Second Treatise of Government

JOHN LOCKE
1632–1704

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The 1690 text

Rendered into modern English with AI (Claude) and edited



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Second Treatise of Government · John Locke (1632–1704)

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INTRODUCTION

Why should anyone obey a government? John Locke's answer, published anonymously in 1690, shaped the American Declaration of Independence and modern liberal democracy: people are born free and equal in a state of nature, with rights to life, liberty and property, and they create government by consent to protect those rights.

When a government betrays that trust, Locke argues, it dissolves itself, and the people may resist and replace it. Along the way he offers his famous account of property, which begins when you mix your labor with something in common.

The right-hand column is Locke in modern English; the left is his original text.

Chapter I

Of Political Power
Locke recaps his case against Filmer and defines political power.

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[1] In the preceding discourse it has been shown:

(1) That Adam did not have, either by the natural right of fatherhood or by a positive grant from God, any such authority over his children, or dominion over the world, as is claimed;

(2) That even if he had, his heirs had no right to it;

(3) That even if his heirs had, since there is no law of nature or positive law of God that determines who the rightful heir is in every case that may arise, the right of succession, and therefore of ruling, could never have been determined with certainty;

(4) That even if that had been determined, knowledge of which is the eldest line of Adam's descendants has been lost so long ago and so completely that, among all the races of mankind and families of the world, no one has the slightest claim over another to be the eldest house and to hold the right of inheritance.

All these premises having, I think, been clearly established, it is impossible for the rulers now on earth to draw any benefit, or derive even the faintest shadow of authority, from what is held to be the source of all power: Adam's private dominion and fatherly jurisdiction. So anyone who does not want to give good reason to think that all government in the world is the product of nothing but force and violence, and that men live together by no other rule than that of beasts, where the strongest wins—and so to lay a foundation for endless disorder and mischief, tumult,

sedition and rebellion (the very things the followers of that hypothesis protest against so loudly)—must necessarily find another origin of government, another source of political power, and another way of designating and identifying the persons who hold it, than the one Sir Robert Filmer has taught us.[1]

[2] To this end, I think it will not be amiss to set down what I take political power to be, so that the power of a magistrate over a subject may be distinguished from that of a father over his children, a master over his servant, a husband over his wife, and a lord over his slave. Since all these distinct powers sometimes meet in the same man, considering him in these different relationships may help us to tell these powers apart, and to show the difference between the ruler of a commonwealth, the father of a family, and the captain of a galley.

[3] Political power, then, I take to be a right of making laws with penalties of death, and consequently all lesser penalties, for regulating and preserving property; and of using the force of the community to execute those laws and to defend the commonwealth from foreign injury—and all this only for the public good.

1 Sir Robert Filmer (c. 1588–1653) defended the divine right of kings as inherited from Adam in Patriarcha (1680); Locke's First Treatise refutes him.

Chapter II

Of the State of Nature
Locke describes a natural condition of freedom and equality governed by the law of nature.

THE STATE OF NATURE

Locke describes the state of nature as one of perfect freedom and equality under the law of nature.

[4] To understand political power correctly, and derive it from its origin, we must consider what state all men are naturally in. 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 anyone's permission or depending on the will of any other man.

It is also a state of equality, in which all power and jurisdiction is reciprocal, no one having more than another. For nothing is more evident than that creatures of the same species and rank, born without distinction to all the same advantages of nature and the use of the same faculties, should also be equal to one another, without subordination or subjection—unless the lord and master of them all should, by some clear 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] The judicious Hooker regards this natural equality of men as so self-evident and so far beyond all question that he makes it the foundation of the obligation to mutual love among men. On

it he builds the duties they owe one another, and from it he derives the great maxims of justice and charity. His words are:[1]

"The same natural inducement has brought men to know that it is no less their duty to love others than themselves. For since things that are equal must all have one measure, if I cannot help wishing to receive good—as much at every man's hands as any man can wish for his own soul—how could I expect any part of this desire of mine to be satisfied unless I myself take care to satisfy the same desire, which is undoubtedly in other men, since they are of one and the same nature? To have anything offered them that goes against this desire must grieve them in every respect as much as it would me. So if I do harm, I must expect to suffer, since there is no reason why others should show me a greater measure of love than I have shown them. My desire, therefore, to be loved by my equals in nature as much as possible imposes on me a natural duty to bear them fully the same affection. From this relation of equality between ourselves and those who are as ourselves, what several rules and canons natural reason has drawn for the direction of life, no one is ignorant." (Ecclesiastical Polity, Book I.)

[6] But though this is a state of liberty, it is not a state of license. Though man in that state has an uncontrollable liberty to dispose of his person or possessions, he does not have the liberty to destroy himself, or even any creature in his possession, except where some nobler use than its mere preservation calls for it. The state of nature has a law of nature to govern it, which obliges everyone. And reason, which is that law, teaches all mankind who will only consult it that, since all are equal and independent, no one ought to harm another in his life, health, liberty or possessions. For men are 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 as long as he pleases, not as one another pleases.

1 Richard Hooker (1554–1600), English theologian, author of Of the Laws of Ecclesiastical Polity, which Locke quotes throughout.

And since we are furnished with the same faculties and all share in one community of nature, there cannot be supposed to be any such subordination among us as might authorize us to destroy one another, as if we were made for one another's uses, as the lower ranks of creatures are made for ours. Just as everyone is bound to preserve himself and not to abandon his post willfully, so by the same reasoning, when his own preservation is not at stake, he ought as much as he can to preserve the rest of mankind. And he may not—unless it is to do justice on an offender—take away or impair the life of another, or what tends to the preservation of life: the liberty, health, limb or goods of another.

EVERYONE MAY PUNISH OFFENDERS

Locke argues everyone may punish breaches of natural law, and distinguishes the state of war and slavery.

7 And so that all men may be restrained from invading others' rights and from doing harm to one another, and so that the law of nature, which wills the peace and preservation of all mankind, may be observed, the execution of the law of nature is, in that state, put into every man's hands. By this, everyone has a right to punish transgressors of that law to such a degree as may prevent its violation. For the law of nature, like all other laws that concern men in this world, would be in vain if there were nobody in the state of nature with power to execute that law, and so to protect the innocent and restrain offenders. And if anyone in the state of nature may punish another for any evil he has done, everyone may do so. For in that state of perfect equality, where naturally there is no superiority or jurisdiction of one over another, whatever anyone may do in enforcing that law, everyone must necessarily have a right to do.

8 And so, in the state of nature, one man comes to have power over another—but not an absolute or arbitrary power to treat a criminal, once he has him in his hands, according to the passionate heat or boundless extravagance of his own will. He may only repay him, as far as calm reason and conscience dictate,

with what is proportionate to his transgression, which is as 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 what we call punishment. In transgressing the law of nature, the offender declares that he lives by some rule other than that of reason and common fairness, which is the measure God has set to the actions of men for their mutual security. So he becomes dangerous to mankind, since he has slighted and broken the bond that is meant to secure them from injury and violence. Since this is a trespass against the whole species, and against its peace and safety, which the law of nature provides for, every man on this account, by the right he has to preserve mankind in general, may restrain, or where necessary destroy, things harmful to them. And so he may bring such evil on anyone who has transgressed that law as may make him repent of doing it, and thereby deter him, and by his example others, from doing the same mischief. In this case, and on this ground, every man has a right to punish the offender and be executioner of the law of nature.

[9] I don't doubt that this will seem a very strange doctrine to some men. But before they condemn it, I ask them to tell me by what right any prince or state can put to death or punish a foreigner for any crime he commits in their country. It is certain that their laws, by virtue of any sanction they receive from the published will of the legislative, do not reach a foreigner. They do not speak to him, and even if they did, he is not bound to listen to them. The legislative authority by which they are in force over the subjects of that commonwealth has no power over him. Those who have the supreme power of making laws in England, France or Holland are, to a Native American, just like the rest of the world: men without authority. And therefore, if by the law of nature every man does not have a power to punish offenses against it, as he soberly judges the case to require, I do not see how the magistrates of any community can punish a foreigner from another country, since with respect to him they can

have no more power than every man naturally may have over another.

[10] Besides the crime, which consists in violating the law and departing from the right rule of reason—by which a man so far becomes degenerate, declares that he has abandoned the principles of human nature, and makes himself a harmful creature—there is commonly injury done to some person or other, and some other man suffers damage by his transgression. In that case the one who has suffered damage has, besides the right of punishment he shares with other men, a particular right to seek reparation from the one who did it. And any other person who finds it just may also join with the injured party and help him recover from the offender as much as will make good the harm he has suffered.

[11] From these two distinct rights—the one of punishing the crime for restraint and to prevent similar offenses, which right of punishing belongs to everybody; the other of taking reparation, which belongs only to the injured party—it comes about that the magistrate, who by being magistrate has the common right of punishing put into his hands, can often, where the public good does not require the law to be executed, remit the punishment of criminal offenses by his own authority, but cannot remit the satisfaction due to any private man for the damage he has received. That, the one who has suffered the damage has a right to demand in his own name, and he alone can remit it. The damaged person has this power of taking for himself the goods or service of the offender by right of self-preservation, just 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 toward that end. And so it is that every man in the state of nature has a power to kill a murderer—both to deter others from doing the same injury, which no reparation can make up for, by the example of the punishment that follows it from everyone, and also to secure men from the attempts of a criminal who, having renounced reason, the common rule and measure God has given to man-

kind, has declared war against all mankind by the unjust violence and slaughter he has committed on one person. He may therefore be destroyed like a lion or a tiger, one of those wild beasts with which men can have neither society nor security. And on this is grounded that great law of nature: "Whoever sheds man's blood, by man shall his blood be shed."[2] And Cain was so fully convinced that everyone had a right to destroy such a criminal that after murdering his brother he cries out, "Whoever finds me will kill me"—so plainly was it written in the hearts of all mankind.[3]

12 By the same reasoning, a man in the state of nature may punish the lesser breaches of that law. Perhaps it will be asked: with death? I answer that each transgression may be punished to the degree, and with as much severity, as will suffice to make it a bad bargain for the offender, give him cause to repent, and frighten others from doing the same. Every offense that can be committed in the state of nature may also be punished in the state of nature, equally and as far as it may be in a commonwealth. For though it would be beside my present purpose to go into the particulars of the law of nature or its measures of punishment, it is certain that there is such a law, and that it is as intelligible and plain to a rational creature who studies it as the positive laws of commonwealths are—indeed, possibly plainer, just as reason is easier to understand than the fancies and intricate contrivances of men pursuing contrary and hidden interests put into words. For that is truly what a great part of the municipal laws of countries are; they are right only so far as they are founded on the law of nature, by which they are to be regulated and interpreted.

13 To this strange doctrine—that in the state of nature everyone has the executive power of the law of nature—I don't doubt 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 hand, that ill nature,

2 Genesis 9:6.
3 Genesis 4:14.

passion and revenge will carry them too far in punishing others; so that nothing but confusion and disorder will follow, and therefore God has certainly appointed government to restrain the partiality and violence of men. I readily grant that civil government is the proper remedy for the inconveniences of the state of nature, which must certainly be great where men may be judges in their own case. It is easy to imagine that someone unjust enough to do his brother an injury will hardly be just enough to condemn himself for it. But I would ask those who make this objection to remember that absolute monarchs are only men. And if government is to be the remedy for the evils that necessarily follow from men's being judges in their own cases, so that the state of nature is not to be endured, I want 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 anyone having the least liberty to question or check those who carry out his pleasure? And where whatever he does, whether led by reason, error or passion, must be submitted to? It is much better in the state of nature, where men are not bound to submit to the unjust will of another. And if someone who judges judges wrongly, in his own case or any other, he is answerable for it to the rest of mankind.

[14] It is often asked, as a powerful objection: where are, or ever were, any men in such a state of nature? For now it may suffice as an answer that, since all princes and rulers of independent governments all over the world are in a state of nature, it is plain the world never was, and never will be, without numbers of men in that state. I have named all governors of independent communities, whether or not they are in league with others. For not every compact puts an end to the state of nature between men, but only this one: agreeing together mutually to enter into one community and make one body politic. Men may make other promises and compacts with one another and still remain in the state of nature. The promises and bargains for trade, etc.,

between the two men on the desert island mentioned by Garcilaso de la Vega in his history of Peru, or between a Swiss and a Native American in the woods of America, are binding on them, though they are completely in a state of nature with respect to one another. For truth and keeping faith belong to men as men, not as members of society.[4]

15 To those who say there were never any men in the state of nature, I will not only oppose the authority of the judicious Hooker (Ecclesiastical Polity, Book I, section 10), where he says:

"The laws that have been mentioned so far"—that is, the laws of nature—"bind men absolutely, simply as men, even though they have never had any settled fellowship or any solemn agreement among themselves about what to do or not to do. But since we are not sufficient by ourselves to furnish ourselves with an adequate store of the things needed for such a life as our nature desires, a life fit for the dignity of man, we are naturally induced to seek communion and fellowship with others, to supply those defects and imperfections that are in us when we live singly and solely by ourselves. This was the cause of men's first uniting themselves in political societies."

But I further affirm that all men are naturally in that state and remain so until, by their own consent, they make themselves members of some political society. And I don't doubt that I will make this very clear in the rest of this discourse.

4 Garcilaso de la Vega, "El Inca" (1539–1616), Peruvian-born historian of the Incas.

Chapter III

Of the State of War
Locke argues that anyone who tries to take absolute power over another starts a state of war.

16 The state of war is a state of enmity and destruction. Therefore, declaring by word or action a calm, settled design on another man's life—not a passionate and hasty one—puts a man in a state of war with the one against whom he has declared such an intention. He has thereby exposed his life to be taken by the other, or by anyone who joins with him in his defense and takes up his quarrel. For it is reasonable and just that I should have a right to destroy what threatens me with destruction. For by the fundamental law of nature, man is to be preserved as much as possible, and when not all can be preserved, the safety of the innocent is to be preferred. And one may destroy a man who makes war on him, or has shown hostility to his existence, for the same reason that he may kill a wolf or a lion. Such men are not under the ties of the common law of reason and have no rule but force and violence, and so they may be treated as beasts of prey—those dangerous and harmful creatures that will surely destroy him whenever he falls into their power.

17 And hence it is that someone who tries to get another man into his absolute power thereby puts himself into a state of war with him, for this is to be understood as a declaration of a design on his life. I have reason to conclude that someone who would get me into his power without my consent would use me as he pleased once he had me there, and destroy me too when he felt like it. For nobody can want to have me in his absolute

power unless it is to compel me by force to what is against my right to freedom—that is, to make me a slave. To be free from such force is the only security of my preservation, and reason bids me regard as an enemy to my preservation anyone who would take away the freedom that is its fence. So someone who attempts to enslave me thereby puts himself into a state of war with me. Anyone who, in the state of nature, would take away the freedom that belongs to anyone in that state must necessarily be supposed to have a design to take away everything else, since that freedom is the foundation of all the rest. Likewise, anyone who, in the state of society, would take away the freedom belonging to those of that society or commonwealth must be supposed to intend to take away everything else from them, and so must be regarded as in a state of war.

[18] This makes it lawful for a man to kill a thief who has not hurt him in the least, nor declared any design on his life, beyond using force to get him into his power so as to take away his money or whatever he pleases. For when he uses force, where he has no right, to get me into his power, whatever his pretext, I have no reason to suppose that someone who would take away my liberty would not, once he had me in his power, take away everything else. And therefore it is lawful for me to treat him as one who has put himself into a state of war with me—that is, to kill him if I can. For whoever introduces a state of war and is the aggressor in it justly exposes himself to that risk.

[19] And here we have the plain difference between the state of nature and the state of war. Though some men have confused them, they are as far apart as a state of peace, good will, mutual assistance and preservation is from a state of enmity, malice, violence and mutual destruction. 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, against the person of another, where there is no common superior on earth to appeal to for relief, is the state of war. And it is the lack of such an appeal that gives a man the right of war even against an aggressor, though

he is in society and a fellow subject. Thus a thief whom I may not harm except by appealing to the law, even for having stolen all I own, I may kill when he sets on me to rob me of no more than my horse or coat. For the law, which was made for my preservation, where it cannot intervene to secure my life from present force—and life, once lost, can never be repaired—permits me my own defense and the right of war, a liberty to kill the aggressor. For the aggressor allows no time to appeal to our common judge, or to the decision of the law, for a remedy in a case where the harm may be irreparable. Lack of a common judge with authority puts all men in a state of nature. Force without right against a man's person makes a state of war, both where there is a common judge and where there is not.

20 But when the actual force is over, the state of war ceases between those who are in society and are equally subject on both sides to the fair judgment of the law. For then the remedy of appeal lies open, both for the past injury and to prevent future harm. But where there is no such appeal, as in the state of nature, for lack of positive laws and of judges with authority to appeal to, the state of war, once begun, continues. The innocent party has a right to destroy the other whenever he can, until the aggressor offers peace and seeks reconciliation on terms that may repair any wrongs he has already done and secure the innocent for the future. Indeed, even where an appeal to the law and to established judges lies open, but the remedy is denied by a manifest perversion of justice and a barefaced twisting of the laws to protect or excuse the violence or injuries of some men or some party of men, it is hard to imagine anything but a state of war. For wherever violence is used and injury done, even by hands appointed to administer justice, it is still violence and injury, however disguised with the name, pretexts or forms of law. The purpose of law is to protect and redress the innocent by applying it impartially to all who are under it. Wherever that is not done in good faith, war is made on the sufferers, who, having no appeal on earth to set them right, are left with the only remedy in such cases: an appeal to heaven.

21 To avoid this state of war (in which there is no appeal but to heaven, and in which even the smallest difference is apt to end in war, since there is no authority to decide between the contenders) is one great reason why men put themselves into society and leave the state of nature. For where there is an authority, a power on earth from which relief can be had by appeal, the continuation of the state of war is ruled out, 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 would never have come to a state of war. But we see he was forced to appeal to heaven.[1] "May the Lord, the Judge," he says, "decide today between the Israelites and the Ammonites" (Judges 11:27). And then, pursuing and relying on his appeal, he leads out his army to battle. And therefore in such controversies, where the question is asked, "Who shall be judge?" it cannot mean who shall decide the controversy. Everyone knows what Jephthah tells us here: that the Lord, the Judge, will judge. Where there is no judge on earth, the appeal lies to God in heaven. So that question cannot mean: who shall judge whether another has put himself in a state of war with me, and whether I may, as Jephthah did, appeal to heaven about it? Of that I alone can be judge, in my own conscience, as I will answer for it on the great day to the supreme judge of all men.

1 Jephthah: a judge of Israel who fought the Ammonites (Judges 11–12).

Chapter IV

Of Slavery
Locke defines natural liberty and argues slavery is only a continued state of war.

