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JOHN LOCKE, CAROLINA, AND THE TWO TREATISES OF GOVERNMENT

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Recent scholarship on John Locke's Two Treatises of Government has drawn particular attention to the colonial antecedents and applications of the theory of appropriation in chapter V of the Second Treatise. This attention has coincided with a more general interest among political theorists in the historical and theoretical relationship between liberalism and colonialism. This essay reviews the surviving evidence for Locke's knowledge of the Carolina colony and argues that it was both more extensive and more enduring than previous commentators have suggested. In particular, the essay provides evidence that Locke was engaged in revising the Fundamental Constitutions of Carolina at just the moment in the summer of 1682 when he was most likely to have composed chapter V of the Second Treatise and hence that there was an immediate and identifiable colonial context that contributed to his distinctive theory of property.

Keywords: Locke; liberalism; colonialism; property

It is now a commonplace in the history of political thought that there has long been a mutually constitutive relationship between liberalism and colonialism.¹ That relationship might not extend in time quite to the fifteenth-century origins of European settlement beyond Europe, but it can now be seen to go back at least as far as the early seventeenth-century origins of liberalism within the tradition of subjective natural rights. From the early seventeenth century, European theorists who were later variously canonized as liberal elaborated their political theories to address contexts at once domestic and colonial.² As Richard Tuck argued, "The extraordinary burst of moral and political theorising in terms of natural rights which marks the seven-

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teenth century, and which is associated particularly with the names of Grotius, Hobbes, Pufendorf and Locke, was primarily an attempt by European theorists to deal with the problem of deep cultural differences, both within their own community (following the wars of religion) and between Europe and the rest of the world (particularly the world of the various pre-agricultural peoples encountered around the globe).³ The successors of these seventeenth-century natural rights theorists extended their interests beyond Europe, the East Indies, and the Americas to South Asia, North Africa, and Australia in following centuries. Not all liberals were complicit with colonialism, and colonialism was not defended only by liberals. The roll call of liberal theorists who were employed by overseas trading companies or who possessed specialized knowledge of extra-European settlement and commerce is nonetheless distinguished and diverse and runs from Grotius and Hobbes to Tocqueville and Mill.⁴

John Locke has become a crucial link in the historical chain joining liberalism with colonialism. The reasons for this are primarily biographical. From 1669 to 1675, the Proprietors of the infant colony of Carolina (among them his patron Anthony Ashley Cooper, later the first Earl of Shaftesbury) employed Locke as their secretary.⁵ From October 1673 to December 1674, he was secretary and then also concurrently treasurer to the English Council for Trade and Foreign Plantations.⁶ Two decades later, near the end of his life, he was secretary to its successor, the Board of Trade, from 1696 to 1700.⁷ This decade of service in both private and public colonial administration provided Locke with a more thorough understanding of his country's commerce and colonies than that possessed by any canonical figure in the history of political thought before Edmund Burke. No such figure played as prominent a role in the institutional history of European colonialism before James Mill and John Stuart Mill joined the administration of the East India Company. Moreover, no major political theorist before the nineteenth century so actively applied theory to colonial practice as Locke did by virtue of his involvement with writing the *Fundamental Constitutions* of the Carolina colony. For all these reasons, Locke's colonial interests have been taken to indicate that "the liberal involvement with the British Empire is broadly coeval with liberalism itself."⁸

Locke's colonial activities would nonetheless be irrelevant to the interpretation of his political theory if they had left no traces in his major writings. Such traces are especially abundant in the *Two Treatises of Government* and have been sufficient to sustain a well-developed "colonial" reading of Locke's political theory.⁹ The references to "America" or to the "Americans" (meaning the indigenous peoples of America not the Euro-American settlers) almost all appear in the *Second Treatise*.¹⁰ For example, when "a Swiss

and an *Indian*” encounter each other “in the Woods of *America*” (*Second Treatise*, § 14) they meet as if in the state of nature. The reader can infer that the *Indian*’s family structure is as loose as his political arrangements: “In those parts of *America* where when the Husband and Wife part, which happens frequently, the Children are all left to the Mother, follow her, and are wholly under her Care and Provision” (*Second Treatise*, § 65); “And if *Josephus Acosta*’s word may be taken . . . in many parts of *America* there was no Government at all” (*Second Treatise*, § 102), especially in those parts “out of the reach of the Conquering Swords, and spreading domination of the two great Empires of *Peru* and *Mexico*” where “the People of *America* . . . enjoy’d their own natural freedom” (*Second Treatise*, § 105). Such peoples have “no Temptation to enlarge their Possessions of Land, or contest for wider extent of Ground,” meaning that “the *Kings* of the *Indians* in *America* . . . are little more than *Generals of their Armies*” (*Second Treatise*, § 108). Their medium of exchange, “the *Wampompeke* of the *Americans*,” would be as valueless to European rulers as “the *Silver Money* of *Europe* would have been formerly to an *American*” (*Second Treatise*, § 184).

The references to *America* and its inhabitants appear in seven of the eighteen chapters of the *Second Treatise*, but more than half of them cluster within a single chapter, chapter V, “Of Property.” The most cursory survey of that chapter’s argument reveals two key figures: that of “the wild *Indian*” who feeds on fruit and venison (*Second Treatise*, § 26), the same “*Indian*” who, by killing his deer, is endowed with property in it by the law of reason (*Second Treatise*, § 30), and that of the planter who with his family is heading for “some in-land, vacant places of *America*” (*Second Treatise*, § 36). Locke describes the “several Nations of the *Americans* . . . who are rich in Land, and poor in all the Comforts of Life,” whose “King of a large and fruitful Territory there feeds, lodges, and is clad worse than a day Labourer in *England*” (*Second Treatise*, § 41). He compares “an Acre of Land that bears here Twenty Bushels of Wheat, and another in *America*, which, with the same Husbandry, would do the like” for their same intrinsic value but differing worth or benefit (*Second Treatise*, § 43). He remarks the futility of a man’s owning “Ten Thousand, or an Hundred Thousand Acres of excellent *Land*, ready cultivated, and well stocked too with Cattle, in the middle of the in-land Parts of *America*, where he had no hopes of Commerce with other Parts of the World” (*Second Treatise*, § 48) and draws his famous conclusion that “in the beginning all the World was *America*, and more so than that is now; for no such thing as *Money* was any where known” (*Second Treatise*, § 49). Taken together, the references from across the whole of the *Second Treatise* refute the contention that “*America* belongs only at the margins of [Locke’s] main concerns in the *Two Treatises*.”¹¹

Locke's *Second Treatise* cannot be reduced to its colonial references nor can its meaning be determined by a colonial reading alone.¹² However, the frequency and prominence of those references still require explanation. James Tully suggested, "In arguing for the superiority of commercial agriculture over Amerindian hunting, trapping and gathering, Locke may also have been arguing for the superiority of English colonization over the French fur-trading empire" but concluded, "More research on the colonial documents is needed to test this hypothesis."¹³ However, there is little evidence among those documents of Locke's interest in the French fur trade and none of any comparative treatment of its productivity or legitimacy relative to English colonial models. Richard Tuck argued instead that Locke's target was even more specific: the Pennsylvania colony that Charles II had chartered to William Penn in 1681. Tuck argued that Pennsylvania "represented all the things which Locke was attacking in the *Second Treatise*: that is, the absolutism of Penn's frame of government and his treatment of the Indians as the rightful possessors of their land, which even chartered colonists had to buy from them."¹⁴ In this case, there is some evidence of Locke's concern in the form of his manuscript commentary on Penn's 1682 *Frame of Government* for Pennsylvania. Though Locke did criticize the balance of power between proprietor and assembly in Pennsylvania, he nowhere mentioned Penn's method for acquiring property in land. Moreover, Locke's comments on Penn's frame of government can be dated no earlier than November 1686; that is, four years later than even the latest date (of 1682) that has been suggested for the composition of the *Second Treatise*.¹⁵

If Locke's references to America in the *Second Treatise* derived from a particular and definable colonial context, then it would be essential to know just when those references made their way into the text of the work. The explanation for those references thus depends in part on the intricate question of the dating of the work as a whole. The *Two Treatises* first appeared in print in 1689, with a date of 1690 on the title page, thereby encouraging for almost three hundred years the belief that they were composed as a retrospective justification of the Glorious Revolution of 1688-89. Peter Laslett overturned that dating in 1960 with his argument that Locke composed the *Second Treatise* during the Exclusion Crisis in the winter of 1679-80 and then followed it with the *First Treatise* early in 1680.¹⁶ More recent research has generally questioned Laslett's argument that the *Second Treatise* preceded the *First Treatise* and has gradually pushed the date of composition of the *Second Treatise* further forward into the 1680s.¹⁷ For example, J. R. Milton argued that Locke began work on the *Second Treatise* late in 1680 or early in 1681, laid it aside after the Earl of Shaftesbury's arrest in July 1681, and then took it up again in February 1682 before completing the manuscript later that year.¹⁸

Richard Tuck independently confirmed this later dating by his observation that the *Second Treatise* contains Locke's implicit critique of Pufendorf's *De Jure Naturae et Gentium* and *De Officio Hominis et Civis*, works that Locke obtained and read in 1681.¹⁹ Milton further argued that three chapters of the *Second Treatise* (IV, "Of Slavery"; V, "Of Property"; and XVI, "Of Conquest") contain biblical citations in a style different from those in the remaining chapters and known to have been used by Locke only relatively late in his career. On this evidence, he concluded that these chapters were composed (or, at least, revised) apart from the rest of the *Second Treatise* and specifically that "chapter V is an intruder . . . either earlier or later than its surroundings." He decided that it must be earlier precisely because the chapter contains so many allusions to America, which must derive from Locke's interest in Carolina: "The period of his main involvement was considerably earlier, while he was acting as Secretary to the Lords Proprietors between 1669 and 1675."²⁰ This is a defensible inference (albeit one at odds with the logic of the rest of Milton's argument for chapter V's later date) only so long as it is assumed that Locke's relationship with Carolina had effectively ended by 1675 and that he did not resume any active involvement with colonial administration until his appointment to the Council of Trade in 1696, long after the composition of the *Two Treatises*.

