

John Locke

***Two Treatises: Of Civil
Government***

Book 2 Chapters 1 to 10

John Locke, *The Works of John Locke in
Nine Volumes.* 12th ed. London:
Rivington, 1824. Vol. 4

OF
CIVIL GOVERNMENT.

BOOK II.

CHAPTER I.

§ 1. IT having been shown in the foregoing discourse,

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

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

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

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

All these premises having, as I think, been clearly made out, it is impossible that the rulers now on earth should make any benefit, or derive any the least shadow of authority from that, which is held to be the fountain of all power, " Adam's private dominion and paternal jurisdiction ;" so that he that will not give just occasion to think that all government in the world is the product only of force and violence, and that men live together by no other rules but that of beasts, where the

strongest carries it, and so lay a foundation for perpetual disorder and mischief, tumult, sedition, and rebellion (things that the followers of that hypothesis so loudly cry out against) must of necessity find out another rise of government, another original of political power, and another way of designing and knowing the persons that have it, than what sir Robert Filmer hath taught us.

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

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

CHAPTER II.

Of the state of nature.

§ 4. To understand political power right, and derive it from its original, we must consider what state all men are naturally in, and that is, a state of perfect freedom to order their actions and dispose of their possessions and persons, as they think fit, within the

bounds of the law of nature; without asking leave, or depending upon the will of any other man.

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

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

“ The like natural inducement hath brought men to
 “ know, that it is no less their duty to love others than
 “ themselves; for seeing those things which are equal,
 “ must needs all have one measure; if I cannot but
 “ wish to receive good, even as much at every man’s
 “ hands, as any man can wish unto his own soul, how
 “ should I look to have any part of my desire herein
 “ satisfied, unless myself be careful to satisfy the like
 “ desire, which is undoubtedly in other men, being of
 “ one and the same nature? To have any thing offered
 “ them repugnant to this desire, must needs in all re-
 “ spects grieve them as much as me; so that if I do
 “ harm, I must look to suffer, there being no reason
 “ that others should show greater measure of love to
 “ me, than they have by me showed unto them: my
 “ desire therefore to be loved of my equals in nature,
 “ as much as possibly 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.”

§ 6. But though this be a state of liberty, yet it is not a state of licence: though man in that state have an uncontrolable 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 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 another, as if we were made for one another's uses, as the inferior ranks of creatures are for ours. 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 to an offender, take away or impair the life, or what tends to the preservation of life, the liberty, health, limb, or goods of another.

§ 7. And that all men may be restrained from invading others rights, and from doing hurt to one another, and the law of nature be observed, which willeth the peace and preservation of all mankind, the execution of the law of nature is, in that state, put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree as may hinder its violation: for the law of nature would, as all other laws that concern men in this world, be in vain, if there were nobody that in the state of nature had a

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

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

§ 9. I doubt not but this will seem a very strange doctrine to some men: but before they condemn it, I desire them to resolve me, by what right any prince or state can put to death, or punish any 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.

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

§ 11. From these two distinct rights, the one of punishing the crime for restraint, and preventing the like offence, which right of punishing is in every body; the other of taking reparation, which belongs only to the injured party; comes it to pass that the magistrate, who by being magistrate hath the common right of punishing put into his hands, can often, where the public good demands not the execution of the law, remit the punishment of criminal offences by his own authority, but yet cannot remit the satisfaction due to any private man for the damage he has received. That, he who has

suffered the damage has a right to demand in his own name, and he alone can remit: the damnified person has this power of appropriating to himself the goods or service of the offender, by right of self-preservation, as every man has a power to punish the crime, to prevent its being committed again, "by the right he has of preserving all mankind;" and doing all reasonable things he can in order to that end: and thus it is, that every man, in the state of nature, has a power to kill a murderer, both to deter others from doing the like injury, which no reparation can compensate, by the example of the punishment that attends it from every body; and also to secure men from the attempts of a criminal, who having renounced reason, the common rule and measure God hath given to mankind, hath, by the unjust violence and slaughter he hath committed upon one, declared war against all mankind; and therefore may be destroyed as a lion or a tiger, 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 mankind.

