



LOCKE STUDIES

Vol. 18

<https://doi.org/10.5206/lis.2018.423> | ISSN: 2561-925X

Submitted: 11 JANUARY 2018

Revised: 30 JUNE 2018

Published online: 25 NOVEMBER 2018

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One Body of People: Locke on Punishment, Native Land Rights, and the Protestant Evangelism of North America

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Abstract:

The purpose of this paper is to challenge the wide-spread belief that Locke advocated the dispossession of Native peoples' land due to their savagery or because they used land wastefully and inefficiently. These represent two sides of what I call the punishment thesis. Not only are there are good textual reasons in the *Second Treatise* (and elsewhere) to think that Locke was not interested in punishing Native peoples for violating the natural law, but the history of Locke's involvement with the Carolina colony also tells a remarkably different story—namely, Locke appears to direct the brunt of his moral argument against European settlers, not the Native peoples.

Keywords: Locke, Native peoples, punishment thesis, John Locke, Christian Mission, protestant evangelism

Locke Studies is published by [The John Locke Society](#).

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1. Introduction

The purpose of this paper is to challenge the wide-spread belief that Locke advocated the dispossession of Native peoples' land due to their savagery or because they used land wastefully and inefficiently. These represent two sides of what I call the punishment thesis. Not only are there are good textual reasons in the *Second Treatise* (and elsewhere) to think that Locke was not interested in punishing Native peoples for violating the natural law, but the history of Locke's involvement with the Carolina colony also tells a remarkably different story—namely, Locke appears to direct the brunt of his moral argument against European settlers, not the Native peoples.

Locke's work on toleration and his devotional writing suggest that, under the auspices of toleration and given the proper economic and social conditions, Native peoples might be convinced of the reasonableness of Christianity; their "paganism" should be tolerated, not punished. In some ideal sense, Locke believed that effective social and economic conditions could be fostered in the kind of political society which bore some, if only faint, resemblance to the Carolina colony described in the *Fundamental Constitutions*.¹ Despite what some see as its odd feudal elements, and even though the historical reality of the Carolina colony was contentious and problematic, it is important to remember the utopian aspirations the *Fundamental Constitutions* was tapping into.² Part of these aspirations, I contend, were to model the kind of society that could empirically demonstrate the reasonableness of the natural law in such a way that even the Indigenous neighbors would ultimately be convinced of its truth. They might then become acquainted with the author of the natural law, and, in turn, come to hold some minimum set of Protestant dogmas. The agrarian form of the society was not merely a commitment to agricultural production; it also prefigured a set of political and spiritual relationships.

To these ends, this paper is divided into seven sections. The second section outlines some of the colonial background to Locke's thought as well as some of the initial sources that have led to the rise of the punishment thesis. Sections three, "The Punishment Thesis: The Natural Right to Punish 'Savagery,'" and four, "The Punishment Thesis: Misuse of Property," explore some of the textual and historical evidence as to why these arguments

¹ Many scholars have noted that the constitution is a "bizarre document that mixed forward-thinking Lockean institutions (representative government, religious toleration) with a quasi-feudal pipe dream." Robin Einhorn, *American Taxation, American Slavery* (Chicago: University of Chicago Press, 2001), 95. In this paper I do not attempt to reconcile these seeming contradictions as it is very likely that Locke had only a marginal influence over the creation of the original document, but it was a document he took a life-long interest in. (For more on this, see note 4 below.)

² The *Fundamental Constitutions* should be read in the tradition of the utopian texts of the sixteenth and seventeenth centuries: Thomas More's *Utopia* (1516), Francis Bacon's *New Atlantis* (1627), and James Harrington's *The Commonwealth of Oceana* (1656). Thomas Wilson argues that Lord Shaftesbury was looking to create a "city upon a hill" and to do so "planned Carolina as an idealized reinvention of traditional English society." Thomas Wilson, *The Ashley Cooper Plan: The Founding of Carolina and the Origins of Southern Political Culture* (Chapel Hill: University of North Carolina Press, 2016), 2. There is some evidence that Locke thought of Carolina in these utopian terms, while in France, under a journal heading titled "Atlantis," he sketched notes dealing with Carolina policies. See Ernesto de Marchi, "Locke's Atlantis," *Political Studies* 3, no. 2 (1955): 164-65 and Vicki Hsueh, "Unsettling Colonies: Locke, 'Atlantis' and New World Knowledges," *History of Political Thought* 29, no. 2 (2008): 295-319. <https://www.jstor.org/stable/26224007>.

are difficult to justify in Locke's thought. Section five, "Owning Vacant Lands," seeks to further demonstrate that Locke was not interested in punishing the Native peoples by showing that he was engaged in a debate with Pufendorf about whether mere agreement and convention could bestow ownership of lands that are not cultivated. The thrust of Locke's argument against Samuel Pufendorf, ironically, cuts both ways: no one, not even imperial powers, could properly lay claim to the vast swaths of territory in the Americas. Section six, "Evangelism Over Punishment," further distances Locke from the punishment thesis by showing that he is more interested in integrating some of the colony's Indigenous neighbors into the community, in order to form what he called "one body of people" with the settlers. Assimilation, however, doesn't appear to be entirely one-sided. Given the early reliance on the Native peoples, Locke believed the Indigenous population had a great deal to offer their European counterparts. Locke did, however, believe the empirical validity of the Protestant dogma would be reified in effective social and political structures, which the Carolina colony might be able to emulate. The prospect of Native peoples recognizing this would demonstrate the reasonableness of Christianity.

2. The Colonial Background

There is a growing body of scholarship that attempts to locate Locke's "longstanding and independent interest in the colonizing projects" of North America within his philosophy.³ This project stems, in part, from certain key elements of Locke's biography, in particular his relationship with Ashley Cooper, the First Earl of Shaftesbury. At Lord Shaftesbury's invitation, Locke served as the secretary for the Proprietors of Carolina (1668-75), and it was in this capacity that he became deeply immersed in colonial politics. Locke was, for instance, one of the contributing authors to *The Fundamental Constitutions of Carolina* (1669) and one of three principle revisers of the 1682 draft.⁴ It was in this period that

³ Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (New York: Oxford University Press, 1999), 177.

⁴ For a more complete discussion on the problems of Lockean authorship of *The Fundamental Constitutions*, see David Armitage, *Foundations of Modern International Thought* (New York: Cambridge University Press, 2013). Incidentally, questions about Locke's role in authorship go back to the nineteenth century: the historian William Simms argues, "The probability is, that, in preparing the constitution for the Carolinas, [Locke] rather carried out the notions of that versatile nobleman [Lord Shaftesbury] than his own." William Simms, *The History of South Carolina* (New York: Redfield, 1860), 48. More recently, Hsueh argues that Locke's duties for the Carolina colony were much more humble: they "included: compiling advertisements for the fledgling colony; keeping minutes of meetings; negotiating grievances and requests from colonists and proprietors; drafting temporary laws and executive instructions; drawing up the notes and memoranda of the colony's correspondences; and overseeing the flow of trade and supplies between Carolina, its neighboring colonial settlements ... and England." Vicki Hsueh, "Cultivating and Challenging the Common: Lockean Property, Indigenous Traditionalism, and the Problem of Exclusion," *Contemporary Political Theory* 5 (2006): 200. <https://doi.org/10.1057/palgrave.cpt.9300233>; She makes a similar case in "Giving Orders: Theory and Practice in the *Fundamental Constitutions of Carolina*," *Journal of the History of Ideas* 63, no. 3 (2002): 425-46. <https://doi.org/10.1353/jhi.2002.0024>. J. R. Milton contends that "There is in any case something fundamentally implausible about supposing that Locke was Lord Shaftesbury's political advisor at any period, or indeed that anyone was. By the time Locke joined his household, Lord Shaftesbury was a politician of immense and remarkable experience, who no more needed a political advisor than Mozart needed a musical advisor." J. R. Milton, "The Unscholastic Statesman: Locke and the

Locke invested in and profited from the slave trade.⁵ He owned shares in the Royal Africa Company (1671) and the Company of Merchant Adventures to Trade with the Bahamas (1672).⁶ At some point in 1671 Locke claims to have spoken with “some Americans”; this may have taken the form of an interview about the subject of “God and worship.”⁷ Locke was also professionally involved with the English Council for Trade and Foreign Plantations (1673-34), and then its successor agency, the Board of Trade (1696-700). Both agencies were responsible for administering trade policy with the American colonies.⁸ Later in life (1696-97), Locke wrote “Some of the Chief Grievances of the Present Constitution of Virginia with an Essay Towards the Remedies Thereof,” which offers a series of “observations and critical remarks on the government of Virginia.”⁹

Earl of Shaftesbury,” in *Anthony Ashley Cooper, First Earl of Shaftesbury 1621-1683*, ed. John Spur (Surrey, England: Ashgate, 2011), 180. Thomas Wilson argues that “Locke’s role during that period, while still in his thirties, was officially one of a secretarial and technical advisor rather than that of a framer of the vision for the colony. Unofficially, however, given the high regard in which he was held by Ashley Cooper, it is likely that he asserted some personal influence in framing the plan of the Carolinas.” Thomas Wilson, *The Ashley Cooper Plan*, 44.

⁵ For more on this issue, see Holly Brewer, “Slavery, Sovereignty, and ‘Inheritable Blood’: Reconsidering John Locke and the Origins of American Slavery,” *The American Historical Review* 122, no. 4 (2017): 1038–78. <https://doi.org/10.1093/ahr/122.4.1038>; William Uzgalis, “John Locke, Racism, Slavery, and Indian Lands,” in *The Oxford Handbook of Philosophy and Race*, ed. Naomi Zack (New York: Oxford University Press, 2017). <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780190236953.001.0001/oxfordhb-9780190236953-e-41>; and Wayne Glausser, “Three Approaches to Locke and the Slave Trade,” *Journal of the History of Ideas* 51, no. 2 (1990): 199-216. <https://www.jstor.org/stable/2709512>.

⁶ James Tully, *An Approach to Political Philosophy: Locke in Contexts* (New York: Cambridge University Press, 1993), 140. Rather than actively investing in the slave trade, Brewer shows that “In 1672-73, Charles paid Locke in Royal African Company stock.” Holly Brewer, “Slavery-Entangled Philosophy,” *Aeon* 12 September 2018. <https://aeon.co/essays/does-lockes-entanglement-with-slavery-undermine-his-philosophy>.

⁷ James Farr suggests these might have been the Natives named *Honest* and *Just*. See James Farr, “Locke, ‘Some Americans’, And the Discourse on ‘Carolina,’” *Locke Studies* 9 (2009): 50. <https://doi.org/10.5206/lis.2009.900>. Native religious practices is a subject that Locke had a great deal of interest in. See the letter from Dr. Henry Woodward to Locke (12 November 1675), in which Woodward writes, apparently at Locke’s request, “I have made the best inquiry that I can concerning the religion and worship. Originall, and customs of our Natives, especially among the Port Royall Indians amongst whom I am best acquainted.” Woodward to John Locke, November 12, 1675, in *The Correspondence of John Locke*, ed. E. S. De Beer, vol. 1, *Introduction; Letters Nos. 1-461* (Oxford: Clarendon Press, 1976), 432.

⁸ See Peter Laslett, “The Great Recoinage, and the Origins of the Board of Trade,” in *John Locke: Problems and Perspectives*, ed. John W. Yolton (New York: Cambridge University Press, 1969). <https://www.jstor.org/stable/1915650>; and David Armitage, “John Locke, Carolina, and the Two Treatises of Government,” *Political Theory* 32, no. 5 (2004): 602-27. <https://doi.org/10.1177/0090591704267122>.

