Pufendorf.

When men move into political society they do so in order to protect their natural right to unlimited appropriation by preserving the market relations for acquiring wealth which they created in the state of nature by consent to money. Since men enter civil society in order to protect their natural rights, government exists to protect the natural right to unlimited appropriation. As Strauss states, "by saying that property antedates civil society, Locke says that even civil property--the property owned on the basis of positive law--is in the decisive respect independent of society; it is not the creation of society. 'Man', i.e., the individual, has 'still in himself the great foundation of property'" (1953: p. 245). Only by beginning with positive

community could Locke argue that men have a natural right to unlimited appropriation which is protected by, yet independent of, civil society and government.¹¹ Therefore, Strauss and Macpherson can claim that Locke needed to adopt the concept of positive community in order to justify unlimited acquisition.

2. The Labour That Was Mine

The invention of money and consent to its use is only one component which explains how men move from limited to unlimited appropriation in the state of nature. Labour is the necessary complementary component. What permits some men to accumulate large amounts of property is their ability to purchase the labour of other men. Strauss and Macpherson claim that it is because Locke makes it legitimate for men to forego their natural right to labour directly on nature and to exchange their labour for a wage, that he presents a justification of unlimited capitalist appropriation in chapter five of the Second Treatise. In order to block unlimited appropriation, Tully and Dunn argue that Locke's concept of labour cannot be employed in such an argument. Tully argues that the wage-relationship implied in the "Turfs" passage is not the wage-labour relationship of capitalism, and therefore cannot be used to justify unlimited appropriation. Dunn asserts that because Locke's concept of labour must be understood in terms of the Puritan doctrine of the "calling", it cannot be used in a justification of unlimited appropri-

ation.

Arguments about the function of labour in Locke's property theory centre around section twenty-eight of the Second Treatise, generally known as the "Turfs passage". After asserting that consent is not required for appropriation on the natural common, Locke supports his claim with an example of a common within civil society:

And the taking of this or that part, does not depend on the express consent of all the Commoners. Thus the Grass my Horse has bit; the Turfs my Servant has cut; and the Ore I have digg'd in any place where I have a right to them in common with others, become my Property, without the assignation or consent of any body. The labour that was mine, removing them out of that common state they were in, hath fixed my Property in them.¹²

Macpherson argues that Locke's reference to the servant's labour as the "labour that was mine" implies that he took for granted the existence of the institution of wage labour; in which individuals may freely alienate their labour in exchange for a wage.¹³ The free alienation of labour is crucial to any case in favour of unlimited capitalist appropriation because a key element in capitalist appropriation is the right of individuals to acquire wealth by purchasing the labour of others. On the other hand, because Tully is making a case against unlimited capitalist appropriation, he wants to show that the turfs passage constitutes an obstacle to the free alienation of labour by showing that Macpherson has misunderstood Locke's use of the

term "labour". According to Tully, the servant's "labour that was mine" does not imply the wage relationship of capitalism, but, rather, the traditional master-servant relationship, which constituted an obstacle to the kind of labour alienation required by the capitalist mode of production.

(Macpherson begins his argument with Locke's statement that whatsoever a person "removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with...and thereby makes it his Property" (2.27). This would imply that the amount of property a person may acquire is limited by his ability to labour if Locke did not take the wage relationship for granted. But Locke's assertion that every man has a property in his person entails "the assertion of a natural right to alienate one's labour in return for a wage" (Macpherson, 1979a: p. 214).¹⁴ Macpherson cites section eighty-five of the Second Treatise as evidence that a person may alienate his labour (1979a: p. 215).

Macpherson turns to the turfs passage to support his claim that Locke takes the wage relationship for granted, and thus, that a man may appropriate beyond his own ability to labour by purchasing the labour of others. The first point of support is that unless Locke is taking the wage relationship for granted, his reference to the servant's labour as the "labour that was mine" in the turfs passage contradicts his other assertion that each person is the exclusive owner

of his labour (Macpherson, 1979a: pp. 215-6). But the turfs passage is set in the context of civil society, and Macpherson wishes to prove that the institution of wage-labour in civil society is natural because it existed in the state of nature (1979a: p. 216; cf. Vaughn, 1982: p. 156, note 17). To support this point, he returns to his discussion of the spoilage proviso where he argued that consent to money leads to the creation of a complex commercial economy which presupposes the existence of wage-labour (Macpherson, 1979a: pp. 216-7; cf. pp. 209-10). Since Locke placed a commercial economy in the state of nature, it is equally likely that he situated wage-labour there too. Therefore, because Locke took wage-labour to be natural he took its existence for granted. \

James Tully argues that the relationship Locke assumes in the turfs passage is not the wage relationship of capitalism but the master-servant relationship which Locke describes at section eighty-five of the Second Treatise (Tully, 1982: pp. 136-7). He agrees with Macpherson that the relationship described at section eighty-five obtains in the state of nature and then introduces an important caveat:

'Natural' and 'existing in the state of nature'...are not equivalent. Something is natural to man if a man possesses or may do it without consent, whereas something is conventional if it is based on consent. Man may consent to various sorts of (conventional) practices in the natural state; marriage for example (2.83). These distinctions are sometimes conflated

(Macpherson, 1972: p. 216). The master-servant relation is a voluntary relation (2.28.3) in both the state of nature and civil society (Tully, 1982: p. 137).

Macpherson mistakenly assumes, then that the master-servant relationship is natural because it obtains in the state of nature. The fact that it is a conventional relationship voluntarily established between two freemen makes it impossible for the capitalist to appear in Locke's theory. For the capitalist to appear, all the land must be appropriated so that some men have lost their freedom to choose between labouring directly on nature and working for a wage. Since a man has lost his freedom to choose, "he cannot be forced to work for another; he is simply given the necessary relief. The capitalist not only never appears in the Two Treatises; there is no place for him to appear" (Tully, 1982: p. 138).

Macpherson's analysis of Locke on these points is not so obviously incorrect. First, he has not conflated the use of the term "natural". He recognizes that the "wage relationship is based only on the free contract of the individuals concerned" (1979a: p. 218; cf. Hundert, 1972: pp. 14-15; 1977: pp. 36-7). The application of the term "natural" to wage labour refers to the fact that the institution exists in the state of nature and therefore antedates political society. Macpherson makes a similar point about the consent to money and the resulting commercial economy.

They are termed "natural" because they exist in the state of nature because both wage-labour and a commercial economy flow from man's natural capacity to make agreements independently of political society (Macpherson, 1979a: p. 210; cf. 1979b: p. 231). Therefore, because men have a right to them in the state of nature, when men enter into civil society, it must protect those institutions (Macpherson, 1979a: p. 218).¹⁵

Next, what about Tully's claim that the master-servant relationship is only valid as long as there is a choice between labouring for oneself or for a wage? Macpherson states that some men have no choice but to labour for a wage as a consequence of the legitimate consent to the use of money and subsequent shortage of land (1979a: p. 213; 1979b: p. 231; cf. Grady II, 1977: p. 98). By consenting to use money, some men agree to forego their right to labour directly on nature in exchange for the better living of a money economy. Since the wage-relationship of capitalism did not arise through force, a man who refuses to work for a wage is not "simply given the necessary relief". Therefore, neither Macpherson nor Strauss is mistaken in assuming that the capitalist can appear in the Two Treatises.¹⁶

Tully offers another argument to block Macpherson's claim that the master-servant relationship (of 2.85) is the capitalist wage relationship, in which the labourer alienates his capacity to labour (Tully, 1982: pp. 136, 142). Tully counters first with the claim that it does not follow that

because Locke terms labour "property" it is alienable (1982: p. 142; cf. pp. 111-16). Macpherson, however, makes the same point in Possessive Individualism (p. 219; cf. 1979b: p. 230). Although everything that is one's own is termed "property", some things, such as one's life, are inalienable (Macpherson, 1979a: p. 219). Tully then asserts that Macpherson has confused the "Service" with a person's capacity to labour and incorrectly assumes that the latter is alienable (Tully, 1982: p. 142; cf. pp. 138-41; Hundert, 1977: p. 37).

Tully bases his explanation of what goes on in the turfs passage on the distinction between labour and service. Locke defines a person's labour "as actions determined by the will of that person" and therefore "it is logically impossible for an agent to alienate his labour" (Tully, 1982: p. 138). What a person can alienate is a service, which is a complete task, such as cutting turf or baking bread, he performs in exchange for a wage. To perform the service, the person employs his own labour so that he is a servant only in the sense that he does the service for someone else, the master (Tully, 1982: p. 138). The "labour that was mine" of the turfs passage, then refers to the service which the person as servant has contracted to perform for the master. The master also gets the product of the servant's labour, even though the servant acquires a natural title to it, because it was contracted for as well (Tully, 1982: p. 139). Therefore, all that Locke implies at section

twenty-eight is the master-servant relationship of section eighty-five of the Second Treatise. x

To this Tully adds the historical argument that the master-servant relationship constituted an obstacle to the development of capitalism (1982: pp. 140-1). The master-servant relationship presupposes a social division of labour in which each labourer performs a complete task himself, and therefore constitutes an obstacle to capitalism not removed until the late eighteenth century. What the capitalist wants, on the other hand, is a person's labour power. Thus, Tully interprets Macpherson's phrase "capacity to labour" to mean labour power, which the capitalist can direct as he chooses (Tully, 1982: p. 141).

Tully's historical argument, however, is not fully convincing. It assumes that there is only one form of capitalism, the pure form of industrial society, and that because Macpherson understands capitalism as being only industrial, he necessarily ascribes to Locke a concept of labour which emerged with the capitalism of the late eighteenth century. Macpherson's discussion in Possessive Individualism, however, presupposes a distinction between capitalism in the seventeenth century and capitalism in later centuries. In Democratic Theory, Macpherson states that the notion of private property "goes back no further than the seventeenth century, where it can be seen to be the product of the new relations of the emergent capitalist society"

(p. 124). Macpherson surely did not confuse the "emergent capitalist society" of the seventeenth century with that of the late eighteenth century.

This brings us back to Macpherson's interpretation of Locke's concept of labour. Given that he did not conflate historical periods, it is unlikely that he ascribes to Locke a concept of labour appropriate to the late eighteenth century. In Possessive Individualism, he objects to Laslett's suggestion that by labour Locke meant labour power and then offers this analysis of wage labour:

What is sold in a wage contract is a man's ability to work. The "service he undertakes to do" (Locke's phrase) is no doubt limited in kind--the journeyman baker does not undertake to do the work of a servant in husbandry--and it may be limited in amount, but what is sold is the man's future labour, or his supposed ability to perform in future the work which the employer has contracted for (pp. 298-9, Note N).

This explanation seems consistent with Tully's description of the person owning the actions or labour by which a task is performed and undertaking that labour for someone else in return for a wage. Tully emphasizes the specific task that servant and master exchange, while Macpherson focuses on the fact that the servant agrees to exert his labour for the master for a wage. Insofar as a person exerts his labour for a wage he is alienating his labour. Therefore, Macpherson correctly imputes to Locke the view that a person can alienate his labour in the way required for unlimited capitalist appropriation.