§ 12. By the same reason may a man in the state of nature punish the lesser breaches of that law. It will perhaps be demanded, with death? I answer, each transgression may be punished to that degree, and with so much severity, as will suffice to make it an ill bargain to the offender, give him cause to repent, and terrify others from doing the like. Every offence, that can be committed in the state of nature, may in the state of nature be also punished equally, and as far forth, as it may in a commonwealth: for though it would be beside 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.

§ 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 control those who execute his pleasure? and in whatsoever he doth, whether led by reason, mistake or passion, must be submitted to? much better it is in the state of nature, wherein men are not bound to submit to the unjust will of another: and if he that judges, judges amiss in his

own, or any other case, he is answerable for it to the rest of mankind.

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

§ 15. To those that say, there were never any men in the state of nature, I will not only oppose the authority of the judicious Hooker, *Eccl. Pol. lib. 1. sect. 10*, where he says, “ The laws which have been hitherto mentioned,” i. e. the laws of nature, “ do bind men absolutely, even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do, or not to do; but forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things, needful for such a life as our nature doth desire, a life fit for the dignity of man; therefore to supply those defects and imperfections which are in us, as living singly and solely by ourselves, we are naturally induced to seek communion and fellowship with others. This was the cause of men’s uniting themselves at

“ first in politic societies.” But I moreover affirm, that all men are naturally in that state, and 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.

§ 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 common law of reason, have no other rule, but that of force and violence, and so may be treated as beasts of prey, those dangerous and noxious creatures, that will be sure to destroy him whenever he falls into their power.

§ 17. And hence it is, that he who attempts to get another man into his absolute power, does thereby put himself into a state of war with him; it being to be understood as a declaration of a design upon his life: for I have reason to conclude, that he who would get me into his power without my consent, would use me

as he pleased when he got me there, and destroy me too when he had a fancy to it; for nobody 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 he looked on as in a state of war.

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

§ 19. And here we have the plain “difference between the state of nature and the state of war,” which however some men have confounded, are as far distant, as a state of peace, good-will, mutual assistance and preservation, and a state of enmity, malice, violence and mutual destruction, are one from another. Men living together according to reason, without a common superior on earth, with authority to judge between them,

is properly the state of nature. But force, or a declared design of force, upon the person of another, where there is no common superiour 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, though he be in society and a fellow-subject. Thus a thief, whom I cannot harm, but by appeal to the law, for having stolen all that I am worth, I may kill, when he sets on me to rob me but of my horse or coat; because the law, which was made for my preservation, where it cannot interpose to secure my life from present force, which, if lost, is capable of no reparation, permits me my own defence, and the right of war, a liberty to kill the aggressor, because the aggressor allows not time to appeal to our common judge, nor the decision of the law, for remedy in a case where the mischief may be irreparable. Want of a common judge with authority, puts all men in a state of nature: force without right, upon a man's person, makes a state of war, both where there is, and is not, a common judge.

§ 20. But when the actual force is over, the state of war ceases between those that are in society, and are equally on both sides subjected to the fair determination of the law; because then there lies open the remedy of appeal for the past injury, and to prevent future harm: but where no such appeal is, as in the state of nature, for want of positive laws, and judges with authority to appeal to, the state of war once begun, continues with a right to the innocent party to destroy the other whenever he can, until the aggressor offers peace, and desires reconciliation on such terms as may repair any wrongs he has already done, and secure the innocent for the future: nay, where an appeal to the law, and constituted judges, lies open, but the remedy is denied by a manifest perverting of justice, and a barefaced wresting of the laws to protect or indemnify the violence or injuries of some men, or party of men; there it is hard to imagine any thing but a state of war: for 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.

§ 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 Jephthah 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 Jephthah 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 Jephthah 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.

§ 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, O, 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 inconsistent, uncertain, unknown, arbitrary will of another man: as freedom of nature is, to be under no other restraint but the law of nature.