⁹ Richard Ashcraft, “Political Theory and Political Reform: John Locke’s Essay on Virginia,” *The Western Political Quarterly* 22, no. 4 (1969): 742. <https://doi.org/10.1177/106591296902200402>. Incidentally, this document is also directed at the corruption of the settlers—in particular their greedy appropriation of land, among other things. This document has been reprinted in Michael Kammen, “Virginia at the Close of the Seventeenth Century: An Appraisal by James Blair and John Locke,” *The*

Locke's involvement in trans-Atlantic trade was more than just a passing interest. James Tully argues that "Locke was one of the six or eight men who closely investigated and helped to shape the old colonial system during the Restoration."¹⁰ And David Armitage explains that "By the time Locke resigned from the Board of Trade in June 1670, he had become one of the two best-informed observers of the English Atlantic world of the late seventeenth century."¹¹ His personal library tells a similar story. John Harrison and Peter Laslett's analysis of Locke's library shows that he had amassed one of the largest private collections of voyage and travel books in the seventeenth century.¹² As Patrick Connolly points out, what is so impressive about Locke's library is that "he actually read the works he owned."¹³ Connolly continues by suggesting: "One final piece of evidence which demonstrates Locke's deep interest in and respect for travel literature is his involvement in a project to publish a massive collection of travel literature" with his publisher Awnsham Churchill.¹⁴

Uncovering the particular administrative context in which Locke was writing has led to several reformulations as to how, in particular, the *Second Treatise* should be read. After all, Locke makes passing references to America and its Native inhabitants numerous times in this essay.¹⁵ Such references give the impression that its content somehow moves beyond its explicit themes of property, political authority, and revolution.¹⁶ Many scholars now interpret the treatise in light of Locke's involvement in colonial politics. Pramod Mishra argues that "Locke's dominant texts [*The Two Treatises*] written with an eye for European consumption and use cannot be seen in isolation from either hidden subtexts of these texts or from his neglected texts written for, say, the Carolinas."¹⁷ Barbara Arneil

Virginia Magazine of History and Biography 74, no. 2 (1966): 141-69.
<https://www.jstor.org/stable/4247202>.

¹⁰ Tully, *An Approach to Political Philosophy*, 140.

¹¹ Armitage, *Foundations*, 91.

¹² See John Harrison and Peter Laslett, *The Library of John Locke* (New York: Oxford University Press, 1965), 27. See also Ann Talbot, *"The Great Ocean of Knowledge": The Influence of Travel Literature on the World of John Locke* (Boston: Brill, 2010).

¹³ Patrick Connolly, "Travel Literature, the New World, and Locke on Species," *Society and Politics* 7, no. 1 (2013): 106.

¹⁴ Ibid. For more on the Churchill collection see John Harpham, "Locke and the Churchill Catalogue Revisited," *Locke Studies* 17 (2018): 233-41. <https://doi.org/10.5206/lis.2017.888>.

¹⁵ Tuck counts upwards of "twenty-five important references to America or the Indians in the [*Second Treatise*]." *Rights of War and Peace*, 168.

¹⁶ James Tully, *A Discourse on Property: John Locke and His Adversaries* (New York: Cambridge University Press, 1980); Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatise of Government* (Princeton, NJ: Princeton University Press, 1986).

¹⁷ Pramod Mishra, "'[All] the World was America': The Transatlantic (Post)Coloniality of John Locke, William Bartram, and the Declaration of Independence," *CR: The New Centennial Review* 2, no. 1 (2002): 221. <https://doi.org/10.1353/ncr.2002.0010>.

sees the *Second Treatise* as an outright “defense of England's colonial policy in the new world.”¹⁸ Others, like Armitage, caution against such readings. Armitage argues that “Locke’s *Second Treatise* cannot be reduced to its colonial references nor can its meaning be determined by a colonial reading alone,” but the “frequency and prominence of those references still require an explanation.”¹⁹

It is without question that the colonial project represents at least one lens through which the *Second Treatise* can be read. We have good evidence that the Americas were on Locke’s mind for one reason or another when he was writing the *Second Treatise* between 1679 and 1683.²⁰ Brad Hinshelwood shows that Locke was still deeply engrossed in colonial affairs during his sojourn in France from 1675 to 1679, the period leading up to the writing of the treatise, and that the enslavement of Natives in the Carolinas may have been the source for his theory on slavery.²¹ Armitage convincingly shows that Locke was still deeply embroiled in Carolina politics in the early 1680s. As indicated above, he attended and was actively involved in a redrafting session of the *Fundamental Constitutions* in 1682, again, right around the time the treatise was being composed.²² In a similar vein, though perhaps less convincingly, Richard Tuck has found some evidence to suggest that the *Second Treatise* was written as part of a polemic against William Penn, who, after receiving the royal charter for what became Pennsylvania in March 1681, essentially defected from the Whig position of exclusion. According to Tuck, Locke disagreed with Penn’s humane and generous policies to the Native inhabitants of the territory he took control of—namely, paying the Native peoples for their land. “Pennsylvania,” Tuck writes, “represented all the things which Locke was attacking in the *Second Treatise*.”²³

With the growing interest in colonial interpretations of the *Second Treatise*, much of the scholarship indicates that punishment is central to Locke’s thought. For instance, Nagamitsu Miura argues that “The ‘right of punishment’ in the state of nature that Locke speaks of puts in fact the militarily superior side in a dispute between the colonist and Native people, namely the colonists, in a position of advantage, while it puts the militarily

¹⁸ Barbara Arneil, *John Locke and America: The Defence of English Colonialism* (New York: Oxford University Press, 1996), 2. See also, Barbara Arneil, “Trade, Plantations, and Property: John Locke and the Economic Defence of Colonialism,” *Journal of the History of Ideas* 55, no. 4 (1994): 591-609. <https://www.jstor.org/stable/2709924>.

¹⁹ Armitage, *Foundations*, 93. Also see David Armitage’s Locke, *Colonial Writings*, forthcoming in the Clarendon Edition of the Works of Locke.

²⁰ Peter Laslett, Introduction to *Locke: Two Treatises of Government*, ed. Peter Laslett (New York: Cambridge University Press, 1988), 59.

²¹ Brad Hinshelwood, “The Carolinian Context of John Locke’s Theory of Slavery,” *Political Theory* 41, no. 4 (2013): 562-90. See 573-74. <https://doi.org/10.1177/0090591713485446>.

²² Armitage, *Foundations*, 107.

²³ Tuck, *The Rights of War and Peace*, 178.

inferior ones, namely, Native people, in a defenseless position.”²⁴ This disparity of military capability allowed the colonists to paternalistically enforce the natural law, which Native peoples were constantly at risk of violating. They could be punished and stripped of land rights due to their savagery, or their property claims could be vitiated because they were inefficient and wasteful in their use of land.

The first argument—dispossession due to savagery—can be traced back to early debates about Native peoples’ humanity. For instance, in his 1510 *Secundum sententiarum*, Scottish philosopher John Mair argued that Native peoples were a prime example of Aristotle’s “natural slaves” since they “live like beasts.”²⁵ Of course, beasts and slaves can make no legitimate land claims. The second argument goes back at least as far as Thomas More’s *Utopia* (1516). More writes, “[The Utopians] think it is quite just to wage war against someone who has land which he himself does not use, leaving it fallow and unproductive, but denying its possession and use to someone else who has a right, by the law of nature, to be maintained by it.”²⁶ Richard Hooker (1593), a man who Locke admired, argued that the Lacedemonians were eventually destroyed because they had become enemies to humanity for “forbidding all access of strangers into their coasts.”²⁷ Mark Goldie shows that even though the argument for dispossession based on improper land use was clearly much older than Locke, it was routinely attributed to him in the decades following his death. Goldie writes, “The case was put forward [by Locke] that Native peoples, albeit having prior occupancy, must yield to the superior claims of settled agriculture.”²⁸ Goldie goes on to show that thinkers subsequent to Locke sourced him for this view, e.g., John Buckley’s *Inquiry into the Right of The Aboriginal Natives to the Land of America* (1726) and Emer de Vattel’s *Le droit des gens* (1758).²⁹

While I think Locke’s conception of proper land use is crucial to the understanding of his colonial vision, it is less clear that this was a basis for mistreatment of Natives, much less the forceful dispossession of the land they had cultivated. One might easily mistake this for Locke’s opinion since his understanding of property is, at root, theological, and theological arguments were routinely used to trump Indigenous peoples’ rights. As John Rawls points out: “Locke’s underlying thought throughout [the *Second Treatise*] is that we belong to God as God’s property; that our rights and duties derive from God’s

²⁴ Nagamitsu Miura, *John Locke and the Native Americans: Early English Liberalism and Its Colonial Reality* (Newcastle, UK: Cambridge Scholars Publishing, 2013), 34.

²⁵ Quoted in David L. Smith, *Less Than Human: Why We Demean, Enslave, and Exterminate Others* (New York: St. Martin’s Griffin, 2011), 78. See also the Valladolid debates between Las Casas and Sepulveda about whether or not Natives were soulless homunculi. *Ibid.*

²⁶ Thomas More, *Utopia*, trans. Clarence Miller (New Haven, CT: Yale University Press, 2001), 67.

²⁷ Richard Hooker, *Of the Laws of Ecclesiastical Polity*, ed. Arthur McGrade (New York: Cambridge University Press, 1989), 98.

²⁸ Mark Goldie, “Locke and America,” in *A Companion to Locke*, ed. Matthew Stuart (New York: Wiley-Blackwell 2016), 556. <https://doi.org/10.1002/9781118328705.ch28>.

²⁹ *Ibid.*, 557. This argument is also made by Hsueh, “Cultivating and Challenging the Common,” 193-214. For more on the afterlife of Locke’s thought, see Craig Yirush, *Settlers, Liberty, and Empire: The Roots of Early American Political Theory, 1675-1775* (New York: Cambridge University Press, 2011).

ownership of us.”³⁰ And furthermore, “This deserves emphasis because Locke is often discussed apart from this religious background [...] Yet for Locke and his contemporaries this religious background is fundamental, and to neglect it is to risk seriously misunderstanding their thought.”³¹ John Dunn makes a similar claim: “The duty of mankind, as God’s creatures, to obey their divine creator was the central axiom of John Locke’s thought. The entire framework of his thinking was ‘theocentric’ and the key commitment of his intellectual life as a whole was the epistemological vindication of this framework.”³² In Locke’s era, theocentric arguments that emphasized punishment and dispossession were quite common.³³ Given what is known of Locke’s religious devotion, however, it is odd that punishment has been emphasized instead of Protestant evangelism.³⁴ Locke quite explicitly speaks of “increasing the common stock of mankind,” which presumably includes the Native peoples.³⁵ Given “Locke’s distinctively Protestant religious sensibility” it is clear that material and spiritual improvements are interconnected;³⁶ in short, the material improvement of the Native peoples would entail not only familiarity with political and agricultural forms but also an acquaintance with the example of Christ.³⁷

³⁰John Rawls, *Lectures on the History of Political Philosophy*, ed. Samuel Freeman (Cambridge, MA: Harvard University Press, 2007), 121.

³¹ Ibid.

³² John Dunn, “From Applied Theology to Social Analysis: The Break Between John Locke and the Scottish Enlightenment,” in *Rethinking Modern Political Theory: Essays 1979-1983* (New York: Cambridge University Press, 1985), 55.

³³ As will be shown

³⁴ I follow Jack Turner’s use of the term “evangelism” to mean simply the propagation of protestant dogma in general, not the specific doctrine of a certain Protestant sect. See Jack Turner, “John Locke, Christian Mission, and Colonial America,” *Modern Intellectual History* 8, no. 2 (2011): 268. <https://doi.org/10.1017/S1479244311000199>. There is a great deal of literature on the nature and sincerity of Locke’s religious belief. For the purposes of this paper, I will take it for granted that Locke was some species of devout Protestant, even if the particular sect (if any) he belonged to is debatable.

³⁵ John Locke, *Two Treatises of Government*, ed. Peter Laslett, 2nd ed. (New York: Cambridge University Press, 1988), II,iv.37: 312. Hereafter, all references to the *Two Treatises of Government* will be referred to by treatise, book, chapter, section, and, page number.

³⁶ John Dunn, “What is Living and What is Dead in the Political Theory of John Locke,” in *Interpreting Political Responsibility: Essays 1981-1989* (Princeton, NJ: Princeton University Press, 1990), 13.

³⁷ I follow Jeremy Waldron’s claim that “as a philosopher, Locke was intensely interested in Christian doctrine, and in the *Reasonableness* he insisted that most men could not hope to understand the detailed requirements of the law of nature without the assistance of the teaching and example of Jesus.” Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke’s Political Thought* (New York: Cambridge University Press, 2002), 12.

