

# 'That excellent forme of Government'

## New light on Locke and Carolina

The death of John Locke 300 years ago on October 28, 1704, extinguished one of the first hereditary titles granted in the English-speaking Americas. On April 4, 1671, the Lords Proprietors of Carolina had created that "outstanding man John Locke" (*Esimias Vir Joannes Locke*) a landgrave – that is, a premier nobleman – of Carolina in recognition of "his great prudence, learning and industry both in settling the form of government and in placing colonies on the Ashley River" in present-day South Carolina. Locke never set foot in America and did not take up the 12,000 acres of land that went with his title. He died childless and made no mention of Carolina in his will. However, to the last he did keep the Proprietors' magnificent vellum patent. It remains to this day among his private papers in the Bodleian Library.

Locke's association with Carolina had begun after he entered the service of Anthony Ashley Cooper, later the first Earl of Shaftesbury, in 1667. Ashley was the leading figure among the eight Lords Proprietors to whom in 1663 Charles II had granted the vast swathe of territory between the latitudes of 36° 30' and 29° North which stretched from the Atlantic to the Pacific. In 1669, Locke became secretary to the Proprietors, a position with both executive and administrative duties: he kept minutes at meetings, conducted correspondence with settlers in Carolina and the Caribbean, summarized materials for the Proprietors, bought supplies and kept accounts. The post also involved him in drawing up the colony's first frame of government, the *Fundamental Constitutions of Carolina*. A manuscript of the constitutions, dated July 1, 1669, now among Shaftesbury's papers at the National Archives at Kew, begins in Locke's handwriting and contains many further substantive emendations and additions by him. Locke's part in its drafting made him the first Western philosopher since classical times to have helped create the constitution for an actually existing society.

The preamble to the *Fundamental Constitutions* announced the Proprietors' intention to "avoid erecting a numerous Democracy". To that end, they endowed themselves with one-fifth of the land in the colony and gave a further fifth to the hereditary nobility composed of landgraves and "cassiques" (who were fancifully named for native American chiefs). The remaining land would be in the hands of the freemen of Carolina. Beneath them were a class of hereditary "leet-men", who were tied to the land and not permitted to travel without their masters' permission, and the African slaves over whom the Proprietors stipulated that "Every Freeman of Carolina shall have absolute power and Authority", meaning the power of life and death. In the original draft of the manuscript in the National Archives, that article had mentioned only "absolute Authority". Locke himself added the words "power and", lest there be any mistaking the Carolina freemen's rights.

Locke later opened the first of his *Two Treatises of Government* (1690) with the ringing statement that "Slavery is so vile and miserable

DAVID ARMITAGE

an Estate of Man . . . that 'tis hardly to be conceived, that an *Englishman*, much less a *Gentleman*, should plead for 't". Yet this is just what Locke's later enemies accused him of doing by his complicity in founding an aristocratic plantation economy based on African slavery. One eighteenth-century line of attack anticipated post-colonial critiques of liberalism by arguing that there was no incompatibility between the basic assumptions of the Carolina constitutions and the political theory of the *Two Treatises*. As the conservative Dean of Gloucester, Josiah Tucker, charged in 1776, both revealed the propensity of "Republicans in general . . . for leveling all Distinctions above them, and at the same time for tyrannizing over those, whom Chance or Misfortune have placed below them". Tucker also ventriloquized what would become a familiar defence against this accusation: "Mr. LOCKE was then a young Man, as appears by the Date of this Code of Laws [1669]"; in fact, Locke was thirty-seven when the *Fundamental Constitutions* were drawn up and thus middle-aged by the standards of his time.

Such a defence implied that Locke's involvement with Carolina was only a distant memory by the time he published the major works on which his fame would rest, the *Two Treatises* and the *Essay Concerning Human Understanding*, in 1689/90. Locke had resigned the Carolina secretaryship in the autumn of 1675 when he left England for what would become a three-and-a-half year stay in France. However, his

interest in Carolina's prospects did not end with his formal duties. For example, many of the notes on social discipline, marriage law and settlement patterns which he made in his notebooks between 1676 and 1679 under the title "Atlantis" referred explicitly or implicitly to Carolina, and between 1679 and 1681 he joked with friends in France about his plans to flee England for Carolina where Locke Island, now Edisto Island in South Carolina, had been named for him. A manuscript treatise on the cultivation of olives, vines, fruit and silk that Locke presented to Shaftesbury in February 1680 after his return from France also seems to have been written with the agricultural future of Carolina in mind.