[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 legislative power except the one established by consent in the commonwealth, and under the dominion of no will, or restraint of any law, except what that legislative shall enact according to the trust placed in it. Freedom, then, is not what Sir Robert Filmer tells us (Observations, A. 55):[1] "a liberty for everyone to do what he likes, to live as he pleases, and not to be bound by any laws." Rather, the freedom of men under government is to have a standing rule to live by, common to everyone in that society and made by the legislative power set up in it; a liberty to follow my own will in all things where that rule does not prescribe; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man—just as freedom of nature is to be under no restraint except the law of nature.

[23] This freedom from absolute, arbitrary power is so necessary to, and so closely bound up with, a man's preservation that he cannot part with it except by something that forfeits his preservation and life together. For a man, not having power over his own life, cannot by compact or by his own consent enslave

1 Filmer's Observations upon Aristotle's Politiques (1652).

himself to anyone, or 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 someone who cannot take away his own life cannot give another power over it. Indeed, if a man has forfeited his own life through his own fault, by some act that deserves death, the one to whom he has forfeited it may (when he has him in his power) delay taking it and make use of him for his own service, and he does him no injury by this. For whenever the captive finds that the hardship of his slavery outweighs the value of his life, it is in his power, by resisting the will of his master, to bring on himself the death he desires.

[24] This is the perfect condition of slavery, which is nothing else than the state of war continued between a lawful conqueror and a captive. For if once a compact is made between them, and they agree to a limited power on the one side and obedience on the other, the state of war and slavery ceases for as long as the compact lasts. For, as has been said, no man can by agreement transfer to another what he does not have himself: a power over his own life.

I admit that we find among the Jews, as well as other nations, that men did sell themselves. But it is plain this was only into drudgery, not into slavery. For it is evident that the person sold was not under an absolute, arbitrary, despotic power. The master could not have the power to kill at any time someone he was obliged to let go free from his service at a certain time. And the master of such a servant was so far from having arbitrary power over his life that he could not even maim him at will: the loss of an eye or a tooth set him free (Exodus 21).

Chapter V

Of Property
Locke argues that labor creates property, and money allows unequal possessions.

[25] Whether we consider natural reason, which tells us that men, once born, have a right to their preservation, and consequently to food and drink and such other things as nature provides for their subsistence; or revelation, which gives us an account of the grants God made of the world to Adam, and to Noah and his sons—it is very clear that God, as King David says (Psalm 115:16), "has given the earth to the children of men": given it to mankind in common. But granting this, some think it a very great difficulty how anyone should ever come to have property in anything. I will not content myself with answering that if it is hard to account for property on the supposition that God gave the world to Adam and his descendants in common, it is impossible that any man but one universal monarch should have any property on the supposition that God gave the world to Adam and his heirs in succession, to the exclusion of all the rest of his descendants. But I shall try to show how men might come to have property in particular parts of what God gave to mankind in common, and that without any express compact of all the commoners.

[26] God, who has given the world to men in common, has also given them reason to make use of it to the best advantage of life and convenience. The earth and everything in it is given to men for the support and comfort of their existence. And though all the fruits it naturally produces, and the beasts it feeds, belong to

mankind in common, since they are produced by the spontaneous hand of nature, and nobody originally has a private dominion over any of them, to the exclusion of the rest of mankind, as they are in this natural state; yet since they are given for the use of men, there must necessarily be some means of appropriating them one way or another before they can be of any use, or at all beneficial, to any particular man. The fruit or venison that nourishes the Native American, who knows no enclosure and is still a tenant in common, must be his—so much his, that is, so much a part of him, that no one else can any longer have any right to it—before it can do him any good for the support of his life.

PROPERTY AND LABOR

Locke argues that mixing labor with common things makes them one's property, within limits of use.

27 Though the earth and all lower creatures are common to all men, yet every man has a property in his own person; nobody has any right to this but himself. The labor of his body and the work of his hands, we may say, are properly his. Whatever, then, he removes out of the state that nature has provided and left it in, he has mixed his labor with, and joined to it something that is his own, and thereby makes it his property. Since he has removed it from the common state nature placed it in, it has, by this labor, something attached to it that excludes the common right of other men. For since this labor is the unquestionable property of the laborer, no one but he can have a right to what it is once joined to—at least where there is enough, and as good, left in common for others.

28 Someone who 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 that the nourishment is his. I ask, then: when did they begin to be his? When he digested them? Or when he ate them? Or when he boiled them? Or when he brought them home? Or when he picked them up? And it is plain that if the first gather-

ing did not make them his, nothing else could. That labor made a distinction between them and what is common. It added something to them beyond what nature, the common mother of all, had done, and so they became his private right. And will anyone say he had no right to the acorns or apples he appropriated this way, because he did not have the consent of all mankind to make them his? Was it robbery to take for himself what belonged to all in common? If such consent were necessary, man would have starved, despite the plenty God had given him. We see in commons, which remain so by compact, that it is taking any part of what is common and removing it out of the state nature leaves it in that begins property; without this, 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 bitten, the turf my servant has cut, and the ore I have dug in any place where I have a right to them in common with others, become my property without anyone's assignment or consent. The labor that was mine, removing them out of the common state they were in, has fixed my property in them.

29 If the explicit consent of every commoner were made necessary for anyone to appropriate any part of what is given in common, children or servants could not cut the meat their father or master had provided for them in common without assigning each one his particular portion. Though the water running in the fountain belongs to everyone, who can doubt that the water in the pitcher belongs only to the one who drew it out? His labor has taken it out of the hands of nature, where it was common and belonged equally to all her children, and has thereby appropriated it to himself.

30 Thus this law of reason makes the deer the property of the Native American who has killed it. It is accepted as the goods of the one who has spent his labor on it, though before, it was the common right of everyone. And among 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 previously common

still holds. By virtue of it, whatever fish anyone catches in the ocean, that great and still remaining common of mankind, or whatever ambergris anyone picks up here, is made the property of the one who takes that trouble, by the labor that removes it out of the common state nature left it in. And even among us, the hare that someone is hunting is thought to belong to the one who pursues her during the chase. For since she is a beast still regarded as common and no man's private possession, whoever has spent enough labor on any animal of that kind to find and pursue her has thereby removed her from the state of nature, in which she was common, and has begun a property.

31 Perhaps it will be objected that if gathering the acorns or other fruits of the earth, etc., gives a right to them, then anyone may hoard as much as he likes. To this I answer: not so. The same law of nature that gives us property by this means also limits that property. "God has given us all things richly" (1 Timothy 6:12) is the voice of reason confirmed by inspiration. But how far has he given it to us? To enjoy.[1] As much as anyone can make use of to any advantage of life before it spoils, so much he may fix a property in by his labor. 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 so, considering the plenty of natural provisions there was in the world for a long time, and how few consumers there were, and how small a part of that provision the industry of one man could reach and hoard to the harm of others—especially if he kept within the bounds, set by reason, of what might serve for his use—there could then be little room for quarrels or disputes about property established in this way.

32 But the chief matter of property now is not the fruits of the earth and the beasts that live on it, but the earth itself, as that which includes and carries with it all the rest. I think it is plain that property in land too is acquired in the same way as the former. As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. By his labor

1 The verse Locke quotes is actually 1 Timothy 6:17.

he, as it were, encloses it from the common. Nor will it invalidate his right to say that everybody else has an equal title to it, and that therefore he cannot appropriate it, cannot enclose it, without the consent of all his fellow commoners, all mankind. When God gave the world in common to all mankind, he also commanded man to labor, and the poverty of his condition required it of him. God and his reason commanded him to subdue the earth—that is, to improve it for the benefit of life—and in doing so to lay out on it something that was his own: his labor. Whoever, in obedience to this command of God, subdued, tilled and sowed any part of it thereby joined to it something that was his property, to which another had no title and which no one could take from him without injury.

[33] Nor was this appropriation of any parcel of land, by improving it, any harm to any other man, since there was still enough, and as good, left—and more than those not yet provided for could use. So in effect there was never any less left for others because of his enclosure for himself. For someone who leaves as much as another can make use of does as well as if he took nothing at all. Nobody could think himself injured by another man's drinking, even if he took a good long drink, when he had a whole river of the same water left to quench his thirst. And the case of land and water, where there is enough of both, is exactly the same.

[34] God gave the world to men in common. But since he gave it to them for their benefit, and for the greatest conveniences of life they could draw from it, it cannot be supposed that he meant it always to remain common and uncultivated. He gave it for the use of the industrious and rational (and labor was to be his title to it), not to the whims or covetousness of the quarrelsome and contentious. Someone who had as good land left for his improvement as what was already taken up had no need to complain, and ought not to meddle with what was already improved by another's labor. If he did, it is plain that he wanted the benefit of another's efforts, which he had no right to, and not the ground God had given him in common with others to labor

on—of which there was as good left as what was already possessed, and more than he knew what to do with or his industry could reach.

35 It is true that in land that is common in England, or any other country where there are 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. This is because it is left common by compact, that is, by the law of the land, which is not to be violated. And though it is common with respect to some men, it is not common to all mankind; it is the joint property of this country or this parish. Besides, what remained after such an enclosure would not be as good for the rest of the commoners as the whole was when they could all make use of the whole. In the beginning, however, at the first peopling of the great common of the world, it was quite otherwise. The law man was under favored appropriating. God commanded, and his wants forced him to labor. Whatever he fixed his labor on was his property and could not be taken from him. And so we see that subduing or cultivating the earth and having dominion are joined together. The one gave title to the other. So God, by commanding man to subdue the earth, gave him authority to that extent to appropriate. And the condition of human life, which requires labor and materials to work on, necessarily introduces private possessions.

36 Nature has set the measure of property well, by the extent of men's labor and the conveniences of life. No man's labor could subdue or appropriate everything, nor could his enjoyment consume more than a small part. So it was impossible for any man, in this way, to encroach on the right of another, or acquire a property for himself to the harm of his neighbor, who would still have room for as good and as large a possession (after the other had taken his) as before it was appropriated. This measure confined every man's possession to a very moderate proportion—such as he might appropriate to himself without injury to anybody—in the first ages of the world, when men were more in danger of being lost by wandering away from their

company in the then vast wilderness of the earth than of being cramped for lack of room to plant in. And the same measure may still be allowed without harm to anybody, full as the world seems. For suppose a man or a family, in the state people were in when the world was first being peopled by the children of Adam or Noah, were to plant in some vacant inland places of America. We shall find that the possessions he could make for himself, by the measures we have given, would not be very large, nor even to this day harm the rest of mankind, or give them reason to complain or think themselves injured by this man's encroachment—though the human race has now spread itself to every corner of the world and vastly exceeds the small number there was at the beginning. Indeed, the extent of ground is of so little value without labor that I have heard it said that in Spain itself a man may be allowed to plow, sow and reap, without being disturbed, on land to which he has no other title than his making use of it. On the contrary, the inhabitants think themselves obliged to the man who, by his industry on neglected and therefore waste land, has increased the stock of grain they lacked. But be that as it may—I lay no stress on it—this I dare boldly affirm: that the same rule of property (namely, that every man should have as much as he could make use of) would still hold in the world without cramping anybody, since there is land enough in the world to suffice for twice the inhabitants—had not the invention of money, and men's tacit agreement to put a value on it, introduced (by consent) larger possessions and a right to them. How it has done so, I shall show more fully shortly.

[37] This much is certain: in the beginning—before the desire to have more than one needed had altered the intrinsic value of things, which depends only on their usefulness to human life, and before men had agreed that a little piece of yellow metal, which would keep without wasting or decaying, should be worth a great piece of meat or a whole heap of grain—men had a right to appropriate by their labor, each for himself, as much of the things of nature as he could use. Yet this could not be much,

nor could it be to the harm of others, since the same plenty was still left for anyone who would apply the same industry. Let me add to this that someone who appropriates land to himself by his labor does not lessen the common stock of mankind but increases it. For the provisions that support human life produced by one acre of enclosed and cultivated land are (to put it very conservatively) ten times more than those yielded by an acre of equally rich land lying waste in common. And so whoever encloses land, and gets a greater plenty of the conveniences of life from ten acres than he could have from a hundred left to nature, may truly be said to give ninety acres to mankind. For his labor now supplies him with provisions from ten acres that were formerly the product of a hundred lying in common. I have rated the improved land very low here, putting its yield at only ten to one, when it is much nearer a hundred to one. For I ask: in the wild woods and uncultivated waste of America, left to nature without any improvement, tillage, or farming, do a thousand acres yield their needy and wretched inhabitants as many conveniences of life as ten acres of equally fertile, well-cultivated land do in Devonshire?

Before land was appropriated, whoever gathered as much wild fruit, or killed, caught, or tamed as many animals, as he could—whoever so applied his efforts to any of nature's spontaneous products as to alter them in any way from the state nature put them in, by putting some of his labor into them—thereby acquired a property in them. But if they perished in his possession without being put to their proper use—if the fruit rotted or the venison putrefied before he could consume it—he offended against the common law of nature and was liable to be punished. He had invaded his neighbor's share, for he had no right to any of them beyond what his use called for and what might serve to provide him with the conveniences of life.

[38] The same measures governed the possession of land too. Whatever he tilled and reaped, stored up, and made use of before it spoiled was his own particular right. Whatever he enclosed and could feed and make use of—the cattle and the pro-

duce—was also his. But if the grass in his enclosure rotted on the ground, or the fruit of his planting perished without being gathered and stored, this part of the earth, despite his enclosure, was still to be regarded as waste and might become the possession of anyone else. So in the beginning Cain might take as much ground as he could till and make it his own land, and still leave enough for Abel's sheep to graze on; a few acres would serve for both their possessions. But as families increased and industry enlarged their stocks, their possessions grew with their need of them. Yet this was usually without any fixed property in the ground they used, until they joined together, settled in one place, and built cities. Then, by consent, they came in time to mark out the boundaries of their separate territories and agree on limits between themselves and their neighbors, and by laws among themselves they settled the property of the members of the same society. For we see that in the part of the world that was inhabited first, and was therefore likely to be the most populated, even as late as Abraham's time people wandered freely up and down with their flocks and their herds, which were their wealth; and Abraham did this in a country where he was a stranger. From this it is plain that at least a great part of the land lay in common: the inhabitants did not value it, nor claim property in any more than they made use of. But when there was not room enough in one place for their herds to graze together, they separated by consent, as Abraham and Lot did (Genesis 13:5), and extended their pasture wherever it suited them best. And for the same reason Esau left his father and his brother and settled in Mount Seir (Genesis 36:6).

[39] And so, without supposing any private dominion and property of Adam over the whole world, excluding all other men—which can in no way be proved, nor can anyone's property be derived from it—but supposing that the world was given, as it was, to the children of men in common, we see how labor could give men distinct titles to separate parcels of it for their private uses. In this there could be no doubt about right and no room for quarrel.

[40] Nor is it as strange as it may perhaps seem, before one considers it, that the property created by labor should be able to outweigh the common ownership of land. For it is indeed labor that makes the difference in value of everything. Let anyone consider the difference between an acre of land planted with tobacco or sugar, or sown with wheat or barley, and an acre of the same land lying in common without any cultivation, and he will find that the improvement made by labor accounts for by far the greater part of the value. I think it would be a very modest estimate to say that, of the products of the earth useful to human life, nine-tenths are the effects of labor. Indeed, if we correctly value things as they come to our use, and add up the various costs involved in them—what in them is purely owing to nature and what to labor—we shall find that in most of them ninety-nine hundredths must be put wholly to the account of labor.

[41] There cannot be a clearer demonstration of anything than several nations of Native Americans provide of this. They are rich in land and poor in all the comforts of life. Nature has furnished them as generously as any other people with the materials of plenty—that is, a fruitful soil, able to produce in abundance what might serve for food, clothing, and delight—yet for lack of improving it by labor they do not have one hundredth of the conveniences we enjoy. And the king of a large and fruitful territory there eats, lives, and dresses worse than a day laborer in England.

[42] To make this a little clearer, let us trace some of the ordinary provisions of life through their various stages 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 acorns, water, and leaves or skins would have to be our bread, drink, and clothing if labor did not furnish us with these more useful goods. For whatever bread is worth more than acorns, wine more than water, and cloth or silk more than leaves, skins, or moss, is wholly owing to labor and industry. The one set is the food and clothing that unassisted

nature furnishes us with; the other, provisions that our industry and effort prepare for us. When anyone has calculated how much the latter exceed the former in value, he will see how much labor makes up by far the greatest part of the value of the things we enjoy in this world. The ground that produces the materials is hardly to be counted as any part of it, or at most a very small part—so small that even among us, land left wholly to nature, with no improvement by pasture, tillage, or planting, is called waste, as indeed it is; and we shall find that its benefit amounts to little more than nothing.

This shows how much a large population is to be preferred to large territories, and that the increase of lands and their right employment is the great art of government. And the prince who is so wise and godlike as to secure, by established laws of liberty, protection and encouragement for the honest industry of mankind against the oppression of power and the narrowness of faction will quickly be too strong for his neighbors. But this is by the way.

To return to the argument at hand.

[43] An acre of land that bears twenty bushels of wheat here, and another in America that would do the same with the same cultivation, have without doubt the same natural, intrinsic value. Yet the benefit mankind receives from the one in a year is worth five pounds, and from the other possibly not worth a penny, if all the profit a Native American received from it were valued and sold here—at least, I may truly say, not one thousandth as much. It is labor, then, that puts the greatest part of the value on land, without which it would scarcely be worth anything. It is to labor that we owe the greatest part of all its useful products. For all that the straw, bran, and bread from that acre of wheat are worth more than the product of an acre of equally good land lying waste is entirely the effect of labor. For it is not merely the plowman's effort, the reaper's and thresher's toil, and the baker's sweat that are to be counted in the bread we eat; the labor of those who broke in the oxen, who dug and worked the iron and stones, who felled and shaped the timber

used for the plow, the mill, the oven, or any of the other tools—a vast number—needed for this grain, from its being seed to be sown to its being made into bread, must all be charged to the account of labor and received as its effect. Nature and the earth furnished only the materials, which in themselves are almost worthless. It would be a strange catalog, if we could trace them, of the things that industry provided and used for every loaf of bread before it came to our use: iron, wood, leather, bark, timber, stone, bricks, coal, lime, cloth, dyes, pitch, tar, masts, ropes, and all the materials used in the ship that brought any of the goods used by any of the workmen on any part of the work. It would be almost impossible—at least too long—to list them all.

[44] From all this it is evident that, though the things of nature are given in common, man—by being master of himself, and owner of his own person and of its actions or labor—still had in himself the great foundation of property. And what made up the great part of what he applied to the support or comfort of his existence, once invention and the arts had improved the conveniences of life, was entirely his own and did not belong in common to others.