3. The Punishment Thesis: The Natural Right to Punish “Savagery”

Part of the difficulty in uncovering the theological underpinning of Locke’s colonial thought stems from the fact that in the mid to late seventeenth century there were a variety of ways to theologically frame and even justify English colonial involvement in North America, especially as it pertained to the moral status of the Indigenous population. For instance, as Arneil argues, it is not clear, if in the *Second Treatise* Locke was “[distinguishing] himself from the colonial theories of, as he sees it, the trading Dutch and the marauding Spanish” by focusing on the origin of property, or if he is actually closer to the Christian moralist tradition, as espoused by the mid sixteenth century philosopher and theologian Francisco de Vitoria, which “argued that conquest over individuals who violated the law of nature was the basis of Spain’s sovereignty in the new world.”³⁸

The tension between these points of view can be traced back to what, in the *Second Treatise*, Locke almost self-consciously refers to as a “strange doctrine”: the idea that “in the state of nature everyone has the executive power of the law of nature.”³⁹ Locke had adumbrated this point a few sections earlier: “every man upon this score, by the right he hath to preserve mankind in general, may restrain, or where it is necessary, destroy things noxious to them, and so may bring such evil on anyone who hath transgressed that law as may make him repent the doing of it, and thereby deter him, and by his example others, from doing the like mischief. And, in this case and upon this ground, every man hath a right to punish the offender, and be executioner of the law of nature.”⁴⁰ What is so striking about this passage is that even if one could agree with Tuck’s assertion that this proves “the natural private right to punish is central to [the *Second Treatise*],”⁴¹ it is not immediately clear who the intended recipient of this punishment is that Locke has in mind. Tuck contends that Locke clearly has in mind “the long-standing argument about punishing non-Europeans for their breaches of the natural law, and was using the familiar Grotian argument against ‘some Men,’” namely, Samuel Pufendorf.⁴² Tuck continues “From talking about the power of a magistrate over a visiting alien, Locke slipped insensibly into talking about the apparently wholly different case of punishment visited by European nations upon the inhabitants of America for sins against the natural law.”⁴³ And in this sense, Locke clearly has in mind the classical violations of the natural law enumerated by Hugo Grotius.

Other scholars, like Tully, argue that “Locke’s strange doctrine, although it differs in some respects from the arguments of his predecessors, is a reassertion of this

³⁸ Arneil, *John Locke and America*, 7.

³⁹ II.ii.13: 293. There are, in fact, two additional instances of strange doctrines in the *Two Treatises*: I.viii.80: 219 and II.xvi.180: 406. More on the differences between these usages below.

⁴⁰ II.ii.8: 290.

⁴¹ Tuck, *The Rights of War and Peace*, 168.

⁴² *Ibid.*, 171

⁴³ *Ibid.*

conventional justification of war.”⁴⁴ In other words, “when a person violates the natural law they lose their natural rights and they must be enslaved or killed.”⁴⁵ Tully goes on to explain that “offenders are characterized [by Locke] as ‘wild Savage Beasts’ who may be destroyed as a *Lyon* or a *Tyger*. The natural right of the governments of England, France, and Holland to punish or put to death ‘an Indian’ who violates natural law is put forward as the proof and illustration of this violent doctrine.”⁴⁶ In making this connection, Tully also links Locke to a longstanding tradition that allowed for the robust punishment of Native peoples.

What stands out about Locke’s formulation, however, is that the natural right to punish is a *strange* doctrine, which Tully dismisses without much discussion. After all, this is a somewhat unusual expression to employ, and each of the three times Locke uses it, he imbues with a slightly different meaning. In the first instance, Locke follows the logic of the author of Hebrews who warns the reader, “be not carried away with divers and strange doctrines.”⁴⁷ Locke uses the phrase in a disparaging light in the *First Treatise* where he witheringly derides Filmer’s “strange doctrine,” i.e., the idea that “Regal and Supreme Power is properly and truly his, who can by any Means seize upon it: and if this be, to be properly a King, I wonder how he came to think of, or where he will find an Usurper.”⁴⁸ This does not appear to be the same spirit in which Locke admits that he holds two doctrines that some might consider “strange”: the second is that of retaining the right of punishment in the state of nature (outlined above), and the third places limits on conquest. Even in a just war no one has a right to the possessions of the conquered.⁴⁹ The third usage is “strange” because it is quite obviously a minority view at that time.⁵⁰

What was so unusual about Locke’s second usage of “strange doctrine” is that arguments of this kind were exceedingly abundant throughout the sixteenth and seventeenth centuries, right up to Locke’s own time. For instance, Vitoria, argues that “some sins, they say, are not against natural law, but only against positive divine law; and for these the barbarians cannot be invaded. But others, such as cannibalism, incest with mothers and sisters, or sodomy are against nature; and for these sins they may be invaded and compelled to give them [their lands] up.”⁵¹ In the late sixteenth century, the Italian

⁴⁴ Tully, *An Approach to Political Philosophy*, 143.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, 144-45.

⁴⁷ Heb. 13:9 Authorized (King James) Version.

⁴⁸ I.viii.79: 219.

⁴⁹ II.xvi.180.

⁵⁰ For instance, Hugo Grotius had argued that one had a right to the possessions of one’s enemies but believed total despoiling was unreasonable. See the section “On Moderation in Despoiling an Enemy’s Country,” in Hugo Grotius, *The Rights of War and Peace, including the Law of Nature and of Nations*, trans. A.C. Campbell (New York: M. Walter Dunne, 1901), Book 3, chapter 12.

⁵¹ Francisco de Vitoria, “On the American Indians,” in *Vitoria: Political Writing*, eds. Anthony Pagden and Jeremy Lawrence (New York: Cambridge University Press, 2010), 201.

jurist and Oxford professor Alberico Gentili writes:

Therefore, I approve the more decidedly of the opinion of those who say that the cause of the Spaniards is just when they made war upon the Indians, who practiced abominable lewdness even with beasts, and who ate human flesh, slaying men for that purpose. For such sines are contrary to human nature, and the same is true of other sines recognized as such by all except haply by brutes and brutish men. And against such men, Isocrates says, war is made as against brutes. Thus in a state any one whatever is allowed to accuse an offender against the community, even one who is not a member of the state when an action is defended which is not peculiar to the state but of interest to all men.⁵²

Grotius makes a similar claim in the mid seventeenth century: “that kings, and those who are invested with a power equal to that of kings, have a right to exact punishment, not only for injuries committed against themselves, or their subjects, but likewise, for those who do not peculiarly concern them, but which are, in any persons whatsoever, grievous violations of the law of nature or nations.”⁵³ Some of these violations of the natural law include being inhumane to one’s parents, cannibalism, and piracy.⁵⁴

Since there was an intellectual climate that privileged arguments about Native peoples’ guilt in the mid to late seventeenth century, it is significant that Locke both calls his doctrine “strange” and that he never explicitly employs anything close to this language when speaking about Natives. In fact, when Locke speaks of punishment for violating the natural law, he is referring to those who “renounce” or “quit reason,” which seems to imply that only those who should have known better are guilty of violating the natural law.⁵⁵ Locke writes: “It is the unjust use of force then, that puts a man into the state of war with another; and thereby he that is guilty of it makes a forfeiture of his life: *for quitting reason*, which is the rule given between man and man, and using force, the way of beasts, he becomes liable to be destroyed by him he uses force against, as any savage ravenous beast, that is dangerous to his being.⁵⁶ What is significant about embracing the “way of beasts” is not so much being a beast as it is the reversion from a state of reason (civil society) back into the state of nature. In this respect, the beastly degenerates Locke has in mind are those who use force unjustifiably, which is more likely absolutist kings than Native peoples. It would be odd to describe savage beasts—those with no, or little, rational development—as *quitting* reason. Since princes are educated in civil society, they should know better than to put themselves in a state of war with their citizenry. Jeremy Waldron makes this point as well. He writes: “To the extent that Locke had a political interest in persuading people to bestialize offenders against the law of nature, his intended targets

⁵²Alberico Gentili, *De iure belli libri tres*, trans. John C. Rolfe (London: Humphrey Milford, 1933), 122.

⁵³ Grotius, *The Rights of War and Peace*, 1021.

⁵⁴ Ibid.

⁵⁵ II.ii.11: 292 and II.xvi.180, respectively.

⁵⁶ II.xvi.180: 407. My emphasis.

were not the idle poor, or the working class, or Native Americans. His targets were absolutist kings and princes—those who in their actions and their politics violated (precisely) the principles of basic equality, and treated their subjects like slaves.”⁵⁷

Tully, however, disagrees with this reading. He writes, “I am quite aware that these passages in Chapters 2 and 3 are standardly interpreted as references to the right to punish Charles the II in an armed revolt. Be this as it may, the very terms Locke uses to describe the offenders who may be “destroyed” are the terms used to describe and dehumanize Amerindians in the books in Locke’s library.”⁵⁸ Likewise, Andrew Dilts writes: “The argument of the *Second Treatise* relies on the figuration of criminal kinds as a source of physical and ontological threat, and constructs them as persons who, along with the ‘savages’ of North America, generate a space between animals and ‘reasonable’ persons.”⁵⁹ In other words, tyrants, degenerates, and savages all occupy a similar ontological territory that pose an existential threat to society, which means that they might rightly be destroyed.

What I think Tully’s and Dilts’s arguments do not explain is why Locke refers to what would otherwise have been a relatively banal argument—the right to punish “savages” in the state of nature that Vitoria, Gentili, Grotius, and others speak of—as a *strange* doctrine.⁶⁰ Tully is correct that Locke’s argument partakes of the structure of those directed against Native peoples, but he doesn’t address an obvious problem with this formulation. Locke clearly sees members of civil society abdicating this right to punish upon entry into the body politic – as members of the colony, settlers would not have had the right to punish violations of the state of nature. In fact, it is compelling that historically Locke advocated setting up numerous barriers to prevent colonists from punishing Native peoples for violating the natural law.

Locke and the Proprietors of the Carolina colony made every effort to prevent commercial transactions between the Native peoples and the colonists in order to

⁵⁷Waldron, *God, Locke, and Equality*, 149. Stephen Buckle also makes this point: “the context makes it very plain that Locke’s concern in these passages is with justifying resistance, and violent resistance, to any kind who attempts to set himself up as an absolute monarch over his subjects.” Stephen Buckle, “Tully, Locke, and America,” *British Journal for the History of Philosophy* 9, no. 2 (2001): 265. <https://doi.org/10.1080/09608780110045281>.

⁵⁸ Tully, *An Approach to Political Philosophy*, 144. Buckle, however, shows that there was precedent to characterize *Europeans* as beasts regarding their dealings with Native peoples. Las Casas defended the Natives against the Spaniards in this way. Plus, Buckle continues, “Locke’s language is ... designed to explain why it is legitimate in such cases to treat human beings in ways which would not normally be acceptable; it is legitimate to act thus because the aggressors have dehumanized *themselves*.” Buckle, “Tully, Locke, and America,” 265.

⁵⁹ Andrew Dilts, “To Kill a Thief: Punishment, Proportionality, and Criminal Subjectivity in Locke’s *Second Treatise*,” *Political Theory* 40, no. 1 (2012): 61. <https://doi.org/10.1177/0090591711427000>.

⁶⁰ There are good textual reasons to think that Locke was responding to Thomas Hobbes; though, to call his critique of the Hobbesian position “strange” would seem to imply that Hobbes’s position was widely held, which may not have been the case. See Wolfgang von Leyden, “Locke’s Strange Doctrine of Punishment,” in *John Locke: Symposium Wolfenbüttel 1979*, ed. Reinhard Brandt (New York: Walter de Gruyter, 1981). Likewise, Ross Corbett wonders “whether it is coincidence that each ‘strange’ doctrine involves a case where Locke might seem to break from Hobbes and is assessed on Hobbesian grounds.” Ross Corbett, *The Lockean Commonwealth* (Albany: State University New York Press, 2009), 25.

minimize opportunities to capitalize on conflict. Hinshelwood writes, “Indians were granted religious freedom and parcels of land within the baronies set up by the Proprietors, and the Proprietors reserved all rights to negotiate land purchases and other matters with the Natives.”⁶¹ According to the *Fundamental Constitutions* (1669) it was the Grand Council (a palatine, seven proprietors, and forty-two counselors) that was imbued with the power to “make peace and war, leagues, treaties, &c. with any of the neighbor Indians.”⁶² And in the *Second Treatise*, Locke’s “federative power” manages “all the transactions with all persons and communities without the commonwealth.”⁶³ It is telling then that rather than ruthlessly waging war on the neighboring “savages,” Locke and the Proprietors of Carolina actively sought to set up alliances and trade relationships with the neighboring peoples, even the Westoes tribe that Locke explicitly characterized as cannibals.⁶⁴ In fact, Locke had endorsed a letter from Stephen Bull in which he describes the Westoes this way: they “strike a great feare in these Indians having guns & powder & shott & doe come upon these Indians here in the tyme of their cropp & destroye all by killing Carynge awaye their Corne & Children & eat them & our neibouringe Indians.”⁶⁵ In this context it makes very little sense to see Locke advocating the punishment of Indigenous savagery.

