

**Classical Liberal vs Other**

**Interpretations of John Locke:**

**A Tercentenary Assessment**

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Refereed paper presented to the  
Australasian Political Studies Association Conference  
University of Adelaide, Adelaide  
29 September – 1 October 2004

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<sup>1</sup> The author wishes to thank the two anonymous referees for their comments on an earlier version of this paper.

## I) INTRODUCTION

Even at this tercentenary, controversy reigns regarding the correct interpretation of Locke's writings and his current relevance (Locke died in 1704). The starting point for this paper is the interpretation of those who claim to be the heirs to his intellectual legacy. The 'modern Lockeans' use various labels, such as classical liberal, new contractarian, and even libertarian.<sup>2</sup> Generally, I will call them 'classical liberals'; their key themes, especially in their work on Locke, are individualism, (natural) rights (especially property rights) and minimal government. This paper focuses on these themes; in presenting them I will use Charles Rowley's work as the exemplar of the classical liberals. I wish to compare and contrast the classical liberal interpretation of Locke with several other leading interpretations. This may shed light on the reasons for continuing disagreement about Locke's relevance. The classical liberals say that Locke remains highly relevant for today; others disagree.

At the outset, I should justify my choice of Rowley for close examination. Rowley is a Professor of Economics at George Mason University and an editor of the journal *Public Choice*. Most importantly, from our perspective, he is also the Director General of the Locke Institute. This Institute is a public policy think tank based in Virginia, USA; it promotes 'classical liberalism' in general and Locke's ideas in particular. The Institute purportedly ascribes to Locke's 'theory that society is based on the law of nature and that the individual is the ultimate source of political sovereignty' (Locke Institute 2004). It 'endorses Locke's proposition that individuals are possessed of inalienable rights to life, liberty, and property. It is the principal function of the state to uphold these rights since free individuals otherwise would not enter into political society' (Locke Institute 2004).

The paper has five further sections. Section II sketches the classical liberal interpretation of Locke. Sections III and IV address the views of competing schools of thought on Locke's understanding of individualism, rights and minimal government. Section V discusses the views of all of the various schools of interpretation on Locke's contemporary relevance. Section VI summarizes the paper.

## II THE CLASSICAL LIBERAL INTERPRETATION

This section sketches the classical liberal interpretation of Locke. I will follow the outline provided by Rowley (1993a and 1993b) which, to some degree, follows Nozick (1974). The focus is on the three themes mentioned above.

For Locke there is a state of nature which precedes civil society; a social contract

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<sup>2</sup> Rowley describes himself as a classical liberal; he calls Nozick a classical liberal and a new contractarian (Rowley 1993b, 4-5, 48, 63). Nozick describes himself as a 'libertarian' (1974, ix).

brings the latter to an end, or at least suspends it. According to Rowley, both the state of nature and the social contract are allegories (1993a, 11-2). He says that the essence of these allegories is disclosed in the *Second Treatise*. Rowley's first significant quotation is that:

To understand political power right, and derive it from its original, we must consider what state all men are naturally in, and that is a *state of perfect freedom* to order their actions, and dispose of their possessions, and persons as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man. (Locke 1988, 269 quoted in Rowley 1993a, 12 original emphasis)

Rowley comments that the state of nature is 'a state of liberty in the negative ... sense of that term' (Rowley 1993a, 12 citing Berlin 1969). He adds that the state of nature is not licentious; it requires that no one 'harm another in his life, health, liberty or possessions' (Rowley 1993a, 12; see Locke 1988, 271).<sup>3</sup> Elsewhere, Rowley qualifies and elaborates upon this: 'the Lockean state of nature' is 'pure anarchy. In such a condition, *man is an individualist*' (1993b, 51 emphasis added; cf. 1993a, 13; see Locke 1988, 415).

Rowley then discusses further aspects of the state of nature. It is a state of peace but war simmers beneath the surface (Rowley 1993a, 12-3). Despite such inconveniences, however, Rowley sees many advantages in the state of nature: this state 'recognizes the right to property, and natural law allows any individual to use necessary force to enforce such rights' (Rowley 1993a, 13).

Next, Rowley treats property rights thematically. 'In Locke's view, every individual has a property in his own person and a right to the product of his own labour' (Rowley 1993a, 13; see Locke 1988, 287-8). Further, 'individuals create property rights out of the common pool of available resources by *mixing their labour* with such resources and thus ... annexing them,' albeit with one limitation (Rowley 1993a, 13 emphasis added). This restriction on accumulation, following Nozick (1974, 175-82), Rowley calls 'the Lockean proviso.'

Rowley then quotes from Section 27 of the *Second Treatise*, which describes the mixing process and the 'proviso.' Here Locke says that, by mixing one's labour with natural materials, one expands one's self-ownership to the ownership of other things, providing 'there is enough and as good left in common for others.' Rowley admits that this proviso is an unfortunate 'loophole that has been exploited by socialist scholars to interpret Locke as a defender of communitarian rather than individualistic rights' (1993a, 14). Nevertheless, even if Locke slipped here, Rowley adds that it is absurd 'to interpret

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<sup>3</sup> Locke often uses the expression 'life, liberty and estate' (see Locke 1988, 323, 350, 353, 357, 359, 382-3, 404-5, 412).