Nor did Locke's interest in the *Fundamental Constitutions* wane. At no point between 1681 and his death were there fewer than two copies of the constitutions among his possessions. In September 1681, his French friend Nicolas Tonard – who had evidently been closely studying a copy of the constitutions – urged Locke to "consider seriously the reform of the laws of Carolina". Locke may have given Tonard reason to believe that he still had influence with the Carolina Proprietors to effect such a reform. New evidence for Locke's role in amending the *Fundamental Constitutions* in the summer of 1682 confirms that he did indeed still have influence with at least two of them, Shaftesbury and Sir Peter Colleton.

By 1682, the stream of settlers heading for Carolina had been drying up, in part because of competition from William Penn's Pennsylvania

colony, which also guaranteed religious toleration. The Proprietors campaigned so vigorously for new colonists that John Dryden satirized their promotional endeavours.

Since faction ebbs, and rogues grow out of fashion,

Their penny-scribes take care t'inform the nation

How well men thrive in this or that plantation.

How Pennsylvania's air agrees with Quakers,

And Carolina's with Associates;

Both e'en too good for madmen and for traitors.

Some of the restrictive provisions of the *Fundamental Constitutions* had presented a stumbling block to potential colonists. To make Carolina more attractive to new settlers, particularly Scottish Presbyterians and French Huguenots, the Proprietors revised the constitutions three times over the course of 1682: first in January, after which they issued a new printed version; then again in early May, "for the greater Liberty, Security & quiet of the people"; and a third time at some point between late May and mid-August 1682.

Only five printed copies of the January 1682 *Fundamental Constitutions* now survive, all of them in libraries in the United States. The copy now in the New York Public Library was the one used to draw up revisions for the version of the *Fundamental Constitutions* dated August 17, 1682. This copy contains numerous changes and additions to the constitutions' 120 provisions. Whole articles were struck out, others were rewritten and the margins of the text were filled with amendments, some of them stretching round the edge of the printed page. When space ran out, changes and queries were entered on six separate sheets of paper; three of the sheets are misbound into the book so that the alterations no longer align with the amended printed text as they were intended to do. More than a quarter of the articles were altered or replaced, leaving a new total of 128 articles.

John Locke was one of three distinct writers who entered their changes on this copy of the *Fundamental Constitutions*. The bulk of the alterations are in a clear, formal hand which cannot be identified: it is not that of one of the Proprietors, of any known member of Shaftesbury's household or one of Locke's correspondents. A second set of queries, objections and emendations are in the sprawling hand of Sir Peter Colleton, a Proprietor since 1666, a major investor in the slave-trading Royal African Company and the absentee owner of one of the largest slave plantations on Barbados. The third writer – who answered some of Colleton's queries, added changes to one-tenth of the articles and then re-numbered them all – was Locke. The Library's catalogue notes the presence of Locke's hand but the significance of his involvement in 1682 has not previously been investigated.

The summer of 1682 is something of a blank in Locke's biography. Few of his letters survive from those months and his notebooks reveal nothing more about his activities than that he spent the time between May 30 and August 8,

## Dormouse Stronghold

Over a hundred years we've fortified our range; at the last count just thirty miles from where we escaped the Collectors: while the mink and grey squirrel are coming soon to a place near you (if they're not there already) you'll find us keeping ourselves to ourselves, only breeding if the beech harvest is good, sleeping the northern winters off, binging through good autumns.

Think of me as everymouse, whom the Romans ate and the rindrop coshed, as I climbed and sprung the stalk in fields where ploughs turn up pieces of pot. Rome fell, but here my radius reaches out to Luton, Leighton Buzzard, the green on the map; the blur in the wing mirror, the hills from a train; a conquest of the back gardens slow as money taking root, as it does. I've noticed as of late

the arrival of the dormouse box, and I'll take to this like a stockade. So civilized. Crawling out under a sky brilliant with stars a few degrees out of whack, full of dead gods and symbols I'll outlive, I feel a rush pass through me, tip to tail, like the express heading north, for what lies ahead, for whatever's past. Before the night's hard work, I allow myself that.