Furthermore, in *A Letter Concerning Toleration* (1685), Locke explicitly states that within civil society “no private person has any right in any manner to prejudice another person in his civil enjoyments, because he is of another church or religion ... No violence nor injury is to be offered him, whether he be Christian or pagan.”⁶⁶ I think it is reasonable that Locke believed this protection extended to the colonists’ neighbors, too. After all, in an attempt to combat the trafficking of Native American slaves, the Proprietors took “all the Indians within 400 miles of Charles towne into [their] protection as Subjects to ye monarchy of England,” and as such the settlers were “not to suffer any of them to be made Slaves.”⁶⁷

Passages like these further undermine the punishment thesis. Indeed, given the lengths the Proprietors went to protect the Native peoples from unjust treatment, it is difficult to see how punishment would factor into the framework of their colonization project. I believe this explains why (*pace* Tuck) Locke emphasizes retributive justice over

⁶¹ Hinshelwood, “The Carolinian Context of John Locke’s Theory of Slavery,” 568.

⁶² John Locke, “The Fundamental Constitutions of Carolina,” in *The Works of John Locke*, vol. 9 (London: Clarendon, 1824), 50: 186.

⁶³ II.xii.146

⁶⁴ Locke writes, “Westoes. Inland man eaters.” Hsueh, “Giving Orders,” 425. Lord Shaftesbury actively sought out peace with the Westoes. See Landgdon Cheves, ed., *The Shaftesbury Papers* (Charleston, SC: Home House Press, 2010), 446.

⁶⁵ Stephen Bull to Lord Ashley, Albermarle Poynt, September 12, 1670, in *Collections of the South Carolina Historical Society*, vol. 5 (Charleston, SC: South Carolina Historical Society, 1897), 194.

⁶⁶ John Locke, “A Letter Concerning Toleration,” in *The Works of John Locke*, Vol. 5 (London: Printed for Thomas Tegg, 1823), 17

⁶⁷ Quoted in Hinselwood, “The Carolina Context,” 572.

the more expansive right to punish violators of the law of nature in the *Second Treatise*. Why else Locke would seek trade alliances with cannibals rather than punishing them? The fact that Locke “nowhere implies that those powers [of life and death and making war] might include the right to punish rather than retaliate” was not an oversight, as Tuck argues,⁶⁸ but a key component to his evangelizing agenda in the colonies (more on this below). Locke quite explicitly emphasizes reparation and restraint.⁶⁹ It was only the settlers who had suffered violence at the hands of Native peoples who were entitled to retributive violence and then only after the sanction of the Grand Council. In the *First Treatise*, Locke writes, “A planter in the West Indies [...] might, if he pleased, (who doubts?) muster up [an army] and lead them out against the Indians, to seek reparation upon any injury received from them.”⁷⁰ In the Carolina context, however, Samuel Wilson (1682) explains that “with the Indians the English have a perfect friendship, they being both usefull to one another. And care is taken by the Lords Proprietors, that no Injustice shall be done them; In order to which they have established a Particular Court of Judicature, (compos'd of the soberest and most disinterested Inhabitants) to determine all differences that shall happen between the English and any of the Indians.”⁷¹ What is not indicated here is that the settlers routinely found ways to bypass the colony’s adjudicatory mechanisms. The historical reality of the Carolina colony was that acts of “retribution” were easily fabricated by the settlers as a pretense to take land and slaves.⁷² Locke’s argument for punishing those who violate the state of nature was frequently misappropriated by unscrupulous colonists.⁷³

Getting back to Locke’s “strange doctrine,” there was nothing unusual about appealing to the natural law to justify the punishment of Indigenous “savagery.” These arguments were prolific in the seventeenth century. On the contrary, it would have been rather strange indeed to turn such a conventional argument on its head—we are not only justified, but in some sense morally obligated, to punish not Natives but degenerate kings who have quite reason and have become enemies to mankind. In fact, Locke was fond of ascribing to tyrants the classical acts of barbarism. In the *First Treatise* he mocks Filmer this way: “me Thinks Sir Robert should have carried his monarchical power one step higher, and satisfied the world that princes might have eat their subjects too, since God gave as full power to Noah and his heirs, to eat every living thing that moveth.”⁷⁴ In this

⁶⁸ Tuck, *Laws of War and Peace*, 168.

⁶⁹ II.ii.8

⁷⁰ I.xi.130:237.

⁷¹ Samuel Wilson, *An Account of the Province of Carolina* (1682), in *Narratives of Early Carolina, 1650-1708*, ed. Alexander Salley, Jr. (New York: Scribner, 1911), 172-73

⁷² See Tully, *An Approach to Political Philosophy*, 144.

⁷³ One might say that Locke bears some responsibility for being so easy to misinterpret. There may be something to this claim. However, I think it fails to consider the immense difficulty governing and policing a colony at such a great distance. It is perhaps even more likely that some of the colonists were unscrupulous opportunists, as will be shown.

⁷⁴ I.iv.27: 160.

comical turn, Filmer's despotic monarchs are the "cannibals" one needs to be concerned with.⁷⁵ Locke goes on to explain that it is the "busie mind of Man" that will "carry him to a Brutality below the level of Beasts, when he quits reason, which placed him almost equal to Angels."⁷⁶ Whatever supposed "crimes" the Native peoples were guilty of committing, the rationalizations of absolute princes had allowed them achieve a level of cruelty that surpasses that of so-called "Beasts." Absolute princes were the true savages, in fact, worse than savages—a strange doctrine, indeed.

4. The Punishment Thesis: Misuse of Property

As we have seen, the ideas that vacant or unused property could be taken or that one could be punished for the misuse of property also have a long pedigree. For instance, Gentili favorably quotes Tacitus: "As heaven was given to the gods, so the earth was given to moral men; whatever lands are vacant are public property.' [...] True indeed, 'God did not create the world to be empty.' And therefore the seizure of vacant places is regarded as a law of nature. So it was when the world was young. ... The ruling of our jurists with regard to unoccupied land is, that those who take it have a right to it, since it is the property of no one."⁷⁷ Grotius explains that "It has been shewn before that the right to property may be lost by neglect; for property can continue no longer than while the will of ownership continues."⁷⁸

Given the fact that these arguments long predate Locke but that subsequent writers routinely attributed these beliefs to Locke, it bears considering whether or not Locke was concerned with the Native's wasteful use of property in this way.⁷⁹ This is, after all, the emerging consensus among commentators on Locke, which tends to view him as the ideological mastermind for colonial dispossession. Leo Strauss, for instance, argues that when Locke speaks of enforcing the laws of nature, he has in mind the wasteful use of property: "The terrors of the natural law no longer strike the covetous, but the waster. The natural law regarding property is concerned with the prevention of waste; in

⁷⁵ For more on this see Talbot, *The Great Ocean of Knowledge*, 99.

⁷⁶ I.vi.58: 182.

⁷⁷ Gentili, *De iure belli libri tres*, 80.

⁷⁸ Grotius, *The Laws of War and Peace*, 117.

⁷⁹ In addition to the authors cited above, like Tully, Tuck, and Arneil, this argument has been put forward by many others, almost too many to mention: Martin Seliger, *The Liberal Politics of John Locke* (New York: Preager, 1969); Herman Lebovics, "The Uses of America in Locke's *Second Treatise of Government*," *Journal of the History of Ideas* 47, no. 4 (1986): 578. <https://www.jstor.org/stable/2709718>; John Bishop, "Locke's Theory of Original Appropriation and the Right of Settlement in Iroquois Territory," *Canadian Journal of Philosophy* 27, no. 3 (1997). <https://doi.org/10.1080/00455091.1997.10715954>; 311-37; Kathy Squadrito, "Locke and the Dispossession of the American Indian," in *Philosophers on Race: Critical Essays*, eds. Julie Ward & Tommy Lott (Malden, MA: Blackwell, 2002). <https://doi.org/10.17953/aicr.20.4.90845813q1514g76>; Duncan Ivison, "Locke, Liberalism, and Empire," in *The Philosophy of John Locke: New Perspectives*, ed. Peter Anstey (New York: Routledge, 2003); and David Boucher, "Property and Propriety in International Relations: The Case of John Locke," in *Classical Theory in International Relations*, ed. Beate Jahn (New York: Cambridge University Press, 2006). <https://doi.org/10.1017/CBO9780511491429.007>.

appropriating things by his labor, man must think exclusively of the prevention of waste.”⁸⁰ Strauss, however, does not directly apply this logic to the European involvement with the Native inhabitants of North America. But if this inference is correct and can be applied to the Americas, one would expect to find in Locke’s writing greater emphasis on the wasteful negligence of Native peoples. In some places, superficially at least, this seems to be the case. At times we do see Locke characterizing Natives as wasteful, or at least inefficient. For instance, in a well-known passage in section 41 of the *Second Treatise*, Locke argues that a day-laborer in England is better off than an American king. And elsewhere he argues that God “gave [the world] to the use of the industrious and rational... not to the fancy or covetousness of the quarrelsome and contentious.”⁸¹ In a cursory way these claims appear to justify bringing the terrors of the natural law onto Native peoples; it remains to be seen, however, whether Locke intended such passages to undermine Indigenous land claims in North America.

In a certain respect, this line of inquiry brings us back to Tuck’s argument that Locke is engaging in a polemic against Penn in the *Second Treatise* for being too generous with the Native peoples regard their land claims. In Tuck’s view, what was so problematic for Locke was that “William Penn, though he accepted English title to his province, nevertheless respected the Indian right of domain and extinguished it only by purchase.”⁸² Tuck believes Locke is arguing that Natives had *no* land rights due to their moral degeneracy and/or wasteful incompetence, and, therefore, they did not need to be consulted in terms of colonial appropriation of North American land.

While it may be true that Locke did not believe Natives actually owned certain tracts of land, it is much less clear that the title was in question due to some punitive measure. To believe that the Native inhabitants of the North America did not own all the land does not therefore imply that they did not own some of it. In any case, the history of the Carolina colony tells a very different story than the dominant readings of Locke suggest. As the great biographer of Lord Shaftesbury, K. H. D. Haley, explains, on Lord Shaftesbury’s and Locke’s orders “no-one [in the Carolina colony] was allowed to take up land within two and a half miles of any Indian village.”⁸³ Thomas Wilson clarifies this policy a bit more: “Ashley Cooper and Locke envisioned the grid for the province overlaying existing Native American settlements. Thus any ‘square of 12,000 acres wherein any Indian town stands, and the square next to it are to be left untaken up and unplanted on for the use of the Indians.’”⁸⁴ And we also know from Haley’s biography of Lord Shaftesbury that he and Locke “preferred to forcible conquest the method of ‘purchasing’ the land from [the Indians]; it was more humane, cheaper, and less

⁸⁰Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1964), 237.

⁸¹ II.v.34: 291.

⁸² Paul A. W. Wallace, *Indians In Pennsylvania* Second Edition (Harrisburg: The Pennsylvania State University Press, 2005), 130.

⁸³ K. D. H. Haley, *The First Earl of Shaftesbury* (London: Oxford University Press, 1968), 250.

⁸⁴ Thomas Wilson, *The Ashley Cooper Plan*, 106-7.

troublesome.”⁸⁵ Thomas Wilson also corroborates this point: “Ashley Cooper obtained written title for the land from the Native Americans claiming rights to it, thus acting in a manner consistent with the Lords Proprietors’ stated desire to maintain honorable relations with Indigenous people.”⁸⁶ These are rather telling policies; in no way do they indicate that the Proprietors thought of themselves as free to dispossess Native peoples of their Indigenous lands due to inferior usage. On the contrary, Lord Shaftesbury and Locke seem to be attentive to Indigenous land claims, at least enough to pay for the land they settled on and to provide Native towns with a two-and-a-half-mile buffer zone to ensure they were undisturbed.