To accept both the conventional chronology of Locke's colonial activities and even the most expansive range of dates proposed for the composition of the *Two Treatises* is to be left with an explanatory conundrum. The earliest date, of 1679, and the latest, of 1682, proposed for the original composition of the *Two Treatises* both fall squarely within the twenty-one years from 1675 to 1696 when Locke was apparently unconnected with English colonial administration. The frequency of the American references in the *Second Treatise* and their insistent clustering in chapter V would support the argument that there was an elective affinity between liberalism and colonialism as the twin offspring of capitalism and modernity.²¹ A more exacting historical account would still remain troubled by the apparent disjuncture between Locke's periods in the service of English colonialism and the moment when he produced one of the founding texts of liberalism. If it were possible to produce evidence that Locke had not ceased to be directly interested in the affairs of Carolina after 1675 and that he continued to be concerned about the government and prospects of the colony, not only after 1679 but even as late as 1682, then it might also be possible to confirm the persistent suspicion that there must have been some urgent reason for Locke to have elaborated the American example as the basis for the argument of chapter V of the *Second Treatise*. The next section of this essay will offer just such evidence of this continued colonial activity, while its concluding section will investigate

some interpretive implications of the novel contextualization of the *Second Treatise* (in particular, of chapter V) that this evidence makes possible.

* * *

At least since the early eighteenth century, the *Fundamental Constitutions of Carolina* (1669) have been central to understanding the relationship between Locke's political theory and his colonial interests.²² To Locke's admirers, his presumed authorship of a constitution that granted uniquely broad religious toleration was a source of genuine pride. Thus Voltaire advised, "Cast your eyes over the other hemisphere, behold Carolina, of which the wise Locke was the legislator."²³ Locke's hand in the *Fundamental Constitutions* was also taken to vindicate the role of theory in the world of governmental practice: after all, who better than such a "great philosopher" to design a new commonwealth?²⁴ Locke's enemies were not quite so sanguine. The *Fundamental Constitutions* assumed the existence of slavery and affirmed the absolute powers of life and death of slaveholders. They also erected the first hereditary nobility on North American soil. What worse commonwealth for a philosopher to have designed than this antidemocratic slave society dominated by a "tyrannical Aristocracy"?²⁵

The *Fundamental Constitutions* were drafted initially in 1669 during the period of Locke's secretaryship to the Lords Proprietors of Carolina. The secretaryship was an executive as well as administrative position; this fact, combined with Locke's closeness to Anthony Ashley Cooper, the Proprietor most intimately associated with the *Fundamental Constitutions*, makes it inconceivable that he would not have played at the very least a major supervisory role in their drafting.²⁶ Though frequently revised and just as often ignored by the settlers, the *Fundamental Constitutions* did formally provide the frame of government for the colony until they were overthrown by the settlers forty years after they had first been promulgated in 1669. They were repeatedly published in Locke's lifetime, both in manuscript copies for the settlers and in a variety of printed versions, from deluxe large-paper printings (presumably for the Proprietors) to abbreviated summaries designed to encourage emigrants.²⁷ Indeed, the *Fundamental Constitutions* were the only printed work with which Locke's name could be associated before the *annus mirabilis* of 1689-90, when both the *Essay Concerning Human Understanding* and the *Two Treatises of Government* first appeared in print. After Locke's death, the *Fundamental Constitutions* appeared in the first posthumous collection of his fugitive writings; they have remained among his miscellaneous works ever since.²⁸ The attribution of the *Fundamental Constitutions* to Locke earned him the distinction of having created the constitution

for an actually existing society, an honor shared alone among postclassical political philosophers with Jean-Jacques Rousseau, author of the unrealized constitutional project for Corsica (1765) and the *Considérations sur le gouvernement de Pologne* (1772).²⁹

Generations of scholars have mistakenly believed the manuscript of the *Fundamental Constitutions* (July 21, 1669) found among Shaftesbury's papers to be in Locke's own hand. Apart from numerous revisions throughout the document, only the first two paragraphs were written by Locke.³⁰ This fact in itself would not argue against his composition of the whole text: it seems to have been his practice, at least later in his career, to begin a manuscript in his own hand before passing the rest to an amanuensis for transcription.³¹ None of the surviving printed copies of the *Fundamental Constitutions* attributes them to Locke; indeed, the only copy with any ascription of authorship accords them to the Earl of Shaftesbury.³² Locke's contribution was nonetheless apparently extensive enough to justify the elevation in April 1671 of this country attorney's son to the hereditary noble rank of landgrave of Carolina, in recognition of "his great prudence, learning and industry both in settling the form of government and in placing colonies on the Ashley River" (*magna sua prudentia, eruditione et industria tam in stabilienda regiminis forma, quam in Coloniis ad Flumen Ashleium collocandis*), as his landgrave patent put it.³³ This tribute failed to define his role precisely, but at least it derived from a moment close to the initial drafting of the *Fundamental Constitutions* in 1669 and had the endorsement of those who had most reason to know and to value Locke's achievement, the Carolina Proprietors themselves.³⁴

Locke never explicitly acknowledged responsibility for the composition of the *Fundamental Constitutions*, but his reticence is not in itself evidence against his involvement. Locke's reluctance to admit to the authorship of any of his major works apart from the *Essay* is as notorious as his solemn protest in 1684 "that I am not the author, not only of any libell, but not of any pamphlet or treatise whatsoever in print good bad or indifferent."³⁵ In 1673, the Proprietor Sir Peter Colleton credited Locke with "that excellent forme of Government in the composure of which you had soe great a hand" and later in the 1670s two of Locke's French correspondents wrote to him of "vos constitutions" and "vos loix."³⁶ Locke neither confirmed nor denied these statements which, in themselves, provided no evidence of the nature of his role in framing the *Fundamental Constitutions*. Yet if Locke never claimed credit for the *Fundamental Constitutions*, neither did he ever attempt to distance himself from their provisions *tout court*. He does seem to have disassociated himself particularly from the provision for an Anglican establishment which first appeared in the 1670 revision of the *Fundamental Constitutions*; this

might be taken to indicate that he saw no compelling reason to repudiate any of the *Constitutions'* other articles.³⁷

The *Constitutions* apportioned land and provided the legal and institutional framework for the infant colony. Plantation by English migrants had languished in the first five years under the Proprietors' first grant of 1663, and an initial settlement on the Cape Fear River (in present-day North Carolina) had collapsed by 1668. The 1669 *Constitutions* signaled a fresh start to the Proprietors' plans. They were explicitly designed to "avoid erecting a numerous Democracy" and placed all authority perpetually in the hands of "the true and absolute Lords and Proprietors of the province."³⁸ Beneath them would be the hereditary nobility composed of landgraves and caciques who would have jurisdictional authority over a further hereditary class of perpetual serfs or leet men. "Thus was a cast [*sic*] to be formed among the Whites—a constitution worthy of Hindoo superstition," complained a defender of Locke in 1807 who acknowledged such a flaw in the *Fundamental Constitutions* to be "very unworthy of the author of the 'Treatises of Government.'"³⁹