Macpherson offers a second argument for his claim that Locke places wage labour in the state of nature and thus takes it for granted. Since Locke was justifying capitalist appropriation, and the right to freely alienate one's labour is a crucial component of capitalism, he had to place the right to wage labour in the state of nature in order to free it from interference by political society (1979a: pp. 218-20). To this, Tully replies that Macpherson "clearly presupposes...as proved what the argument is supposed to prove: that Locke was out to justify capitalist production" (1982: pp. 142-3). But on pages 218-20, Macpherson is not out to prove that Locke was justifying capitalist appropriation; he has already proved that point. What he does assert is that given that Locke was justifying capitalist appropriation, if one looks at how he relates natural rights and natural law and civil society, one understands that he had to place wage labour in the state of nature in order to make it independent of civil society.

In Possessive Individualism, Macpherson argues that by insisting that labour is the private property of the individual, Locke is able to use his doctrine of property to justify unlimited individual appropriation (p. 221; 1979b: p. 231). In doing so, Locke undermines the "traditional view that property and labour were social functions, and that ownership of property involved social obligations" (Macpherson, 1979a: p. 221). Leo Strauss makes a

similar point in Natural Right and History. With the invention of money and the resulting move to unlimited acquisition, man has freed himself and his labour from social obligations: "Man is effectively emancipated from the bonds of nature, and therewith the individual is emancipated from those social bonds which antedate all consent or compact, by the emancipation of his productive acquisitiveness" (Strauss, 1953: p. 248). Tully, however, claims that Macpherson has misunderstood the function of labour in Locke's system:

Labour justifies neither the accumulation of nor rights over one's goods; it provides, as I have attempted to show, a means of identifying something as naturally one's own.... Justification of accumulation and use is derived from the prior duty and right to support and comfort God's workmanship. The priority of natural law renders all rights as means to this end and therefore Locke's account is a limited right theory
1972 (p. 131).

Tully's analysis of Locke stipulates that all individual rights are held for the purpose of exercising the prior duty to preserve God's workmanship. This holds even for an individual's exclusive right in his labour. The exercise of one's labour depends upon the prior duty to God. When a person labours, he does so in order to identify his share of the common goods necessary to preservation. The acquisition of his share naturally through labour and its subsequent use constitute the performance of the prior duty to God. Therefore, labour only serves to put into effect the duty to preserve mankind and not as the justification for individual

accumulation and the right to use property.

(Like Strauss, Macpherson does ascribe to labour the function of justifying accumulation and the right to use one's property. Every individual has a natural right to self-preservation not conditional upon the performance of any prior duty to God. Labour, which is the individual's private property, is his only means for acquiring what he needs for self-preservation (cf. Johnston, 1950: p. 147). Thus, an individual has a natural right to and a private use-right in whatever he removes from the common in the state of nature because his labour produced it. After the invention of money, since most men acquire property by alienating their labour for a wage, labour again justifies the right to and use right in that property. Therefore, in opposition to Tully, Macpherson and Strauss assert that labour does justify the accumulation and use of property as the completion of man's natural right to self-preservation. X

3. The Calling and Labour

(Strauss and Macpherson contend that once Locke shows how money allows men to overcome the spoilage and sufficiency limits, he makes the proper function of labour the unlimited appropriation of wealth. In The Political Thought of John Locke, John Dunn attempts to block the claim that Locke justifies unlimited appropriation by showing that the concept of labour was significant for Locke as the central component of the Puritan religious doctrine of the calling (cf. pp. 214-

61).

The doctrine of the calling begins with the tenet that God summons all men to labour in this world for salvation in the next. In this respect all men are equal in the eyes of God. Since salvation is a private matter between each individual and God, the doctrine of the calling is highly individualistic; thus, no one may interfere with another's works. In addition to fulfilling the requirements of the general calling--such as prayer and pious works--in order to win salvation, the individual has a duty to labour strenuously in that particular calling (employment) for which God has chosen him. For Dunn, both the general and particular callings are religious activities. Therefore, individual labour is a religious activity directed toward the rewards not of this world but of the next.

The political doctrine of the Two Treatises is an important part of Locke's overall scheme for ensuring that the individual is capable of fulfilling his religious commitments. Since the doctrine of property is the central part of that political teaching, it too is directed at the same end. Natural law teaches that as God's workmanship every man has a duty to preserve himself and others. To perform this duty everyone has a natural right to liberty and to the materials necessary to it. Men then use their natural right in their labour to appropriate those materials. Locke's purpose in arguing for an individual right to

property is to guarantee that every individual has the materials necessary to keep healthy in his calling (Dunn, 1982: pp. 246-7). The individualistic nature of one's calling does not, however, eliminate positive duties toward others. Everyone has a duty to use his property for his preservation as well as that of others (Dunn, 1982: p. 217). Although the individual has to labour in his calling to acquire the materials he needs, he cannot make material wealth the objective of his labouring in his calling. Labour is a religious activity aimed at the religious goal of salvation, and the penalty for pursuing wealth for its own sake is eternal damnation. Therefore, Locke's concept of labour cannot be employed in any justification of unlimited individual appropriation.

It is at this point that Tully's analysis of Locke's use of labour meshes with Dunn's. Tully states that labour serves to identify each person's share of the common, to which he has a prior inclusive right. Everyone has a duty to appropriate his share and to use it for the preservation of himself and others. Labour only gives each man title to so much exclusive possessions as he needs to stay healthy in his calling and no more. This amount is set by the natural tendency of things to spoil. Acquisition of one's share puts into effect the pattern of property distribution entailed by the natural law principle to preserve mankind. Since this is the distributive pattern which satisfies

natural law, it ensures that everyone has what he needs to labour in his calling and therefore it is the pattern consistent with the religious duty of all men to labour for salvation. X

Dunn's interpretation of Locke's concept of the calling has not gone unchallenged. In his article "John Locke: Between God and Mammon", Paul Marshall argues for revisions to Dunn's work. Marshall contends that Locke's notion of the calling is "strikingly parallel to the views of the post-Restoration Puritans" (1979: p. 93), who secularized and externalized the concept of the particular calling. Locke regarded only the general calling as a religious activity and the particular calling as a secular activity. Salvation is now almost exclusively the concern of the general calling or religion (Marshall, 1979: p. 92; cf. Cox, 1963: p. 248). The particular calling is a secular activity concerned with matters of this world.

The later Puritans helped secularize the particular calling by asserting that labour, its central concept, could be directed at worldly concerns. But despite this change, they still discussed the calling in terms of salvation. Locke, however, makes a major modification to the concept of labour and thus to the nature of the calling. In the Second Treatise and in his economic writings, Locke describes labour and work as processes which create property and value. Thus he speaks about labour not in terms of salvation but in

terms of its importance for the prosperity of mankind. This redescription of labour's purpose has further externalized the notion of the calling and completed its secularization:

In Locke's emphasis on the fruits of labour, the focus of the calling has shifted from God's elective activity to the usefulness of the tasks originally conceived of as a response to that activity. Consequently, we must say that while Dunn is correct in pointing out the importance of the doctrine of the calling for Locke, yet he does so with too much of a traditional view of the calling and of labour.... His notion of labour relies not only on its fruits in heaven but also on earth as well. His commendation of labour owes as much to the usefulness of practical invention as they do to the necessity of labouring for God's approval (Marshall, 1979: p. 95).

Dunn's injunction against unlimited acquisition was that men cannot labour for the purpose of accumulating wealth because that is not the proper end for the activity. Labour is a religious activity directed at election. Marshall has shown that individual labour is a secular activity of fundamental importance to man's earthly existence. Thus Dunn's injunction needs revision. What distinguishes Marshall's analysis of labour and the calling from Dunn's is methodology. Dunn analyzed Locke's political theory in the Two Treatises as an adjunct of Locke's "religious commitments". Marshall inverts the order of analysis: he uses Locke's political thought to revise Locke's religion. This methodological point is also relevant to Marshall's attempt to block unlimited individual appropriation. Having undercut Dunn's

position, he cannot employ Locke's religious commitments to block unlimited acquisition. Instead he offers Locke's remarks depreciating the desire of having property and possessions (Marshall, 1979: pp. 78-9).

Marshall accepts Macpherson's argument that Locke justifies the transcendence of the spoilage and sufficiency limitations, thus sanctioning possessive individualism (1979: pp. 74-7), but denies that Locke intended to justify unlimited appropriation. The argument for unlimited appropriation begins with the fact that man's self-preservation requires him to labour and appropriate. In the original state of nature, the only rational appropriation--that is, consistent with natural law--was limited. With the introduction of money, men found a way around the spoilage and sufficiency limitations, and now have an incentive to labour beyond their own immediate needs. Locke justifies this form of acquisition by its benefits for mankind. In demonstrating that appropriation beyond the original limits is consistent with, and for Strauss required by, natural law, he sanctioned it as rational. But in sanctioning the transcendence of the original limitations, he did not offer, apart from the immutable natural law principle not to violate another's rights, any others in their place. Had Locke desired to limit appropriation after the invention of money surely he would have indicated his intention in chapter five of the Second Treatise. The only function Locke posits for labour

in the Second Treatise is appropriation which after the invention of money is unlimited. Perhaps Locke's comments on appropriation ought to be viewed in light of his political theory as well.

4. Distributive Justice

With respect to the means necessary to preservation, the first kind of individual right Locke introduces is a natural inclusive claim right to one's share of those means. To put the inclusive right into effect, Locke introduces a second sort of right, a natural exclusive right in one's own. In A Discourse on Property, James Tully asserts that by postulating this system of rights, Locke accepts a concept of property which commits him to a full blown distributive theory of justice:

A full blown distributive theory...begins with a principle of what is due to each, as Locke's does; property is distributed accordingly, and then this distribution is protected by expletive justice. The difference is that "belonging to" in the inclusive sense of one's due, is primary; whereas the concepts of one's own and of exclusive rights are secondary and serve to put the distributive principle into effect. The principle of distribution thus determines the pattern of property (Tully, 1982: p. 91; cf. pp. 93-4).

According to Tully, because Locke derives man's complementary natural inclusive and exclusive rights from natural law, they entail the duty to God to preserve mankind. Since Locke begins with inclusive rights, his point must be that a full blown distributive theory of justice is essential

for achieving God's purpose of preserving mankind. This implies that only a given pattern of property distribution is consistent with natural law. When men exercise their inclusive rights naturally and convert them into exclusive rights they put the required pattern into effect; the exclusive natural rights individuals now hold constitute the contour of that pattern. The creation and maintenance of the natural pattern of distribution is the duty to God to preserve His workmanship. Since individual rights are held for this purpose Locke's theory of property is a limited rights theory.

Locke explains in chapter five of the Second Treatise how men identify their share of the means necessary to preservation and thus how the natural pattern is achieved. Labour is the primary natural means for identifying one's share of the common. In the state of nature, individuals naturally identify their share of common manmade goods by making it out of the raw materials of nature. The size of an individual's share is determined by the natural tendency of things to spoil so that a person may have as much as he can use before it spoils and no more. Once he has an exclusive right in his share it is protected by expletive justice --rendering to one what is already one's own. Acquisition through labour which avoids the need for consent is the natural means for putting into effect the pattern of distribution and therefore men have a duty to protect it.

