

**JOHN LOCKE: 1632-1704**

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## A NOTE ON THE TEXT

Each of the first three editions of the *Two Treatises*, of 1689-90, 1694, and 1698 (the only ones published in Locke's lifetime), was full of printer's errors. Locke made extensive corrections, and some significant additions, in a copy of the third edition. The first subsequent edition to take full account of these changes was the sixth, published in 1764. The present edition of the *Second Treatise*, along with the title pages, original editor's notes, and Preface to the *Two Treatises*, is reproduced from the 1764 edition.

Two errors found in the 1764 edition which were not in any of the first three editions have been corrected in the present edition: in the second sentence of § 48 the "not" has been restored before "be apt", and in the last sentence of § 87 "no such common people" has been changed to the original phrase "no such common appeal". In addition, a few simple typographical errors have been corrected.

TWO TREATISES OF GOVERNMENT

BY JOHN LOCKE

SALUS POPULI SUPREMA LEX ESTO

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REPRINTED, THE SIXTH TIME, BY A. MILLAR, H. WOODFALL, I. WHISTON AND B. WHITE, I. RIVINGTON, L. DAVIS AND C. REYMERS, R. BALDWIN, HAWES CLARKE AND COLLINS; W. IOHNSTON, W. OWEN, I. RICHARDSON, S. CROWDER, T. LONGMAN, B. LAW, C. RIVINGTON, E. DILLY, R. WITHY, C. AND R. WARE, S. BAKER, T. PAYNE, A. SHUCKBURGH, I. HINXMAN  
MDCCLXIII

TWO TREATISES OF GOVERNMENT.  
IN THE FORMER THE FALSE PRIN-  
CIPLES AND FOUNDATION OF SIR  
ROBERT FILMER AND HIS FOL-  
LOWERS ARE DETECTED AND  
OVERTHROWN.  
THE LATTER IS AN ESSAY CON-  
CERNING THE TRUE ORIGINAL  
EXTENT AND END OF CIVIL  
GOVERNMENT.

## 1764 EDITOR'S NOTE

The present Edition of this Book has not only been collated with the first three Editions, which were published during the Author's Life, but also has the Advantage of his last Corrections and Improvements, from a Copy delivered by him to Mr. Peter Coste, communicated to the Editor, and now lodged in Christ College, Cambridge.

## P R E F A C E

Reader, thou hast here the beginning and end of a discourse concerning government; what fate has otherwise disposed of the papers that should have filled up the middle, and were more than all the rest, it is not worth while to tell thee. These, which remain, I hope are sufficient to establish the throne of our great restorer, our present King William; to make good his title, in the consent of the people, which being the only one of all lawful governments, he has more fully and clearly, than any prince in Christendom; and to justify to the world the people of England, whose love of their just and natural rights, with their resolution to preserve them, saved the nation when it was on the very brink of slavery and ruin. If these papers have that evidence, I flatter myself is to be found in them, there will be no great miss of those which are lost, and my reader may be satisfied without them: for I imagine, I shall have neither the time, nor inclination to repeat my pains, and fill up the wanting part of my answer, by tracing Sir Robert again, through all the windings and obscurities, which are to be met with in the several branches of his wonderful system. The king, and body of the nation, have since so thoroughly confuted his Hypothesis, that I suppose no body hereafter will have either the confidence to appear against our common safety, and be again an advocate for slavery; or the weakness to be deceived with contradictions dressed up in a popular stile, and well-turned periods: for if any one will be at the pains, himself, in those parts, which are here untouched, to strip Sir Robert's discourses of the flourish of doubtful expressions, and endeavour to reduce his words to direct, positive, intelligible propositions, and then compare them one with another, he will quickly be satisfied, there was never so much glib nonsense put together in well-sounding English. If he think it not worth while to examine his works all thro', let him make an experiment in that part, where he treats of usurpation; and let him try, whether he can, with all his skill, make Sir Robert intelligible, and consistent with himself, or common sense. I should not speak so plainly of a gentleman, long since past answering, had not the pulpit, of late years, publicly owned his doctrine, and made it the current divinity of the times. It is necessary those men, who taking on them to be teachers, have so dangerously misled others, should be openly shewed of what authority this their Patriarch is, whom they have so blindly fol-

lowed, that so they may either retract what upon so ill grounds they have vented, and cannot be maintained; or else justify those principles which they preached up for gospel; though they had no better an author than an English courtier: for I should not have writ against Sir Robert, or taken the pains to shew his mistakes, inconsistencies, and want of (what he so much boasts of, and pretends wholly to build on) scripture-proofs, were there not men amongst us, who, by crying up his books, and espousing his doctrine, save me from the reproach of writing against a dead adversary. They have been so zealous in this point, that, if I have done him any wrong, I cannot hope they should spare me. I wish, where they have done the truth and the public wrong, they would be as ready to redress it, and allow its just weight to this reflection, viz. that there cannot be done a greater mischief to prince and people, than the propagating wrong notions concerning government; that so at last all times might not have reason to complain of the Drum Ecclesiastic. If any one, concerned really for truth, undertake the confutation of my Hypothesis, I promise him either to recant my mistake, upon fair conviction; or to answer his difficulties. But he must remember two things.

First, That cavilling here and there, at some expression, or little incident of my discourse, is not an answer to my book.

Secondly, That I shall not take railing for arguments, nor think either of these worth my notice, though I shall always look on myself as bound to give satisfaction to any one, who shall appear to be conscientiously scrupulous in the point, and shall shew any just grounds for his scruples.

I have nothing more, but to advertise the reader, that *Observations* stands for *Observations on Hobbs, Milton, &c.* and that a bare quotation of pages always means pages of his *Patriarcha*, Edition 1680.

## OF CIVIL - GOVERNMENT

### B o o k I I

Chap. I. §. 1. It having been shewn in the foregoing discourse,

1. That *Adam* had not, either by natural right of fatherhood, or by positive donation from God, any such authority over his children, or dominion over the world, as is pretended:

2. That if he had, his heirs, yet, had no right to it:

3. That if his heirs had, there being no law of nature nor positive law of God that determines which is the right heir in all cases that may arise, the right of succession, and consequently of bearing rule, could not have been certainly determined:

4. That if even that had been determined, yet the knowledge of which is the eldest line of *Adam's* posterity, being so long since utterly lost, that in the races of mankind and families of the world, there remains not to one above another, the least pretence to be the eldest house, and to have the right of inheritance:

All these premises having, as I think, been clearly made out, it is impossible that the rulers now on earth should make any benefit, or derive any the least shadow of authority from that, which is held to be the fountain of all power, *Adam's private dominion and paternal jurisdiction*; so that he that will not give just occasion to think that all government in the world is the product only of force and violence, and that men live together by no other rules but that of beasts, where the strongest carries it, and so lay a foundation for perpetual disorder and mischief, tumult, sedition and rebellion, (things that the followers of that hypothesis so loudly cry out against) must of necessity find out another rise of government, another original of political power, and another way of designing and knowing the persons that have it, than what *Sir Robert Filmer* hath taught us.

§. 2. To this purpose, I think it may not be amiss, to set down what I take to be political power; that the power of a *magistrate* over a subject may be distinguished from that of a *father* over his children, a *master* over his servant, a *husband* over his wife, and a *lord* over his slave. All which distinct powers happening sometimes together in the same man, if he be considered under these different relations, it may help us to distinguish these powers one from another, and shew the difference betwixt a ruler of a common-

wealth, a father of a family, and a captain of a galley.

§. 3. *Political power*, then, I take to be a *right* of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in the defence of the common-wealth from foreign injury; and all this only for the public good.

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## C H A P. I I.

### *Of the State of Nature.*

§. 4. TO understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a *state of perfect freedom* to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man.

A *state* also of *equality*, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident, than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty.

§. 5. This *equality* of men by nature, the judicious *Hooker* looks upon as so evident in itself, and beyond all question, that he makes it the foundation of that obligation to mutual love amongst men, on which he builds the duties they owe one another, and from whence he derives the great maxims of *justice* and *charity*. His words are,

*The like natural inducement hath brought men to know that it is no less their duty, to love others than themselves; for seeing those things which are equal, must needs all have one measure; if I cannot but wish to receive good, even as much at every man's hands, as any man can wish unto his own soul, how should I look to have any part of my desire herein satisfied, unless myself be careful to satisfy the like desire, which is undoubtedly in other men, being of one and the same nature? To have any thing offered them repugnant to this desire, must needs in all respects grieve them as much as me; so that*

*if I do harm, I must look to suffer, there being no reason that others should shew greater measure of love to me, than they have by me shewed unto them: my desire therefore to be loved of my equals in nature, as much as possible may be, imposeth upon me a natural duty of bearing to them-ward fully the like affection; from which relation of equality between ourselves and them that are as ourselves, what several rules and canons natural reason hath drawn, for direction of life, no man is ignorant, Eccl. Pol. Lib. 1.*

§. 6. But though this be a *state of liberty*, yet it is not a *state of licence*: though man in that state have an uncontrollable liberty to dispose of his person or possessions, yet he has not liberty to destroy himself, or so much as any creature in his possession, but where some nobler use than its bare preservation calls for it. The *state of nature* has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all *equal and independent*, no one ought to harm another in his life, health, liberty, or possessions: for men being all the workmanship of one omnipotent, and infinitely wise maker; all the servants of one sovereign master, sent into the world by his order, and about his business; they are his property, whose workmanship they are, made to last during his, not one another's pleasure: and being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such *subordination* among us, that may authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for our's. Every one, as he is *bound to preserve himself*, and not to quit his station wilfully, so by the like reason, when his own preservation comes not in competition, ought he, as much as he can, to *preserve the rest of mankind*, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another.

§. 7. And that all men may be restrained from invading others rights, and from doing hurt to one another, and the law of nature be observed, which willeth the peace and *preservation of all mankind*, the *execution* of the law of nature is, in that state, put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree, as may hinder its violation: for the *law of nature* would, as all other laws that concern men in this world, be in vain, if there were no body that in the state of nature had a *power to execute* that law, and thereby preserve the innocent

and restrain offenders. And if any one in the state of nature may punish another for any evil he has done, every one may do so: for in that *state of perfect equality*, where naturally there is no superiority or jurisdiction of one over another, what any may do in prosecution of that law, every one must needs have a right to do.

§. 8. And thus, in the state of nature, *one man comes by a power over another*; but yet no absolute or arbitrary power, to use a criminal, when he has got him in his hands, according to the passionate heats, or boundless extravagancy of his own will; but only to retribute to him, so far as calm reason and conscience dictate, what is proportionate to his transgression, which is so much as may serve for *reparation* and *restraint*: for these two are the only reasons, why one man may lawfully do harm to another, which is that we call *punishment*. In transgressing the law of nature, the offender declares himself to live by another rule than that of reason and common equity, which is that measure God has set to the actions of men, for their mutual security; and so he becomes dangerous to mankind, the tie, which is to secure them from injury and violence, being slighted and broken by him. Which being a trespass against the whole species, and the peace and safety of it, provided for by the law of nature, 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 any one, 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 the case, and upon this ground, *every man hath a right to punish the offender, and be executioner of the law of nature*.

§. 9. I doubt not but this will seem a very strange doctrine to some men: but before they condemn it, I desire them to resolve me, by what right any prince or state can put to death, or *punish an alien*, for any crime he commits in their country. It is certain their laws, by virtue of any sanction they receive from the promulgated will of the legislative, reach not a stranger: they speak not to him, nor, if they did, is he bound to hearken to them. The legislative authority, by which they are in force over the subjects of that common-wealth, hath no power over him. Those who have the supreme power of making laws in *England, France* or *Holland*, are to an *Indian*, but like the rest of the world, men without authority: and therefore, if by the law of nature every man hath not a power to punish offences against it, as he soberly judges the case to re-

quire, I see not how the magistrates of any community can *punish an alien* of another country; since, in reference to him, they can have no more power than what every man naturally may have over another.

§. 10. Besides the crime which consists in violating the law, and varying from the right rule of reason, whereby a man so far becomes degenerate, and declares himself to quit the principles of human nature, and to be a noxious creature, there is commonly *injury* done to some person or other, and some other man receives damage by his transgression: in which case he who hath received any damage, has, besides the right of punishment common to him with other men, a particular right to seek *reparation* from him that has done it: and any other person, who finds it just, may also join with him that is injured, and assist him in recovering from the offender so much as may make satisfaction for the harm he has suffered.

§. 11. From these *two distinct rights*, the one of *punishing the crime for restraint*, and preventing the like offence, which right of punishing is in every body; the other of taking *reparation*, which belongs only to the injured party, comes it to pass that the magistrate, who by being magistrate hath the common right of punishing put into his hands, can often, where the public good demands not the execution of the law, *remit* the punishment of criminal offences by his own authority, but yet cannot *remit* the satisfaction due to any private man for the damage he has received. That, he who has suffered the damage has a right to demand in his own name, and he alone can remit: the damnified person has this power of appropriating to himself the goods or service of the offender, *by right of self-preservation*, as every man has a power to punish the crime, to prevent its being committed again, *by the right he has of preserving all mankind*, and doing all reasonable things he can in order to that end: and thus it is, that every man, in the state of nature, has a power to kill a murderer, both *to deter* others from doing the like injury, which no reparation can compensate, by the example of the punishment that attends it from every body, and also to secure men from the attempts of a criminal, who having renounced reason, the common rule and measure God hath given to mankind, hath, by the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a *lion* or a *tyger*, one of those wild savage beasts, with whom men can have no society nor security: and upon

this is grounded that great law of nature, *Whoso sheddeth man's blood, by man shall his blood be shed*. And Cain was so fully convinced, that every one had a right to destroy such a criminal, that after the murder of his brother, he cries out, *Every one that findeth me, shall slay me*; so plain was it writ in the hearts of all mankind.

