

TWO TREATISES OF GOVERNMENT

BY IOHN LOCKE

SALUS POPULI SUPREMA LEX ESTO

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TWO TREATISES OF GOVERNMENT. IN THE FORMER THE FALSE PRINCIPLES AND FOUNDATION OF SIR ROBERT FILMER AND HIS FOLLOWERS ARE DETECTED AND OVERTHROWN. THE LATTER IS AN ESSAY CONCERNING 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.

PREFACE

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 followed, 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.

Book II

CHAPTER. I.

AN ESSAY CONCERNING THE TRUE ORIGINAL, EXTENT AND END OF
CIVIL
GOVERNMENT

Sect. 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.

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

Sect. 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 commonwealth from foreign injury; and all this only for the public good.

CHAPTER. II.

OF THE STATE OF NATURE.

Sect. 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.

Sect. 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,

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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.

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Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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 commonwealth, 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 require, 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.

Sect, 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.

Sect. 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.

Sect. 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 commonwealth: 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 commonwealths; 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.

Sect. 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.

Sect. 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.

Sect. 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,

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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.

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But I moreover affirm, that all men are naturally in that state, and remain 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.

CHAPTER. III.

OF THE STATE OF WAR.

Sect. 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.

Sect. 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 commonwealth, must be supposed to design to take away from them every thing else, and so be looked on as in a state of war.

Sect. 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.

Sect. 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.

Sect. 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 wherever 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; wherever 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.

Sect. 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.

CHAPTER. IV.

OF SLAVERY.

Sect. 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 commonwealth; 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.

Sect. 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.

Sect. 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.

CHAPTER. V.

OF PROPERTY.

Sect. 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.

Sect. 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 enclosure, 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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
enclosure 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.

Sect. 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 contentious. 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.

Sect. 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 enclosure, 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.

Sect. 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 inland, 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.

Sect. 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.

Sect. 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 enclosure rotted on the ground, or the fruit of his planting perished without gathering, and laying up, this part of the earth, notwithstanding his enclosure, 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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 5l. 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
dugged 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.

Sect. 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.

Sect. 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.

Sect. 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 uselesly 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 uselesly 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 uselesly in it.

Sect. 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.

Sect. 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, wholesome 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 enclosing, 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.

Sect. 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.

Sect. 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.

Sect. 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 encroachment 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.

CHAPTER. VI.

OF PATERNAL POWER.

Sect. 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.

Sect. 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 power of parents; which, however it might, without any great harshness, bear the name of absolute dominion, and regal authority, when under the title of paternal power it seemed appropriated to the father, would yet have founded but oddly, and in the very name shewn the absurdity, if this supposed absolute power over children had been called parental; and thereby have discovered, that it belonged to the mother too: for it will but very ill serve the turn of those men, who contend so much for the absolute power and authority of the fatherhood, as they call it, that the mother should have any share in it; and it would have but ill supported the monarchy they contend for, when by the very name it appeared, that that fundamental authority, from whence they would derive their government of a single person only, was not placed in one, but two persons jointly. But to let this of names pass.

Sect. 54. Though I have said above, Chap. II. That all men by nature are equal, I cannot be supposed to understand all sorts of equality: age or virtue may give men a just precedency: excellency of parts and merit may place others above the common level: birth may subject some, and alliance or benefits others, to pay an observance to those to whom nature, gratitude, or other respects, may have made it due: and yet all

this consists with the equality, which all men are in,
in respect of
jurisdiction or dominion one over another; which was the
equality I
there spoke of, as proper to the business in hand, being
that equal
right, that every man hath, to his natural freedom,
without being
subjected to the will or authority of any other man.

Sect. 55. Children, I confess, are not born in this full
state of
equality, though they are born to it. Their parents have
a sort of rule
and jurisdiction over them, when they come into the
world, and for some
time after; but it is but a temporary one. The bonds of
this subjection
are like the swaddling clothes they art wrapt up in, and
supported by,
in the weakness of their infancy: age and reason as they
grow up, loosen
them, till at length they drop quite off, and leave a
man at his own
free disposal.

Sect. 56. Adam was created a perfect man, his body and
mind in full
possession of their strength and reason, and so was
capable, from the
first instant of his being to provide for his own
support and
preservation, and govern his actions according to the
dictates of the
law of reason which God had implanted in him. From him
the world is
peopled with his descendants, who are all born infants,
weak and
helpless, without knowledge or understanding: but to
supply the defects
of this imperfect state, till the improvement of growth
and age hath
removed them, Adam and Eve, and after them all parents
were, by the law
of nature, under an obligation to preserve, nourish, and

educate the children they had begotten; not as their own workmanship, but the workmanship of their own maker, the Almighty, to whom they were to be accountable for them.

Sect. 57. The law, that was to govern Adam, was the same that was to govern all his posterity, the law of reason. But his offspring having another way of entrance into the world, different from him, by a natural birth, that produced them ignorant and without the use of reason, they were not presently under that law; for no body can be under a law, which is not promulgated to him; and this law being promulgated or made known by reason only, he that is not come to the use of his reason, cannot be said to be under this law; and Adam's children, being not presently as soon as born under this law of reason, were not presently free: for law, in its true notion, is not so much the limitation as the direction of a free and intelligent agent to his proper interest, and prescribes no farther than is for the general good of those under that law: could they be happier without it, the law, as an useless thing, would of itself vanish; and that ill deserves the name of confinement which hedges us in only from bogs and precipices. So that, however it may be mistaken, the end of law is not to abolish or restrain, but to preserve and enlarge freedom: for in all the states of created beings capable of laws, where there is no law, there is no freedom: for liberty is, to be free from restraint and violence from others; which cannot be, where there is no

law: but freedom is not, as we are told, a liberty for every man to do what he lists: (for who could be free, when every other man's humour might domineer over him?) but a liberty to dispose, and order as he lists, his person, actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be subject to the arbitrary will of another, but freely follow his own.

Sect. 58. The power, then, that parents have over their children, arises from that duty which is incumbent on them, to take care of their off-spring, during the imperfect state of childhood. To inform the mind, and govern the actions of their yet ignorant nonage, till reason shall take its place, and ease them of that trouble, is what the children want, and the parents are bound to: for God having given man an understanding to direct his actions, has allowed him a freedom of will, and liberty of acting, as properly belonging thereunto, within the bounds of that law he is under. But whilst he is in an estate, wherein he has not understanding of his own to direct his will, he is not to have any will of his own to follow: he that understands for him, must will for him too; he must prescribe to his will, and regulate his actions; but when he comes to the estate that made his father a freeman, the son is a freeman too.

Sect. 59. This holds in all the laws a man is under, whether natural or civil. Is a man under the law of nature? What made him free of that law?

what gave him a free disposing of his property,
according to his own
will, within the compass of that law? I answer, a state
of maturity
wherein he might be supposed capable to know that law,
that so he might
keep his actions within the bounds of it. When he has
acquired that
state, he is presumed to know how far that law is to be
his guide, and
how far he may make use of his freedom, and so comes to
have it; till
then, some body else must guide him, who is presumed to
know how far the
law allows a liberty. If such a state of reason, such an
age of
discretion made him free, the same shall make his son
free too. Is a man
under the law of England? What made him free of that
law? that is, to
have the liberty to dispose of his actions and
possessions according to
his own will, within the permission of that law? A
capacity of knowing
that law; which is supposed by that law, at the age of
one and twenty
years, and in some cases sooner. If this made the father
free, it shall
make the son free too. Till then we see the law allows
the son to have
no will, but he is to be guided by the will of his
father or guardian,
who is to understand for him. And if the father die, and
fail to
substitute a deputy in his trust; if he hath not
provided a tutor, to
govern his son, during his minority, during his want of
understanding,
the law takes care to do it; some other must govern him,
and be a will
to him, till he hath attained to a state of freedom, and
his
understanding be fit to take the government of his will.
But after that,
the father and son are equally free as much as tutor and

pupil after
nonage; equally subjects of the same law together,
without any dominion
left in the father over the life, liberty, or estate of
his son, whether
they be only in the state and under the law of nature,
or under the
positive laws of an established government.

Sect. 60. But if, through defects that may happen out of
the ordinary
course of nature, any one comes not to such a degree of
reason, wherein
he might be supposed capable of knowing the law, and so
living within
the rules of it, he is never capable of being a free
man, he is never
let loose to the dispose of his own will (because he
knows no bounds
to it, has not understanding, its proper guide) but is
continued under
the tuition and government of others, all the time his
own understanding
is incapable of that charge. And so lunatics and ideots
are never set
free from the government of their parents;

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children, who are not as yet come unto those years
whereat they may
have; and innocents which are excluded by a natural
defect from
ever having; thirdly, madmen, which for the present
cannot possibly
have the use of right reason to guide themselves,
have for their
guide, the reason that guideth other men which are
tutors over
them, to seek and procure their good for them,

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says Hooker, Eccl. Pol. lib. i. sec. 7. All which seems
no more than
that duty, which God and nature has laid on man, as well
as other

creatures, to preserve their offspring, till they can be able to shift for themselves, and will scarce amount to an instance or proof of parents regal authority.

Sect. 61. Thus we are born free, as we are born rational; not that we have actually the exercise of either: age, that brings one, brings with it the other too. And thus we see how natural freedom and subjection to parents may consist together, and are both founded on the same principle. A child is free by his father's title, by his father's understanding, which is to govern him till he hath it of his own. The freedom of a man at years of discretion, and the subjection of a child to his parents, whilst yet short of that age, are so consistent, and so distinguishable, that the most blinded contenders for monarchy, by right of fatherhood, cannot miss this difference; the most obstinate cannot but allow their consistency: for were their doctrine all true, were the right heir of Adam now known, and by that title settled a monarch in his throne, invested with all the absolute unlimited power Sir Robert Filmer talks of; if he should die as soon as his heir were born, must not the child, notwithstanding he were never so free, never so much sovereign, be in subjection to his mother and nurse, to tutors and governors, till age and education brought him reason and ability to govern himself and others? The necessities of his life, the health of his body, and the information of his mind, would require him to be directed by the will of others, and not his own; and yet will any one think,

that this restraint
and subjection were inconsistent with, or spoiled him of
that liberty or
sovereignty he had a right to, or gave away his empire
to those who had
the government of his nonage? This government over him
only prepared him
the better and sooner for it. If any body should ask me,
when my son is
of age to be free? I shall answer, just when his monarch
is of age to
govern. But at what time, says the judicious Hooker,
Eccl. Pol. l. i.
sect. 6. a man may be said to have attained so far forth
the use of
reason, as sufficeth to make him capable of those laws
whereby he is
then bound to guide his actions: this is a great deal
more easy for
sense to discern, than for any one by skill and learning
to determine.

Sect. 62. Common-wealths themselves take notice of, and
allow, that
there is a time when men are to begin to act like free
men, and
therefore till that time require not oaths of fealty, or
allegiance, or
other public owning of, or submission to the government
of their
countries.

Sect. 63. The freedom then of man, and liberty of acting
according to
his own will, is grounded on his having reason, which is
able to
instruct him in that law he is to govern himself by, and
make him know
how far he is left to the freedom of his own will. To
turn him loose to
an unrestrained liberty, before he has reason to guide
him, is not the
allowing him the privilege of his nature to be free; but
to thrust him
out amongst brutes, and abandon him to a state as

wretched, and as much
beneath that of a man, as their's. This is that which
puts the authority
into the parents hands to govern the minority of their
children. God
hath made it their business to employ this care on their
offspring, and
hath placed in them suitable inclinations of tenderness
and concern to
temper this power, to apply it, as his wisdom designed
it, to the
children's good, as long as they should need to be under
it.

Sect. 64. But what reason can hence advance this care of
the parents due
to their off-spring into an absolute arbitrary dominion
of the father,
whose power reaches no farther, than by such a
discipline, as he finds
most effectual, to give such strength and health to
their bodies, such
vigour and rectitude to their minds, as may best fit his
children to be
most useful to themselves and others; and, if it be
necessary to his
condition, to make them work, when they are able, for
their own
subsistence. But in this power the mother too has her
share with the
father.

Sect. 65. Nay, this power so little belongs to the
father by any
peculiar right of nature, but only as he is guardian of
his children,
that when he quits his care of them, he loses his power
over them, which
goes along with their nourishment and education, to
which it is
inseparably annexed; and it belongs as much to the
foster-father of an
exposed child, as to the natural father of another. So
little power does
the bare act of begetting give a man over his issue; if

all his care
ends there, and this be all the title he hath to the
name and authority
of a father. And what will become of this paternal power
in that part of
the world, where one woman hath more than one husband at
a time? or in
those parts of America, where, when the husband and wife
part, which
happens frequently, the children are all left to the
mother, follow her,
and are wholly under her care and provision? If the
father die whilst
the children are young, do they not naturally every
where owe the same
obedience to their mother, during their minority, as to
their father
were he alive? and will any one say, that the mother
hath a legislative
power over her children? that she can make standing
rules, which shall
be of perpetual obligation, by which they ought to
regulate all the
concerns of their property, and bound their liberty all
the course of
their lives? or can she enforce the observation of them
with capital
punishments? for this is the proper power of the
magistrate, of which
the father hath not so much as the shadow. His command
over his children
is but temporary, and reaches not their life or
property: it is but a
help to the weakness and imperfection of their nonage, a
discipline
necessary to their education: and though a father may
dispose of his own
possessions as he pleases, when his children are out of
danger of
perishing for want, yet his power extends not to the
lives or goods,
which either their own industry, or another's bounty has
made their's;
nor to their liberty neither, when they are once arrived
to the

infranchisement of the years of discretion. The father's empire then ceases, and he can from thence forwards no more dispose of the liberty of his son, than that of any other man: and it must be far from an absolute or perpetual jurisdiction, from which a man may withdraw himself, having license from divine authority to leave father and mother, and cleave to his wife.

Sect. 66. But though there be a time when a child comes to be as free from subjection to the will and command of his father, as the father himself is free from subjection to the will of any body else, and they are each under no other restraint, but that which is common to them both, whether it be the law of nature, or municipal law of their country; yet this freedom exempts not a son from that honour which he ought, by the law of God and nature, to pay his parents. God having made the parents instruments in his great design of continuing the race of mankind, and the occasions of life to their children; as he hath laid on them an obligation to nourish, preserve, and bring up their offspring; so he has laid on the children a perpetual obligation of honouring their parents, which containing in it an inward esteem and reverence to be shewn by all outward expressions, ties up the child from any thing that may ever injure or affront, disturb or endanger, the happiness or life of those from whom he received his; and engages him in all actions of defence, relief, assistance and comfort of those, by whose means he entered into being, and has been made capable of any

enjoyments of life:
from this obligation no state, no freedom can absolve
children. But this
is very far from giving parents a power of command over
their children,
or an authority to make laws and dispose as they please
of their lives
or liberties. It is one thing to owe honour, respect,
gratitude and
assistance; another to require an absolute obedience and
submission. The
honour due to parents, a monarch in his throne owes his
mother; and yet
this lessens not his authority, nor subjects him to her
government.