Individual appropriation beyond one's share is unnecessary and therefore it is contrary to natural law.

With the invention of money in the state of nature, this process cannot continue because the crucial enough and as good proviso is violated with respect to land. Since there is no longer enough land in common for everyone to use, the natural process for ensuring justice in distribution has broken down. Men must now move into civil society and implement a system of distribution based on consent.

Macpherson and Strauss understand the connection between distributive and expletive justice differently. They begin with the claim that because men have a right to self-preservation, they have a natural right to property. Neither right derives from a prior duty to God. They agree with Tully that man's first natural right is a natural inclusive right, but depart from Tully's interpretation when they imply that the inclusive right refers only to the raw materials of nature and not to manmade goods. The inclusive right ensures that all men have access to nature and are able to acquire with their labour what they need for preservation.

In the original state of nature, whatever man makes out of natural materials is his exclusive property. But acquisition by labouring directly on nature has two limits. First, appropriation is just only where there is enough and as good left in common for others. This limit complements the equality premise (2.4) and is, thus, required by man's

natural inclusive right.¹⁷ Although, as Strauss notes, originally the limit is not necessary because the plentitude of natural provisions ensures that there is enough and as good for everyone, the limit is designed to guarantee everyone access to nature. The second limit is the natural tendency of things to spoil. Spoilage is a practical limit to the amount of property it is rational for a man to acquire and not the natural standard which determines a man's share of the common. It is here that man's inclusive right is related to distributive justice. Man's natural right to labour directly on nature ensures that everyone gets what he needs for self-preservation, and spoilage keeps each man's property small so that the distribution of property is roughly equal.

Locke then employs man's natural condition two ways. First, by concluding that property distribution is roughly equal in the state of nature, he makes that state a state of poverty and gives man a strong reason for overcoming its limitations. Second, Locke uses the property distribution of the first ages to set the minimum standard which must be met before men can move to unlimited appropriation.

With the invention of money men have found a way around the spoilage proviso so that some men begin to acquire large amounts of property, which does not leave enough and as good land in common for others. But this is valid because it results from the legitimate consent of men to use money and, more importantly, because although men can no longer

exercise their inclusive right to use nature, they are able to acquire an even better living by exchanging their labour for a wage. Men now have a right to unlimited appropriation.

Strauss and Macpherson imply that in justifying unlimited appropriation, Locke makes a crucial point as to which of man's natural rights he emphasizes. Whereas originally he emphasized man's inclusive natural right to use nature, now he emphasizes the individual's exclusive right to appropriate and his exclusive right in his possessions. This shift in emphasis on rights is matched by a shift in emphasis on justice. In the state of nature prior to money, the stress was on inclusive rights and thus on distributive justice. After the invention of money, the formation of a capitalist market economy performs the distribution function better than direct appropriation under the natural law rules. Now the emphasis is on the right of the industrious and rational to appropriate and therefore on exclusive rights and hence on expletive justice. Since the new process is just, concern with distributive justice is abandoned and men need only worry about protecting their right to acquire and the property they do acquire:

Justice no longer depends on the equal allocation of goods by individual labor, but on the division of labor, to utilize the unequal endowment of men by nature for the simultaneous benefits of those so endowed and the society at large (Cox, 1963: p. 260).

Tully contends that distributive justice is the aim

or goal of Locke's theory of property. Strauss and Macpherson imply that Locke's concern with distributive justice merely serves to draw the minimum standards in order for unlimited individual appropriation to be just (cf. Winfrey, 1981: pp. 434-38). Therefore, Locke is more concerned with expletive justice.

Tully states that a collectivist liberal theory of justice grants priority to inclusive rights actualized in the form of exclusive rights protected by expletive justice (1982: pp. 90-1). For him Locke is a collectivist and the purpose of chapter five of the Second Treatise is to establish and protect the pattern of property distribution necessary for fulfilling the duty to God of preserving mankind. Tully contrasts collectivist liberalism with individualist liberal theories of justice, like those of Grotius and Pufendorf, which grant priority to exclusive rights and thus to expletive justice. According to Strauss and Macpherson, since Locke's theory of property logically entails an emphasis on expletive justice, it gives rise to an individualist liberal theory of justice. Therefore, Locke is an individualist. Richard Cox adds that Locke makes this individualist justice the basis of political order (1963: pp. 254-61).

With two radically different interpretations of what system of justice Locke employs in the Two Treatises, the end of civil society and government must also be different. The next issue is to determine why men desire to abandon

their natural liberty in the state of nature and adopt conventionally defined liberty in civil society.

5. Civil Society

i

The introduction of money in the state of nature is the reason underlying the explanation of why men must seek the protection of political society (cf. 2.123). Macpherson explains that the larger possessions which result from money-based acquisition brings out the invasiveness in man's nature so that men are no longer safe in the state of nature (1979a: pp. 210, 238-47; cf. 1979b: p. 232; Lewis, 1975: p. 263). Men must move into political society in order to protect their property. Strauss looks at the problem from the perspective of men already in civil society. Man's reason teaches him that property acquired through a money economy in civil society is safe from man's invasive nature only as long as men remain in political society (Strauss, 1953: pp. 230-2; cf. Goldwin, 1981: p. 482). Hence, the continuation of money-based unlimited appropriation is only possible in the safety of society.

Dunn and Tully argue that money is responsible for the moral degeneracy which drives men into civil society; with the advent of money, men lose respect for natural law and increasingly violate each others' rights (Dunn, 1982: p. 248; Tully, 1982: p. 150). Tully, however, offers an

additional reason why men must move into civil society. Once the use of money results in the violation of the sufficiency proviso with respect to land, all exclusive rights are cancelled and no further appropriation is possible. Men now need political society in order to redistribute property rights conventionally (Tully, 1982: pp. 151-4).

ii

Men move out of the state of nature and into political or civil society when they come together and unanimously give their mutual consent to abjure the exercise of their natural power and put it into the hands of the community (2.87, 95; Goldwin, 1981: p. 471; Tully, 1982: pp. 158-9).¹⁸ At section 128 of the Second Treatise, Locke identifies the two natural powers men transfer to the community:

The first is to do whatsoever he thinks fit for the preservation of himself and others within the permission of the Law of Nature.... The other power a Man has in the State of Nature, is the power to punish the Crimes committed against that Law.

Since each man gives up the power of doing "whatsoever he thinks fit" and agrees to act in accordance with the laws of the community, the first power is the foundation of the legislative or law-making power (2.128, 131). Goldwin notes that the first power, which includes the right to be one's own judge, is not wholly transferred (1981: p. 471). The second natural power becomes the executive power of the

community; or the power to execute the laws of the community and the laws of nature for the community (2.130). Once men have given their consent to constitute civil society, they cannot withdraw it (2.121; Goldwin, 1981: p. 473). The right to exercise the legislative and executive powers constitutes what Locke calls political power:

Political Power then I take to be a Right of Making Laws with Penalties of Death, and consequently all less Penalties, for the Regulating and Preserving of Property, and employing the force of the Community, in the Execution of such Laws, and in the defence of the Common-wealth from Foreign Injury, and all this only for the Public Good (2.3).

Who will have or exercise this power (1.106)? The mutual consent of men to create a community includes the agreement to follow the will of the majority (2.96; Goldwin, 1981: pp. 473-4; Tully, 1982: p. 159; Strauss, 1953: p. 232). The majority then decides who will exercise the political power. Where the majority places it determines what form of government society has and ipso facto what sort of political society it is (Goldwin, 1981: pp. 475-6; Tully, 1982: pp. 159-60; cf. Vaughn, 1982: p. 99; 2.133). Sovereignty, however, still resides in the community since the people have only entrusted the exercise of political power to the government, which must exercise it for the public good (Goldwin, 1981: p. 476; 2.3, 131, 135). If men entered into political society "for the mutual Preservation of their Lives, Liberties and Estates, which I call by the general

Name, Property" (2.123), then the public good must be the preservation of property (Tully, 1982: pp. 161-3; Goldwin, 1981: p. 471; Strauss, 1953: pp. 228-9, 244-5).

Tully interprets the public good as a distributive principle which "refers to the share of that good which different members of the group have for themselves" (1982: p. 163). Since the public good is the preservation of property, government must ensure that each member has his share of the property necessary for his preservation, which it then protects. At this point Tully makes the important assertion that Locke's definition of political power contains a distinction between making laws for the regulation and for the determination of property. Regulation relates to protecting the property people already possess (Tully, 1982: pp. 162-3). Determination refers to the power to give or to distribute property (Tully, 1982: pp. 163-5). Included in the property the government must distribute is the goods and land that have become the common possessions of society. Government must determine each man's share of the common possessions of society because the invention of money and consequent violation of the enough and as good proviso in the state of nature invalidated all exclusive rights:

Men seek political community as a solution to this situation...and so their possessions must be submitted to the community. The crucial point...is that community ownership of all possessions is the logical consequence of the premisses of Locke's theory in the Two Treatises.... The basic premise that

God gave the earth to all men in common for all time, and at any particular time, necessarily invalidates all exclusive rights once the proviso is no longer met (Tully, 1982: p. 165).

The authority of government to make laws to distribute property derives from the natural power each individual gives up to society. When individuals consent to create political society they exchange their natural liberty or power "to do whatsoever he thinks fit for the preservation of himself and others" for conventionally defined liberty. That means giving up one's economic and social power, or as Tully explains, "man's power to appropriate, produce, consume, assist others, own use and enjoy, give, barter and exchange" (1982: p. 158). With all exclusive rights cancelled, it follows "from his liberty or natural power...being yielded to, and under the direction of, the community, that his possessions also belong to the community. For what he relinquishes is his power to come to have and to possess goods" (Tully, 1982: p. 164). Apparently, this is what Locke foreshadowed back in chapter five (2.50, 30, 35, 38, 45) and what he means at section 120 of the Second Treatise where he states that "every Man...submits to the Community those Possessions, which he has, or shall acquire, that do not already belong to any other governments." Civil society must now determine what is mine and thine with respect to the direct means necessary to preservation and land (Tully, 1982: p. 165).

Although each individual has lost his naturally acquired share of the natural common, he re-acquires conventionally a share of the community property. In order to accomplish this, government must first determine the civil rights or properties of its citizens using natural law as a guide (Tully, 1982: p. 166). From the natural law duty to God to preserve mankind, Locke derived the three natural inclusive claim rights to life, liberty and material possessions. Upon entering civil society, each individual retains his three natural claim rights, but foregoes the power to exercise these rights in the same manner as in the state of nature. In return for foregoing the exercise of those rights, government grants each member the civil version of the three natural rights: "Government is obligated to distribute to each member the civil rights to life, to the liberty of preserving himself and others, and to the requisite goods or 'means of it'" (Tully, 1982: p. 166).