§. 12. By the same reason may a man in the state of nature *punish the lesser breaches* of that law. It will perhaps be demanded, with death? I answer, each transgression may be *punished* to that *degree*, and with so much *severity*, as will suffice to make it an ill bargain to the offender, give him cause to repent, and terrify others from doing the like. Every offence, that can be committed in the state of nature, may in the state of nature be also punished equally, and as far forth as it may, in a common-wealth: for though it would be besides my present purpose, to enter here into the particulars of the law of nature, or its *measures of punishment*; yet, it is certain there is such a law, and that too, as intelligible and plain to a rational creature, and a studier of that law, as the positive laws of common-wealths; nay, possibly plainer; as much as reason is easier to be understood, than the fancies and intricate contrivances of men, following contrary and hidden interests put into words; for so truly are a great part of the *municipal laws* of countries, which are only so far right, as they are founded on the law of nature, by which they are to be regulated and interpreted.

§. 13. To this strange doctrine, *viz.* That *in the state of nature every one has the executive power* of the law of nature, I doubt not but it will be objected, that it is unreasonable for men to be judges in their own cases, that self-love will make men partial to themselves and their friends: and on the other side, that ill nature, passion and revenge will carry them too far in punishing others; and hence nothing but confusion and disorder will follow, and that therefore God hath certainly appointed government to restrain the partiality and violence of men. I easily grant, that *civil government* is the proper remedy for the inconveniencies of the state of nature, which must certainly be great, where men may be judges in their own case, since it is easy to be imagined, that he who was so unjust as to do his brother an injury, will scarce be so just as to condemn himself for it: but I shall desire those who make this objection, to remember, that *absolute monarchs* are but men; and if government is to be the remedy of those evils, which necessarily follow from men's being judges in their own cases, and the state of nature is therefore not to be endured, I desire to know what kind of government that is, and

how much better it is than the state of nature, where one man, commanding a multitude, has the liberty to be judge in his own case, and may do to all his subjects whatever he pleases, without the least liberty to any one to question or controul those who execute his pleasure? and in whatsoever he doth, whether led by reason, mistake or passion, must be submitted to? much better it is in the state of nature, wherein men are not bound to submit to the unjust will of another: and if he that judges, judges amiss in his own, or any other case, he is answerable for it to the rest of mankind.

§. 14. It is often asked as a mighty objection, *where are*, or ever were there any *men in such a state of nature*? To which it may suffice as an answer at present, that since all princes and rulers of *independent* governments all through the world, are in a state of nature, it is plain the world never was, nor ever will be, without numbers of men in that state. I have named all governors of *independent communities*, whether they are, or are not, in league with others: for it is not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; other promises, and compacts, men may make one with another, and yet still be in the state of nature. The promises and bargains for truck, &c. between the two men in the desert island, mentioned by *Garcilasso de la Vega*, in his history of *Peru*; or between a *Swiss* and an *Indian*, in the woods of *America*, are binding to them, though they are perfectly in a state of nature, in reference to one another: for truth and keeping of faith belongs to men, as men, and not as members of society.

§. 15. To those that say, there were never any men in the state of nature, I will not only oppose the authority of the judicious *Hooker*, *Eccl. Pol. lib. i. sect. 10.* where he says, *The laws which have been hitherto mentioned, i. e. the laws of nature, do bind men absolutely, even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do, or not to do: but forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things, needful for such a life as our nature doth desire, a life fit for the dignity of man; therefore to supply those defects and imperfections which are in us, as living single and solely by ourselves, we are naturally induced to seek communion and fellowship with others: this was the cause of men's uniting themselves at first in politic societies.* But I moreover affirm, that all men are naturally in that state, and re-

main so, till by their own consents they make themselves members of some politic society; and I doubt not in the sequel of this discourse, to make it very clear.

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### CHAP. III.

#### *Of the State of War.*

§. 16. THE *state of war* is a state of *enmity* and *destruction*: and therefore declaring by word or action, not a passionate and hasty, but a sedate settled design upon another man's life, *puts him in a state of war* with him against whom he has declared such an intention, and so has exposed his life to the other's power to be taken away by him, or any one that joins with him in his defence, and espouses his quarrel; it being reasonable and just, I should have a right to destroy that which threatens me with destruction: for, *by the fundamental law of nature, man being to be preserved* as much as possible, when all cannot be preserved, the safety of the innocent is to be preferred: and one may destroy a man who makes war upon him, or has discovered an enmity to his being, for the same reason that he may kill a *wolf* or a *lion*; because such men are not under the ties of the commonlaw of reason, have no other rule, but that of force and violence, and so may be treated as beasts of prey, those dangerous and noxious creatures, that will be sure to destroy him whenever he falls into their power.

§. 17. And hence it is, that he who attempts to get another man into his absolute power, does thereby *put himself into a state of war* with him; it being to be understood as a declaration of a design upon his life: for I have reason to conclude, that he who would get me into his power without my consent, would use me as he pleased when he had got me there, and destroy me too when he had a fancy to it; for no body can desire to *have me in his absolute power*, unless it be to compel me by force to that which is against the right of my freedom, *i. e.* make me a slave. To be free from such force is the only security of my preservation; and reason bids me look on him, as an enemy to my preservation, who would take away that *freedom* which is the fence to it; so that he who makes an *attempt to enslave* me, thereby puts himself into a state of war with me. He that, in the state of nature, *would take away the freedom* that belongs to any one in that state, must necessarily be supposed to have a design to take away every thing else, that *freedom* being the

foundation of all the rest; as he that, in the state of society, would take away the *freedom* belonging to those of that society or common-wealth, must be supposed to design to take away from them every thing else, and so be looked on as *in a state of war*.

§. 18. This makes it lawful for a man to *kill a thief*, who has not in the least hurt him, nor declared any design upon his life, any farther than, by the use of force, so to get him in his power, as to take away his money, or what he pleases, from him; because using force, where he has no right, to get me into his power, let his pretence be what it will, I have no reason to suppose, that he, who would *take away my liberty*, would not, when he had me in his power, take away every thing else. And therefore it is lawful for me to treat him as one who has *put himself into a state of war* with me, *i. e.* kill him if I can; for to that hazard does he justly expose himself, whoever introduces a state of war, and is aggressor in it.

§. 19. And here we have the plain *difference between the state of nature and the state of war*, which however some men have confounded, are as far distant, as a state of peace, good will, mutual assistance and preservation, and a state of enmity, malice, violence and mutual destruction, are one from another. Men living together according to reason, without a common superior on earth, with authority to judge between them, is *properly the state of nature*. But force, or a declared design of force, upon the person of another, where there is no common superior on earth to appeal to for relief, is *the state of war*: and it is the want of such an appeal gives a man the right of war even against an *aggressor*, tho' he be in society and a fellow subject. Thus a *thief*, whom I cannot harm, but by appeal to the law, for having stolen all that I am worth, I may kill, when he sets on me to rob me but of my horse or coat; because the law, which was made for my preservation, where it cannot interpose to secure my life from present force, which, if lost, is capable of no reparation, permits me my own defence, and the right of war, a liberty to kill the aggressor, because the aggressor allows not time to appeal to our common judge, nor the decision of the law, for remedy in a case where the mischief may be irreparable. Want of a common judge with authority, puts all men in a state of nature: force without right, upon a man's person, makes a state of war, both where there is, and is not, a common judge.

§. 20. But when the actual force is over, the *state of war ceases* between those that are in society, and are equally on both sides subjected to the fair determination of the law; because then there lies open the remedy of appeal for the past injury, and to prevent future

harm: but where no such appeal is, as in the state of nature, for want of positive laws, and judges with authority to appeal to, the state of war once begun, continues, with a right to the innocent party to destroy the other whenever he can, until the aggressor offers peace, and desires reconciliation on such terms as may repair any wrongs he has already done, and secure the innocent for the future; nay, where an appeal to the law, and constituted judges, lies open, but the remedy is denied by a manifest perverting of justice, and a barefaced wresting of the laws to protect or indemnify the violence or injuries of some men, or party of men, *there* it is hard to imagine any thing but a *state of war*: for where-ever violence is used, and injury done, though by hands appointed to administer justice, it is still violence and injury, however coloured with the name, pretences, or forms of law, the end whereof being to protect and redress the innocent, by an unbiassed application of it, to all who are under it; where-ever that is not *bona fide* done, *war is made* upon the sufferers, who having no appeal on earth to right them, they are left to the only remedy in such cases, an appeal to heaven.

§. 21. To avoid this *state of war* (wherein there is no appeal but to heaven, and wherein every the least difference is apt to end, where there is no authority to decide between the contenders) is one great reason of men's putting themselves into society, and quitting the state of nature: for where there is an authority, a power on earth, from which relief can be had by *appeal*, there the continuance of the *state of war* is excluded, and the controversy is decided by that power. Had there been any such court, any superior jurisdiction on earth, to determine the right between *Jephtha* and the *Ammonites*, they had never come to a *state of war*: but we see he was forced to appeal to heaven. *The Lord the Judge* (says he) *be judge this day between the children of Israel and the children of Ammon*, *Judg.* xi. 27. and then prosecuting, and relying on his *appeal*, he leads out his army to battle: and therefore in such controversies, where the question is put, *who shall be judge*? It cannot be meant, who shall decide the controversy; every one knows what *Jephtha* here tells us, that *the Lord the Judge* shall judge. Where there is no judge on earth, the appeal lies to God in heaven. That question then cannot mean, who shall judge, whether another hath put himself in a *state of war* with me, and whether I may, as *Jephtha* did, *appeal to heaven* in it? of that I myself can only be judge in my own conscience, as I will answer it, at the great day, to the supreme judge of all men.

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CHAP. IV.  
Of SLAVERY.

§. 22. THE *natural liberty* of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of nature for his rule. The *liberty of man*, in society, is to be under no other legislative power, but that established, by consent, in the common-wealth; nor under the dominion of any will, or restraint of any law, but what that legislative shall enact, according to the trust put in it. Freedom then is not what Sir Robert Filmer tells us, *Observations. A. 55. a liberty for every one to do what he lists, to live as he pleases, and not to be tied by any laws*: but *freedom of men under government* is, to have a standing rule to live by, common to every one of that society, and made by the legislative power erected in it; a liberty to follow my own will in all things, where the rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man: as *freedom of nature* is, to be under no other restraint but the law of nature.

§. 23. This *freedom* from absolute, arbitrary power, is so necessary to, and closely joined with a man's preservation, that he cannot part with it, but by what forfeits his preservation and life together: for a man, not having the power of his own life, *cannot*, by compact, or his own consent, *enslave himself* to any one, nor put himself under the absolute, arbitrary power of another, to take away his life, when he pleases. No body can give more power than he has himself; and he that cannot take away his own life, cannot give another power over it. Indeed, having by his fault forfeited his own life, by some act that deserves death; he, to whom he has forfeited it, may (when he has him in his power) delay to take it, and make use of him to his own service, and he does him no injury by it: for, whenever he finds the hardship of his slavery outweigh the value of his life, it is in his power, by resisting the will of his master, to draw on himself the death he desires.

§. 24. This is the perfect condition of *slavery*, which is nothing else, but *the state of war continued, between a lawful conqueror and a captive*: for, if once *compact* enter between them, and make an agreement for a limited power on the one side, and obedience on the other, the *state of war and slavery* ceases, as long as the compact endures: for, as has been said, no man can, by agreement, pass

over to another that which he hath not in himself, a power over his own life.

I confess, we find among the *Jews*, as well as other nations, that men did sell themselves; but, it is plain, this was only to *drudgery*, not to *slavery*: for, it is evident, the person sold was not under an absolute, arbitrary, despotical power: for the master could not have power to kill him, at any time, whom, at a certain time, he was obliged to let go free out of his service; and the master of such a servant was so far from having an arbitrary power over his life, that he could not, at pleasure, so much as maim him, but the loss of an eye, or tooth, set him free, *Exod.* xxi.

C H A P. V.  
Of P R O P E R T Y.

§. 25. Whether we consider natural *reason*, which tells us, that men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence: or *revelation*, which gives us an account of those grants God made of the world to *Adam*, and to *Noah*, and his sons, it is very clear, that God, as king *David* says, *Psal.* cxv. 16. *has given the earth to the children of men*; given it to mankind in common. But this being supposed, it seems to some a very great difficulty, how any one should ever come to have a *property* in any thing: I will not content myself to answer, that if it be difficult to make out *property*, upon a supposition that God gave the world to *Adam*, and his posterity in common, it is impossible that any man, but one universal monarch, should have any *property* upon a supposition, that God gave the world to *Adam*, and his heirs in succession, exclusive of all the rest of his posterity. But I shall endeavour to shew, how men might come to have a *property* in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners.

§. 26. God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life, and convenience. The earth, and all that is therein, is given to men for the support and comfort of their being. And tho' all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature; and no body has originally a private dominion, exclusive of

the rest of mankind, in any of them, as they are thus in their natural state: yet being given for the use of men, there must of necessity be *a means to appropriate* them some way or other, before they can be of any use, or at all beneficial to any particular man. 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, before it can do him any good for the support of his life.

§. 27. Though the earth, and all inferior creatures, be common to all men, yet every man has a *property* in his own *person*: this no body has any right to but himself. The *labour* of his body, and the *work* of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his *labour* with, and joined to it something that is his own, and thereby makes it his *property*. It being by him removed from the common state nature hath placed it in, it hath by this *labour* something annexed to it, that excludes the common right of other men: for this *labour* being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.

§. 28. He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. No body can deny but the nourishment is his. I ask then, when did they begin to be his? when he digested? or when he eat? or when he boiled? or when he brought them home? or when he picked them up? and it is plain, if the first gathering made them not his, nothing else could. That *labour* put a distinction between them and common: that added something to them more than nature, the common mother of all, had done; and so they became his private right. And will any one say, he had no right to those acorns or apples, he thus appropriated, because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him. We see in *commons*, which remain so by compact, that it is the taking any part of what is common, and removing it out of the state nature leaves it in, which *begins the property*; without which the common is of no use. And the taking of this or that part, does not depend on the express consent of all the commoners. Thus the grass my horse has bit; the turfs

my servant has cut; and the ore I have digged in any place, where I have a right to them in common with others, become my *property*, without the assignation or consent of any body. The *labour* that was mine, removing them out of that common state they were in, hath *fixed my property* in them.