The Proprietors owned one-fifth of the land in Carolina; the nobility, a further fifth. The rest was set aside for the freemen of Carolina who would be barred from residence and landholding if they did "not acknowledge a God and that God is publickly and solemnly to be worshiped." That minimal qualification for residence was also the maximal qualification for religious toleration, in order that "heathens, Jews and other dissenters from the purity of Christian Religion may not be scared and kept at a distance." Grace did not confer dominion any more than theism alone could justify possession: "The Natives of that place . . . are utterly strangers to Christianity whose Idollatry Ignorance or mistake gives us noe right to expell or use them ill." Religious toleration would also be extended to slaves, "yet noe slave shall hereby be exempted from that civill dominion his Master hath over him but in all others things in the same state and condicion he was in before." Therefore (as the *Fundamental Constitutions'* most notorious article put it), "Every Freeman of Carolina shall have absolute <power and> Authority over his Negro slaves of what opinion or Religion soever."⁴⁰ Though none of his later detractors could have known it, Locke himself had augmented the slaveholders' "absolute Authority" by adding that "<power and>" in the 1669 manuscript now among the Shaftesbury papers.⁴¹ Had they known, that fact would have only confirmed their suspicion that "the most eminent Republican Writers, such as LOCKE, FLETCHER of Saltown, and ROUSSEAU himself, pretend to justify the making Slaves of others, whilst they are pleading so warmly for Liberty for themselves."⁴²

The apparent biographical distance between the Locke of the *Fundamental Constitutions* and the Locke of the *Two Treatises* came as something of a

relief to Locke's defenders. Whatever the degree of his involvement in the composition of the *Fundamental Constitutions*—whether as a political philosopher cutting his teeth on the creation of a political society *de novo* or simply as a hired hand taking dictation from his master—Locke could not be entirely exculpated from responsibility for their harsher and more illiberal provisions. If “Locke's dealings with Carolina show that he was a social conservative in the 1670s,” how can this be reconciled with the more egalitarian, democratic, liberal Locke of the 1680s found in the *Two Treatises of Government*?⁴³ In 1776, Josiah Tucker (a distinctly hostile witness) ventriloquized one defensive answer to this question: “ ‘Mr. LOCKE was then a young Man, as appears by the Date of this Code of Laws [1669] And as he lived under the Reign of a *Tyrannical* STUART [CHARLES II.] it is no Wonder, that he should be a little tainted with the Vices of the Times.’ ”⁴⁴ Any disquiet about the relationship between the supposedly “conservative” Locke of the 1660s and 1670s and the more “liberal” Locke of the 1680s and 1690s could thus be laid to rest by appealing to the chronological disjuncture between Locke the dependent client of Shaftesbury and Locke the independent philosopher.

The evidence of Locke's formal activities on behalf of the Carolina Proprietors does not greatly narrow that gap. A set of temporary laws for Carolina supplementary to the *Fundamental Constitutions*—including a notable provision against the enslavement of Indians—exists in Locke's handwriting from December 1671.⁴⁵ He continued to act as secretary to the Proprietors until he left England for France in November 1675, at which point he is usually assumed to have effectively resigned his position and thus to have terminated his direct involvement with the affairs of the colony. However, such an assumption not only makes the American references in the *Second Treatise* harder to explain; it also overlooks much evidence that Locke's interest in the prospects for Carolina generally, and his attachment to the provisions of the *Fundamental Constitutions* specifically, lasted well beyond the formal conclusion of his secretaryship to the Proprietors in 1675.

Locke's private correspondence and notebooks belie the impression that his initial period of colonial activity was discontinuous with the period of his mature philosophy. He sought copies of the *Fundamental Constitutions* on three occasions, once in the summer of 1674 and twice in the autumn of 1677.⁴⁶ Many of the running notes on social discipline, marriage law, and settlement patterns that Locke titled “Atlantis” (1676-79) referred explicitly or implicitly to Carolina.⁴⁷ In 1679 to 1681, he corresponded regularly with his French friends Nicholas Toinard and Henri Justel regarding the details of the *Fundamental Constitutions*, the future of that “*partie de la terre [qui] porte votre nom*” (that is, Locke Island, now Edisto Island, in present-day South Carolina), and even his supposed plans to flee a corrupt England for his Caro-

linian utopia.⁴⁸ In 1681, he recorded his possession in Oxford of two copies of the *Fundamental Constitutions*. He left at least three copies with James Tyrrell when he fled to Holland in 1683 (including one sealed by the proprietors); an unbound copy was among a list of his books made in June 1699. He was promising to show a copy to Anthony Collins in March 1704, and he still possessed two copies, one of which may have been the copy he left to Francis Cudworth Masham, at his death in 1704.⁴⁹ Locke's interest in the *Fundamental Constitutions* was thus enduring, albeit intermittent. In the absence of other evidence, it would not indicate any lasting attachment to their provisions or even commitment to the colony's prospects. For that, more evidence of Locke's continuing involvement, with the Carolina colony and its *Fundamental Constitutions* up to and even beyond the time when he can be presumed to have first drafted the *Two Treatises*, would be necessary.

There is circumstantial evidence of Locke's concern for the future of Carolina during his travels in France after 1675. One of the two longest manuscripts he produced during these years was the "Observations on Wine, Olives, Fruit and Silk" (February 1, 1680).⁵⁰ It has attracted little commentary and has remained largely inassimilable to the traditional picture of Locke's intellectual biography.⁵¹ Yet, if seen as a piece of "agricultural espionage" undertaken on Shaftesbury's behalf with the needs of the Carolina colony in mind, the "Observations" comes into much clearer focus.⁵² Throughout his journeys in France, Locke took special notice of viticulture, arboriculture, and sericulture. He meticulously noted every variety of grape, olive, and fig, for example, and lengthily questioned his informants about every aspect of wine, silk, and olive oil production. His notebooks for 1677 to 1678 reveal that these were not disinterested inquiries but instead concerned whatever might be "fit," "good," or "usefull in Carolina."⁵³ The "Observations" should thus be read as a sketch for a practical economic future for Carolina in the business of Mediterranean import-substitution growing fruit and producing wine, silk, and olive oil. Shaftesbury received Locke's manuscript in February 1680 "with great joy" and "perused it greedily."⁵⁴ It was therefore no coincidence that the party of French Huguenots who reached the colony in April 1680 were "many of them skilfull & practiced in the manufacture of Wines, Silkes and Oyles."⁵⁵ Locke had clearly been acting on Shaftesbury's instructions during his travels in France and was still contributing to the material prospects of the colony when he presented the "Observations" to his patron.

The 1680 "Observations" provide evidence that Locke was still thinking practically about the prospects for Carolina after the very earliest date, of 1679, that has been proposed for the composition of the *First Treatise* and that he was doing so in his capacity as a client, if not still formally a servant, of

the Earl of Shaftesbury. At the very least, the “Observations” show that agrarian improvement provided not only an enduring common interest between Locke and Shaftesbury but also part of the explanatory context for the *Two Treatises*.⁵⁶ However, this manuscript is not enough in itself to explain why America should have been on Locke’s mind when he came to compose the *Second Treatise*. After all, wines, silks, and oils are not prominent among the products alluded to in “Of Property.” Many of those products were colonial not domestic, as when Locke compared “an Acre of Land planted with Tobacco, or Sugar, sown with Wheat or Barley; and an Acre of the same Land lying in common” (*Second Treatise*, § 40). Likewise, the prominence of venison in the diet of the “wild Indian” (*Second Treatise*, §§ 26, 30) suggests that deer were the main example of profitable local game, indicating that Carolina—where the deerskin trade was a commercial staple peculiar to Anglo-Indian commerce in North America—was Locke’s specific example when writing chapter V, “Of Property.”

The conventional chronology of Locke’s involvement with Shaftesbury and with the Carolina colony gives no grounds to explain why Carolina should have been on his mind when composing the *Two Treatises*. Richard Ashcraft argued instead that the explanatory context that links Locke with Shaftesbury at this point was not Carolina but rather the Rye House Plot. Ashcraft’s case for Locke’s involvement in Shaftesbury’s insurrectionary plans, especially in the summer of 1682, was necessarily inferential and speculative.⁵⁷ However, there is more reliable evidence from just the same period that ties Locke to Shaftesbury via Carolina and the *Fundamental Constitutions* rather than treason and assassination plots. After Shaftesbury had been released from imprisonment in the Tower of London in 1681, his major publicly expressed concern was the future of Carolina and specifically the revision of the *Fundamental Constitutions* to attract potential immigrants, particularly French Huguenots and Scottish dissenters.⁵⁸ Ashcraft thought that those Scottish Whigs who associated with Shaftesbury in 1682 were engaged in “a pretense of consulting about . . . colonial interests in Carolina” as a cover for Shaftesbury’s rebellious designs in Scotland. In fact, they were seriously planning emigration and demanded changes to the *Fundamental Constitutions* as well as other political concessions to make it possible.⁵⁹ The success of those concessions helps to explain the ethnographic precision in Locke’s only reference to Carolina anywhere in his published works (save for the *Fundamental Constitutions* themselves): “in Peopling of *Carolina*, the *English, French, Scotch, and Welch* that are there, Plant themselves together, and by them the Country is divided *in their Lands after their Tongues, after their Families, after their Nations*” (*First Treatise*, § 144).⁶⁰

In January 1682, the Proprietors revised the *Fundamental Constitutions* for the first time in ten years and subsequently issued a printed version.⁶¹ In March 1682, they began an energetic new pamphlet campaign on behalf of the colony and Shaftesbury himself—despite old age and illness—reportedly attended the Carolina coffeehouse in London to respond to emigrants’ queries.⁶² The campaign was so vigorous that it became the subject of anti-Whig satire by John Dryden later that year:

Since faction ebbs, and rogues grow out of fashion,
Their penny-scribes take care t’inform the nation
How well men thrive in this or that plantation;

How Pennsylvania’s air agrees with Quakers,
And Carolina’s with Associators:
Both e’en too good for madmen and for traitors.⁶³

In early May 1682, the Proprietors revised the *Fundamental Constitutions* “for the greater Liberty Security & quiet of the people” by proposing new measures to appoint the Palatine and members of the Grand Council, to allow both the Grand Council and grand juries to make proposals to the Carolina Parliament, and (as a sop to the Scots) to release new settlers from their duty to pay rents to the Proprietors.⁶⁴ And some time between late May and mid-August 1682, they overhauled the *Fundamental Constitutions* yet again, this time much more thoroughly.⁶⁵

Where was Locke during this flurry of renewed activity on behalf of Carolina? He left Oxford for London on May 30, 1682, and did not leave London again until August 8; he spent the weeks between at Thanet House, Shaftesbury’s London residence.⁶⁶ He could not therefore have been present for the review of the *Fundamental Constitutions*, which took place three weeks before his arrival, but he would have been on hand for consultation during the revision that produced a new version of the *Fundamental Constitutions* dated August 17, 1682, nine days after he left London. In the absence of any other evidence, Locke’s part in the revision of the *Fundamental Constitutions* would remain as circumstantial and speculative as the grounds for believing he was immersed in Shaftesbury’s plans for insurgency. Very little of Locke’s correspondence survives from the summer of 1682 (fueling the suspicion that it may have contained evidence of his complicity with Shaftesbury’s alleged insurrections, which had to be destroyed). What little does survive suggests no interest in Carolina, nor can any such interest be detected in his notebook for the same period.

The previous autumn, in September 1681, Locke’s French friend Nicholas Toinard had alerted him to “many things embarrassing and quite contrary

to the tranquility that subordinates look for in those kinds of country” in the *Fundamental Constitutions* and urged him to “consider seriously the reform of the laws of Carolina.”⁶⁷ Although Toinard seems to have believed that Locke still had influence with the Proprietors, the letter was only the latest in a lighthearted exchange he and Locke had been conducting about their own fantastical plans to flee Europe for Carolina. The revision of the *Fundamental Constitutions* was a task that Locke could not have undertaken at his own initiative. However, his presence in Shaftesbury’s household over the summer of 1682 provided him with the opportunity to take part in just such a reform of the Carolina laws.

The survival of the printed copy of the January 1682 “Third” *Fundamental Constitutions* that was used to draw up revisions for the “Fourth” *Fundamental Constitutions* in August 1682 reveals Locke at work, for the first time since 1671, refining the provisions of the frame of government for Carolina.⁶⁸ Emendations fill the margins, excisions score through the printed pages, and manuscript sheets bound into the book extend the sprawling discussions and contain further basic revisions. Three different people added their remarks and changes. Shaftesbury was not among them, presumably because he was sick with the diseases that would kill him little more than six months later in January 1683; in July 1682, he had mortgaged his lands in England and Carolina to his bankers, presumably to escape confiscation but perhaps also as an intimation of mortality.⁶⁹ Instead, the bulk of the revisions are in the formal hand of an unknown writer: neither one of the Proprietors, nor a prominent member of Shaftesbury’s household, nor a known correspondent of Locke.⁷⁰ The other two writers are more readily identifiable. One was the Proprietor Sir Peter Colleton, a former Whig member of Parliament, Exclusionist, and absentee owner of one of the largest slave plantations on Barbados. He had been associated with Carolina, and with Shaftesbury, since he had joined the Proprietors in 1667 and had been present at the time of the initial composition of the *Fundamental Constitutions* in 1669. He had also been closely associated with Locke when they had attended meetings of the Proprietors together from 1669 to 1672. Colleton and Locke corresponded regularly and intimately until Shaftesbury’s fall from grace with Charles II in 1674, and it had been Colleton in 1673 who had praised “that excellent forme of Government in the composure of which [Locke] had soe great a hand.”⁷¹ It need come as no surprise, then, that the third writer who had a hand in revising the *Fundamental Constitutions* during the summer of 1682 was John Locke.⁷²

Locke, Colleton, and their companion seem to have scrutinized every provision of the January 1682 *Fundamental Constitutions* before amending or replacing more than a quarter of the existing articles. Locke then renumbered

them all to reflect the plan of revision. Locke's and Colleton's interventions were roughly equal in extent though not quite in intent: Colleton queried many of the changes but Locke was more decisive. For example, when Colleton queried whether turning out the Proprietors' deputies in Carolina for misdemeanors might not encourage the Proprietors back in England to "make them surrender the government to the crown," Locke laid his fears to rest: "Agreed that the Proprietors Deputys are not to be turned out." He provided for the Palatine's choice of any landgrave or cassique to be his deputy. He proposed secret balloting in the Grand Council, a minimum number of members (sixty) who had to be present in Parliament for any sentence or judgment to be passed against anyone, and a "box" out of which a ten-year-old child would draw lots to determine jury duty. He also provided for revision of the supposedly "sacred and unalterable" *Fundamental Constitutions* whenever "the variety of human affairs" demanded it.⁷³

Locke was clearly an equal partner in the discussions around the revision of the *Fundamental Constitutions*. The degree of detail to which he descended in considering legal and parliamentary procedures (including prorogation and adjournment, those critical questions during the Exclusion Crisis) demonstrates that he remained an interested party and not merely a hired hand; Locke was, after all, still a landgrave of Carolina, as he had been for more than a decade, since April 1671. His contributions were also evidently taken seriously, for all made their way into the revised "Fourth" *Fundamental Constitutions* of August 1682, which remained in force until their fifth and final revision of 1698. It is also possible that he retained the very copy of the "Third" *Fundamental Constitutions* containing the 1682 revisions: in 1686, a friend in the West Country wrote to Locke concerning a "copy of Carolina Laws with marginall notes of your hand and also some leaves put in of your handwriteing," which Locke spent six months trying to recover.⁷⁴ Once again, his solicitude for the *Fundamental Constitutions* was evident; as well it might have been, because he seems to have been the only person (apart from Sir Peter Colleton) who had responsibility for them both in 1669 and in 1682.

* * *

The discovery of Locke's role in the third 1682 revision of the *Fundamental Constitutions of Carolina* goes a long way toward explaining the presence and the prominence of the American examples in the *Second Treatise*, especially in chapter V. There is no longer any need to invoke the French fur trade or the frame of government for Pennsylvania to support historically the "colonial" reading of chapter V. Instead, Carolina, the colony with which

Locke had been most closely and continuously associated, can be shown to have been among his identifiable political concerns in the summer of 1682. This fact would be consistent with the evidence of Locke's reading, which suggests a date of 1681 at the earliest for large parts of the *Second Treatise*. It would also be consistent with the unconscious evidence offered by Locke's practices of biblical citation. It would also corroborate the speculation that Locke was still working on the *Second Treatise* that summer, and in particular that "Of Property" was one of the last sections of the work that he drafted.

Further evidence for the independent composition of chapter V comes from Locke's correspondence regarding manuscripts he had left in England before leaving for Holland in the autumn of 1683. Two years later, in a coded letter to his relative in Somerset, Edward Clarke, Locke expressed particular concern about three manuscripts contained in a "red trunk." Locke advised Clarke that he would "finde in the least parcel marked.2. if he examine it, nuts, acorns, shineing pebles ambergris and such other things of natures production as she her self offers to humane use." "In an other bigger parcel (carying the figure.1. as I remember)," Clarke would "finde things relateing to the animal Kingdome as it is divided in the beginning of Gen: into the three great provinces viz. Fishes of the sea fouls of the air and beast cattle and creepeing things that creepe upon the earth." The third and "bigest parcell made up in a long bundle is all of artificiall things more exalted and refined into spiritality [*sic*] by art." Locke warned Clarke that the various parcels were "trifles some whereof are not very safe to be medled with" and urged him not to "keepe them altogether unseparated in the terrible posture they are now" but to order them according to specific instructions Locke had earlier given to him.⁷⁵

These three manuscripts can be tentatively identified with works Locke can be presumed to have completed before the end of 1683. The largest "bundle" has usually been taken to be the manuscript of the "Critical Notes" on Stillingfleet (1681).⁷⁶ The second largest, which carried "the figure.1" and dealt with "the animal Kingdome as it is divided in the begining of Gen:" would seem to refer to the *First Treatise* alone, with its refutation of Filmer's scriptural arguments for Adam's primal dominion over the brute creation (*First Treatise*, § 16, quoting Genesis 1:26). The alleged contents of the smallest parcel—"nuts, acorns, shineing pebles ambergris and such other things of natures production as she her self offers to humane use"—all appear in chapter V of the *Second Treatise*, and they appear together only in that chapter: nuts (*Second Treatise*, § 46); acorns (*Second Treatise*, §§ 28, 31, 42, 46); "a sparkling Pebble" (*Second Treatise*, § 46); ambergris (*Second Treatise*, § 30);⁷⁷ and "the Fruits . . . and Beasts . . . produced by the spontaneous

hand of Nature . . . for the use of men" (*Second Treatise*, § 26).⁷⁸ It seems likely, then, that this least parcel contained a relatively short, free-standing manuscript treating property and its acquisition that can be substantially identified with what we now know as chapter V, "Of Property."