Each member of society is now armed with the civil version of the natural inclusive claim right to the means necessary to preservation as well as the right and duty to labour. In order to ensure the equitable distribution of society's goods, government employs the principle of distribution which operated in the state of nature: to each man the products of his honest labour (Tully, 1982: p. 167). Charity and inheritance are included as secondary means for appropriating one's share of those goods. The resulting

distribution of property, whatever it is, is legitimate because it followed from consent. When in place, it is underpinned by natural law:

The particular rights men have in society are conventionally determined, albeit in accordance with natural principles, and then underpinned by man's natural right or property to exercise moral sovereignty over his own (Tully, 1982: p. 171; cf. p. 168; 2.135).

As in the state of nature, man's inclusive claim right refers primarily to the products of labour, or to the direct means of preservation, and not to land. All land is now the common property of society which individuals use for acquiring the means of preservation. Tully claims that this does not preclude the possibility that society can create private property in land. This would only be possible, however, if it conduces to the public good. But if Locke thought this, he did not say it. Therefore, the "only form of property in land which he endorses in the Two Treatises is the English Common" (Tully, 1982: pp. 168-9).

The end of civil society is to create conventionally the situation which existed in the state of nature prior to money. In the state of nature the goal of Locke's concept of property was to achieve the pattern of property distribution consistent with and entailed by the duty to God to preserve mankind (cf. Tully, 1982: p. 170). Locke's property doctrine met this goal by granting everyone an inclusive claim right to have and to use his share of the common goods,

actualized in the form of an exclusive right. Labour played the crucial role of identifying each man's share of the common. Whatever exclusive rights men acquired in this way were protected by natural law. The conventional rights in civil society perform the same function with respect to the members of society. They put into place, and in the same way as in the state of nature, the pattern of property distribution consistent with the duty to preserve the members of society. Once government has performed the primary function of distributive justice, it must then respect and enforce with expletive justice the natural principle to abstain from that which belongs to another, which now protects the exclusive use-rights men have acquired (Tully, 1982: p. 171; cf. Waldron, 1984: p. 104).¹⁹

iii

Macpherson and Strauss describe the property for whose protection government must exercise political power differently from Tully. In the state of nature all men have the natural rights to life, liberty and to the means necessary to self-preservation (Strauss, 1953: p. 235; Macpherson, 1979a: p. 198). With respect to the right to material possessions, men find a way in the state of nature to get around the natural law limits to appropriation. By consenting to the use of money, men legitimately acquire a natural right to unlimited appropriation. Even though this right results from consent, it is natural: "But if the extended

property right is less pure than the other rights, because it requires consent, it is none the less natural. It follows from the nature of man, because Locke puts into the nature of man the capacity of making agreements and the desire of having more than he needs" (Macpherson, 1979b: p. 231; cf. 1979a: p. 210).

Men form civil society primarily to protect their natural right to unlimited appropriation. This entails protecting the economic institutions which resulted from the consent to money and upon which the right to unlimited appropriation depends; such as the institution of wage labour. When men consent to transfer their natural power to do as they think fit for their preservation and to execute natural law, they do so in order to protect their newly acquired rights:

The agreement to enter civil society does not create any new rights; it simply transfers to a civil authority the powers men had in the state of nature to protect their natural rights. Nor has the civil society the power to override natural laws; the power of civil society and government is limited to the enforcement of natural law principles (Macpherson, 1979a: p. 218; cf. Strauss, 1953: pp. 244-5; Lewis, 1975: p. 263).

Since the enough and as good proviso was legitimately transcended, all the rights men acquired in the state of nature, especially exclusive rights in goods and land, remain valid. Men retain their natural rights, but concede to society the authority to protect them. It does not follow, then, for Macpherson and Strauss, as it does for Tully, that

exclusive rights in goods and land are cancelled so that when men transfer their natural power to come to have and to possess these goods, they turn them over to community ownership and governmental redistribution. Government cannot make positive laws to "determine" or distribute property.

In his article "Locke, Tully, and the Regulation of Property", Jeremy Waldron challenges Tully's interpretation of what happens to natural rights when men enter civil society. He notes that Tully builds his case for the government's right to distribute property on six passages in the Second Treatise where Locke employs the terms "determine" (2.30, 50), "regulate" (2.50) and "settle" (2.38, 45; cf. 2.120). Whereas Tully understands the term "determine" to mean distribute property, Waldron offers what he claims is the standard understanding, which seems to be Strauss' and Macpherson's understanding, of Locke's use of the term:

The concept of determining is perhaps the most straightforward. To determine a person's rights is to find out what they are. It is not to (re-) create them or (re-) constitute them. ...In making this determination, the legislative will not draw up new entitlements on the basis of what seems to it to be the public interest, but will rather endeavour to ascertain natural entitlements, state them precisely, and "annex" to them known penalties to enforce their observation (1984: p. 103).²⁰

Similarly, regulation and settlement are not processes used in the creation of civil rights or properties. Men only submit their natural rights "to the conditions necessary for

their effective and positive protection" (Waldron, 1984: pp. 104-5). Section 120 of the Second Treatise, where Locke states that every man "submits to the Community those Possessions, which he has, or shall acquire", means that men retain their natural possessions and allow society to create the rules which govern their enjoyment. Government has no role to play with respect to distributive justice.

Tully asserts that government must distribute property conventionally and then enforce the natural law principle to abstain from that which belongs to another (1982: p. 171). For Macpherson and Strauss, government only exercises expletive justice by enforcing the natural law precept to abstain from what is another's right. This involves protecting the right of the industrious and rational to accumulate wealth: "the property which is to be 'preserved' by civil society is not 'static' property...but 'dynamic' property...: 'The protection of (different and unequal faculties of acquiring property) is the first object of government'" (Strauss, 1953: p. 245; cf. Cox, 1963: p. 260; Parsons, 1969: pp. 408-9). The public good--the desire for plenty--is only served by protecting the right of the industrious against the "lazy and inconsiderate" (Strauss, 1953: p. 245; cf. Macpherson, 1979a: pp. 237, 257).

Tully asserts that Locke's account of the creation of political society "exhibits the 'indistinction' of economy and polity" (1982: p. 158; cf. p. 161). He makes this claim on the basis that when each man transfers his natural power to do as he thinks fit for his preservation, he transfers to government his economic and social power (Tully, 1982: pp. 161, 164). On this authority, government distributes property. The consequence is that the economy is merely an instrument of social policy which the government controls; thus, economy is subordinate to polity (Tully, 1982: p. 169). Therefore, since the economy is a policy instrument for social policy, it is impossible to speak of property rights as being divorced from social obligations.

Macpherson and Strauss interpret Locke as reversing that order. By placing the right to property in the state of nature, Locke frees property from the claims of society: "by saying that property antedates civil society, Locke says that even civil property--the property owned on the basis of positive law--is in the decisive respect independent of society: it is not the creation of society" (Strauss, 1953: p. 245; cf. p. 235). When Locke justifies as natural the right to unlimited acquisition, he in effect asserts that man creates an entire economic system in the state of nature which is prior to civil society and which civil society must protect (Macpherson, 1979a: p. 211). Hence, economy antedates polity.

Karen Iversen Vaughn follows up on this point. She states that the Second Treatise "states the principle which relates the economy to the political order" (1982: p. 96; cf. pp. 97, 100, 107). What the Second Treatise teaches is that by situating the economy in the state of nature, Locke subordinated politics, and thus society, to economics:

[It] can be shown that Locke believed civil government to be naturally subordinate to the economy in its function in social life, and that the ability of the government to play an active role in the economy was therefore limited (Vaughn, 1982: p. 111; cf. pp. 78-9, 80, 81, 92).

If the economy is primary and the ability of government to play an active role in it is limited, then man's natural right to appropriate within civil society must be free from social obligations. This explains and reinforces Macpherson's assertion in Possessive Individualism that the "traditional view that property and labour were social functions, and that ownership of property involved social obligations, is thereby undermined" (p. 221).

6. Revolution

i

Robert Goldwin noted that when men transfer their natural powers to civil society, they only partially transfer their natural power to judge what best serves their self-preservation (1981: p. 478). In civil society, men only exercise the power of judging with respect to whether or not

government is using its trust to exercise political power for the public good (2.149). Thus, men are their own judges as to when to exercise against government their right to resistance or revolution. But when are men likely to exercise their right to resist government?

James Tully identifies two situations in which Locke justifies resistance. The first situation is when just after everyone has transferred their natural power to government, it does not immediately discharge its duty to distribute property and to do so in accordance with natural law (1982: p. 166). Since Strauss and Macpherson do not see government as having the authority to distribute property, they do not see it as a basis for resistance. The second situation occurs after government has distributed property. Once all the members of society have acquired their civil properties, government must respect the individual's right to exercise his sovereignty over it:

Once a man has his properties...then his sovereignty is inviolate and he uses it against a government which attempts to place itself above the law.... This rule holds...for any of man's properties, whether they are rights to have or to do something; that is, whether the goods in question are life, liberty or material possessions (Tully, 1982: pp. 171-2).

Macpherson and Strauss agree with Tully that the situation where government does violate the individual's sovereignty over his property is a legitimate condition for resistance. However, the rights government must protect are not the

redistributed conventional rights as Tully claims, but the natural rights individuals carry into civil society.

The classic example of government moving to violate the individual's sovereignty over his own is when it attempts to tax citizens without their consent (Tully, 1982: p. 172; Macpherson, 1979a: pp. 252-3). From this example, Tully concludes that it "is essential to see that Locke is protecting individual civil rights from arbitrary interference of the Crown by giving the ultimate right to enforce the law to the citizenry. A kind of historical foreshortening is required to impute to Locke, as Macpherson does, the attempt to preserve capitalist property against the proletariat" (1982: p. 172). Tully follows this up with a quotation from Karl Polanyi's The Great Transformation:

Locke's vision did not transcend the limits of landed and commercial property, and aimed merely at excluding high-handed acts of the Crown.... Separation of government from business, in John Locke's sense, was achieved in an exemplary fashion in the charter of an independent Bank of England in 1694. Commercial capital had won its tilt against the Crown (p. 225).

Tully cites Polanyi in order to show that since Locke's constitutionalism was aimed at placing limits on the actions of the Crown, it is not directed at protecting the private property of a capitalist class engaged in unlimited appropriation. But Polanyi's point that commercial capital "had won its tilt against the Crown" equally supports the claim that Locke justified a class society.