§ 23. This freedom from absolute, arbitrary power, is so necessary to, and closely joined with a man's preservation, that he cannot part with it, but by what forfeits his preservation and life together: for a man, not having the power of his own life, cannot, by compact, or his own consent, enslave himself to any one, nor put himself under the absolute, arbitrary power of another, to take away his life, when he pleases. Nobody can give more power than he has himself; and he that cannot take away his own life, cannot give another power over it. Indeed, having by his fault forfeited his own life, by some act that deserves death; he, to whom he

has forfeited it, may (when he has him in his power) delay to take it, and make use of him to his own service, and he does him no injury by it: for, whenever he finds the hardship of his slavery outweigh the value of his life, it is in his power, by resisting the will of his master, to draw on himself the death he desires.

§ 24. This is the perfect condition of slavery, which is nothing else, but “the state of war continued, between a lawful conqueror and a captive:” for, if once compact enter between them, and make an agreement for a limited power on the one side, and obedience on the other, the state of war and slavery ceases, as long as the compact endures: for, as has been said, no man can, by agreement, pass over to another that which he hath not in himself, a power over his own life.

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

CHAPTER V.

Of property.

§ 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 show, how men might come to have a property in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners.

§ 26. God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life, and convenience. The earth, and all that is therein, is given to men for the support and comfort of their being. And though 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 nobody 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.

§ 27. Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this nobody has any right to but himself. The labour of his body, and the work of his hands,

we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men. For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.

§ 28. He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. Nobody can deny but the nourishment is his. I ask then, when did they begin to be his? when he digested? or when he eat? or when he boiled? or when he brought them home? or when he picked them up? and it is plain, if the first gathering made them not his, nothing else could. That labour put a distinction between them and common: that added something to them more than nature, the common mother of all, had done; and so they became his private right. And will any one say he had no right to those acorns or apples he thus appropriated, because he had not the consent of all mankind to make them his? was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him. We see in commons, which remain so by compact, that it is the taking any part of what is common, and removing it out of the state nature leaves it in, which begins the property; without which the common is of no use. And the taking of this or that part does not depend on the express consent of all the commoners. Thus the grass my horse has bit; the turfs my servant has cut; and the ore I have digged in any place, where I have a right to them in common with others; become my property, without the assignation or consent of any body. The labour that was mine, removing them out of that

common state they were in, hath fixed my property in them.

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

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

§ 31. It will perhaps be objected to this, that "if gathering the acorns, or other fruits of the earth, &c. makes a right to them, then any one may engross 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. 17, 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 engross it to the prejudice of others; especially keeping within the bounds, set by reason, of what might serve for his use; there could be then little room for quarrels or contentions about property so established.

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

§ 33. Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his

enclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. Nobody 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 for both, is perfectly the same.

§ 34. God gave the world to men in common; but since he gave it them for their benefit, and the greatest conveniences 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.

§ 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 enclose 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

wherever he had fixed it. And hence subduing or cultivating the earth, and having dominion, we see are joined together. The one gave title to the other. So that God, by commanding to subdue, gave authority so far to appropriate: and the condition of human life, which requires labour and materials to work on, necessarily introduces private possessions.

§ 36. The measure of property nature has well set by the extent of men's labour, and the conveniences 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 encroachment; 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 them-

selves 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 show more at large.

§ 37. This is certain, that in the beginning, before the desire of having more than man needed had altered the *intrinsic value of things*, which depends only on their usefulness to the life of man; or had agreed, that a little piece of yellow metal, which would keep without wasting or decay, should be worth a great piece of flesh, or a whole heap of corn; though men had a right to appropriate, by their labour, each one to 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 enclosed 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 encloses 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 by 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, with-

out any improvement, tillage, or husbandry, a thousand acres yield the needy and wretched inhabitants as many conveniencies of life, as ten acres equally fertile land do in Devonshire, where they are well cultivated.

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

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

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

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

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

§ 41. There cannot be a clearer demonstration of any thing, than several nations of the Americans are of this, who are rich in land, and poor in all the comforts of life; whom nature having furnished as liberally as any other people, with the materials of plenty, i. e. a fruitful soil, apt to produce in abundance what might serve for food, raiment, and delight; yet for want of improving it by labour, have not one hundredth part of the conveniences we enjoy: and a king of a large and fruitful territory there feeds, lodges, and is clad worse than a day-labourer in England.