§. 29. By making an explicit consent of every commoner, necessary to any one's appropriating to himself any part of what is given in common, children or servants could not cut the meat, which their father or master had provided for them in common, without assigning to every one his peculiar part. Though the water running in the fountain be every one's, yet who can doubt, but that in the pitcher is his only who drew it out? His *labour* hath taken it out of the hands of nature, where it was common, and belonged equally to all her children, and *hath* thereby *appropriated* it to himself.

§. 30. Thus this law of reason makes the deer that *Indian's* who hath killed it; it is allowed to be his goods, who hath bestowed his labour upon it, though before it was the common right of every one. And amongst those who are counted the civilized part of mankind, who have made and multiplied positive laws to determine *property*, this original law of nature, for the *beginning of property*, in what was before common, still takes place; and by virtue thereof, what fish any one catches in the ocean, that great and still remaining common of mankind; or what ambergrise any one takes up here, is by the *labour* that removes it out of that common state nature left it in, *made his property*, who takes that pains about it. And even amongst us, the hare that any one is hunting, is thought his who pursues her during the chase: for being a beast that is still looked upon as common, and no man's private possession; whoever has employed so much *labour* about any of that kind, as to find and pursue her, has thereby removed her from the state of nature, wherein she was common, and hath *begun a property*.

§. 31. It will perhaps be objected to this, that if gathering the acorns, or other fruits of the earth, &c. makes a right to them, then any one may *ingross* as much as he will. To which I answer, Not so. The same law of nature, that does by this means give us property, does also *bound* that *property* too. *God has given us all things richly*, 1 Tim. vi. 12. is the voice of reason confirmed by inspiration. But how far has he given it us? *To enjoy*. As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is

more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy. And thus, considering the plenty of natural provisions there was a long time in the world, and the few spenders; and to how small a part of that provision the industry of one man could extend itself, and ingross it to the prejudice of others; especially keeping within the *bounds*, set by reason, of what might serve for his *use*; there could be then little room for quarrels or contentions about property so established.

§. 32. But the *chief matter of property* being now not the fruits of the earth, and the beasts that subsist on it, but *the earth itself*; as that which takes in and carries with it all the rest; I think it is plain, that *property* in that too is acquired as the former. *As much land* as a man tills, plants, improves, cultivates, and can use the product of, so much is his *property*. He by his labour does, as it were, inclose it from the common. Nor will it invalidate his right, to say every body else has an equal title to it; and therefore he cannot appropriate, he cannot inclose, without the consent of all his fellow-commoners, all mankind. God, when he gave the world in common to all mankind, commanded man also to labour, and the penury of his condition required it of him. God and his reason commanded him to subdue the earth, *i. e.* improve it for the benefit of life, and therein lay out something upon it that was his own, his labour. He that in obedience to this command of God, subdued, tilled and sowed any part of it, thereby annexed to it something that was his *property*, which another had no title to, nor could without injury take from him.

§. 33. Nor was this *appropriation* of any parcel of *land*, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his inclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. No body could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst: and the case of land and water, where there is enough of both, is perfectly the same.

§. 34. God gave the world to men in common; but since he gave it them for their benefit, and the greatest conveniencies of life they were capable to draw from it, it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the industrious and rational, (and *labour* was to be *his title* to it;) not to the fancy or covetousness of the quarrelsome and conten-

tious. 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: if he did, it is plain he desired the benefit of another's pains, which he had no right to, and not the ground which God had given him in common with others to labour on, and whereof there was as good left, as that already possessed, and more than he knew what to do with, or his industry could reach to.

§. 35. It is 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 inclose or appropriate any part, without the consent of all his fellow-commoners; because this is left common by compact, *i. e.* by the law of the land, which is not to be violated. And though it be common, in respect of some men, it is not so to all mankind; but is the joint property of this country, or this parish. Besides, the remainder, after such inclosure, would not be as good to the rest of the commoners, as the whole was when they could all make use of the whole; whereas in the beginning and first peopling of the great common of the world, it was quite otherwise. The law man was under, was rather for appropriating. God commanded, and his wants forced him to *labour*. That was his *property* which could not be taken from him where-ever he had fixed it. And hence subduing or cultivating the earth, and having dominion, we see are joined together. The one gave title to the other. So that God, by commanding to subdue, gave authority so far to *appropriate*: and the condition of human life, which requires labour and materials to work on, necessarily introduces private possessions.

§. 36. The *measure of property* nature has well set by the extent of men's *labour and the conveniencies of life*: no man's labour could subdue, or appropriate all; nor could his enjoyment consume more than a small part; so that it was impossible for any man, this way, to intrench upon the right of another, or acquire to himself a property, to the prejudice of his neighbour, who would still have room for as good, and as large a possession (after the other had taken out his) as before it was appropriated. This *measure* did confine every man's *possession* to a very moderate proportion, and such as he might appropriate to himself, without injury to any body, in the first ages of the world, when men were more in danger to be lost, by wandering from their company, in the then vast wilderness of the earth, than to be straitened for want of room to plant in. And the

same *measure* may be allowed still without prejudice to any body, as full as the world seems: for supposing a man, or family, in the state they were at first peopling of the world by the children of *Adam*, or *Noah*; let him plant in some in-land, vacant places of *America*, we shall find that the *possessions* he could make himself, upon the *measures* we have given, would not be very large, nor, even to this day, prejudice the rest of mankind, or give them reason to complain, or think themselves injured by this man's incroachment, though the race of men have now spread themselves to all the corners of the world, and do infinitely exceed the small number was at the beginning. Nay, the extent of *ground* is of so little value, *without labour*, that I have heard it affirmed, that in *Spain* itself a man may be permitted to plough, sow and reap, without being disturbed, upon land he has no other title to, but only his making use of it. But, on the contrary, the inhabitants think themselves beholden to him, who, by his industry on neglected, and consequently waste land, has increased the stock of corn, which they wanted. But be this as it will, which I lay no stress on; this I dare boldly affirm, that the same *rule of propriety*, (*viz.*) that every man should have as much as he could make use of, would hold still in the world, without straitening any body; since there is land enough in the world to suffice double the inhabitants, had not the *invention of money*, and the tacit agreement of men to put a value on it, introduced (by consent) larger possessions, and a right to them; which, how it has done, I shall by and by shew more at large.

§. 37. This is certain, that in the beginning, before the desire of having more than man needed had altered the intrinsic value of things, which depends only on their usefulness to the life of man; or had *agreed*, that a little piece of *yellow metal*, which would keep without wasting or decay, should be worth a great piece of flesh, or a whole heap of corn; though men had a right to appropriate, by their labour, each one of himself, as much of the things of nature, as he could use: yet this could not be much, nor to the prejudice of others, where the same plenty was still left to those who would use the same industry. To which let me add, that he who appropriates land to himself by his labour, does not lessen, but increase the common stock of mankind: for the provisions serving to the support of human life, produced by one acre of inclosed and cultivated land, are (to speak much within compass) ten times more than those which are yielded by an acre of land of an equal richness lying waste in common. And therefore he that incloses land, and has a greater

plenty of the conveniencies of life from ten acres, than he could have from an hundred left to nature, may truly be said to give ninety acres to mankind: for his labour now supplies him with provisions out of ten acres, which were but the product of an hundred lying in common. I have here rated the improved land very low, in making its product but as ten to one, when it is much nearer an hundred to one: for I ask, whether in the wild woods and uncultivated waste of *America*, left to nature, without any improvement, tillage or husbandry, a thousand acres yield the needy and wretched inhabitants as many conveniencies of life, as ten acres of equally fertile land do in *Devonshire*, where they are well cultivated?

Before the appropriation of land, he who gathered as much of the wild fruit, killed, caught, or tamed, as many of the beasts, as he could; he that so employed his pains about any of the spontaneous products of nature, as any way to alter them from the state which nature put them in, by placing any of his *labour* on them, did thereby *acquire a propriety in them*: but if they perished, in his possession, without their due use; if the fruits rotted, or the venison putrified, before he could spend it, he offended against the common law of nature, and was liable to be punished; he invaded his neighbour's share, for he had *no right, farther than his use* called for any of them, and they might serve to afford him conveniencies of life.

§. 38. The same *measures* governed the *possession of land* too: whatsoever he tilled and reaped, laid up and made use of, before it spoiled, that was his peculiar right; whatsoever he enclosed, and could feed, and make use of, the cattle and product was also his. But if either the grass of his inclosure rotted on the ground, or the fruit of his planting perished without gathering, and laying up, this part of the earth, notwithstanding his inclosure, was still to be looked on as waste, and might be the possession of any other. Thus, at the beginning, *Cain* might take as much ground as he could till, and make it his own land, and yet leave enough to *Abel's* sheep to feed on; a few acres would serve for both their possessions. But as families increased, and industry enlarged their stocks, their *possessions enlarged* with the need of them; but yet it was commonly *without any fixed property in the ground* they made use of, till they incorporated, settled themselves together, and built cities; and then, by consent, they came in time, to set out the *bounds of their distinct territories*, and agree on limits between them and their neighbours; and by laws within themselves, settled the *properties* of those of the

same society: for we see, that in that part of the world which was first inhabited, and therefore like to be best peopled, even as low down as *Abraham's* time, they wandered with their flocks, and their herds, which was their substance, freely up and down; and this *Abraham* did, in a country where he was a stranger. Whence it is plain, that at least a great part of the *land lay in common*; that the inhabitants valued it not, nor claimed property in any more than they made use of. But when there was not room enough in the same place, for their herds to feed together, they by consent, as *Abraham* and *Lot* did, *Gen.* xiii. 5. separated and enlarged their pasture, where it best liked them. And for the same reason *Esau* went from his father, and his brother, and planted in *mount Seir*, *Gen.* xxxvi. 6.

§. 39. And thus, without supposing any private dominion, and property in *Adam*, over all the world, exclusive of all other men, which can no way be proved, nor any one's property be made out from it; but supposing the *world* given, as it was, to the children of men *in common*, we see how *labour* could make men distinct titles to several parcels of it, for their private uses; wherein there could be no doubt of right, no room for quarrel.

§. 40. Nor is it so strange, as perhaps before consideration it may appear, that the *property of labour* should be able to over-balance the community of land: for it is *labour* indeed that *puts the difference of value* on every thing; and let any one consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common, without any husbandry upon it, and he will find, that the improvement of *labour* makes the far greater part of the value. I think it will be but a very modest computation to say, that of the *products of the earth* useful to the life of man nine tenths are the *effects of labour*: nay, if we will rightly estimate things as they come to our use, and cast up the several expences about them, what in them is purely owing to *nature*, and what to *labour*, we shall find, that in most of them ninety-nine hundredths are wholly to be put on the account of *labour*.

§. 41. There cannot be a clearer demonstration of any thing, than several nations of the *Americans* are of this, who are rich in land, and poor in all the comforts of life; whom nature having furnished as liberally as any other people, with the materials of plenty, *i. e.* a fruitful soil, apt to produce in abundance, what might serve for food, raiment, and delight; yet for *want of improving it by labour*,

have not one hundredth part of the conveniencies we enjoy: and a king of a large and fruitful territory there, feeds, lodges, and is clad worse than a day-labourer in *England*.

§. 42. To make this a little clearer, let us but trace some of the ordinary provisions of life, through their several progresses, before they come to our use, and see how much they receive of their *value from human industry*. Bread, wine and cloth, are things of daily use, and great plenty; yet notwithstanding, acorns, water and leaves, or skins, must be our bread, drink and cloathing, did not *labour* furnish us with these more useful commodities: for whatever *bread* is more worth than acorns, wine than water, and *cloth* or *silk*, than leaves, skins or moss, that is wholly *owing to labour and industry*; the one of these being the food and raiment which unassisted nature furnishes us with; the other, provisions which our industry and pains prepare for us, which how much they exceed the other in value, when any one hath computed, he will then see how much *labour makes the far greatest part of the value* of things we enjoy in this world: and the ground which produces the materials, is scarce to be reckoned in, as any, or at most, but a very small part of it; so little, that even amongst us, land that is left wholly to nature, that hath no improvement of pasturage, tillage, or planting, is called, as indeed it is, *waste*; and we shall find the benefit of it amount to little more than nothing.

This shews how much numbers of men are to be preferred to largeness of dominions; and that the increase of lands, and the right employing of them, is the great art of government: and that prince, who shall be so wise and godlike, as by established laws of liberty to secure protection and encouragement to the honest industry of mankind, against the oppression of power and narrowness of party, will quickly be too hard for his neighbours: but this by the by. To return to the argument in hand,

§. 43. An acre of land, that bears here twenty bushels of wheat, and another in *America*, which, with the same husbandry, would do the like, are, without doubt, of the same natural intrinsic value: but yet the benefit mankind receives from the one in a year, is worth 5*l.* and from the other possibly not worth a penny, if all the profit an *Indian* received from it were to be valued, and sold here; at least, I may truly say, not one thousandth. It is *labour* then which *puts the greatest part of value upon land*, without which it would scarcely be worth any thing: it is to that we owe the greatest part of all its useful products; for all that the straw, bran, bread, of that

acre of wheat, is more worth than the product of an acre of as good land, which lies waste, is all the effect of labour: for it is not barely the plough-man's pains, the reaper's and thresher's toil, and the baker's sweat, is to be counted into the *bread* we eat; the labour of those who broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are a vast number, requisite to this corn, from its being feed to be sown to its being made bread, must all be *charged on* the account of labour, and received as an effect of that: nature and the earth furnished only the almost worthless materials, as in themselves. It would be a strange *catalogue of things, that industry provided and made use of, about every loaf of bread*, before it came to our use, if we could trace them; iron, wood, leather, bark, timber, stone, bricks, coals, lime, cloth, dying drugs, pitch, tar, masts, ropes, and all the materials made use of in the ship, that brought any of the commodities made use of by any of the workmen, to any part of the work; all which it would be almost impossible, at least too long, to reckon up.