Sect. 67. The subjection of a minor places in the father
a temporary
government, which terminates with the minority of the
child: and the
honour due from a child, places in the parents a
perpetual right to
respect, reverence, support and compliance too, more or
less, as the
father's care, cost, and kindness in his education, has
been more or
less. This ends not with minority, but holds in all
parts and conditions
of a man's life. The want of distinguishing these two
powers, viz. that
which the father hath in the right of tuition, during
minority, and the
right of honour all his life, may perhaps have caused a
great part of
the mistakes about this matter: for to speak properly of
them, the first
of these is rather the privilege of children, and duty
of parents, than
any prerogative of paternal power. The nourishment and
education of
their children is a charge so incumbent on parents for
their children's
good, that nothing can absolve them from taking care of
it: and though
the power of commanding and chastising them go along

with it, yet God hath woven into the principles of human nature such a tenderness for their off-spring, that there is little fear that parents should use their power with too much rigour; the excess is seldom on the severe side, the strong byass of nature drawing the other way. And therefore God almighty when he would express his gentle dealing with the Israelites, he tells them, that though he chastened them, he chastened them as a man chastens his son, Deut. viii. 5. i.e. with tenderness and affection, and kept them under no severer discipline than what was absolutely best for them, and had been less kindness to have slackened. This is that power to which children are commanded obedience, that the pains and care of their parents may not be increased, or ill rewarded.

Sect. 68. On the other side, honour and support, all that which gratitude requires to return for the benefits received by and from them, is the indispensable duty of the child, and the proper privilege of the parents. This is intended for the parents advantage, as the other is for the child's; though education, the parents duty, seems to have most power, because the ignorance and infirmities of childhood stand in need of restraint and correction; which is a visible exercise of rule, and a kind of dominion. And that duty which is comprehended in the word honour, requires less obedience, though the obligation be stronger on grown, than younger children: for who can think the command, Children obey your parents, requires in a man, that has children

of his own, the same submission to his father, as it does in his yet young children to him; and that by this precept he were bound to obey all his father's commands, if, out of a conceit of authority, he should have the indiscretion to treat him still as a boy?

Sect. 69. The first part then of paternal power, or rather duty, which is education, belongs so to the father, that it terminates at a certain season; when the business of education is over, it ceases of itself, and is also alienable before: for a man may put the tuition of his son in other hands; and he that has made his son an apprentice to another, has discharged him, during that time, of a great part of his obedience both to himself and to his mother. But all the duty of honour, the other part, remains never the less entire to them; nothing can cancel that: it is so inseparable from them both, that the father's authority cannot dispossess the mother of this right, nor can any man discharge his son from honouring her that bore him. But both these are very far from a power to make laws, and enforcing them with penalties, that may reach estate, liberty, limbs and life. The power of commanding ends with nonage; and though, after that, honour and respect, support and defence, and whatsoever gratitude can oblige a man to, for the highest benefits he is naturally capable of, be always due from a son to his parents; yet all this puts no scepter into the father's hand, no sovereign power of commanding. He has no dominion over his son's property, or actions; nor

any right, that his will should prescribe to his son's in all things; however it may become his son in many things, not very inconvenient to him and his family, to pay a deference to it.

Sect. 70. A man may owe honour and respect to an ancient, or wise man; defence to his child or friend; relief and support to the distressed; and gratitude to a benefactor, to such a degree, that all he has, all he can do, cannot sufficiently pay it: but all these give no authority, no right to any one, of making laws over him from whom they are owing. And it is plain, all this is due not only to the bare title of father; not only because, as has been said, it is owing to the mother too; but because these obligations to parents, and the degrees of what is required of children, may be varied by the different care and kindness, trouble and expence, which is often employed upon one child more than another.

Sect. 71. This shews the reason how it comes to pass, that parents in societies, where they themselves are subjects, retain a power over their children, and have as much right to their subjection, as those who are in the state of nature. Which could not possibly be, if all political power were only paternal, and that in truth they were one and the same thing: for then, all paternal power being in the prince, the subject could naturally have none of it. But these two powers, political and paternal, are so perfectly distinct and separate; are built upon so different foundations, and given to so different ends,

that every
subject that is a father, has as much a paternal power
over his
children, as the prince has over his: and every prince,
that has
parents, owes them as much filial duty and obedience, as
the meanest of
his subjects do to their's; and can therefore contain
not any part or
degree of that kind of dominion, which a prince or
magistrate has over
his subject.

Sect. 72. Though the obligation on the parents to bring
up their
children, and the obligation on children to honour their
parents,
contain all the power on the one hand, and submission on
the other,
which are proper to this relation, yet there is another
power ordinarily
in the father, whereby he has a tie on the obedience of
his children;
which tho' it be common to him with other men, yet the
occasions of
shewing it, almost consich tho' it be common to him with
other men, yet
the occasions of shewing it, almost constantly happening
to fathers in
their private families, and the instances of it
elsewhere being rare,
and less taken notice of, it passes in the world for a
part of paternal
jurisdiction. And this is the power men generally have
to bestow their
estates on those who please them best; the possession of
the father
being the expectation and inheritance of the children,
ordinarily in
certain proportions, according to the law and custom of
each country;
yet it is commonly in the father's power to bestow it
with a more
sparing or liberal hand, according as the behaviour of
this or that

child hath comported with his will and humour.

Sect. 73. This is no small tie on the obedience of children: and there being always annexed to the enjoyment of land, a submission to the government of the country, of which that land is a part; it has been commonly supposed, that a father could oblige his posterity to that government, of which he himself was a subject, and that his compact held them; whereas, it being only a necessary condition annexed to the land, and the inheritance of an estate which is under that government, reaches only those who will take it on that condition, and so is no natural tie or engagement, but a voluntary submission: for every man's children being by nature as free as himself, or any of his ancestors ever were, may, whilst they are in that freedom, choose what society they will join themselves to, what commonwealth they will put themselves under. But if they will enjoy the inheritance of their ancestors, they must take it on the same terms their ancestors had it, and submit to all the conditions annexed to such a possession. By this power indeed fathers oblige their children to obedience to themselves, even when they are past minority, and most commonly too subject them to this or that political power: but neither of these by any peculiar right of fatherhood, but by the reward they have in their hands to enforce and recompence such a compliance; and is no more power than what a French man has over an English man, who by the hopes of an estate he will leave him, will certainly have a strong tie on his obedience: and if, when it is left

him, he will enjoy
it, he must certainly take it upon the conditions
annexed to the
possession of land in that country where it lies,
whether it be France
or England.

Sect. 74. To conclude then, tho' the father's power of
commanding
extends no farther than the minority of his children,
and to a degree
only fit for the discipline and government of that age;
and tho' that
honour and respect, and all that which the Latins called
piety, which
they indispensably owe to their parents all their life-
time, and in all
estates, with all that support and defence is due to
them, gives the
father no power of governing, i.e. making laws and
enacting penalties on
his children; though by all this he has no dominion over
the property or
actions of his son: yet it is obvious to conceive how
easy it was, in
the first ages of the world, and in places still, where
the thinness of
people gives families leave to separate into unpossessed
quarters, and
they have room to remove or plant themselves in yet
vacant habitations,
for the father of the family to become the prince of
it;* he had been a
ruler from the beginning of the infancy of his children:
and since
without some government it would be hard for them to
live together, it
was likeliest it should, by the express or tacit consent
of the children
when they were grown up, be in the father, where it
seemed without any
change barely to continue; when indeed nothing more was
required to it,
than the permitting the father to exercise alone, in his
family, that

executive power of the law of nature, which every free man naturally hath, and by that permission resigning up to him a monarchical power, whilst they remained in it. But that this was not by any paternal right, but only by the consent of his children, is evident from hence, that no body doubts, but if a stranger, whom chance or business had brought to his family, had there killed any of his children, or committed any other fact, he might condemn and put him to death, or otherwise have punished him, as well as any of his children; which it was impossible he should do by virtue of any paternal authority over one who was not his child, but by virtue of that executive power of the law of nature, which, as a man, he had a right to: and he alone could punish him in his family, where the respect of his children had laid by the exercise of such a power, to give way to the dignity and authority they were willing should remain in him, above the rest of his family.

(*It is no improbable opinion therefore, which the archphilosopher was of, that the chief person in every household was always, as it were, a king: so when numbers of households joined themselves in civil societies together, kings were the first kind of governors amongst them, which is also, as it seemeth, the reason why the name of fathers continued still in them, who, of fathers, were made rulers; as also the ancient custom of governors to do as Melchizedec, and being kings, to exercise the office of priests, which fathers did at the first, grew perhaps by the same occasion. Howbeit, this is not the only kind of

regiment that has
been received in the world. The inconveniences of one
kind have caused
sundry others to be devised; so that in a word, all
public regiment, of
what kind soever, seemeth evidently to have risen from
the deliberate
advice, consultation and composition between men,
judging it convenient
and behoveful; there being no impossibility in nature
considered by
itself, but that man might have lived without any public
regiment,
Hooker's Eccl. Pol. lib. i. sect. 10.)

Sect. 75. Thus it was easy, and almost natural for
children, by a tacit,
and scarce avoidable consent, to make way for the
father's authority and
government. They had been accustomed in their childhood
to follow his
direction, and to refer their little differences to him,
and when they
were men, who fitter to rule them? Their little
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.

Sect. 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.

CHAPTER. VII.

OF POLITICAL OR CIVIL SOCIETY.

Sect. 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.

Sect. 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.

Sect. 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 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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
commonwealth, 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.

Sect. 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.

Sect. 88. And thus the commonwealth 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 commonwealth, 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 commonwealth to
employ his
force, for the execution of the judgments of the
commonwealth, 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 commonwealth; 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.

Sect. 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 commonwealth, 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 commonwealth; which judge is the legislative, or magistrates appointed by it. And wherever 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.

Sect. 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.

(*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 enforce, that the law of reason, or of God, doth enjoin the contrary, Hook. Eccl. Pol. 1. i. sect. 16.)

Sect. 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 therest 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.

(*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. 1.
i. sect. 10.)

Sect. 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 see.

Sect. 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.

Sect. 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.)

CHAPTER. VIII.

OF THE BEGINNING OF POLITICAL SOCIETIES.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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 commonwealth, 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.

Sect. 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 expresly 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 commonwealth. 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.

Sect. 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.

Sect. 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 commonwealths 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.

Sect. 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 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
commonwealths, 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.

Sect. 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 commonwealth. 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.

Sect. 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.

Sect. 105. I will not deny, that if we look back as far as history will direct us, towards the original of commonwealths, 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 uncapable, they pass him by, and set up the stoutest and bravest man for their ruler.

Sect. 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 commonwealths, 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.

Sect. 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.

Sect. 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.

Sect. 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 lephtha. The Ammonites making war upon Israel, the Gileadites in fear send to lephtha, 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, ii. 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 lotham 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 reddest 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.

Sect. 110. Thus, whether a family by degrees grew up into a commonwealth, 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 commonwealths 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 commonwealths, 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.

Sect. 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.

(*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.)

Sect. 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 lure 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 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.

Sect. 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.

Sect. 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.

Sect. 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 commonwealths 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 commonwealths and other governments, as they thought fit.

Sect. 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 commonwealth, 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.

Sect. 117. And this has generally given the occasion to mistake in this matter; because commonwealths 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 commonwealth. 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.

Sect. 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 commonwealths.

Sect. 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.

Sect. 120. To understand this the better, it is fit to consider, that every man, when he at first incorporates himself into any commonwealth, 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 commonwealth, 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 commonwealth, 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 commonwealth, must take it with the condition it is under; that is, of submitting to the government of the commonwealth, under whose jurisdiction it is, as far forth as any subject of it.

Sect. 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 commonwealth; 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 commonwealth, is perpetually and indispensably 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.

Sect. 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 commonwealth, 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 commonwealth. 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 commonwealth.

CHAPTER. IX.

OF THE ENDS OF POLITICAL SOCIETY AND GOVERNMENT.

Sect. 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.

Sect. 124. The great and chief end, therefore, of men's uniting into commonwealths, 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.

Sect. 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.

Sect. 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.

Sect. 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.

Sect. 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 commonwealth, separate from the rest of mankind.

Sect. 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.

Sect. 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.

Sect. 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 commonwealth, 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.

CHAPTER. X.

OF THE FORMS OF A COMMON-WEALTH.

Sect. 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 commonwealth.

Sect. 133. By commonwealth, 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 commonwealth, 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 commonwealth: and therefore, to avoid ambiguity, I crave leave to use the word commonwealth 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.

CHAPTER. XI.

OF THE EXTENT OF THE LEGISLATIVE POWER.

Sect. 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 commonwealths 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 commonwealth, 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.

(*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 such 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.)

Sect. 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 commonwealth; 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 commonwealth, and by it to the 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 enforce 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.

(*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, expresly 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.)

Sect. 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 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.

(*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.)

Sect. 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 commonwealth 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.

Sect. 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 commonwealth, 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.

Sect. 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 commonwealth, 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.

Sect. 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?

Sect. 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 commonwealth, 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.

Sect. 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 commonwealth, 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.

CHAPTER. XII.

OF THE LEGISLATIVE, EXECUTIVE, AND FEDERATIVE POWER OF THE COMMON-WEALTH.

Sect. 143. THE legislative power is that, which has a right to direct how the force of the commonwealth shall be employed for preserving the community and the members of it. But because those laws which are constantly to be executed, and whose force is always to continue, may be made in a little time; therefore there is no need, that the legislative should be always in being, not having always business to do. And because it may be too great a temptation to human frailty, apt to grasp at power, for the same persons, who have the power of making laws, to have also in their hands the power to execute them, whereby they may exempt themselves from obedience to the laws they make, and suit the law, both in its making, and execution, to their own private advantage, and thereby come to have a distinct interest from the rest of the community, contrary to the end of society and government: therefore in wellordered commonwealths, where the good of the whole is so considered, as it ought, the legislative power is put into the hands of divers persons, who duly assembled, have by themselves, or jointly with

others, a power
to make laws, which when they have done, being separated
again, they are
themselves subject to the laws they have made; which is
a new and near
tie upon them, to take care, that they make them for the
public good.

Sect. 144. But because the laws, that are at once, and
in a short time
made, have a constant and lasting force, and need a
perpetual execution,
or an attendance thereunto; therefore it is necessary
there should be a
power always in being, which should see to the execution
of the laws
that are made, and remain in force. And thus the
legislative and
executive power come often to be separated.

Sect. 145. There is another power in every commonwealth,
which one may
call natural, because it is that which answers to the
power every man
naturally had before he entered into society: for though
in a
commonwealth the members of it are distinct persons
still in reference
to one another, and as such as governed by the laws of
the society; yet
in reference to the rest of mankind, they make one body,
which is, as
every member of it before was, still in the state of
nature with the
rest of mankind. Hence it is, that the controversies
that happen between
any man of the society with those that are out of it,
are managed by the
public; and an injury done to a member of their body,
engages the whole
in the reparation of it. So that under this
consideration, the whole
community is one body in the state of nature, in respect
of all other
states or persons out of its community.

Sect. 146. This therefore contains the power of war and peace, leagues and alliances, and all the transactions, with all persons and communities without the commonwealth, and may be called federative, if any one pleases. So the thing be understood, I am indifferent as to the name.

Sect. 147. These two powers, executive and federative, though they be really distinct in themselves, yet one comprehending the execution of the municipal laws of the society within its self, upon all that are parts of it; the other the management of the security and interest of the public without, with all those that it may receive benefit or damage from, yet they are always almost united. And though this federative power in the well or ill management of it be of great moment to the commonwealth, yet it is much less capable to be directed by antecedent, standing, positive laws, than the executive; and so must necessarily be left to the prudence and wisdom of those, whose hands it is in, to be managed for the public good: for the laws that concern subjects one amongst another, being to direct their actions, may well enough precede them. But what is to be done in reference to foreigners, depending much upon their actions, and the variation of designs and interests, must be left in great part to the prudence of those, who have this power committed to them, to be managed by the best of their skill, for the advantage of the commonwealth.