As Vicki Hsueh shows, in Locke’s early role with the Carolina colony he was responsible for “[endorsing and summarizing] the many letters, directives, and orders that circulated between the colonists, proprietors, and administrators in Carolina, the Caribbean, and England.”⁸⁷ In this capacity, Locke “was well aware that the Lords Proprietors encouraged colonists to follow the agricultural example of the local tribes, such as the Kyawhas and Edistos, who raised maize and other needed staples.”⁸⁸ Indeed, the Proprietors were quite familiar with the legendary skills of the Native peoples. In one report William Hilton explains, “The Indians plant in the worst Land because they cannot cut down the Timber in the best, and yet have plenty of Corn, Pompions, Water-Mellons, Musk-mellons: although the Land be over grown with weeds through their lasinesse, yet they have two or three crops of Corn a year.”⁸⁹ James Farr points out that Locke was aware “that ‘extreame hardshipps’ were avoided by the colonists because of the ‘very great Assistance from the Indians who shewed them selves very kind & sould [the colonists] Provisions att very reasonable rates.”⁹⁰ In fact, Locke makes mention of this in one of his memorandum from 1670: “want of provisions supplyd by the Indians,” and a bit latter in the same memo, “The Indians supply provisions and help to plant.”⁹¹

Part of the Proprietors’ motivation in encouraging cooperation with the Native peoples was to force the colonists to become self-sufficient. In one set of instructions, Lord Shaftesbury writes: “The proper season to plant Corne & Beanes & Pease you will be informed by ye Natives.”⁹² And after some complaints from the settlers, he writes: “the whole Plantation was to be supplied by us but now that Wee intend from time to time soe to furnish our Stores that Industriouse People who will pay ready truck may be supplied

⁸⁵ Haley, *The First Earl of Shaftesbury*, 250.

⁸⁶ Thomas Wilson, *The Ashley Cooper Plan*, 107-8.

⁸⁷ Hsueh, “Cultivating and Challenging the Common,” 200.

⁸⁸ *Ibid.*, 201.

⁸⁹ William Hilton, “A True Relation of a Voyage upon Discovery of Part of the Coast of Florida, 1663,” in *The Shaftesbury Papers*, 24.

⁹⁰ Quoted in Farr, “Locke, ‘Some Americans’, and the Discourse on ‘Carolina,’” 32.

⁹¹ John Locke, “Memoranda,” in *Collections of the South Carolina Historical Society*, vol. 5, 262, 263.

⁹² Lord Shaftesbury, “Copy of Instruccions for Mr West About O’r Plantacon,” in *Collections of the South Carolina Historical Society*, vol. 5, 126.

with things they want at reasonable and moderate Rates, but doe not intend that the Lazy or debauchd who will never be good for themselves or the Plantation shall run further in our Debts to the increase of our charges and disparagement of our Settlement.”⁹³ In other words, it is the colonists who are “Lazy or debauched,” and the Proprietors were concerned that they would “run further in our Debts.” Indeed, the letters sent on behalf of the Proprietors routinely expressed concerns with settler debt.⁹⁴

Locke’s familiarity with Native land use sheds some light on a few of those challenging passages in the *Second Treatise* that are routinely taken to indicate Locke advocated dispossession of the Native peoples due to superior European agricultural practices. Locke writes that “if either the grass of his enclosure rotted on the ground, or the fruit of his planting perished without gathering, and laying up, this part of the earth, notwithstanding enclosure, was still to be looked on as waste, and might be the possession of any other.”⁹⁵ Given the extent of the conflict between the Proprietors and the settlers, this passage and the passage from section 34—God “gave [the world] to the use of the industrious and rational... not to the fancy or covetousness of the quarrelsome and contentious”⁹⁶—make much more sense when seen as directed at the Carolina colonists, not the Native peoples.

In the passage from section 38, it appears that Locke is looking to restrain greedy colonists who were seeking to enclose more land than could feasibly be worked. This would have been an issue in the 1670s since the Lord Proprietors had taken great pains to regulate “a right and equal distribution of land,”⁹⁷ not to mention the fact that the Carolina colony sat precariously between Spanish and Native territories. The Proprietors chided and repeatedly tried to prevent the colonists from “taking up great Tracts of land sooner than they can be planted.”⁹⁸ Arneil makes a similar point when she writes, “Locke’s concern with the taking up of too much ground ... is again rooted in the experience of the colonies, in which land was too often appropriated in vast quantities and even enclosed without having the number of people necessary to cultivate the land therein.”⁹⁹ Likewise, within the Carolina context, the passage from section 34 of the *Second Treatise* suggests that Locke wasn’t identifying the Native peoples as “fancy or covetousness” or “quarrelsome and contentious” in contrast to the “rational and industrious” settlers; as we can clearly see, it was the settlers who were dependent on Indigenous agricultural

⁹³ Lord Ashley to Joseph West, Exeter House, December 16, 1671, in *Collections of the South Carolina Historical Society*, vol. 5, 365.

⁹⁴ See Lord Ashley to Joseph West, Exeter House, December 16, 1671, in *Collections of the South Carolina Historical Society*, 5:366 and The Proprietors to the Governor and Council at Ashley River, Whitehall, May 18, 1674, *ibid.*, 435.

⁹⁵ II.v.38: 295

⁹⁶ II.v.34: 291

⁹⁷ Thomas Wilson, *The Ashley Cooper Plan*, 100.

⁹⁸ Lord Shaftesbury, Lord Craven Sir Carteret, and Sir Colleton, “‘Temporary Laws, Carolina.’ (May 1671?),” in *Collections of the South Carolina Historical Society*, Vol 5, 325.

⁹⁹ Arneil, “Trade, Plantations, and Property,” 607.

practices and largess. It is more likely that Locke had in mind the “Lazy or debauched” colonists who wanted to be coddled and provided for by the Proprietors, “[running] further in [their] Debts.” Indeed, a bit later Locke appears to be issuing a warning that is more applicable to the settlers than the Native peoples: “He that had as good left for his improvement, as was already taken up, needed not complain, *ought not to meddle with what was already improved by another’s labour.*”¹⁰⁰ Rather than affirming domination and conquest, as Paul Corcoran suggests, this clearly shows that Locke did affirm Native rights.¹⁰¹

It makes sense that Locke would be concerned that the settlers were encroaching upon the land claims of their Indigenous neighbors. After all, this reflects a common problem that the Proprietors faced in terms of recruiting applicants to settle in the Carolina colony.¹⁰² As Daragh Grant points out, “during the first three decades of settlement, the Lords Proprietor charged the colonists with disorganization, idleness, piracy, and the illegal enslavement of Indigenous peoples.”¹⁰³ Attempts to get rich quick or to plunder and pillage their Indigenous neighbors proved to be a constant source of annoyance for the Proprietors. In May 1671, Locke endorsed a letter to William Saile that reflected this ongoing struggle:

I apprehend this [the discovery of silver mines] may be apt to tempt some of our people covitious of present booty to some attempt that way which you are to take notice we doe absolutely prohibit you and you are to take care not only that you suffer not the people out of greedinesse to molest either the Spaniards on that side or any of our neighbor Indians in their quite possessions... This you are to looke well after as you will answer it to his Majestie whose pleasure it is that we should keepe our selves within the rules of peace. Neither doe we thinke it advantageous for our people to live by rapin and plunder which we doe not nor will not allow. Planting and Trade is both our designe and your interest ...¹⁰⁴

Lord Shaftesbury goes on to reiterate the point: “I must presse it upon you that you bind

¹⁰⁰ II.v.34: 291. My emphasis.

¹⁰¹ Paul Corcoran, “John Locke on Native Right, Colonial Possession, and the Concept of *vacuum domicilium*,” *The European Legacy: Toward New Paradigms* 23, no. 3 (2018): 225-50. <https://doi.org/10.1080/10848770.2017.1416766>.

¹⁰² More of this below, but Locke repeatedly frowned on the marauding Goose Creek Men who trafficked in Indian and African slaves. Maurice Mathews, Lord Shaftesbury’s former deputy, was kicked out of office in 1685 for illegally selling Indigenous slaves. See Margaret Eastman, *Old Charlestown Originals: From Celebrities to Scoundrels* (Charleston, SC: History Press, 2011). And at one point, exasperated, Locke wrote, “The Barbadians endeavour to rule all.” Thomas Wilson, *The Ashley Cooper Plan*, 109.

¹⁰³ Daragh Grant, “‘Civilizing’ the Colonial Subject: The Co-Evolution of the State and Slavery in South Carolina, 1670-1739,” *Comparative Studies in Society and History* 57, no. 3 (2015): 606. <https://doi.org/10.1017/S0010417515000225>.

¹⁰⁴ Lord Shaftesbury to Wm. Saile, May 13, 1671, in *Collections of the South-Carolina Historical Society*, vol. 5, 327.

the peoples mind wholly to planting and trade.¹⁰⁵ In light of this important colonial context, it makes very little sense to see Locke advocating for the European settlers to be thought of as the entrusted enforcers of the natural law regarding the misuse of property, that the poor benighted Natives risked a hammer blow from the righteous Europeans at every turn. From the historical record, the exact opposite is true; it was the Indigenous peoples “Native rustic reason,” industry, and aid that gave the colonists a fighting chance at self-sufficiency. Locke, in fact, argues that it is Native rustic reason which “is likelier to open a way to, and add to the common stock of mankind, rather than any scholastic proceedings by the strict rules of mode and figure”—and by this he very likely had in mind the Proprietors’ routine pleading for the settlers to follow in the industry of the Native peoples.¹⁰⁶ With this in mind, it is very difficult to read the *Second Treatise* as a text of outright domination, expropriation, and cruelty directed at the Native peoples.

There is still room to talk about dispossession within a Lockean framework. This discussion about dispossession, however, should not be about whether or not Locke believed the Native inhabitants of America had any right to land and possessions; they clearly had property rights that the Proprietors sought to honor through purchase or trade. The real question that Locke seeks to address is whether these land claims extend to the whole continent, i.e., whether the Native peoples could legitimately lay claim to the tracts of land they did not physically occupy or cultivate: the hunting lands. While it is no doubt true that laying claim to and enclosing these lands without compensation would count as a form of dispossession, it is clearly of a different character than the outright violence and terror advocated by the theorists mentioned above. What I am suggesting is that Locke’s conception of property acquisition was not merely an expedient attempt to dispossess Natives of their land.¹⁰⁷ It was the logical outgrowth of an important seventeenth-century debate about the nature of property and the conditions under which it could be enclosed.

The starting point of this problem was how to conceptualize uncultivated expanses of land—could they, in principle, be owned? In this regard it is instructive to remember that Locke viewed America as a clear example of the state of nature: “Thus in the beginning all the world was America”—an uncultivated expanse of land that was ripe for appropriation by anyone who would apply the requisite labor. Locke repeatedly refers to the “in-land, vacant places of America,” and the “uncultivated waste of America.”¹⁰⁸ Elsewhere Locke explains, “there are still great tracts of ground to be found which (the inhabitants thereof not having joined with the rest of mankind in the consent of the use of their common money) lie *waste*, and are more than the people who dwell on it do or can make use of,

¹⁰⁵ Ibid.

¹⁰⁶ Locke, *An Essay Concerning Human Understanding*, IV.6: 519.

¹⁰⁷ That is, Locke’s thought cannot be characterized the way Sartre characterized European liberalism as a dishonest ideology, an exquisite justification for plundering; its tokens of sympathy and affection, alibis for our acts of aggression.” Jean-Paul Sartre, Preface to *Wretched of the Earth* by Franz Fanon, trans. Richard Philcox (New York: Grove Press, 2007), lvii.