§. 44. From all which it is evident, that though the things of nature are given in common, yet man, by being master of himself, and *proprietor of his own person, and the actions or labour of it, had still in himself the great foundation of property*; and that, which made up the great part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniencies of life, was perfectly his own, and did not belong in common to others.

§. 45. Thus *labour*, in the beginning, *gave a right of property*, wherever any one was pleased to employ it upon what was common, which remained a long while the far greater part, and is yet more than mankind makes use of. Men, at first, for the most part, contented themselves with what unassisted nature offered to their necessities: and though afterwards, in some parts of the world, (where the increase of people and stock, with the *use of money*, had made land scarce, and so of some value) the several *communities* settled the bounds of their distinct territories, and by laws within themselves regulated the properties of the private men of their society, and so, *by compact and agreement, settled the property* which labour and industry began; and the 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, which originally they had to those countries, and so have, by *positive agreement*, settled a *property* amongst themselves, in distinct parts and parcels of the earth; yet 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, and so still lie in common; tho' this can scarce happen amongst that part of mankind that have consented to the use of money.

§. 46. The greatest part of *things really useful* to the life of man, and such as the necessity of subsisting made the first commoners of the world look after, as it doth the *Americans* now, are generally things of *short duration*; such as, if they are not consumed by use, will decay and perish of themselves: gold, silver and diamonds, are things that fancy or agreement hath put the value on, more than real use, and the necessary support of life. Now of those good things which nature hath provided in common, every one had a right (as hath been said) to as much as he could use, and *property* in all that he could effect with his labour; all that his *industry* could extend to, to alter from the state nature had put it in, was his. He that gathered a hundred bushels of acorns or apples, had thereby a *property* in them, they were his goods as soon as gathered. He was only to look, that he used them before they spoiled, else he took more than his share, and robbed others. And indeed it was a foolish thing, as well as dishonest, to hoard up more than he could make use of. If he gave away a part to any body else, so that it perished not uselessly in his possession, these he also made use of. And if he also bartered away plums, that would have rotted in a week, for nuts that would last good for his eating a whole year, he did no injury; he wasted not the common stock; destroyed no part of the portion of goods that belonged to others, so long as nothing perished uselessly in his hands. Again, if he would give his nuts for a piece of metal, pleased with its colour; or exchange his sheep for shells, or wool for a sparkling pebble or a diamond, and keep those by him all his life, he invaded not the right of others, he might heap up as much of these durable things as he pleased; the *exceeding of the bounds* of his *just property* not lying in the largeness of his possession, but the perishing of any thing uselessly in it.

§. 47. And thus *came in the use of money*, some lasting thing that men might keep without spoiling, and that by mutual consent men would take in exchange for the truly useful, but perishable supports of life.

§. 48. And as different degrees of industry were apt to give men possessions in different proportions, so this *invention of money* gave them the opportunity to continue and enlarge them: for supposing an island, separate from all possible commerce with the rest of the world, wherein there were but an hundred families, but there were sheep, horses and cows, with other useful animals, wholsome fruits, and land enough for corn for a hundred thousand times as many, but nothing in the island, either because of its commonness, or perishableness, fit to supply the place of *money*; what reason could any one have there to enlarge his possessions beyond the use of his family, and a plentiful supply to its *consumption*, either in what their own industry produced, or they could barter for like perishable, useful commodities, with others? Where there is not some thing, both lasting and scarce, and so valuable to be hoarded up, there men will not be apt to enlarge their *possessions of land*, were it never so rich, never so free for them to take: for I ask, what would a man value ten thousand, or an hundred thousand acres of excellent *land*, ready cultivated, and well stocked too with cattle, in the middle of the inland parts of *America*, where he had no hopes of commerce with other parts of the world, to draw *money* to him by the sale of the product? It would not be worth the inclosing, and we should see him give up again to the wild common of nature, whatever was more than would supply the conveniencies of life to be had there for him and his family.

§. 49. Thus in the beginning all the world was *America*, and more so than that is now; for no such thing as *money* was any where known. Find out something that hath the *use and value of money* amongst his neighbours, you shall see the same man will begin presently to enlarge his possessions.

§. 50. But since gold and silver, being little useful to the life of man in proportion to food, raiment, and carriage, has its *value* only from the consent of men, whereof *labour* yet *makes*, in great part, *the measure*, it is plain, that men have agreed to a disproportionate and unequal *possession of the earth*, they having, by a tacit and voluntary consent, found out a way how a man may fairly possess more land than he himself can use the product of, by receiving in exchange for the overplus gold and silver, which may be hoarded up without injury to any one; these metals not spoiling or decaying in the hands of the possessor. This partage of things in an inequality of private possessions, men have made practicable out of the bounds of society, and without compact, only by putting a value on gold

and silver, and tacitly agreeing in the use of money: for in governments, the laws regulate the right of property, and the possession of land is determined by positive constitutions.

§. 51. And thus, I think, it is very easy to conceive, without any difficulty, *how labour could at first begin a title of property* in the common things of nature, and how the spending it upon our uses bounded it. So that there could then be no reason of quarrelling about title, nor any doubt about the largeness of possession it gave. Right and conveniency went together; for as a man had a right to all he could employ his labour upon, so he had no temptation to labour for more than he could make use of. This left no room for controversy about the title, nor for incroachment on the right of others; what portion a man carved to himself, was easily seen; and it was useless, as well as dishonest, to carve himself too much, or take more than he needed.

## CHAP. VI.

### *Of Paternal Power.*

§. 52. IT may perhaps be censured as an impertinent criticism, in a discourse of this nature, to find fault with words and names, that have obtained in the world: and yet possibly it may not be amiss to offer new ones, when the old are apt to lead men into mistakes, as this of *paternal power* probably has done, which seems so to place the power of parents over their children wholly in the *father*, as if the *mother* had no share in it; whereas, if we consult reason or revelation, we shall find, she hath an equal title. This may give one reason to ask, whether this might not be more properly called *parental power*? for whatever obligation nature and the right of generation lays on children, it must certainly bind them equal to both the concurrent causes of it. And accordingly we see the positive law of God every where joins them together, without distinction, when it commands the obedience of children, *Honour thy father and thy mother*, Exod. xx. 12. *Whosoever curseth his father or his mother*, Lev. xx. 9. *Ye shall fear every man his mother and his father*, Lev. xix. 3. *Children, obey your parents*, &c. Eph. vi. 1. is the stile of the Old and New Testament.

§. 53. Had but this one thing been well considered, without looking any deeper into the matter, it might perhaps have kept men from running into those gross mistakes, they have made, about this

tle properties, and less covetousness, seldom afforded greater controversies; and when any should arise, where could they have a fitter umpire than he, by whose care they had every one been sustained and brought up, and who had a tenderness for them all? It is no wonder that they made no distinction betwixt minority and full age; nor looked after one and twenty, or any other age that might make them the free disposers of themselves and fortunes, when they could have no desire to be out of their pupilage: the government they had been under, during it, continued still to be more their protection than restraint; and they could no where find a greater security to their peace, liberties, and fortunes, than in the *rule of a father*.

§. 76. Thus the natural *fathers of families*, by an insensible change, became the *politic monarchs* of them too: and as they chanced to live long, and leave able and worthy heirs, for several successions, or otherwise; so they laid the foundations of hereditary, or elective kingdoms, under several constitutions and manners, according as chance, contrivance, or occasions happened to mould them. But if princes have their titles in their fathers right, and it be a sufficient proof of the natural *right of fathers* to political authority, because they commonly were those in whose hands we find, *de facto*, the exercise of government: I say, if this argument be good, it will as strongly prove, that all princes, nay princes only, ought to be priests, since it is as certain, that in the beginning, *the father of the family was priest, as that he was ruler in his own household*.

## CHAP. VII.

### *Of Political or Civil Society.*

§. 77. GOD having made man such a creature, that in his own judgment, it was not good for him to be alone, put him under strong obligations of necessity, convenience, and inclination to drive him into *society*, as well as fitted him with understanding and language to continue and enjoy it. The *first society* was between man and wife, which gave beginning to that between parents and children; to which, in time, that between master and servant came to be added: and though all these might, and commonly did meet together, and make up but one family, wherein the master or mistress of it had some sort of rule proper to a family; each of these, or all together,

came short of *political society*, as we shall see, if we consider the different ends, ties, and bounds of each of these.

§. 78. *Conjugal society* is made by a voluntary compact between man and woman; and tho' it consist chiefly in such a communion and right in one another's bodies as is necessary to its chief end, procreation; yet it draws with it mutual support and assistance, and a communion of interests too, as necessary not only to unite their care and affection, but also necessary to their common off-spring, who have a right to be nourished, and maintained by them, till they are able to provide for themselves.

§. 79. For the end of *conjunction, between male and female*, being not barely procreation, but the continuation of the species; this conjunction betwixt male and female ought to last, even after procreation, so long as is necessary to the nourishment and support of the young ones, who are to be sustained by those that got them, till they are able to shift and provide for themselves. This rule, which the infinite wise maker hath set to the works of his hands, we find the inferior creatures steadily obey. In those viviparous animals which feed on grass, the *conjunction between male and female* lasts no longer than the very act of copulation; because the teat of the dam being sufficient to nourish the young, till it be able to feed on grass, the male only begets, but concerns not himself for the female or young, to whose sustenance he can contribute nothing. But in beasts of prey the *conjunction* lasts longer: because the dam not being able well to subsist herself, and nourish her numerous off-spring by her own prey alone, a more laborious, as well as more dangerous way of living, than by feeding on grass, the assistance of the male is necessary to the maintenance of their common family, which cannot subsist till they are able to prey for themselves, but by the joint care of male and female. The same is to be observed in all birds, (except some domestic ones, where plenty of food excuses the cock from feeding, and taking care of the young brood) whose young needing food in the nest, the cock and hen continue mates, till the young are able to use their wing, and provide for themselves.

§. 80. And herein I think lies the chief, if not the only reason, *why the male and female in mankind are tied to a longer conjunction* than other creatures, *viz.* because the female is capable of conceiving, and *de facto* is commonly with child again, and brings forth too a new birth, long before the former is out of a dependency for support on his parents help, and able to shift for himself, and has all the assistance is due to him from his parents: whereby the

father, who is bound to take care for those he hath begot, is under an obligation to continue in conjugal society with the same woman longer than other creatures, whose young being able to subsist of themselves, before the time of procreation returns again, the conjugal bond dissolves of itself, and they are at liberty, till *Hymen* at his usual anniversary season summons them again to chuse new mates. Wherein one cannot but admire the wisdom of the great Creator, who having given to man foresight, and an ability to lay up for the future, as well as to supply the present necessity, hath made it necessary, that *society of man and wife should be more lasting*, than of male and female amongst other creatures; that so their industry might be encouraged, and their interest better united, to make provision and lay up goods for their common issue, which uncertain mixture, or easy and frequent solutions of conjugal society would mightily disturb.

§. 81. But tho' these are ties upon *mankind*, which make the *conjugal bonds* more firm and lasting in man, than the other species of animals; yet it would give one reason to enquire, why this *compact*, where procreation and education are secured, and inheritance taken care for, may not be made determinable, either by consent, or at a certain time, or upon certain conditions, as well as any other voluntary compacts, there being no necessity in the nature of the thing, nor to the ends of it, that it should always be for life; I mean, to such as are under no restraint of any positive law, which ordains all such contracts to be perpetual.

§. 82. But the husband and wife, though they have but one common concern, yet having different understandings, will unavoidably sometimes have different wills too; it therefore being necessary that the last determination, *i. e.* the rule, should be placed somewhere; it naturally falls to the man's share, as the abler and the stronger. But this reaching but to the things of their common interest and property, leaves the wife in the full and free possession of what by contract is her peculiar right, and gives the husband no more power over her life than she has over his; the *power of the husband* being so far from that of an absolute monarch, that the *wife* has in many cases a liberty to separate from him, where natural right, or their contract allows it; whether that contract be made by themselves in the state of nature, or by the customs or laws of the country they live in; and the children upon such separation fall to the father or mother's lot, as such contract does determine.

§. 83. For all the ends of *marriage* being to be obtained under politic government, as well as in the state of nature, the civil magistrate doth not abridge the right or power of either naturally necessary to those ends, *viz.* procreation and mutual support and assistance whilst they are together; but only decides any controversy that may arise between man and wife about them. If it were otherwise, and that absolute *sovereignty* and power of life and death naturally belonged to the husband, and were *necessary to the society between man and wife*, there could be no matrimony in any of those countries where the husband is allowed no such absolute authority. But the ends of matrimony requiring no such power in the husband, the condition of *conjugal society* put it not in him, it being not at all necessary to that state. *Conjugal society* could subsist and attain its ends without it; nay, community of goods, and the power over them, mutual assistance and maintenance, and other things belonging to *conjugal society*, might be varied and regulated by that contract which unites man and wife in that society, as far as may consist with procreation and the bringing up of children till they could shift for themselves; nothing being necessary to any society, that is not necessary to the ends for which it is made.

§. 84. The *society betwixt parents and children*, and the distinct rights and powers belonging respectively to them, I have treated of so largely, in the foregoing chapter, that I shall not here need to say any thing of it. And I think it is plain, that it is far different from a politic society.

§. 85. *Master and servant* are names as old as history, but given to those of far different condition; for a freeman makes himself a servant to another, by selling him, for a certain time, the service he undertakes to do, in exchange for wages he is to receive: and though this commonly puts him into the family of his master, and under the ordinary discipline thereof; yet it gives the master but a temporary power over him, and no greater than what is contained in the *contract* between them. But there is another sort of servants, which by a peculiar name we call *slaves*, who being captives taken in a just war, are by the right of nature subjected to the absolute dominion and arbitrary power of their masters. These men having, as I say, forfeited their lives, and with it their liberties, and lost their estates; and being in the *state of slavery*, not capable of any property, cannot in that state be considered as any part of *civil society*; the chief

end whereof is the preservation of property.