Locke's *Two Treatises* as a socialist text' (1993a, 14). For Rowley: 'The right to [private] property clearly exists in the state of nature, indeed it is derived from natural law, even though the individual himself, ... must defend that right' (1993a, 14). He then quotes extensively from Locke again:

Man being born ... with a title to perfect freedom, and an uncontrolled enjoyment of all the rights and privileges of the law of nature ... hath by nature a power, not only to preserve his property, that is, his life, liberty and estate, against the injuries and attempts of other men; but to judge of and punish the breaches of that law in others. (Locke 1988, 323-4 quoted in Rowley 1993a, 14)

This completes Rowley's discussion of individualism and rights in the state of nature, at least in this essay. While we will continue his discussion shortly, let me comment on the essay thus far. There was *no discussion of duties* except the 'Lockean proviso' (which was clearly an embarrassment). More will be said about this subsequently. In any event, in the classical liberal view, Locke was a rugged individualist who endorsed various natural rights but no duties (except the *negative* duty of non-interference in the actions of others).

Next, Rowley discusses the social contract. Humans leave the state of nature and enter political society by agreement and the agreed terms must make them better off. In doing so, the contractors agree to sacrifice their right to judge and to punish the breaches of nature, which is 'no mean sacrifice' (Rowley 1993a, 14). 'It will not be countenanced' by property owners 'unless the political society assumes full responsibility for protecting property rights and punishing' transgressors upon such rights (Rowley 1993a, 14; see Locke 1988, 323-4). On the other hand, Rowley stresses the potential to choose *not* to enter civil society at all: 'For no individual can be removed from the state of nature and subjected to the political power of civil society without his own consent' (1993a, 15; see Locke 1988, 330).

Civil society requires consent but unanimity is practically impossible; thus, apparently approvingly, Rowley claims that Locke's acceptance 'of decision rules of less than unanimity' anticipates the new contractarian views of Buchanan and Tullock (1962).<sup>4</sup> On the other hand, the power divested to the society (which can act without unanimity) must be heavily constrained: 'the extent of legislative power thus acceded to must be *severely* limited to protect the property rights of those who enter into civil society' (Rowley 1993a, 15 emphasis added). In support for this view, he again quotes Locke: 'The supreme power cannot take from any man any part of his property without his own consent .... [T]he preservation of property ... [is] the end of government, and that for which men enter into society' (Locke 1988, 360 quoted in Rowley 1993a, 15).

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<sup>4</sup> Rowley sees himself as a 'Lockean' new contractarian but Buchanan as a 'Hobbesian' new contractarian.

Rowley says that Locke envisages a '*minimal state*' (1993a, 16 emphasis added; cf. Rowley 1993b, 46-7). The state must support the individual's pre-political rights; this is essentially a negative duty: 'In the Lockean tradition of negative natural rights, the *natural right to private property arguably is the most important element*' (Rowley 1993b, 72 emphasis added). Rowley is tellingly silent, however, about Locke's views on the constitutional machinery (including the institutions and ethos of government) supporting this vision.<sup>5</sup>

This gap in Rowley's account must be filled for two reasons. First, some institutional features are highlighted by commentators who favour other approaches to Locke. Second, classical liberals themselves implicitly accept that Locke's institutional machinery is inadequate to the task which they say Locke gave to it.

Although government is absolute, it must not be *arbitrary*; it must proceed by general 'standing laws, promulgated and known to the people ... not by ... decrees'; and those who decide the laws must be subject to them (Locke 1988, 353; see 357-61, 364; Hampsher-Monk 1992, 103). The application of the rule of law, even to legislators, requires an impartial judiciary (Locke 1988, 326-30, 351, 358; Gwyn 1965, 71-5). It is illegitimate for 'government to appropriate, through taxation, the possessions of its subjects without their consent' (Hampsher-Monk 1992, 104; Locke 1988, 360-1). With regard to taxation, Locke requires consent but Hampsher-Monk says that he makes a logical slip by requiring for consent only a majority of the people's representatives (1992, 104; Locke 1988, 362). Unanimity, in fact, would seem to be more consistent with a (utopian) classical liberal view than Rowley's own view.

In addition to these *necessary* conditions and institutions, there are other requirements for 'well ordered commonwealths'; something like this ideal (which is consistent with a wealthy commercial society) emerged in Britain after the Revolution of 1688 (see Locke 1988, 364; Hampsher-Monk 1992, 105).<sup>6</sup> Locke recognized three powers of government: the legislative, the executive and the federative (Locke 1988, 364-6; cf. Hampsher-Monk 1992, 104).<sup>7</sup> For Locke, the key to the well-ordering of the regime is to be found in: 'The organisational form of, and relationships between, these different functions of government' (Hampsher-Monk 1992, 106). 'The legislative power is morally superior' and Locke assumes that it will be some kind of representative body

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<sup>5</sup> Instead, Rowley focuses on the work of three 'new contractarians': Rawls, Nozick and Buchanan (Rowley 1993b, 48; see 45-57).

<sup>6</sup> Laslett claims that much of the *Two Treatises* was written before the revolution (Laslett 1988, 45-66).