Strauss and Macpherson argue that because men move into civil society primarily in order to protect their natural right to unlimited appropriation, the role of government is to protect the right of the industrious and rational against the lazy and inconsiderate part of mankind (1953: p. 243; 1979a: pp. 232-8). Macpherson contends that Locke makes the industrious and rational those men who engage in appropriation after the introduction of money, and that Locke makes the lazy and inconsiderate, or quarrelsome and contentious, those men who must sell their labour for a wage (cf. Strauss, 1953: p. 243). Although both groups of men are rational enough to give the consent necessary to form civil society, only the former group is fully rational and, hence, capable of participating in the political life of the community. Thus the majority which decides who will exercise the political power of the community is the majority of men of "landed and commercial property". These same men also decide when to exercise their right of resistance (Macpherson, 1979a: pp. 257-8; cf. p. 224). Even though government must protect the rights of both groups of men, since only men of property have the right to resist, government is not free to act contrary to their interests. Instead, the right of the propertied class to resist "high-handed acts of the Crown" ensures that government will protect the class society vital to their interests. For Macpherson, Locke's constitutionalism is "a defence of the rights of expanding property

rather than of the rights of the individual against the state.... [It] is essentially a defence of the supremacy of property--and not that of the yeoman only, but more especially that of the men of substance to whom the security of unlimited accumulation was of first importance" (1979a: pp. 258-9; cf. p. 250).²¹ It is not clear, then, that Macpherson, or Strauss for that matter, mistakenly imputes to Locke the attempt to "préserve capitalist property against the proletariat" (Tully, 1982: p. 172).

Tully, however, maintains that Locke's constitutionalism aims to protect equally everyone's rights against the state. By denying that Locke justified a class society based on the rationality of appropriation, Tully is denying that Locke freed mankind from Filmerian bondage at the hands of absolute lords only to throw wage-labourers into the slavery of capitalist appropriation (1982: pp. 173-4). Since every man has property of some sort, every man has a right to participate fully in the political life of the community (Tully, 1982: p. 173). Locke's theory would grant the franchise to every adult male member of society. Therefore, the right of legitimate resistance belongs to the majority of the adult male population in civil society.

ii

Three points left unresolved earlier on must now be concluded. Tully argues that the property which men come to have in material goods and land is not describable as private

property (1982: p. 99). This is true of property in the state of nature and conventional property in civil society. Second, Tully claims that since Locke places the agreement to introduce political property after the agreement to create civil society, he undermines Grotius's and Pufendorf's conclusion that "governments were established to protect those prior agreements; the contracts instituting governments bind them to respect the property of the individual" (1982: pp. 99-100). Third, Tully states that since "Locke bifurcates natural property in the state of nature and conventional property in a civil state, the assumption that one serves to underpin the other...is contradicted by his own words," so that Locke did not provide as Macpherson asserts a rationale for existing social relations (1982: p. 100).

If one accepts Macpherson's and Strauss' interpretations of Locke's theory of property, the outcome of those three points is different. First, the property in goods and land which men acquire both in the state of nature and in civil society is describable as private property. Second, since men agree to create civil society in order to protect the rights they acquired in the state of nature, governments are established to protect those prior agreements. Thus governments must respect and protect the individual right to unlimited appropriation. Third, since property held on the basis of positive law derives from the prior natural right to appropriate, it follows that natural property in the state of

nature does underpin conventional property in civil society and, hence, Locke did, as Macpherson claims, provide a rationale for existing social relations.

CONCLUSION

Can Locke's theory of appropriation in chapter five of the Second Treatise serve as a justification of the natural right to unlimited appropriation? I have shown that opinion among contemporary Lockeian scholars differs widely on this issue. Leo Strauss and C. B. Macpherson are the proponents of the view that Locke does justify unlimited individual appropriation as natural. James Tully and John Dunn oppose that conclusion, and instead claim that Locke only justifies as natural the right to the limited appropriation of property. Both positions were outlined in four separate parts in the first two chapters.

Chapter three looked at the relationship between natural law and natural right, the state of nature, and at the relationship between natural law and property. Strauss and Macpherson argue that Locke places greater emphasis on natural right than on natural law and, hence, bases his natural teaching on man's desire for self-preservation. In response, Tully and Dunn contend that natural law can serve as an objective standard guiding man's actions only if it derives from man's relationship to God as His workmanship. If this premise is accepted, then natural right is clearly based on and limited by natural law. It was shown, however,

that Strauss and Macpherson's interpretations meet the objections raised against them; they can consistently assert that natural right is the foundation of natural law and that natural law serves as an objective standard guiding men's actions according to what best conduces to the fulfillment of the desire for self-preservation.

Locke's concept of the state of nature is important for his property theory because not only does it reveal what rights man has naturally but because it also reveals Locke's perception of how man would live out of civil society.

Strauss and Macpherson maintain that Locke makes the state of nature a state of war where man's desire for self-preservation cannot be fulfilled. Strauss adds the crucial point that man's natural condition is one of extreme poverty. This fact drives men to discover the instrument of plenty--the right to unlimited accumulation. Man's natural poverty combined with his invasive nature forces him to seek the protection of civil society. Dunn, and Tully, disagrees. He argues that man is naturally peaceable and sociable, and that his natural condition is one of comfort; man's preservation is guaranteed in the state of nature, at least until money is introduced.

These two opposed views of the state of nature play a part in how these two groups of commentators interpret the relationship between natural law and property. Strauss, and Macpherson, asserts that because natural law is the dictates of reason of what is conducive to man's preservation, what

natural law teaches changes with man's conditions. In the original state of nature, reason teaches that appropriation must be limited and manmade spoilage prevented. After the invention of money, reason teaches that since the unlimited accumulation of property creates the plenty which eliminates the natural poverty that threatened man's preservation, unlimited appropriation is now entailed by natural law. Tully and Dunn, however, claim that since natural law originally entails a system of limited appropriation, only that system is consistent with the natural duty to preserve mankind and therefore it must be preserved. The invention of money does not mark the end of natural poverty but the end of man's comfortable and peaceful existence in the state of nature; money brings about man's moral downfall which poses the greatest threat to preservation. Natural law now more emphatically dictates limited appropriation. Therefore, for Tully and Dunn, natural laws are immutable standards which men must always follow if they wish to fulfill their duty to preserve mankind.

Chapter four dealt with natural appropriation in the pre-monetary state of nature. The discussion focused primarily on Locke's use of the spoilage proviso. Strauss argues that Locke uses the fact of spoilage as the explanation of why man's natural condition is one of poverty. Hence, for Strauss, Locke makes the removal of that limit to appropriation necessary to man's preservation. Tully,

however, contends that Locke uses the spoilage proviso as the natural law standard which establishes how much property each man is entitled to have and therefore that it is not a limit to be removed. Tully also uses the proviso to demonstrate that the system of property Locke justifies in chapter five of the Second Treatise is the English Common and not private property. To do this, Tully shows that men do not have a right to private property in land, as Strauss and Macpherson contend. Locke uses the spoilage proviso first to establish that men only have a conditional use-right in manmade goods which is not describable as private property. Since the spoilage proviso only applies to manmade goods and not to natural raw materials, it follows that man does not have a natural right to land as such. All men can acquire is a use-right in improved land conditional on the due use of the second level products. Since a right in land is not a fixed right, the landowner cannot alienate the land, he can only use it. Because the right in land is held for performing the social function of preserving mankind and does not permit alienation, the right in land is not describable as private property. Therefore, according to Tully, Locke does not allow that men can dismember the natural common in the way entailed by capitalist appropriation; instead, Locke justifies the practice of individual property within positive community in the manner of the English Common.

I demonstrated, however, that Locke's use of the

spoilage proviso does support Strauss' and Macpherson's interpretations that the exclusive rights men acquire naturally, including in land, are describable as private property. Therefore, Strauss and Macpherson can consistently assert that Locke justifies the practice of private property out of positive community. The next step was to show whether or not the right to private property could be made unlimited.

Chapter five addressed the issue of whether or not Locke's argument in chapter five of the Second Treatise can serve as a justification of unlimited appropriation as Strauss and Macpherson contend. Tully, Dunn, Macpherson and Strauss agree that money allows men to get around the spoilage limit to appropriation; since money does not spoil, men may accumulate as much property in money as they desire. Getting around the enough and as good proviso poses the more serious problem. According to Strauss and Macpherson, when men agree to the use of money they consent to larger possessions and hence to the fact that some men must surrender their right to labour directly on nature. Foregoing the right to labour directly on nature is justified because everyone is made better off by the concentrated ownership of land by the industrious and rational.

Tully moves to block the transcendence of the sufficiency proviso two ways. First, he denies that money creates a better standard of living for all which justifies allowing a few men to own most of the land. Second, he argues that

since natural law dictates that men acquire their share of the means necessary to preservation directly from nature, men cannot forego their equal right to use nature, and thus land, directly. Once the sufficiency proviso is violated all natural appropriation ceases and all exclusive rights are cancelled. Men must now reconstitute natural appropriation conventionally in civil society.

Two points regarding Locke's concept of labour, raised in the turfs passage, are also relevant to the issue of unlimited acquisition. Tully argues that Locke understands labour as the actions of the person which cannot be alienated in the way required for unlimited capitalist appropriation. I showed, however, that given Macpherson's premises about what Locke takes the labourer to be alienating, Macpherson can correctly claim that the servant of the turfs passage is the wage-labourer of capitalism. John Dunn raises the second point about labour. He argues that since labour is the core component of the doctrine of the calling and since the individual calling is directed at eternal salvation, labour cannot be used in an argument to justify unlimited appropriation. Using Marshall's revisions to Dunn's work, where Marshall shows that Locke externalized and secularized the concept of labour and hence the doctrine of the calling, I showed that Macpherson, like Strauss, is justified in asserting that Locke employs his concept of labour as part of his justification of unlimited acquisition. *

Chapter five then examined the move into civil society and the right of legitimate resistance. Strauss and Macpherson claim that for Locke, men enter into civil society in order to protect the property they acquired in the state of nature. Hence, civil government must protect man's natural right to unlimited appropriation, including the institutions upon which that right depends, which fulfills the desire, and thus the right, to self-preservation. Members of society may legitimately resist any government which fails to execute this responsibility in a manner consistent with natural law.

Tully, however, offers a new interpretation of the move into civil society. He argues that for Locke, once natural appropriation in the state of nature breaks down men must move into civil society and recreate the natural system conventionally. Tully then offers a radical re-interpretation of what Locke does in the Second Treatise. When men agree to enter into civil society they also consent to hand over all their exclusive property to the community, and government must now re-distribute to each member his share of the community goods. In order to do this, civil government must issue to each citizen the civil version of his natural rights. Men then appropriate their share of the common in the same way they did in the state of nature, through labour. If government fails to re-create natural appropriation and its consequent pattern of property distribution, or if, once

it is in place, government violates the exclusive rights of any of its citizens, the members of civil society may legitimately resist the civil authority. Thus, I concluded chapter five by setting side by side two opposed, but compelling, interpretations of the role of Lockean government.

These two interpretations about the role Lockean government must play in protecting men's properties raise an important point about the extent of governmental authority. Strauss and Macpherson interpret Locke as sanctioning a civil society based on unlimited capitalist appropriation. Thus, although government protects the rights of all its citizens, since the construction of rights in society favours the industrious appropriators, government in effect primarily protects the rights of the capitalist. Despite this bias, under no circumstances can government exercise its power to re-distribute property without the consent of the proprietors. Such an attempt would constitute a legitimate ground for resistance.