§ 42. To make this a little clear, 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 of their value they receive 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 shows how much numbers of men are to be preferred to largeness of dominions; and that the increase of lands, and the right of 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 in-

dustry of mankind, against the oppression of power and narrowness of party, will quickly be too hard for his neighbours: but this by the by. To return to the argument in hand.

§ 43. An acre of land, that bears here twenty bushels of wheat, and another in America, which, with the same husbandry, would do the like, are, without doubt, of the same natural intrinsic value: but yet the benefit mankind receives from the one in a year, is worth 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 the 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 ploughman's pains, the reaper's and thresher's toil, and the baker's sweat is to be counted into the bread we eat; the labour of those who broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are a vast number requisite to this corn, from its being seed 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, dyeing, drugs, pitch, tar, masts, ropes, and all the materials made use of in the ship, that brought any of the commodities used by any of the workmen, to any part of the work: all which it would be almost impossible, at least too long, to reckon up.

§ 44. From all which it is evident, that though the things of nature are given in common, yet man, by

being master of himself, and “proprietor of his own person, and the actions or labour of it, had still in himself the great foundation of property;” and that, which made up the greater part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniencies of life, was perfectly his own, and did not belong in common to others.

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

§ 46. The greatest part of things really useful to the life of man, and such as the necessity of subsisting made the first commoners of the world look after, as it doth the Americans now, are generally things of short dura-

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

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

§ 48. And as different degrees of industry were apt to give men possessions in different proportions, so this invention of money gave them the opportunity to continue and enlarge them: for supposing an island, separate from all possible commerce with the rest of the

world, wherein there were but an hundred families, but there were sheep, horses, and cows, with other useful animals, 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 something, 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 ever so rich, ever 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.

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

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

hands of the possessor. This partage of things in an inequality of private possessions, men have made practicable out of the bounds of society, and without compact; only by putting a value on gold and silver, and tacitly agreeing in the use of money: for in governments, the laws regulate the right of property, and the possession of land is determined by positive constitutions.

§ 51. And thus, I think, it is very easy to conceive, “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.

§ 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 equally to both 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. 5. “ Children, obey your parents,” &c. Eph. vi. 1, is the style of the Old and New Testament.

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

§ 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 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.

§ 55. Children, I confess, are not born in this 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 are 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.

§ 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.

§ 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 nobody 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 a 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 not 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.

§ 58. The power, then, that parents have over their children, arises from that duty which is incumbent on them, to take care of their offspring 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.

§ 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, somebody 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.

§ 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 idiots are never set free from the government of their parents. “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,” says Hooker, *Eccl. Pol. lib. i. sect. 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.

§ 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 ever so free, ever 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. lib. 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."

§ 62. Commonwealths themselves take notice of, and allow, that there is a time when men are to begin to act like freemen, 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.

§ 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 theirs. 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.

§ 64. But what reason can hence advance this care of the parents due to their offspring 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.

§ 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 theirs; 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 can from thenceforwards 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 licence from divine authority to "leave father and mother, and cleave to his wife."

§ 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 shown 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 authority to make laws and dispose as they please of their lives and 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.

§ 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 perpetual right to respect, reverence, support and compliance too, more or less, as the father's care, cost, and kindness in his education, have 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 offspring, 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 bias 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.

§ 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.

§ 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 nevertheless 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 sceptre 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.

§ 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 expense, which are often employed upon one child more than another.

§ 71. This shows 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 theirs; and cannot therefore contain any part or degree of that kind of dominion which a prince or magistrate has over his subjects.

§ 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 ordinary in the father, whereby he has a tie on the obedience of his children; which though it be common to him with other men, yet the occasions of showing 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.

§ 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 Frenchman has over an Englishman, 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.

§ 74. To conclude then, though 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 though 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 which 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

* It is no improbable opinion, therefore, which the arch-philosopher 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,

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 nobody 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 punish 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.

§ 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

“ were made rulers; as also the ancient custom of governors to do as
 “ Melchizedeck, 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 re-
 “ ceived in the world. The inconveniencies of one kind have caused
 “ sundry others to be devised; so that, in a word, all public regi-
 “ ment, 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. P. l. i. sect. 10.