Sect. 148. Though, as I said, the executive and federative power of every community be really distinct in themselves, yet they are hardly to be separated, and placed at the same time, in the hands of distinct persons: for both of them requiring the force of the society for their exercise, it is almost impracticable to place the force of the commonwealth in distinct, and not subordinate hands; or that the executive and federative power should be placed in persons, that might act separately, whereby the force of the public would be under different commands: which would be apt some time or other to cause disorder and ruin.

CHAPTER. XIII.

OF THE SUBORDINATION OF THE POWERS OF THE COMMON-WEALTH.

Sect. 149. THOUGH in a constituted commonwealth, standing upon its own basis, and acting according to its own nature, that is, acting for the preservation of the community, there can be but one supreme power, which is the legislative, to which all the rest are and must be subordinate, yet the legislative being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them: for all power given with trust for the attaining an end, being limited by that end, whenever

that end is manifestly neglected, or opposed, the trust must necessarily be forfeited, and the power devolve into the hands of those that gave it, who may place it anew where they shall think best for their safety and security. And thus the community perpetually retains a supreme power of saving themselves from the attempts and designs of any body, even of their legislators, whenever they shall be so foolish, or so wicked, as to lay and carry on designs against the liberties and properties of the subject: for no man or society of men, having a power to deliver up their preservation, or consequently the means of it, to the absolute will and arbitrary dominion of another; when ever any one shall go about to bring them into such a slavish condition, they will always have a right to preserve, what they have not a power to part with; and to rid themselves of those, who invade this fundamental, sacred, and unalterable law of self-preservation, for which they entered into society. And thus the community may be said in this respect to be always the supreme power, but not as considered under any form of government, because this power of the people can never take place till the government be dissolved.

Sect. 150. In all cases, whilst the government subsists, the legislative is the supreme power: for what can give laws to another, must needs be superior to him; and since the legislative is no otherwise legislative of the society, but by the right it has to make laws for all the parts,

and for every member of the society, prescribing rules to their actions, and giving power of execution, where they are transgressed, the legislative must needs be the supreme, and all other powers, in any members or parts of the society, derived from and subordinate to it.

Sect. 151. In some commonwealths, where the legislative is not always in being, and the executive is vested in a single person, who has also a share in the legislative; there that single person in a very tolerable sense may also be called supreme: not that he has in himself all the supreme power, which is that of law-making; but because he has in him the supreme execution, from whom all inferior magistrates derive all their several subordinate powers, or at least the greatest part of them: having also no legislative superior to him, there being no law to be made without his consent, which cannot be expected should ever subject him to the other part of the legislative, he is properly enough in this sense supreme. But yet it is to be observed, that tho' oaths of allegiance and fealty are taken to him, it is not to him as supreme legislator, but as supreme executor of the law, made by a joint power of him with others; allegiance being nothing but an obedience according to law, which when he violates, he has no right to obedience, nor can claim it otherwise than as the public person vested with the power of the law, and so is to be considered as the image, phantom, or representative of the commonwealth, acted by the will of the society, declared in its

laws; and thus he has no will, no power, but that of the law. But when he quits this representation, this public will, and acts by his own private will, he degrades himself, and is but a single private person without power, and without will, that has any right to obedience; the members owing no obedience but to the public will of the society.

Sect. 152. The executive power, placed any where but in a person that has also a share in the legislative, is visibly subordinate and accountable to it, and may be at pleasure changed and displaced; so that it is not the supreme executive power, that is exempt from subordination, but the supreme executive power vested in one, who having a share in the legislative, has no distinct superior legislative to be subordinate and accountable to, farther than he himself shall join and consent; so that he is no more subordinate than he himself shall think fit, which one may certainly conclude will be but very little. Of other ministerial and subordinate powers in a commonwealth, we need not speak, they being so multiplied with infinite variety, in the different customs and constitutions of distinct commonwealths, that it is impossible to give a particular account of them all. Only thus much, which is necessary to our present purpose, we may take notice of concerning them, that they have no manner of authority, any of them, beyond what is by positive grant and commission delegated to them, and are all of them accountable to some other power in the commonwealth.

Sect. 153. It is not necessary, no, nor so much as convenient, that the legislative should be always in being; but absolutely necessary that the executive power should, because there is not always need of new laws to be made, but always need of execution of the laws that are made. When the legislative hath put the execution of the laws, they make, into other hands, they have a power still to resume it out of those hands, when they find cause, and to punish for any maladministration against the laws. The same holds also in regard of the federative power, that and the executive being both ministerial and subordinate to the legislative, which, as has been shewed, in a constituted commonwealth is the supreme. The legislative also in this case being supposed to consist of several persons, (for if it be a single person, it cannot but be always in being, and so will, as supreme, naturally have the supreme executive power, together with the legislative) may assemble, and exercise their legislature, at the times that either their original constitution, or their own adjournment, appoints, or when they please; if neither of these hath appointed any time, or there be no other way prescribed to convoke them: for the supreme power being placed in them by the people, it is always in them, and they may exercise it when they please, unless by their original constitution they are limited to certain seasons, or by an act of their supreme power they have adjourned to a certain time; and when that time comes, they have a right to assemble and act again.

Sect. 154. If the legislative, or any part of it, be made up of representatives chosen for that time by the people, which afterwards return into the ordinary state of subjects, and have no share in the legislature but upon a new choice, this power of chusing must also be exercised by the people, either at certain appointed seasons, or else when they are summoned to it; and in this latter case the power of convoking the legislative is ordinarily placed in the executive, and has one of these two limitations in respect of time: that either the original constitution requires their assembling and acting at certain intervals, and then the executive power does nothing but ministerially issue directions for their electing and assembling, according to due forms; or else it is left to his prudence to call them by new elections, when the occasions or exigencies of the public require the amendment of old, or making of new laws, or the redress or prevention of any inconveniencies, that lie on, or threaten the people.

Sect. 155. It may be demanded here, What if the executive power, being possessed of the force of the commonwealth, shall make use of that force to hinder the meeting and acting of the legislative, when the original constitution, or the public exigencies require it? I say, using force upon the people without authority, and contrary to the trust put in him that does so, is a state of war with the people, who have a right to reinstate their legislative in the exercise of their power: for

having erected a legislative, with an intent they should exercise the power of making laws, either at certain set times, or when there is need of it, when they are hindered by any force from what is so necessary to the society, and wherein the safety and preservation of the people consists, the people have a right to remove it by force. In all states and conditions, the true remedy of force without authority, is to oppose force to it. The use of force without authority, always puts him that uses it into a state of war, as the aggressor, and renders him liable to be treated accordingly.

Sect. 156. The power of assembling and dismissing the legislative, placed in the executive, gives not the executive a superiority over it, but is a fiduciary trust placed in him, for the safety of the people, in a case where the uncertainty and variableness of human affairs could not bear a steady fixed rule: for it not being possible, that the first framers of the government should, by any foresight, be so much masters of future events, as to be able to prefix so just periods of return and duration to the assemblies of the legislative, in all times to come, that might exactly answer all the exigencies of the commonwealth; the best remedy could be found for this defect, was to trust this to the prudence of one who was always to be present, and whose business it was to watch over the public good. Constant frequent meetings of the legislative, and long continuations of their assemblies, without necessary occasion, could not but be burdensome to the

people, and must necessarily in time produce more dangerous inconveniencies, and yet the quick turn of affairs might be sometimes such as to need their present help: any delay of their convening might endanger the public; and sometimes too their business might be so great, that the limited time of their sitting might be too short for their work, and rob the public of that benefit which could be had only from their mature deliberation.

What then could be done in this case to prevent the community from being exposed some time or other to eminent hazard, on one side or the other, by fixed intervals and periods, set to the meeting and acting of the legislative, but to intrust it to the prudence of some, who being present, and acquainted with the state of public affairs, might make use of this prerogative for the public good? and where else could this be so well placed as in his hands, who was intrusted with the execution of the laws for the same end? Thus supposing the regulation of times for the assembling and sitting of the legislative, not settled by the original constitution, it naturally fell into the hands of the executive, not as an arbitrary power depending on his good pleasure, but with this trust always to have it exercised only for the public weal, as the occurrences of times and change of affairs might require. Whether settled periods of their convening, or a liberty left to the prince for convoking the legislative, or perhaps a mixture of both, hath the least inconvenience attending it, it is not my business here to inquire, but only to shew,

that though the executive power may have the prerogative
of convoking
and dissolving such conventions of the legislative, yet
it is not
thereby superior to it.

Sect. 157. Things of this world are in so constant a
flux, that nothing
remains long in the same state. Thus people, riches,
trade, power,
change their stations, flourishing mighty cities come to
ruin, and prove
in times neglected desolate corners, whilst other
unfrequented places
grow into populous countries, filled with wealth and
inhabitants. But
things not always changing equally, and private interest
often keeping
up customs and privileges, when the reasons of them are
ceased, it often
comes to pass, that in governments, where part of the
legislative
consists of representatives chosen by the people, that
in tract of time
this representation becomes very unequal and
disproportionate to the
reasons it was at first established upon. To what gross
absurdities the
following of custom, when reason has left it, may lead,
we may be
satisfied, when we see the bare name of a town, of which
there remains
not so much as the ruins, where scarce so much housing
as a sheepcote,
or more inhabitants than a shepherd is to be found,
sends as many
representatives to the grand assembly of law-makers, as
a whole county
numerous in people, and powerful in riches. This
strangers stand amazed
at, and every one must confess needs a remedy; tho' most
think it hard
to find one, because the constitution of the legislative
being the
original and supreme act of the society, antecedent to

all positive laws
in it, and depending wholly on the people, no inferior
power can alter
it. And therefore the people, when the legislative is
once constituted,
having, in such a government as we have been speaking
of, no power to
act as long as the government stands; this inconvenience
is thought
incapable of a remedy.

Sect. 158. *Salus populi suprema lex*, is certainly so
just and
fundamental a rule, that he, who sincerely follows it,
cannot
dangerously err. If therefore the executive, who has the
power of
convoking the legislative, observing rather the true
proportion, than
fashion of representation, regulates, not by old custom,
but true
reason, the number of members, in all places that have a
right to be
distinctly represented, which no part of the people
however incorporated
can pretend to, but in proportion to the assistance
which it affords to
the public, it cannot be judged to have set up a new
legislative, but to
have restored the old and true one, and to have
rectified the disorders
which succession of time had insensibly, as well as
inevitably
introduced: For it being the interest as well as
intention of the
people, to have a fair and equal representative; whoever
brings it
nearest to that, is an undoubted friend to, and
establisher of the
government, and cannot miss the consent and approbation
of the
community; prerogative being nothing but a power, in the
hands of the
prince, to provide for the public good, in such cases,
which depending

upon unforeseen and uncertain occurrences, certain and unalterable laws could not safely direct; whatsoever shall be done manifestly for the good of the people, and the establishing the government upon its true foundations, is, and always will be, just prerogative, The power of erecting new corporations, and therewith new representatives, carries with it a supposition, that in time the measures of representation might vary, and those places have a just right to be represented which before had none; and by the same reason, those cease to have a right, and be too inconsiderable for such a privilege, which before had it. 'Tis not a change from the present state, which perhaps corruption or decay has introduced, that makes an inroad upon the government, but the tendency of it to injure or oppress the people, and to set up one part or party, with a distinction from, and an unequal subjection of the rest. Whatsoever cannot but be acknowledged to be of advantage to the society, and people in general, upon just and lasting measures, will always, when done, justify itself; and whenever the people shall chuse their representatives upon just and undeniably equal measures, suitable to the original frame of the government, it cannot be doubted to be the will and act of the society, whoever permitted or caused them so to do.

CHAPTER. XIV.

OF PREROGATIVE.

Sect. 159. WHERE the legislative and executive power are in distinct hands, (as they are in all moderated monarchies, and well-framed governments) there the good of the society requires, that several things should be left to the discretion of him that has the executive power: for the legislators not being able to foresee, and provide by laws, for all that may be useful to the community, the executor of the laws having the power in his hands, has by the common law of nature a right to make use of it for the good of the society, in many cases, where the municipal law has given no direction, till the legislative can conveniently be assembled to provide for it. Many things there are, which the law can by no means provide for; and those must necessarily be left to the discretion of him that has the executive power in his hands, to be ordered by him as the public good and advantage shall require: nay, it is fit that the laws themselves should in some cases give way to the executive power, or rather to this fundamental law of nature and government, viz. That as much as may be, all the members of the society are to be preserved: for since many accidents may happen, wherein a strict and rigid observation of the laws may do harm; (as not to pull down an innocent man's house to stop the fire, when the next to it is burning) and a man may come sometimes within the reach of the law, which makes no distinction of persons, by an action that may deserve reward and pardon; 'tis fit the ruler should have a power, in

many cases, to mitigate the severity of the law, and pardon some offenders: for the end of government being the preservation of all, as much as may be, even the guilty are to be spared, where it can prove no prejudice to the innocent.

Sect. 160. This power to act according to discretion, for the public good, without the prescription of the law, and sometimes even against it, is that which is called prerogative: for since in some governments the lawmaking power is not always in being, and is usually too numerous, and so too slow, for the dispatch requisite to execution; and because also it is impossible to foresee, and so by laws to provide for, all accidents and necessities that may concern the public, or to make such laws as will do no harm, if they are executed with an inflexible rigour, on all occasions, and upon all persons that may come in their way; therefore there is a latitude left to the executive power, to do many things of choice which the laws do not prescribe.

Sect. 161. This power, whilst employed for the benefit of the community, and suitably to the trust and ends of the government, is undoubted prerogative, and never is questioned: for the people are very seldom or never scrupulous or nice in the point; they are far from examining prerogative, whilst it is in any tolerable degree employed for the use it was meant, that is, for the good of the people, and not manifestly against it: but if there comes to be a question between the executive

power and the people, about a thing claimed as a prerogative; the tendency of the exercise of such prerogative to the good or hurt of the people, will easily decide that question.

Sect. 162. It is easy to conceive, that in the infancy of governments, when commonwealths differed little from families in number of people, they differed from them too but little in number of laws: and the governors, being as the fathers of them, watching over them for their good, the government was almost all prerogative. A few established laws served the turn, and the discretion and care of the ruler supplied the rest. But when mistake or flattery prevailed with weak princes to make use of this power for private ends of their own, and not for the public good, the people were fain by express laws to get prerogative determined in those points wherein they found disadvantage from it: and thus declared limitations of prerogative were by the people found necessary in cases which they and their ancestors had left, in the utmost latitude, to the wisdom of those princes who made no other but a right use of it, that is, for the good of their people.