<sup>7</sup> In Locke's organization, the 'executive' includes the judicial power; today, however, these are treated as two *separate* 'powers.' For Locke, the 'federative' power means 'what we today describe as foreign policy or national security' (Lord 2003, 71). Today, we include this *within* the executive power.

James Alvey: Classical Liberal vs Other Interpretations of Locke (Hampsher-Monk 1992, 106). It should strive to serve the public good and two measures help to ensure this: the body exercising the legislative power should operate only periodically and those entrusted with such power should be subject to the law (Locke 1988, 364).

The various functions of government should assist in protecting private property: the 'industrious and rational' individuals provide for public plenty and their efforts must be protected from the 'covetousness of the quarrelsome and contentious' (Locke 1988, 291; Fukuyama 1992, 158). In addition to the supportive role of the legislature and the judiciary, the monarch/executive must not 'pursue his own interests or ... deny individuals their natural rights of property, and due process of law' (Hampsher-Monk 1992, 107).

Finally, we turn to trust and the right to revolution. The legislature and the executive exercise their power based on trust from the community. Ultimately, where the people perceive that the government has become 'arbitrary,' or tyrannical, the breach of trust justifies resistance and even revolution (Locke 1988, 361, 412-5). Dutiful fulfilment of the trust relationship may be enhanced by recognition of the right to resistance and revolution. Strangely, although this seems to be the ultimate proof of Locke's individualism, Rowley says little on the right to revolution; he is more concerned with the right of secession (1993a, 16; 1993b, 88; see Grant 1987, 172-3; Coby 1988, 489-90). Let me now summarize this section.

In the classical liberal interpretation, Locke is an individualist; he adopts natural law but it mainly functions as the foundation of natural rights; he adopts a natural rights perspective but focuses on the natural right to property; and he endorses minimal government. This interpretation is grounded in Locke's texts, especially in the *Second Treatise*. While the classical liberals' textual exegesis may be selective, the three themes that we have discussed can be extracted from Locke. Those from some other perspectives, however, may consider this selectivity to be a distortion. Our next step, however, is to reconsider this interpretation in the light of the leading alternatives. All of the interpretations of Locke must confront the issues raised in the classical liberal presentation. My sketches of the various alternative interpretations will be spread over two sections: Section III discusses individualism and rights; and Section IV focuses on minimal government.

### III INDIVIDUALISM AND RIGHTS RECONSIDERED

This section presents the views of some alternative interpretations of Locke, highlighting their views on individualism and rights; it will also compare and contrast these views

with the classical liberal interpretation. Three broad approaches to Locke will be canvassed: the Marxist interpretation exemplified by C.B. Macpherson; the Straussian view; and the contextualist approach. I develop most extensively the third approach.<sup>8</sup> Let us begin with the Marxists.

Marxists, such as C.B. Macpherson, see Locke as a 'possessive individualist' (1962, 269). Locke begins the *Second Treatise* with a natural law doctrine, 'which is reason'; at this point accumulation of possessions is kept within strict 'bounds' (Macpherson 1962, 199, 238; see 239; Locke 1988, 269). Macpherson emphasizes, however, that in his chapter on property Locke 'removes' these boundaries (1962, 199; see 203-20). 'The introduction of money ... removed the technical obstacle which ... had prevented unlimited appropriation from being rational in the moral sense, i.e. being in accordance with the law of nature or law of reason'; it also removed 'the technical obstacle which had prevented unlimited appropriation from being rational in the expedient sense,' because it was now 'profitable' to expand possessions beyond that amount which could be used by the labourer and 'his family' (Macpherson 1962, 235 citing Locke 1988, 301).<sup>9</sup> Locke drops the traditional 'natural law doctrine' (Macpherson 1962, 245). Thus Locke transforms the natural right to subsistence into 'a natural right of *unlimited* appropriation' (Macpherson 1962, 231; see 221). By subtly changing throughout his work the nature of rights and rationality, he 'provides a moral foundation for bourgeois appropriation' (Macpherson 1962, 221). Locke provides a 'bourgeois theory' of 'market society' (Macpherson 1962, 245). Individuality is proprietorship in Locke: he 'asserts an individuality that can only fully be realized in accumulating property and therefore only realized by some, and only at the expense of others' (Macpherson 1962, 255-6).

In a similar, but less class-oriented manner, Strauss (and his followers) sees Locke as an individualist and a defender of natural rights but not duties. For Strauss, Locke essentially follows Hobbes (see Strauss 1953, 218, 221-2, 231; see Coby 1987). In Strauss's view of Locke: 'The desire for happiness and the pursuit of happiness have the character of an absolute right, of a natural right. There is then a natural right, while there is no natural duty' (Strauss 1953, 226-7). 'Since happiness presupposes life, the desire for life takes precedence' and thus 'The most fundamental of all rights is ... the right of self-preservation' (Strauss 1953, 227; see 239 n. 113).

Locke is also an innovator and his 'doctrine of property' deviates from Hobbes's teachings (Strauss 1953, 234). In agreement with Macpherson, Strauss says that Locke

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<sup>8</sup> Leading contextualists include Quentin Skinner, J.G.A. Pocock and John Dunn.