§. 86. Let us therefore consider a *master of a family* with all these subordinate relations of *wife, children, servants, and slaves*, united under the domestic rule of a family; which, what resemblance soever it may have in its order, offices, and number too, with a little common-wealth, yet is very far from it, both in its constitution, power and end: or if it must be thought a monarchy, and the *paterfamilias* the absolute monarch in it, absolute monarchy will have but a very shattered and short power, when it is plain, by what has been said before, that the *master of the family* has a very distinct and differently limited *power*, both as to time and extent, over those several persons that are in it; for excepting the slave (and the family is as much a family, and his power as *paterfamilias* as great, whether there be any slaves in his family or no) he has no legislative power of life and death over any of them, and none too but what a *mistress of a family* may have as well as he. And he certainly can have no absolute power over the whole *family*, who has but a very limited one over every individual in it. But how a *family*, or any other society of men, differ from that which is properly *political society*, we shall best see, by considering wherein *political society* itself consists.

§. 87. Man being born, as has been proved, with a title to perfect freedom, and an uncontrouled enjoyment of all the rights and privileges of the law of nature, equally with any other man, or number of men in the world, hath by nature a power, not only to preserve his property, that is, his life, liberty and estate, against the injuries and attempts of other men; but to judge of, and punish the breaches of that law in others, as he is persuaded the offence deserves, even with death itself, in crimes where the heinousness of the fact, in his opinion, requires it. But because no *political society* can be, nor subsist, without having in itself the power to preserve the property, and in order thereunto, punish the offences of all those of that society; there, and there only is *political society*, where every one of the members hath quitted this natural power, resigned it up into the hands of the community in all cases that exclude him not from appealing for protection to the law established by it. And thus all private judgment of every particular member being excluded, the community comes to be umpire, by settled standing rules, indifferent, and the same to all parties; and by men having authority from the community, for the execution of those rules, decides all the differences that may happen between

any members of that society concerning any matter of right; and punishes those offences which any member hath committed against the society, with such penalties as the law has established: whereby it is easy to discern, who are, and who are not, in *political society* together. Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them, and punish offenders, are in *civil society* one with another: but those who have no such common appeal, I mean on earth, are still in the state of nature, each being, where there is no other, judge for himself, and executioner; which is, as I have before shewed it, the perfect *state of nature*.

§. 88. And thus the common-wealth comes by a power to set down what punishment shall belong to the several transgressions which they think worthy of it, committed amongst the members of that society, (which is the *power of making laws*) as well as it has the power to punish any injury done unto any of its members, by any one that is not of it, (which is the *power of war and peace*;) and all this for the preservation of the property of all the members of that society, as far as is possible. But though every man who has entered into civil society, and is become a member of any common-wealth, has thereby quitted his power to punish offences, against the law of *nature*, in prosecution of his own private judgment, yet with the judgment of offences, which he has given up to the legislative in all cases, where he can appeal to the magistrate, he has given a right to the common-wealth to employ his force, for the execution of the judgments of the common-wealth, whenever he shall be called to it; which indeed are his own judgments, they being made by himself, or his representative. And herein we have the original of the *legislative* and *executive power* of civil society, which is to judge by standing laws, how far offences are to be punished, when committed within the common-wealth; and also to determine, by occasional judgments founded on the present circumstances of the fact, how far injuries from without are to be vindicated; and in both these to employ all the force of all the members, when there shall be need.

§. 89. Where-ever therefore any number of men are so united into one society, as to quit every one his executive power of the law of nature, and to resign it to the public, there and there only is a *political, or civil society*. And this is done, where-ever any number of men, in the state of nature, enter into society to make one people,

one body politic, under one supreme government; or else when any one joins himself to, and incorporates with any government already made: for hereby he authorizes the society, or which is all one, the legislative thereof, to make laws for him, as the public good of the society shall require; to the execution whereof, his own assistance (as to his own decrees) is due. And this *puts men* out of a state of nature *into* that of a *common-wealth*, by setting up a judge on earth, with authority to determine all the controversies, and redress the injuries that may happen to any member of the common-wealth; which judge is the legislative, or magistrates appointed by it. And where-ever there are any number of men, however associated, that have no such decisive power to appeal to, there they are still *in the state of nature*.

§. 90. Hence it is evident, that *absolute monarchy*, which by some men is counted the only government in the world, is indeed *inconsistent with civil society*, and so can be no form of civil-government at all: for the *end of civil society*, being to avoid, and remedy those inconveniencies of the state of nature, which necessarily follow from every man's being judge in his own case, by setting up a known authority, to which every one of that society may appeal upon any injury received, or controversy that may arise, and which every one of the\* society ought to obey; where-ever any persons are, who have not such an authority to appeal to, for the decision of any difference between them, there those persons are still *in the state of nature*; and so is every *absolute prince*, in respect of those who are under his *dominion*.

§. 91. For he being supposed to have all, both legislative and executive power in himself alone, there is no judge to be found, no appeal lies open to any one, who may fairly, and indifferently, and with authority decide, and from whose decision relief and redress may be expected of any injury or inconviency, that may be suffered from the prince, or by his order: so that such a man, however intitled, *Czar*, or *Grand Seignior*, or how you please, is as much *in the state of nature*, with all under his dominion, as he is with the

\*The public power of all society is above every soul contained in the same society; and the principal use of that power is, to give laws unto all that are under it, which laws in such cases we must obey, unless there be reason shewed which may necessarily inforce, that the law of reason, or of God, doth enjoin the contrary, *Hook. Eccl. Pol. l. i. sect. 16.*

rest of mankind: for where-ever any two men are, who have no standing rule, and common judge to appeal to on earth, for the determination of controversies of right betwixt them, there they are still *in the state of\* nature*, and under all the inconveniencies of it, with only this woful difference to the subject, or rather slave of an absolute prince: that whereas, in the ordinary state of nature, he has a liberty to judge of his right, and according to the best of his power, to maintain it; now, whenever his property is invaded by the will and order of his monarch, he has not only no appeal, as those in society ought to have, but as if he were degraded from the common state of rational creatures, is denied a liberty to judge of, or to defend his right; and so is exposed to all the misery and inconveniencies, that a man can fear from one, who being in the unrestrained state of nature, is yet corrupted with flattery, and armed with power.

§. 92. For he that thinks *absolute power purifies men's blood*, and corrects the baseness of human nature, need read but the history of this, or any other age, to be convinced of the contrary. He that would have been insolent and injurious in the woods of *America*, would not probably be much better in a throne; where perhaps learning and religion shall be found out to justify all that he shall do to his subjects, and the sword presently silence all those that dare question it: for what the *protection of absolute monarchy* is, what kind of fathers of their countries it makes princes to be and to what a degree of happiness and security it carries civil society, where this sort of government is grown to perfection, he that will look into the late relation of *Ceylon*, may easily

\*To take away all such mutual grievances, injuries and wrongs, *i. e.* such as attend men in the state of nature, there was no way but only by growing into composition and agreement amongst themselves, by ordaining some kind of government public, and by yielding themselves subject thereunto, that unto whom they granted authority to rule and govern, by them the peace, tranquillity and happy estate of the rest might be procured. Men always knew that where force and injury was offered, they might be defenders of themselves; they knew that however men may seek their own commodity, yet if this were done with injury unto others, it was not to be suffered, but by all men, and all good means to be withstood. Finally, they knew that no man might in reason take upon him to determine his own right, and according to his own determination proceed in maintenance thereof, in as much as every man is towards himself, and them whom he greatly affects, partial; and therefore that strifes and troubles would be endless, except they gave their common consent, all to be ordered by some, whom they should agree upon, without which consent there would be no reason that one man should take upon him to be lord or judge over another, *Hooker's Eccl. Pol. l. i. sect. 10.*

see.

§. 93. In *absolute monarchies* indeed, as well as other governments of the world, the subjects have an appeal to the law, and judges to decide any controversies, and restrain any violence that may happen betwixt the subjects themselves, one amongst another. This every one thinks necessary, and believes he deserves to be thought a declared enemy to society and mankind, who should go about to take it away. But whether this be from a true love of mankind and society, and such a charity as we owe all one to another, there is reason to doubt: for this is no more than what every man, who loves his own power, profit, or greatness, may and naturally must do, keep those animals from hurting, or destroying one another, who labour and drudge only for his pleasure and advantage; and so are taken care of, not out of any love the master has for them, but love of himself, and the profit they bring him: for if it be asked, what security, *what fence* is there, in such a state, *against the violence and oppression of this absolute ruler?* the very question can scarce be borne. They are ready to tell you, that it deserves death only to ask after safety. Betwixt subject and subject, they will grant, there must be measures, laws and judges, for their mutual peace and security: but as for the *ruler*, he ought to be *absolute*, and is above all such circumstances; because he has power to do more hurt and wrong, it is right when he does it. To ask how you may be guarded from harm, or injury, on that side where the strongest hand is to do it, is presently the voice of faction and rebellion: as if when men quitting the state of nature entered into society, they agreed that all of them but one, should be under the restraint of laws, but that he should still retain all the liberty of the state of nature, increased with power, and made licentious by impunity. 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*.

§. 94. But whatever flatterers may talk to amuse people's understandings, it hinders not men from feeling; and when they perceive, that any man, in what station soever, is out of the bounds of the civil society which they are of, and that they have no appeal on earth against any harm, they may receive from him, they are apt to think themselves in the state of nature, in respect of him whom they find to be so; and to take care, as soon as they can, to have that *safety and security in civil society*, for which it was first

instituted, and for which only they entered into it. And therefore, though perhaps at first, (as shall be shewed more at large hereafter in the following part of this discourse) some one good and excellent man having got a pre-eminency amongst the rest, had this deference paid to his goodness and virtue, as to a kind of natural authority, that the chief rule, with arbitration of their differences, by a tacit consent devolved into his hands, without any other caution, but the assurance they had of his uprightness and wisdom; yet when time, giving authority, and (as some men would persuade us) sacredness of customs, which the negligent, and unforeseeing innocence of the first ages began, had brought in successors of another stamp, the people finding their properties not secure under the government, as then it was, (whereas government has no other end but the preservation of\* property) could never be safe nor at rest, *nor think themselves in civil society*, till the legislature was placed in collective bodies of men, call them senate, parliament, or what you please. By which means every single person became subject, equally with other the meanest men, to those laws, which he himself, as part of the legislative, had established; nor could any one, by his own authority; avoid the force of the law, when once made; nor by any pretence of superiority plead exemption, thereby to license his own, or the miscarriages of any of his dependents. † *No man in civil society can be exempted from the laws of it*: for if any man may do what he thinks fit, and there be no appeal on earth, for redress or security against any harm he shall do; I ask, whether he be not perfectly still in the state of nature, and so can be *no part or member of that civil society*; unless any one will say, the state of nature and civil society are one and the same thing, which I have never yet found any one so great a patron of anarchy as to affirm.

\*At the first, when some certain kind of regiment was once appointed, it may be that nothing was then farther thought upon for the manner of governing, but all permitted unto their wisdom and discretion, which were to rule, till by experience they found this for all parts very inconvenient, so as the thing which they had devised for a remedy, did indeed but increase the sore, which it should have cured. They saw, that *to live by one man's will, became the cause of all men's misery*. This constrained them to come unto laws, wherein all men might see their duty beforehand, and know the penalties of transgressing them. *Hooker's Eccl. Pol. l. i. sect. 10.*

†Civil law being the act of the whole body politic, doth therefore over-rule each several part of the same body. *Hooker, ibid.*

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 CHAP. VIII.

*Of the Beginning of Political Societies.*

§. 95. MEN being, as has been said, by nature, all free, equal, and independent; no one can be put out of this estate, and subjected to the political power of another, without his own consent. The only way whereby any one divests himself of his natural liberty, and puts on the *bonds of civil society*, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it. This any number of men may do, because it injures not the freedom of the rest; they are left as they were in the liberty of the state of nature. When any number of men have so *consented to make one community or government*, they are thereby presently incorporated, and make *one body politic*, wherein the *majority* have a right to act and conclude the rest.

§. 96. For when any number of men have, by the consent of every individual, made a *community*, they have thereby made that *community* one body, with a power to act as one body, which is only by the will and determination of the *majority*: for that which acts any community, being only the consent of the individuals of it, and it being necessary to that which is one body to move one way; it is necessary the body should move that way whither the greater force carries it, which is the *consent of the majority*: or else it is impossible it should act or continue one body, *one community*, which the consent of every individual that united into it, agreed that it should; and so every one is bound by that consent to be concluded by the *majority*. And therefore we see, that in assemblies, impowered to act by positive laws, where no number is set by that positive law which impowers them, the *act of the majority* passes for the act of the whole, and of course determines, as having, by the law of nature and reason, the power of the whole.

§. 97. And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the *majority*, and to be concluded by it; or else this *original compact*, whereby he with others incorporates into *one society*, would signify nothing, and be no compact, if he be left free, and

under no other ties than he was in before in the state of nature. For what appearance would there be of any compact? what new engagement if he were no farther tied by any decrees of the society, than he himself thought fit, and did actually consent to? This would be still as great a liberty, as he himself had before his compact, or any one else in the state of nature hath, who may submit himself, and consent to any acts of it if he thinks fit.

§. 98. For if *the consent of the majority* shall not, in reason, be received as *the act of the whole*, and conclude every individual; nothing but the consent of every individual can make any thing to be the act of the whole: but such a consent is next to impossible ever to be had, if we consider the infirmities of health, and avocations of business, which in a number, though much less than that of a common-wealth, will necessarily keep many away from the public assembly. To which if we add the variety of opinions, and contrariety of interests, which unavoidably happen in all collections of men, the coming into society upon such terms would be only like *Cato's* coming into the theatre, only to go out again. Such a constitution as this would make the mighty *Leviathan* of a shorter duration, than the feeblest creatures, and not let it outlast the day it was born in: which cannot be supposed, till we can think, that rational creatures should desire and constitute societies only to be dissolved: for where the *majority* cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.