Sect. 163. And therefore they have a very wrong notion of government, who say, that the people have encroached upon the prerogative, when they have got any part of it to be defined by positive laws: for in so doing they have not pulled from the prince any thing that of right belonged to him, but only declared, that that power which they indefinitely left in his or his ancestors hands, to be exercised for their

good, was not a thing which they intended him when he used it otherwise: for the end of government being the good of the community, whatsoever alterations are made in it, tending to that end, cannot be an encroachment upon any body, since no body in government can have a right tending to any other end: and those only are encroachments which prejudice or hinder the public good. Those who say otherwise, speak as if the prince had a distinct and separate interest from the good of the community, and was not made for it; the root and source from which spring almost all those evils and disorders which happen in kingly governments. And indeed, if that be so, the people under his government are not a society of rational creatures, entered into a community for their mutual good; they are not such as have set rulers over themselves, to guard, and promote that good; but are to be looked on as an herd of inferior creatures under the dominion of a master, who keeps them and works them for his own pleasure or profit. If men were so void of reason, and brutish, as to enter into society upon such terms, prerogative might indeed be, what some men would have it, an arbitrary power to do things hurtful to the people.

Sect. 164. But since a rational creature cannot be supposed, when free, to put himself into subjection to another, for his own harm; (though, where he finds a good and wise ruler, he may not perhaps think it either necessary or useful to set precise bounds to his power in all things)

prerogative can be nothing but the people's permitting
their rulers to
do several things, of their own free choice, where the
law was silent,
and sometimes too against the direct letter of the law,
for the public
good; and their acquiescing in it when so done: for as a
good prince,
who is mindful of the trust put into his hands, and
careful of the good
of his people, cannot have too much prerogative, that
is, power to do
good; so a weak and ill prince, who would claim that
power which his
predecessors exercised without the direction of the law,
as a
prerogative belonging to him by right of his office,
which he may
exercise at his pleasure, to make or promote an interest
distinct from
that of the public, gives the people an occasion to
claim their right,
and limit that power, which, whilst it was exercised for
their good,
they were content should be tacitly allowed.

Sect. 165. And therefore he that will look into the
history of England,
will find, that prerogative was always largest in the
hands of our
wisest and best princes; because the people, observing
the whole
tendency of their actions to be the public good,
contested not what was
done without law to that end: or, if any human frailty
or mistake (for
princes are but men, made as others) appeared in some
small declinations
from that end; yet 'twas visible, the main of their
conduct tended to
nothing but the care of the public. The people
therefore, finding reason
to be satisfied with these princes, whenever they acted
without, or
contrary to the letter of the law, acquiesced in what

they did, and,
without the least complaint, let them enlarge their
prerogative as they
pleased, judging rightly, that they did nothing herein
to the prejudice
of their laws, since they acted conformable to the
foundation and end of
all laws, the public good.

Sect. 166. Such god-like princes indeed had some title
to arbitrary
power by that argument, that would prove absolute
monarchy the best
government, as that which God himself governs the
universe by; because
such kings partake of his wisdom and goodness. Upon this
is founded that
saying, That the reigns of good princes have been always
most dangerous
to the liberties of their people: for when their
successors, managing
the government with different thoughts, would draw the
actions of those
good rulers into precedent, and make them the standard
of their
prerogative, as if what had been done only for the good
of the people
was a right in them to do, for the harm of the people,
if they so
pleased; it has often occasioned contest, and sometimes
public
disorders, before the people could recover their
original right, and get
that to be declared not to be prerogative, which truly
was never so;
since it is impossible that any body in the society
should ever have a
right to do the people harm; though it be very possible,
and reasonable,
that the people should not go about to set any bounds to
the prerogative
of those kings, or rulers, who themselves transgressed
not the bounds of
the public good: for prerogative is nothing but the
power of doing

public good without a rule.

Sect. 167. The power of calling parliaments in England, as to precise time, place, and duration, is certainly a prerogative of the king, but still with this trust, that it shall be made use of for the good of the nation, as the exigencies of the times, and variety of occasions, shall require: for it being impossible to foresee which should always be the fittest place for them to assemble in, and what the best season; the choice of these was left with the executive power, as might be most subservient to the public good, and best suit the ends of parliaments.

Sect. 168. The old question will be asked in this matter of prerogative, But who shall be judge when this power is made a right use of one answer: between an executive power in being, with such a prerogative, and a legislative that depends upon his will for their convening, there can be no judge on earth; as there can be none between the legislative and the people, should either the executive, or the legislative, when they have got the power in their hands, design, or go about to enslave or destroy them. The people have no other remedy in this, as in all other cases where they have no judge on earth, but to appeal to heaven: for the rulers, in such attempts, exercising a power the people never put into their hands, (who can never be supposed to consent that any body should rule over them for their harm) do that which they have not a right to do. And where the body of the people, or any single man, is

deprived of their right, or is under the exercise of a power without right, and have no appeal on earth, then they have a liberty to appeal to heaven, whenever they judge the cause of sufficient moment. And therefore, though the people cannot be judge, so as to have, by the constitution of that society, any superior power, to determine and give effective sentence in the case; yet they have, by a law antecedent and paramount to all positive laws of men, reserved that ultimate determination to themselves which belongs to all mankind, where there lies no appeal on earth, viz. to judge, whether they have just cause to make their appeal to heaven. And this judgment they cannot part with, it being out of a man's power so to submit himself to another, as to give him a liberty to destroy him; God and nature never allowing a man so to abandon himself, as to neglect his own preservation: and since he cannot take away his own life, neither can he give another power to take it. Nor let any one think, this lays a perpetual foundation for disorder; for this operates not, till the inconveniency is so great, that the majority feel it, and are weary of it, and find a necessity to have it amended. But this the executive power, or wise princes, never need come in the danger of: and it is the thing, of all others, they have most need to avoid, as of all others the most perilous.

CHAPTER. XV.

OF PATERNAL, POLITICAL, AND DESPOTICAL POWER, CONSIDERED TOGETHER.

Sect. 169. THOUGH I have had occasion to speak of these separately before, yet the great mistakes of late about government, having, as I suppose, arisen from confounding these distinct powers one with another, it may not, perhaps, be amiss to consider them here together.

Sect. 170. First, then, Paternal or parental power is nothing but that which parents have over their children, to govern them for the children's good, till they come to the use of reason, or a state of knowledge, wherein they may be supposed capable to understand that rule, whether it be the law of nature, or the municipal law of their country, they are to govern themselves by: capable, I say, to know it, as well as several others, who live as freemen under that law. The affection and tenderness which God hath planted in the breast of parents towards their children, makes it evident, that this is not intended to be a severe arbitrary government, but only for the help, instruction, and preservation of their offspring. But happen it as it will, there is, as I have proved, no reason why it should be thought to extend to life and death, at any time, over their children, more than over any body else; neither can there be any pretence why this parental power should keep the child, when grown to a man, in subjection to the will of his parents, any farther than having received life and education from his

parents, obliges him to respect, honour, gratitude, assistance and support, all his life, to both father and mother. And thus, 'tis true, the paternal is a natural government, but not at all extending itself to the ends and jurisdictions of that which is political. The power of the father doth not reach at all to the property of the child, which is only in his own disposing.

Sect. 171. Secondly, Political power is that power, which every man having in the state of nature, has given up into the hands of the society, and therein to the governors, whom the society hath set over itself, with this express or tacit trust, that it shall be employed for their good, and the preservation of their property: now this power, which every man has in the state of nature, and which he parts with to the society in all such cases where the society can secure him, is to use such means, for the preserving of his own property, as he thinks good, and nature allows him; and to punish the breach of the law of nature in others, so as (according to the best of his reason) may most conduce to the preservation of himself, and the rest of mankind. So that the end and measure of this power, when in every man's hands in the state of nature, being the preservation of all of his society, that is, all mankind in general, it can have no other end or measure, when in the hands of the magistrate, but to preserve the members of that society in their lives, liberties, and possessions; and so cannot be an absolute, arbitrary power over their lives and fortunes, which are

as much as possible to be preserved; but a power to make laws, and annex such penalties to them, as may tend to the preservation of the whole, by cutting off those parts, and those only, which are so corrupt, that they threaten the sound and healthy, without which no severity is lawful. And this power has its original only from compact and agreement, and the mutual consent of those who make up the community.

Sect. 172. Thirdly, Despotical power is an absolute, arbitrary power one man has over another, to take away his life, whenever he pleases. This is a power, which neither nature gives, for it has made no such distinction between one man and another; nor compact can convey: for man not having such an arbitrary power over his own life, cannot give another man such a power over it; but it is the effect only of forfeiture, which the aggressor makes of his own life, when he puts himself into the state of war with another: for having quitted reason, which God hath given to be the rule betwixt man and man, and the common bond whereby human kind is united into one fellowship and society; and having renounced the way of peace which that teaches, and made use of the force of war, to compass his unjust ends upon another, where he has no right; and so revolting from his own kind to that of beasts, by making force, which is their's, to be his rule of right, he renders himself liable to be destroyed by the injured person, and the rest of mankind, that will join with him in the execution of justice, as any

other wild beast, or noxious brute, with whom mankind can have neither society nor security*. And thus captives, taken in a just and lawful war, and such only, are subject to a despotical power, which, as it arises not from compact, so neither is it capable of any, but is the state of war continued: for what compact can be made with a man that is not master of his own life? what condition can he perform? and if he be once allowed to be master of his own life, the despotical, arbitrary power of his master ceases. He that is master of himself, and his own life, has a right too to the means of preserving it; so that as soon as compact enters, slavery ceases, and he so far quits his absolute power, and puts an end to the state of war, who enters into conditions with his captive.

(*Another copy corrected by Mr. Locke, has it thus, Noxious brute that is destructive to their being.)

Sect. 173. Nature gives the first of these, viz. paternal power to parents for the benefit of their children during their minority, to supply their want of ability, and understanding how to manage their property. (By property I must be understood here, as in other places, to mean that property which men have in their persons as well as goods.) Voluntary agreement gives the second, viz. political power to governors for the benefit of their subjects, to secure them in the possession and use of their properties. And forfeiture gives the third despotical power to lords for their own benefit, over those who are

stripped of all
property.

Sect. 174. He, that shall consider the distinct rise and extent, and the different ends of these several powers, will plainly see, that paternal power comes as far short of that of the magistrate, as despotical exceeds it; and that absolute dominion, however placed, is so far from being one kind of civil society, that it is as inconsistent with it, as slavery is with property. Paternal power is only where minority makes the child incapable to manage his property; political, where men have property in their own disposal; and despotical, over such as have no property at all.

CHAPTER. XVI.

OF CONQUEST.

Sect. 175. THOUGH governments can originally have no other rise than that before mentioned, nor polities be founded on any thing but the consent of the people; yet such have been the disorders ambition has filled the world with, that in the noise of war, which makes so great a part of the history of mankind, this consent is little taken notice of: and therefore many have mistaken the force of arms for the consent of the people, and reckon conquest as one of the originals of government. But conquest is as far from setting up any government, as demolishing an

house is from building a new one in the place. Indeed, it often makes way for a new frame of a commonwealth, by destroying the former; but, without the consent of the people, can never erect a new one.

Sect. 176. That the aggressor, who puts himself into the state of war with another, and unjustly invades another man's right, can, by such an unjust war, never come to have a right over the conquered, will be easily agreed by all men, who will not think, that robbers and pyrates have a right of empire over whomsoever they have force enough to master; or that men are bound by promises, which unlawful force extorts from them. Should a robber break into my house, and with a dagger at my throat make me seal deeds to convey my estate to him, would this give him any title? Just such a title, by his sword, has an unjust conqueror, who forces me into submission. The injury and the crime is equal, whether committed by the wearer of a crown, or some petty villain. The title of the offender, and the number of his followers, make no difference in the offence, unless it be to aggravate it. The only difference is, great robbers punish little ones, to keep them in their obedience; but the great ones are rewarded with laurels and triumphs, because they are too big for the weak hands of justice in this world, and have the power in their own possession, which should punish offenders. What is my remedy against a robber, that so broke into my house? Appeal to the law for justice. But perhaps justice is denied, or

I am crippled and cannot stir, robbed and have not the means to do it.
If God has taken away all means of seeking remedy, there is nothing left but patience. But my son, when able, may seek the relief of the law, which I am denied: he or his son may renew his appeal, till he recover his right. But the conquered, or their children, have no court, no arbitrator on earth to appeal to. Then they may appeal, as lephtha did, to heaven, and repeat their appeal till they have recovered the native right of their ancestors, which was, to have such a legislative over them, as the majority should approve, and freely acquiesce in. If it be objected, This would cause endless trouble; I answer, no more than justice does, where she lies open to all that appeal to her. He that troubles his neighbour without a cause, is punished for it by the justice of the court he appeals to: and he that appeals to heaven must be sure he has right on his side; and a right too that is worth the trouble and cost of the appeal, as he will answer at a tribunal that cannot be deceived, and will be sure to retribute to every one according to the mischiefs he hath created to his fellow subjects; that is, any part of mankind: from whence it is plain, that he that conquers in an unjust war can thereby have no title to the subjection and obedience of the conquered.

Sect. 177. But supposing victory favours the right side, let us consider a conqueror in a lawful war, and see what power he gets, and over whom.

First, It is plain he gets no power by his conquest over those that conquered with him. They that fought on his side cannot suffer by the conquest, but must at least be as much freemen as they were before. And most commonly they serve upon terms, and on condition to share with their leader, and enjoy a part of the spoil, and other advantages that attend the conquering sword; or at least have a part of the subdued country bestowed upon them. And the conquering people are not, I hope, to be slaves by conquest, and wear their laurels only to shew they are sacrifices to their leaders triumph. They that found absolute monarchy upon the title of the sword, make their heroes, who are the founders of such monarchies, arrant Draw-can-sirs, and forget they had any officers and soldiers that fought on their side in the battles they won, or assisted them in the subduing, or shared in possessing, the countries they mastered. We are told by some, that the English monarchy is founded in the Norman conquest, and that our princes have thereby a title to absolute dominion: which if it were true, (as by the history it appears otherwise) and that William had a right to make war on this island; yet his dominion by conquest could reach no farther than to the Saxons and Britons, that were then inhabitants of this country. The Normans that came with him, and helped to conquer, and all descended from them, are freemen, and no subjects by conquest; let that give what dominion it will. And if I, or any body else, shall claim freedom, as derived from them, it will be very hard to prove the contrary: and it

is plain, the law, that has made no distinction between the one and the other, intends not there should be any difference in their freedom or privileges.

Sect. 178. But supposing, which seldom happens, that the conquerors and conquered never incorporate into one people, under the same laws and freedom; let us see next what power a lawful conqueror has over the subdued: and that I say is purely despotical. He has an absolute power over the lives of those who by an unjust war have forfeited them; but not over the lives or fortunes of those who engaged not in the war, nor over the possessions even of those who were actually engaged in it.

Sect. 179. Secondly, I say then the conqueror gets no power but only over those who have actually assisted, concurred, or consented to that unjust force that is used against him: for the people having given to their governors no power to do an unjust thing, such as is to make an unjust war, (for they never had such a power in themselves) they ought not to be charged as guilty of the violence and injustice that is committed in an unjust war, any farther than they actually abet it; no more than they are to be thought guilty of any violence or oppression their governors should use upon the people themselves, or any part of their fellow subjects, they having empowered them no more to the one than to the other. Conquerors, it is true, seldom trouble themselves to make the distinction, but they willingly permit the confusion of war to

sweep all together: but yet this alters not the right; for the conquerors power over the lives of the conquered, being only because they have used force to do, or maintain an injustice, he can have that power only over those who have concurred in that force; all the rest are innocent; and he has no more title over the people of that country, who have done him no injury, and so have made no forfeiture of their lives, than he has over any other, who, without any injuries or provocations, have lived upon fair terms with him.