<sup>9</sup> One referee suggested that the basic units for Locke were families *not* individuals. I found little discussion on this theme in contextualist sources; a Straussian, however, discusses it at length (Pangle 1988, 172-83, 230-43).

transforms 'the right of self-preservation' into the right to 'comfortable self-preservation'; his theory of property has a 'revolutionary character' which attempts to justify 'unlimited acquisition'; 'in his thematic discussion of property he is silent about any duties of charity' (Strauss 1953, 236, 246, 248; see 234 n., 243). In short, for Strauss, despite appearances to the contrary, Locke rejects most of the Christian and natural law teachings: 'Locke is a hedonist' (Strauss 1953, 249).

Thus, excluding class-orientated disputes, critics on the left and the right apparently endorse much of the classical liberal interpretation of Locke. Shortly, we will see that the consensus is illusory. Let us now consider the analysis of Locke presented by various contextual writers, focussing on John Dunn's work.

For Dunn, Locke was a Christian who adopted a '*theocentric framework*' and this approach shaped his view of individualism, rights and duties (Dunn 1983, 127 emphasis added; see 119, 128, 134-5). Locke adopted a type of 'religious individualism' (Dunn 1969, 51). Individuals were born free with minds like 'blank paper on which experience writes'; in addition to sense experience, these minds are 'defaced' by adult opinion (Dunn 1984, 73-4 citing Locke 1975, 81-4, 394-401; see Dunn 1983, 123). Nevertheless, individuals had a duty to overcome this 'damage' and be responsible for their own beliefs and actions: 'Each is fully responsible for his own beliefs and will have to answer for them to God at the Last Judgment' (Dunn 1984, 27, 73; see 60, 63, 69; Locke 1975, 99-100, 264-5). Each individual ultimately has a duty to seek his/her own salvation and this view led Locke to argue for religious toleration (excluding Catholics and atheists) as an individual right (see Dunn 1984, 16-7, 20, 23-7, 57-60 citing Locke 1968, 122, 124, 128, 134).

Seeking one's salvation meant seeking knowledge of God and his laws. Knowledge of the existence of God, who provides eternal rewards and punishments for behaviour on earth, is the 'true ground of morality' (Dunn 1984, 65; see 68, 84; Locke 1975, 69, 270-1, 340-6, 542, 570, 651, 717-8). This is important knowledge which Locke felt was demonstrable but it also *motivated* people to attain other knowledge required for salvation (Dunn 1984, 68 citing Locke 1976-82, Vol. VI, 243-5, 386-91, 596, 630, 788-91). Salvation required knowledge of God's laws: 'Natural law is decreed by God's will and it can and should be grasped by the light of nature, through the exercise of human reason' (Dunn 1984, 61; see 46). Natural law specifies human rights and duties under it (Dunn 1984, 61 citing Locke 1954, 110). While Locke is more sceptical elsewhere, in the *Two Treatises* he says that natural law is perfectly clear and easily grasped (Dunn 1984, 30; see 85-6; Locke 1988, 273-5, 351). Hence, a theological perspective underpins Locke's view of how humans ought to live. For Dunn, this is the background necessary to grasping Locke's view of the state of nature.

Locke's state of nature is 'the condition in which God himself places all men in the world'; it is designed to show them their God-given rights and duties (Dunn 1984, 47). 'The most fundamental right and duty is to judge how God ... requires them to live in the world' (Dunn 1984, 47). In the state of nature God requires that all live according to natural law and, by reasoning, everyone can 'grasp the content of this law' (Dunn 1984, 47). The obligation to God does not end with the advent of civil society: 'The *duty of mankind ... to obey* their divine creator was the *central axiom of John Locke's thought*' (Dunn 1983, 119 emphasis added).

Let us now turn to property. Locke says that 'the earth, like its inhabitants ... belongs to its Creator' (Dunn 1984, 37; see Locke 1988, 271). As Dunn says: nobody may commit suicide 'because all men belong to God (a clear limit to the sense in which men have a property in their own bodies)' (1984, 48; see also 44-5; Locke 1988, 271). The duty to preserve oneself implies the right to what is needed to do so (Ryan 1988, 38; see Locke 1988, 285-6).

The earth was given to humans in common so that they might preserve themselves (Dunn 1984, 37 citing Locke 1988, 285-6). Title to private property, however, follows from mixing private labour with the common materials; God gave the world to humans 'to use well by their exertions--"to the use of the industrious and rational"' (Dunn 1984, 38 citing Locke 1988, 288-92). Even these types of labourers, however, have *no absolute right to property*. They:

are *obliged* to make good use of it. It is not simply theirs, to do with precisely as they fancy. They are its *stewards* and must display their stewardship in their industry as well as in their rationality. They may appropriate and consume nature.... But they have no right ... to waste any of it. (Dunn 1984, 38 emphasis added; citing Locke 1988, 290)

Labour is a creative activity providing the foundation of plenty. 'Labour is a natural power of man and its exercise is commanded by God' and its 'effects are almost wholly beneficial' (Dunn 1984, 38-9). Initial inequalities arose from 'the "different degrees of industry" which men display' but these were compounded subsequently by contract, inheritance and the invention of money (Dunn 1984, 39 citing Locke 1988, 301). These causes of accelerating inequality purportedly troubled Locke.<sup>10</sup>

Whereas 'labour had done mankind nothing but good,' in Dunn's view at least, Locke says that '[t]he role of money was altogether more ambiguous' (1984, 40). Quarrels arose and 'right and conveniency no longer went together' (Dunn 1984, 40; see

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<sup>10</sup> Concerning contract, Dunn says that Locke had no 'enthusiasm for the central role of wage labour in capitalist production' (1984, 43).