[45] So in the beginning labor gave a right of property wherever anyone chose to apply it to what was common. And what was common remained for a long while by far the greater part, and is still more than mankind makes use of. At first men for the most part contented themselves with what unassisted nature offered for their needs. Later, it is true, in some parts of the world (where growth in people and livestock, together with the use of money, had made land scarce and so of some value), the various communities settled the boundaries of their separate territories, regulated the property of the private individuals of their society by laws among themselves, and so settled by compact and agreement the property that labor and industry began. And the alliances made between various states and kingdoms, expressly or tacitly renouncing all claim and right to the land in the other's possession, have by common consent given up their claims to the natural common right they originally had to those

countries, and so have settled a property among themselves, by positive agreement, in distinct parts and parcels of the earth. Yet there are still great tracts of land to be found that lie waste (their inhabitants not having joined with the rest of mankind in consenting to the use of their common money) and that are more than the people who live on them do or can make use of, and so still lie in common. This, though, can hardly happen among that part of mankind that has consented to the use of money.

MONEY

Locke argues that money lets people accumulate property beyond what they can use before it spoils.

46 Most of the things really useful to human life—the things that the need to survive made the first commoners of the world look for, as it does the Native Americans now—are generally of short duration: if they are not consumed by use, they will decay and perish of themselves. Gold, silver, and diamonds are things that fancy or agreement has given value to, more than real use and the necessary support of life. Now, of those good things that nature has provided in common, everyone had a right (as has been said) to as much as he could use, and had property in all that he could affect with his labor: everything his industry could reach, to alter it from the state nature had put it in, was his. Whoever gathered a hundred bushels of acorns or apples thereby had property in them; they were his goods as soon as they were gathered. He only had to see that he used them before they spoiled; otherwise he took more than his share and robbed others. And indeed it was foolish, as well as dishonest, to hoard up more than he could make use of. If he gave away part to someone else, so that it did not perish uselessly in his possession, he made use of this too. And if he traded plums that would have rotted in a week for nuts that would stay good for eating for a whole year, he did no injury. He did not waste the common stock or destroy any part of the goods that belonged to others, so long as nothing perished uselessly in his hands. Again, if he

chose to give his nuts for a piece of metal because he liked its color, or exchange his sheep for shells, or his wool for a sparkling pebble or a diamond, and keep these by him all his life, he did not invade the right of others. He might heap up as much of these durable things as he pleased, since exceeding the bounds of his just property lay not in the size of his possessions but in anything perishing uselessly in them.

[47] And so the use of money came in: some lasting thing that men might keep without its spoiling, and that by mutual consent they would accept in exchange for the truly useful but perishable necessities of life.

[48] And as different degrees of industry tended to give men possessions in different proportions, this invention of money gave them the opportunity to keep and enlarge them. For suppose an island, cut off from all possible trade with the rest of the world, with only a hundred families on it, but with sheep, horses, and cows and other useful animals, wholesome fruit, and land enough to grow grain for a hundred thousand times as many—but nothing on the island, whether because it is too common or too perishable, fit to serve as money. What reason could anyone there have to enlarge his possessions beyond the needs of his family and a plentiful supply for its consumption, whether from what their own industry produced or from what they could barter with others for similar perishable, useful goods? Where there is not something both lasting and scarce, and so valuable enough to be hoarded up, men will not be inclined to enlarge their holdings of land, however rich it may be and however free for them to take. For I ask: what would a man value ten thousand or a hundred thousand acres of excellent land, already cultivated and well stocked with cattle too, in the middle of the inland parts of America, where he had no hope of trade with other parts of the world to bring money to him through the sale of the produce? It would not be worth enclosing, and we would see him give back to the wild common of nature whatever was more than would supply the conveniences of life to be had there for him and his family.

[49] So in the beginning all the world was America, and even more so than America is now, for no such thing as money was known anywhere. Find something that has the use and value of money among a man's neighbors, and you will see the same man immediately begin to enlarge his possessions.

[50] But since gold and silver, being of little use to human life compared with food, clothing, and transport, get their value only from the consent of men—though labor still largely sets the measure of it—it is plain that men have agreed to an unequal and disproportionate possession of the earth. By a tacit and voluntary consent they have found a way in which a man may fairly possess more land than he himself can use the produce of, by receiving gold and silver in exchange for the surplus. These may be hoarded up without injury to anyone, since these metals do not spoil or decay in the hands of their owner. Men have made this division of things into unequal private possessions practicable outside the bounds of society and without a compact, simply by putting a value on gold and silver and tacitly agreeing to use money. For under governments, the laws regulate the right of property, and the possession of land is determined by positive constitutions.

[51] And so, I think, it is very easy to see, without any difficulty, how labor could at first begin a title of property in the common things of nature, and how using it up for our needs limited that title. So there could then be no reason for quarreling about title, nor any doubt about the size of the possession it gave. Right and convenience went together: for as a man had a right to everything he could apply his labor to, so he had no temptation to labor for more than he could make use of. This left no room for controversy about title, nor for encroachment on the rights of others. The portion a man carved out for himself was easily seen, and it was useless, as well as dishonest, to carve out too much or take more than he needed.

Chapter VI

Of Paternal Power
Locke argues parents rule children only until they reach the age of reason.

PATERNAL POWER

Locke argues that parental power belongs to both parents and ends when children reach reason.

[52] It may perhaps be criticized as pointless quibbling, in a discussion of this kind, to find fault with words and names that have become established in the world. And yet it may not be amiss to offer new ones when the old tend to lead men into mistakes, as the term "paternal power" has probably done. It seems 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 that she has an equal title. This may give one reason to ask whether it might not more properly be called parental power. For whatever obligation nature and the right of procreation lay on children must certainly bind them equally to both of its joint causes. And accordingly we see that the positive law of God everywhere joins them together, without distinction, when it commands the obedience of children: "Honor your father and your mother" (Exodus 20:12); "Whoever curses his father or his mother" (Leviticus 20:9); "Each of you must revere his mother and his father" (Leviticus 19:3); "Children, obey your parents," etc. (Ephesians 6:1). This is the language of both the Old and the New Testament.

[53] Had this one thing been well considered, without looking any deeper into the matter, it might perhaps have kept men

from falling into the gross mistakes they have made about this power of parents. Without much harshness, this power might bear the name of absolute dominion and royal authority while, under the title of "paternal power," it seemed to belong to the father alone. Yet it would have sounded very odd, and its very name would have shown the absurdity, if this supposed absolute power over children had been called parental, and so would have revealed that it belonged to the mother too. For it hardly serves the purpose of those men who argue so hard for the absolute power and authority of "fatherhood," as they call it, that the mother should have any share in it. And it would have given poor support to the monarchy they argue for if the very name had shown that the fundamental authority from which they would derive government by a single person was placed not in one person but in two jointly. But let this matter of names pass.

54 Though I have said above (Chapter II) that all men are by nature equal, I cannot be taken to mean every sort of equality. Age or virtue may give men a just precedence. Excellence of abilities and merit may place others above the common level. Birth may oblige some, and alliance or benefits others, to show respect to those to whom nature, gratitude, or other considerations may have made it due. And yet all this is consistent with the equality that all men share with respect to jurisdiction or dominion over one another. That was the equality I spoke of there, as relevant to the business at hand: the equal right every man has to his natural freedom, without being subjected to the will or authority of any other man.

55 Children, I admit, are not born in this full state of equality, though they are born to it. Their parents have a sort of rule and jurisdiction over them when they come into the world, and for some time after, but it is only temporary. The bonds of this subjection are like the swaddling clothes they are wrapped in and supported by in the weakness of their infancy. Age and reason loosen them as the children grow, until at last they drop off entirely 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 he was capable from the first instant of his existence of providing for his own support and preservation, and of governing his actions according to the dictates of the law of reason that God had implanted in him. From him the world has been peopled with his descendants, who are all born infants, weak and helpless, without knowledge or understanding. But to make up for the defects of this imperfect state until growth and age have removed them, Adam and Eve, and all parents after them, were under an obligation by the law of nature to preserve, nourish, and educate the children they had begotten—not as their own workmanship, but as 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 law that was to govern all his descendants: the law of reason. But his offspring, having another way of entering the world than he did—by natural birth, which produced them ignorant and without the use of reason—were not immediately under that law. For nobody can be under a law that has not been promulgated to him; and since this law is promulgated, or made known, by reason alone, someone who has not come to the use of his reason cannot be said to be under it. And since Adam's children were not under this law of reason as soon as they were born, they were not immediately free. For law, in its true sense, is not so much the limitation as the direction of a free and intelligent agent to his proper interest, and it prescribes no further than is for the general good of those under it. If they could be happier without it, the law would vanish of itself as a useless thing; and that hardly deserves the name of confinement which only fences us off from bogs and precipices. So, however it may be misunderstood, the end of law is not to abolish or restrain freedom but to preserve and enlarge it. For in all the states of created beings capable of laws, where there is no law there is no freedom. Liberty means being free from restraint and violence from others, which cannot be where there is no law. But free-

dom is not, as we are told, a liberty for every man to do whatever he likes (for who could be free when every other man's whim might dominate him?), but a liberty to dispose of and order as he likes his person, actions, possessions, and his whole property, within what is allowed by the laws he lives under, and in this not to be subject to the arbitrary will of another, but freely to follow his own.

58 The power that parents have over their children, then, arises from the duty that falls on them to take care of their offspring during the imperfect state of childhood. What the children need, and what the parents are bound to provide, is to inform their minds and govern the actions of their still-ignorant minority until reason takes its place and relieves the parents of that trouble. For God, having given man an understanding to direct his actions, has allowed him a freedom of will and liberty of action as properly belonging to it, within the bounds of the law he is under. But while he is in a condition in which he has no understanding of his own to direct his will, he is not to have any will of his own to follow. Whoever understands for him must also will for him; he must direct his will and regulate his actions. But when the son reaches the condition that made his father a free man, the son is a free man too.

59 This holds for 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 the free disposal of his property according to his own will, within the scope of that law? I answer: a state of maturity in which he might be supposed capable of knowing that law, so that he might keep his actions within its bounds. When he has reached 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 he comes to have it. Until then, someone else must guide him who is presumed to know how far the law allows liberty. If such a state of reason, such an age of discretion, made him free, the same will make his son free too. Is a man under the law of England? What made him free of that law—that is, free to dispose of his actions and posses-

sions according to his own will, within what that law permits? The capacity to know that law, which that law assumes at the age of twenty-one, and in some cases sooner. If this made the father free, it will make the son free too. Until then we see that the law allows the son no will of his own; he is to be guided by the will of his father or guardian, who is to understand for him. And if the father dies and fails to appoint a deputy in his place—if he has not provided a guardian to govern his son during his minority, while he lacks understanding—the law takes care to do it. Someone else must govern him and be a will for him until he has reached a state of freedom and his understanding is fit to take over the government of his will. But after that, father and son are equally free, just as tutor and pupil are once the pupil comes of age: equally subjects of the same law together, with no dominion left to the father over the life, liberty, or estate of his son, whether they are only in the state of nature and under its law, or under the positive laws of an established government.

[60] But if, through defects that may occur outside the ordinary course of nature, someone never reaches a degree of reason at which he might be supposed capable of knowing the law and so living within its rules, he is never capable of being a free man. He is never released to the disposal of his own will (because he knows no limits to it, lacking understanding, its proper guide), but continues under the guardianship and government of others for as long as his own understanding is incapable of that charge. And so people with mental illness or intellectual disabilities are never set free from the government of their parents:

"Children, who have not yet reached the years at which they may have it; people with intellectual disabilities, who are excluded by a natural defect from ever having it; and third, people with mental illness, who for the present cannot possibly have the use of right reason to guide themselves—these have for their guide the reason that guides other men, who are guardians over them, to seek and procure their good for them,"

says Hooker (Ecclesiastical Polity, Book I, section 7). All this seems to be no more than the duty that God and nature have laid

on man, as on other creatures, to preserve their offspring until they are able to fend for themselves, and it hardly amounts to an example or proof of the royal authority of parents.

61 So we are born free, just as we are born rational—not that we actually exercise either from birth: age, which brings the one, brings the other too. And so we see how natural freedom and subjection to parents can coexist, and how both are founded on the same principle. A child is free by his father's title, by his father's understanding, which is to govern him until he has understanding of his own. The freedom of a man at the age of discretion and the subjection of a child to his parents while still short of that age are so consistent, and so distinguishable, that the most blinkered advocates of monarchy by right of fatherhood cannot miss the difference, and the most stubborn cannot help admitting that they are consistent. For suppose their doctrine were entirely true: suppose the right heir of Adam were now known and, by that title, installed as monarch on his throne, invested with all the absolute, unlimited power Sir Robert Filmer talks of. If he were to die as soon as his heir was born, would the child not have to be in subjection to his mother and nurse, to tutors and governors—however free, however sovereign he might be—until age and education brought him the reason and ability to govern himself and others? The necessities of his life, the health of his body, and the formation of his mind would require him to be directed by the will of others and not by his own. And yet will anyone think that this restraint and subjection were inconsistent with, or robbed him of, the liberty or sovereignty he had a right to, or handed over his empire to those who governed him in his minority? This government over him only prepared him better and sooner for it. If anybody should ask me when my son is old enough to be free, I shall answer: just when his monarch is old enough to govern. "But at what time," says the judicious Hooker (Ecclesiastical Polity, Book I, section 6), "a man may be said to have attained so far the use of reason as suffices to make him capable of those laws by which he is then bound to guide his actions, is a great deal

easier for sense to discern than for anyone to determine by skill and learning."

62 Commonwealths themselves take notice of, and allow, that there is a time when men are to begin to act as free men, and therefore until that time they do not require oaths of fealty or allegiance, or any other public acknowledgment of, or submission to, the government of their countries.

63 The freedom of man, then, and his liberty to act according to his own will, is grounded on his having reason, which is able to instruct him in the law by which he is to govern himself and to make him know how far he is left to the freedom of his own will. To turn him loose to unrestrained liberty before he has reason to guide him is not to grant him the privilege of his nature to be free, but to thrust him out among the beasts and abandon him to a state as wretched, and as far beneath that of a man, as theirs. This is what puts authority into the parents' hands to govern their children during their minority. God has made it their business to take this care of their offspring, and has placed in them suitable inclinations of tenderness and concern to temper this power, so that they apply it, as his wisdom designed, to the children's good for as long as they need to be under it.

64 But what reason can turn this care that parents owe their offspring into an absolute, arbitrary dominion of the father? His power reaches no further than to use whatever discipline he finds most effective to give their bodies such strength and health, and their minds such vigor and uprightness, as may best fit his children to be most useful to themselves and others—and, if his circumstances require it, to make them work for their own living when they are able. But in this power the mother too has her share with the father.

65 Indeed, this power belongs to the father so little by any special right of nature, and only as the guardian of his children, that when he gives up his care of them he loses his power over them, which goes along with their nourishment and education and is inseparably attached to it. And it belongs as much to the

foster father of an abandoned child as to the natural father of another. So little power does the mere act of begetting give a man over his offspring, if all his care ends there and this is his only title 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 has more than one husband at a time? Or in those parts of America where, when husband and wife separate, which happens frequently, the children are all left to the mother, follow her, and are wholly under her care and provision? If the father dies while the children are young, do they not naturally, everywhere, owe the same obedience to their mother during their minority as they would to their father if he were alive? And will anyone say that the mother has a legislative power over her children— that she can make standing rules of perpetual obligation, by which they must regulate all the concerns of their property and limit their liberty for the whole course of their lives? Or that she can enforce the observance of them with capital punishment? For this is the proper power of the magistrate, of which the father does not have so much as a shadow. His command over his children is only temporary, and does not reach their life or property. It is only a help to the weakness and imperfection of their minority, a discipline necessary to their education. And though a father may dispose of his own possessions as he pleases once his children are out of danger of perishing from want, his power does not extend to the lives or goods that either their own industry or another's generosity has made theirs—nor to their liberty either, once they have arrived at the enfranchisement of the age of discretion. The father's empire then ends, and from then on he can no more dispose of his son's liberty than of any other man's. And it must be far from an absolute or perpetual jurisdiction when a man may withdraw himself from it, having permission from divine authority to "leave his father and mother and hold fast to his wife."

66 But though there comes a time when a child is as free from subjection to the will and command of his father as the father himself is free from subjection to the will of anybody else, and

each is under no restraint but what is common to them both—whether the law of nature or the municipal law of their country—this freedom does not exempt a son from the honor he ought, by the law of God and nature, to pay his parents. God has made parents instruments in his great design of continuing the human race, and the means of life for their children. And as he has laid on them an obligation to nourish, preserve, and bring up their offspring, so he has laid on children a perpetual obligation to honor their parents. This contains an inward esteem and reverence, to be shown by every outward expression, and it restrains the child from anything that might ever injure or affront, disturb or endanger, the happiness or life of those from whom he received his own. It also commits him to every act of defense, relief, assistance, and comfort toward those through whom he came into being and was made capable of any enjoyment of life. From this obligation no condition and no freedom can release children. But this is very far from giving parents a power of command over their children, or an authority to make laws and dispose of their lives or liberties as they please. It is one thing to owe honor, respect, gratitude, and assistance; it is another to demand absolute obedience and submission. A monarch on his throne owes his mother the honor due to parents, and yet this does not lessen his authority or subject him to her government.

[67] The subjection of a minor gives the father a temporary government, which ends with the child's minority. The honor due from a child gives the parents a perpetual right to respect, reverence, support, and compliance too—more or less, according as the father's care, expense, and kindness in the child's upbringing have been more or less. This does not end with minority but holds in all stages and conditions of a man's life. Failing to distinguish these two powers—namely, the one the father has by right of tuition during minority, and the right of honor all his life—may perhaps have caused a great part of the mistakes about this matter. For, properly speaking, the first of these is the privilege of children and the duty of parents rather than any

prerogative of paternal power. The nourishment and education of their children is a charge so binding on parents, for their children's good, that nothing can release them from taking care of it. And though the power of commanding and punishing them goes along with it, God has woven into the principles of human nature such tenderness for their offspring that there is little fear parents will use their power too harshly. The excess is seldom on the severe side, since the strong bias of nature pulls the other way. And therefore, when God Almighty wants to express his gentle dealing with the Israelites, he tells them that though he chastened them, "he disciplined them as a man disciplines his son" (Deuteronomy 8:5)—that is, with tenderness and affection, keeping them under no severer discipline than what was absolutely best for them, and than it would have been less kind to relax. This is the power to which children are commanded to be obedient, so that their parents' pains and care may not be increased or poorly rewarded.

[68] On the other side, honor and support—all that gratitude requires in 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. Yet education, the parents' duty, seems to carry the most power, because the ignorance and weaknesses of childhood need restraint and correction, which is a visible exercise of rule and a kind of dominion. And the duty contained in the word "honor" requires less obedience, though the obligation is stronger on grown children than on younger ones. For who can think that the command "Children, obey your parents" requires of a man who has children of his own the same submission to his father as it requires of his own young children toward him? Or that by this precept he would be bound to obey all his father's commands if, out of a notion of authority, his father had the indiscretion to treat him still as a boy?