Sect. 180. Thirdly, The power a conqueror gets over those he overcomes in a just war, is perfectly despotal: he has an absolute power over the lives of those, who, by putting themselves in a state of war, have forfeited them; but he has not thereby a right and title to their possessions. This I doubt not, but at first sight will seem a strange doctrine, it being so quite contrary to the practice of the world; there being nothing more familiar in speaking of the dominion of countries, than to say such an one conquered it; as if conquest, without any more ado, conveyed a right of possession. But when we consider, that the practice of the strong and powerful, how universal soever it may be, is seldom the rule of right, however it be one part of the subjection of the conquered, not to argue against the conditions cut out to them by the conquering sword.

Sect. 181. Though in all war there be usually a complication of force and damage, and the aggressor seldom fails to harm the

estate, when he
uses force against the persons of those he makes war
upon; yet it is the
use of force only that puts a man into the state of war:
for whether by
force he begins the injury, or else having quietly, and
by fraud, done
the injury, he refuses to make reparation, and by force
maintains it,
(which is the same thing, as at first to have done it by
force) it is
the unjust use of force that makes the war: for he that
breaks open my
house, and violently turns me out of doors; or having
peaceably got in,
by force keeps me out, does in effect the same thing;
supposing we are
in such a state, that we have no common judge on earth,
whom I may
appeal to, and to whom we are both obliged to submit:
for of such I am
now speaking. It is the unjust use of force then, that
puts a man into
the state of war with another; and thereby he that is
guilty of it makes
a forfeiture of his life: for quitting reason, which is
the rule given
between man and man, and using force, the way of beasts,
he becomes
liable to be destroyed by him he uses force against, as
any savage
ravenous beast, that is dangerous to his being.

Sect. 182. But because the miscarriages of the father
are no faults of
the children, and they may be rational and peaceable,
notwithstanding
the brutishness and injustice of the father; the father,
by his
miscarriages and violence, can forfeit but his own life,
but involves
not his children in his guilt or destruction. His goods,
which nature,
that willeth the preservation of all mankind as much as
is possible,

hath made to belong to the children to keep them from perishing, do still continue to belong to his children: for supposing them not to have joined in the war, either thro' infancy, absence, or choice, they have done nothing to forfeit them: nor has the conqueror any right to take them away, by the bare title of having subdued him that by force attempted his destruction; though perhaps he may have some right to them, to repair the damages he has sustained by the war, and the defence of his own right; which how far it reaches to the possessions of the conquered, we shall see by and by. So that he that by conquest has a right over a man's person to destroy him if he pleases, has not thereby a right over his estate to possess and enjoy it: for it is the brutal force the aggressor has used, that gives his adversary a right to take away his life, and destroy him if he pleases, as a noxious creature; but it is damage sustained that alone gives him title to another man's goods: for though I may kill a thief that sets on me in the highway, yet I may not (which seems less) take away his money, and let him go: this would be robbery on my side. His force, and the state of war he put himself in, made him forfeit his life, but gave me no title to his goods. The right then of conquest extends only to the lives of those who joined in the war, not to their estates, but only in order to make reparation for the damages received, and the charges of the war, and that too with reservation of the right of the innocent wife and children.

Sect. 183. Let the conqueror have as much justice on his side, as could be supposed, he has no right to seize more than the vanquished could forfeit: his life is at the victor's mercy; and his service and goods he may appropriate, to make himself reparation; but he cannot take the goods of his wife and children; they too had a title to the goods he enjoyed, and their shares in the estate he possessed: for example, I in the state of nature (and all commonwealths are in the state of nature one with another) have injured another man, and refusing to give satisfaction, it comes to a state of war, wherein my defending by force what I had gotten unjustly, makes me the aggressor. I am conquered: my life, it is true, as forfeit, is at mercy, but not my wife's and children's. They made not the war, nor assisted in it. I could not forfeit their lives; they were not mine to forfeit. My wife had a share in my estate; that neither could I forfeit. And my children also, being born of me, had a right to be maintained out of my labour or substance. Here then is the case: the conqueror has a title to reparation for damages received, and the children have a title to their father's estate for their subsistence: for as to the wife's share, whether her own labour, or compact, gave her a title to it, it is plain, her husband could not forfeit what was her's. What must be done in the case? I answer; the fundamental law of nature being, that all, as much as may be, should be preserved, it follows, that if there be not enough fully

to satisfy both, viz, for the conqueror's losses, and children's maintenance, he that hath, and to spare, must remit something of his full satisfaction, and give way to the pressing and preferable title of those who are in danger to perish without it.

Sect. 184. But supposing the charge and damages of the war are to be made up to the conqueror, to the utmost farthing; and that the children of the vanquished, spoiled of all their father's goods, are to be left to starve and perish; yet the satisfying of what shall, on this score, be due to the conqueror, will scarce give him a title to any country he shall conquer: for the damages of war can scarce amount to the value of any considerable tract of land, in any part of the world, where all the land is possessed, and none lies waste. And if I have not taken away the conqueror's land, which, being vanquished, it is impossible I should; scarce any other spoil I have done him can amount to the value of mine, supposing it equally cultivated, and of an extent any way coming near what I had overrun of his. The destruction of a year's product or two (for it seldom reaches four or five) is the utmost spoil that usually can be done: for as to money, and such riches and treasure taken away, these are none of nature's goods, they have but a fantastical imaginary value: nature has put no such upon them: they are of no more account by her standard, than the wampompeke of the Americans to an European prince, or the silver money of Europe would have been formerly to an American. And five years product is not worth the

perpetual inheritance
of land, where all is possessed, and none remains waste,
to be taken up
by him that is disseized: which will be easily granted,
if one do but
take away the imaginary value of money, the
disproportion being more
than between five and five hundred; though, at the same
time, half a
year's product is more worth than the inheritance, where
there being
more land than the inhabitants possess and make use of,
any one has
liberty to make use of the waste: but there conquerors
take little care
to possess themselves of the lands of the vanquished, No
damage
therefore, that men in the state of nature (as all
princes and
governments are in reference to one another) suffer from
one another,
can give a conqueror power to dispossess the posterity
of the
vanquished, and turn them out of that inheritance, which
ought to be the
possession of them and their descendants to all
generations. The
conqueror indeed will be apt to think himself master:
and it is the very
condition of the subdued not to be able to dispute their
right. But if
that be all, it gives no other title than what bare
force gives to the
stronger over the weaker: and, by this reason, he that
is strongest will
have a right to whatever he pleases to seize on.

Sect. 185. Over those then that joined with him in the
war, and over
those of the subdued country that opposed him not, and
the posterity
even of those that did, the conqueror, even in a just
war, hath, by his
conquest, no right of dominion: they are free from any
subjection to

him, and if their former government be dissolved, they are at liberty to begin and erect another to themselves.

Sect. 186. The conqueror, it is true, usually, by the force he has over them, compels them, with a sword at their breasts, to stoop to his conditions, and submit to such a government as he pleases to afford them; but the enquiry is, what right he has to do so? If it be said, they submit by their own consent, then this allows their own consent to be necessary to give the conqueror a title to rule over them. It remains only to be considered, whether promises extorted by force, without right, can be thought consent, and how far they bind. To which I shall say, they bind not at all; because whatsoever another gets from me by force, I still retain the right of, and he is obliged presently to restore. He that forces my horse from me, ought presently to restore him, and I have still a right to retake him. By the same reason, he that forced a promise from me, ought presently to restore it, i.e. quit me of the obligation of it; or I may resume it myself, i.e. chuse whether I will perform it: for the law of nature laying an obligation on me only by the rules she prescribes, cannot oblige me by the violation of her rules: such is the extorting any thing from me by force. Nor does it at all alter the case to say, I gave my promise, no more than it excuses the force, and passes the right, when I put my hand in my pocket, and deliver my purse myself to a thief, who demands it with a pistol at my breast.

Sect. 187. From all which it follows, that the government of a conqueror, imposed by force on the subdued, against whom he had no right of war, or who joined not in the war against him, where he had right, has no obligation upon them.

Sect. 188. But let us suppose, that all the men of that community, being all members of the same body politic, may be taken to have joined in that unjust war wherein they are subdued, and so their lives are at the mercy of the conqueror.

Sect. 189. I say this concerns not their children who are in their minority: for since a father hath not, in himself, a power over the life or liberty of his child, no act of his can possibly forfeit it. So that the children, whatever may have happened to the fathers, are freemen, and the absolute power of the conqueror reaches no farther than the persons of the men that were subdued by him, and dies with them: and should he govern them as slaves, subjected to his absolute arbitrary power, he has no such right of dominion over their children. He can have no power over them but by their own consent, whatever he may drive them to say or do; and he has no lawfull authority, whilst force, and not choice, compels them to submission.

Sect. 190. Every man is born with a double right: first, a right of freedom to his person, which no other man has a power over, but the free disposal of it lies in himself. Secondly, a right, before any other man,

to inherit with his brethren his father's goods.

Sect. 191. By the first of these, a man is naturally free from subjection to any government, tho' he be born in a place under its jurisdiction; but if he disclaim the lawful government of the country he was born in, he must also quit the right that belonged to him by the laws of it, and the possessions there descending to him from his ancestors, if it were a government made by their consent.

Sect. 192. By the second, the inhabitants of any country, who are descended, and derive a title to their estates from those who are subdued, and had a government forced upon them against their free consents, retain a right to the possession of their ancestors, though they consent not freely to the government, whose hard conditions were by force imposed on the possessors of that country: for the first conqueror never having had a title to the land of that country, the people who are the descendants of, or claim under those who were forced to submit to the yoke of a government by constraint, have always a right to shake it off, and free themselves from the usurpation or tyranny which the sword hath brought in upon them, till their rulers put them under such a frame of government as they willingly and of choice consent to. Who doubts but the Grecian Christians, descendants of the ancient possessors of that country, may justly cast off the Turkish yoke, which they have so long groaned under, whenever they have an opportunity to do it? For no

government can have a right to obedience from a people who have not freely consented to it; which they can never be supposed to do, till either they are put in a full state of liberty to chuse their government and governors, or at least till they have such standing laws, to which they have by themselves or their representatives given their free consent, and also till they are allowed their due property, which is so to be proprietors of what they have, that no body can take away any part of it without their own consent, without which, men under any government are not in the state of freemen, but are direct slaves under the force of war.

Sect. 193. But granting that the conqueror in a just war has a right to the estates, as well as power over the persons, of the conquered; which, it is plain, he hath not: nothing of absolute power will follow from hence, in the continuance of the government; because the descendants of these being all freemen, if he grants them estates and possessions to inhabit his country, (without which it would be worth nothing) whatsoever he grants them, they have, so far as it is granted, property in. The nature whereof is, that without a man's own consent it cannot be taken from him.

Sect. 194. Their persons are free by a native right, and their properties, be they more or less, are their own, and at their own dispose, and not at his; or else it is no property. Supposing the conqueror gives to one man a thousand acres, to him and

his heirs for
ever; to another he lets a thousand acres for his life,
under the rent
of 50_l_. or 500_l_. per arm. has not the one of these a
right to his
thousand acres for ever, and the other, during his life,
paying the said
rent? and hath not the tenant for life a property in all
that he gets
over and above his rent, by his labour and industry
during the said
term, supposing it be double the rent? Can any one say,
the king, or
conqueror, after his grant, may by his power of
conqueror take away all,
or part of the land from the heirs of one, or from the
other during his
life, he paying the rent? or can he take away from
either the goods or
money they have got upon the said land, at his pleasure?
If he can, then
all free and voluntary contracts cease, and are void in
the world; there
needs nothing to dissolve them at any time, but power
enough: and all
the grants and promises of men in power are but mockery
and collusion:
for can there be any thing more ridiculous than to say,
I give you and
your's this for ever, and that in the surest and most
solemn way of
conveyance can be devised; and yet it is to be
understood, that I have
right, if I please, to take it away from you again to
morrow?

Sect. 195. I will not dispute now whether princes are
exempt from the
laws of their country; but this I am sure, they owe
subjection to the
laws of God and nature. No body, no power, can exempt
them from the
obligations of that eternal law. Those are so great, and
so strong, in
the case of promises, that omnipotency itself can be

tied by them.

Grants, promises, and oaths, are bonds that hold the Almighty: whatever some flatterers say to princes of the world, who all together, with all their people joined to them, are, in comparison of the great God, but as a drop of the bucket, or a dust on the balance, inconsiderable, nothing!

Sect. 196. The short of the case in conquest is this: the conqueror, if he have a just cause, has a despotical right over the persons of all, that actually aided, and concurred in the war against him, and a right to make up his damage and cost out of their labour and estates, so he injure not the right of any other. Over the rest of the people, if there were any that consented not to the war, and over the children of the captives themselves, or the possessions of either, he has no power; and so can have, by virtue of conquest, no lawful title himself to dominion over them, or derive it to his posterity; but is an aggressor, if he attempts upon their properties, and thereby puts himself in a state of war against them, and has no better a right of principality, he, nor any of his successors, than Hingar, or Hubba, the Danes, had here in England; or Spartacus, had he conquered Italy, would have had; which is to have their yoke cast off, as soon as God shall give those under their subjection courage and opportunity to do it. Thus, notwithstanding whatever title the kings of Assyria had over Judah, by the sword, God assisted Hezekiah to throw off the dominion of that conquering empire. And the lord was with Hezekiah, and he prospered;

wherefore he went
forth, and he rebelled against the king of Assyria, and
served him not,
2 Kings xviii. 7. Whence it is plain, that shaking off a
power, which
force, and not right, hath set over any one, though it
hath the name of
rebellion, yet is no offence before God, but is that
which he allows and
countenances, though even promises and covenants, when
obtained by
force, have intervened: for it is very probable, to any
one that reads
the story of Ahaz and Hezekiah attentively, that the
Assyrians subdued
Ahaz, and deposed him, and made Hezekiah king in his
father's lifetime;
and that Hezekiah by agreement had done him homage, and
paid him tribute
all this time.

CHAPTER. XVII.

OF USURPATION.

Sect. 197. AS conquest may be called a foreign
usurpation, so usurpation
is a kind of domestic conquest, with this difference,
that an usurper
can never have right on his side, it being no
usurpation, but where one
is got into the possession of what another has right to.
This, so far as
it is usurpation, is a change only of persons, but not
of the forms and
rules of the government: for if the usurper extend his
power beyond what
of right belonged to the lawful princes, or governors of
the
commonwealth, it is tyranny added to usurpation.

Sect. 198. In all lawful governments, the designation of the persons, who are to bear rule, is as natural and necessary a part as the form of the government itself, and is that which had its establishment originally from the people; the anarchy being much alike, to have no form of government at all; or to agree, that it shall be monarchical, but to appoint no way to design the person that shall have the power, and be the monarch. Hence all commonwealths, with the form of government established, have rules also of appointing those who are to have any share in the public authority, and settled methods of conveying the right to them: for the anarchy is much alike, to have no form of government at all; or to agree that it shall be monarchical, but to appoint no way to know or design the person that shall have the power, and be the monarch. Whoever gets into the exercise of any part of the power, by other ways than what the laws of the community have prescribed, hath no right to be obeyed, though the form of the commonwealth be still preserved; since he is not the person the laws have appointed, and consequently not the person the people have consented to. Nor can such an usurper, or any deriving from him, ever have a title, till the people are both at liberty to consent, and have actually consented to allow, and confirm in him the power he hath till then usurped.