Locke 1988, 302). 'Locke felt deeply ambivalent' about private property and he did not deny 'the moral fragility of commercial capitalism'; his theory was *not* designed to defend 'the social and economic order of the England of his day' (Dunn 1984, 40). While Locke supported private property based on personal labour, 'doubts' about entitlement to property arose when the scale of inequality expanded following the advent of money (Dunn 1984, 41).<sup>11</sup> Dunn therefore explicitly rejects Macpherson's view of Locke (and implicitly the Straussian and classical liberal interpretations).

'Locke ... believed that all men had a right to physical subsistence which *overrode the property rights of other humans*'; according to Locke, 'charity gives every man a title to so much out of another's plenty, as will keep him from extreme want' (Dunn 1984, 43 emphasis added and quoting Locke 1988, 170). Further, Locke believed that the industrious 'had a right in their old age not merely to subsistence but to a decent standard of living' (Dunn 1984, 43). Dunn's is clearly the sort of interpretation of Locke to which Rowley objected.<sup>12</sup>

Next, let us consider Ryan's interpretation. For Ryan, Locke's view of individualism was diametrically opposed to the 'doctrine that personality as such demanded expression in the world'; thus 'The "self" that was allowed expression was ... [heavily] circumscribed by the duties laid upon it by God' (Ryan 1988, 39). As Locke says: 'Everyone as he is bound to preserve himself ... so by the like reason when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind' (Locke 1988, 271 quoted in Ryan 1988, 38). Only after fulfilling your duties to preserve yourself, and others, can you express yourself. Consistent with Dunn, for Ryan, Locke's notion of individualism and rights were understood within a Christian (rather than classical liberal) version of natural law. The 'law of nature is god-given and imposes duties *before* it confers rights' (Ryan 1988, 38 emphasis added).

Flowing from the duty to preserve your body is a 'right to what is necessary to preserve it' (Ryan 1988, 38). It is from the 'duty-backed view of rights' that 'the *acquisition of property*' must be seen as 'the *fulfilment of a duty* and only for that reason the exercise of a right' (Ryan 1988, 39 emphasis added). Commenting on Macpherson, Ryan says the following: 'If John Dunn exaggerates ... when he says that Locke ... "had about as much sympathy for unlimited capitalist appropriation as Mao Tse-tung," he does not exaggerate much' (Ryan 1988, 40 citing Macpherson 1962, 232-8 and Dunn 1969, 209).

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<sup>11</sup> Later, Dunn says that 'Where entitlements that flow directly from labour clash with entitlements that rest solely on complex monetary exchanges, Locke himself would be ill placed to endorse the latter' (1984, 44).

<sup>12</sup> On the other hand, Dunn admits that Locke was concerned about any interference by the monarch 'with the material possessions of his subjects, without their express consent' (Dunn 1984, 41).

Ryan's "'duty-based" conception of rights' in Locke is virtually identical to Dunn's interpretation (Ryan 1988, 38).

Consistent with these commentators, Parry says that Locke's 'theory of individuality' is not identified with 'aggressive individualism' (presumably referring to the classical liberal view); it 'permitted considerable flexibility in the exercise of rights within a genuinely felt framework of duties' (1978, 14, 163). Similarly, despite the 'apparent individualism of Locke's ... theory of property,' Kramer says that 'the systematic [natural law] constraints ... always kept the normative fundamentals of Locke's individualism in service to the normative fundamentals of his wholesale communitarianism' (Kramer 1997, ix, 318).

It is clear, therefore, that the classical liberal interpretation of Locke's views on individualism and the individualist view of rights has received mixed reviews. The Marxist and Straussian interpretations are broadly consistent with the classical liberal view. Contextualists claim that Locke's work is *not* founded on individualism but on natural law designed by God; this framework, in turn, stresses *duties* not rights. In the next section, I reconsider the other major plank of the classical liberal interpretation: minimal government.

#### IV MINIMAL GOVERNMENT RECONSIDERED

This section discusses Locke's view on the scope of legitimate and desirable government. After sketching the views of Macpherson and Dunn, I provide a more detailed presentation of the Straussian interpretation.

For Macpherson, Locke's individualism, in the context of 'an emerging capitalist society, does not exclude but on the contrary demands the supremacy of the state over the individual' (1962, 256). The transfer of individual rights to the society is the only means to secure property. The state, however, is run by property owners, for property owners. 'Locke's constitutionalism,' therefore, is a 'defence of expanding property rather than the rights of the individual against the state' (1962, 257). Locke's was 'a theory which justified a class state' (Macpherson 1962, 261). Thus, for Macpherson, the overall structure of Locke's constitutionalism is important but the details are not. The state has to be sufficiently strong to protect property.