[69] The first part of paternal power, then, or rather duty—which is education—belongs to the father in such a way that it ends at a certain point. When the business of education is over, it ceases

of itself; and it can also be transferred before then. For a man may put his son's tutelage in other hands, and one who has made his son an apprentice to another has released him, for that time, from a great part of his obedience both to himself and to his mother. But the whole duty of honor, the other part, nonetheless remains entire to them; nothing can cancel it. It is so inseparable from both of them that the father's authority cannot deprive the mother of this right, nor can any man release his son from honoring her who bore him. But both of these are very far from a power to make laws and enforce them with penalties that may reach estate, liberty, limbs, and life. The power of commanding ends with minority. And though after that, honor and respect, support and defense, and whatever gratitude can oblige a man to for the highest benefits he is naturally capable of receiving, are always due from a son to his parents, yet all this puts no scepter into the father's hand, no sovereign power of command. He has no dominion over his son's property or actions, nor any right that his will should dictate to his son's in all things—though in many things not very inconvenient to the son and his family, it may be fitting for the son to defer to it.

[70] A man may owe honor and respect to an old or wise man, defense to his child or friend, relief and support to the distressed, and gratitude to a benefactor, to such a degree that all he has and all he can do cannot sufficiently repay it. But none of these gives anyone authority, or any right to make laws over the person from whom they are owed. And it is plain that all this is due not merely to the bare title of father—not only because, as has been said, it is owed to the mother too, but because these obligations to parents, and the degree of what is required of children, may vary with the different care and kindness, trouble and expense, often spent on one child more than on another.

[71] This shows why 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. This could not possibly be if all political power were merely paternal, and the two were in truth 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 completely distinct and separate, are built on such different foundations, and are given for such different ends, that every subject who is a father has as much paternal power over his children as the prince has over his. And every prince who has parents owes them as much filial duty and obedience as the lowliest of his subjects owe theirs. Paternal power therefore cannot contain any part or degree of the kind of dominion that a prince or magistrate has over his subject.

[72] Though the obligation on parents to bring up their children, and the obligation on children to honor their parents, contain all the power on the one side and the submission on the other that are proper to this relationship, there is yet another power ordinarily held by the father by which he has a hold on his children's obedience. Although he shares it with other men, the occasions for exercising it arise almost constantly for fathers in their private families, while instances of it elsewhere are rare and less noticed, so it passes in the world for part of paternal jurisdiction. And this is the power men generally have to bestow their estates on those who please them best. The father's possessions are 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 them with a more sparing or a more generous hand, according to how the behavior of this or that child has suited his will and temper.

[73] This is no small hold on children's obedience. And because the enjoyment of land always comes with a condition attached, submission to the government of the country the land belongs to, it has commonly been supposed that a father could bind his descendants to the government he himself was subject to, and that his agreement held them. But this is only a necessary condition attached to the land. The inheritance of an estate under that government binds only those who are willing to take it on that condition, so it is no natural tie or obligation but a voluntary

submission. For every man's children are by nature as free as he is, or as any of his ancestors ever were, and while they are in that freedom they may choose what society they will join and what commonwealth they will put themselves under. But if they want to enjoy their ancestors' inheritance, they must take it on the same terms their ancestors had it and submit to all the conditions attached to owning it. By this power, fathers do oblige their children to obey them even after they are past minority, and very often subject them to this or that political power as well. But they do neither by any special right of fatherhood. They do it by the reward they hold in their hands to enforce and repay such compliance. This is no more power than a Frenchman has over an Englishman who hopes for an estate the Frenchman will leave him: the hope gives him a strong hold on the Englishman's obedience. And if, once the estate is left to him, the Englishman wants to enjoy it, he must of course take it on the conditions attached to owning land in the country where it lies, whether that is France or England.

74 To conclude, then: the father's power of command extends no further than his children's minority, and only to a degree suited to the discipline and government of that age. The honor and respect, and all that the Latins called piety, which children owe their parents without exception all their lives and in every condition, together with all the support and defense due to them, give the father no power of governing, that is,[1] no power of making laws and imposing penalties on his children. By all this he has no dominion over his son's property or actions. Yet it is easy to see how naturally, in the first ages of the world, and still in places where the population is so thin that families can split off into unclaimed territory and have room to move or settle in still-vacant land, the father of the family could become

1 "Piety" translates the Latin pietas, dutiful devotion to parents, country and gods.

its prince.[2] He had been a ruler from the beginning of his children's infancy. And since it would be hard for them to live together without some government, it was most likely that, by the express or tacit consent of the children once they were grown, government should rest in the father, where it seemed simply to continue without any change. In fact nothing more was needed for this than letting the father alone exercise, within his family, the executive power of the law of nature that every free man naturally has, and by that permission handing over to him a monarchical power for as long as they remained in the family. But that this happened not by any paternal right but only by his children's consent is clear from the following. No one doubts that if a stranger, brought to his family by chance or business, had killed one of his children there or committed any other crime, the father could condemn him and put him to death, or otherwise punish him, just as he could any of his children. He could not possibly do this by virtue of any paternal authority over someone who was not his child. He did it by virtue of the executive power of the law of nature, to which he had a right as a man. And he alone could punish the stranger in his family because his children, out of respect for him, had set aside their own exercise of that power, to make way for the dignity

2 LOCKE'S NOTE. "It is therefore not an improbable opinion, the one held by the arch-philosopher, that the chief person in every household was always, so to speak, a king. So when a number of households joined together in civil societies, kings were the first kind of governors among them. This also seems to be the reason why the name of fathers still stayed with those who were made rulers after being fathers. The ancient custom of governors doing as Melchizedek did, and exercising the office of priests while being kings, which fathers did at first, perhaps arose from the same cause. However, this is not the only kind of government that has been accepted in the world. The disadvantages of one kind have led to the invention of various others. In a word, all public government, of whatever kind, evidently seems to have arisen from deliberate advice, consultation and agreement among men who judged it convenient and beneficial. Considered in itself, there is nothing impossible in nature about man having lived without any public government." Hooker, Ecclesiastical Polity, Book I, section 10.

TRANSLATOR'S NOTE. The "arch-philosopher" is Aristotle (Politics I). Melchizedek was king of Salem and "priest of the most high God" (Genesis 14:18).

and authority they were willing to leave in him above the rest of the family.

[75] So it was easy, and almost natural, for children to make way for the father's authority and government by a tacit and scarcely avoidable consent. They had been used in childhood to following his direction and bringing their little disputes to him, and when they were men, who was better fit to rule them? Their small properties and lesser greed seldom produced bigger disputes. And when any did arise, where could they find a better umpire than the man whose care had sustained and raised every one of them, and who had a tenderness for them all? No wonder, then, that they made no distinction between minority and full age, and did not look to twenty-one, or any other age that would make them free to dispose of themselves and their fortunes, since they had no desire to be out of their tutelage. The government they had been under during it went on being more their protection than their restraint, and nowhere could they find greater security for their peace, liberties and fortunes than in the rule of a father.

[76] So the natural fathers of families, by an imperceptible change, became their political monarchs too. And as they happened to live long and leave able and worthy heirs for several successions, or otherwise, they laid the foundations of hereditary or elective kingdoms, under various constitutions and customs, as chance, design or circumstance happened to shape them. But suppose princes hold their titles by their fathers' right, and it counts as sufficient proof of fathers' natural right to political authority that they were commonly the ones in whose hands we find the actual exercise of government. I say, if that argument is good, it will just as strongly prove that all princes, indeed only princes, ought to be priests. For 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
Locke argues political society requires a common judge, so absolute monarchy is not civil government.

77 God made man such a creature that, in God's own judgment, it was not good for him to be alone. So he put him under strong obligations of necessity, convenience and inclination to drive him into society, and also equipped him with understanding and language to continue and enjoy it.[1]

MARRIAGE AND THE FAMILY

Locke distinguishes conjugal, parental and master-servant relations from political society.

The first society was between man and wife. That gave rise to the society between parents and children, and in time the society between master and servant was added to it. All of these might, and commonly did, come together to make up a single family, in which the master or mistress had a kind of rule proper to a family. Yet each of them, or all together, fell short of political society, as we will see if we consider the different ends, ties and limits of each.

78 Conjugal society is made by a voluntary compact between a man and a woman. It consists chiefly in the communion of, and right to, one another's bodies that is necessary for its chief end, procreation. But it brings with it mutual support and help and a shared interest as well. These are necessary not only to unite

1 Genesis 2:18: "It is not good that the man should be alone."

their care and affection but also for their common children, who have a right to be fed and maintained by them until they can provide for themselves.

[79] For the end of the union between male and female is not merely procreation but the continuation of the species. So this union ought to last even after procreation, as long as is necessary for feeding and supporting the young, who are to be sustained by those that begot them until they can fend and provide for themselves. We find the lower creatures steadily obeying this rule, which the infinitely wise Maker has set for the works of his hands. In those grass-eating animals that bear live young, the union between male and female lasts no longer than the act of mating itself. Since the mother's teat is enough to nourish the young until it can eat grass, the male only begets and does not concern himself with the female or the young, to whose sustenance he can contribute nothing. But among beasts of prey the union lasts longer. Living by prey is a more laborious and more dangerous way of life than grazing, and the mother cannot well support herself and feed her numerous offspring on her own prey alone. So the male's help is necessary to maintain their common family, which cannot survive until the young can hunt for themselves except by the joint care of male and female. The same can be seen in all birds (except some domestic ones, where plenty of food excuses the cock from feeding and looking after the young brood). Since their young need food in the nest, the cock and hen remain mates until the young can use their wings and provide for themselves.

[80] And here, I think, lies the chief, if not the only, reason why male and female among humans are tied to a longer union than other creatures. The female is capable of conceiving, and in fact is commonly pregnant again and gives birth to a new child, long before the previous one is out of dependency on its parents' help and able to fend for itself, with all the help due to it from its parents. So the father, who is bound to care for those he has begotten, is obliged to remain in conjugal society with the same woman longer than other creatures do. Their young can survive

on their own before the time of procreation comes round again, so the conjugal bond dissolves of itself, and they are at liberty until Hymen, at his usual yearly season, summons them to choose new mates.[2] In this one cannot help admiring the wisdom of the great Creator. Having given man foresight and the ability to store up for the future as well as to supply present needs, he made it necessary that the society of man and wife should last longer than that of male and female among other creatures. That way their industry would be encouraged and their interests more closely united in making provision and storing up goods for their common children, something that uncertain mixing, or easy and frequent dissolving of conjugal society, would greatly disturb.

81 But although these ties on mankind make the conjugal bond firmer and more lasting in humans than in other species of animals, it would give one reason to ask why this compact, once procreation and upbringing are secured and inheritance is provided for, may not be made terminable, whether by consent, or at a certain time, or on certain conditions, like any other voluntary compact. Nothing in the nature of the thing, or in its ends, requires that it always be for life. I mean for those who are under no restraint of any positive law that makes all such contracts perpetual.

82 But though husband and wife have only one common concern, they have different understandings, and so will unavoidably sometimes have different wills too. Since it is therefore necessary that the final decision, that is, the rule, be placed somewhere, it naturally falls to the man's share, as the abler and the stronger. But this reaches only the things of their common interest and property. It leaves the wife in full and free possession of whatever is her own right by contract, and it gives the husband no more power over her life than she has over his. The husband's power is so far from that of an absolute monarch that in many cases the wife is free to separate from him, where natural right or their contract allows it, whether that contract was

2 Hymen: the Greek and Roman god of marriage.

made by themselves in the state of nature or by the customs or laws of the country they live in. And upon such a separation the children go to the father or the mother as that contract determines.

[83] For since all the ends of marriage can be achieved under political government just as in the state of nature, the civil magistrate does not curtail the right or power of either spouse that is naturally necessary to those ends, namely procreation and mutual support and help while they are together. He only decides any dispute about them that may arise between man and wife. If it were otherwise, and 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 marriage in any of the countries where the husband is allowed no such absolute authority. But since the ends of marriage require no such power in the husband, the terms of conjugal society did not place it in him, for it is not at all necessary to that state. Conjugal society could exist and achieve its ends without it. Indeed, common ownership of goods and the power over them, mutual help and maintenance, and other things belonging to conjugal society could be varied and regulated by the contract that unites man and wife in that society, so far as is consistent with procreation and bringing up the children until they could fend for themselves. Nothing is necessary to any society that is not necessary to the ends for which it is made.

[84] The society between parents and children, and the distinct rights and powers belonging to each, I have treated so fully in the previous chapter that I need say nothing about it here. And I think it is plain that it is very different from a political society.

[85] Master and servant are names as old as history, but they are given to people in very different conditions. A free man makes himself a servant to another by selling him, for a certain time, the service he undertakes to perform, in exchange for wages he is to receive. This commonly puts him into his master's household and under its ordinary discipline. Yet it gives the master only a temporary power over him, and no greater than what is

contained in the contract between them. But there is another sort of servant, whom we call by the special name of slaves. They are captives taken in a just war, and by the right of nature they are subjected to the absolute dominion and arbitrary power of their masters. These men have, as I say, forfeited their lives, and with them their liberties, and lost their estates. Being in the state of slavery and incapable of any property, they cannot in that state be considered any part of civil society, whose chief end is the preservation of property.

86 So let us consider the master of a family with all these subordinate relations of wife, children, servants and slaves, united under the domestic rule of a family. Whatever resemblance it may have to a little commonwealth in its order, its offices and even its numbers, it is very far from one in its constitution, its power and its end. Or if it must be thought a monarchy, with the head of the household as its absolute monarch, then absolute monarchy will have only a very fragmented and brief power. For it is plain from what has been said that the master of the family has a very distinct and differently limited power, in both duration and extent, over the various persons in it. Apart from the slave (and the family is just as much a family, and his power as head of household just as great, whether or not there are any slaves in it), he has no legislative power of life and death over any of them, and none that the mistress of a family may not have as well as he.[3] And someone who has only a very limited power over every individual in the family certainly cannot have absolute power over the whole family. But we will best see how a family, or any other society of men, differs from what is properly political society by considering what political society itself consists in.

3 "Head of the household" renders Locke's Latin paterfamilias.

WHAT MAKES A POLITICAL SOCIETY

Locke argues political society exists only where members give their natural power to a common judge.

87 Man is 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. So he has 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 also to judge and punish breaches of that law by others as he is persuaded the offense deserves, even with death itself, in crimes where he thinks the heinousness of the deed requires it. But no political society can exist or survive without having in itself the power to preserve property, and to that end to punish the offenses of all those in that society. So there, and only there, is political society where every one of the members has given up this natural power and surrendered it into the hands of the community in all cases that do not bar him from appealing for protection to the law the community has established. In this way all private judgment of every individual member is excluded, and the community becomes umpire. By settled standing rules, impartial and the same for all parties, and through men who have authority from the community to carry out those rules, it decides all the disputes about any matter of right that may arise between members of that society, and punishes the offenses any member has committed against the society with the penalties the law has established. From this it is easy to tell who are, and who are not, in political society together. Those who are united in one body, and have a common established law and judiciary to appeal to, with authority to decide disputes between them and punish offenders, are in civil society with one 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, his own

judge and executioner. That, as I have shown before, is the perfect state of nature.

[88] And so the commonwealth acquires a power to set what punishment shall belong to the various transgressions committed among the members of that society that it thinks deserve punishment (which is the power of making laws). It also has the power to punish any injury done to any of its members by anyone outside it (which is the power of war and peace). And all this is for the preservation of the property of all the members of that society, as far as possible. Every man who has entered civil society and become a member of any commonwealth has thereby given up his power to punish offenses against the law of nature according to his own private judgment. But along with the judgment of offenses, which he has handed over to the legislative in all cases where he can appeal to the magistrate, he has given the commonwealth a right to use his force to carry out the commonwealth's judgments whenever he is called on to do so. And these are in fact his own judgments, since they are made by himself or his representative. Here we have the origin of the legislative and executive power of civil society. That power is to judge by standing laws how far offenses committed within the commonwealth are to be punished, and also to determine, by particular judgments based on the present circumstances of the case, how far injuries from outside are to be avenged; and in both to use all the force of all the members when there is need.

[89] Wherever, then, any number of men are so united in one society that each gives up his executive power of the law of nature and surrenders it to the public, there and there only is a political, or civil, society. This happens 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 anyone joins and incorporates himself into a government already made. For by doing so he authorizes the society, or, what is the same thing, its legislative, to make laws for him as the public good of the society requires, and his own help is owed to carrying them out, as it would be to his own decrees. And this

takes men out of a state of nature and into that of a commonwealth, by setting up a judge on earth with authority to settle all disputes and redress the injuries that may happen to any member of the commonwealth. That judge is the legislative, or magistrates appointed by it. And wherever there are any number of men, however associated, who have no such decisive power to appeal to, they are still in the state of nature.

90 From this it is clear that absolute monarchy, which some people count the only government in the world, is in fact inconsistent with civil society, and so can be no form of civil government at all. The end of civil society is to avoid and remedy the inconveniences of the state of nature that necessarily follow from every man's being judge in his own case. It does this by setting up a known authority to which every member of that society may appeal over any injury received or any dispute that may arise, and which every member of the society ought to obey.[4] Wherever any persons have no such authority to appeal to for deciding a difference between them, those persons are still in the state of nature. And so is every absolute prince with respect to those under his dominion.

91 For since the prince is supposed to have all power, both legislative and executive, in himself alone, there is no judge to be found and no appeal open to anyone who could fairly, impartially and with authority decide, and from whose decision relief and redress could be expected for any injury or harm suffered from the prince or by his order. So such a man, whether his title is Czar, or Grand Seignior, or whatever 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 have no standing rule and common judge on earth to appeal to for settling dis-

4 LOCKE'S NOTE. "The public power of every society is above every soul contained in that society, and the main use of that power is to give laws to all who are under it. We must obey such laws in such cases, unless reason is shown that necessarily proves that the law of reason, or of God, commands the contrary." Hooker, Ecclesiastical Polity, Book I, section 16.

putes of right between them, they are still in the state of[5] nature, with all its inconveniences, and with only this woeful difference for the subject, or rather the slave, of an absolute prince:[6] in the ordinary state of nature he is free to judge of his right and to maintain it as best he can. But now, whenever his property is invaded by his monarch's will and order, he not only has no appeal, as those in society ought to have, but, as if he had been degraded from the common state of rational creatures, he is denied the liberty to judge of or defend his right. And so he is exposed to all the misery and inconveniences a man can fear from someone who is in the unrestrained state of nature and yet corrupted by flattery and armed with power.