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.

§ 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.

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

§ 78. Conjugal society is made by a voluntary compact between man and woman; and though 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 offspring, who have a right to be nourished and maintained by them, till they are able to provide for themselves.

§ 79. For the end of conjunction between male and female being not barely procreation, but the continuation of the species; this conjunction betwixt male and female ought to last, even after procreation, so long as is necessary to the nourishment and support of the young ones, who are to be sustained by those that got them, till they are able to shift and provide for themselves. This rule, which the infinite wise Maker hath set to

the works of his hands, we find the inferior creatures steadily obey. In those viviparous animals which feed on grass, the conjunction between male and female lasts no longer than the very act of copulation; because the teat of the dam being sufficient to nourish the young, till it be able to feed on grass, the male only begets, but concerns not himself for the female or young, to whose sustenance he can contribute nothing. But in beasts of prey the conjunction lasts longer: because the dam not being able well to subsist herself, and nourish her numerous offspring by her own prey alone, a more laborious, as well as more dangerous way of living, than by feeding on grass; the assistance of the male is necessary to the maintenance of their common family, which cannot subsist till they are able to prey for themselves, but by the joint care of male and female. The same is to be observed in all birds (except some domestic ones, where plenty of food excuses the cock from feeding, and taking care of the young brood), whose young needing food in the nest, the cock and hen continue mates, till the young are able to use their wing, and provide for themselves.

§ 80. And herein I think lies the chief, if not the only reason, “why the male and female in mankind are “tied to a longer conjunction” than other creatures, viz. because the female is capable of conceiving, and de facto is commonly with child again, and brings forth too a new birth, long before the former is out of a dependency for support on his parents help, and able to shift for himself, and has all the assistance that 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 choose new mates. Wherein one cannot but admire the wisdom of the great Creator, who having given to man foresight, and an ability to lay up for the future, as well as to supply the

present necessity, hath made it necessary, that society of man and wife should be more lasting, than of male and female amongst other creatures; that so their industry might be encouraged, and their interest better united, to make provision and lay up goods for their common issue, which uncertain mixture, or easy and frequent solutions of conjugal society, would mightily disturb.

§ 81. But though 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 inquire, why this compact, where procreation and education are secured, and inheritance taken care for, may not be made determinable, either by consent, or at a certain time, or upon certain conditions, as well as any other voluntary compacts, there being no necessity in the nature of the thing, nor to the ends of it, that it should always be for life; I mean, to such as are under no restraint of any positive law, which ordains all such contracts to be perpetual.

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

§ 83. For all the ends of marriage being to be obtained under politic government, as well as in the state

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

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

§ 85. Master and servant are names as old as history, but given to those of far different condition; for a freeman makes himself a servant to another, by selling him, for a certain time, the service he undertakes to do, in exchange for wages he is to receive: and though this commonly puts him into the family of his master, and under the ordinary discipline thereof: yet it gives the master but a temporary power over him, and no greater than what is contained in the contract between them. But there is another sort of servants, which by a peculiar name we call slaves, who being captives taken in a just war, are by the right of nature subjected to the

absolute dominion and arbitrary power of their masters. These men having, as I say, forfeited their lives, and with it their liberties, and lost their estates; and being in the state of slavery, not capable of any property, cannot in that state be considered as any part of civil society; the chief end whereof is the preservation of property.

§ 86. Let us therefore consider a master of a family with all these subordinate relations of wife, children, servants, and slaves, united under the domestic rule of a family; which, what resemblance soever it may have in its order, offices, and number too, with a little 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.

§ 87. Man being born, as has been proved, with a title to perfect freedom, and uncontrolled 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 opi-

nion, 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 his natural power, resigned it up into the hands of the community in all cases that excludes 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 showed, the perfect state of nature.

§ 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.

§ 89. Whenever 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, wherever 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 degrees) 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 magistrate 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.

§ 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 these inconveniencies of the state of nature, which necessarily follow from every man 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; wherever any persons are, who have not such an authority to appeal to for the decision of any difference between them, there those persons are still in the state of nature; and so is every absolute prince, in respect of those who are under his dominion.