This evidence might confirm the suspicion that chapter V was an intruder composed independently of the rest of the *Second Treatise* and then inserted into the text at a late stage in its cumulative composition.⁷⁹ The subject of chapter V is conspicuously different from what comes before in chapter IV ("Of Slavery") and after in chapter VI ("Of Paternal Power"). Those two chapters both concern different forms of power and authority, whether of masters or parents, and the corresponding varieties of liberty and equality. Read sequentially, they form a seamless discussion of forms of nonpolitical authority. By contrast, the language of power and authority, liberty and equality, is strikingly absent from chapter V, whose key terms are instead "labour," "industry," and "property." This discontinuity in vocabulary suggests that "Of Property" was composed independently and that Locke inserted it where he had opened a seam in an already existing argument.⁸⁰

The evidence of textual discontinuity also corresponds with a crucial shift in Locke's theory of the acquisition of property. As late as 1677-78, Locke had offered a broadly Grotian account of the process by which the primal positive community in the world had given way to the regime of exclusive private property. Locke argued that that process was contractual and that it was designed to prevent a state of anarchic competition for resources: "Men therefor must either enjoy all things in common or by compact determine their rights[.] if all things be left in common want rapine and force will unavoidably follow in which state, as is evident happynesse cannot be had which cannot consist without plenty and security. To avoid this estate compact must determin peoples rights."⁸¹ Such a contractual account of the origins of property could refer only to the agreements made between parties equally capable of entering into compacts with each other.

The "colonial" reading of the *Second Treatise* has established that Locke's argument in chapter V addressed both American and English contexts. In the seventeenth-century context of relations between Amerindians and Anglo-Americans, the incomers did not always recognize the indigenes' equal capacity with Europeans to determine rights by compact. For example, the *Fundamental Constitutions* (§ 112) expressly banned settlers in Carolina from holding or claiming any land by "purchase or gift" from the natives, a clear sign that contracts there could hold only among Anglo-Americans and not between Anglo-Americans and Amerindians.⁸² The presence of an argument from contract in the account of property in the *Second Treatise* would therefore have been an indication that Locke intended that account either for

domestic purposes alone or to govern relations between subjects of the English Crown. No such argument is to be found in the *Second Treatise*; instead, Locke contends that “God gave the World to Men in Common; but . . . it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the Industrious and Rational, (and *Labour* was to be *his Title* to it;) not to the Fancy or Covetousness of the Quarrelsome and Contentious” (*Second Treatise*, § 34). Only after land had been appropriated in this way could it be apportioned “*by compact and Agreement*” in those parts of the world where a monetary economy has been introduced and land has become scarce, just as the “several States and Kingdoms . . . have, by *positive agreement, settled a Property* amongst themselves in distinct Parts and parcels of the Earth,” leaving “*great Tracts of Grounds*” waste and lying in common, “the Inhabitants thereof not having joyned with the rest of Mankind, in the consent of the Use of their common Money” (*Second Treatise*, § 45).

Locke’s argument from divine command to cultivate those “*great Tracts*” of unappropriated land became the classic theoretical expression of the agriculturalist argument for European *dominium* over American land. Precisely that argument underlay the rights claimed by the Proprietors over the land of Carolina, according to the terms of their grants from the English Crown. The original 1629 grant had called Carolina a region “*hitherto untilled*. . . . But in some parts of it inhabited by certain Barbarous men,” and this description had been reaffirmed in Charles II’s grant to the Lords Proprietors in 1663, which had charged the Lords Proprietors “to Transport and make an ample Colony of our Subjects . . . unto a certain Country . . . in the parts of AMERICA *not yet cultivated or planted*, and only inhabited by some barbarous People who have no knowledge of Almighty God.”⁸³ The agriculturalist argument was the best justification that could be given for dispossession after arguments from conquest and from religion had been gradually abandoned. As the English learned from the Spanish, the argument from conquest could only justify *imperium* over the native peoples but not *dominium* over American land. Nor could Amerindian unbelief alone provide a justification for dominion. As we have seen, in 1669 the authors of the *Fundamental Constitutions* had specified that “Idollatry Ignorance or mistake gives us noe right to expell or use [the Natives of Carolina] ill,” and that article remained in all later versions of the *Fundamental Constitutions*. Locke himself later upheld just that same argument in the *Letter Concerning Toleration* (1685): “No man whatsoever ought . . . to be deprived of his Terrestrial Enjoyments, upon account of his Religion. Not even *Americans*, subjected unto a Christian Prince, are to be punished either in Body or Goods, for not imbracing our Faith and Worship.”⁸⁴ The only remaining argument was the contention (first propounded in its modern form by Thomas More in *Utopia*) that dominion fell to those

best able to cultivate the land to its fullest capacity, not least to fulfill the divine command to subdue the earth (Genesis 1:28, 9:1). The peculiar form of Locke's argument therefore had identifiably colonial origins, though not exclusively colonial applications.⁸⁵

The same might be said of the references to the "*West Indies*"—meaning either the English Caribbean or the English settlements in the Western Hemisphere more generally—in the *Two Treatises*. They are less precisely datable than the American references in chapter V of the *Second Treatise* but are just as suggestive. Both occur in the same chapter of the *First Treatise*, and each refers to the legitimacy of a "Planter in the *West Indies*" making war, leading his sons, friends, soldiers "or Slaves bought with Money" "out against the *Indians* to seek Reparation upon any Injury received from them" (*First Treatise*, §§ 131, 130).⁸⁶ Locke there argued, *contra* Filmer, that such a planter would not need absolute monarchical dominion, descending from Adam, to pursue his vengeance but instead derived authority from his role as father of his sons, friend of his companions, or owner of his slaves. He would thus be like the "*Master of a Family*" portrayed in the *Second Treatise*, uniting "*Wife, Children, Servants and Slaves*" under his domestic rule, save for the all-important proviso that the master possessed power of life and death only over his slaves and not over the rest of his extended household (*Second Treatise*, § 86).

The paterfamilias's "Legislative Power of Life and Death" was the same power and authority possessed by "every Freeman of Carolina over his Negro slaves of what opinion or Religion soever" (*Fundamental Constitutions* § 110). That article was missing from what seems to be the very earliest manuscript of the *Fundamental Constitutions*, but its first appearance was idiomatically Lockean in its insistence on the slaveholder's "absolute arbitrary Power, over the Lives, Liberties and Persons of his Slaves, and their Posterities."⁸⁷ It also went untouched in the 1682 revisions even as Locke renumbered it with all the rest. There is therefore no mistaking either his tacit commitment to this brutal provision or to the hold the master-slave relationship had over his political imagination both before and during the composition and revision of the *Two Treatises*.⁸⁸ This perhaps becomes less surprising once we know he had collaborated with the Barbadian planter Sir Peter Colleton on the revisions to the *Fundamental Constitutions* in 1682.

As early as 1776, Locke's conservative critic Josiah Tucker had noted the consistency between the *Fundamental Constitutions*' attribution of the power of life and death to slaveholders and the portrait in the *Second Treatise* of slaves taken in a just war being "subjected to the Absolute Dominion and Arbitrary Power of their Masters." He explained this by the practice of

“Republicans in general . . . for leveling all Distinctions above them, and at the same time for tyrannizing over those, whom Chance or Misfortune have placed below them.”⁸⁹ Just more than fifty years later, during the British debate on the abolition of slavery in June 1829, Jeremy Bentham assailed Locke for making private property the foundation of both liberty and happiness: “Property the only object of care to Government. Persons possessing it alone entitled to be represented. West Indies the meridian for these principles of this liberty-champion.” His proof came from the *Fundamental Constitutions of Carolina*, “a performance which from that day to this has never been more spoken of in any other character than that of a failure.”⁹⁰ The complicity of Lockean liberalism with English colonialism was thus not first exposed by liberal self-scrutiny nor was it originally unearthed by an effort of postcolonial critique. Tucker and Bentham’s assaults on Locke may have been malevolent but they were theoretically acute; little did they know that, in light of Locke’s political activities in the summer of 1682, their attacks were also historically accurate.

NOTES

1. Both “liberalism” and “colonialism” are, of course, anachronistic and imprecise terms to apply to any period before the nineteenth century (if then); however, they provide a convenient conceptual shorthand and have the virtue of familiarity as terms of art.