PAUL FARLEY

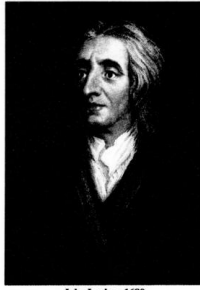
1682, at Thanet House, the London residence of the Earl of Shaftesbury. Previous attempts to fill the biographical gap have surmised that Locke was abetting Shaftesbury in secret plans for uprisings and an assassination plot against Charles II and his brother, James, Duke of York. The evidence for such plotting is circumstantial, at best. By contrast, the working copy of the *Fundamental Constitutions* provides hard evidence that Locke was directly involved with Shaftesbury's concerns that summer, but over constitutions, not conspiracies.

It is not hard to imagine Shaftesbury summoning Locke from Oxford to undertake the revision of the *Fundamental Constitutions* at a critical moment in the colony's fortunes. Shaftesbury was already ailing from the combination of diseases that would kill him in Holland in January 1683, and in July 1682 he had prudently mortgaged his lands in England and Carolina. He had been reported as attending the Carolina coffee house in London earlier that year to answer emigrants' questions, so keen was he to promote the prospects of his "darling" Carolina. He would have recalled Locke's role in framing the *Fundamental Constitutions* in 1669: who better, then, to consult about their revision in 1682?

It may be less easy to imagine Locke working side by side with Sir Peter Colleton, the absentee Barbadian slave owner. However, he and Locke had known each other since at least 1669, and had corresponded frequently about the colonies, English politics and their investments before Locke's departure for France, and

they both supported the exclusion of James, Duke of York, from the succession to the throne. In his capacity as a Proprietor, Colleton had also signed Locke's landgrave patent in 1671 and two years later he commended his friend for "that excellent form of Government in the compass of which you had so great a hand".

Locke's emendations to the *Fundamental Constitutions* mostly concerned the mechanics of government and law in the colony. For example, he proposed that the Grand Council (Carolina's highest executive and judicial body) should vote by secret ballot and suggested that jury duty should be determined by a ten-year-old child's drawing lots from a "box", a system that remained unique to South Carolina throughout the eighteenth century. He paid particular attention to the details of adjourning and proroguing the Parliament of Carolina – those crucial procedural issues during the Exclusion Crisis – and suggested the number of members (sixty) who had to be present if the Parliament were to pass sentence or judgment against anyone. He also provided for the revision of the supposedly "sacred and unalterable" constitutions whenever "the variety of human affairs" demanded it. All of Locke's changes made their way into the version of the *Fundamental Constitutions* promulgated on August 17, 1682, and there they remained until the Proprietors revised the constitutions one last time in 1698. In December 1686, a friend in the West Country wrote to Locke that he had a "copy of Carolina Laws with marginal notes of your hand



John Locke, c.1680

and also some leaves put in of your handwriting". Locke spent six months trying to retrieve it, though with what success his correspondence does not reveal. Unless there were two such working copies, both with his notes and both with manuscript sheets bound into them, it is safe to infer that the copy of the *Fundamental Constitutions* Locke sought in 1686–87 is the one now in the New York Public Library. The evidence of Locke's role in revising the

*Fundamental Constitutions of Carolina* in 1682 complicates the conventional accounts of his political development. Recent scholarship has argued that he drafted the *Two Treatises of Government* no earlier than 1679 and no later than the autumn of 1682: it now appears there was no sharp biographical or chronological break between the author later canonized as the godfather of liberalism and the man execrated for helping to design an anti-democratic society with slaves in Carolina. Indeed, the identity of Locke the Carolina constitutionalist with Locke the author of the *Second Treatise* may help to explain the prominence of American examples in that work, especially in its famous fifth chapter, "Of Property". Jeremy Bentham may thus not have been far off the mark when, in 1829, he assailed Locke's attachment to the principle of private property: "West Indies the meridian of these principles of this liberty-champion". His proof came from the *Fundamental Constitutions*: "a performance which from that day to this has never been more spoken of in any other character than a failure".

Locke only acknowledged his authorship of the *Two Treatises of Government* in his will; he never took such credit for the *Fundamental Constitutions*. However, he clearly took pride in them: only seven months before his death, he arranged for his friend Anthony Collins to see a copy, and two copies were among the books he left in his will. The title of Carolina landgrave may not have been among the legacies Locke left in October 1704, but the *Fundamental Constitutions of Carolina* certainly were.