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

* “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 showed which may necessarily inforce, that the law of reason, or of God, doth enjoin the contrary.” Hook. Eccl. Pol. l. i. sect. 16.

† “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 state 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

under all the inconveniencies of it, with only this woful difference to the subject, or rather slave of an absolute prince; that whereas in the ordinary state of nature he has a liberty to judge of his right, and, according to the best of his power, to maintain it; now, whenever his property is invaded by the will and order of his monarch, he has not only no appeal, as those in society ought to have, but, as if he were degraded from the common state of rational creatures, is denied a liberty to judge of, or to defend his right; and so is exposed to all the misery and inconveniencies, that a man can fear from one, who being in the unrestrained state of nature, is yet corrupted with flattery, and armed with power.

§ 92. For he that thinks absolute power purifies men's blood, and corrects the baseness of human nature, need read but the history of this or any other age, to be convinced of the contrary. He that would have been so 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.

§ 93. In absolute monarchies, indeed, as well as other governments of the world, the subjects have an appeal

“ 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 there-
 “ of, in as much as every man is towards himself, and them whom he
 “ greatly affects, partial; and therefore that strifes and troubles would
 “ be endless, except they gave their common consent, all to be ordered
 “ by some, whom they should agree upon, without which consent there
 “ would be no reason that one man should take upon him to be lord
 “ or judge over another.” Hooker's Eccl. Pol. l. i. sect. 10.

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 all owe 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 polecats, or foxes; but are content, nay think it safety, to be devoured by lions.

§ 94. But whatever flatterers may talk to amuse people's understandings, it hinders not men from feeling; and when they perceive, that any man, in what station soever, is out of the bounds of the civil society which they are of, and that they have no appeal on earth

against any harm they may receive from him, they are apt to think themselves in the state of nature, in respect of him whom they find to be so : and to take care, as soon as they can, to have that safety and security in civil society, for which it was instituted, and for which only they entered into it. And therefore, though perhaps at first, (as shall be showed 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 to customs, which the negligent and unforeseen 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 de-

* “ At the first, when some certain kind of regiment was once appointed, it may be that nothing was then further 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 into laws, wherein all men might see their duty beforehand, and know the penalties of transgressing them.” Hooker's *Eccl. P. lib. i. sect. 10.*

pendents. * “ 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.

CHAPTER VIII.

Of the beginning of political societies.

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

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

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

§ 97. And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the majority, and to be concluded by it; or else this original compact, whereby he with others incorporate into one society, would signify nothing, and be no compact, if he be left free, and under no other ties than he was in before in the state of nature. For what appearance would there be of any compact? what new engagement if he were no farther tied by any decrees of the society, than he himself thought fit, and did actually consent to? This would be still as great a liberty, as he himself had before his compact, or any one else in the state of nature hath, who may submit himself, and consent to any acts of it if he thinks fit.

§ 98. For if the consent of the majority shall not, in reason, be received as the act of the whole, and conclude every individual; nothing but the consent of every individual can make any thing to be the act of the whole: but such a consent is next to impossible ever to be had,

if we consider the infirmities of health, and avocations of business, which in a number, though much less than that of a commonwealth, will necessarily keep many away from the public assembly. To which if we add the variety of opinions, and contrariety of interest, which unavoidably happen in all collections of men, the coming into society upon such terms would be only like Cato's coming into the theatre, only to go out again. Such a constitution as this would make the mighty leviathan of a shorter duration, than the feeblest creatures, and not let it outlast the day it was born in: which cannot be supposed, till we can think, that rational creatures should desire and constitute societies only to be dissolved; for where the majority cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.

§ 99. Whosoever therefore out of a state of nature unite into a community, must be understood to give up all the power, necessary to the ends for which they unite into society, to the majority of the community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to unite into one political society, which is all the compact that is, or needs be, between the individuals, that enter into, or make up a 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.

§ 100. To this I find two objections made.

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

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

§ 101. To the first there is this to answer, That it is not at all to be wondered, that history gives us but a very little account of men, that lived together in the state of nature. The inconveniencies 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 embodied 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 politics in the world, excepting that of the Jews, where God himself immediately interposed, and which favours not at all paternal dominion, are all either plain instances of such a beginning as I have mentioned, or at least have manifest footsteps of it.