By contrast, Dunn says that the centre of Locke's 'conception of government ... was the idea of trust' (1984, 52). It, in turn, was grounded in theology: for human beings who are still aware of their dependence on God, 'the attempt to trust in one another, in rulers as much as fellow subjects, is a duty under the law of nature'; by doing so, 'they help to hold together the community which God intended for them'

(Dunn 1984, 53). Locke's opposition to 'narrow constitutionalism' is evident in his view that 'royal prerogative could and should be exercised for the public good, despite the letter of the law' (Dunn 1984, 51). The trust of the people can be expected where the public good is pursued. By contrast, 'the remedy for a betrayal of trust was the right of revolution'; the people 'fuse the right of individual revenge and the responsibility for re-creating political order' (Dunn 1984, 54, 56). Where the classical liberals trust only *laws*, ultimately, according to Dunn, Locke 'set human *good intentions* above constitutional rigour' (Dunn 1984, 51 emphasis added). We will return to this point subsequently but now let us consider the Straussian view.

According to Strauss, Locke builds 'civil society on the "low but solid" ground of selfishness'; for Locke, the primary object of government is protecting the 'different and unequal faculties of *acquiring property*' (Strauss 1953, 245, 247 emphasis in original).<sup>13</sup> Locke 'requires *limited government*,' not minimal government (Strauss 1953, 231 emphasis added; see also 233). Straussians usually follow this lead (Lord 2003, 70-1; Fukuyama 1992, 158, 203). With this limited-government framework in mind, let us now see how it deals with the specifics of Locke's texts.

Mansfield provides the most detailed Straussian assessment of Locke on this theme. For Mansfield, Locke was one of the 'founders of liberalism'; '[t]he modern constitution' was established by Locke; he, along with Montesquieu, developed 'the separation of powers' doctrine 'to check the prince by law and by formal institutions'; there is a 'separation and balance of ... powers'; government is based on 'consent' and a breach of trust justifies revolution; within such a constitution, government is absolute but 'not arbitrary' (1993, xxiv, 148, 185, 200, 205-6, 209; see also 186-92, 201, 203, 205, 211, 220, 237, 261, 288). Early in the *Second Treatise* Locke established a 'weak executive,' which is subordinate to the supreme legislature; as the work develops, however, he builds a 'more powerful practical or informal executive' (Mansfield 1993, 196, 200; see 205; Locke 1988, 353-80). Locke was 'the author of the modern executive power'; indeed, 'the *executive must be very powerful*, if need be overriding the laws or the legislature' (Mansfield 1993, 159; 203 emphasis added; see also 192, 207, 258, 269; cf. Strauss 1953, 233). To some degree the executive is 'constitutionalized' but it is not 'tamed'; Locke actually allows 'a strong executive to escape the constitution'; only in the writings of Montesquieu and later thinkers is the executive 'tamed' (Mansfield 1993, 181, 213, 269; see 186-9, 216-7, 255, 259, 279, 288-9). Locke asserts the supremacy of both the legislature and the executive: he 'sets up a contest for supremacy' between these powers (Mansfield 1993, 261; see 203-4, 240-1, 258, 262, 288; Locke 1988, 353-80; cf. Gwyn 1965, 76). In short, he tries to

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<sup>13</sup> 'Equality in a Lockean state' means 'equality of opportunity' (Fukuyama 1992, 196).

synthesize the formal supremacy of the legislative power with the practical supremacy of the executive; whilst Locke 'builds a divided mind into constitutional government,' this need not be minimal government (Mansfield 1993, 211).

Straussian commentators cite two major reasons for claiming that 'limited,' not 'minimal,' government best describes Locke's politics; these reasons are the basis for their disagreement with the classical liberal interpretation. First, Straussians cite the very nature of the *federative power* (see Lord 2003, 71-2; Mansfield 1993, 201). Despite claiming that Locke founded the separation of powers, in due course they concede that the separation in his doctrine is fuzzy: the executive and federative powers 'are almost always united'; the separation is really between the executive and the legislative powers (Locke 1988, 365; cf. Hampsher-Monk 1992, 104).<sup>14</sup> Further, the federative power must respond to contingencies as they arise, without tight constraints: it is much less able 'to be directed by antecedent, standing, positive laws than the executive; and so must necessarily be left to the prudence and wisdom of those whose hands it is in, to be managed for the public good' (Locke 1988, 366). The federative power is wild (cf. Gwyn 1965, 78n.).

Second, Straussians cite the discretion which Locke permits in the exercise of *executive power*; many of the same principles seen above are generalized in Locke's doctrine of 'prerogative' (see Lord 2003, 72-3; Mansfield 1993, 189, 191, 201-3, 211, 258-9). Prerogative is the power to act 'according to discretion, for the public good, without the prescription of the law, and sometimes even against it' (Locke 1988, 375). Why is it needed? The legislature, is not, and should not be, always sitting; it is too slow to address urgent matters; and further, the laws which this body creates cannot cover every contingency (Locke 1988, 374-5). Hence, 'there is a latitude left to the executive power to do many things ... which the laws do not prescribe' (Locke 1988, 375). Locke concedes that it is an 'arbitrary power,' even though, as Mansfield points out, this is 'the very thing his constitution was formed to prevent' (Locke 1988, 405; Mansfield 1993, 189). How can the use of prerogative be judged against the standard already set for revolution (the arbitrary exercise of power)? Locke provides no clear rule. Instead, he claims that the people themselves must decide; they will decide if the use of prerogative is *generally* in their interests or not, and, if not, they will take up arms (Locke 1988, 379-80). Where Dunn stresses that prerogative is based on 'trust,' the Straussians stress that it is an 'arbitrary,' executive power (Dunn 1984, 28, 51-2; Mansfield 1993, 189; Locke 1988, 405).