CHAPTER. XVIII.

OF TYRANNY.

Sect. 199. AS usurpation is the exercise of power, which another hath a right to; so tyranny is the exercise of power beyond right, which no body can have a right to. And this is making use of the power any one has in his hands, not for the good of those who are under it, but for his own private separate advantage. When the governor, however intitled, makes not the law, but his will, the rule; and his commands and actions are not directed to the preservation of the properties of his people, but the satisfaction of his own ambition, revenge, covetousness, or any other irregular passion.

Sect. 200. If one can doubt this to be truth, or reason, because it comes from the obscure hand of a subject, I hope the authority of a king will make it pass with him. King James the first, in his speech to the parliament, 1603, tells them thus,

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I will ever prefer the weal of the public, and of the whole commonwealth, in making of good laws and constitutions, to any particular and private ends of mine; thinking ever the wealth and weal of the commonwealth to be my greatest weal and worldly felicity; a point wherein a lawful king doth directly differ from a tyrant: for I do acknowledge, that the special and greatest point of difference that is between a rightful king and

an usurping

tyrant, is this, that whereas the proud and ambitious tyrant doth

think his kingdom and people are only ordained for satisfaction of

his desires and unreasonable appetites, the righteous and just king

doth by the contrary acknowledge himself to be ordained for the

procuring of the wealth and property of his people.

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And again, in his speech to the parliament, 1609, he hath these words:

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The king binds himself by a double oath, to the observation of the

fundamental laws of his kingdom; tacitly, as by being a king, and

so bound to protect as well the people, as the laws of his kingdom;

and expressly, by his oath at his coronation, so as every just

king, in a settled kingdom, is bound to observe that paction made

to his people, by his laws, in framing his government agreeable

thereunto, according to that paction which God made with Noah after

the deluge. Hereafter, seed-time and harvest, and cold and heat,

and summer and winter, and day and night, shall not cease while the

earth remaineth. And therefore a king governing in a settled

kingdom, leaves to be a king, and degenerates into a tyrant, as

soon as he leaves off to rule according to his laws.

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And a little after,

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Therefore all kings that are not tyrants, or
perjured, will be glad
to bound themselves within the limits of their
laws; and they that
persuade them the contrary, are vipers, and pests
both against them
and the commonwealth.

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Thus that learned king, who well understood the notion
of things, makes
the difference betwixt a king and a tyrant to consist
only in this, that
one makes the laws the bounds of his power, and the good
of the public,
the end of his government; the other makes all give way
to his own will
and appetite.

Sect. 201. It is a mistake, to think this fault is
proper only to
monarchies; other forms of government are liable to it,
as well as that:
for wherever the power, that is put in any hands for the
government of
the people, and the preservation of their properties, is
applied to
other ends, and made use of to impoverish, harass, or
subdue them to the
arbitrary and irregular commands of those that have it;
there it
presently becomes tyranny, whether those that thus use
it are one or
many. Thus we read of the thirty tyrants at Athens, as
well as one at
Syracuse; and the intolerable dominion of the Decemviri
at Rome was
nothing better.

Sect. 202. Where-ever law ends, tyranny begins, if the
law be
transgressed to another's harm; and whosoever in
authority exceeds the
power given him by the law, and makes use of the force
he has under his

command, to compass that upon the subject, which the law allows not, ceases in that to be a magistrate; and, acting without authority, may be opposed, as any other man, who by force invades the right of another. This is acknowledged in subordinate magistrates. He that hath authority to seize my person in the street, may be opposed as a thief and a robber, if he endeavours to break into my house to execute a writ, notwithstanding that I know he has such a warrant, and such a legal authority, as will empower him to arrest me abroad. And why this should not hold in the highest, as well as in the most inferior magistrate, I would gladly be informed. Is it reasonable, that the eldest brother, because he has the greatest part of his father's estate, should thereby have a right to take away any of his younger brothers portions? or that a rich man, who possessed a whole country, should from thence have a right to seize, when he pleased, the cottage and garden of his poor neighbour? The being rightfully possessed of great power and riches, exceedingly beyond the greatest part of the sons of Adam, is so far from being an excuse, much less a reason, for rapine and oppression, which the endamaging another without authority is, that it is a great aggravation of it: for the exceeding the bounds of authority is no more a right in a great, than in a petty officer; no more justifiable in a king than a constable; but is so much the worse in him, in that he has more trust put in him, has already a much greater share than the rest of his brethren, and is supposed, from the advantages of

his education,
employment, and counsellors, to be more knowing in the
measures of right
and wrong.

Sect. 203. May the commands then of a prince be opposed?
may he be
resisted as often as any one shall find himself
aggrieved, and but
imagine he has not right done him? This will unhinge and
overturn all
polities, and, instead of government and order, leave
nothing but
anarchy and confusion.

Sect. 204. To this I answer, that force is to be opposed
to nothing, but
to unjust and unlawful force; whoever makes any
opposition in any other
case, draws on himself a just condemnation both from God
and man; and so
no such danger or confusion will follow, as is often
suggested: for,

Sect. 205. First, As, in some countries, the person of
the prince by the
law is sacred; and so, whatever he commands or does, his
person is still
free from all question or violence, not liable to force,
or any judicial
censure or condemnation. But yet opposition may be made
to the illegal
acts of any inferior officer, or other commissioned by
him; unless he
will, by actually putting himself into a state of war
with his people,
dissolve the government, and leave them to that defence
which belongs to
every one in the state of nature: for of such things who
can tell what
the end will be? and a neighbour kingdom has shewed the
world an odd
example. In all other cases the sacredness of the person
exempts him
from all inconveniencies, whereby he is secure, whilst

the government
stands, from all violence and harm whatsoever; than
which there cannot
be a wiser constitution: for the harm he can do in his
own person not
being likely to happen often, nor to extend itself far;
nor being able
by his single strength to subvert the laws, nor oppress
the body of the
people, should any prince have so much weakness, and ill
nature as to be
willing to do it, the inconveniency of some particular
mischiefs, that
may happen sometimes, when a heady prince comes to the
throne, are well
recompensed by the peace of the public, and security of
the government,
in the person of the chief magistrate, thus set out of
the reach of
danger: it being safer for the body, that some few
private men should be
sometimes in danger to suffer, than that the head of the
republic should
be easily, and upon slight occasions, exposed.

Sect. 206. Secondly, But this privilege, belonging only
to the king's
person, hinders not, but they may be questioned,
opposed, and resisted,
who use unjust force, though they pretend a commission
from him, which
the law authorizes not; as is plain in the case of him
that has the
king's writ to arrest a man, which is a full commission
from the king;
and yet he that has it cannot break open a man's house
to do it, nor
execute this command of the king upon certain days, nor
in certain
places, though this commission have no such exception in
it; but they
are the limitations of the law, which if any one
transgress, the king's
commission excuses him not: for the king's authority
being given him

only by the law, he cannot empower any one to act against the law, or justify him, by his commission, in so doing; the commission, or command of any magistrate, where he has no authority, being as void and insignificant, as that of any private man; the difference between the one and the other, being that the magistrate has some authority so far, and to such ends, and the private man has none at all: for it is not the commission, but the authority, that gives the right of acting; and against the laws there can be no authority. But, notwithstanding such resistance, the king's person and authority are still both secured, and so no danger to governor or government.

Sect. 207. Thirdly, Supposing a government wherein the person of the chief magistrate is not thus sacred; yet this doctrine of the lawfulness of resisting all unlawful exercises of his power, will not upon every slight occasion indanger him, or imbroid the government: for where the injured party may be relieved, and his damages repaired by appeal to the law, there can be no pretence for force, which is only to be used where a man is intercepted from appealing to the law: for nothing is to be accounted hostile force, but where it leaves not the remedy of such an appeal; and it is such force alone, that puts him that uses it into a state of war, and makes it lawful to resist him. A man with a sword in his hand demands my purse in the high-way, when perhaps I have not twelve pence in my pocket: this man I may lawfully kill. To another I deliver 100 pounds to hold only whilst I alight, which

he refuses to
restore me, when I am got up again, but draws his sword
to defend the
possession of it by force, if I endeavour to retake it.
The mischief
this man does me is a hundred, or possibly a thousand
times more than
the other perhaps intended me (whom I killed before he
really did me
any); and yet I might lawfully kill the one, and cannot
so much as hurt
the other lawfully. The reason whereof is plain; because
the one using
force, which threatened my life, I could not have time
to appeal to the
law to secure it: and when it was gone, it was too late
to appeal. The
law could not restore life to my dead carcass: the loss
was irreparable;
which to prevent, the law of nature gave me a right to
destroy him, who
had put himself into a state of war with me, and
threatened my
destruction. But in the other case, my life not being in
danger, I may
have the benefit of appealing to the law, and have
reparation for my 100
pounds that way.

Sect. 208. Fourthly, But if the unlawful acts done by
the magistrate be
maintained (by the power he has got), and the remedy
which is due by
law, be by the same power obstructed; yet the right of
resisting, even
in such manifest acts of tyranny, will not suddenly, or
on slight
occasions, disturb the government: for if it reach no
farther than some
private men's cases, though they have a right to defend
themselves, and
to recover by force what by unlawful force is taken from
them; yet the
right to do so will not easily engage them in a contest,
wherein they

are sure to perish; it being as impossible for one, or a few oppressed men to disturb the government, where the body of the people do not think themselves concerned in it, as for a raving mad-man, or heady malcontent to overturn a well settled state; the people being as little apt to follow the one, as the other.

Sect. 209. But if either these illegal acts have extended to the majority of the people; or if the mischief and oppression has lighted only on some few, but in such cases, as the precedent, and consequences seem to threaten all; and they are persuaded in their consciences, that their laws, and with them their estates, liberties, and lives are in danger, and perhaps their religion too; how they will be hindered from resisting illegal force, used against them, I cannot tell. This is an inconvenience, I confess, that attends all governments whatsoever, when the governors have brought it to this pass, to be generally suspected of their people; the most dangerous state which they can possibly put themselves in, wherein they are the less to be pitied, because it is so easy to be avoided; it being as impossible for a governor, if he really means the good of his people, and the preservation of them, and their laws together, not to make them see and feel it, as it is for the father of a family, not to let his children see he loves, and takes care of them.

Sect. 210. But if all the world shall observe pretences of one kind, and actions of another; arts used to elude the law, and the

trust of
prerogative (which is an arbitrary power in some things
left in the
prince's hand to do good, not harm to the people)
employed contrary to
the end for which it was given: if the people shall find
the ministers
and subordinate magistrates chosen suitable to such
ends, and favoured,
or laid by, proportionably as they promote or oppose
them: if they see
several experiments made of arbitrary power, and that
religion underhand
favoured, (tho' publicly proclaimed against) which is
readiest to
introduce it; and the operators in it supported, as much
as may be; and
when that cannot be done, yet approved still, and liked
the better: if a
long train of actions shew the councils all tending that
way; how can a
man any more hinder himself from being persuaded in his
own mind, which
way things are going; or from casting about how to save
himself, than he
could from believing the captain of the ship he was in,
was carrying
him, and the rest of the company, to Algiers, when he
found him always
steering that course, though cross winds, leaks in his
ship, and want of
men and provisions did often force him to turn his
course another way
for some time, which he steadily returned to again, as
soon as the wind,
weather, and other circumstances would let him?

CHAPTER. XIX.

OF THE DISSOLUTION OF GOVERNMENT.

Sect. 211. HE that will with any clearness speak of the dissolution of government, ought in the first place to distinguish between the dissolution of the society and the dissolution of the government. That which makes the community, and brings men out of the loose state of nature, into one politic society, is the agreement which every one has with the rest to incorporate, and act as one body, and so be one distinct commonwealth. The usual, and almost only way whereby this union is dissolved, is the inroad of foreign force making a conquest upon them: for in that case, (not being able to maintain and support themselves, as one intire and independent body) the union belonging to that body which consisted therein, must necessarily cease, and so every one return to the state he was in before, with a liberty to shift for himself, and provide for his own safety, as he thinks fit, in some other society. Whenever the society is dissolved, it is certain the government of that society cannot remain. Thus conquerors swords often cut up governments by the roots, and mangle societies to pieces, separating the subdued or scattered multitude from the protection of, and dependence on, that society which ought to have preserved them from violence. The world is too well instructed in, and too forward to allow of, this way of dissolving of governments, to need any more to be said of it; and there wants not much argument to prove, that where the society is dissolved, the government cannot remain; that being as impossible, as for the frame of an house to subsist when the materials

of it are
scattered and dissipated by a whirl-wind, or jumbled
into a confused
heap by an earthquake.

Sect. 212. Besides this over-turning from without,
governments are
dissolved from within.

First, When the legislative is altered. Civil society
being a state of
peace, amongst those who are of it, from whom the state
of war is
excluded by the umpirage, which they have provided in
their legislative,
for the ending all differences that may arise amongst
any of them, it is
in their legislative, that the members of a commonwealth
are united, and
combined together into one coherent living body. This is
the soul that
gives form, life, and unity, to the commonwealth: from
hence the
several members have their mutual influence, sympathy,
and connexion:
and therefore, when the legislative is broken, or
dissolved, dissolution
and death follows: for the essence and union of the
society consisting
in having one will, the legislative, when once
established by the
majority, has the declaring, and as it were keeping of
that will. The
constitution of the legislative is the first and
fundamental act of
society, whereby provision is made for the continuation
of their union,
under the direction of persons, and bonds of laws, made
by persons
authorized thereunto, by the consent and appointment of
the people,
without which no one man, or number of men, amongst
them, can have
authority of making laws that shall be binding to the
rest. When any

one, or more, shall take upon them to make laws, whom the people have not appointed so to do, they make laws without authority, which the people are not therefore bound to obey; by which means they come again to be out of subjection, and may constitute to themselves a new legislative, as they think best, being in full liberty to resist the force of those, who without authority would impose any thing upon them. Every one is at the disposal of his own will, when those who had, by the delegation of the society, the declaring of the public will, are excluded from it, and others usurp the place, who have no such authority or delegation.

Sect. 213. This being usually brought about by such in the commonwealth who misuse the power they have; it is hard to consider it aright, and know at whose door to lay it, without knowing the form of government in which it happens. Let us suppose then the legislative placed in the concurrence of three distinct persons.

(*1*). A single hereditary person, having the constant, supreme, executive power, and with it the power of convoking and dissolving the other two within certain periods of time.

(*2*). An assembly of hereditary nobility.

(*3*). An assembly of representatives chosen, pro tempore, by the people. Such a form of government supposed, it is evident,

Sect. 214. First, That when such a single person, or prince, sets up his

own arbitrary will in place of the laws, which are the will of the society, declared by the legislative, then the legislative is changed: for that being in effect the legislative, whose rules and laws are put in execution, and required to be obeyed; when other laws are set up, and other rules pretended, and enforced, than what the legislative, constituted by the society, have enacted, it is plain that the legislative is changed. Whoever introduces new laws, not being thereunto authorized by the fundamental appointment of the society, or subverts the old, disowns and overturns the power by which they were made, and so sets up a new legislative.