¹⁰⁸ II.v.49: 301, II.v.36: 293, and II.v.37: 294, respectively.

and so still lie in common.”¹⁰⁹ This is important because when Locke talks about America, one does not get the impression that Natives deserve punishment for the inefficient use of land as much as the fact that there is just so much land that is not being used. As Stephen Buckle argues, Locke: “thought that much of (‘in-land’) America was vacant, not because he refused to recognize hunting lands, but because he thought that much of it was not such politically-established hunting lands—that the land was so vast, and the populations which lived on it so small and scattered, that the available land far exceeded any claim to territory which could reasonably be made by any political society.”¹¹⁰

5. Owning “Vacant” Lands

Locke’s emphasis on vacancy in North America is important because it signals where the force of his argument is directed. In the late seventeenth century, Locke was engaged in a debate as to whether apparently vacant lands should be considered truly vacant. Pufendorf, Locke’s contemporary, argues that labor, understood as agrarian cultivation, does not exclusively demonstrate that a piece of land is owned.¹¹¹ He argues that there might be an operative convention among the Native peoples in America that make what appear to be unused parcels of land private property. Pufendorf writes, “but it is not necessary that all things which are occupied in this universal manner should be divided among individuals and pass into private hands. Therefore if anything be discovered in such an area that is still without a private owner, it should not at once be regarded as unoccupied, and free to be taken by any man as his own, but it will be understood to belong to the whole people.¹¹² And in the following year, Pufendorf argues in *The Whole Duty of Man* (1673) that “when any Number of Men jointly possess themselves of any Tract of Land, ’tis customary to assign to each Member of the Company a Share, and to account what is left undivided to belong to the Society in common.”¹¹³ Notice that for Pufendorf it is agreement between a “Number of Men” that determines the ownership, not one’s mixture of labor with the land. Individuals need not cultivate their land agriculturally to possess it. In the very next passage Pufendorf explains that this title gives the first occupant right to the “wild Beasts, Birds, and Fishes living in the Sea, Rivers, or Lakes thereunto appertaining.”¹¹⁴ Thus, according to Pufendorf’s analysis, the Native peoples could possess large amounts of uncultivated lands and the wildlife that inhabit it. The vast inland places of America, it follows, could be regulated by custom, which the colonists would be at risk of violating.

¹⁰⁹ II.v.45: 299.

¹¹⁰ Buckle, “Tully, Locke and America,” 269.

¹¹¹ For more on the texture of these debates, see Andrew Fitzmaurice, *Sovereignty, Property and Empire, 1500-2000* (New York: Cambridge University Press, 2014).

¹¹² Samuel Pufendorf, *De jure naturae et gentium libri octo*, trans. C. H. Oldfather and W. A. Oldfather (Oxford, Clarendon Press, 1934), 571.

¹¹³ Samuel Pufendorf, *The Whole Duty of Man According to the Law of Nature*, trans. Andrew Tooke, eds. Ian Hunter and David Saunders (Indianapolis, IN: Liberty Fund, 2003), XI. VI., 131.

¹¹⁴ *Ibid.*

Tuck makes a convincing case that Locke was directly engaging arguments like this from Pufendorf due to the fact that he finally succeeded in purchasing a copy of *De officio hominis et civis* in 1681, right around the time he was composing the *Second Treatise*.¹¹⁵ This circumstantial evidence becomes more compelling when one begins to notice the conceptual problems Pufendorf's formulation of property poses for Locke's philosophy. Tully explains that "The different and opposed definitions of Pufendorf and Locke embody two radically different views of the relations of man to the world. For Pufendorf, property expresses man's right to dominate the world; for Locke, it expressed man's privilege to use a world which is not essentially his own and which is to be used, and not abused, for purpose not his own, of preservation and enjoyment."¹¹⁶ In other words, Locke could not approve of a purely convention-based approach to property ownership, especially one that reduces to dominance and private indulgence. The owner of an uncultivated swath of land does not appear to be responsible to anyone, either politically or economically, beyond the agreement between "a Number of Men." This stands in contrast to Locke's theocentric characterization of property; as Rawls writes, indicated in section one, "our rights and duties derive from God's ownership of us."¹¹⁷ Locke's understanding of property must be thought of in terms of positive duties and a common good; indeed, for Locke the emphasis on laboring on and improving the land are crucial parts of our responsibility to God and our fellow man. There is a public (i.e., collective) good to our private industry.

The exclusively private nature of Pufendorf's conception of property poses at least one other conceptual problem for Locke, namely that of taxonomy of ownership. The fact that land is either divided or left in common means that is not amenable to the degrees of ownership that Locke must assume for the existence of civil society. Tully writes, "To say that property cannot belong in the same manner and in whole to more than one person is to deny that common ownership is a form of property. A possession may belong to several persons in different ways, each having a different degree or kind of control over it."¹¹⁸ Recall how Locke stipulates that once an individual consents to join civil society, his property comes under the jurisdiction of the law and cannot be extracted from this arrangement.¹¹⁹ Locke's interest in this notion of communal ownership stems not only from his belief that private property is a communal good, but it also concerns the existence of communally held lands that were no longer in the state of nature in places like England. He writes, "Tis true, in land that is common, in England, or any other country where there is plenty of people under government, who have money and commerce, no one can enclose or appropriate any part without the consent of all his fellow-commoners; because this is left common by compact."¹²⁰ At a certain point of growth, when "several

¹¹⁵ Tuck, *Law of War and Peace*, 168.

¹¹⁶ Tully, *Discourse on Property*, 72.

¹¹⁷ Rawls, *Lectures on the History of Political Philosophy*, 121.

¹¹⁸ *Ibid.*

¹¹⁹ II.viii.120: 348.

¹²⁰ II.v.35: 292.

communities settled the bounds of their distinct territories, and by laws within themselves regulated the properties of the private men of their society,” the fact that these communities lay claim to unenclosed land must be affirmed by (at least parts) of the global community.¹²¹ Locke explains that “leagues that have been made between several states and kingdoms, either expressly or tacitly disowning all claim and right to the land in the others possession, have, by common consent, given up their pretences to their natural common right.”¹²² The assumption here is that civil and commercial structures allow a commonwealth to effectively manage a limited (internationally agreed-upon) amount of unenclosed land, with an eye to reasonable expectations about population growth.¹²³ Within civil society, the law dictates the enclosure of a nation’s commons. Locke contrasts this with the state of nature where the consent of all humans is not required for one to lay claim to and enclose land; one must simply leave “enough—and as good” for others to use.¹²⁴

What this shows is that for Locke unenclosed land would typically take two forms: that which is held in common, protected, and managed by the laws of a commonwealth and that which remains in the state of nature. The land in the state of nature is open to enclosure as long as there is enough left to go around. With regard to the former, the exact boundaries are settled by positive agreement among commonwealths, and the internal management of this land takes a very different form than that of those parts of the world that are unclaimed and unenclosed. Indeed, part of the reason a nation can lay claim to it is because it possesses the legal and commercial infrastructure to manage the land’s overplus.¹²⁵ This distinction may explain why Locke spent so much time attempting to assess whether or not the Native communities qualified as commonwealths, equivocating about their exact political status.¹²⁶ Quoting José de Acosta, Locke argues that “in many parts of *America* there was no government at all”; such as in South America, where the people of Peru “for a long time had neither kings nor commonwealths, but lived in troops, as they do this day in Florida, the Cheriquanas, those of Brasil, and many other nations,

¹²¹ II.v.45: 299.

¹²² II.v.45:299. More on this below.

¹²³ With this is the necessity of technical know-how: at one point in the *Essay*, Locke explains that “I suppose it will appear past doubt, that were the use of iron lost amongst us, we should in a few ages be unavoidably reduced to the wants and ignorance of the ancient savage Americans, whose natural endowments and provisions come no way short of those of the most flourishing and polite nations.” Locke, *Essay Concerning Human Understanding*, IV.11: 494.

¹²⁴ II.v.33: 291.

¹²⁵ There is a very interesting digression that could be made here on the debates about enclosure in England in the early and mid seventeenth century. In 1649 Samuel Hartlib wrote, “England had many hundreds of acres of waste and barren lands, and many of idle hands; if both these might be improved, England by God’s blessing would grow to be a richer nation than now is by far.” Quoted in Christopher Hill, “Forest and Commons,” in *The World Turned Upside Down* (New York: Penguin, 1972), 51.

¹²⁶ In this respect, Locke’s anthropology may have deficient. Batz argues that Locke’s theorizing reflects “the crude anthropological descriptions of French, English, and Spanish travelers in the New World” he was reading at the time. See William Batz, “The Historical Anthropology of John Locke,” *Journal of History of Ideas* 35, no. 4 (1974): 664. <https://www.jstor.org/stable/2709092>.

which have no certain kings, but ... choose their captains as they please.”¹²⁷

Tully more fully outlines why Locke would not have seen Natives participating in what he thinks of as legitimate “political societies”: ultimately, they “lack the European institutions that, according to Locke, constitute the universal criteria of political society.”¹²⁸ Tully is referring to those passages in the *Second Treatise* that suggest commercial infrastructure is necessary to manage the inevitable surpluses of production.¹²⁹ But Locke also believes that there are just too few Native peoples in North America: “and want of people and money gave men no temptation to enlarge their possession of land, or contest for wider extent of ground.”¹³⁰ In other words, since there are so few Native peoples in comparison to the amount of land, there is no temptation to take more than is needed for survival.

What I think these passages show is that Locke believes because there are so few Native peoples and no commercial infrastructure in North America, there is no support for the Pufendorffian argument that Natives owned the vast uncultivated acreage in the “middle inland part of America” in any clear legal sense. Indeed, it is very likely that Locke believed that not even the Natives formally lay claim to *all* of the land in North America, that much of it truly was “wild common of nature.” This seems to be predicated on certain assumptions about land to human ratios that are not fully fleshed out in the text given the sheer volume of land Locke envisions. In section 45 of the *Second Treatise*, Locke suggests that the land lies in waste because there is more of it than the “people who dwell on it” need to survive.¹³¹ Since there is so much left to go around, Locke thinks of this “as good as [taking] nothing at all.”¹³² On this formulation, land appropriation would only start to get dicey in some far distant future when enclosing a parcel of land would leave too little for the survival of others. These kinds of ratios would suggest that Locke simply thought there was plenty of land to honor both the Native peoples’ hunting lands *and* colonial enclosure.

Of course, what would provide some relief from the prospect of leaving too little land in common in a Lockean framework is the introduction of money. Some, like Onur Ulas Ince, have cynically suggested that the “enough and as good” proviso could be discharged with the possibility of wage-earning—that as the Europeans enclosed all the land in North

¹²⁷ II.viii.102: 335. Elsewhere Locke reaffirms the claim that chieftains in the West-Indies are not proper commonwealths because the chief has “no other power but to command [his people] in time of common war against, their common enemies.” John Locke, “A Third Letter for Toleration,” in *The Works of John Locke* Vol. 5, 225.

¹²⁸ Tully, *An Approach to Political Philosophy*, 151.

¹²⁹ See II.v.48.

¹³⁰ II.viii.108: 339.

¹³¹ II.v.45: 299.

¹³² II.v.33:291.

America, the Native peoples could survive as day-laborers.¹³³ Elsewhere Ince goes on argue that “Viewing Locke’s theory of property through the lens of colonial capitalism brings into focus monetization, rather than labor, as the principal axis around which possession and dispossession are entwined.”¹³⁴ Despite their apparent historicity, such readings are entirely anachronistic. It is important to point out that the Carolina colony was by no means a monetary economy. Very little money was in circulation there in the late seventeenth century, and this seemed to be intentional.¹³⁵ Not only did the Proprietors discourage direct trade between the colonists and Natives, they actively suppressed rumors about gold and silver mines in the area for fear that the colonists would abandon the settlement in favor of quick fortunes.¹³⁶ Indeed, the quick accumulation of money was the antithesis of the mentality Locke and the Proprietors hoped to cultivate in the Carolina colony. And remember, the colony was not merely about generating revenue (though it certainly was a long term investment); again I refer to the utopian aspirations of the settlement. Lord Shaftesbury and Locke were invested in this social experiment financially, but they also genuinely believed in the project as a possible political reality. Of course, it is likely that the social experiment and financial speculation were two sides of the same coin: only a fully functioning and healthy community would generate long term profits. And in this respect, the rapid accumulation of money was too much of a liability in the Carolinas: it was suggestive of greed, the temptation to get rich quick, and the contentious power-struggles the Proprietors had with slave traders from Barbados. It therefore seems unlikely Locke has such a calculating and cynical outlook with regard to enclosing Native hunting lands.