Tully argues, however, that government must put into place and then protect a pattern of property distribution, whatever it might be, entailed by natural law. Since that is the only pattern in accordance with which men are entitled to hold their exclusive rights, appropriations which disrupt that pattern would necessarily be invalid. If this is an accurate representation of Tully's argument in A Discourse

on Property, then it raises a disturbing prospect. Since government is established to protect individual rights only insofar as they are instrumental for a given pattern of property distribution, government actually functions to protect that distribution and not individual rights as such. If this is so, then government can, if it deems that the proper pattern is not in place, re-distribute property rights without the consent of the proprietors. Hence Tully imputes to Locke's theory of government a sovereign who may unilaterally intrude upon individual rights. If the recognition and protection of individual rights is the cornerstone of liberalism, then perhaps interpreting Locke's theory of property as a justification of unlimited capitalist appropriation provides a more apt basis from which to understand individual rights.

ENDNOTES

Chapter One

1. "In itself it is simply an axiom of theology. It sets human beings in the teleology of the divine purposes" (Dunn, 1982: p. 103).
2. "Men confront each other without a priori authority over one another because their jural situation is extrapolated from God's purposes for each of them and these purposes are such that each must remain perpetually responsible for his execution of them. But because men are fallen, because they are sinners, they interfere with each other's performance of these divine assignments" (Dunn, 1982: p. 126).
3. Dunn's view of the purpose of money in chapter five of the Second Treatise is that it does lead to a higher standard of living, but that this benefit is offset by the moral degeneracy that results (1982: p. 119).
4. "Locke did not regard this world as providing the possibility of an autonomously rewarding existence and he believed that a heady indulgence in its immediate pleasure was bought at the price of everlasting death" (Dunn, 1982: p. 196).
5. With respect to Macpherson's reading of the Second Treatise, the upshot of this is that as a Marxist, Macpherson is incorrect to study the class structure of seventeenth century England. Dunn claims that Locke was unconcerned about the social structure. Instead, Locke cared only about the individual tenant of a particular calling and how the social structure affected him as such. The implication of this for the study of political history is that Macpherson is reading into Locke's theory of property a class structure that Locke himself could not have been aware of because it was not until the nineteenth century, when Marx wrote, that the significance of class structure to the capitalist mode of production became apparent (Dunn, 1982: p. 236; cf. p. 240).
6. "Indeed it was this very solidity, this all too excessive

plausibility of existing social moralities, this confused conventionality of human moral attitudes which formed the real target of his most powerful political works" (Dunn, 1982: p. 237).

7. "Locke makes property a pure private right, but that in no way impairs the social responsibilities which emanate from it. The individualization of the right is matched symmetrically by an individualization of the duty" (Dunn, 1982: p. 217).
8. For example, inheritance. See generally Dunn, 1982: pp. 120-47.
9. The term "workmanship model", and the uncommon use of "workmanship" as an attributive noun, is Tully's (cf. Tully, 1982: p. 4). I follow his use throughout.
10. "Due to the analogy between God and man as makers, anything true of one will be, ceteris paribus, true of the other. Since it is the explanation of God's dominion over man and of why man is God's 'property', it also explains man's dominion over and property in the products of his making" (Tully, 1982: p. 37).
11. Locke's understanding of obligation is a compromise between the voluntarist and rationalist theories. Locke accepts the voluntarist tenet that natural laws are imperatives accepted on faith and binding solely because they are an expression of God's will. He also accepts the rationalist tenet that natural laws are discoverable by reason. Accepting these tenets, Locke rejects the voluntarist claim that reason cannot verify natural law and the rationalist tenet that natural law is binding independently of the existence of God; natural law binds because it is rational. Locke's position, therefore, is that natural law is coincident with the will of God (Tully, 1982: p. 41). In ascribing this position to Locke, and in carrying it forward in his analysis of the theory of property, Tully seeks to prove that natural law can only stand as an objective standard if it is linked to God.
12. "The relation between right and desire, therefore, is that what is right, 'natural law', is coincident with rational desire" (Tully, 1982: p. 47).
13. See pages 101-4, where Tully asserts that self-interest cannot be the basis of morality because it is not based on the law of nature. As the basis of the desire to accumulate, self-interest harms others. "As a result it serves to legitimate unlimited acquisition of property

which, in turn, denies others their fair share and makes impossible the performance of social duties" (Tully, 1982: p. 103).

14. See Tully, 1982: pp. 69-71 and pp. 80-5.
15. See Tully, 1982: pp. 72-7 and pp. 86-91.
16. "The difficulty which gives rise to the need to introduce private property is,.../for Grotius and Pufendorf/..., the absence of a right tied to labour" (Tully, 1982: p. 88). Locke avoids this problem by granting every individual a natural exclusive right to his person and the actions of his person.
17. "It is precisely because property is conventional for Grotius and Pufendorf that the status quo is validated. It is only with a natural standard of property to appeal to, that a radical can criticize and justify opposition to prevailing forms of property" (Tully, 1982: p. 89).
18. "The right to a thing...is a claim to that which belongs to a person in the sense of being his due, but which he does not yet possess. A right in a thing...is a claim to that which is already one's own and possessed. These two types of rights are equivalent to Locke's property in the sense of a right to use and in the sense of 'a property in' something.... The two rights are conceptually connected in the following manner. In fulfilling some criterion, a person who holds a right to something, a stipend for example, 'comes to have', to use Locke's locution, a right in that thing (stipend) and so possesses it" (Tully, 1982: p. 67).
19. "Inheritance is not justified in terms of a father's right to dispose of his property as he pleases, since it is not wholly his property. Inheritance makes the fact that the parents have ceased to use that which belongs to the family in common" (Tully, 1982: p. 134; cf. Strauss, 1953: p. 247, note 125).
20. An implication of this is that a landowner does not have a natural right to the products of the land. Rather, the labourer does, and he exchanges them for a wage: "Indeed, although landowners have natural property in their lives and liberties, as do all men, it is labourers who enjoy, in addition, natural property in the products of their labour" (Tully, 1982: p. 146).
21. "Mine and thine do not have a natural foundation; they are the artificial construction of the sovereign: 'Mine and Thine, and His; that is to say, in one word

Propriety; and (this) belongeth in all kinds of Commonwealth to the Sovereign Power' (Leviathan, II-24)"
(Tully, 1982: p. 127).

Chapter Two

1. See also R. H. Cox's Locke on War and Peace, chapter 1, pp. 1-44. Cox elaborates why Locke had to be a "cautious" writer, disguising the character of his work by hiding behind the veil of Scriptue and the popular natural law theorist, Richard Hooker. Cox follows the interpretation of Locke's natural law teaching, theory of property and political thought in general set out in Natural Right and History, but applies it to the study of international relations on the basis that, for Locke, nations are in a state of nature with respect to each other.
2. "In order to be a law in the proper sense of the term, the law of nature must be known to have been given by God. But the 'partial law of nature' circumscribes the conditions which a nation must fulfill in order to be civil or civilized" (Strauss, 1953: p. 219).
3. In The History of Political Philosophy, R. A. Goldwin neatly summarizes the basic similarities and differences between the natural law teachings of Hobbes and Locke. The similarities are as follows: they both regard the state of nature as a condition "not to be endured"; "the source, content and end of the law of nature... /is/...self-preservation"; and Locke concludes like Hobbes, that civil society is the only proper remedy for the inconveniences of the state of nature. The major difference is that for Hobbes, the state of nature is to be avoided because men injure each other. For Locke, the main threat to self-preservation is the "poverty and hardship of.../the/...natural condition". This difference in the character of man's natural condition is reflected in the remedies Locke and Hobbes propose. Hobbes proposes an absolute sovereign while Locke proposes constitutional government (1981: p. 460).
- Goldwin's account is very close to Strauss' presentation in Natural Right and History.
4. In this decisive respect Locke is like Hobbes: "Locke's natural law teaching can then be understood perfectly if one assumes that the laws of nature which he admits are, as Hobbes put it, 'but conclusions, or theorems concerning what conduces to the conservation and defence' of man over against other men" (Strauss, 1953: p. 229).

5. "Nor does natural law encourage begging; need as such is not a title to property. Persuasion gives as little a title to property as does force. The only honest way of appropriating things is by taking them...directly from nature" (Strauss, 1953: p. 236).
6. "According to the natural law--and this means according to the moral law--man in civil society may acquire as much property of every kind, and in particular as much money, as he pleases; and he may acquire it in every manner permitted by the positive law, which keeps peace among the competitors and in the interest of the competitors" (Strauss, 1953: p. 241).
7. Like Macpherson, Strauss recognizes a differential rationality between those who work hard to improve the gifts of nature (the industrious and rational) and those who do not (the covetous and contentious) (1953: p. 245; cf. Goldwin, 1981: p. 470).
8. "There are...two levels of consent in Locke's theory. One is the consent between free, equal, rational men in the state of nature, to put a value on money, which Locke treats as accompanied by conventional acceptance of the obligation of commercial contracts.... The other level of consent is the agreement of each to hand over all his powers to the majority; this is the consent that establishes civil society. The first kind...is valid without the second" (Macpherson, 1979a: p. 210).
9. See Ross Poole's article "Locke and the Bourgeois State". Poole agrees with Macpherson's analysis that Locke's theory of property serves to justify the capitalist class structure, but disagrees with Macpherson's methodology. Poole asserts that there is ample evidence in the Second Treatise to support Macpherson's analysis without having to take into account any assumptions Locke may have held about the social structure in seventeenth century England, and which Locke may have read into the Second Treatise. See also two articles by E. J. Hundert, "Market Society and Meaning in Locke's Political Philosophy" and "The Making of Homo Faber: John Locke Between Ideology and History". Hundert is largely sympathetic to Macpherson's interpretation of Locke's theory of property. However, he disagrees with Macpherson's basic assertions about the condition of labour in Locke's time as well as about the extent to which the market system had evolved.
10. As we saw in chapter one, above, it is this aspect of Macpherson's interpretation which Dunn most strenuously objects to.

11. Macpherson notes (1979a: pp. 236-7) that although Locke denounces covetousness in the traditional manner, he is not associating it with unlimited acquisition which is morally rational. Instead, covetousness is associated with those who seek to acquire through trespass. Therefore, "Locke's denunciation of covetousness is a consequence not a contradiction, of his assumption that unlimited accumulation is the essence of rationality" (1979a: p. 237).