92 Anyone who thinks absolute power purifies men's blood and corrects the baseness of human nature need only read the history of this or any other age to be convinced of the contrary. A man who would have been insolent and harmful in the woods of America would probably not be much better on a throne, where learning and religion may perhaps be found to justify everything he does to his subjects, and the sword will immediately silence all who dare question it. What the protection of absolute monarchy amounts to, what kind of fathers of their countries it makes of princes, and to what degree of happiness and security it brings civil society where this sort of govern-

5 LOCKE'S NOTE. "To remove all such mutual grievances, injuries and wrongs," that is, those that attend men in the state of nature, "there was no way but for men to come to terms and agreement among themselves, by establishing some kind of public government and making themselves subject to it, so that those to whom they granted authority to rule and govern might secure the peace, tranquility and happy condition of the rest. Men always knew that where force and injury were offered, they might defend themselves. They knew that however men may pursue their own advantage, if this was done by injuring others it was not to be tolerated, but was to be resisted by all men and by all good means. Finally, they knew that no man could reasonably take it upon himself to determine his own right and proceed to maintain it according to his own determination, since every man is partial toward himself and those he greatly loves. And therefore strife and trouble would be endless unless they gave their common consent to be ordered by some whom they should agree upon. Without such consent there would be no reason for one man to take it upon himself to be lord or judge over another." Hooker, Ecclesiastical Polity, Book I, section 10.

6 Grand Seignior: the Ottoman sultan.

ment has been perfected, anyone who looks into the recent account of Ceylon can easily see.[7]

93 It is true that in absolute monarchies, as in other governments of the world, the subjects have an appeal to the law, and judges to decide disputes and restrain any violence that may happen among the subjects themselves. Everyone thinks this necessary, and believes that anyone who tried to take it away would deserve to be thought a declared enemy of society and mankind. But there is reason to doubt whether this comes from a true love of mankind and society, and from the charity we all owe one another. For it is no more than what every man who loves his own power, profit or greatness may, and naturally must, do: keep the animals that labor and drudge only for his pleasure and advantage from hurting or destroying one another. They are looked after not out of any love the master has for them, but out of love of himself and the profit they bring him. For if you ask what security, what protection there is in such a state against the violence and oppression of this absolute ruler, the very question is hardly tolerated. They are ready to tell you that merely asking about safety deserves death. Between subject and subject, they will grant, there must be measures, laws and judges for their mutual peace and security. But the ruler, they say, ought to be absolute and is above all such considerations: because he has the power to do more harm and wrong, it is right when he does it. To ask how you may be protected from harm or injury on the side where the strongest hand is able to do it is at once called the voice of faction and rebellion. As if, when men left the state of nature and entered into society, they agreed that all of them but one should be under the restraint of laws, while he should keep all the liberty of the state of nature, increased by power and made reckless by impunity. This is to think that men are so foolish that they take care to avoid the harm that polecats or foxes may do them, yet are content, and even think it safety, to be devoured by lions.

7 Robert Knox, An Historical Relation of the Island Ceylon (1681), describing his long captivity under the king of Kandy.

94 But whatever flatterers may say to distract people's understanding, it does not stop men from feeling. And when they see that any man, whatever his station, is outside the bounds of the civil society they belong to, 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 with respect to him. And they take care, as soon as they can, to have the safety and security in civil society for which it was first instituted, and for which alone they entered into it. Perhaps at first (as will be shown more fully later in this discourse) some one good and excellent man gained pre-eminence among the rest, and such deference was paid to his goodness and virtue, as a kind of natural authority, that the chief rule, together with arbitrating their disputes, passed into his hands by tacit consent, with no other safeguard than their confidence in his integrity and wisdom. Yet in time, custom gave authority and (as some would have us believe) sacredness to what the careless and unforeseeing innocence of the first ages had begun, and it brought in successors of a different stamp. Then the people found their properties were not secure under the government as it then stood (whereas government has no other end than the preservation of[8] property), and they could never be safe or at rest, or think themselves in civil society, until the legislature was placed in collective bodies of men, call them senate, parliament, or what you please. By this means every single person became subject, equally with the humblest men, to the laws which he himself, as part of the legislative, had established. Nor could anyone, by his own authority, escape the force of the law once it was made, or plead exemption on any pretense of superiority, so as to license his own mis-

8 LOCKE'S NOTE. "At first, when some kind of government had once been set up, it may be that nothing further was thought about the manner of governing, but everything was left to the wisdom and discretion of those who were to rule. Then by experience they found this very inconvenient in every respect, so that the thing they had devised as a remedy actually increased the sore it was meant to cure. They saw that living by one man's will had become the cause of all men's misery. This forced them to turn to laws, in which all men might see their duty beforehand and know the penalties for breaking them." Hooker, Ecclesiastical Polity, Book I, section 10.

deeds or those of any of his dependents.[9] No man in civil society can be exempt from its laws. For if any man may do what he thinks fit, and there is no appeal on earth for redress or security against any harm he does, I ask whether he is not still entirely in the state of nature, and so can be no part or member of that civil society. Unless someone will say that the state of nature and civil society are one and the same thing, and I have never yet found anyone so great a champion of anarchy as to claim that.

9 LOCKE'S NOTE. "Civil law, being the act of the whole body politic, therefore overrules each separate part of that body." Hooker, same place.

Chapter VIII

Of the Beginning of Political Societies
Locke argues that legitimate government begins only with the consent of free individuals.

CONSENT AND THE ORIGIN OF SOCIETY

Locke argues that political society begins with consent, after which the majority binds the rest.

95 Men being, as has been said, all free, equal and independent by nature, no one can be put out of this condition and subjected to the political power of another without his own consent. The only way anyone gives up 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 peaceful living among one another, in secure enjoyment of their properties and with greater security against anyone outside it. Any number of men may do this, because it does not injure 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 consented in this way to make one community or government, they are at once incorporated and make one body politic, in which the majority have a right to act for and bind the rest.

96 For when any number of men have made a community by the consent of every individual, they have thereby made that community one body, with a power to act as one body, and that is only by the will and decision of the majority. What moves any community is only the consent of the individuals in it, and a single body must move one way. So the body must move in the direction the greater force carries it, which is the consent of the

majority. Otherwise it could not possibly act or continue as one body, one community, as the consent of every individual who united into it agreed it should. And so everyone is bound by that consent to be concluded by the majority. So we see that in assemblies empowered to act by positive laws, where no number is set by the positive law that empowers them, the act of the majority passes for the act of the whole and of course decides the matter, since by the law of nature and reason it has the power of the whole.

[97] And so every man, by consenting with others to make one body politic under one government, puts himself under an obligation to everyone in that society to submit to the decision of the majority and to be bound by it. Otherwise this original compact, by which he and others incorporate into one society, would mean nothing, and would be no compact at all, if he were left free and under no other ties than he was under before in the state of nature. For what semblance of a compact would there be? What new obligation, if he were bound by the society's decrees no further than he himself thought fit and actually consented to? That would still be as great a liberty as he himself had before the compact, or as anyone else in the state of nature has, who may submit himself and consent to any of its acts if he thinks fit.

[98] For if the consent of the majority is not reasonably accepted as the act of the whole and binding on every individual, nothing but the consent of every individual can make anything the act of the whole. But such consent is next to impossible ever to obtain, if we consider illness and the demands of business, which, even in a number much smaller than a commonwealth, will necessarily keep many away from the public assembly. Add to this the variety of opinions and conflict of interests that unavoidably arise in every gathering of men, and entering society on such terms would be just like Cato's coming into the theater only to go out again. Such a constitution would make the mighty Leviathan shorter-lived than the feeblest creatures and would not let it outlast the day it was born. That cannot be supposed

unless we can think that rational creatures would desire and set up societies only to have them dissolved. For where the majority cannot bind the rest, they cannot act as one body, and consequently will be dissolved again at once.[1]

99 Whoever, then, unite into a community out of a state of nature 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 on some number greater than the majority. And this is done simply by agreeing to unite into one political society, which is the whole compact there is, or needs to be, between the individuals who enter into or make up a commonwealth. So what begins and actually constitutes any political society is nothing but the consent of some number of free men capable of a majority to unite and incorporate into such a society. And this is what, and all that, did or could give beginning to any lawful government in the world.

OBJECTIONS FROM HISTORY

Locke answers objections that history shows no such compacts and that all are born under government.

100 To this I find two objections made. First, that no instances can be found in history of a company of men, independent and equal to one another, who met together and began and set up a government in this way.

Second, that men cannot rightfully do so, because all men are born under government, and they must submit to it and are not at liberty to begin a new one.

101 To the first, the answer is this. It is no wonder at all that history gives us very little account of men living together in the state of nature. The inconveniences of that condition, and the love of and need for society, no sooner brought any number of them together than they immediately united and incorporated,

1 Cato the Younger walked into the theater during the licentious Floralia games and left at once (Martial, Epigrams I, preface). "Leviathan" is Hobbes's image of the commonwealth in Leviathan (1651).

if they meant to stay together. And if we may not suppose men ever to have been in the state of nature because we hear little of them in such a state, we might as well suppose the armies of Shalmaneser or Xerxes were never children, because we hear little of them until they were men and formed into armies.[2] Government everywhere comes before records, and writing seldom appears among a people until a long continuance of civil society has, through other more necessary arts, provided for their safety, ease and plenty. Then they begin to look into the history of their founders and search out their origins, when they have outlived the memory of them. For it is with commonwealths as with individual persons: they are commonly ignorant of their own births and infancy. And if they know anything of their origin, they owe it to the chance records others have kept of it. And the records we have of the beginning of any states in the world, except that of the Jews, where God himself directly intervened, and which does not favor paternal dominion at all, are all either plain instances of the kind of beginning I have described or at least show clear traces of it.

[102] Anyone who will not allow that Rome and Venice began by several men, free and independent of one another, uniting together, among whom there was no natural superiority or subjection, must have a strange inclination to deny plain matters of fact when they do not agree with his hypothesis. And if José de Acosta's word may be taken, he tells us that in many parts of America there was no government at all.[3]

"There are strong and evident grounds for conjecture," he says, speaking of the people of Peru, "that for a long time these men had neither kings nor commonwealths but lived in bands, as they still do today in Florida, the Chiriguanas, those of Brazil and many other nations, which have no fixed kings, but, as occa-

2 Shalmaneser (Locke's "Salmanasser"): Assyrian king (2 Kings 17–18). Xerxes: Persian king who invaded Greece in 480 BC.

3 José de Acosta (1540–1600), Jesuit author of the Natural and Moral History of the Indies (1590).

sion arises in peace or war, choose their captains as they please." Book I, chapter 25.

If it is said that every man there was born subject to his father, or to the head of his family, it has already been proved that the subjection a child owes a father did not take away his freedom to unite into whatever political society he thought fit. But be that as it may, these men were evidently actually free. Whatever superiority some political writers would now assign to any of them, they themselves did not claim it. By consent they were all equal, until by the same consent they set rulers over themselves. So their political societies all began from a voluntary union and the mutual agreement of men acting freely in choosing their governors and forms of government.

103 And I hope those who left Sparta with Palantus, mentioned by Justin, book III, chapter 4, will be granted to have been free men independent of one another, who set up a government over themselves by their own consent. So I have given several examples from history of people who were free and in the state of nature, and who met together, incorporated and began a commonwealth.[4] And if the lack of such instances is an argument proving that government was not, and could not be, begun this way, I suppose the advocates of paternal empire had better leave it alone than press it against natural liberty. For if they can give just as many instances from history of governments begun on paternal right, I think one might, without much danger, concede them the case, though at best an argument from what has been to what ought by right to be has no great force. But if I might advise them on this, they would do well not to dig too deeply into the origins of governments as they actually began, lest they find at the foundation of most of them something very unfavorable to the design they promote and to the kind of power they argue for.

104 But to conclude: since reason is plainly on our side that men are naturally free, and the examples of history show that

4 Justin's Epitome of the Philippic History of Pompeius Trogus tells how Phalantus led the Partheniae from Sparta to found Tarentum in southern Italy.

the governments of the world that began in peace were founded on that basis and made by the consent of the people, there can be little room for doubt about where the right lies, or about what the opinion or practice of mankind has been concerning the first establishing of governments.

105 I will not deny that if we look back as far as history will lead us toward the origin of commonwealths, we will generally find them under the government and administration of one man. And I am also inclined to believe that where a family was large enough to support itself and stayed together intact without mixing with others, as often happens where there is much land and few people, government commonly began in the father. For the father had, by the law of nature, the same power as every other man to punish, as he thought fit, any offenses against that law. So he could punish his transgressing children even when they were men and out of their tutelage. And they were very likely to submit to his punishment and all join with him against the offender in their turn, thereby giving him power to carry out his sentence against any transgression, and so in effect making him lawmaker and governor over all who remained joined with his family. He was the fittest to be trusted. Paternal affection secured their property and interests under his care, and the habit of obeying him in childhood made it easier to submit to him than to anyone else. So if they had to have someone to rule them, since government is hardly avoidable among men who live together, who was so likely to be the man as their common father, unless negligence, cruelty or some other defect of mind or body made him unfit for it? But when the father died and left his next heir less fit to rule, for lack of age, wisdom, courage or other qualities, or where several families met and agreed to stay together, there is no doubt that they used their natural freedom to set up whomever they judged the ablest and most likely to rule them well. In keeping with this we find that the peoples of America who (living beyond the reach of the conquering swords and spreading domination of the two great empires of Peru and Mexico) enjoyed their own natural freedom, though other

things being equal they commonly prefer the heir of their deceased king, yet if they find him in any way weak or incapable, they pass him over and set up the strongest and bravest man as their ruler.[5]

106 So although, looking back as far as records give any account of the peopling of the world and the history of nations, we commonly find government in one person's hands, this does not overturn what I affirm, namely that the beginning of political society depends on the consent of individuals to join and make one society. Once incorporated in this way, they could set up whatever form of government they thought fit. But because this has led people to mistakenly think that government is monarchical by nature and belongs to the father, it may be worth considering here why people at the beginning generally settled on this form. Perhaps the father's preeminence, in the first founding of some commonwealths, gave rise to it and placed power in one hand at the start. Yet it is plain that what kept government in a single person was not any regard or respect for paternal authority. For all petty monarchies—that is, almost all monarchies near their origins—have commonly been elective, at least on occasion.

107 First, then, at the beginning of things, the father's government over the childhood of his offspring had accustomed them to the rule of one man. It had taught them that where such rule was exercised with care and skill, with affection and love for those under it, it was enough to secure and preserve all the political happiness people sought in society. It was no wonder, then, that they should choose and naturally fall into the form of government they had all been used to from infancy, and which experience had shown them to be both easy and safe. Add to this that monarchy is simple and the most obvious form to people 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 harms of absolute power, which hereditary monarchy tended to claim

5 "Other things being equal" renders Locke's Latin caeteris paribus.

and bring upon them. So it was not at all strange that they did not trouble themselves much to think of ways to restrain any excesses of those to whom they had given authority over them, or of balancing the power of government by placing its several parts in different hands. They had not felt the oppression of tyrannical rule. Nor did the fashion of the age, their possessions, or their way of living (which offered little to feed greed or ambition) give them any reason to fear it or guard against it. So it is no wonder they put themselves under a frame of government that was not only, as I said, the most obvious and simple, but also best suited to their present state and condition—which needed defense against foreign invasions and injuries more than a multitude of laws. The equality of a simple, poor way of life, which confined each man's desires within the narrow bounds of his small property, produced few disputes. So there was no need for many laws to settle them, or for a variety of officers to oversee proceedings or see to the execution of justice, where there were few trespasses and few offenders. Now, those who like one another well enough to join into a society must be supposed to have some acquaintance, friendship, and trust among themselves. They could not help fearing others more than one another. And so their first care and thought must be supposed to have been how to secure themselves against foreign force. It was natural for them to put themselves under the frame of government that could best serve that end, and to choose the wisest and bravest man to lead them in their wars and against their enemies, and chiefly in this to be their ruler.

[108] Thus we see that the kings of the Native Americans—and America is still a pattern of the first ages in Asia and Europe, when the inhabitants were too few for the land, and a shortage of people and money gave men no temptation to enlarge their landholdings or fight over wider territory—are little more than generals of their armies. Though they command absolutely in war, at home and in peacetime they exercise very little dominion and have only a very moderate sovereignty. Decisions of peace and war ordinarily rest either with the people or with a

council. War itself, however, which does not allow for multiple commanders, naturally places the command in the king's sole authority.

[109] So too in Israel itself, the chief business of their judges and first kings seems to have been to serve as captains in war and leaders of their armies. This appears (besides what is meant by "going out and coming in before the people," which was to march out to war and home again at the head of their forces) plainly in the story of Jephthah. When the Ammonites made war on Israel, the Gileadites in fear sent for Jephthah, an illegitimate son of their family whom they had cast off, and struck a bargain with him: if he would help them against the Ammonites, they would make him their ruler. This they did in these words: "And the people made him head and captain over them" (Judges 11:11). This, it seems, was the same thing as being judge. "And he judged Israel" (Judges 12:7)—that is, he was their captain-general for six years. Likewise, when Jotham reproaches the Shechemites for the debt they owed Gideon, who had been their judge and ruler, he tells them: "He fought for you, and risked his life, and delivered you out of the hand of Midian" (Judges 9:17). Nothing is mentioned of him except what he did as a general. Indeed, that is all that is found in his history, or in that of any of the other judges. And Abimelech in particular is called king, though at most he was only their general. And when the children of Israel, weary of the misconduct of Samuel's sons, wanted a king "like all the nations, to judge them, and to go out before them, and to fight their battles" (1 Samuel 8:20), God granted their wish and said to Samuel: "I will send you a man, and you shall anoint him to be captain over my people Israel, that he may save my people out of the hands of the Philistines" (9:16). It is as if the only business of a king had been to lead out their armies and fight in their defense. Accordingly, at Saul's inauguration, Samuel poured a vial of oil on him and declared that "the Lord had anointed him to be captain over his inheritance" (10:1). And so those who, after Saul had been solemnly chosen and hailed as king by the tribes at Mizpah, were unwilling to have

him as their king made no other objection than this: "How shall this man save us?" (10:27). It was as if they had said: this man is unfit to be our king, since he lacks enough skill and leadership in war to be able to defend us. And when God resolved to transfer the government to David, it was in these words: "But now your kingdom shall not continue: the Lord has sought out a man after his own heart, and the Lord has commanded him to be captain over his people" (13:14). It is as if the whole of kingly authority were nothing but being their general. And so the tribes who had stuck with Saul's family and opposed David's reign, when they came to Hebron with terms of submission to him, told him—among other reasons they had for submitting to him as their king—that he had in effect been their king in Saul's time, and so they had every reason to receive him as king now. "Also," they say, "in time past, when Saul was king over us, you were the one who led out and brought in Israel, and the Lord said to you, You shall shepherd my people Israel, and you shall be a captain over Israel."