In short, Locke was not setting out a theory to dispossess the Native peoples of their hunting lands. After all, Locke writes in the *Second Treatise* that, “The fruit, or venison, which nourishes the wild Indian, who knows no inclosure, and is still a tenant in common, must be his, and so his, i.e. a part of him, that another can no longer have any right to it.”¹³⁷ Locke knew that those lands represented sustenance and survival for those peoples. Furthermore, he knew that the colonial planters greatly relied on this bounty as well: they routinely made arrangements with Indian hunters who could “very well feed a Family of thirty people with as much Venison and Fowl, as they can well eat.”¹³⁸ Armitage likewise argues that the reference to venison in section 26 “suggests that deer were the main example of profitable local game, indicating that Carolina—where the deerskin trade was

¹³³ Onur Ulas Ince, “Enclosing in God’s Name, Accumulation for Mankind: Money, Morality, and Accumulation in John Locke’s Theory of Property,” *Review of Politics* 73, no. 1 (2011): 41. <https://doi.org/10.1017/S0034670510000859>.

¹³⁴ Onur Ulas Ince, “John Locke and Colonial Capitalism: Money, Possession, and Dispossession,” (paper, 111th Annual Meeting of the American Political Science Association, San Francisco, CA, September 3–6, 2015). <https://ssrn.com/abstract=2971326>.

¹³⁵ Simms, *The History of South Carolina*, 116.

¹³⁶ Hsueh, “Giving Orders,” 443.

¹³⁷ II.v.26: 287.

¹³⁸ Wilson, “An Account of the Province of Carolina,” 170.

a commercial staple peculiar to Anglo-Indian commerce in North America—was Locke’s specific example when writing Chapter 5, ‘Of Property.’”¹³⁹ It would be odd to argue that the colonists were so eager to undermine their colonial economic staple and livelihood. For these reasons it is much more likely that Locke believed hunting lands and enclosure could both be sustained in North America.

In this light, one might read section 26 of the *Second Treatise* as Jonathan Bennett does in his adaptation of the same passage: “The wild Indians in north America don’t have fences or boundaries, and *are still joint tenants of their territory*; but if any one of them is to get any benefit from fruit or venison, the food in question must be his—and his (i.e. a part of him) in such a way that no-one else retains any right to it.”¹⁴⁰ Bennett’s recasting suggests a compelling possibility—that the Natives were not to be understood as merely tenants of the common, but as joint tenants of a territory they, as a people, used for a specific purpose. This gives added support to Buckle’s claim that even though Locke disapproved of certain aspects of the Indigenous conception of property, he was willing to treat Natives as independent communities of people, even if their political status was ambiguous or didn’t rise to the level of a proper commonwealth.¹⁴¹

What I am suggesting is that the on-the-ground colonial reality more closely resembled the condition of anarchy described by international relations scholars. The settlers were situated in such a complex set of “international” relationships and partnerships with a diverse group of Native peoples which they could not afford to treat as non-political entities, even if Locke believed they did not rise to the level of European commonwealths. In this respect, Indigenous norms about land claims needed to be, at the very least, effectively managed. This might explain why Lord Shaftesbury and Locke attempted to purchase and obtain written title to the land the Native peoples lay claim to. After all, if the Proprietors believed they held the only legitimate claim to the land, then why bother compensating the Natives at all? Given the nature of Locke and the Proprietors’ reliance on Indigenous support, it is unlikely the desire to purchase land should be reduced to simple expedience. This is because, at the root of Locke’s thought, as I think Buckle rightly suggests, is that: “I have a natural right, then, not only to preserve myself, but to act to preserve all: that is to protect peace.”¹⁴² Even though Native communities did not rise to the level that would formally legitimize their claims to even modest amounts of unenclosed hunting lands to the international community at large, Locke (much like the prudent and wise federative power of the *Second Treatise*) would honor and seek to compensate the Native peoples because to some limited extent he respects the Native claims of prior occupancy.

I think it is fair to say that for Locke, given the ratio of people to land, there was no need to formally determine the *maximum* extent of Native land claims. It was sufficient

¹³⁹ Armitage, “Locke, Carolina, and the *Two Treatises*,” 103

¹⁴⁰ See John Locke, *Second Treatise of Government*, ed. Jonathan Bennett, II.v.26: 11; my emphasis. <http://www.earlymoderntexts.com>.

¹⁴¹ Richard Cox argues that Locke acknowledges Natives were “little independent societies,” and that they were at some “[later] stage of human development.” Richard Cox, *Locke on War and Peace* (New York: Oxford University Press, 1960), 99.

¹⁴² Buckle, “Tully, Locke, and America,” 266.

to point out that no one, not even a European commonwealth, could lay claim to a whole continent, that is, without the requisite amount of people to fill it, commercial infrastructure to manage its material excesses, and international willingness a) to affirm those claims and b) to withdraw collective natural right to those territories. This much more conservative mindset is reflected in how the Proprietors approached land grants in the Carolinas. As Thomas Wilson records, “no proprietor shall choose a second signatory till he hath an hundred inhabitants upon his own particular signatory,’ and the same applied to the landgraves and caciques. Thus a member of the nobility acquiring a fourth square would need to have settled three previous squares in a compact manner with at least 100 people settled on each one to work the land.”¹⁴³ As this passage suggest, the Proprietors envisioned densely (and patiently) populated squares rather than sprawling land grabs by interlopers and independent fortune seekers.¹⁴⁴ There is no indication that Locke affirmed or aspired to lay claim to the sprawling land mass of North America for England.¹⁴⁵

All of these arguments up to now, I think, provide strong evidence that punishment was not central to Locke’s thought concerning the Native peoples. He did not target them because of their savagery or their supposed inefficient use of land; on the contrary, the colonists were encouraged to rely on Indigenous productivity and ingenuity for their own survival. There is, however, one final component to the argument as to why Locke was not interested in punishing the Native peoples. The clue to this reading moves away from the *Second Treatise* and into Locke’s writings on toleration and Christianity. From these writings it seems clear that rather than punishment, Locke was interested in exposing Natives to Protestant dogma. The reasonableness of Christianity would become apparent under conditions of religious tolerance, economic prosperity, and political security.

6. Evangelism Over Punishment

Earlier I suggested that the *Fundamental Constitutions* might be better understood as part of the utopian tradition that preceded it. Part of the utopian vision of Locke and the Proprietors was that the devout (and otherwise competent) English settlers might attract Natives into their agrarian political society in order to acquaint them with the truth and reasonableness of Christian doctrine. Indeed, as the 1663 “Declaration and Proposal to all

¹⁴³ Thomas Wilson, *The Ashley Cooper Plan*, 106.

¹⁴⁴ In this respect, the colonial project more closely resembles that of Hobbes: “the multitude of poor, and yet strong people still encreasing, they are to be transplanted into Countries not sufficiently inhabited: where nevertheless, they are not to exterminate those they find there; but constrain them to inhabit closer together, and not range a great deal of ground, to snatch what they find; but to court each little Plot with art and labour, to give them their sustenance in due season.” Thomas Hobbes, *Leviathan*, ed. Richard Tuck (New York: Cambridge University Press, 1996), 239.

¹⁴⁵ Locke may have had an argument from Bacon in mind: “for to think that a handful of people can, with the greatest courage and policy in the world, embrace too large extent of dominion, it may hold for a time, but it will fail suddenly.” Francis Bacon, “Of the True Greatness of Kingdoms and Estates,” in *The Essays: Or, Counsels, Civil and Moral*, ed. Samuel Harvey Reynolds (Oxford: Clarendon Press, 1890), 207. According to Neal Wood, Bacon has a heavy—indeed overrepresented—presence in Locke’s library. See Neal Wood, *The Politics of Locke’s Philosophy: A Social Study of An Essay Concerning Human Understanding* (Berkeley: University of California Press, 1983), 83.

that will Plant in Carolina” states, the Proprietors sought to recruit settlers with “the pious and good intention for the propagation of the Christian faith amongst the barbarous and ignorant Indians.”¹⁴⁶ This strategy is laid out much more clearly in the *Fundamental Constitution* (1669), which says (I quote at length):

But since the Natives of that place, who will be concerned in our plantation, are utterly strangers to Christianity, whose idolatry, ignorance, or mistake gives us no right to expel, or use them ill; and those who remove from other parts to plant there, will unavoidably be of different opinions concerning matters of religion, the liberty whereof they will expect to have allowed them, and it will not be reasonable for us on this account to keep them out; that civil peace may be maintained amidst the diversity of opinions, and our agreement and compact with all men may be duly and faithfully observed; the violations whereof, upon what pretense soever, cannot be without great offence to Almighty God, and great scandal to the true religion, which we profess; and also that Jews, heathens, and other dissenters from the purity of Christian religion, may not be scared and kept at a distance from it, but by having an opportunity of acquainting themselves with the truth and reasonableness of its doctrines, and the peaceableness and inoffensiveness of its professors, may by good usage and persuasion, and all those convincing methods of gentleness and meekness, suitable to the rules and design of the gospel, be won over to embrace and unfeignedly receive the truth; therefore any seven or more persons, agreeing in any religion, shall constitute a Church or profession, to which they shall give some name, to distinguish it from others.¹⁴⁷

It is not surprising that these are some of the same themes that Locke picks up in his writing on toleration. As we saw above, “no private person has any right in any manner to prejudice another person in his civil enjoyments, because he is of another church or religion ... No violence nor injury is to be offered him, whether he be Christian or pagan.”¹⁴⁸ He goes on to say that “Not even Americans, subjected unto a Christian prince, are to be punished either in body or goods for not embracing our faith and worship. If they are persuaded that they please God in observing the rites of their own country, and that they shall obtain happiness by that means, they are to be left unto God and themselves.”¹⁴⁹ Jack Turner offers a useful clarification about what Locke means here: “Though Locke conceded that Paganism was an ‘abomination,’ he argued that for the purposes of evangelization, it was better that Pagans practice an ‘abominable’ religion than no religion at all. Prohibiting Pagan worship would not draw the Pagans closer to

¹⁴⁶ This passage reflects the fact that the Proprietors were attempting to recruit Puritan settlers from New England to populate the Carolina colony. They assumed that the sugar growers in Barbados would not want to leave their profitable plantations. See Thomas Little, *The Origins of Southern Evangelicalism: Religious Revivalism in the South Carolina Lowcountry, 1670–1760* (Charleston: University of South Carolina Press), 2013.

¹⁴⁷ Locke, *Fundamental Constitutions*, 97: 195.

¹⁴⁸ Locke, “A Letter Concerning Toleration,” 17

¹⁴⁹ *Ibid.*, 35

Christianity, but would ‘make them downright irreligious, and render the very notion of a Deity insignificant, and of no influence.’¹⁵⁰ Under the auspices of toleration, Locke believed that acceptance of Indigenous religious practices would ultimately serve to convince them of the truth of Christianity.¹⁵¹ Indeed, beyond mere toleration, Locke argued for active integration and to a certain extent assimilation. He suggested that “Indian children” be admitted to William and Mary in order to be “well instructed in the Christian Faith,” and once educated in the Christian faith they could be “made fit to evangelize others of their nation and language.”¹⁵²

At this point, it has perhaps not gone unnoticed that the Carolina colonists were not the most likely candidates for Locke’s evangelical mission. As Gideon Johnston wrote in 1708, “The People here [Carolina], generally speaking, are the vilest race of men upon the earth they have neither honour, nor honesty nor religion enough to entitle them to any tolerable character, being a perfect Medley or hotchpotch made up of Bankrupts, pirates, decayed libertines, sectaries and enthusiasts of all sorts.”¹⁵³ The critical terms in which the settlers are frequently described suggests that Locke had very little confidence in any kind of evangelical mission (or that the idealized political community would materialize, for that matter). Indeed, the colonists could hardly provide for themselves, much less proselytize their neighbors.

The discontinuity between the colonial reality and Locke’s colonial vision is striking. Nevertheless, I think it is with the memory of the Carolina colony in mind that in *A Letter Concerning Toleration* (1685) Locke goes on to offer what appears to be his own sense of how the Christian religion might have taken hold in that settlement.¹⁵⁴ In this context, he writes: “thus it is: an inconsiderable and weak number of christians, destitute of every thing, arrive in a pagan country; these foreigners beseech the inhabitants, by the bowels of humanity, that they would succour them with the necessaries of life; those necessaries are given them, habitations are granted, and they all join together and grow up into *one body of people*. The Christian religion by this means takes root in that country, and

¹⁵⁰ Turner, “John Locke, Christian Mission, and Colonial America,” 292.