Thus neither the contextual interpretation of Dunn, nor the various Straussian interpretations support the classical liberal view that Locke endorses minimal government. While the Straussians often claim that there is limited government in

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<sup>14</sup> Laslett claims that Locke's separation of powers doctrine is inadequate (1988, 117-20; cf. Gwyn 1965).

Locke, Mansfield, at least, suggests that scope exists for a *muscular use of virtually unlimited executive (and federative) powers*. Locke was not so concerned about the exercise of prerogative or the limits on the role of the executive. To some extent, classical liberals accept this assessment; this is evident, *in practice*, in their own focus on later thinkers who more consistently and faithfully sought the classical liberal Holy Grail.<sup>15</sup> Having completed this survey of the interpretations of Locke, we can now consider the next question: How do the various interpreters perceive Locke's relevance for today?

## V LOCKE'S RELEVANCE FOR TODAY

Thus far we have examined Locke as a sort of historical figure detached from our concerns. For many political theorists (especially contextualists) that is the nature of the study of the political theory cannon. Others disagree. The classical liberals, for example, see the study of political theory as the foundation for political reform. This section addresses the view of the various interpreters on Locke's contemporary relevance. After discussing the classical liberal view (which will be the focus of the section) I will consider the views of the competing interpretations.

For the classical liberals, such as Rowley, Locke provides a sound foundation for understanding the trans-historical truth of human nature and natural rights and the corresponding ideal system of government. Nevertheless, in various ways, they would concede that Locke needs *correction* and *extension*.

First, for the classical liberals, natural rights (and especially the right to property) need to be securely grounded and the 'Lockean proviso' must be overcome. Rowley thinks that Locke's own understanding of rights and especially the right to property does not achieve these goals. Part of the problem in Rowley's view, is that 'Locke ... offered a religious explanation of natural rights that a now ... secular intelligentsia' rejects (1993a, 13; see Rowley 1993b, 52). There is a choice required: rights must be given either a religious or secular grounding. For Rowley, only the latter is relevant today. Thus, he essentially ignores the religious foundation of Lockean theory which Dunn discusses and defends. Rowley says that 'the construction of a political philosophy which judges *liberty as the primary social and political value*' is required (Rowley 1993b, 71 emphasis added). In order to secure the foundation of his individualist view of rights, Rowley uses the secular works of Ayn Rand (1961) and Rasmussen and Den Uyl (1991). In a twist on the meaning given by Berlin to positive and negative freedom, Rowley says that: 'The rights relevant to human flourishing are negative rights placing duties upon others designed to

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<sup>15</sup> The first of these thinkers was probably Montesquieu. Nevertheless, classical liberal theorists focus on those thinkers who wrote after 1960.

protect an individual's autonomy' (Rowley 1993b, 72; cf. Berlin 1969). These rights are natural (pre-political) and absolute (overruling all other moral considerations); one's only duty is *not to interfere* with the autonomy of another (1993b, 72). Rowley says that what counts in a more coherent 'Lockean' theory of property rights is freedom of action and the unimpeded capacity to transform matter: nature only offers the 'opportunity for the transformation of the material world' (1993b, 72-3). Thus: 'since property is created through an act of transformation, even the Lockean proviso is moot.... No one has a right to the acts of transformation of others, since there can be no pre-existing claims to that which does not yet exist' (Rowley 1993b, 73). In short:

Lockean rights, including most importantly the right to property, are the social and political expression of the claim that there is *no higher moral purpose, no other end to be served, than the individual's self-direction*. Lockean rights are the only meta-normative principles that can provide a set of moral territories necessary for the highly-individualized and self-directed character of human flourishing. (Rowley 1993b, 73 emphasis added)

Two comments are warranted. First, such an understanding would exclude Locke's concessions to slavery (see Dunn 1984, 45; Locke 1988, 387-90). Again, Locke must be corrected to ensure a coherent view of freedom. Second, the image presented above of Lockean individualism and rights is diametrically opposed to that of the contextualists.

Finally, Rowley is unhappy with Locke's views on the constitutional machinery required to secure property rights in civil society. Locke correctly saw the need for taxes to finance the protective activities of government and each individual who enjoys the protection of civil society 'should pay his respective proportion for its maintenance' (Rowley 1993a, 15; see Locke 1988, 362). Yet Rowley ends in exasperation at Locke's failure to anticipate the threat that taxation posed to private property. He says that Locke was too optimistic that the rule of law would prevent arbitrary property seizures (Rowley 1993a, 15-6). Locke:

had little notion that a property-less majority might come to dominate the legislature and to use it as a vehicle for accessing the private property of others. He had no notion whatsoever that representative government would ever expand beyond the role of the *minimal state* or seek to engross its subjects' property in pursuit of grandiose social objectives. (Rowley 1993a, 16 emphasis added; see Hampsher-Monk 1992, 106-7)

Locke failed to foresee 'the potential tyranny of the majority vote' (Rowley 1993a, 16). Hence, for Rowley, to correct this failure of Locke, a detailed study is needed of later thinkers, especially of those 'new contractarians' writing after World War II (1993b, 48).