Chapter Three

1. See Cox, Locke on War and Peace, chapters 2 and 3.
2. Goldwin makes the distinction between the two senses of knowing the law of nature in order to resolve an apparent contradiction between the Second Treatise (s. 11), where Locke states the law of nature is "writ in the Hearts of all Mankind", and the Essay where (in Book I) Locke explicitly denies the existence of innate practical (moral) principles.
3. "While reason is, for Locke, of paramount importance in gaining an understanding of the law of nature, it is important to keep in mind that the law of nature is not a dictate of reason. The law of nature is prior to human reason, and reason discovers that law rather than creating or determining it" (Hancey, 1976: p. 442; cf. pp. 443-4).
4. "It seems to have been self-evident to Locke that, if man was made by God on whom he depends, and if God is wise, good, and infinite and the bestower of rewards and punishments, we have the criteria satisfied for anything to be a law, a being with right and power" (Yolton, 1970: p. 169).
5. That the workmanship model, and thus Locke's whole natural law teaching, should depend on this proof of God's existence is unfortunate. J. L. Mackie, in Problems From Locke, observes that Locke's "arguments for God's existence are very weak". Locke's arguments are very weak precisely because he relies on the principle of sufficient reason applied ontologically and epistemologically: "...his arguments...invoke such principles as that nonentity cannot produce any real being, and that it is impossible that things wholly void of knowledge should produce a knowing being, which Locke treats, without warrant, as a priori truths, and which could not be adequately supported on empirical grounds" (Mackie, p. 208). Michael Zuckert goes further than

Mackie's claim that Locke's arguments are "very weak". In his article, "An Introduction to Locke's First Treatise", Zuckert states that Locke denied he possessed rational knowledge of the existence of a revealing God (p. 70). Although Locke identifies the cosmological argument as the strongest proof of God's existence, Zuckert observes that "a major strand of Locke's thought is the rejection" of the mode of argumentation employed in that proof (p. 70).

6. "An end given by natural law, such as preservation, is not man's subjective goal. It is God's goal for all men. Thus, when man plots a course for his own preservation he is under a natural obligation to work for the preservation of others whenever this does not entail his own destruction.... If, on the other hand, preservation were nothing more than the subjective goal consequent upon an individual's desire for self-preservation, no Lockean moral theory would be possible" (Tully, 1982: p. 47).
7. See chapter 2, part ii above; cf. Possessive Individualism, p. 203; Moulds, 1964: p. 187).
8. It is important to remember that both Strauss and Tully claim that the desire for self-preservation serves as an objective justification for natural law. For Tully, the desire for self-preservation is an objective desire, and thus an objective justification for natural law, only because God planted it in man. As the expression of God's will, the desire is how man learns of his duty to God to preserve mankind. But natural law, God's will, derives from the workmanship model, not from the desire. For Strauss, the desire for self-preservation is an objective desire because it is innate--implanted by nature--and, thus, universally and unceasingly effective. As such, the desire is both the source of and justification for natural law. Because man desires self-preservation, he has a right to it. The law of nature is the dictates of reason which fulfill the right and, thus, the desire for self-preservation. Natural law, then, serves the right and the desire and hence is justified by the desire.
9. Goldwin carefully sets out the difference between the state of nature and the state of war on p. 455. Cf. Dunn, 1982: p. 165).
10. Cox argues that Locke's reference to Garcilaso de la Vega (2.14; 1.57) is evidence of the natural unsociability of man; even of man who has been in civil society (1960: pp. 94-7; cf. Strauss, 1953: p. 225).

11. "Locke's underlying view is that the original condition of man is one of 'pure anarchy'...[and] that the state of nature...is, in reality, one of war, enmity, and misery, in which the law of nature, so far from being effective, is not even known" (Cox, 1960: p. 72).
12. "[Men], so far from being 'studiers' of the law of nature in the pristine condition, do not even possess the requisite development of the faculties by which such a law could be conceived. They are guided, like animals, by desires and the senses, to a rude, brutish, dangerous, and extremely uncertain existence" (Cox, 1960: p. 93).
13. Cf. Hancey, 1976: p. 449: "The obligations of natural law are morally binding, according to Locke, in the pre-political, as well as the political society. Again, this is a continuation of the classical tradition. The promulgation of the law of nature is effected out of the bounds of civil society, and therefore its validity is not dependent upon a man-made organization."
14. Cf. Lewis, 1975: p. 259: "This explication of the meaning of equality is organized in such a way--a logical movement from a state of nature to a state of war--that the need for the exercise of political power is inescapable."
15. "Mankind's political enterprise is an unending struggle to climb out of and avoid falling back into the state of nature, with all its fearful evils" (Goldwin, 1981: p. 482).
16. According to Hooker, "man's equality is explicitly based on the contention that all men are created by God and are therefore equally subject to two 'great commandments' or general laws: the first and greatest of these concerns man's duty to God; the second, his duty to other men. Thus, whereas Locke's point of reference is the equality of the individual's 'rights', as revealed by the operations of nature, Hooker's is on the 'right' way of fulfilling man's obligations, which are set for him by his Creator and which are in no way the product of his will or desires" (Cox, 1960: pp. 60-1).
17. "The equality of men is based on their shared position in the normative order of creation" (Dunn, 1982: pp. 106-7; cf. pp. 87-95).
18. "Nothing about the world of nature...is even relevant to the definition of the state of nature" (Dunn, 1982: p. 104).

19. "In any instance of the state of nature at any point in history, the individuals who confront each other in this jural condition of equality do so not merely with hypothetical duties...but with actual ones, and these latter those which they have specifically incurred in their individual lives. To understand the state of nature correctly it is necessary to think history away; but to apply it in discussing any concrete human issue, it is necessary to allow the return of history in the simple delineation of the issue to be discussed" (Dunn, 1982: p. 112).

Chapter Four

1. See K. I. Vaughn, 1982: p. 82 and p. 105. Her discussion on p. 82 implies the same point as that by Strauss and Macpherson. She states that the "entire world...is a vast pool of resources which God has given to all men in common to maintain themselves" with and that when a man creates valuable property "he alone has a right to own it". Therefore, she does not read Locke as asserting that the natural right to the means to preservation refers primarily to manmade goods. Olivecrona also takes man's natural inclusive right as referring to the raw materials of nature alone (1974a: pp. 225-8; 1974b: p. 233). This seems to be a common interpretation of Locke on this point.
2. And Goldwin, Cox, Lewis and Vaughn.
3. In "An Environmental Case Against Equality of Right", Lewis cautions against understanding making use of one's property as making proper use. A person may use his property in any way he sees fit provided it does not spoil since to define use as proper use would violate the equality premise (Lewis, p. 260; 2.4). Tully, however, suggests that in order to make proper use of one's property it must be used for God's purposes. This view is consistent with Lewis' caveat since Tully holds to a different justification for using exclusive rights than does Lewis, who agrees with Macpherson and Strauss that Locke justifies unlimited acquisition.
4. It should also be noted that for Strauss and Macpherson, the prior inclusive right to the means necessary to preservation is also describable as private property. The inclusive right is held as a consequence of each individual's right to self-preservation and not for performing a social function. Also, for Strauss and Macpherson, it originally only refers to the raw materials of nature. For these interpreters, men may, under the

proper conditions, alienate their inclusive right to use nature directly. They argue that men do so with the invention of money.

5. Cf. Rapaczynski "A textual analysis of the appropriate fragments of the Two Treatises does not provide any evidence that Locke allowed for the possibility of two distinct types of property: 'communal' and 'private'. In fact, so far as I have been able to establish, never in the Two Treatises does Locke use the word 'property' with respect to man's original title, derived from God's granting man the use of the earth and its products" (p. 309). This is consistent with what Tully is asserting since his point is that the object of a common right cannot be termed "property". But the conclusion Rapaczynski draws from this is different from Tully's. Rapaczynski notes that with respect to God's original grant, Locke always uses the term "dominion", while he always uses the term "property" with respect to individual ownership. Locke's purpose in doing so is to show that individual ownership is free of social obligations: "Its historical significance lies precisely in reversing the traditional order of dependence between a social system and the rights of ownership, and thus in founding the capitalist political doctrine which sets a clear limit to the extent of communal interference with private economic initiative" (Rapaczynski, 1982: p. 310). Rapaczynski, then, takes a position consistent with that of Strauss and Macpherson. Tully and Dunn, on the other hand, contend that individual ownership does entail social obligations.

Chapter Five

1. In making this point, Macpherson notes that Locke disregarded the stigma previously attached to the practice of usury (1979a: p. 206). Vaughn concurs: "Rather than being cause for moral condemnation as the Scholastics argued, it is a perfectly equitable practice growing out of the voluntary actions of human beings obeying natural law. It hurts no one, since interest is a payment for receiving the benefit of another's wealth" (1982: p. 52).
2. It should be noted that Vaughn's disagreement with some of Macpherson's conclusions about Locke's doctrine of property are intended to redress the bias of his Marxian interpretation: "Since many of his conclusions are colored by Marxian preconceptions about the morality of capitalism, however, they should be held up to critical analysis" (Vaughn, 1982: pp. 100-1).

3. Waldron states that Macpherson has "mistaken Locke's argument in the passage". Waldron then gives the same explanation for section thirty-seven that Tully and Vaughn give (1979: p. 323).
4. Lewis makes the same point when he refers to section thirty-seven against the background of Locke's whole teaching: "The appropriation of nature made possible by exchange is no longer a subtraction from the common stock, which in most instances would infringe upon the rights of others. Rather, this type of appropriation of nature by man is equivalent to increasing nature. It is equivalent because it adds to and distributes the stock of truly useful things" (1975: p. 264).
5. Here Tully seems to employ Nozick's notion that once the enough and as good proviso is violated all appropriation is invalidated by a process which zips back from the last (invalidating) appropriation to the first (cf. Nozick, 1974: p. 176).
6. Waldron contends that Locke did not intend the enough and as good proviso to be a restriction or necessary condition on appropriation (1979: p. 320) and therefore that it does not have to be removed (1979: p. 324). This has implications for both Macpherson's and Tully's interpretations of Locke. With respect to Macpherson, the implication is that since there is no limit which must be removed in order to move to unlimited appropriation, the sufficiency proviso cannot be employed to make such an argument. The implication for Tully is that if there is no sufficiency limit governing appropriation, then when men acquire beyond that (pseudo-) limit after the invention of money, it is impossible to assert that all further appropriation is invalidated and all exclusive rights cancelled. Thus, Tully's view that civil society must distribute property would have no support. Waldron's argument, however, proceeds too quickly. According to the common interpretation of appropriation in the state of nature, the enough and as good proviso logically follows from the fact that all men have a natural inclusive claim right to use nature. The primary means of exercising this right is by labouring directly on nature; in this way men acquire a natural exclusive right in the product of their labour. Without the sufficiency limit as a necessary condition on appropriation, Locke would have denied some men a natural means of actualizing their inclusive claim right. The effect of this is to deny that all men are naturally equal and free to preserve themselves since some men would have to find other means than labour for appropriating the means of preservation. Therefore, the enough

and as good proviso is a limitation on appropriation, which must either be transcended (as Macpherson and Strauss contend) or reconstituted in civil society (as Tully claims).