Sect. 215. Secondly, When the prince hinders the legislative from assembling in its due time, or from acting freely, pursuant to those ends for which it was constituted, the legislative is altered: for it is not a certain number of men, no, nor their meeting, unless they have also freedom of debating, and leisure of perfecting, what is for the good of the society, wherein the legislative consists: when these are taken away or altered, so as to deprive the society of the due exercise of their power, the legislative is truly altered; for it is not names that constitute governments, but the use and exercise of those powers that were intended to accompany them; so that he, who takes away the freedom, or hinders the acting of the legislative in its due seasons, in effect takes away the legislative, and puts an end to the government.

Sect. 216. Thirdly, When, by the arbitrary power of the prince, the electors, or ways of election, are altered, without the consent, and contrary to the common interest of the people, there also the legislative is altered: for, if others than those whom the society hath authorized thereunto, do chuse, or in another way than what the society hath prescribed, those chosen are not the legislative appointed by the people.

Sect. 217. Fourthly, The delivery also of the people into the subjection of a foreign power, either by the prince, or by the legislative, is certainly a change of the legislative, and so a dissolution of the government: for the end why people entered into society being to be preserved one intire, free, independent society, to be governed by its own laws; this is lost, whenever they are given up into the power of another.

Sect. 218. Why, in such a constitution as this, the dissolution of the government in these cases is to be imputed to the prince, is evident; because he, having the force, treasure and offices of the state to employ, and often persuading himself, or being flattered by others, that as supreme magistrate he is uncapable of controul; he alone is in a condition to make great advances toward such changes, under pretence of lawful authority, and has it in his hands to terrify or suppress opposers, as factious, seditious, and enemies to the government: whereas no other part of the legislative, or people, is capable

by themselves to attempt any alteration of the legislative, without open and visible rebellion, apt enough to be taken notice of, which, when it prevails, produces effects very little different from foreign conquest. Besides, the prince in such a form of government, having the power of dissolving the other parts of the legislative, and thereby rendering them private persons, they can never in opposition to him, or without his concurrence, alter the legislative by a law, his consequence, neglects and abandons that charge, so that the laws already made can no longer be put in execution. This is demonstratively to reduce all to anarchy, and so effectually to dissolve the government: for laws not being made for themselves, but to be, by their execution, the bonds of the society, to keep every part of the body politic in its due place and function; when that totally ceases, the government visibly ceases, and the people become a confused multitude, without order or connexion. Where there is no longer the administration of justice, for the securing of men's rights, nor any remaining power within the community to direct the force, or provide for the necessities of the public, there certainly is no government left. Where the laws cannot be executed, it is all one as if there were no laws; and a government without laws is, I suppose, a mystery in politics, unconceivable to human capacity, and inconsistent with human society.

Sect. 220. In these and the like cases, when the government is

dissolved, the people are at liberty to provide for themselves, by erecting a new legislative, differing from the other, by the change of persons, or form, or both, as they shall find it most for their safety and good: for the society can never, by the fault of another, lose the native and original right it has to preserve itself, which can only be done by a settled legislative, and a fair and impartial execution of the laws made by it. But the state of mankind is not so miserable that they are not capable of using this remedy, till it be too late to look for any. To tell people they may provide for themselves, by erecting a new legislative, when by oppression, artifice, or being delivered over to a foreign power, their old one is gone, is only to tell them, they may expect relief when it is too late, and the evil is past cure. This is in effect no more than to bid them first be slaves, and then to take care of their liberty; and when their chains are on, tell them, they may act like freemen. This, if barely so, is rather mockery than relief; and men can never be secure from tyranny, if there be no means to escape it till they are perfectly under it: and therefore it is, that they have not only a right to get out of it, but to prevent it.

Sect. 221. There is therefore, secondly, another way whereby governments are dissolved, and that is, when the legislative, or the prince, either of them, act contrary to their trust.

First, The legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to

make themselves,
or any part of the community, masters, or arbitrary
disposers of the
lives, liberties, or fortunes of the people.

Sect. 222. The reason why men enter into society, is the
preservation of
their property; and the end why they chuse and authorize
a legislative,
is, that there may be laws made, and rules set, as
guards and fences to
the properties of all the members of the society, to
limit the power,
and moderate the dominion, of every part and member of
the society: for
since it can never be supposed to be the will of the
society, that the
legislative should have a power to destroy that which
every one designs
to secure, by entering into society, and for which the
people submitted
themselves to legislators of their own making; whenever
the legislators
endeavour to take away, and destroy the property of the
people, or to
reduce them to slavery under arbitrary power, they put
themselves into a
state of war with the people, who are thereupon absolved
from any
farther obedience, and are left to the common refuge,
which God hath
provided for all men, against force and violence.
Whensoever therefore
the legislative shall transgress this fundamental rule
of society; and
either by ambition, fear, folly or corruption, endeavour
to grasp
themselves, or put into the hands of any other, an
absolute power over
the lives, liberties, and estates of the people; by this
breach of trust
they forfeit the power the people had put into their
hands for quite
contrary ends, and it devolves to the people, who have a
right to resume

their original liberty, and, by the establishment of a new legislative, (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society. What I have said here, concerning the legislative in general, holds true also concerning the supreme executor, who having a double trust put in him, both to have a part in the legislative, and the supreme execution of the law, acts against both, when he goes about to set up his own arbitrary will as the law of the society. He acts also contrary to his trust, when he either employs the force, treasure, and offices of the society, to corrupt the representatives, and gain them to his purposes; or openly preengages the electors, and prescribes to their choice, such, whom he has, by sollicitations, threats, promises, or otherwise, won to his designs; and employs them to bring in such, who have promised before-hand what to vote, and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, what is it but to cut up the government by the roots, and poison the very fountain of public security? for the people having reserved to themselves the choice of their representatives, as the fence to their properties, could do it for no other end, but that they might always be freely chosen, and so chosen, freely act, and advise, as the necessity of the commonwealth, and the public good should, upon examination, and mature debate, be judged to require. This, those who give their votes before they hear the debate, and have weighed the reasons on all sides, are

not capable of doing. To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will, for the true representatives of the people, and the law-makers of the society, is certainly as great a breach of trust, and as perfect a declaration of a design to subvert the government, as is possible to be met with. To which, if one shall add rewards and punishments visibly employed to the same end, and all the arts of perverted law made use of, to take off and destroy all that stand in the way of such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing. What power they ought to have in the society, who thus employ it contrary to the trust went along with it in its first institution, is easy to determine; and one cannot but see, that he, who has once attempted any such thing as this, cannot any longer be trusted.

Sect. 223. To this perhaps it will be said, that the people being ignorant, and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people, is to expose it to certain ruin; and no government will be able long to subsist, if the people may set up a new legislative, whenever they take offence at the old one. To this I answer, Quite the contrary. People are not so easily got out of their old forms, as some are apt to suggest. They are hardly to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to. And if there be any

original
defects, or adventitious ones introduced by time, or
corruption; it is
not an easy thing to get them changed, even when all the
world sees
there is an opportunity for it. This slowness and
aversion in the people
to quit their old constitutions, has, in the many
revolutions which have
been seen in this kingdom, in this and former ages,
still kept us to,
or, after some interval of fruitless attempts, still
brought us back
again to our old legislative of king, lords and commons:
and whatever
provocations have made the crown be taken from some of
our princes
heads, they never carried the people so far as to place
it in another
line.

Sect. 224. But it will be said, this hypothesis lays a
ferment for
frequent rebellion. To which I answer,

First, No more than any other hypothesis: for when the
people are made
miserable, and find themselves exposed to the ill usage
of arbitrary
power, cry up their governors, as much as you will, for
sons of Jupiter;
let them be sacred and divine, descended, or authorized
from heaven;
give them out for whom or what you please, the same will
happen. The
people generally ill treated, and contrary to right,
will be ready upon
any occasion to ease themselves of a burden that sits
heavy upon them.
They will wish, and seek for the opportunity, which in
the change,
weakness and accidents of human affairs, seldom delays
long to offer
itself. He must have lived but a little while in the
world, who has not

seen examples of this in his time; and he must have read very little, who cannot produce examples of it in all sorts of governments in the world.

Sect. 225. Secondly, I answer, such revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty, will be born by the people without mutiny or murmur. But if a long train of abuses, prevarications and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whither they are going; it is not to be wondered, that they should then rouse themselves, and endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected; and without which, ancient names, and specious forms, are so far from being better, that they are much worse, than the state of nature, or pure anarchy; the inconveniencies being all as great and as near, but the remedy farther off and more difficult.

Sect. 226. Thirdly, I answer, that this doctrine of a power in the people of providing for their safety a-new, by a new legislative, when their legislators have acted contrary to their trust, by invading their property, is the best fence against rebellion, and the probablest means to hinder it: for rebellion being an opposition, not to persons, but authority, which is founded only in the constitutions and laws of the

government; those, whoever they be, who by force break through, and by force justify their violation of them, are truly and properly rebels: for when men, by entering into society and civil-government, have excluded force, and introduced laws for the preservation of property, peace, and unity amongst themselves, those who set up force again in opposition to the laws, do rebellare, that is, bring back again the state of war, and are properly rebels: which they who are in power, (by the pretence they have to authority, the temptation of force they have in their hands, and the flattery of those about them) being likeliest to do; the properest way to prevent the evil, is to shew them the danger and injustice of it, who are under the greatest temptation to run into it.

Sect. 227. In both the fore-mentioned cases, when either the legislative is changed, or the legislators act contrary to the end for which they were constituted; those who are guilty are guilty of rebellion: for if any one by force takes away the established legislative of any society, and the laws by them made, pursuant to their trust, he thereby takes away the umpirage, which every one had consented to, for a peaceable decision of all their controversies, and a bar to the state of war amongst them. They, who remove, or change the legislative, take away this decisive power, which no body can have, but by the appointment and consent of the people; and so destroying the authority which the people did, and no body else can set up, and introducing a

power which the
people hath not authorized, they actually introduce a
state of war,
which is that of force without authority: and thus, by
removing the
legislative established by the society, (in whose
decisions the people
acquiesced and united, as to that of their own will)
they untie the
knot, and expose the people a-new to the state of war,
And if those, who
by force take away the legislative, are rebels, the
legislators
themselves, as has been shewn, can be no less esteemed
so; when they,
who were set up for the protection, and preservation of
the people,
their liberties and properties, shall by force invade
and endeavour to
take them away; and so they putting themselves into a
state of war with
those who made them the protectors and guardians of
their peace, are
properly, and with the greatest aggravation,
rebellantes, rebels.

Sect. 228. But if they, who say it lays a foundation for
rebellion, mean
that it may occasion civil wars, or intestine broils, to
tell the people
they are absolved from obedience when illegal attempts
are made upon
their liberties or properties, and may oppose the
unlawful violence of
those who were their magistrates, when they invade their
properties
contrary to the trust put in them; and that therefore
this doctrine is
not to be allowed, being so destructive to the peace of
the world: they
may as well say, upon the same ground, that honest men
may not oppose
robbers or pirates, because this may occasion disorder
or bloodshed. If
any mischief come in such cases, it is not to be charged

upon him who
defends his own right, but on him that invades his
neighbours. If the
innocent honest man must quietly quit all he has, for
peace sake, to him
who will lay violent hands upon it, I desire it may be
considered, what
a kind of peace there will be in the world, which
consists only in
violence and rapine; and which is to be maintained only
for the benefit
of robbers and oppressors. Who would not think it an
admirable peace
betwix the mighty and the mean, when the lamb, without
resistance,
yielded his throat to be torn by the imperious wolf?
Polyphemus's den
gives us a perfect pattern of such a peace, and such a
government,
wherein Ulysses and his companions had nothing to do,
but quietly to
suffer themselves to be devoured. And no doubt Ulysses,
who was a
prudent man, preached up passive obedience, and exhorted
them to a quiet
submission, by representing to them of what concernment
peace was to
mankind; and by shewing the inconveniences might happen,
if they should
offer to resist Polyphemus, who had now the power over
them.

Sect. 229. The end of government is the good of mankind;
and which is
best for mankind, that the people should be always
exposed to the
boundless will of tyranny, or that the rulers should be
sometimes liable
to be opposed, when they grow exorbitant in the use of
their power, and
employ it for the destruction, and not the preservation
of the
properties of their people?

Sect. 230. Nor let any one say, that mischief can arise

from hence, as
often as it shall please a busy head, or turbulent
spirit, to desire the
alteration of the government. It is true, such men may
stir, whenever
they please; but it will be only to their own just ruin
and perdition:
for till the mischief be grown general, and the ill
designs of the
rulers become visible, or their attempts sensible to the
greater part,
the people, who are more disposed to suffer than right
themselves by
resistance, are not apt to stir. The examples of
particular injustice,
or oppression of here and there an unfortunate man,
moves them not. But
if they universally have a persuasion, grounded upon
manifest evidence,
that designs are carrying on against their liberties,
and the general
course and tendency of things cannot but give them
strong suspicions of
the evil intention of their governors, who is to be
blamed for it? Who
can help it, if they, who might avoid it, bring
themselves into this
suspicion? Are the people to be blamed, if they have the
sense of
rational creatures, and can think of things no otherwise
than as they
find and feel them? And is it not rather their fault,
who put things
into such a posture, that they would not have them
thought to be as they
are? I grant, that the pride, ambition, and turbulency
of private men
have sometimes caused great disorders in commonwealths,
and factions
have been fatal to states and kingdoms. But whether the
mischief hath
oftener begun in the peoples wantonness, and a desire to
cast off the
lawful authority of their rulers, or in the rulers
insolence, and

endeavours to get and exercise an arbitrary power over their people; whether oppression, or disobedience, gave the first rise to the disorder, I leave it to impartial history to determine. This I am sure, whoever, either ruler or subject, by force goes about to invade the rights of either prince or people, and lays the foundation for overturning the constitution and frame of any just government, is highly guilty of the greatest crime, I think, a man is capable of, being to answer for all those mischiefs of blood, rapine, and desolation, which the breaking to pieces of governments bring on a country. And he who does it, is justly to be esteemed the common enemy and pest of mankind, and is to be treated accordingly.

Sect. 231. That subjects or foreigners, attempting by force on the properties of any people, may be resisted with force, is agreed on all hands. But that magistrates, doing the same thing, may be resisted, hath of late been denied: as if those who had the greatest privileges and advantages by the law, had thereby a power to break those laws, by which alone they were set in a better place than their brethren: whereas their offence is thereby the greater, both as being ungrateful for the greater share they have by the law, and breaking also that trust, which is put into their hands by their brethren.