2. See especially Bhikhu Parekh, “Superior People: The Narrowness of Liberalism from Mill to Rawls,” *Times Literary Supplement* (February 25, 1994): 11-13; Parekh, “Decolonizing Liberalism,” in *The End of “Isms”? Reflections on the Fate of Ideological Politics after Communism’s Collapse*, ed. Aleksandras Shtromas (Oxford: Blackwell, 1994), 85-103; Parekh, “Liberalism and Colonialism: A Critique of Locke and Mill,” in *The Decolonization of Imagination: Culture, Knowledge and Power*, ed. Jan Nederveen Pieterse and Bhikhu Parekh (London: Zed Books, 1995), 81-98; James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press, 1995); Man To Leung, “Extending Liberalism to Non-European Peoples: A Comparison of John Locke and James Mill” (DPhil thesis, Oxford University, 1998); Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (Chicago: University of Chicago Press, 1999); Duncan Ivison, *Postcolonial Liberalism* (Cambridge: Cambridge University Press, 2002); Anthony Pagden, “Human Rights, Natural Rights, and Europe’s Imperial Legacy,” *Political Theory* 31 (2003): 171-99; Sankar Muthu, *Enlightenment against Empire* (Princeton, NJ: Princeton University Press, 2003); Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton, NJ: Princeton University Press, forthcoming).

3. Richard Tuck, “Rights and Pluralism,” in *Philosophy in an Age of Pluralism: The Philosophy of Charles Taylor in Question*, ed. James Tully (Cambridge: Cambridge University Press, 1994), 163; compare Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford University Press, 1999), 14-15, 232-34.

4. See, for example, Hugo Grotius, *The Free Sea*, trans. Richard Hakluyt, ed. David Armitage (Indianapolis: Liberty Fund, 2004); Noel Malcolm, “Hobbes, Sandys, and the Virginia

Company," in Malcolm, *Aspects of Hobbes* (Oxford: Clarendon, 2002), 53-79; Alexis de Tocqueville, *Writings on Empire and Slavery*, trans. and ed. Jennifer Pitts (Baltimore: Johns Hopkins University Press, 2001); J. S. Mill, *Writings on India*, ed. John M. Robson, Martin Moir, and Zawahir Moir (Toronto: University of Toronto Press, 2000).

5. MSS Locke c. 30, Bodleian Library, Oxford; PRO 30/24/47, 30/24/48, Public Record Office, National Archives, Kew; *The Shaftesbury Papers*, V, ed. Langdon Cheves, introd. Robert M. Weir (Charleston, SC: Tempus, 2000); Louise Fargo Brown, *The First Earl of Shaftesbury* (New York: D. Appleton, Century, 1933), chaps. IX-X; K.H.D. Haley, *The First Earl of Shaftesbury* (Oxford: Clarendon, 1968), chap. XII.

6. Journals of the Council for [Trade and] Foreign Plantations, 1670-1674, Phillipp MS 8539, pt. 1, Library of Congress, Washington, D.C.; Ralph Paul Bieber, "The British Plantation Councils of 1670-4," *English Historical Review* 40 (1925): 93-106.

7. Minute-books of Board of Trade and Plantations, 1696-1701, National Archives, CO 391/9, 391/10, 391/11, 391/12, 391/13; Maurice Cranston, *John Locke: A Biography* (London: Longmans, 1957), chap. 25; Michael Kammen, "Virginia at the Close of the Seventeenth Century: An Appraisal by James Blair and John Locke," *Virginia Magazine of History and Biography* 74 (1966): 141-69; Peter Laslett, "John Locke, the Great Recoinage and the Board of Trade, 1695-1698," in *John Locke: Problems and Perspectives*, ed. John Yolton (Cambridge: Cambridge University Press, 1969), 137-65; Richard Ashcraft, "Political Theory and Political Reform: John Locke's Essay on Virginia," *Western Political Quarterly* 22 (1969): 742-58; J. Turner, "John Locke and Colonial America: The Cases of Virginia and New York, 1696-1700" (MPhil thesis, Cambridge University, 2001).

8. Mehta, *Liberalism and Empire*, 4.

9. See especially Herman Lebovics, "The Uses of America in Locke's Second Treatise on Government," *Journal of the History of Ideas* 47 (1986): 567-82; Francisco Castilla Urbino, "El Indio Americano en la Filosofía Política de John Locke," *Revista de Indias* 46 (1986): 421-51; James Tully, "Rediscovering America: The *Two Treatises* and Aboriginal Rights," in Tully, *An Approach to Political Philosophy: Locke in Contexts* (Cambridge: Cambridge University Press, 1993), 137-76; Barbara Arneil, *John Locke and America: The Defence of English Colonialism* (Oxford: Clarendon, 1996); Anthony Pagden, "The Struggle for Legitimacy and the Image of Empire in the Atlantic to c. 1700," in *The Oxford History of the British Empire, I: The Origins of Empire*, ed. Nicholas Canny (Oxford: Oxford University Press, 1998), 42-47; Mark A. Michael, "Locke's *Second Treatise* and the Literature of Colonization," *Interpretation* 25 (1998): 407-27; Duncan Ivison, "Locke, Liberalism and Empire," in *The Philosophy of John Locke: New Perspectives*, ed. Peter R. Anstey (London: Routledge, 2003), 86-105.

10. John Locke, *Two Treatises of Government*, ed. Peter Laslett, rev. ed. (Cambridge: Cambridge University Press, 1988). All references are to this edition by *Treatise* and paragraph number.

11. Stephen Buckle, "Tully, Locke and America," *British Journal for the History of Philosophy* 9 (2001): 274.

12. Ivison, "Locke, Liberalism and Empire," ed. Anstey, 87.

13. Tully, "Rediscovering America," 165, 166.

14. Tuck, *The Rights of War and Peace*, 177-78.

15. John Locke, "Pensylvania laws," "The frame of the Government of Pensylvania," Bod. MS Locke f. 9, fols. 33-37, 38-41, Locke's journal 1686-88, between entries for November 8 and 22, 1686; Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton, NJ: Princeton University Press, 1986), 518-20.

16. Locke, *Two Treatises*, ed. Laslett, 65, 123-26.

17. John Locke, *Political Writings*, ed. David Wootton (Harmondsworth, UK: Penguin, 1989), 49-89; John Marshall, *John Locke: Resistance, Religion and Responsibility* (Cambridge: Cambridge University Press, 1994), 222-24, n. 25, 234-58; J. R. Milton, "Dating Locke's *Second Treatise*," *History of Political Thought* 16 (1995): 356-90.
18. Milton, "Dating Locke's *Second Treatise*," 389.
19. Tuck, *The Rights of War and Peace*, 168. This *terminus a quo* of 1681 would also fit with Locke's citation of Robert Knox's "late Relation of *Ceylon*" (*Second Treatise*, § 92), which he bought on August 29, 1681: Locke, *Two Treatises*, 55, 327, n. 12.
20. Milton, "Dating Locke's *Second Treatise*," 372-74.
21. Pramod Kumar Mishra, "'[A]ll the World was America': The Transatlantic (Post)Coloniality of John Locke, William Bartram, and the Declaration of Independence," *CR: The New Centennial Review* 2 (2002): 219-37.
22. Most recently in Frederick E. Kidder, "The Fundamental Constitutions in the Light of John Locke's Political Theory," *Atenea* (Mayaguez, P.R.) 2 (1965): 47-60; Celia McGuinness, "The *Fundamental Constitutions of Carolina* as a Tool for Lockean Scholarship," *Interpretation* 17 (1989): 127-43; Terrell L. Hallmark, "John Locke and the *Fundamental Constitutions of Carolina*" (PhD thesis, Claremont Graduate University, 1998); Vicki Hsueh, "Giving Orders: Theory and Practice in the *Fundamental Constitutions of Carolina*," *Journal of the History of Ideas* 63 (2002): 425-46.
23. "Jetez les yeux sur l'autre hémisphère, voyez le Caroline, dont le sage Locke fut le législateur," in Voltaire, *Traité de la tolérance* (1763), ed. John Renwick (Oxford: Voltaire Foundation, 2000), 152.
24. Pierre Desmaizeaux, ed., *A Collection of Several Pieces of Mr John Locke*, (London: J. Bettenham, 1720), sigs. A3r-A4v; [Arthur Lee,] *An Essay in Vindication of the Continental Colonies of America* (London: Arthur Lee, 1764), 28; [Georges Marie Butel-Dumont,] *Histoire et commerce des colonies angloises* (London: n.p., 1755), 279; Alexander Hewatt, *Historical Account of the Rise and Progress of South Carolina and Georgia*, 2 vols. (London: A. Donaldson, 1779), I, 44 (quoted).
25. [Daniel Defoe,] *Party Tyranny, or An Occasional Bill in Miniature* (London, n.p., 1705), 8; [Josiah Tucker,] *Four Letters on Important National Subjects, Addressed to the Right Honourable the Earl of Shelburne* (Gloucester: T. Cadell, 1783), 92 (quoted); John Adams, *Defence of the Constitutions of Government of the United States of America* (1788), in *The Works of John Adams*, ed. C. F. Adams, 10 vols. (Boston: Little, Brown, 1851), IV, 463-64; Jonathan Boucher, *A View of the Causes and Consequences of the American Revolution* (London: G. G. and J. Robinson, 1797), 41.
26. Haley, *The First Earl of Shaftesbury*, 242-48; J. R. Milton, "John Locke and the Fundamental Constitutions of Carolina," *The Locke Newsletter* 21 (1990): 111-33.
27. *The Fundamental Constitutions of Carolina* (March 1, 1670) (n.p., n.d. [1672?]), Houghton Library, Harvard University, call number *fEC65 L7934 670 f, is a unique large-paper copy; *Carolina Described More Fully Than Heretofore . . .* (Dublin: n.p., 1684), 12-16, 33-56, summarizes and reprints the *Fundamental Constitutions* of January 12, 1682.
28. *Collection of Several Pieces of Mr John Locke*, ed. Desmaizeaux, 1-53; *The Works of John Locke*, 10 vols. (London: Thomas Tegg, 1823), X, 175-99; Locke, *Political Writings*, ed. Wootton, 210-32; Locke, *Political Essays*, ed. Mark Goldie (Cambridge: Cambridge University Press, 1997), 160-81.
29. Ethan Putterman, "Realism and Reform in Rousseau's Constitutional Projects for Poland and Corsica," *Political Studies* 49 (2001): 481-94.
30. "The Fundamental Constitutions of Carolina" (July 21, 1669), National Archives, PRO 30/24/47/3.