§. 99. Whosoever therefore out of a state of nature unite into a *community*, must be understood to give up all the power, necessary to the ends for which they unite into society, to the *majority* of the community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to *unite into one political society*, which is *all the compact* that is, or needs be, between the individuals, that enter into, or make up a *common-wealth*. And thus that, which begins and actually *constitutes any political society*, is nothing but the consent of any number of freemen capable of a majority to unite and incorporate into such a society. And this is that, and that only, which did, or could give beginning to any *lawful government* in the world.

§. 100. To this I find two objections made.

First, *That there are no instances to be found in story, of a company of men independent, and equal one amongst another, that met together, and in this way began and set up a government.*

Secondly, *It is impossible of right, that men should do so, because all men being born under government, they are to submit to that, and are not at liberty to begin a new one.*

§. 101. To the first there is this to answer, That it is not at all to be wondered, that *history* gives us but a very little account of *men, that lived together in the state of nature.* The inconveniences of that condition, and the love and want of society, no sooner brought any number of them together, but they presently united and incorporated, if they designed to continue together. And if we may not suppose *men* ever to have been *in the state of nature,* because we hear not much of them in such a state, we may as well suppose the armies of *Salmanasser* or *Xerxes* were never children, because we hear little of them, till they were men, and imbodyed in armies. Government is every where antecedent to records, and letters seldom come in amongst a people till a long continuation of civil society has, by other more necessary arts, provided for their safety, ease, and plenty: and then they begin to look after the history of their founders, and search into their *original,* when they have outlived the memory of it: for it is with *common-wealths* as with particular persons, they are commonly *ignorant of their own births and infancies:* and if they know any thing of their *original,* they are beholden for it, to the accidental records that others have kept of it. And those that we have, of the beginning of any polities in the world, excepting that of the *Jews,* where God himself immediately interposed, and which favours not at all paternal dominion, are all either plain instances of such a beginning as I have mentioned, or at least have manifest footsteps of it.

§. 102. He must shew a strange inclination to deny evident matter of fact, when it agrees not with his hypothesis, who will not allow, that the *beginning of Rome and Venice* were by the uniting together of several men free and independent one of another, amongst whom there was no natural superiority or subjection. And if *Josephus Acosta's* word may be taken, he tells us, that in many parts of *America* there was no government at all. *There are great and apparent conjectures,* says he, *that these men,* speaking of those of *Peru,* *for a long time had neither kings nor common-wealths, but lived in troops, as they do this day in Florida, the Cheriquanas, those of Brazil, and many other nations, which have no certain kings, but as occasion is offered, in peace or war, they choose their captains as they please,* l. i. c. 25. If it be said, that every man there was born subject to his father, or the head of his family; that the

subjection due from a child to a father took not away his freedom of uniting into what political society he thought fit, has been already proved. But be that as it will, these men, it is evident, were actually *free*; and whatever superiority some politicians now would place in any of them, they themselves claimed it not, but by consent were all *equal*, till by the same consent they set rulers over themselves. So that their *politic societies* all *began* from a voluntary union, and the mutual agreement of men freely acting in the choice of their governors, and forms of government.

§. 103. And I hope those who went away from *Sparta* with *Palantus*, mentioned by *Justin*, l. iii. c. 4. will be allowed to have been *freemen independent* one of another, and to have set up a government over themselves, by their own consent. Thus I have given several examples, out of history, of *people free and in the state of nature*, that being met together incorporated and *began a common-wealth*. And if the want of such instances be an argument to prove that *government* were not, nor could not be so *begun*, I suppose the contenders for paternal empire were better let it alone, than urge it against natural liberty: for if they can give so many instances, out of history, of *governments begun* upon paternal right, I think (though at best an argument from what has been, to what should of right be, has no great force) one might, without any great danger, yield them the cause. But if I might advise them in the case, they would do well not to search too much into the *original of governments*, as they have begun *de facto*, lest they should find, at the foundation of most of them, something very little favourable to the design they promote, and such a power as they contend for.

§. 104. But to conclude, reason being plain on our side, that men are naturally free, and the examples of history shewing, that the *governments* of the world, that were begun in peace, had their beginning laid on that foundation, and were *made by the consent of the people*; there can be little room for doubt, either where the right is, or what has been the opinion, or practice of mankind, about the *first erecting of governments*.

§. 105. I will not deny, that if we look back as far as history will direct us, towards the *original of common-wealths*, we shall generally find them under the government and administration of one man. And I am also apt to believe, that where a family was numerous enough to subsist by itself, and continued entire together, without mixing with others, as it often happens, where there is much land, and few people, the government commonly began in

the father: for the father having, by the law of nature, the same power with every man else to punish, as he thought fit, any offences against that law, might thereby punish his transgressing children, even when they were men, and out of their pupilage; and they were very likely to submit to his punishment, and all join with him against the offender, in their turns, giving him thereby power to execute his sentence against any transgression, and so in effect make him the law-maker, and governor over all that remained in conjunction with his family. He was fittest to be trusted; paternal affection secured their property and interest under his care; and the custom of obeying him, in their childhood, made it easier to submit to him, rather than to any other. If therefore they must have one to rule them, as government is hardly to be avoided amongst men that live together; who so likely to be the man as he that was their common father; unless negligence, cruelty, or any other defect of mind or body made him unfit for it? But when either the father died, and left his next heir, for want of age, wisdom, courage, or any other qualities, less fit for rule; or where several families met, and consented to continue together; there, it is not to be doubted, but they used their natural freedom, to set up him, whom they judged the ablest, and most likely, to rule well over them. Conformable hereunto we find the people of *America*, who (living out of the reach of the conquering swords, and spreading domination of the two great empires of *Peru* and *Mexico*) enjoyed their own natural freedom, though, *caeteris paribus*, they commonly prefer the heir of their deceased king; yet if they find him any way weak, or incapable, they pass him by, and set up the stoutest and bravest man for their ruler.

§. 106. Thus, though looking back as far as records give us any account of peopling the world, and the history of nations, we commonly find the *government* to be in one hand; yet it destroys not that which I affirm, *viz.* that the *beginning of politic society* depends upon the consent of the individuals, to join into, and make one society; who, when they are thus incorporated, might set up what form of government they thought fit. But this having given occasion to men to mistake, and think, that by nature government was monarchical, and belonged to the father, it may not be amiss here to consider, why people in the beginning generally pitched upon this form, which though perhaps the father's pre-eminency might, in the first institution of some common-wealths, give a rise to, and place in the beginning, the power in one hand; yet it is plain

that the reason, that continued the form of *government in a single person*, was not any regard, or respect to paternal authority; since all petty *monarchies*, that is, almost all monarchies, near their original, have been commonly, at least upon occasion, *elective*.

§. 107. First then, in the beginning of things, the father's government of the childhood of those sprung from him, having accustomed them to the *rule of one man*, and taught them that where it was exercised with care and skill, with affection and love to those under it, it was sufficient to procure and preserve to men all the political happiness they sought for in society. It was no wonder that they should pitch upon, and naturally run into that form of government, which from their infancy they had been all accustomed to; and which, by experience, they had found both easy and safe. To which, if we add, that *monarchy* being simple, and most obvious to men, whom neither experience had instructed in forms of government, nor the ambition or insolence of empire had taught to beware of the encroachments of prerogative, or the inconveniences of absolute power, which monarchy in succession was apt to lay claim to, and bring upon them, it was not at all strange, that they should not much trouble themselves to think of methods of restraining any exorbitances of those to whom they had given the authority over them, and of balancing the power of government, by placing several parts of it in different hands. They had neither felt the oppression of tyrannical dominion, nor did the fashion of the age, nor their possessions, or way of living, (which afforded little matter for covetousness or ambition) give them any reason to apprehend or provide against it; and therefore it is no wonder they put themselves into such a *frame of government*, as was not only, as I said, most obvious and simple, but also best suited to their present state and condition; which stood more in need of defence against foreign invasions and injuries, than of multiplicity of laws. The equality of a simple poor way of living, confining their desires within the narrow bounds of each man's small property, made few controversies, and so no need of many laws to decide them, or variety of officers to superintend the process, or look after the execution of justice, where there were but few trespasses, and few offenders. Since then those, who like one another so well as to join into society, cannot but be supposed to have some acquaintance and friendship together, and some trust one in another; they could not but have greater apprehensions of others, than of one another: and therefore their first care and thought cannot but be supposed to be, how to

secure themselves against foreign force. It was natural for them to put themselves under a *frame of government* which might best serve to that end, and chuse the wisest and bravest man to conduct them in their wars, and lead them out against their enemies, and in this chiefly be their ruler.

§. 108. Thus we see, that the *kings of the Indians in America*, which is still a pattern of the first ages in *Asia and Europe*, whilst the inhabitants were too few for the country, and want of people and money gave men no temptation to enlarge their possessions of land, or contest for wider extent of ground, are little more than *generals of their armies*; and though they command absolutely in war, yet at home and in time of peace they exercise very little dominion, and have but a very moderate sovereignty, the resolutions of peace and war being ordinarily either in the people, or in a council. Tho' the war itself, which admits not of plurality of governors, naturally devolves the command into the *king's sole authority*.

§. 109. And thus in *Israel* itself, the *chief business of their judges, and first kings*, seems to have been to be *captains in war*, and leaders of their armies; which (besides what is signified by *going out and in before the people*, which was, to march forth to war, and home again in the heads of their forces) appears plainly in the story of *Jephtha*. The *Ammonites* making war upon *Israel*, the *Gileadites* in fear send to *Jephtha*, a bastard of their family whom they had cast off, and article with him, if he will assist them against the *Ammonites*, to make him their ruler; which they do in these words, *And the people made him head and captain over them*, Judg. xi. 11. which was, as it seems, all one as to be *judge*. *And he judged Israel*, Judg. xii. 7. that is, was their *captain-general six years*. So when *Jotham* upbraids the *Shechemites* with the obligation they had to *Gideon*, who had been their *judge* and ruler, he tells them, *He fought for you, and adventured his life far, and delivered you out of the hands of Midian*, Judg. ix. 17. Nothing mentioned of him but what he did as a *general*: and indeed that is all is found in his history, or in any of the rest of the judges. And *Abimelech* particularly is called *king*, though at most he was but their *general*. And when, being weary of the ill conduct of *Samuel's* sons, the children of *Israel* desired a *king, like all the nations to judge them, and to go out before them, and to fight their battles*, I. Sam viii. 20. God granting their desire, says to *Samuel*, *I will send thee a man, and thou shalt anoint him to be captain over my people Israel, that he may save my people out of the hands of the Philistines*, ix. 16. As

if the only *business of a king* had been to lead out their armies, and fight in their defence; and accordingly at his inauguration pouring a vial of oil upon him, declares to *Saul*, that *the Lord had anointed him to be captain over his inheritance*, x. 1. And therefore those, who after *Saul's* being solemnly chosen and saluted *king* by the tribes at *Mispah*, were unwilling to have him their king, made no other objection but this, *How shall this man save us?* v. 27. as if they should have said, this man is unfit to be our *king*, not having skill and conduct enough in war, to be able to defend us. And when God resolved to transfer the government to *David*, it is in these words, *But now thy kingdom shall not continue: the Lord hath sought him a man after his own heart, and the Lord hath commanded him to be captain over his people*, xiii. 14. As if the whole *kingly authority* were nothing else but to be their *general*: and therefore the tribes who had stuck to *Saul's* family, and opposed *David's* reign, when they came to *Hebron* with terms of submission to him, they tell him, amongst other arguments they had to submit to him as to their king, that he was in effect their *king* in *Saul's* time, and therefore they had no reason but to receive him as their *king* now. Also (say they) *in time past, when Saul was king over us, thou wast he that leddest out and broughtest in Israel, and the Lord said unto thee, Thou shalt feed my people Israel, and thou shalt be a captain over Israel.*

§. 110. Thus, whether a family by degrees grew up into a *common-wealth*, and the fatherly authority being continued on to the elder son, every one in his turn growing up under it, tacitly submitted to it, and the easiness and equality of it not offending any one, every one acquiesced, till time seemed to have confirmed it, and settled a right of succession by prescription: or whether several families, or the descendants of several families, whom chance, neighbourhood, or business brought together, uniting into society, the need of a general, whose conduct might defend them against their enemies in war, and the great confidence the innocence and sincerity of that poor but virtuous age, (such as are almost all those which begin governments, that ever come to last in the world) gave men one of another, made the first beginners of common-wealths generally put the rule into one man's hand, without any other express limitation or restraint, but what the nature of the thing, and the end of government required: which ever of those it was that at first put the rule into the hands of a single person, certain it is no body was intrusted with it but for the public good and safety, and

to those ends, in the infancies of common-wealths, those who had it commonly used it. And unless they had done so, young societies could not have subsisted; without such nursing fathers tender and careful of the public weal, all governments would have sunk under the weakness and infirmities of their infancy, and the prince and the people had soon perished together.

§. 111. But though the *golden age* (before vain ambition, and *amor sceleratus habendi*, evil concupiscence, had corrupted men's minds into a mistake of true power and honour) had more virtue, and consequently better governors, as well as less vicious subjects, and there was then *no stretching prerogative* on the one side, to oppress the people; *nor* consequently on the other, any *dispute about privilege*, to lessen or restrain the power of the magistrate, and so no contest betwixt rulers and people about governors or government: yet, when ambition and luxury in future ages\* would retain and increase the power, without doing the business for which it was given; and aided by flattery, taught princes to have distinct and separate interests from their people, men found it necessary to examine more carefully *the original and rights of government*; and to find out ways to *restrain the exorbitances, and prevent the abuses* of that power, which they having intrusted in another's hands only for their own good, they found was made use of to hurt them.