The contractarian ethic must retain Locke's principles but it needs to adapt to the changed circumstances of parliamentary politics. In short, there must be constitutional limitations on democratic politics to secure individual property rights. Given this 'corrected' version of Locke's constitutionalism (presumably including the abolition of prerogative), we can now see the improved foundation upon which society can be rebuilt today. Let me elaborate on this point.

A major goal of the classical liberals is constitutional reform. This is evident in two sets of cases. First, in countries undergoing transition from a planned economy to a capitalist economy, classical liberals stress the need to constitutionally entrench and protect private property (rights to private ownership of land, enforcement of contracts, and the like) by using the state in a different way from the past.<sup>16</sup> Second, in developed economies they stress the need to *further* entrench property rights, primarily against the intrusions of the state. The threat here is primarily democratic politics. Thus, many new contractarians (see Rowley 2004) argue that there should be an 'economic constitution' to supplement the standard political provisions. In such a constitution there would be provisions requiring balanced budgets, limitations on taxation rates, and other provisions. Now let us consider the view of other schools of thought on Locke's contemporary relevance.

For Marxists, such as Macpherson, Locke is a 'possessive individualist.' In Macpherson's view, the conditions for political obligation in 'possessive market society' were generally met 'until about the middle of the nineteenth century' (1962, 273). The rise of the industrial working class, and the widening of the franchise, gradually undermined the support for such a Lockean (oligarchic) society (Macpherson 1962, 273-4). He claims that, today, possessive individualist principles cannot be justified and must be overturned. Classical liberalism, therefore, is an anachronism in advanced societies today. The economic base of society has undergone a revolutionary transformation. The transformation in the superstructure, Marx pointed out, often lags behind changes in the economic base (Marx 1978, 4). Nevertheless, it must be transformed to mesh with the new economic conditions. For Marxists, the advocates of Locke today, such as Rowley, represent reactionary, superstructural forces.

For the Straussians, contrary to the classical liberal interpreters, Locke defends 'limited' but not 'minimal' government. Concerning the relevance of Locke's principles today, they are divided. Some prefer the classical liberal ideal, or at least a Montesquieuan view of limited government; others, such as Mansfield, prefer a strong

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<sup>16</sup> The recent entrenchment of private ownership rights in China represents a fundamental break from the earlier Maoist order.

and flexible executive in order to deal with the unpredictable nature of the world.<sup>17</sup>

Because their primary fear is a strong and flexible executive, the classical liberals clearly oppose this latter group of Straussians.

For the contextualists, Locke's theistic principles made him ambivalent about emerging property relations and commercialism. As to whether these 'true' principles are relevant today, the contextualists are reticent. Some claim that Locke's 'true,' theistic principles are irrelevant to the contemporary, secular, Western world (Dunn 1984, 30). To the extent that *any* of his principles remain relevant, they are unlike those of the classical liberals: many contextualists view classical liberalism as 'vulgar Lockeanism.' For the contextualists two aspects of Locke's work may remain relevant today. First, religious toleration in Locke's thought (no doubt Locke's view which denied toleration to Catholics and atheists would be *corrected*) remains relevant to contemporary Western thinking (Dunn 1983, 58-9, 123). Second, Locke is viewed by some of these commentators as a type of communitarian and communitarianism became popular after the 1970s.

What then can we say about Locke's contemporary relevance? For the classical liberals, Locke is not an anachronism; his views are essentially sound. After correction and extension, Locke's teachings should be the foundation upon which policies are made and institutions reformed. For Marxists and many contextualists, by contrast, Locke's views are anachronistic. The Straussians seem divided on this issue. Let us now summarize the paper.

## VI CONCLUSION

After 300 years we may have expected to find a consensus on what such a carefully-studied thinker as Locke meant and his relevance for today. No such consensus, however, has emerged or seems likely to emerge. The claim of the classical liberals to be the true heirs of Locke's legacy, therefore, has proven to be highly controversial.

For the classical liberals, Locke supports individualism, natural rights and minimal government. For the contextualists, Locke is ambivalent about emerging commercial relations and such views have often been ignored, especially by the classical liberals. For Straussians, Locke is a supporter of limited but hardly minimal government. The

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<sup>17</sup> At a deeper level, Straussians often promote a pre-modern view of politics and philosophy, expressing reservations about modern politics as a whole. Nevertheless, in recent years some American Straussians have embraced modern politics, openly advocating an aggressive foreign policy.

divisions evident in the interpretation of Locke recur in discussions of Locke's contemporary relevance.

Why are there such disputes? Why does Locke appear as such a hazy figure? Perhaps one contributing factor was Locke's own secretive behaviour (Dunn 1984, 10). Nevertheless, other factors must also be acknowledged. The origins of such vast disagreements about what an author says (and his contemporary relevance) can probably be traced to hermeneutic and ideological differences amongst the commentators. With regard to ideology, it must be conceded that freeing oneself from one's own ideological preconceptions is difficult and reading old texts through one's ideological lenses is a frequent error. With regard to hermeneutics, an obvious difference between the commentators is that the classical liberals, the Marxists, and the Straussians stress Locke's *Second Treatise*, and especially his chapter on property; contextualists take a broader perspective.

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