31. Philip Long, *A Summary Catalogue of the Lovelace Collection of the Papers of John Locke in the Bodleian Library* (Oxford: Bodleian Library, 1959), ix; for example, "Of Seeing All Thing [*sic*] in God" (1693); "Des Cartes's Proof of a God from the Idea of Necessary Existence Examined" (1696); "Some of the Cheif Greivances of the Present Constitution of Virginia with an Essay towards the Remedies Thereof" (1697); "Queries to Be Put to Colonel Henry Hartwell or Any Other Discreet Person That Knows the Constitution of Virginia" (1697), Bod. MSS Locke d. 3, fol. 1; c. 28, fol. 119; e. 9, fols. 1, 39.
32. *The Fundamental Constitutions of Carolina* (March 1, 1670) (n.p., n.d. [London, 1672?]), Bod. Ashmole F4 (42): "Made by Anth: Earle of Shaftesbury."
33. Locke's landgrave patent, April 4, 1671, Bod. MS Locke b. 5/9 (another copy in Recital of Grants, AD120, pt. II [November 15, 1682], fol. 18, South Carolina Department of Archives and History, Columbia, SC). Comparison with other contemporary landgrave patents—for example, for James Colleton (March 16, 1671), John Yeamans (April 5, 1671), and Sir Edmund Andros (April 3, 1672)—shows that this form of words was unique to Locke's grant.
34. Compare the list of landgrave patents in the Carolina Entry Book, 1663-97, National Archives, CO 5/286, fol. 42v.
35. John Locke to Thomas Herbert, Earl of Pembroke, November 28, 1684, in *The Correspondence of John Locke*, ed. E. S. De Beer, 8 vols. to date (Oxford: Clarendon Press, 1976-), II, 664.
36. Sir Peter Colleton to Locke, October 1673; Nicholas Toinard to Locke, July 2, 1679; Henri Justel to Locke, September 17, 1679, in *Correspondence of John Locke*, ed. De Beer, I, 395, II, 47, 105.
37. *Collection of Several Pieces of Mr John Locke*, ed. Desmaizeaux, 42.
38. National Archives, PRO 30/24/47/3, fol. 1, ptd. in Locke, *Political Essays*, ed. Goldie, 162.
39. [J. T. Rutt,] "Defence of Locke against Lord Eldon" (February 9, 1807), in *The Reception of Locke's Politics*, ed. Mark Goldie, 6 vols. (London: Pickering and Chatto, 1999), IV, 391.
40. National Archives, PRO 30/24/47/3, fols. 58r, 59r-60r, 58r-59r, 65r, 66r, ptd. in Locke, *Political Essays*, ed. Goldie, 177, 178, 179-80.
41. On the relatively recent emergence of that conceptual distinction in Locke's lifetime, see Richard Tuck, "Power and Authority in Seventeenth-Century England," *Historical Journal* 17 (1974): 43-61.
42. Josiah Tucker, *A Treatise Concerning Civil Government, in Three Parts* (London: T. Cadell, 1781), 168.
43. David Wootton, "John Locke and Richard Ashcraft's *Revolutionary Politics*," *Political Studies* 40 (1992): 79 (quoted), 82-87.
44. [Josiah Tucker,] *A Series of Answers to Certain Popular Objections, against Separating the Rebellious Colonies, and Discarding Them Entirely* (Gloucester: T. Cadell, 1776), 104; compare [Rutt,] "Defence of Locke against Lord Eldon," in *The Reception of Locke's Politics*, ed. Goldie, IV, 393. Locke was thirty-seven in 1669 and thus middle-aged by the standards of his time.
45. Temporary laws for Carolina, December 1671, National Archives, CO 5/286, fol. 41r, ptd. in [W. J. Rivers,] *A Sketch of the History of South Carolina to the Close of the Proprietary Government by the Revolution of 1719* (Charleston, SC: McCarter, 1856), 353.
46. National Archives, CO 5/286, fol. 125v, July 29, 1674: "Memd Send Mr Locke into the Country a Coppy of the F. Constitutions"; Thomas Stringer to Locke, September 7, 1677; Stringer to Locke, October 5, 1677, in *Correspondence of John Locke*, ed. De Beer, I, 516, 518.

47. John Locke, "Atlantis" (1676-79), in Locke, *Political Essays*, ed. Goldie, 253-59; Ernesto de Marchi, "Locke's Atlantis," *Political Studies* 3 (1955): 164-65; Luciana Bellatalla, *Atlantis: Spunti e appunti su un inedito lockiano* (Lucca: Fazzi, 1983).

48. *Correspondence of John Locke*, ed. De Beer, I, 590, II, 27, 34, 40, 68, 95, 105, 132, 141, 147, 441, 444; Bod. MS Locke f. 28, fol. 19.

49. Bod. MS Locke f. 5, fol. 93; MS Locke c. 25, fol. 31r; MS Locke f. 10, fol. 98; MS Locke b. 2, fol. 124; MS Locke f. 17, fol. 46r; MS Locke b. 2, fol. 172v; Locke to Anthony Collins, March 6, 9, 13, 1704, in *Correspondence of John Locke*, ed. De Beer, VIII, 232, 234, 238; Bod. MS Locke c. 35, fol. 49v.

50. John Locke, "Observations on Wine, Olives, Fruit and Silk" (February 1, 1680), National Archives, PRO 30/24/47/35; [John Locke,] *Observations upon the Growth and Culture of Vines and Olives*, ed. G. S. (London: W. Sandby, 1766); *Works of John Locke*, X, 323-56. Locke's other major (and still unpublished) work of these years was the "Critical Notes" on Stillingfleet (1681), Bod. MS Locke c. 34.

51. The main exception is a series of studies by Tim Unwin, "Locke's Interest in Wine," *The Locke Newsletter* 29 (1998): 119-51; Unwin, "The Viticultural Geography of France in the 17th Century According to John Locke," *Annales de Géographie* 614-15 (2000): 395-414; Unwin, "From Montpellier to New England: John Locke on Wine," in *Place, Culture and Identity: Essays in Historical Geography in Honour of Alan R. H. Baker*, ed. Iain Black and Robin A. Butlin (Saint-Nicholas: Presses de l'Université Laval, 2001), 69-90; see also Roy P. Brady, "Locke on Wine," *Wine and Food* 98 (1958): 77-85.

52. Compare Unwin, "Locke's Interest in Wine," 143-45, 150, with the account in Unwin, "From Montpellier to New England," in *Place, Culture and Identity*, ed. Black and Butlin, 83-84.

53. Bod. MS Locke f. 15, fols. 26, 42, 91.

54. John Hoskins to Locke, February 5, 1680, in *Correspondence of John Locke*, ed. De Beer, II, 154; Lewis Cecil Gray and Esther Katherine Thompson, *History of Agriculture in the Southern United States to 1860*, 2 vols. (New York: P. Smith, 1941), I, 52-54, 184-85, 188-90.

55. St. Julien R. Childs, "The Petit-Guéraud Colony," *South Carolina Historical and Genealogical Magazine* 43 (1942): 2-3; Committee of Trade and Plantations, May 20, 1679, ptd. in [Rivers,] *A Sketch of the History of South Carolina*, 392; Haley, *The First Earl of Shaftesbury*, 533.