§. 112. Thus we may see how probable it is, that people that were naturally free, and by their own consent either submitted to the government of their father, or united together out of different families to make a government, should generally put the *rule into one man's hands*, and chuse to be under the conduct of a *single person*, without so much as by express conditions limiting or regulating his power, which they thought safe enough in his honesty and prudence; though they never dreamed of monarchy being *Jure Divino*, which we never heard of among mankind, till it was revealed to us by the divinity of this last age; nor ever allowed paternal power to have a right to dominion, or to be the foundation of all

\*At first, when some certain kind of regiment was once approved, it may be nothing was then farther thought upon for the manner of governing, but all permitted unto their wisdom and discretion which were to rule, till by experience they found this for all parts very inconvenient, so as the thing which they had devised for a remedy, did indeed but increase the sore which it should have cured. They saw, that to live by one man's will, became the cause of all men's misery. This constrained them to come unto laws wherein all men might see their duty before hand, and know the penalties of transgressing them. *Hooker's Eccl. Pol. l. i. sect. 10.*

government. And thus much may suffice to shew, that as far as we have any light from history, we have reason to conclude, that all peaceful beginnings of *government* have been *laid in the consent of the people*. I say *peaceful*, because I shall have occasion in another place to speak of conquest, which some esteem a way of beginning of governments.

*The other objection I find urged against the beginning of polities, in the way I have mentioned, is this, viz.*

§. 113. *That all men being born under government, some or other, it is impossible any of them should ever be free, and at liberty to unite together, and begin a new one, or ever be able to erect a lawful government.*

If this argument be good; I ask, how came so many lawful monarchies into the world? for if any body, upon this supposition, can shew me any one man in any age of the world *free* to begin a lawful monarchy, I will be bound to shew him ten other *free men* at liberty, at the same time to unite and begin a new government under a regal, or any other form; it being demonstration, that if any one, *born under the dominion* of another, may be so *free* as to have a right to command others in a new and distinct empire, every one that is *born under the dominion* of another may be so free too, and may become a ruler, or subject, of a distinct separate government. And so by this their own principle, either all men, however *born*, are *free*, or else there is but one lawful prince, one lawful government in the world. And then they have nothing to do, but barely to shew us which that is; which when they have done, I doubt not but all mankind will easily agree to pay obedience to him.

§. 114. Though it be a sufficient answer to their objection, to shew that it involves them in the same difficulties that it doth those they use it against; yet I shall endeavour to discover the weakness of this argument a little farther.

*All men, say they, are born under government, and therefore they cannot be at liberty to begin a new one. Every one is born a subject to his father, or his prince, and is therefore under the perpetual tie of subjection and allegiance.* It is plain mankind never owned nor considered any such natural *subjection that they were born in*, to one or to the other that tied them, without their own consents, to a subjection to them and their heirs.

§. 115. For there are no examples so frequent in history, both sacred and profane, as those of men withdrawing themselves, and their obedience, from the jurisdiction they were born under, and the

family or community they were bred up in, and *setting up new governments* in other places; from whence sprang all that number of petty common-wealths in the beginning of ages, and which always multiplied, as long as there was room enough, till the stronger, or more fortunate, swallowed the weaker; and those great ones again breaking to pieces, dissolved into lesser dominions. All which are so many testimonies against paternal sovereignty, and plainly prove, that it was not the natural right of the *father* descending to his heirs, that made governments in the beginning, since it was impossible, upon that ground, there should have been so many little kingdoms; all must have been but only one universal monarchy, if men had not been at *liberty to separate* themselves from their families, and the government, be it what it will, that was set up in it, and go and make distinct common-wealths and other governments, as they thought fit.

§. 116. This has been the practice of the world from its first beginning to this day; nor is it now any more hindrance to the freedom of mankind, that they are *born under constituted and ancient polities*, that have established laws, and set forms of government, than if they were born in the woods, amongst the unconfined inhabitants, that run loose in them: for those, who would persuade us, that *by being born under any government, we are naturally subjects to it*, and have no more any title or pretence to the freedom of the state of nature, have no other reason (bating that of paternal power, which we have already answered) to produce for it, but only, because our fathers or progenitors passed away their natural liberty, and thereby bound up themselves and their posterity to a perpetual subjection to the government, which they themselves submitted to. It is true, that whatever engagements or promises any one has made for himself, he is under the obligation of them, but *cannot*, by any *compact* whatsoever, *bind his children or posterity*: for his son, when a man, being altogether as free as the father, any *act of the father can no more give away the liberty of the son*, than it can of any body else: he may indeed annex such conditions to the land, he enjoyed as a subject of any common-wealth, as may oblige his son to be of that community, if he will enjoy those possessions which were his father's; because that estate being his father's property, he may dispose, or settle it, as he pleases.

§. 117. And this has generally given the occasion to mistake in this matter; because common-wealths not permitting any part of their dominions to be dismembered, nor to be enjoyed by any but

those of their community, the son cannot ordinarily enjoy the possessions of his father, but under the same terms his father did, by becoming a member of the society; whereby he puts himself presently under the government he finds there established, as much as any other subject of that common-wealth. And thus *the consent of freemen, born under government*, which only makes them members of it, being given separately in their turns, as each comes to be of age, and not in a multitude together; people take no notice of it, and thinking it not done at all, or not necessary, conclude they are naturally subjects as they are men.

§. 118. But, it is plain, *governments* themselves understand it otherwise; they claim *no power over the son, because of that they had over the father*; nor look on children as being their subjects, by their fathers being so. If a subject of *England* have a child, by an *English* woman in *France*, whose subject is he? Not the king of *England's*; for he must have leave to be admitted to the privileges of it: nor the king of *France's*; for how then has his father a liberty to bring him away, and breed him as he pleases? and who ever was judged as a *traytor* or *deserter*, if he left, or warred against a country, for being barely born in it of parents that were aliens there? It is plain then, by the practice of governments themselves, as well as by the law of right reason, that *a child is born a subject of no country or government*. He is under his father's tuition and authority, till he comes to age of discretion; and then he is a freeman, at liberty what government he will put himself under, what body politic he will unite himself to: for if an *Englishman's* son, born in *France*, be at liberty, and may do so, it is evident there is no tie upon him by his father's being a subject of this kingdom; nor is he bound up by any compact of his ancestors. And why then hath not his son, by the same reason, the same liberty, though he be born any where else? Since the power that a father hath naturally over his children, is the same, where-ever they be born, and the ties of natural obligations, are not bounded by the positive limits of kingdoms and common-wealths.

§. 119. *Every man* being, as has been shewed, *naturally free*, and nothing being able to put him into subjection to any earthly power, but only his own *consent*; it is to be considered, what shall be understood to be a *sufficient declaration* of a man's *consent*, to make him subject to the laws of any government. There is a common distinction of an express and a tacit consent, which will concern our present case. No body doubts but an express *consent*, of

any man entering into any society, makes him a perfect member of that society, a subject of that government. The difficulty is, what ought to be looked upon as a *tacit consent*, and how far it binds, *i.e.* how far any one shall be looked on to have consented, and thereby submitted to any government, where he has made no expressions of it at all. And to this I say, that every man, that hath any possessions, or enjoyment, of any part of the dominions of any government, doth thereby give his *tacit consent*, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as any one under it; whether this his possession be of land, to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway; and in effect, it reaches as far as the very being of any one within the territories of that government.

§. 120. To understand this the better, it is fit to consider, that every man, when he at first incorporates himself into any common-wealth, he, by his uniting himself thereunto, annexed also, and submits to the community, those possessions, which he has, or shall acquire, that do not already belong to any other government: for it would be a direct contradiction, for any one to enter into society with others for the securing and regulating of property; and yet to suppose his land, whose property is to be regulated by the laws of the society, should be exempt from the jurisdiction of that government, to which he himself, the proprietor of the land, is a subject. By the same act therefore, whereby any one unites his person, which was before free, to any common-wealth, by the same he unites his possessions, which were before free, to it also; and they become, both of them, person and possession, subject to the government and dominion of that common-wealth, as long as it hath a being. Whoever therefore, from thenceforth, by inheritance, purchase, permission, or otherways, *enjoys any part of the land*, so annexed to, and under the government of *that common-wealth*, *must take it with the condition* it is under; that is, *of submitting to the government of the common-wealth*, under whose jurisdiction it is, as far forth as any subject of it.

§. 121. But since the government has a direct jurisdiction only over the land, and reaches the possessor of it, (before he has actually incorporated himself in the society) only as he dwells upon, and enjoys that; the obligation any one is under, by virtue of such enjoyment, to *submit to the government*, *begins and ends with the enjoyment*; so that whenever the owner, who has given nothing but

such a *tacit consent* to the government, will, by donation, sale, or otherwise, quit the said possession, he is at liberty to go and incorporate himself into any other common-wealth; or to agree with others to begin a new one, *in vacuis locis*, in any part of the world, they can find free and unpossessed: whereas he, that has once, by actual agreement, and any *express* declaration, given his *consent* to be of any common-wealth, is perpetually and indispensibly obliged to be, and remain unalterably a subject to it, and can never be again in the liberty of the state of nature; unless, by any calamity, the government he was under comes to be dissolved; or else by some public act cuts him off from being any longer a member of it.

§. 122. But submitting to the laws of any country, living quietly, and enjoying privileges and protection under them, *makes not a man a member of that society*: this is only a local protection and homage due to and from all those, who, not being in a state of war, come within the territories belonging to any government, to all parts whereof the force of its laws extends. But this no more *makes a man a member of that society*, a perpetual subject of that common-wealth, than it would make a man a subject to another, in whose family he found it convenient to abide for some time; though, whilst he continued in it, he were obliged to comply with the laws, and submit to the government he found there. And thus we see, that *foreigners*, by living all their lives under another government, and enjoying the privileges and protection of it, though they are bound, even in conscience, to submit to its administration, as far forth as any denison; yet do not thereby come to be *subjects or members of that common-wealth*. Nothing can make any man so, but his actually entering into it by positive engagement, and express promise and compact. This is that, which I think, concerning the beginning of political societies, and that *consent which makes any one a member of any common-wealth*.

## CHAP. IX.

### *Of the Ends of Political Society and Government.*

§. 123. IF man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? why will he give up this empire, and subject himself to the dominion and controul of any other power? To which it is obvious to answer,

that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual *preservation* of their lives, liberties and estates, which I call by the general name, *property*.

§. 124. The great and *chief end*, therefore, of men's uniting into common-wealths, and putting themselves under government, is the *preservation of their property*. To which in the state of nature there are many things wanting.

*First*, There wants an *established*, settled, known *law*, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them: for though the law of nature be plain and intelligible to all rational creatures; yet men being biassed by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases.

§. 125. *Secondly*, In the state of nature there wants a *known and indifferent judge*, with authority to determine all differences according to the established law: for every one in that state being both judge and executioner of the law of nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat, in their own cases; as well as negligence, and unconcernedness, to make them too remiss in other men's.

§. 126. *Thirdly*, In the state of nature there often wants *power* to back and support the sentence when right, and to *give* it due *execution*. They who by any injustice offended, will seldom fail, where they are able, by force to make good their injustice; such resistance many times makes the punishment dangerous, and frequently destructive, to those who attempt it.

§. 127. Thus mankind, notwithstanding all the privileges of the state of nature, being but in an ill condition, while they remain in it, are quickly driven into society. Hence it comes to pass, that we seldom find any number of men live any time together in this state. The inconveniencies that they are therein exposed to, by the irregular and uncertain exercise of the power every man has of

punishing the transgressions of others, make them take sanctuary under the established laws of government, and therein seek *the preservation of their property*. It is this makes them so willingly give up every one his single power of punishing, to be exercised by such alone, as shall be appointed to it amongst them; and by such rules as the community, or those authorized by them to that purpose, shall agree on. And in this we have the original *right and rise of both the legislative and executive power*, as well as of the governments and societies themselves.

§. 128. For in the state of nature, to omit the liberty he has of innocent delights, a man has two powers.

The first is to do whatsoever he thinks fit for the preservation of himself, and others within the permission of the *law of nature*: by which law, common to them all, he and all the rest of *mankind are one community*, make up one society, distinct from all other creatures. And were it not for the corruption and vitiousness of degenerate men, there would be no need of any other; no necessity that men should separate from this great and natural community, and by positive agreements combine into smaller and divided associations.

The other power a man has in the state of nature, is the *power to punish the crimes* committed against that law. Both these he gives up, when he joins in a private, if I may so call it, or particular politic society, and incorporates into any common-wealth, separate from the rest of mankind.

§. 129. The first *power, viz. of doing whatsoever he thought for the preservation of himself*, and the rest of mankind, *he gives up* to be regulated by laws made by the society, so far forth as the preservation of himself, and the rest of that society shall require; which laws of the society in many things confine the liberty he had by the law of nature.

§. 130. *Secondly*, The *power of punishing he wholly gives up*, and engages his natural force, (which he might before employ in the execution of the law of nature, by his own single authority, as he thought fit) to assist the executive power of the society, as the law thereof shall require: for being now in a new state, wherein he is to enjoy many conveniencies, from the labour, assistance, and society of others in the same community, as well as protection from its whole strength; he is to part also with as much of his natural liberty, in providing for himself, as the good, prosperity, and safety of the society shall require; which is not only necessary, but just, since the

other members of the society do the like.

§. 131. But though men, when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative, as the good of the society shall require; yet it being only with an intention in every one the better to preserve himself, his liberty and property; (for no rational creature can be supposed to change his condition with an intention to be worse) the power of the society, or *legislative* constituted by them, can *never be supposed to extend farther, than the common good*; but is obliged to secure every one's property, by providing against those three defects above mentioned, that made the state of nature so unsafe and uneasy. And so whoever has the legislative or supreme power of any common-wealth, is bound to govern by established *standing laws*, promulgated and known to the people, and not by extemporary decrees; by *indifferent* and upright *judges*, who are to decide controversies by those laws; and to employ the force of the community at home, *only in the execution of such laws*, or abroad to prevent or redress foreign injuries, and secure the community from inroads and invasion. And all this to be directed to no other *end*, but the *peace, safety, and public good* of the people.

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## C H A P. X.