110 Thus it may be that a family grew by degrees into a commonwealth. The fatherly authority was continued on to the eldest son, and everyone growing up under it in turn tacitly submitted to it. Its ease and fairness offended no one, so everyone went along with it, until time seemed to have confirmed it and established a right of succession by long custom. Or it may be that several families, or the descendants of several families, brought together by chance, neighborhood, or business, united into a society. Then the need for a general whose leadership might defend them against their enemies in war, and the great confidence in one another that the innocence and sincerity of that poor but virtuous age inspired (and such are almost all ages that begin governments that ever come to last in the world), led the first founders of commonwealths generally to put rule into one man's hands. They set no express limit or restraint on it other than what the nature of the thing and the purpose of government required. Whichever of these first placed rule in the hands of a single person, it is certain that no one was entrusted

with it except for the public good and safety. And in the infancy of commonwealths, those who held it commonly used it for those ends. Had they not done so, young societies could not have survived. Without such nursing fathers, tender and careful of the public welfare, all governments would have sunk under the weakness and infirmities of their infancy, and prince and people would soon have perished together.

111 The golden age—before vain ambition and amor sceleratus habendi, evil greed, had corrupted men's minds into a mistaken idea of true power and honor—had more virtue, and so better rulers as well as less vicious subjects. There was then no stretching of prerogative on the one side to oppress the people, and so on the other side no dispute about privilege to lessen or restrain the power of the magistrate. There was thus no contest between rulers and people over rulers or government.[6] But in later ages,[7] ambition and luxury wanted to keep and increase that power without doing the work for which it was given; and, aided by flattery, they taught princes to have interests distinct and separate from their people's. Then men found it necessary to examine more carefully the origin and rights of government, and to find ways to restrain the excesses and prevent the abuses of that power. They had entrusted it to another's hands only for their own good, and found it was being used to hurt them.

112 So we can see how likely it is that people who were naturally free, and who by their own consent either submitted to their father's government or united out of different families to form a government, should generally put rule into one man's

6 Amor sceleratus habendi: "the wicked love of possessing," from Ovid's account of the ages of the world (Metamorphoses I.131).

7 LOCKE'S NOTE. "At first, when some particular form of rule had once been approved, perhaps nothing further was considered about the manner of governing; everything was left to the wisdom and discretion of those who were to rule. Then experience showed them this was very inconvenient in every respect, so that what they had devised as a remedy only worsened the sore it was meant to cure. They saw that living by one man's will had become the cause of all men's misery. This forced them to adopt laws, in which everyone might see his duty beforehand and know the penalties for breaking them." Hooker, Ecclesiastical Polity, Book I, section 10.

hands and choose to be led by a single person. They did so without even limiting or regulating his power by express conditions, thinking it safe enough in his honesty and prudence. Yet they never dreamed of monarchy being jure divino—by divine right—which we never heard of among mankind until the divinity of this last age revealed it to us. Nor did they ever allow that paternal power had a right to dominion, or was the foundation of all government. This may be enough to show that, as far as history gives us any light, we have reason to conclude that all peaceful beginnings of government have been founded on the consent of the people. I say "peaceful" because I will have occasion elsewhere to speak of conquest, which some regard as a way governments begin.

The other objection I find raised against the beginning of political societies in the way I have described is this:

[113] Since all men are born under some government or other, it is impossible that any of them should ever be free and at liberty to unite together and begin a new one, or ever be able to set up a lawful government.

If this argument is good, I ask: how did so many lawful monarchies come into the world? For if anyone, on this assumption, can show me a single man in any age of the world who was free to begin a lawful monarchy, I will undertake to show him ten other free men at liberty, at the same time, to unite and begin a new government, whether under a monarchy or any other form. It is demonstrable that if any one person born under another's dominion can be free enough to have a right to command others in a new and distinct empire, then everyone born under another's dominion can be just as free, and may become a ruler or a subject of a distinct, separate government. So by their own principle, either all men, however they are born, are free, or else there is only one lawful prince and one lawful government in the world. Then all they have to do is show us which that is. When they have done so, I have no doubt all mankind will readily agree to obey him.

114 It would be a sufficient answer to their objection to show that it involves them in the same difficulties as those they use it against. Still, I will try to expose the weakness of this argument a little further. All men, they say, are born under government, and therefore cannot be at liberty to begin a new one. Everyone is born a subject to his father or his prince, and is therefore under a perpetual bond of subjection and allegiance. But it is plain that mankind never acknowledged or recognized any such natural subjection, into which they were born, to the one or the other, binding them without their own consent to subjection to them and their heirs.

115 For there are no examples more frequent in history, sacred and secular, than those of men withdrawing themselves and their obedience from the jurisdiction they were born under, and from the family or community they were raised in, and setting up new governments in other places. From this sprang all the many petty commonwealths at the beginning of the ages. They kept multiplying as long as there was room enough, until the stronger or more fortunate swallowed up the weaker; and those great ones in turn broke to pieces and dissolved into smaller dominions. All these are so many testimonies against paternal sovereignty. They plainly prove that it was not the natural right of the father, descending to his heirs, that made governments at the beginning. On that basis it would have been impossible for there to be so many little kingdoms. There could only have been one universal monarchy, had men not been at liberty to separate themselves from their families, and from whatever government was set up in them, and go and form distinct commonwealths and other governments as they saw fit.

116 This has been the practice of the world from its very beginning to this day. Nor is it now any more of a hindrance to mankind's freedom that people are born under established, ancient political societies with settled laws and fixed forms of government than if they were born in the woods among the unconfined inhabitants who roam free there. Those who would persuade us that by being born under a government we are naturally its sub-

jects, and have no further title or claim to the freedom of the state of nature, have no other reason to offer for it (apart from paternal power, which we have already answered) except that our fathers or ancestors gave away their natural liberty, and thereby bound themselves and their posterity to perpetual subjection to the government they themselves submitted to. It is true that whatever commitments or promises anyone has made for himself, he is under obligation to keep. But he cannot, by any compact whatever, bind his children or posterity. For his son, once grown, is altogether as free as the father, and no act of the father can give away the son's liberty any more than it can anyone else's. He may indeed attach conditions to the land he held as a subject of a commonwealth that oblige his son to belong to that community, if the son wants to enjoy the possessions that were his father's. Since that estate is the father's property, he may dispose of it or settle it as he pleases.

117 And this has generally been the source of the mistake on this matter. Commonwealths do not allow any part of their dominions to be broken off, or to be held by anyone outside their community. So the son ordinarily cannot enjoy his father's possessions except on the same terms his father did—by becoming a member of the society. In doing so he immediately puts himself under the government he finds established there, as much as any other subject of that commonwealth. Thus the consent of free men born under a government, which alone makes them members of it, is given separately, each in his turn as he comes of age, and not by a multitude all together. So people take no notice of it. Thinking it is not given at all, or is not necessary, they conclude that men are naturally subjects just as they are naturally men.

118 But governments themselves plainly understand it otherwise. They claim no power over the son because of the power they had over the father, nor do they regard children as their subjects because their fathers are. If a subject of England has a child by an Englishwoman in France, whose subject is the child? Not the king of England's, for he must get permission to be

admitted to the privileges of that kingdom. Nor the king of France's, for then how is his father at liberty to bring him away and raise him as he pleases? And who was ever judged a traitor or deserter for leaving, or making war on, a country merely because he was born in it to parents who were foreigners there? It is plain, then, from the practice of governments themselves as well as from the law of right reason, that a child is born a subject of no country or government. He is under his father's guardianship and authority until he reaches the age of discretion. Then he is a free man, at liberty to choose what government he will put himself under and what political body he will join. For if an Englishman's son born in France is at liberty to do so, it is evident that he is under no bond because his father is a subject of this kingdom, nor is he bound by any compact of his ancestors. Why, then, should not his son, by the same reasoning, have the same liberty, though born anywhere else? For the power a father naturally has over his children is the same wherever they are born, and the ties of natural obligation are not bounded by the man-made borders of kingdoms and commonwealths.

EXPRESS AND TACIT CONSENT

Locke distinguishes express consent from tacit consent given by enjoying property under a government.

119 Every man, as has been shown, is naturally free, and nothing can put him into subjection to any earthly power except his own consent. So we must consider what should count as a sufficient declaration of a man's consent to make him subject to the laws of any government. There is a common distinction between express consent and tacit consent, which bears on the present case. Nobody doubts that a man's express consent to enter a society makes him a full member of that society and a subject of that government. The difficulty is what ought to be regarded as tacit consent, and how far it binds—that is, how far anyone should be regarded as having consented, and so submitted, to a government when he has made no expression of it at all. To this

I say that every man who has any possession or enjoyment of any part of the dominions of a government thereby gives his tacit consent. During that enjoyment he is as much obliged to obey the laws of that government as anyone under it. This holds whether his possession is land held by him and his heirs forever, or just lodging for a week, or merely traveling freely on the highway. In effect, it reaches as far as a person's simply being within the territory of that government.

120 To understand this better, we should consider that when any man first incorporates himself into a commonwealth, by uniting himself to it he also attaches and submits to the community the possessions he has or will acquire that do not already belong to some other government. It would be a direct contradiction for someone to enter into society with others for the securing and regulating of property, and yet suppose that his land, whose ownership is to be regulated by the society's laws, should be exempt from the jurisdiction of the government to which he himself, the owner of the land, is a subject. So by the same act by which anyone unites his person, which was formerly free, to a commonwealth, he also unites to it his possessions, which were formerly free. Both person and possessions become subject to the government and dominion of that commonwealth for as long as it exists. Whoever, therefore, from then on enjoys any part of the land so annexed to and governed by that commonwealth—whether by inheritance, purchase, permission, or otherwise—must take it with the condition it is under: that is, submission to the government of the commonwealth under whose jurisdiction it lies, as fully as any of its subjects.

121 But the government has direct jurisdiction only over the land, and it reaches the possessor (before he has actually incorporated himself into the society) only insofar as he lives on and enjoys that land. So the obligation anyone is under to submit to the government by virtue of such enjoyment begins and ends with the enjoyment. Whenever the owner, who has given the government nothing but this tacit consent, gives up the posses-

sion by gift, sale, or otherwise, 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 that is free and unoccupied. By contrast, whoever has once given his consent to belong to a commonwealth by actual agreement and express declaration is perpetually and inescapably obliged to be and remain its subject, unalterably. He can never again be in the liberty of the state of nature, unless some calamity dissolves the government he was under, or some public act cuts him off from being a member of it any longer.[8]

122 But submitting to the laws of a country, living quietly, and enjoying privileges and protection under them does not make a man a member of that society. This is only the local protection and allegiance owed to and from all those who, not being in a state of war, come within the territory of a government, to every part of which 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 subject to someone in whose household he found it convenient to stay for a while—though while he remained there he would be obliged to comply with its rules and submit to the government he found there. So we see that foreigners who live their whole lives under another government, enjoying its privileges and protection, are bound even in conscience to submit to its administration as fully as any denizen, yet do not thereby become subjects or members of that commonwealth. Nothing can make any man such a member except his actually entering into it by a positive commitment and an express promise and compact. This is what I think about the beginning of political societies, and about the consent that makes anyone a member of a commonwealth.

8 In vacuis locis: "in empty places."

Chapter IX

Of the Ends of Political Society and Government
Locke argues people unite in government chiefly to preserve their lives, liberties and estates.

THE ENDS OF GOVERNMENT

Locke argues people form governments chiefly to protect their property, which the state of nature leaves insecure.

123 If man in the state of nature is as free as has been said—if he is 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 this empire and subject himself to the dominion and control of any other power? The obvious answer is that though he has such a right in the state of nature, his enjoyment of it is very uncertain and constantly exposed to invasion by others. For since all are kings as much as he, every man his equal, and most of them no strict observers of fairness and justice, his enjoyment of the property he has in this state is very unsafe and very insecure. This makes him willing to leave a condition that, 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 intend 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, then, of men's uniting into commonwealths and putting themselves under government is the preservation of their property. For this, the state of nature lacks many things.

First, it lacks an established, settled, known law, received and accepted by common consent as the standard of right and wrong and the common measure for deciding all disputes between people. For though the law of nature is plain and intelligible to all rational creatures, men are biased by their interests, as well as ignorant of it for lack of study, and so are not inclined to accept it as a law binding on them when it applies to their own particular cases.

125 Second, the state of nature lacks a known and impartial judge with authority to settle all differences according to the established law. For everyone in that state is both judge and executioner of the law of nature. Men are partial to themselves, so passion and revenge are very apt to carry them too far, and with too much heat, in their own cases—just as negligence and indifference make them too careless in other men's.

126 Third, the state of nature often lacks the power to back and support a sentence when it is right, and to carry it out properly. Those who have offended by some injustice will seldom fail, where they are able, to make good their injustice by force. Such resistance often makes punishment dangerous, and frequently fatal, to those who attempt it.

127 So mankind, for all the privileges of the state of nature, is in a bad condition while it remains there, and is quickly driven into society. That is why we seldom find any number of people living together for any length of time in this state. The inconveniences they are exposed to there, from the irregular and uncertain exercise of every man's power to punish the offenses of others, make them take refuge under the established laws of government and seek the preservation of their property there. This is what makes each of them so willing to give up his individual power of punishing, to be exercised only by those appointed to it among them, and by such rules as the community, or those it has authorized for that purpose, agree on. And here we have the original right and origin of both the legislative and executive power, as well as of governments and societies themselves.

[128] For in the state of nature—leaving aside his liberty to enjoy innocent pleasures—a man has two powers.

The first is to do whatever he thinks fit for the preservation of himself and others, within what the law of nature permits. By this law, common to them all, he and all the rest of mankind are one community and make up one society, distinct from all other creatures. Were it not for the corruption and viciousness of degenerate men, there would be no need of any other, and no necessity for men to separate from this great and natural community and combine by positive agreements into smaller, divided associations.

The other power a man has in the state of nature is the power to punish crimes committed against that law. He gives up both of these when he joins a private (if I may call it that), or particular, political society and incorporates himself into a commonwealth separate from the rest of mankind.

[129] The first power—to do whatever 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, to the extent that the preservation of himself and the rest of that society requires. These laws of the society in many things restrict the liberty he had by the law of nature.

[130] Second, the power of punishing he gives up entirely. He commits his natural force (which he could previously use in executing the law of nature on his own sole authority, as he thought fit) to assist the executive power of the society, as its law requires. For he is now in a new state, in which he is to enjoy many advantages from the labor, assistance, and company of others in the same community, as well as protection from its whole strength. So he must also give up as much of his natural liberty in providing for himself as the good, prosperity, and safety of the society require. This is not only necessary but just, since the other members of the society do the same.

[131] When men enter into society, they give up the equality, liberty, and executive power they had in the state of nature into the hands of the society, to be disposed of by the legislative as

far as the good of the society requires. Yet each of them does so only with the intention of better preserving himself, his liberty and property—for no rational creature can be supposed to change his condition intending to be worse off. So the power of the society, or of the legislative it has established, can never be supposed to extend further than the common good. It is obliged to secure everyone's property by guarding against the three defects mentioned above, which made the state of nature so unsafe and uneasy. And so whoever holds the legislative or supreme power of any commonwealth is bound to govern by established standing laws, published and known to the people, and not by improvised decrees; by impartial and upright judges, who are to decide disputes by those laws; and to use the force of the community at home only in executing such laws, and abroad to prevent or redress foreign injuries and secure the community from raids and invasion. And all this is to be directed to no other end than the peace, safety, and public good of the people.

Chapter X

Of the Forms of a Common-wealth
Locke explains that the form of government depends on where the legislative power is placed.

[132] As has been shown, when men first unite into society, the majority naturally has the whole power of the community. It may use all that power to make laws for the community from time to time and to execute those laws through officers it appoints itself; then the form of government is a perfect democracy. Or it may put the power of making laws into the hands of a few select men and their heirs or successors; then it is an oligarchy. Or it may put it into the hands of one man; then it is a monarchy. If to him and his heirs, it is a hereditary monarchy. If to him only for life, with only the power of naming a successor returning to them at his death, it is an elective monarchy. Accordingly, the community may make compound and mixed forms of government out of these as it thinks best. And if the majority at first gives the legislative power to one or more persons only for their lives, or for some limited time, after which the supreme power reverts to the majority, then when it has reverted the community may dispose of it anew into whatever hands it pleases, and so establish a new form of government. For the form of government depends on where the supreme power, which is the legislative, is placed. Since it is impossible to conceive of an inferior power prescribing to a superior, or of anyone but the supreme making laws, the form of the commonwealth is determined by where the power of making laws is placed.

133 By "commonwealth" I must be understood throughout to mean not a democracy, or any particular form of government, but any independent community, which the Latins signified by the word civitas. The word in our language that best answers to it is "commonwealth," which most properly expresses such a society of men; "community" or "city" in English does not. For there may be subordinate communities within a government, and "city" among us has a quite different meaning from "commonwealth." So, to avoid ambiguity, I ask leave to use the word "commonwealth" in the sense in which I find King James I used it, which I take to be its genuine meaning. If anyone dislikes it, I agree with him to exchange it for a better one.[1]

1 King James I of England (reigned 1603–1625), who used "commonwealth" in this sense in his political writings and speeches.

Chapter XI

Of the Extent of the Legislative Power
Locke sets out the limits that bind even the supreme legislative power.

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134 The great end of men's entering into society is the enjoyment of their properties in peace and safety, and the great instrument and means of this is the laws established in that society. So the first and fundamental positive law of all commonwealths is the establishing of the legislative power—just 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 is consistent 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 has once placed it. No edict of anyone else, in whatever form it is conceived or by whatever power it is backed, can have the force and obligation of a law unless it has its sanction from the legislative the public has chosen and appointed. Without this, the law could not have

what is absolutely necessary to make it a law:[1] the consent of the society, over which nobody can have a power to make laws except by its own consent and by authority received from it. And therefore all the obedience that anyone can be obliged to pay, by the most solemn ties, ultimately ends in this supreme power and is directed by the laws it enacts. No oaths to any foreign power whatever, or to any subordinate power at home, can release any member of the society from his obedience to the legislative when it acts in accordance with its trust, or oblige him to any obedience contrary to the laws so enacted, or beyond what they allow. It is ridiculous to imagine that anyone can be ultimately bound to obey any power in the society that is not the supreme one.

LIMITS ON THE LEGISLATIVE

Locke argues the legislative power may not rule arbitrarily, take property without consent, or transfer itself.

135 The legislative—whether placed in one person or more, whether always in being or only at intervals—is the supreme power in every commonwealth. Yet:

First, it is not, and cannot possibly be, absolutely arbitrary over the lives and fortunes of the people. For it is only the combined power of every member of the society, given up to the person or assembly that is the legislator. So it can be no more than

1 LOCKE'S NOTE. "The lawful power of making laws to command whole political societies of men belongs so properly to those same entire societies that for any prince or potentate of any kind on earth to exercise it on his own—not by express commission received directly and personally from God, or else by authority derived in the first place from the consent of those on whom he imposes laws—is no better than mere tyranny. Laws, therefore, they are not, which public approval has not made so." Hooker, Ecclesiastical Polity, Book I, section 10.