Sect. 232. Whosoever uses force without right, as every one does in society, who does it without law, puts himself into a state of war with those against whom he so uses it; and in that state all

former ties are cancelled, all other rights cease, and every one has a right to defend himself, and to resist the aggressor. This is so evident, that Barclay himself, that great assertor of the power and sacredness of kings, is forced to confess, That it is lawful for the people, in some cases, to resist their king; and that too in a chapter, wherein he pretends to shew, that the divine law shuts up the people from all manner of rebellion. Whereby it is evident, even by his own doctrine, that, since they may in some cases resist, all resisting of princes is not rebellion. His words are these. Quod si quis dicat, Ergone populus tyrannicae crudelitati & furori jugulum semper praebebit? Ergone multitudo civitates suas fame, ferro, & flamma vastari, seque, conjuges, & liberos fortunae ludibrio & tyranni libidini exponi, inque omnia vitae pericula omnesque miserias & molestias a rege deduci patientur? Num illis quod omni animantium generi est a natura tributum, denegari debet, ut sc. vim vi repellant, seseq; ab injuria, tueantur? Huic breviter responsum sit, Populo universo negari defensionem, quae juris naturalis est, neque ultionem quae praeter naturam est adversus regem concedi debere. Quapropter si rex non in singulares tantum personas aliquot privatum odium exerceat, sed corpus etiam reipublicae, cujus ipse caput est, i.e. totum populum, vel insignem aliquam ejus partem immani & intoleranda saevitia seu tyrannide divexet; populo, quidem hoc casu resistendi ac tuendi se ab injuria potestas competit, sed tuendi se

tantum, non enim in principem invadendi: & restituendae
injuriae
illatae, non recedendi a debita reverentia propter
acceptam injuriam.
Praesentem denique impetum propulsandi non vim
praeteritam ulciscenti
jus habet. Horum enim alterum a natura est, ut vitam
scilicet corpusque
tueamur. Alterum vero contra naturam, ut inferior de
superiori
supplicium sumat. Quod itaque populus malum, antequam
factum sit,
impedire potest, ne fiat, id postquam factum est, in
regem authorem
sceleris vindicare non potest: populus igitur hoc
amplius quam privatus
quispiam habet: quod huic, vel ipsis adversariis
judicibus, excepto
Buchanano, nullum nisi in patientia remedium superest.
Cum ille si
intolerabilis tyrannus est (modicum enim ferre omnino
debet) resistere
cum reverentia possit, Barclay contra Monarchom. 1. iii.
c. 8.

In English thus:

Sect. 233. But if any one should ask, Must the people
then always lay
themselves open to the cruelty and rage of tyranny? Must
they see their
cities pillaged, and laid in ashes, their wives and
children exposed to
the tyrant's lust and fury, and themselves and families
reduced by their
king to ruin, and all the miseries of want and
oppression, and yet sit
still? Must men alone be debarred the common privilege
of opposing force
with force, which nature allows so freely to all other
creatures for
their preservation from injury? I answer: Self-defence
is a part of the
law of nature; nor can it be denied the community, even
against the king

himself: but to revenge themselves upon him, must by no means be allowed them; it being not agreeable to that law. Wherefore if the king shall shew an hatred, not only to some particular persons, but sets himself against the body of the commonwealth, whereof he is the head, and shall, with intolerable ill usage, cruelly tyrannize over the whole, or a considerable part of the people, in this case the people have a right to resist and defend themselves from injury: but it must be with this caution, that they only defend themselves, but do not attack their prince: they may repair the damages received, but must not for any provocation exceed the bounds of due reverence and respect. They may repulse the present attempt, but must not revenge past violences: for it is natural for us to defend life and limb, but that an inferior should punish a superior, is against nature. The mischief which is designed them, the people may prevent before it be done; but when it is done, they must not revenge it on the king, though author of the villany. This therefore is the privilege of the people in general, above what any private person hath; that particular men are allowed by our adversaries themselves (Buchanan only excepted) to have no other remedy but patience; but the body of the people may with respect resist intolerable tyranny; for when it is but moderate, they ought to endure it.

Sect. 234. Thus far that great advocate of monarchical power allows of resistance.

Sect. 235. It is true, he has annexed two limitations to it, to no purpose:

First, He says, it must be with reverence.

Secondly, It must be without retribution, or punishment; and the reason he gives is, because an inferior cannot punish a superior. First, How to resist force without striking again, or how to strike with reverence, will need some skill to make intelligible. He that shall oppose an assault only with a shield to receive the blows, or in any more respectful posture, without a sword in his hand, to abate the confidence and force of the assailant, will quickly be at an end of his resistance, and will find such a defence serve only to draw on himself the worse usage. This is as ridiculous a way of resisting, as juvenal thought it of fighting; ubi tu pulsas, ego vapulo tantum. And the success of the combat will be unavoidably the same he there describes it:

/*[4]

-----Libertas pauperis haec est:

Pulsatus rogat, et pugnans concisus, adoratur,

Ut liceat paucis cum dentibus inde reverti.

*/

This will always be the event of such an imaginary resistance, where men may not strike again. He therefore who may resist, must be allowed to strike. And then let our author, or any body else, join a knock on the head, or a cut on the face, with as much reverence and respect as he thinks fit. He that can reconcile blows and reverence, may, for aught I

know, desire for his pains, a civil, respectful
cudgeling where-ever he
can meet with it.

Secondly, As to his second, An inferior cannot punish a
superior; that
is true, generally speaking, whilst he is his superior.
But to resist
force with force, being the state of war that levels the
parties,
cancels all former relation of reverence, respect, and
superiority: and
then the odds that remains, is, that he, who opposes the
unjust
agressor, has this superiority over him, that he has a
right, when he
prevails, to punish the offender, both for the breach of
the peace, and
all the evils that followed upon it. Barclay therefore,
in another
place, more coherently to himself, denies it to be
lawful to resist a
king in any case. But he there assigns two cases,
whereby a king may
un-king himself. His words are,

Quid ergo, nulline casus incidere possunt quibus populo
sese erigere
atque in regem impotentius dominantem arma capere &
invadere jure suo
suaque autoritate liceat? Nulli certe quamdiu rex
manet. Semper enim ex
divinis id obstat, Regem honorificato; & qui potestati
resistit, Dei
ordinationi resisit: non alias igitur in eum populo
potestas est quam si
id committat propter quod ipso jure rex esse desinat.
Tunc enim se ipse
principatu exuit atque in privatis constituit liber: hoc
modo populus &
superior efficitur, reverso ad eum sc. jure illo quod
ante regem
inauguratum in interregno habuit. At sunt paucorum
generum commissa
ejusmodi quae hunc effectum pariunt. At ego cum plurima

animo
perlustrem, duo tantum invenio, duos, inquam, casus
quibus rex ipso
facto ex rege non regem se facit & omni honore &
dignitate regali atque
in subditos potestate destituit; quorum etiam meminit
Winzerus. Horum
unus est, Si regnum disperdat, quemadmodum de Nerone
fertur, quod is
nempe senatum populumque Romanum, atque adeo urbem ipsam
ferro flammaque
vastare, ac novas sibi sedes quaerere decrevisset. Et de
Caligula, quod
palam denunciavit se neque civem neque principem senatui
amplius fore,
inque animo habuerit interempto utriusque ordinis
electissimo quoque
Alexandriam commigrare, ac ut populum uno ictu
interimeret, unam ei
cervicem optavit. Talia cum rex aliquis meditator &
molitur serio, omnem
regnandi curam & animum ilico abjicit, ac proinde
imperium in subditos
amittit, ut dominus servi pro derelicto habitus dominium.

Sect. 236. Alter casus est, Si rex in alicujus
clientelam se contulit,
ac regnum quod liberum a majoribus & populo traditum
accepit, alienae
ditioni mancipavit. Nam tunc quamvis forte non ea mente
id agit populo
plane ut incommodet: tamen quia quod praecipuum est
regiae dignitatis
amittit, ut summus scilicet in regno secundum Deum sit, &
solo Deo
inferior, atque populum etiam totum ignorantem vel
invitum, cujus
libertatem sartam & tectam conservare debuit, in
alterius gentis
ditionem & potestatem dedidit; hac velut quadam regni ab
alienatione
effecit, ut nec quod ipse in regno imperium habuit
retineat, nec in eum
cui collatum voluit, juris quicquam transferat; atque
ita eo facto

liberum jam & suae potestatis populum relinquit, cujus
rei exemplum unum
annales Scotici suppeditant. Barclay contra Monarchom.
1. iii. c. 16.

Which in English runs thus:

Sect. 237. What then, can there no case happen wherein
the people may of
right, and by their own authority, help themselves, take
arms, and set
upon their king, imperiously domineering over them? None
at all, whilst
he remains a king. Honour the king, and he that resists
the power,
resists the ordinance of God; are divine oracles that
will never permit
it, The people therefore can never come by a power over
him, unless he
does something that makes him cease to be a king: for
then he divests
himself of his crown and dignity, and returns to the
state of a private
man, and the people become free and superior, the power
which they had
in the interregnum, before they crowned him king,
devolving to them
again. But there are but few miscarriages which bring
the matter to this
state. After considering it well on all sides, I can
find but two. Two
cases there are, I say, whereby a king, ipso facto,
becomes no king, and
loses all power and regal authority over his people;
which are also
taken notice of by Winzerus.

The first is, If he endeavour to overturn the
government, that is, if he
have a purpose and design to ruin the kingdom and
commonwealth, as it is
recorded of Nero, that he resolved to cut off the senate
and people of
Rome, lay the city waste with fire and sword, and then
remove to some

other place. And of Caligula, that he openly declared, that he would be no longer a head to the people or senate, and that he had it in his thoughts to cut off the worthiest men of both ranks, and then retire to Alexandria: and he wisht that the people had but one neck, that he might dispatch them all at a blow, Such designs as these, when any king harbours in his thoughts, and seriously promotes, he immediately gives up all care and thought of the commonwealth; and consequently forfeits the power of governing his subjects, as a master does the dominion over his slaves whom he hath abandoned.

Sect. 238. The other case is, When a king makes himself the dependent of another, and subjects his kingdom which his ancestors left him, and the people put free into his hands, to the dominion of another: for however perhaps it may not be his intention to prejudice the people; yet because he has hereby lost the principal part of regal dignity, viz. to be next and immediately under God, supreme in his kingdom; and also because he betrayed or forced his people, whose liberty he ought to have carefully preserved, into the power and dominion of a foreign nation. By this, as it were, alienation of his kingdom, he himself loses the power he had in it before, without transferring any the least right to those on whom he would have bestowed it; and so by this act sets the people free, and leaves them at their own disposal. One example of this is to be found in the Scotch Annals.

Sect. 239. In these cases Barclay, the great champion of

absolute
monarchy, is forced to allow, that a king may be
resisted, and ceases to
be a king. That is, in short, not to multiply cases, in
whatsoever he
has no authority, there he is no king, and may be
resisted: for
wheresoever the authority ceases, the king ceases too,
and becomes like
other men who have no authority. And these two cases he
instances in,
differ little from those above mentioned, to be
destructive to
governments, only that he has omitted the principle from
which his
doctrine flows: and that is, the breach of trust, in not
preserving the
form of government agreed on, and in not intending the
end of government
itself, which is the public good and preservation of
property. When a
king has dethroned himself, and put himself in a state
of war with his
people, what shall hinder them from prosecuting him who
is no king, as
they would any other man, who has put himself into a
state of war with
them, Barclay, and those of his opinion, would do well
to tell us. This
farther I desire may be taken notice of out of Barclay,
that he says,
The mischief that is designed them, the people may
prevent before it be
clone: whereby he allows resistance when tyranny is but
in design. Such
designs as these (says he) when any king harbours in his
thoughts and
seriously promotes, he immediately gives up all care and
thought of the
commonwealth; so that, according to him, the neglect of
the public good
is to be taken as an evidence of such design, or at
least for a
sufficient cause of resistance. And the reason of all,
he gives in these

words, Because he betrayed or forced his people, whose liberty he ought carefully to have preserved. What he adds, into the power and dominion of a foreign nation, signifies nothing, the fault and forfeiture lying in the loss of their liberty, which he ought to have preserved, and not in any distinction of the persons to whose dominion they were subjected. The peoples right is equally invaded, and their liberty lost, whether they are made slaves to any of their own, or a foreign nation; and in this lies the injury, and against this only have they the right of defence. And there are instances to be found in all countries, which shew, that it is not the change of nations in the persons of their governors, but the change of government, that gives the offence. Bilson, a bishop of our church, and a great stickler for the power and prerogative of princes, does, if I mistake not, in his treatise of Christian subjection, acknowledge, that princes may forfeit their power, and their title to the obedience of their subjects; and if there needed authority in a case where reason is so plain, I could send my reader to Bracton, Fortescue, and the author of the Mirrour, and others, writers that cannot be suspected to be ignorant of our government, or enemies to it. But I thought Hooker alone might be enough to satisfy those men, who relying on him for their ecclesiastical polity, are by a strange fate carried to deny those principles upon which he builds it. Whether they are herein made the tools of cunninger workmen, to pull down their own fabric, they were best look. This I am sure, their civil

policy is so
new, so dangerous, and so destructive to both rulers and
people, that as
former ages never could bear the broaching of it; so it
may be hoped,
those to come, redeemed from the impositions of these
Egyptian
under-task-masters, will abhor the memory of such
servile flatterers,
who, whilst it seemed to serve their turn, resolved all
government into
absolute tyranny, and would have all men born to, what
their mean souls
fitted them for, slavery.

Sect. 240. Here, it is like, the common question will be
made, Who shall
be judge, whether the prince or legislative act contrary
to their trust?
This, perhaps, ill-affected and factious men may spread
amongst the
people, when the prince only makes use of his due
prerogative. To this I
reply, The people shall be judge; for who shall be judge
whether his
trustee or deputy acts well, and according to the trust
reposed in him,
but he who deposes him, and must, by having deposed him,
have still a
power to discard him, when he fails in his trust? If
this be reasonable
in particular cases of private men, why should it be
otherwise in that
of the greatest moment, where the welfare of millions is
concerned, and
also where the evil, if not prevented, is greater, and
the redress very
difficult, dear, and dangerous?

Sect. 241. But farther, this question, (Who shall be
judge?) cannot
mean, that there is no judge at all: for where there is
no judicature on
earth, to decide controversies amongst men, God in
heaven is judge. He

alone, it is true, is judge of the right. But every man is judge for himself, as in all other cases, so in this, whether another hath put himself into a state of war with him, and whether he should appeal to the Supreme Judge, as Jephtha did.

Sect. 242. If a controversy arise betwixt a prince and some of the people, in a matter where the law is silent, or doubtful, and the thing be of great consequence, I should think the proper umpire, in such a case, should be the body of the people: for in cases where the prince hath a trust reposed in him, and is dispensed from the common ordinary rules of the law; there, if any men find themselves aggrieved, and think the prince acts contrary to, or beyond that trust, who so proper to judge as the body of the people, (who, at first, lodged that trust in him) how far they meant it should extend? But if the prince, or whoever they be in the administration, decline that way of determination, the appeal then lies no where but to heaven; force between either persons, who have no known superior on earth, or which permits no appeal to a judge on earth, being properly a state of war, wherein the appeal lies only to heaven; and in that state the injured party must judge for himself, when he will think fit to make use of that appeal, and put himself upon it.

Sect. 243. To conclude, The power that every individual gave the society, when he entered into it, can never revert to the individuals again, as long as the society lasts, but will always

remain in the
community; because without this there can be no
community, no
commonwealth, which is contrary to the original
agreement: so also when
the society hath placed the legislative in any assembly
of men, to
continue in them and their successors, with direction
and authority for
providing such successors, the legislative can never
revert to the
people whilst that government lasts; because having
provided a
legislative with power to continue for ever, they have
given up their
political power to the legislative, and cannot resume
it. But if they
have set limits to the duration of their legislative,
and made this
supreme power in any person, or assembly, only
temporary; or else, when
by the miscarriages of those in authority, it is
forfeited; upon the
forfeiture, or at the determination of the time set, it
reverts to the
society, and the people have a right to act as supreme,
and continue the
legislative in themselves; or erect a new form, or under
the old form
place it in new hands, as they think good.

FINIS.

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