56. Neal Wood, *John Locke and Agrarian Capitalism* (Berkeley: University of California Press, 1984), 21-71.

57. Ashcraft, *Revolutionary Politics*, 354-55, 372; Philip Milton, "John Locke and the Rye House Plot," *Historical Journal* 43 (2000): 647-68.

58. Haley, *The First Earl of Shaftesbury*, 705-7; Eugene M. Sirmans, *Colonial South Carolina: A Political History, 1663-1763* (Chapel Hill: University of North Carolina Press, 1966), 35-43.

59. Ashcraft, *Revolutionary Politics*, 354; *Letters Illustrative of Public Affairs in Scotland, Addressed . . . to George, Earl of Aberdeen . . . MDCLXXXI-MDCLXXXIV* (Aberdeen: Spalding Club, 1851), 58-60; Peter Karsten, "Plotters and Proprietaries, 1682-83: The 'Council of Six' and the Colonies: Plan for Colonization or Front for Revolution?" *The Historian* 38 (1975-76): 474-84; Linda Fryer, "Documents Relating to the Formation of the Carolina Company in Scotland, 1682," *South Carolina Historical Magazine* 99 (1998): 110-34.

60. This passage must date from after the first Scots settlement in 1684; however, no sizeable Welsh community in Carolina is recorded before the early eighteenth century: Sirmans, *Colonial South Carolina*, 168.

61. *The Fundamental Constitutions of Carolina* (January 12, 1682) (n.p., n.d. [London, 1682]).
62. *The True Protestant Mercury*, March 15-18, 1682, March 18-22, 1682; R. F., *The Present State of Carolina with Advice to the Settlers* (London: John Bringham, 1682); *A True Description of Carolina* (London: Joel Gascoine, n.d. [1682]); [Samuel Wilson,] *An Account of the Province of Carolina in America* (London: Francis Smith, 1682).
63. John Dryden, "Prologue to the King and Queen" (1682), in *Poems on Affairs of State: Augustan Satirical Verse, 1660-1714, III: 1682-1685*, ed. Howard H. Schless (New Haven, CT: Yale University Press, 1968), 372-73. Dryden wrote the prologue between May 14 and November 16, 1682: see headnote, *ibid.*, 372.
64. National Archives, CO 5/286, fols. 91v-92v (May 10, 1682), ptd. in [Rivers,] *A Sketch of the History of South Carolina*, 395-96. No copy of the *Constitutions* incorporating these changes seems to have survived.
65. National Archives, PRO 30/24/48, fols. 335-51, provides a detailed list of the changes from the "Third" *Constitutions* (January 12, 1682) to the "Fourth" *Constitutions* (August 17, 1682), National Archives, CO 5/287, fols. 24-32.
66. Bod. MS Locke f. 6, fols. 63, 83.
67. Nicholas Toinard to Locke, September 24, 1681 ("nous [i.e., Toinard and Henri Justel] avons trouvé bien des choses embarrassantes, et tres contraires à la tranquillité que des subalternes cherchent dans ces sortes de païs"), Toinard to Locke, September 24, 1681 ("Songez serieusement à la reformation des loix de la K."), in *Correspondence of John Locke*, ed. De Beer, II, 441, 444.
68. *The Fundamental Constitutions of Carolina* (January 12, 1682), New York Public Library, call number *KC + 1682.
69. Haley, *First Earl of Shaftesbury*, 725.
70. My thanks to Charles H. Lesser of the South Carolina Department of Archives and History for his help in eliminating possible candidates.
71. J. E. Buchanan, "The Colleton Family and the Early History of South Carolina and Barbados" (PhD thesis, University of Edinburgh, 1989), chaps. 1-6; Basil Duke Henning, ed., *The House of Commons, 1660-1690*, 3 vols. (London: History of Parliament Trust, 1983), II, 106, s.v., "Colleton, Sir Peter."
72. The New York Public Library card catalogue; William S. Powell, "Carolina in the Seventeenth Century: An Annotated Bibliography of Contemporary Publications," *North Carolina Historical Review* 41 (1964): 94; and Charles H. Lesser, *South Carolina Begins: The Records of a Proprietary Colony, 1663-1721* (Columbia: South Carolina Department of Archives and History, 1995), 28, note the presence of Locke's hand but without further investigation.
73. *The Fundamental Constitutions of Carolina* (New York Public Library *KC + 1682), 11, 22, fols. 1v, 2v, 3r, 3v; Locke amended articles 14, 34, 39, 40, 52, 59, 67, 70, 73, 75, 116, and 120 in this copy.
74. David Thomas to Locke, November 25, 1686, Thomas to Locke, December 26, 1686, note on letter from Edward Clarke, April 25, 1687, in *Correspondence of John Locke*, ed. De Beer, III, 74, 90, 166; Mary Clarke to Edward Clarke, April 30, 1687, Sanford (Clarke) Papers, Somerset Record Office, Taunton (my thanks to Mark Goldie for this reference).
75. Locke to Edward Clarke, March 26, 1685, in *Correspondence of John Locke*, ed. De Beer, II, 708-9.
76. *Correspondence of John Locke*, ed. De Beer, II, 709 n. 1.

77. As Locke knew, ambergris was found in Carolina and in the Bahamas: *Fundamental Constitutions*, § 104, "One half of all ambergreece by whomsoever found shall wholly belong to the Proprietors": PRO 30/24/47/3, fol. 68r, ptd. in Locke, *Political Essays*, ed. Goldie, 180; Richard Lilburne to the Bahamas Adventurers, August 9, 1674, National Archives, PRO 30/24/49, fol. 58, endorsed by Locke, "Ambra Grisias 74."

78. The only other commentator to have noticed this passage seems to have been Richard Ashcraft: Ashcraft, *Revolutionary Politics*, 463 n. 221.

79. As suggested independently by Richard Ashcraft and John Milton: Ashcraft, *Revolutionary Politics*, 463 n. 221; Milton, "Dating Locke's *Second Treatise*," 372.

80. Compare J. H. Hexter's classic account of Thomas More "open[ing] a seam" to insert the "Dialogue of Counsel" into the text of *Utopia*: Hexter, *More's "Utopia": The Biography of an Idea* (Princeton, NJ: Princeton University Press, 1952), 18-21.

81. John Locke, "Morality" (c. 1677-78), Bod. MS Locke c. 28, fol. 140, ptd. in Locke, *Political Essays*, ed. Goldie, 268; Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge University Press, 1979), 168-69.

82. National Archives, PRO 30/24/47/3, fol. 66r, ptd. in Locke, *Political Essays*, ed. Goldie, 180. This provision remained unaltered in all subsequent revisions of the *Fundamental Constitutions*.

83. Charter to Sir Robert Heath (October 30, 1629) and Charter to the Lords Proprietors of Carolina (March 24, 1663), in M.E.E. Parker, ed., *North Carolina Charters and Constitutions, 1578-1698* (Raleigh, NC: Carolina Charter Tercentenary Commission, 1963), 64, 76 (my emphases).

84. John Locke, *A Letter Concerning Toleration*, ed. James Tully (Indianapolis: Hackett, 1983), 43.

85. David Armitage, *The Ideological Origins of the British Empire* (Cambridge: Cambridge University Press, 2000), 49-50, 92-99.

86. On *First Treatise*, § 130, see Seymour Drescher, "On James Farr's 'So vile and miserable an estate,'" *Political Theory* 16 (1988): 502-3; James Farr, "'Slaves bought with money': A Reply to Drescher," *Political Theory* 17 (1989): 471-74.

87. Compare Recital of Grants, AD120, pt. II, South Carolina Department of Archives and History, fols. 41-46 (MS copy of the "Fundamental Constitutions" [1669]) with "Copy of the Modell of Government Prepared for the Province of Carolina &c.," Ford Collection, New York Public Library (unfoliated), article 73.

88. For a range of treatments of Locke on slavery see John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government"* (Cambridge: Cambridge University Press, 1969), 108-10, 174-77; James Farr, "'So vile and miserable an estate': The Problem of Slavery in Locke's Political Thought," *Political Theory* 14 (1986): 263-90; Wayne Glasser, "Three Approaches to Locke and the Slave Trade," *Journal of the History of Ideas* 51 (1990): 199-216; Jennifer Welchman, "Locke on Slavery and Inalienable Rights," *Canadian Journal of Philosophy* 25 (1995): 67-81; William Uzgalis, "'... The Same Tyrannical Principle': Locke's Legacy on Slavery," in *Subjugation and Bondage: Critical Essays on Slavery and Social Philosophy*, ed. Tommy Lee Lott (Lanham, MD: Rowman & Littlefield, 1998), 49-77; Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke's Political Thought* (Cambridge: Cambridge University Press, 2002), 197-206.

89. Tucker, *A Series of Answers to Certain Popular Objections*, 103.

90. Jeremy Bentham, "Article on Utilitarianism" (June 8, 1829), University College London, Bentham Papers, XIV. 432 (marginal note), XIV. 433.

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