"On this point, therefore, we should note that since men naturally have no full and perfect power to command whole political multitudes of men, it follows that, utterly without our consent, we could not be under any living man's command in this way. And we do consent to be commanded when the society of which we are a part has at any time before consented, without revoking it afterward by a similar universal agreement. Human laws of every kind, therefore, are valid by consent." Ibid.

those persons had in the state of nature before they entered into society and gave it up to the community. For nobody can transfer to another more power than he has himself, and nobody has an absolute arbitrary power over himself or over anyone else, to destroy his own life or take away the life or property of another. A man, as has been proved, cannot subject himself to the arbitrary power of another. In the state of nature he has no arbitrary power over the life, liberty, or possessions of another, but only as much as the law of nature gave him for the preservation of himself and the rest of mankind. This is all he does or can give up to the commonwealth, and through it to the legislative power, so the legislative can have no more than this. Its power, at its furthest bounds, is limited to the public good of the society. It is a power that has no other end but preservation, and so it can never have a right to destroy, enslave, or deliberately impoverish the subjects.[2] The obligations of the law of nature do not cease in society. In many cases they are only drawn tighter and have known penalties attached to them by human laws to enforce their observance. Thus the law of nature stands as an eternal rule to all men, legislators as well as others. The rules they make for other men's actions must, like their own actions and other men's, conform to the law of nature—that is, to the will of God, of which it is a declaration. And since the fundamental law of nature is the preservation of mankind, no human sanction can be good or valid against it.

136 Second, the legislative, or supreme authority, cannot take upon itself a power to rule by improvised arbitrary decrees. It is

bound to dispense justice and decide the rights of the subject by published standing laws and known, authorized judges.[3] For the law of nature is unwritten and so found nowhere but in the minds of men. Those who, through passion or interest, miscite or misapply it cannot so easily be convinced of their mistake where there is no established judge. So it does not serve, as it ought, to determine the rights and protect the properties of those who live under it—especially where everyone is its judge, interpreter, and executioner too, and that in his own case. And a man who has right on his side, ordinarily having only his own single strength, does not have force enough to defend himself from injuries or to punish offenders. To avoid these inconveniences, which disorder men's properties in the state of nature, men unite into societies. There they may have the combined strength of the whole society to secure and defend their properties, and standing rules to set its bounds, by which everyone may know what is his. It is for this end that men give up all their natural power to the society they enter, and the community puts the legislative power into such hands as it thinks fit—in trust that they will be governed by declared laws. Otherwise their

2 LOCKE'S NOTE. "There are two foundations that hold up public societies. One is a natural inclination, by which all men desire social life and fellowship. The other is an order, expressly or secretly agreed on, concerning the manner of their union in living together. The latter is what we call the law of a commonwealth, the very soul of a political body, whose parts are brought to life by law, held together, and set to work in such actions as the common good requires. Political laws, ordained for outward order and government among men, are never framed as they should be unless they presume the will of man to be inwardly obstinate, rebellious, and averse to all obedience to the sacred laws of his nature—in a word, unless they presume man, in view of his depraved mind, to be little better than a wild beast. They must provide accordingly, nevertheless, so to frame his outward actions that they do not hinder the common good for which societies are instituted. Unless they do this, they are not perfect." Hooker, Ecclesiastical Polity, Book I, section 10.

3 LOCKE'S NOTE. "Human laws are measures for the men whose actions they must direct. Yet they are measures that have higher rules by which they are themselves to be measured. These rules are two: the law of God and the law of nature. So human laws must be made in accordance with the general laws of nature, and without contradicting any positive law of Scripture; otherwise they are badly made." Hooker, Ecclesiastical Polity, Book III, section 9.

"To compel men to do anything harmful to them seems unreasonable." Ibid., Book I, section 10.

peace, quiet, and property will still be as uncertain as they were in the state of nature.

137 Absolute arbitrary power, and governing without settled standing laws, are both inconsistent with the ends of society and government. Men would not give up the freedom of the state of nature and bind themselves under government were it not to preserve their lives, liberties and fortunes, and to secure their peace and quiet by fixed rules of right and property. It cannot be supposed that they would intend, even if they had the power to do so, to give any one person or several an absolute arbitrary power over their persons and estates, and to put force into the magistrate's hand to carry out his unlimited will arbitrarily on them. This would be to put themselves into a worse condition than the state of nature, in which they had the liberty to defend their right against the injuries of others and were on equal terms of force to maintain it, whether attacked by a single man or by many in combination. Whereas if we suppose they have given themselves up to the absolute arbitrary power and will of a legislator, they have disarmed themselves and armed him to make prey of them whenever he pleases. A man exposed to the arbitrary power of one man who commands 100,000 is in a much worse condition than one exposed to the arbitrary power of 100,000 individual men. For nobody can be sure that the will of the man who has such command is better than that of other men, though his force is 100,000 times stronger. And so, whatever form the commonwealth takes, the ruling power ought to govern by declared and accepted laws, and not by improvised dictates and unsettled resolutions. Otherwise mankind will be in a far worse condition than in the state of nature, having armed one man or a few with the combined power of a multitude to force them to obey at pleasure the excessive and unlimited decrees of their sudden thoughts, or their unrestrained and, until that moment, unknown wills, without any standards set down to guide and justify their actions. For all the power the government has exists only for the good of the society. So just as it ought not to be arbitrary and at pleasure, it

ought to be exercised by established and published laws. That way the people may know their duty and be safe and secure within the limits of the law, and the rulers too may be kept within their bounds, and not be tempted by the power they hold to use it for such purposes, and by such means, as they would not want known and would not willingly admit to.

138 Third, the supreme power cannot take any part of any man's property from him without his own consent. For the preservation of property is the end of government, and the reason men enter into society. It therefore necessarily presupposes and requires that the people should have property. Otherwise they would have to be supposed to lose, by entering into society, the very thing for which they entered it—too gross an absurdity for anyone to accept. Men in society, therefore, having property, have such a right to the goods that by the law of the community are theirs that nobody has a right to take their possessions, or any part of them, from them without their own consent. Without this they have no property at all. For I truly have no property in something another can rightfully take from me whenever he pleases, against my consent. Hence it is a mistake to think that the supreme or legislative power of any commonwealth can do what it wants, and dispose of the subjects' estates arbitrarily, or take any part of them at pleasure. This is not much to be feared in governments where the legislative consists, wholly or in part, of assemblies that change, whose members, once the assembly is dissolved, are subjects under the common laws of their country just like everyone else. But in governments where the legislative is one lasting assembly that is always in being, or one man, as in absolute monarchies, there is still a danger. They may think they have an interest separate from the rest of the community, and so be inclined to increase their own wealth and power by taking whatever they see fit from the people. For a man's property is not secure at all, even if there are good and fair laws setting its boundaries between him and his fellow subjects, if the one who commands those subjects has power to take from any private man whatever part of his

property he pleases, and to use and dispose of it as he thinks good.

139 But government, into whatever hands it is put, is entrusted, as I have already shown, on this condition and for this purpose: that men might have and secure their property. So the prince or senate, however much power it may have to make laws regulating property among the subjects, can never have a power to take for itself the whole or any part of the subjects' property without their own consent. That would in effect leave them no property at all. And to see that even absolute power, where it is necessary, is not arbitrary just because it is absolute, but is still limited by the reason, and confined to the purposes, that required it to be absolute in some cases, we need look no further than ordinary military discipline. The preservation of the army, and through it of the whole commonwealth, requires absolute obedience to the command of every superior officer, and it is justly punished by death to disobey or dispute even the most dangerous or unreasonable of those commands. And yet we see that the sergeant who could order a soldier to march up to the mouth of a cannon, or to stand in a breach where he is almost sure to die, cannot order that soldier to give him one penny of his money. Nor can the general, who can condemn him to death for deserting his post or for not obeying the most desperate orders, dispose of one farthing of that soldier's estate or seize the least bit of his goods, with all his absolute power of life and death—though he can command him to do anything and hang him for the slightest disobedience. This is because such blind obedience is necessary for the purpose for which the commander has his power, namely, the preservation of the rest; but disposing of the soldier's goods has nothing to do with that.

140 It is true that governments cannot be supported without great expense, and it is right that everyone who enjoys his share of their protection should pay his proportion out of his estate for their maintenance. But it must still be with his own consent, that is, the consent of the majority, given either by themselves or by representatives they have chosen. For if anyone claims a

power to impose and levy taxes on the people by his own authority, without such consent of the people, he thereby violates the fundamental law of property and subverts the purpose of government. For what property do I have in something that another may by right take for himself whenever he pleases?

141 Fourth, the legislative cannot transfer the power of making laws to any other hands. Since it is only a power delegated by the people, those who have it cannot pass it on to others. The people alone can decide the form of the commonwealth, which they do by constituting the legislative and deciding in whose hands it shall be. And once the people have said, "We will submit to rules and be governed by laws made by these men, and in these forms," nobody else can say that other men shall make laws for them. Nor can the people be bound by any laws except those enacted by the men they have chosen and authorized to make laws for them. The power of the legislative, being derived from the people by a positive, voluntary grant and institution, can be nothing other than what that positive grant conveyed. Since that grant was only to make laws, and not to make legislators, the legislative can have no power to transfer its authority of making laws and place it in other hands.

142 These are the limits that the trust placed in them by the society, together with the law of God and nature, have set on the legislative power of every commonwealth, in all forms of government.

First, they are to govern by established laws that have been made public, not to be varied in particular cases, but with one rule for rich and poor, for the favorite at court and the farmer at the plow.

Second, these laws also should be designed ultimately for no other purpose than the good of the people.

Third, they must not raise taxes on the property of the people without the consent of the people, given by themselves or their deputies. And this properly concerns only those governments where the legislative is always in being, or at least where the

people have not reserved any part of the legislative to deputies whom they choose from time to time.

Fourth, the legislative neither must nor can transfer the power of making laws to anybody else, or place it anywhere other than where the people have placed it.

Chapter XII

Of the Legislative, Executive, and Federative Power of the Common-wealth
Locke distinguishes the powers to make laws, enforce them, and deal with foreign nations.

SEPARATING THE POWERS

Locke separates legislative, executive and federative powers, and makes the legislative supreme but answerable to the people.

143 The legislative power is the power that has a right to direct how the force of the commonwealth shall be used for preserving the community and its members. But because the laws that are to be constantly executed, and whose force is always to continue, can be made in a short time, there is no need for the legislative to be always in being, since it does not always have business to do. And it may be too great a temptation to human frailty, which is apt to grab at power, for the same persons who have the power of making laws to also hold the power to execute them. They might then exempt themselves from obeying the laws they make, and shape the law, both in making it and in executing it, to their own private advantage, and so come to have an interest separate from the rest of the community, contrary to the purpose of society and government. Therefore, in well-ordered commonwealths, where the good of the whole is given the consideration it ought to have, the legislative power is put into the hands of various persons who, when duly assembled, have the power, by themselves or jointly with others, to make laws. When they have done so, they separate again and are themselves subject to the laws they have made. This is a

new and close tie on them to make sure they make those laws for the public good.

144 But because the laws that are made at once and in a short time have a constant and lasting force, and need to be perpetually executed or attended to, it is necessary that there be a power always in being to see to the execution of the laws that are made and remain in force. And so the legislative and executive powers often come to be separated.

145 There is another power in every commonwealth, which one may call natural, because it corresponds to the power every man naturally had before he entered into society. For although the members of a commonwealth are still distinct persons in relation to one another, and as such are governed by the laws of the society, in relation to the rest of mankind they make up one body. And that body, like each of its members before, is still in the state of nature with the rest of mankind. That is why the disputes that arise between any member of the society and those outside it are handled by the public, and an injury done to one member of their body engages the whole body in obtaining reparation for it. So, seen in this light, the whole community is one body in the state of nature with respect to all other states or persons outside its community.

146 This power therefore includes the power of war and peace, leagues and alliances, and all dealings with all persons and communities outside the commonwealth. It may be called federative, if anyone likes. As long as the thing itself is understood, I don't care about the name.

147 These two powers, executive and federative, are really distinct in themselves. The one covers the execution of the society's domestic laws within itself, on all who are part of it; the other covers the management of the security and interest of the public abroad, with all those from whom it may receive benefit or harm. Yet they are almost always united. And although this federative power, well or badly managed, is of great importance to the commonwealth, it is much less capable of being directed by prior, standing, positive laws than the executive is. So it must

necessarily be left to the prudence and wisdom of those in whose hands it lies, to be managed for the public good. For the laws that concern subjects in their dealings with one another, being meant to direct their actions, can well enough come before those actions. But what is to be done with regard to foreigners depends largely on their actions and on shifting designs and interests. So it must be left in great part to the prudence of those to whom this power has been committed, to be managed as skillfully as they can for the advantage of the commonwealth.

148 Although, as I said, the executive and federative powers of every community are really distinct in themselves, they can hardly be separated and placed at the same time in the hands of different persons. Both of them require the force of the society to be exercised, and it is almost impracticable to place the force of the commonwealth in separate hands that are not subordinate to one another, or to put the executive and federative powers in persons who might act separately. The force of the public would then be under different commands, which would be likely at some point to cause disorder and ruin.

Chapter XIII

Of the Subordination of the Powers of the Common-wealth
Locke argues that other powers are subordinate to the legislative, which remains a trust from the people.

149 In a constituted commonwealth, standing on its own foundation and acting according to its own nature—that is, acting for the preservation of the community—there can be only one supreme power, which is the legislative, and all the rest are and must be subordinate to it. Yet the legislative is only a fiduciary power to act for certain ends, so there still remains in the people a supreme power to remove or alter the legislative when they find it acting contrary to the trust placed in it. For all power given in trust for achieving an end is limited by that end. Whenever that end is plainly neglected or opposed, the trust must necessarily be forfeited, and the power returns to the hands of those who gave it, who may place it anew wherever they think best for their safety and security. And so the community perpetually retains a supreme power of saving itself from the attempts and schemes of anybody, even its own legislators, whenever they are so foolish or so wicked as to form and carry out schemes against the liberties and properties of the subject. For no man or society of men has the power to hand over their preservation, or therefore the means of it, to the absolute will and arbitrary dominion of another. Whenever anyone tries to bring them into such a slavish condition, they will always have a right to preserve what they have no power to give up, and to rid themselves of those who violate this fundamental, sacred, and unalterable law of self-preservation, for which they

entered into society. And so the community may be said in this respect to be always the supreme power—but not as considered under any form of government, because this power of the people can never come into play until the government is dissolved.

150 In all cases, while the government lasts, the legislative is the supreme power. For whatever can give laws to another must be superior to him. And since the legislative is the legislative of the society only by virtue of its right to make laws for all the parts and every member of the society, prescribing rules for their actions and giving power of execution where those rules are broken, the legislative must be the supreme power, and all other powers in any members or parts of the society must be derived from it and subordinate to it.

151 In some commonwealths, where the legislative is not always in being, and the executive is vested in a single person who also has a share in the legislative, that single person may also, in a quite acceptable sense, be called supreme. This is not because he has in himself all the supreme power, which is the power of lawmaking, but because he holds the supreme execution, from which all lower magistrates derive all their various subordinate powers, or at least most of them. He also has no legislative superior to him, since no law can be made without his consent, and he cannot be expected ever to consent to subjecting himself to the other part of the legislative. So in this sense he is properly enough called supreme. But it should still be noted that although oaths of allegiance and fealty are taken to him, they are taken to him not as supreme legislator but as supreme executor of the law, which is made by a joint power of him and others. Allegiance is nothing but obedience according to law. When he violates the law, he has no right to obedience, and can claim it only as the public person vested with the power of the law. As such, he is to be considered the image, phantom, or representative of the commonwealth, acting by the will of the society as declared in its laws. So he has no will and no power except that of the law. But when he abandons this representa-

tion, this public will, and acts by his own private will, he degrades himself. He is then only a single private person, without power and without any will that has a right to obedience, since the members owe obedience only to the public will of the society.

152 The executive power, when placed anywhere other than in a person who also has a share in the legislative, is clearly subordinate and accountable to the legislative, and may be changed and removed at its pleasure. So it is not the supreme executive power as such that is exempt from subordination. It is the supreme executive power vested in one who, having a share in the legislative, has no separate, superior legislative to be subordinate and accountable to, except as far as he himself joins and consents. So he is no more subordinate than he himself thinks fit, which one may safely conclude will be very little. We need not speak of the other ministerial and subordinate powers in a commonwealth. They are multiplied in such endless variety, in the different customs and constitutions of different commonwealths, that it is impossible to give a detailed account of them all. We may note only this much about them, which is necessary for our present purpose: none of them has any authority at all beyond what has been delegated to it by positive grant and commission, and all of them are accountable to some other power in the commonwealth.

153 It is not necessary, or even convenient, that the legislative should always be in being; but it is absolutely necessary that the executive power should be, because there is not always a need for new laws to be made, but there is always a need to execute the laws that have been made. When the legislative has put the execution of the laws it makes into other hands, it still has the power to take it back from those hands when it finds cause, and to punish any maladministration contrary to the laws. The same holds for the federative power, since it and the executive are both ministerial and subordinate to the legislative, which, as has been shown, is supreme in a constituted commonwealth. In this case the legislative is also supposed to consist of several per-

sons. (If it were a single person, it could not help being always in being, and so, as supreme, would naturally hold the supreme executive power together with the legislative.) It may assemble and exercise its legislative power at the times set either by its original constitution or by its own adjournment, or whenever it pleases, if neither of these has fixed a time or no other way of convening it has been prescribed. For the supreme power was placed in them by the people, and it is always in them, and they may exercise it when they please, unless their original constitution limits them to certain seasons, or they have adjourned to a certain time by an act of their supreme power. And when that time comes, they have a right to assemble and act again.

154 Suppose the legislative, or any part of it, is made up of representatives chosen by the people for that term, who afterward return to the ordinary condition of subjects and have no share in the legislature except by a new election. Then this power of choosing must also be exercised by the people, either at certain appointed times or when they are summoned to it. In the latter case the power of convening the legislative is ordinarily placed in the executive, and it has one of these two limitations with respect to time: either the original constitution requires the legislative to assemble and act at certain intervals, and then the executive power does nothing but ministerially issue directions for its election and assembly according to the proper forms; or else it is left to the executive's prudence to call them by new elections when the occasions or emergencies of the public require old laws to be amended or new ones made, or any problems that burden or threaten the people to be remedied or prevented.

155 It may be asked here: What if the executive power, having the force of the commonwealth in its possession, uses that force to prevent the legislative from meeting and acting when the original constitution or the needs of the public require it? I say that using force on the people without authority, and contrary to the trust placed in the one who does so, is a state of war with the people, who have a right to reinstate their legislative in the exer-

cise of its power. For they set up a legislative intending it to exercise the power of making laws, either at certain set times or when there is need for it. When it is prevented by any force from doing what is so necessary to the society, and on which the safety and preservation of the people depend, the people have a right to remove that force by force. In all states and conditions, the true remedy for force without authority is to oppose force to it. The use of force without authority always puts the one who uses it into a state of war, as the aggressor, and makes him liable to be treated accordingly.