### *Of the Forms of a Common-wealth.*

§. 132. THE majority having, as has been shewed, upon men's first uniting into society, the whole power of the community naturally in them, may employ all that power in making laws for the community from time to time, and executing those laws by officers of their own appointing; and then the *form* of the government is a perfect *democracy*: or else may put the power of making laws into the hands of a few select men, and their heirs or successors; and then it is an *oligarchy*: or else into the hands of one man, and then it is a *monarchy*: if to him and his heirs, it is an *hereditary monarchy*: if to him only for life, but upon his death the power only of nominating a successor to return to them; an *elective monarchy*. And so accordingly of these the community may make compounded and mixed forms of government, as they think good. And if the legislative power be at first given by the majority to one or more persons only

for their lives, or any limited time, and then the supreme power to revert to them again; when it is so reverted, the community may dispose of it again anew into what hands they please, and so constitute a new form of government: for the *form of government depending upon the placing the supreme power*, which is the *legislative*, it being impossible to conceive that an inferior power should prescribe to a superior, or any but the supreme make laws, according as the power of making laws is placed, such is the *form of the common-wealth*.

§. 133. By *common-wealth*, I must be understood all along to mean, not a democracy, or any form of government, but *any independent community*, which the *Latines* signified by the word *civitas*, to which the word which best answers in our language, is *common-wealth*, and most properly expresses such a society of men, which community or city in *English* does not; for there may be subordinate communities in a government; and city amongst us has a quite different notion from common-wealth: and therefore, to avoid ambiguity, I crave leave to use the word *common-wealth* in that sense, in which I find it used by king *James the first*; and I take it to be its genuine signification; which if any body dislike, I consent with him to change it for a better.

## C H A P. X I.

### *Of the Extent of the Legislative Power.*

§. 134. THE great end of men's entering into society, being the enjoyment of their properties in peace and safety, and the great instrument and means of that being the laws established in that society; the *first and fundamental positive law* of all common-wealths is the *establishing of the legislative power*; as the *first and fundamental natural law*, which is to govern even the legislative itself, is the *preservation of the society*, and (as far as will consist with the public good) of every person in it. This *legislative* is not only the *supreme power* of the common-wealth, but sacred and unalterable in the hands where the community have once placed it; nor can any edict of any body else, in what form soever conceived, or by what power soever backed, have the force and obligation of a *law*, which has not its *sanction from that legislative* which the public has chosen and appointed: for without this the law could not have that,

which is absolutely necessary to its being a law, \* *the consent of the society*, over whom no body can have a power to make laws, but by their own consent, and by authority received from them; and therefore all the *obedience*, which by the most solemn ties any one can be obliged to pay, ultimately terminates in this *supreme power*, and is directed by those laws which it enacts: nor can any oaths to any foreign power whatsoever, or any domestic subordinate power, discharge any member of the society from his *obedience to the legislative*, acting pursuant to their trust; nor oblige him to any obedience contrary to the laws so enacted, or farther than they do allow; it being ridiculous to imagine one can be tied ultimately to *obey any power* in the society, which is not the *supreme*.

§. 135. Though the *legislative*, whether placed in one or more, whether it be always in being, or only by intervals, though it be the *supreme power* in every common-wealth; yet,

*First*, It is *not*, nor can possibly be absolutely *arbitrary* over the lives and fortunes of the people: for it being but the joint power of every member of the society given up to that person, or assembly, which is legislator; it can be no more than those persons had in a state of nature before they entered into society, and gave up to the community: for no body can transfer to another more power than he has in himself; and no body has an absolute arbitrary power over himself, or over any other, to destroy his own life, or take away the life or property of another. A man, as has been proved, cannot subject himself to the arbitrary power of another; and having in the state of nature no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself, and the rest of mankind; this is all he doth, or can give up to the common-wealth, and by it to the

\*The lawful power of making laws to command whole politic societies of men, belonging so properly unto the same intire societies, that for any prince or potentate of what kind soever upon earth, to exercise the same of himself, and not by express commission immediately and personally received from God, or else by authority derived at the first from their consent, upon whose persons they impose laws, it is no better than mere tyranny. Laws they are not therefore which public approbation hath not made so. *Hooker's Eccl. Pol. l. i. sect. 10*. Of this point therefore we are to note, that sith men naturally have no full and perfect power to command whole politic multitudes of men, therefore utterly without our consent, we could in such sort be at no man's commandment living. And to be commanded we do consent, when that society, whereof we be a part, hath at any time before consented, without revoking the same after by the like universal agreement.

Laws therefore human, of what kind so ever, are available by consent. *Ibid*.

*legislative power*, so that the legislative can have no more than this. Their power, in the utmost bounds of it, is *limited to the public good* of the society. It is a power, that hath no other end but preservation, and therefore can never\* have a right to destroy, enslave, or designedly to impoverish the subjects. The obligations of the law of nature cease not in society, but only in many cases are drawn closer, and have by human laws known penalties annexed to them, to inforce their observation. Thus the law of nature stands as an eternal rule to all men, *legislators* as well as others. The *rules* that they make for other men's actions, must, as well as their own and other men's actions, be conformable to the law of nature, *i. e.* to the will of God, of which that is a declaration, and the *fundamental law of nature being the preservation of mankind*, no human sanction can be good, or valid against it.

§. 136. *Secondly*, \* The *legislative*, or supreme authority, cannot assume to its self a power to rule by extemporary arbitrary decrees, but *is bound to dispense justice*, and decide the rights of the subject *by promulgated standing laws, and known authorized judges*: for the law of nature being unwritten, and so no where to be found but in the minds of men, they who through passion or interest shall miscite, or misapply it, cannot so easily be convinced of their

\*Two foundations there are which bear up public societies; the one a natural inclination, whereby all men desire sociable life and fellowship; the other an order, expressly or secretly agreed upon, touching the manner of their union in living together: the latter is that which we call the law of a common-weal, the very soul of a politic body, the parts whereof are by law animated, held together, and set on work in such actions as the common good requireth. Laws politic, ordained for external order and regiment amongst men, are never framed as they should be, unless presuming the will of man to be inwardly obstinate, rebellious, and averse from all obedience to the sacred laws of his nature; in a word, unless presuming man to be, in regard of his depraved mind, little better than a wild beast, they do accordingly provide, notwithstanding, so to frame his outward actions, that they be no hindrance unto the common good, for which societies are instituted. Unless they do this, they are not perfect. *Hooker's Eccl. Pol. l. i. sect. 10.*

\*Human laws are measures in respect of men whose actions they must direct, howbeit such measures they are as have also their higher rules to be measured by, which rules are two, the law of God, and the law of nature; so that laws human must be made according to the general laws of nature, and without contradiction to any positive law of scripture, otherwise they are ill made. *Hooker's Eccl. Pol. l. iii. sect. 9.*

To constrain men to any thing inconvenient doth seem unreasonable. *Ibid. l. i. sect. 10.*

mistake where there is no established judge: and so it serves not, as it ought, to determine the rights, and fence the properties of those that live under it, especially where every one is judge, interpreter, and executioner of it too, and that in his own case: and he that has right on his side, having ordinarily but his own single strength, hath not force enough to defend himself from injuries, or to punish delinquents. To avoid these inconveniences, which disorder men's properties in the state of nature, men unite into societies, that they may have the united strength of the whole society to secure and defend their properties, and may have *standing rules* to bound it, by which every one may know what is his. To this end it is that men give up all their natural power to the society which they enter into, and the community put the legislative power into such hands as they think fit, with this trust, that they shall be governed by *declared laws*, or else their peace, quiet, and property will still be at the same uncertainty, as it was in the state of nature.

§. 137. Absolute arbitrary power, or governing without *settled standing laws*, can neither of them consist with the ends of society and government, which men would not quit the freedom of the state of nature for, and tie themselves up under, were it not to preserve their lives, liberties and fortunes, and by *stated rules* of right and property to secure their peace and quiet. It cannot be supposed that they should intend, had they a power so to do, to give to any one, or more, an *absolute arbitrary power* over their persons and estates, and put a force into the magistrate's hand to execute his unlimited will arbitrarily upon them. This were to put themselves into a worse condition than the state of nature, wherein they had a liberty to defend their right against the injuries of others, and were upon equal terms of force to maintain it, whether invaded by a single man, or many in combination. Whereas by supposing they have given up themselves to the *absolute arbitrary power* and will of a legislator, they have disarmed themselves, and armed him, to make a prey of them when he pleases; he being in a much worse condition, who is exposed to the arbitrary power of one man, who has the command of 100,000, than he that is exposed to the arbitrary power of 100,000 single men; no body being secure, that his will, who has such a command, is better than that of other men, though his force be 100,000 times stronger. And therefore, whatever form the common-wealth is under, the ruling power ought to govern by *declared and received laws*, and not by extemporary dictates and undetermined resolutions: for then mankind

will be in a far worse condition than in the state of nature, if they shall have armed one, or a few men with the joint power of a multitude, to force them to obey at pleasure the exorbitant and unlimited decrees of their sudden thoughts, or unrestrained, and till that moment unknown wills, without having any measures set down which may guide and justify their actions: for all the power the government has, being only for the good of the society, as it ought not to be *arbitrary* and at pleasure, so it ought to be exercised by *established and promulgated laws*; that both the people may know their duty, and be safe and secure within the limits of the law; and the rulers too kept within their bounds, and not be tempted, by the power they have in their hands, to employ it to such purposes, and by such measures, as they would not have known, and own not willingly.

§. 138. *Thirdly*, The *supreme power cannot take from any man any part of his property without his own consent*: for the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires, that the people should *have property*, without which they must be supposed to lose that, by entering into society, which was the end for which they entered into it; too gross an absurdity for any man to own. *Men therefore in society having property*, they have such a right to the goods, which by the law of the community are their's, that no body hath a right to take their substance or any part of it from them, without their own consent: without this they have no *property* at all; for I have truly no *property* in that, which another can by right take from me, when he pleases, against my consent. Hence it is a mistake to think, that the *supreme or legislative power* of any common-wealth, can do what it will, and dispose of the estates of the subject *arbitrarily*, or take any part of them at pleasure. This is not much to be feared in governments where the *legislative* consists, wholly or in part, in assemblies which are variable, whose members, upon the dissolution of the assembly, are subjects under the common laws of their country, equally with the rest. But in governments, where the *legislative* is in one lasting assembly always in being, or in one man, as in absolute monarchies, there is danger still, that they will think themselves to have a distinct interest from the rest of the community; and so will be apt to increase their own riches and power, by taking what they think fit from the people: for a man's *property* is not at all secure, tho' there be good and equitable laws to set the bounds of it between him and his fellow

subjects, if he who commands those subjects have power to take from any private man, what part he pleases of his *property*, and use and dispose of it as he thinks good.

§. 139. But *government*, into whatsoever hands it is put, being, as I have before shewed, intrusted with this condition, and for *this end*, that men might have and secure their *properties*; the prince, or senate, however it may have power to make laws, for the regulating of *property* between the subjects one amongst another, yet can never have a power to take to themselves the whole, or any part of the subjects *property*, without their own consent: for this would be in effect to leave them no *property* at all. And to let us see, that even *absolute power*, where it is necessary, is *not arbitrary* by being absolute, but is still limited by that reason, and confined to those ends, which required it in some cases to be absolute, we need look no farther than the common practice of martial discipline: for the preservation of the army, and in it of the whole common-wealth, requires an *absolute obedience* to the command of every superior officer, and it is justly death to disobey or dispute the most dangerous or unreasonable of them; but yet we see, that neither the serjeant, that could command a soldier to march up to the mouth of a cannon, or stand in a breach, where he is almost sure to perish, can command that soldier to give him one penny of his money; nor the *general*, that can condemn him to death for deserting his post, or for not obeying the most desperate orders, can yet, with all his *absolute power* of life and death, dispose of one farthing of that soldier's estate, or seize one jot of his goods; whom yet he can command any thing, and hang for the least disobedience; because such a blind obedience is necessary to that end, for which the commander has his power, *viz.* the preservation of the rest; but the disposing of his goods has nothing to do with it.

§. 140. It is true, governments cannot be supported without great charge, and it is fit every one who enjoys his share of the protection, should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent, *i. e.* the consent of the majority, giving it either by themselves, or their representatives chosen by them: for if any one shall claim a *power to lay* and levy *taxes* on the people, by his own authority, and without such consent of the people, he thereby invades the *fundamental law of property*, and subverts the end of government: for what property have I in that, which another may by right take, when he pleases, to himself?

§. 141. *Fourthly*, The *legislative cannot transfer the power of*

*making laws* to any other hands: for it being but a delegated power from the people, they who have it cannot pass it over to others. The people alone can appoint the form of the common-wealth, which is by constituting the legislative, and appointing in whose hands that shall be. And when the people have said, We will submit to rules, and be governed by *laws* made by such men, and in such forms, no body else can say other men shall make *laws* for them; nor can the people be bound by any *laws*, but such as are enacted by those whom they have chosen, and authorized to make *laws* for them. The power of the *legislative*, being derived from the people by a positive voluntary grant and institution, can be no other than what that positive grant conveyed, which being only to make *laws*, and not to make *legislators*, the *legislative* can have no power to transfer their authority of making laws, and place it in other hands.

§. 142. These are the *bounds* which the trust, that is put in them by the society, and the law of God and nature, have *set to the legislative* power of every common-wealth, in all forms of government.

First, They are to govern by *promulgated established laws*, not to be varied in particular cases, but to have one rule for rich and poor, for the favourite at court, and the country man at plough.

Secondly, These *laws* also ought to be designed for no other end ultimately, but *the good of the people*.

Thirdly, They must *not raise taxes* on the *property of the people*, without the consent of the *people*, given by themselves, or their deputies. And this properly concerns only such governments where the *legislative* is always in being, or at least where the people have not reserved any part of the legislative to deputies, to be from time to time chosen by themselves.

Fourthly, The *legislative* neither must *nor can transfer the power of making laws* to any body else, or place it any where, but where the people have.

## C H A P. X I I.

### *Of the Legislative, Executive, and Federative Power of the Common-wealth.*

§. 143. THE *legislative* power is that, which has a right to *direct how the force of the common-wealth* shall be employed for preserving the community and the members of it. But because those laws