§ 102. He must show a strange inclination to deny evident matter of fact, when it agrees not with his hypothesis, who will not allow, that the beginnings of Rome and Venice were by the uniting together of several men free and independent one of another, amongst whom there was no natural superiority or subjection. And if Josephus Acosta's word may be taken, he tells us, that in many parts of America there was no government at all. "There are great and apparent conjectures, says he, that these men, speaking of those of Peru, for a long time had neither kings nor common-

“wealths, but lived in troops, as they do this day in Florida, the Cheriquanas, those of Brasil, and many other nations, which have no certain kings, but as occasion is offered, in peace or war, they choose their captains as they please,” l. i. c. 25. If it be said, that every man there was born subject to his father, or the head of his family; that the subjection due from a child to a father took not away his freedom of uniting into what political society he thought fit, has been already proved. But be that as it will, these men, it is evident, were actually free; and whatever superiority some politicians now would place in any of them, they themselves claimed it not, but by consent were all equal, till by the same consent they set rulers over themselves. So that their politic societies all began from a voluntary union, and the mutual agreement of men freely acting in the choice of their governors, and forms of government.

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

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

§ 105. I will not deny, that if we look back as far as history will direct us, towards the original of 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 pupillage; 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 governour 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 toge-

ther; 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, *cæteris paribus*, they commonly prefer the heir of their deceased king; yet, if they find him any way weak, or incapable, they pass him by, and set up the stoutest and bravest man for their ruler.

§ 106. Thus, though looking back as far as records give us any account of peopling the world, and the history of nations, we commonly find the government to be in one hand; yet it destroys not that which I affirm, viz. that the beginning of politic society depends upon the consent of the individuals, to join into, and make one society; who, when they are thus incorporated, might set up what form of government they thought fit. But this having given occasion to men to mistake, and think, that by nature government was monarchical, and belonged to the father; it may not be amiss here to consider, why people in the beginning generally pitched upon this form; which though perhaps the father's pre-eminency might, in the first institution of some commonwealth give rise to, and place in the beginning the power in one hand; yet it is plain that the reason, that continued the form of government in a single person, was not any regard or respect to paternal authority; since all petty monarchies, that is, almost all monarchies, near their original, have been commonly, at least upon occasion, elective.

§ 107. First then, in the beginning of things, the father's government of the childhood of those sprung from him, having accustomed them to the rule of one man, and taught them that where it was exercised with care and skill, with affection and love to those under it, it was sufficient to procure and preserve to men all the political happiness they sought for in society. It was no wonder that they should pitch upon, and naturally

run into that form of government, which from their infancy they had been all accustomed to; and which, by experience, they had found both easy and safe. To which, if we add, that monarchy being simple, and most obvious to men, whom neither experience had instructed in forms of government, nor the ambition or insolence of empire had taught to beware of the encroachments of prerogative, or the inconveniencies 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 exorbitancies 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 liked 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 choose the wisest and bravest

man to conduct them in their wars, and lead them out against their enemies, and in this chiefly be their ruler.

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

§ 109. And thus, in Israel itself, the chief business of their judges, and first kings, seems to have been to be captains in war, and leaders of their armies; which (besides what is signified by "going out and in before the people," which was to march forth to war, and home again at the heads of their forces) appears plainly in the story of Jephthah. The Ammonites making war upon Israel, the Gileadites in fear sent to Jephthah, a bastard of their family whom they had cast off, and article with him, if he will assist them against the Ammonites, to make him their ruler; which they do in these words, "And the people made him head and captain over them," Judg. xi. 11, which was, as it seems, all one as to be judge. "And he judged Israel," Judg. xii. 7, that is, was their captain-general, "six years." So when Jotham upbraids the Shechemites with the obligation they had to Gideon, who had been their judge and ruler, he tells them, "He fought for you, and adventured his life far, and delivered you out of the hands of Midian," Judg. ix. 17. Nothing is 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 parti-

cularly 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," 1 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 Samuel, 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 of Mispheh, 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 them, they tell him, amongst other arguments, they had to submit to him as their king, that he was in effect their king in Saul's time, and therefore they had no reason but to receive him as their king now. "Also (say they,) in time past, when Saul was king over us, thou wast he that leddest out, and broughtest in Israel, and the Lord said unto thee, Thou shalt feed my people Israel, and thou shalt be a captain over Israel."

