Locke

On leaving the State of Nature and Consent to Government
Why Leave (review)

Why do we leave the SoN according to Locke?

- We lack security
- Disputes arise regarding the interpretation of the Law of Nature
- Disputes arise regarding the enforcement of the Law of Nature
Why Leave (review)

Why do we leave the SoN according to Locke?

In the State of Nature, we lack:

- Established, known, settled law
- Indifferent judges
- Power to execute the law
Why Leave (review)

The solution is to remedy that situation. We create Political Society.

Political Society produces:
1. Common established Law
2. Judicial System
3. An authority to decide controversies and punish offenders

Without these, we are really still in a state of nature.
The State of Nature and Hobbes State

Hobbes state is worse than a state of nature

“This is to think, that men are so foolish, that they take care to avoid what mischiefs may be done them by pole-cats, or foxes; but are content, nay think it safety, to be devoured by lions.”
Hobbes responds that absolute sovereigns will find it in their interest to benefit their subjects. Locke responds to Hobbes that this is a fancy thought but history does not bear it out. The sovereign's power corrupts him.
How do we leave?

To leave the state of nature and enter political society…

- Each member of political society consents to give up his or her individual liberties to the political society, and
- Each member of political society consents to put him or herself under the obligation to submit to the determination of the majority.
Importance of majority rule:

- We cannot rely on everyone’s deciding for himself.
- We cannot rely on unanimity.
A legitimate government is one that its subjects have an obligation to listen to. That is, you have a moral obligation to follow the laws of your legitimate government.
Legitimate Government

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What are some laws of this country that you have to follow?
A legitimate government is one that its subjects have an obligation to listen to. That is, you have a moral obligation to follow the laws of your legitimate government.

But, when is a government legitimate?

Same question, put another way: when do you have an obligation to follow the law?
Legitimacy and Consent

Locke's answer (in part):

- If a person does not consent to enter political society, he or she is under no obligation to be part of it.

- Might does not make right; political obligation cannot come from mere force; consent is essential.
Legitimacy and Consent

“Every man being, as has been showed, naturally free, nothing [is] able to put him into subjection to any earthly power, but only his own consent” (section 119).

Note that for Locke, it is consent to a government, not consent to individual acts of government, that creates legitimacy. (This point will become clearer shortly, but it bears stating now.)
Did you consent to your Government?

When did you consent to your government?

Have you ever said "I hereby agree to follow the laws of the United States of America"?
Legitimacy and Consent

A concern:

Maybe some people originally consented to enter political society a long time ago, but the rest of us are born into political society and thus have never given our consent to live by its laws.
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Locke's response is to distinguish express consent from tacit consent.
Express and Tacit Consent

Express Consent is just explicitly agreeing to do something, i.e. expressing one's consent to something such as, for example, the law.

Express consent seems like it creates an agreement or a promise.
Express and Tacit Consent

What about tacit consent? Tacit consent is when you imply or indicate your agreement with something other than words.

Can you think of some examples of Tacit Consent?
Express and Tacit Consent

What about tacit consent? Tacit consent is when you imply or indicate your agreement with something other than words.

Can you think of some examples of Tacit Consent?

- "Any objections?"
- Remaining in class after reading a syllabus
- Entering a game of pick-up basketball
- Not talking loudly during a movie
Express and Tacit Consent

It's easy to see how express consent ("I consent to this.") obligates us to obey.

What about tacit consent and obligations?
Tacit Consent

According to Locke,

If you have benefited from your political society, and
If you have chosen not to leave your political society,

Then you have given your tacit consent to the rules of your political society.

Is this right? Do these circumstances mean you have an obligation to follow the law?
Tacit Consent

Have you benefited from your political society?
Tacit Consent

Have you benefited from your political society?

Have you chosen not to leave?
Tacit Consent

Have you benefited from your political society?

Have you chosen not to leave?

Have you therefore given your tacit consent to your political society?
Tacit Consent

Have you benefited from your political society?

Have you chosen not to leave?

Have you therefore given your tacit consent to your political society?

Are you obligated to obey all the laws of your political society?
Worries about Tacit consent

- No freedom to leave political society, only a choice between political societies.
- Hume: Being born in a country is like waking up on a ship. While you benefit from the Capitan's rule, the only alternative is to dive overboard.
Three powers of the commonwealth

- The Legislative, which makes the laws.
- The Executive, which executes the laws (sect 144).
- The Federative, which has the powers of war and peace, leagues and alliances, and other matters of international relations (sect 146).

Not exactly the US Constitution’s three branches, but a clear influence.
Locke's Commonwealth

Three requirements on Government

- Government’s power can never extend farther than the common good.
Locke's Commonwealth

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- Government’s power can never extend farther than the common good.
- Government is required to secure everyone’s property by providing against the three defects of the state of nature.
Locke's Commonwealth

Three requirements on Government

- Government’s power can never extend farther than the common good.
- Government is required to secure everyone’s property by providing against the three defects of the state of nature.
- Government is required to promote the peace, safety and public good of the people.
Locke's Commonwealth

Three features of Lockean government:

- Divided
- Limited
- Conditional
Three Forms of Government

- Democracy: the majority of all the people make laws.
- Oligarchy: the majority of a select few make laws.
- Monarchy: one person makes laws.

Note that the legislative described above is not absolute because it does not enforce the law. Moreover, the law must be established, known and settled before it is just: it cannot be arbitrary and changing.