¹⁵¹This is also John Marshall’s reading of Locke’s conception of religious toleration; he argues that, for Locke, conversion to Protestant Christianity was simply more likely under the auspices of toleration. See John Marshall, *John Locke, Toleration and Early Enlightenment Culture: Religious Intolerance and Arguments for Religious Toleration in Early Modern and “Early Enlightenment” Europe* (New York: Cambridge University Press), 2006.

¹⁵² This is from “Some of the Chief Grievances of the present constitution of Virginia, with an Essay towards the Remedies thereof” (1697), an article Locke coauthored with James Blair. Cited in Turner, “John Locke, Christian Mission, and Colonial America,” 282.

¹⁵³ Quoted in Elizabeth Roark, *Artists of Colonial America* (Westport, CT: Greenwood Press, 2003), 98.

¹⁵⁴ Here I am assuming, as indicated above, that Locke was continuously engaged in colonial politics throughout the 1670s and 1680s, which means that such matters would have been on his mind when he was composing the *A Letter Concerning Toleration*. In fact, just prior to this passage Locke speaks of imposing the Christian religion on Americans, so it is quite clear that he is drawing on his experience with the Carolina colonies.

spreads itself.¹⁵⁵ Locke then proceeds to explain how this approach to colonization might be hijacked by those who wish to forcefully and cruelly impose the moral law of Christianity on their pagan neighbors. He was deeply concerned that “the case of souls, serves for a cloak to covetousness, rapine, and ambition.”¹⁵⁶ This is a telling passage in the context of the early Carolina colonial experiment where “a weak number of Christians” actually had to rely on the aid of the Native inhabitants “to succour them with the necessities of life.” What is more, in the early history of the Carolina colony, a ruthless contingent of settlers from Barbados—the Goose Creek Men—actually did rise to power and undermined the colonial project.¹⁵⁷ As Walter Edgar explains, “The proprietors fumed about the machinations of these cunning politicians, and opponents of the Goose Creek Men damned Maurice Mathews, one of their early leaders, as ‘Metchivell Hobs and Lucifer in a Huge lump of Viperish morality [with] a soul [as] big as a musketo.’”¹⁵⁸

There is evidence that the Proprietors actively sought to resolve this issue by recruiting enough French Huguenots and Scottish dissenters to undercut the Goose Creek Men’s power, but this was largely unsuccessful.¹⁵⁹ After years of conflict, it wasn’t until 1695 when the Quaker Governor John Archdale came into office that the colony was able “to achieve some political order and harmony.”¹⁶⁰ In his own account of the Carolina experiment, John Archdale laments “I wish I could write as large in the Propagation of the Christian Religion amongst the Natives, but the Gospel Spirit is not yet so gloriously arisen, as to seek them more than theirs, as Paul intimates: Yet I believe, that in time Trade may be a means, to introduce the Gospel both in the West and East Indies.”¹⁶¹ Archdale advocated for state-funded missionaries “who have Zeal, Courage and Fidelity for such a Work; and that the Government on no pretence of their Service in the Plantations, divert them from their Commissionated Service.”¹⁶² He goes on to explain that these missionaries need to be “well skill’d in Chymistry, and some natural Genius to seek the Virtues in Herbs, Metts and Minerals, &c. and the prudent Conduct of such Skill,

¹⁵⁵ Locke, “A Letter Concerning Toleration,” 35-36. Emphasis mine.

¹⁵⁶ *Ibid.*, 36.

¹⁵⁷ For more on this history, see L. H. Roper, *Conceiving Carolina: Proprietors, Planters, and Plots, 1662-1729* (New York: Palgrave Macmillan, 2004).

¹⁵⁸ Walter Edgar, *South Carolina: A History* (Charleston: University of South Carolina Press, 1998), 85.

¹⁵⁹ See Robert Weir, “‘Shaftesbury’s Darling’: British Settlement in the Carolinas at the Close of the Seventeenth Century,” in *The Oxford History of the British Empire: Volume 1: The Origins of Empire*, ed. Nicholas Canny (New York: Oxford University Press, 1998), 385.
<https://doi:10.1093/acprof:oso/9780198205623.003.0017>.

¹⁶⁰ *Ibid.*

¹⁶¹ John Archdale, *A New Description of That Fertile and Pleasant Province of Carolina with a Brief Account of its Discovery and Settling and the Government Thereof to this Time* (Charleston, SC: A. E. Miller, 1707), 14.

¹⁶² *Ibid.*, 15

might introduce them into a good Opinion with the Indians; and let them understand, that we were once such as themselves, but were by a Noble Heroick Nation reduc'd into a Civiliz'd State; and then had the Gospel preach'd to us by Just and Holy Men who sought our Salvation with the hazard of their Lives, &c.”¹⁶³ According to Archdale’s memoir, part of what accounted for the failure of the Christian mission was that even though the Carolina colony was established “in a Scheme laid by the Earl of Shaftesbury, &c.” it was “secretly over-thrown by that Party of High pretended Church-men that have lain Latent from the Beginning.”¹⁶⁴ This account tracks very closely with the one Locke muses about in the letter on toleration.

As Archdale’s memoir shows, the fact that the colony was hijacked by power-hungry slave traders doesn’t refute the idea that Locke hoped the Native peoples and the European settlers would eventually form “one body of people.” This remains a compelling possibility that deserves to be considered. After all, Locke affirmed that ethnically and culturally disparate groups of people—instructed in and guided by reason and the natural law—could form political societies.¹⁶⁵ The Proprietors envisioned much more cultural blending than one might first expect. Hsueh records: “As Lord Ashley commended colonist Henry Woodward, ‘noe body can be soe helpful to our settlement in that part as you And our Planters till they have learnt the Natives language and get into a better knowledge of them ... [we] doe desire you would not leave our Plantation till the Indians and our People are growne into so good an Acquaintance one with another as not to need an Interpreter between them.’”¹⁶⁶ And in another letter, Lord Shaftesbury writes, “I am glad you have behaved yourselve soe well towards the Indians that they have chosed you there Cassica you did well to ask leave of the Governor and Councill before you accepted it in your management of it pray be careful and use [the Indians] justly and kindly, and by none but faire ways endeavour to unite them with us.”¹⁶⁷ Locke and the Proprietors envisioned a high degree of integration between the colonists and their Indigenous neighbors; indeed, the idea was that they would become so familiar with one another that language and customs would be well understood. They believed the colonists’ survival depended on this. While friendly Indigenous neighbors might provide crucial insight into effective Native agricultural and medicinal practices, Locke believed (at least potentially) the colonists could reciprocate by exposing the Natives to political structures and

¹⁶³ Ibid.

¹⁶⁴ Ibid., 27.

¹⁶⁵ This makes sense given his very generous view of immigration into England. Locke was by no means an ethno-nationalist. He argued that anyone who agreed to work and follow the law should be quickly naturalized. See John Locke, “For A General Naturalisation,” in *John Locke: Political Essays*, ed. Mark Goldie (New York: Cambridge University Press, 1997). In “A Third Letter on Toleration” Locke criticizes Jonas Proast for refusing to endenizenize “jews, mahometans, and pagans” because of their religious beliefs. John Locke, “A Third Letter for Toleration,” in *The Works of John Locke*, vol. 5, 229. See also, Brian Smith, “Hands, Not Lands: John Locke, Immigration, and the ‘Great Art of Government,’” *History of Political Thought* 39, no. 3 (2018); 465-90.

¹⁶⁶ Quoted in Hsueh, “Giving Orders,” 441.

¹⁶⁷ Lord Shaftesbury to Maurice Mathews, Exeter House, June 20, 1672, in *Collections of South Carolina Historical Society*, vol. 5, 399.

Protestant dogma.¹⁶⁸

To be sure, Locke does not shy away from the evangelical thrust of his doctrine of tolerance. He expressly writes (1692), “The end here is to make a man a true Christian, that he may be saved; and he is then, and then only, a true Christian, and in the way of salvation, when he believes, and with sincerity obeys the gospel.”¹⁶⁹ The implications for the Carolina colony are compelling, even if the historical record poses a much more convoluted and challenging picture. Locke clearly understood the difficulties he was facing in terms of the evangelical project in North America. Look how he exposes the hypocrisy of Jonas Proast’s case for using the powers of the magistrate to enforce the principles of Christianity:

And indeed it is one thing to be an ambassador from heaven in a country where you have neither the countenance of the magistrate, nor the devout obedience of the people. And who sees not how one is bound to be zealous for the propagating of the true religion, and the convincing, converting, and saving of souls in a country where it is established by law? who can doubt but that there those who talk so much of it are in earnest? Though yet some men will hardly forbear doubting, that those men, however they pray for it, are not much concerned for the conversion of pagans, who will neither go to them to instruct them, nor suffer them to come to us for the means of conversion.¹⁷⁰

By 1691 Locke had become intimately acquainted with the challenge of having “neither the countenance of the magistrate, nor the devout obedience of the people.” This perfectly reflected the political tension between the Proprietors and the Goose Creek Men. It was easy for men like Proast to speak about the propagation of the Christian doctrine with the help of a forceful magistrate. This zealousness, however, is ultimately exposed as a sham; it is merely an attempt to dominate the internal life of men “in a country where [the true religion] is established by law.” But Locke’s experience with the colonies was quite different. Authentic zealousness is better demonstrated by the uncertainty seen in the colonies, where even though the true religion was nominally enshrined into law¹⁷¹ the magistrates did not have the power to enforce the inner lives of men, much less the inner lives of their Indigenous neighbors. In this context, Locke still retained faith in the political system that the “conversion of pagans” was a real possibility, and this might come to pass through evangelical instruction and by “[suffering] them to come to us for the means of conversion.”

Now, I don’t mean to suggest that Locke was opposed to the idea of establishing Christian magistrates in the Carolina colony. Locke very likely agreed with Lord Shaftesbury that it would be best if “all tribes of Indians round about had each an

¹⁶⁸ On Locke’s view of Indigenous medical practices, see Farr, “Locke, ‘Some Americans,’ and the Discourse on ‘Carolina,” 75n152.

¹⁶⁹ Locke, “A Third Letter for Toleration,” 397.

¹⁷⁰ *Ibid.*, 234.

¹⁷¹ See *Fundamental Constitutions*, 96.

Englishman for their Cassique.”¹⁷² It is likely that it would have been preferable to Locke that there was a Christian magistrate overseeing the spiritual well-being of the English settlers and Native peoples, but this authority is meticulously circumscribed in his writing on toleration. I suspect Locke believed that the Carolina experiment was the perfect case to demonstrate the empirical validity of natural law precepts. In this respect, what Locke meant by forming “one body of people” must be contextualized by what he thought each group of people brought to the table—the English brought superior political structures and Christian dogma in conjunction with a structured approach to natural law reasoning, while the Indigenous brought their Native rustic reason, knowledge of the land, agricultural acumen, and superior medicinal practices. This, of course, reflects a species of anti-primitivism that disregards Indigenous political structures and religious practices (among other things), but it is a far cry from the punishment thesis that many have projected onto Locke.

7. Conclusion

In this paper I have attempted to show that Locke’s colonial philosophy is not predicated on the punishment of Native peoples for violating the natural law either in terms of their “savagery” or because of “inefficient” land use. Rather, Locke’s sincerely held religious beliefs influenced his understanding of the colonial presence in North America. I have attempted to show that Locke’s colonial vision was theocentric. Not only were colonists under a divine obligation to be industrious and productive, but also it was, ironically, the Indigenous peoples who were instrumental in the colonial planters’ success: they played a crucial role in “improving the common stock of mankind.”¹⁷³ Furthermore, Locke believed that, over time and under the auspices of tolerant and free civil authority, Natives would begin to emulate the European agrarian practices (densely packed grids of highly productive farms), which would in turn open them to the natural law, with all its Protestant overtones. Even though Locke’s colonial thought is still in many ways disconcerting inasmuch as it relies on anti-primitivist assumptions about the Native people’s political practices, he nevertheless had a striking and unexpected vision: he envisioned the emergence of integrated political communities throughout North America where Natives and Europeans would over time converge to form “one body of people.”

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¹⁷² Lord Shaftesbury to Stephen Bull, Exeter House, August 13, 1673, in *Collections of the South Carolina Historical Society*, vol. 5, 427. *Cassique* was a title used by the Native tribes in South Carolina used to designate Chief or Chieftain.

¹⁷³ II.v.37: 294.

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