§ 110. Thus, whether a family by degrees grew up into a commonwealth, and the fatherly authority being continue 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 of one 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 that nobody was entrusted 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.

§ 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 *

* “ At first, when some certain kind of regiment was once approved, it may be nothing was then farther thought upon for the

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 exorbitancies, and prevent the abuses of that power, which they having entrusted in another's hands only for their own good, they found was made use of to hurt them.

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

“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.

§ 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 show me any one man in any age of the world free to begin a lawful monarchy, I will be bound to show 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 show us which that is; which when they have done, I doubt not but all mankind will easily agree to pay obedience to him.

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

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

§ 115. For there are no examples so frequent in history, both sacred and profane, as those of men withdrawing themselves, and their obedience from the ju-

risdiction 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.

§ 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 engagement 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.

§ 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.

§ 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 traitor 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, wherever they be born, and the ties of natural obligations are not bounded by the positive limits of kingdoms and commonwealths.

§ 119. Every man being, as has been showed, 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. Nobody 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 upon to have consented, and thereby submitted to any government, where he has made no expressions of it at all. And to this I say, that every man, that hath any possessions, or enjoyment of any part of the dominions of any government, doth thereby give his tacit consent, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as any one under it; whether this his possession be of land, to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway: and, in effect, it reaches as far as the very being of any one within the territories of that government.

§ 120. To understand this the better, it is fit to consider, that every man, when he at first incorporates himself into any commonwealth, he, by his uniting himself

thereunto, annexes 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.

§ 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.

§ 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.

§ 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 nobody, why will he part with his freedom ? why will he give up his empire, and subject himself to the domi-

nion and control 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 unsecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties, and estates, which I call by the general name, property.

§ 124. The great and chief end, therefore, of men's uniting into 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 studying it, are not apt to allow of it as a law binding to them in the application of it to their particular cases.

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

§ 126. Thirdly, In the state of nature, there often wants power to back and support the sentence when right, and to give it due execution. They who by any

injustice offend, will seldom fail, where they are able, by force to make good their injustice; such resistance many times makes the punishment dangerous, and frequently destructive, to those who attempt it.

§ 127. Thus mankind, notwithstanding all the privileges of the state of nature, being but in an ill condition, while they remain in it, are quickly driven into society. Hence it comes to pass that we seldom find any number of men live any time together in this state. The inconveniencies that they are therein exposed to, by the irregular and uncertain exercise of the power every man has of punishing the transgressions of others, make them take sanctuary under the established laws of government, and therein seek the preservation of their property. It is this makes them so willingly give up every one his single power of punishing, to be exercised by such alone, as shall be appointed to it amongst them; and by such rules as the community, or those authorized by them to that purpose, shall agree on. And in this we have the original right of both the legislative and executive power, as well as of the governments and societies themselves.

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

The first is to do whatsoever he thinks fit for the preservation of himself and others within the permission of the law of nature: by which law, common to them all, he and all the rest of mankind are one community, make up one society, distinct from all other creatures. And, were it not for the corruption and viciousness 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.

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

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

§ 131. But though men, when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative, as the good of the society shall require; yet it being only with an intention in every one the better to preserve himself, his liberty and property; (for no rational creature can be supposed to change his condition with an intention to be worse) the power of the society, or legislative constituted by them, can never be supposed to extend farther, than the common good; but is obliged to secure every one's property, by providing against those three defects above mentioned, that made the state of nature so unsafe and uneasy. And so whoever has the legislative or supreme power of any 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 commonwealth.

§ 132. THE majority having, as has been showed, 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 inferiour power should prescribe to a superiour, or any but the supreme make

laws), according as the power of making laws is placed, such is the form of the commonwealth.

§ 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 government; and city amongst us has quite a 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.

§ 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