7. In "Charity Versus Justice in Locke's Theory of Property", John C. Winfrey asserts that unequal possessions, and presumably the right to unlimited appropriation, are just because the historical process by which they came about is just. The historical process is just because it results from voluntary consent and meets the criterion that no one is made worse off: "The justice of the accumulation process derives from two major premisses: first, Locke used the theory of value to justify initial accumulation; and secondly, he assumes that subsequent transactions are voluntary. One condition that holds for both processes is that no one is to be made worse off. As long as these conditions are met, greater accumulations...are justified.... Therefore, it is hard to argue the injustice of a series of trades all made under voluntary consent. Presumably, a man would enter into trade only if he believed it made him better off (or certainly) no worse off" (pp. 432-3; cf. p. 437; Grady II, 1977: p. 99).
8. Cf. Johnston, 1950: pp. 146-52. He argues that Locke provides a justification for unlimited appropriation. This position is a consequence of his fundamental nominalism, which entails that Locke rejects the Thomistic notion of property, which, as Tully maintains, aims at the common good: "As it was in the political order, so is it in the economic order, and for the same reason. Where there are only material individuals there is no common good and no true society, but only a collection of separate atoms competing selfishly for wealth" (Johnston, 1950: p. 151). This clearly echoes the interpretations of Locke by Strauss and Macpherson.
9. Why would exclusive rights be destroyed? Recall how Tully describes the creation of exclusive rights. Men acquire them by labouring directly on nature. Violation of the sufficiency limit would destroy the positive community--there is no longer enough land for everyone--and thus the individual's ability to create exclusive rights by labouring on the natural common.
10. What follows is based on Tully's discussion of Grotius and Pufendorf, as well as that of Olivecrona (1974a and 1974b).
11. K. I. Vaughn, 1982: p. 81: "Grotius and Pufendorf had both argued that private property was established in the

state of nature by the consent of all mankind.... But since property existed only by the consent of society, such a theory implied that this consent could be withdrawn or modified by the society which had originally sanctioned it and an individual's property confiscated, a conclusion Locke sought to avoid. Instead he argued that private property was established in the state of nature not by the consent of mankind, but by natural law."

12. According to Olivecrona, in the Turfs passage, "Locke adopts the opinion of the country gentlemen of his time" (1974a: p. 225). Macpherson does not agree.
13. Cf. Rapaczynski, 1981: p. 308.
14. Rapaczynski disagrees with Macpherson's and Strauss' assumption that a person's labour is alienable (1981: p. 308).
15. Karen Iversen Vaughn, in John Locke: Economist and Social Scientist, agrees with Macpherson's analysis of this point, but disagrees with his claim that placing a commerical economy and wage-labour in the state of nature is so implausible: "Yet the idea itself is not so ridiculous, especially when it is remembered that the state of nature was as much an analytic as a historic concept. It should be noted that from the context of the passage it is that the servants were cutting turfs on the common--therefore in civil society and not the state of nature. Still, Locke was using the common as a way of illustrating a principle that began in the state of nature and continued into civil society. Hence, it is reasonable to conclude that Locke did believe servants--and therefore wage-labour--existed in the state of nature" (pp. 156-7; cf. Hundert, 1977: p. 37).
16. Tully suggests (1982: p. 138) that the plight of the servant in this case would be like that of a slave. However, that analogy is inappropriate given Macpherson's explanation that this situation arose out of consent. Locke employs an analogy more suited to Macpherson's interpretation in the chapter "Of Slavery", that of men selling themselves into drudgery: "I confess, we find among the Jews, as well as other Nations, that Men did sell themselves; but, 'tis plain, this was only to Drudgery, not to Slavery. For, it is evident, the Person sold was not under an Absolute, Arbitrary, Despotical Power. For the Master could not have power to kill him, at any time, whom, at a certain time, he was obliged to let go free out of his Service; and the

Master of such a Servant was so far from having an Arbitrary Power over his Life, that he could not at pleasure, so much as maim him, but the loss of an Eye, or Tooth, set him free" (2.24).

17. If all men have an equal right to govern themselves, it follows that man's first right to property must be a right to be included in, or not excluded from, the use of the common.
18. For the accounts of the creation of political society used here see the following: Goldwin, 1981: pp. 470-82; Tully, 1982: pp. 158-74; Dunn, 1982: pp. 120-48.
19. A consequence of the assertion that government must distribute property is that it may unilaterally redistribute property--it may interfere with exclusive rights without the consent of proprietors--in order to achieve a given pattern of distribution (cf. Tully, 1982: pp. 93-4, 163-74).
20. This is how Gauthier interprets 2.120: "Explicit consent to a commonwealth...involves assigning jurisdiction over one's possessions to its government. Jurisdiction is not possession; it is the right to regulate the conditions of possession by law. Each man of course retains ownership of his property, for it is to serve this ownership that he enters society" (1966: p. 40; cf. p. 41).
21. See Vaughn, 1982: pp. 105-7. She agrees that Locke justifies unlimited capitalist appropriation, but rejects Macpherson's strictures about the "dehumanizing" effect it has on the labourer.

BIBLIOGRAPHY

- Cox, Richard H. "Hugo Grotius", in History of Political Philosophy, second edition. Edited by Leo Strauss and Joseph Cropsey. Chicago and London: University of Chicago Press, 1981.
- Cox, Richard H. Locke on War and Peace. Oxford: Oxford University Press, 1960.
- Cox, Richard H. "Justice as the Basis of Political Order in Locke", Nomos VI: Justice. Edited by C. J. Frederick and J. W. Chapman. New York: Atherton Press, 1963.
- Dunn, John. The Political Thought of John Locke. Cambridge: Cambridge University Press, 1982.
- Goldwin, Robert. "John Locke", in History of Political Philosophy, second edition. Edited by Leo Strauss and Joseph Cropsey. Chicago and London: University of Chicago Press, 1981.
- Gough, J. W. John Locke's Political Philosophy: Eight Studies. Oxford: Oxford University Press, 1964.
- Gauthier, David P. "The Role of Inheritance in Locke's Political Theory", Canadian Journal of Economics and Political Science, Vol. 32, No. 1 (February, 1966).
- Grady II, Robert C. "Property and 'Natural Political Virtue': The Implications of Locke as a 'Liberal'", Polity, Vol. X, No. 1 (Fall, 1977).
- Gupta, Penu. "An Examination of Locke's Claim that the 'Equality of Natural Freedom' Premise Necessarily Entails a Commitment to an Individual Right of Unlimited Acquisition", McMaster Journal of Political Science. McMaster Political Science Association (Spring, 1980).
- Hancey, James O. "John Locke and the Law of Nature", Political Theory, Vol. 4, No. 4 (November, 1976).
- Hundert, E. J. "Market Society and Meaning in Locke's Political Philosophy", Journal of the History of Philosophy, Vol. 15, No. 1 (January, 1977).
- Hundert, E. J. "The Making of Homo Faber: John Locke Between

- Ideology and History", Journal of the History of Ideas, Vol. 33, No. 1 (January-March, 1972).
- Johnston, Herbert. "Some Remarks About Locke's Teaching on Property", The New Scholasticism, Vol. 24, No. 2 (1950).
- Lemos, Ramon M. "Locke's Theory of Property", Interpretation, Vol. 5, No. 2 (Winter, 1975).
- Lewis, Thomas J. "An Environmental Case Against Equality of Right", Canadian Journal of Political Science, Vol. 8, No. 2 (June, 1975).
- Lewis, Thomas J. "Unlimited Acquisition and Equality of Right: A Rejoinder to Professor Seaman", Canadian Journal of Political Science, Vol. XI, No. 3 (September, 1978).
- Locke, John. Two Treatises of Government. A Critical Edition with an Introduction and Apparatus Criticus by Peter Laslett. New York: New American Library, 1965.
- Locke, John. An Essay Concerning Human Understanding, in Two Volumes. Collated and annotated by Alexander Campbell Fraser. New York: Dover Publications, 1959.
- Locke, John. "Some Considerations of the Consequences of the Lowering of Interest, and Raising the Value of Money", in The Works of John Locke, in Ten Volumes (Vol. 5), 1823 edition. Reprinted by Scientia Verlag Aalen, Germany (1963).
- Locke, John. "Further Considerations Concerning Raising the Value of Money", in The Works of John Locke, in Ten Volumes (Vol. 5), 1823 edition. Reprinted by Scientia Verlag Aalen, Germany (1963).
- Mackie, J. L. Problems from Locke. Oxford: Oxford University Press, 1976.
- Macpherson, C. B. The Political Theory of Possessive Individualism: Hobbes to Locke. Oxford: Oxford University Press, 1979a.
- Macpherson, C. B. Democratic Theory: Essays in Retrieval. Oxford: Oxford University Press, 1979b.
- Marshall, Paul. "John Locke: Between God and Mammon", Canadian Journal of Political Science, Vol. 12, No. 1 (March, 1979).
- Milam, Max. "The Epistemological Basis of Locke's Idea of

- Property", Western Political Quarterly, Vol. 20, No. 1 (1967).
- Moulds, Henry. "Private Property in John Locke's State of Nature", American Journal of Economics and Sociology, Vol. 23, No. 2 (April, 1964).
- Nozick, Robert. Anarchy, State and Utopia. New York: Basic Books, Inc., Publishers, 1974.
- Olivecrona, Karl. "Appropriation in the State of Nature: Locke on the Origins of Property", Journal of the History of Ideas, Vol. 35, No. 2 (April-June, 1974a).
- Olivecrona, Karl. "Locke's Theory of Appropriation", Philosophical Quarterly, Vol. 24 (1974b).
- Parsons, Jr., J. E. "Locke's Doctrine of Property", Social Research, Vol. 36, No. 3 (1969).
- Paul, Jeffery and Ellen Frankel. "Locke's Usufructuary Theory of Self-Ownership", Pacific Philosophical Quarterly, Vol. 61, No. 4 (October, 1980).
- Polanyi, Karl. The Great Transformation. Beacon Hill, Boston: Beacon Press, 1957.
- Poole, Ross. "Locke and the Bourgeois State", Political Studies, Vol. 28, No. 2 (1980).
- Rapaczynski, Andrzej. "Locke's Conception of Property and the Principle of Sufficient Reason", Journal of the History of Ideas, Vol. 42, No. 2 (April-June, 1981).
- Seaman, John W. "Unlimited Acquisition and Equality of Right: A Reply to Professor Lewis", Canadian Journal of Political Science, Vol. 11, No. 2 (June, 1978).
- Strauss, Leo. Natural Right and History. Chicago: University of Chicago Press, 1953.
- Tully, James. A Discourse on Property: John Locke and His Adversaries. Cambridge: University of Cambridge Press, 1982.
- Vaughn, Karen Iversen. John Locke: Economist and Social Scientist. Chicago: University of Chicago Press, 1982.
- Waldron, Jeremy. "Locke, Tully, and the Regulation of Property", Political Studies, Vol. 32 (1984).

Waldron, Jeremy. "Enough and as Good Left for Others",
Philosophical Quarterly, Vol. 29, No. 117 (October,
1979).

Weymark, John A. "Money and Locke's Theory of Property",
History of Political Economy, Vol. 12, No. 2 (1980).

Winfrey, John C. "Charity Versus Justice in Locke's Theory
of Property", Journal of the History of Ideas, Vol. 42,
No. 3 (July-September, 1981).

Yolton, John W. Locke and the Compass of Human Understanding.
Cambridge: Cambridge University Press, 1970.

Yolton, John W. John Locke and the Way of Ideas. Oxford:
Oxford University Press, 1956.

Zuckert, Michael P. "An Introduction to Locke's First
Treatise", Interpretation, Vol. 8, No. 1 (January,
1979).