156 The power of assembling and dismissing the legislative, when placed in the executive, does not give the executive superiority over the legislative. It is a fiduciary trust placed in him for the safety of the people, in a matter where the uncertainty and changeability of human affairs could not bear a steady, fixed rule. For it was not possible that the first framers of the government could, by any foresight, be such masters of future events as to fix in advance, for all time to come, periods for the meeting and duration of the legislative's assemblies that would exactly answer all the needs of the commonwealth. The best remedy that could be found for this defect was to entrust the matter to the prudence of someone who was always to be present and whose business it was to watch over the public good. Constant, frequent meetings of the legislative, and long continuations of its assemblies without real need, could not help being burdensome to the people, and would necessarily in time produce more dangerous problems. And yet the swift turn of affairs might sometimes be such as to need its immediate help. Any delay in convening it might endanger the public. And sometimes, too, its business might be so great that the limited time of its sitting would be too short for its work, robbing the public of a benefit that could come only from its mature deliberation. What else, then, could be done in this case to keep the community from being exposed at some time or other to imminent danger, on one side or the other, by fixed intervals and periods set for the meeting and acting of the legislative, except to entrust it to the

prudence of someone who, being present and acquainted with the state of public affairs, might use this prerogative for the public good? And where else could it be so well placed as in the hands of the one who was entrusted with the execution of the laws for the same purpose? So, supposing the regulation of the times for the legislative's assembling and sitting was not settled by the original constitution, it naturally fell into the hands of the executive—not as an arbitrary power depending on his good pleasure, but with this trust: that it would always be exercised only for the public welfare, as circumstances and changing affairs might require. Whether settled periods for its convening, or a freedom left to the prince to convene the legislative, or perhaps a mixture of both, carries the fewest disadvantages is not my business to inquire here. I mean only to show that although the executive power may have the prerogative of convening and dissolving such assemblies of the legislative, it is not thereby superior to it.

[157] Things in this world are in such constant flux that nothing stays long in the same state. So peoples, wealth, trade, and power change their places. Mighty, flourishing cities fall into ruin and in time become neglected, desolate corners, while other unfrequented places grow into populous regions filled with wealth and inhabitants. But things do not always change evenly, and private interest often keeps customs and privileges alive after the reasons for them have ceased. So it often happens that in governments where part of the legislative consists of representatives chosen by the people, over time this representation becomes very unequal and out of proportion to the reasons on which it was first established. We can see what gross absurdities following custom may lead to, once reason has abandoned it, when we see the mere name of a town—of which not even the ruins remain, where hardly as much housing as a sheep shed, or more inhabitants than a single shepherd, can be found—send as many representatives to the great assembly of lawmakers as a

whole county full of people and powerful in wealth.[1] Foreigners are amazed at this, and everyone must admit it needs a remedy. Yet most think it hard to find one. For the constitution of the legislative is the original and supreme act of the society, prior to all positive laws in it and depending wholly on the people, so no lower power can alter it. And since the people, once the legislative is constituted, have no power to act as long as the government stands, in the kind of government we have been speaking of, this problem is thought to be beyond remedy.

158 Salus populi suprema lex—the welfare of the people is the supreme law—is certainly so just and fundamental a rule that whoever sincerely follows it cannot go dangerously wrong. Suppose, then, that the executive, who has the power of convening the legislative, pays attention to the true proportion of representation rather than its customary form, and regulates the number of members by true reason rather than old custom, in all places that have a right to be separately represented. (No part of the people, however incorporated, can claim such a right except in proportion to the assistance it gives the public.) Then it cannot be judged to have set up a new legislative, but to have restored the old and true one, and to have corrected the disorders that the passage of time had introduced, imperceptibly as well as inevitably. For since it is the interest as well as the intention of the people to have a fair and equal representation,[2] whoever brings it nearest to that is an undoubted friend to, and establisher of, the government, and cannot fail to have the consent and approval of the community. Prerogative is nothing but a power in the hands of the prince to provide for the public good in cases that depend on unforeseen and uncertain events, which fixed and unalterable laws could not safely direct. Whatever is done plainly for the good of the people, and to establish the government on its true foundations, is and always will be just prerogative. The power of creating new corporations, and with

1 Locke means England's "rotten boroughs," such as Old Sarum, which kept their seats in Parliament long after their populations had vanished.
2 The maxim is from Cicero, On the Laws 3.3.8.

them new representatives, carries with it the assumption that the measures of representation might change over time: that places which had no representation before have a just right to be represented, and by the same reasoning, that places which had it before may cease to have that right and become too insignificant for such a privilege. It is not a change from the present state—which corruption or decay has perhaps brought in—that makes an inroad on the government. It is a tendency to injure or oppress the people, and to set up one part or party as distinct from the rest and subject the rest to it unequally. Whatever must be acknowledged to be of advantage to the society and to the people in general, on just and lasting measures, will always justify itself once it is done. And whenever the people choose their representatives on just and undeniably equal measures, suited to the original frame of the government, it cannot be doubted that this is the will and act of the society, whoever permitted or caused them to do it.

Chapter XIV

Of Prerogative
Locke defines the executive's discretionary power to act for the public good without law.

PREROGATIVE

Locke defines prerogative as the executive's discretion to act for the public good without law.

159 Where the legislative and executive powers are in different hands (as they are in all moderated monarchies and well-framed governments), the good of the society requires that various things be left to the discretion of the one who has the executive power. The legislators cannot foresee and provide by laws for everything that may be useful to the community. So the executor of the laws, having the power in his hands, has a right by the common law of nature to use it for the good of the society in many cases where the domestic law has given no direction, until the legislative can conveniently be assembled to provide for it. There are many things the law cannot possibly provide for, and those must necessarily be left to the discretion of the one who has the executive power in his hands, to be ordered by him as the public good and advantage require. Indeed, it is right that the laws themselves should in some cases give way to the executive power, or rather to this fundamental law of nature and government, namely, that as far as possible all the members of the society are to be preserved. Many accidents may happen in which a strict and rigid observance of the laws may do harm (as in refusing to pull down an innocent man's house to stop a fire when the house next to it is burning). And a man may some-

times fall within the reach of the law, which makes no distinction between persons, by an action that may deserve reward and pardon. So it is right that the ruler should have a power in many cases to soften the severity of the law and to pardon some offenders. For since the purpose of government is the preservation of all, as far as possible, even the guilty should be spared where this can do no harm to the innocent.

160 This power to act at discretion for the public good, without the direction of the law and sometimes even against it, is what is called prerogative. In some governments the lawmaking power is not always in being, and it is usually too numerous, and so too slow, for the speed that execution requires. It is also impossible to foresee, and so to provide by laws for, all the accidents and necessities that may concern the public, or to make laws that will do no harm if they are executed with inflexible rigor on every occasion and on everyone who comes within their reach. So a latitude is left to the executive power to do many things by choice that the laws do not prescribe.

161 This power, while it is used for the benefit of the community and in keeping with the trust and purposes of the government, is undoubted prerogative and is never questioned. For the people are very seldom or never scrupulous or fussy on this point. They are far from examining prerogative while it is used to any tolerable degree for the purpose it was meant for, that is, for the good of the people, and not plainly against it. But if a dispute arises between the executive power and the people about something claimed as a prerogative, the question will be easily settled by whether the exercise of that prerogative tends to the good or the harm of the people.

162 It is easy to see that in the infancy of governments, when commonwealths differed little from families in the number of their people, they also differed little from them in the number of their laws. The governors were like fathers to them, watching over them for their good, and so government was almost all prerogative. A few established laws served the purpose, and the discretion and care of the ruler supplied the rest. But when

error or flattery led weak princes to use this power for private ends of their own, and not for the public good, the people were obliged to have prerogative defined by express laws on those points where they found it working to their disadvantage. In this way the people found it necessary to declare limits to prerogative in cases that they and their ancestors had left, with the widest latitude, to the wisdom of those princes who used it only rightly, that is, for the good of their people.

163 So those who say that the people have encroached on the prerogative when they have had any part of it defined by positive laws have a very wrong idea of government. In doing so the people have not taken from the prince anything that rightfully belonged to him. They have only declared that the power they had left without limit in his or his ancestors' hands, to be exercised for their good, was not something they intended him to have when he used it otherwise. For since the purpose of government is the good of the community, no alterations made in it that tend toward that purpose can be an encroachment on anybody, since nobody in government can have a right tending to any other purpose. The only encroachments are those that damage or hinder the public good. Those who say otherwise speak as if the prince had an interest distinct and separate from the good of the community, and was not made for it—which is the root and source of almost all the evils and disorders that happen in monarchies. And indeed, if that were so, the people under his government would not be a society of rational creatures who have entered into a community for their mutual good. They would not be people who have set rulers over themselves to guard and promote that good, but would have to be regarded as a herd of inferior creatures under the dominion of a master, who keeps them and works them for his own pleasure or profit. If men were so lacking in reason, and so brutish, as to enter into society on such terms, then prerogative might indeed be what some men would like it to be: an arbitrary power to do things harmful to the people.

164 But a rational creature, when free, cannot be supposed to put himself into subjection to another for his own harm (though where he finds a good and wise ruler, he may not perhaps think it either necessary or useful to set precise limits to his power in all things). So prerogative can be nothing but the people's permitting their rulers to do various things of their own free choice, where the law was silent, and sometimes even against the direct letter of the law, for the public good, and the people's accepting it when it is done. For just as a good prince, who is mindful of the trust placed in his hands and careful of the good of his people, cannot have too much prerogative—that is, power to do good—so a weak and bad prince gives the people occasion to claim their right and limit that power. He does so when he claims the power his predecessors exercised without direction from the law as a prerogative belonging to him by right of his office, which he may exercise at his pleasure to create or promote an interest distinct from that of the public. While that power was exercised for their good, the people were content to allow it tacitly.

165 And so anyone who looks into the history of England will find that prerogative was always greatest in the hands of our wisest and best princes. The people saw that the whole tendency of their actions was the public good, and did not dispute what was done without law to that end. Or, if any human frailty or error (for princes are only men, made like others) showed itself in some small deviations from that end, it was still plain that the main course of their conduct aimed at nothing but the care of the public. So the people, finding reason to be satisfied with these princes, accepted what they did whenever they acted without the law or contrary to its letter, and without the slightest complaint let them enlarge their prerogative as they pleased. They judged rightly that the princes did nothing in this to the detriment of their laws, since they acted in keeping with the foundation and purpose of all laws, the public good.

166 Such godlike princes would indeed have had some title to arbitrary power by the argument that would prove absolute

monarchy the best government, as the one by which God himself governs the universe—because such kings share in his wisdom and goodness. On this is founded the saying that the reigns of good princes have always been the most dangerous to the liberties of their people. For their successors, managing the government with different ideas, would take the actions of those good rulers as precedent and make them the standard of their own prerogative—as if what had been done only for the good of the people gave them a right to do things for the harm of the people, if they so pleased. This has often caused conflict, and sometimes public disorder, before the people could recover their original right and get declared not to be prerogative what never truly was. For it is impossible that anybody in the society should ever have a right to do the people harm. Yet it is quite possible, and reasonable, that the people should not try to set any limits to the prerogative of those kings or rulers who did not themselves overstep the limits of the public good. For prerogative is nothing but the power of doing public good without a rule.

167 The power of calling parliaments in England, as to their exact time, place, and duration, is certainly a prerogative of the king. But it is still held with this trust: that it be used for the good of the nation, as the needs of the times and the variety of occasions require. Since it was impossible to foresee which place would always be the fittest for them to assemble in, and what the best season would be, the choice of these was left to the executive power, in whatever way would best serve the public good and best suit the purposes of parliaments.

168 The old question will be asked in this matter of prerogative: But who shall be judge of when this power is used rightly? I answer: between an executive power in being with such a prerogative, and a legislative that depends on his will for its convening, there can be no judge on earth. Just as there can be none between the legislative and the people, if either the executive or the legislative, once they have the power in their hands, should plan or attempt to enslave or destroy them. The people have no other remedy in this, as in all other cases where they have no

judge on earth, but to appeal to heaven. For the rulers, in such attempts, are exercising a power the people never put into their hands (since the people can never be supposed to consent that anybody should rule over them for their harm), and so are doing what they have no right to do. And where the body of the people, or any single man, is deprived of their right, or is subjected to the exercise of a power without right, and has no appeal on earth, then they are free to appeal to heaven whenever they judge the cause important enough. And so, although the people cannot be judge in the sense of having, by the constitution of that society, any superior power to determine the case and pass effective sentence, they have nevertheless reserved to themselves, by a law prior and superior to all human positive laws, the final decision that belongs to all mankind where there is no appeal on earth: namely, to judge whether they have just cause to make their appeal to heaven. And they cannot give up this judgment, since it is not in a man's power to submit himself to another so completely as to give him liberty to destroy him. God and nature never allow a man to abandon himself so far as to neglect his own preservation, and since he cannot take away his own life, neither can he give another the power to take it. Nor should anyone think that this lays a permanent foundation for disorder. For it does not come into operation until the problem is so great that the majority feel it, are weary of it, and find it necessary to have it corrected. But the executive power, or wise princes, never need to come into this danger. And it is the thing they most need to avoid, as the most perilous of all.

Chapter XV

Of Paternal, Political, and Despotical Power, Considered Together

Locke contrasts parental, political and despotic power by their origins and ends.

169 Although I have had occasion to speak of these separately before, the great errors about government in recent times have arisen, I believe, from confusing these distinct powers with one another. So it may not be out of place to consider them here together.

170 First, then, paternal or parental power is nothing but the power parents have over their children to govern them for the children's good, until they come to the use of reason or a state of knowledge in which they may be supposed capable of understanding the rule they are to govern themselves by, whether that is the law of nature or the domestic law of their country—capable, I say, of knowing it as well as many others who live as free men under that law. The affection and tenderness that God has planted in the hearts of parents toward their children make it clear that this is not meant to be a harsh, arbitrary government, but only for the help, instruction, and preservation of their offspring. But however that may be, there is, as I have proved, no reason why it should be thought to extend to life and death over their children at any time, any more than over anybody else. Nor can there be any pretext for this parental power to keep the child, once grown to a man, in subjection to the will of his parents, any further than that having received life and education from his parents obliges him to respect, honor, gratitude, assist-

ance, and support toward both father and mother all his life. And so it is true that the paternal is a natural government, but it does not extend at all to the purposes and jurisdiction of political government. The power of the father does not reach the property of the child at all, which is his alone to dispose of.

171 Second, political power is the power that every man has in the state of nature and has given up into the hands of the society, and through it to the governors whom the society has set over itself, with the express or tacit trust that it shall be used for their good and the preservation of their property. This power, which every man has in the state of nature and which he gives up to the society in all cases where the society can protect him, is the power to use whatever means he thinks good and nature allows him for preserving his own property, and to punish breaches of the law of nature by others in whatever way (according to the best of his reason) will most contribute to the preservation of himself and the rest of mankind. So when this power is in every man's hands in the state of nature, its purpose and measure is the preservation of everyone in his society, that is, all mankind in general. It can therefore have no other purpose or measure in the hands of the magistrate than to preserve the members of that society in their lives, liberties, and possessions. So it cannot be an absolute, arbitrary power over their lives and fortunes, which are to be preserved as much as possible. It is a power to make laws and attach to them such penalties as may tend to the preservation of the whole, by cutting off those parts, and only those, which are so corrupt that they threaten the sound and healthy parts. Without this, no severity is lawful. And this power has its origin only in compact and agreement, and the mutual consent of those who make up the community.

172 Third, despotic power is an absolute, arbitrary power that one man has over another, to take away his life whenever he pleases. This is a power that nature does not give, for nature has made no such distinction between one man and another; nor can any compact convey it, for since a man does not have such

arbitrary power over his own life, he cannot give another man such power over it. It is solely the effect of the forfeiture that the aggressor makes of his own life when he puts himself into the state of war with another. For he has abandoned reason, which God has given as the rule between man and man and as the common bond by which humankind is united into one fellowship and society; and he has renounced the way of peace that reason teaches, and used the force of war to achieve his unjust ends against another where he has no right. And so, deserting his own kind for that of beasts, by making force, which is theirs, his rule of right, he makes himself liable to be destroyed by the injured person and by the rest of mankind who will join with him in carrying out justice, like any other wild beast or harmful brute with which mankind can have neither society nor security[1]. And so captives taken in a just and lawful war, and only such captives, are subject to a despotic power. Just as that power does not arise from compact, it is not capable of any compact either: it is the state of war continued. For what compact can be made with a man who is not master of his own life? What condition can he fulfill? And if he is once allowed to be master of his own life, the despotic, arbitrary power of his master ceases. He who is master of himself and his own life also has a right to the means of preserving it. So as soon as a compact comes in, slavery ends, and whoever enters into conditions with his captive gives up his absolute power to that extent and puts an end to the state of war.

173 Nature gives the first of these, paternal power, to parents for the benefit of their children during their minority, to make up for their lack of ability and understanding in managing their property. (By property I must be understood here, as in other places, to mean the property men have in their persons as well as in their goods.) Voluntary agreement gives the second, political power, to governors for the benefit of their subjects, to secure them in the possession and use of their property. And

1 LOCKE'S NOTE. Another copy corrected by Mr. Locke reads this way: "harmful brute that is destructive to their being."

forfeiture gives the third, despotic power, to lords for their own benefit, over those who are stripped of all property.

174 Anyone who considers the distinct origins, extent, and different purposes of these several powers will plainly see that paternal power falls as far short of the magistrate's power as despotic power exceeds it; and that absolute dominion, wherever it is placed, is so far from being one kind of civil society that it is as inconsistent with it as slavery is with property. Paternal power exists only where minority makes the child unable to manage his property; political power, where men have property at their own disposal; and despotic power, over those who have no property at all.

Chapter XVI

Of Conquest
Locke argues that conquest by force cannot create a rightful government.

CONQUEST

Locke argues conquest alone gives no right to rule, and even a just conqueror's rights are limited.

175 Although governments can originally have had no other origin than the one mentioned before, and political societies can be founded on nothing but the consent of the people, ambition has filled the world with such disorders that in the noise of war, which makes up so great a part of the history of mankind, this consent is little noticed. And so many have mistaken the force of arms for the consent of the people, and count conquest as one of the origins of government. But conquest is as far from setting up any government as demolishing a house is from building a new one in its place. Conquest often clears the way for a new frame of commonwealth by destroying the old one, it's true; but without the consent of the people it can never set up a new one.

176 The aggressor, who puts himself into a state of war with another and unjustly invades another man's right, can never gain a right over the conquered by such an unjust war. All will readily agree to this, unless they think that robbers and pirates have a right of empire over whomever they are strong enough to master, or that men are bound by promises extorted from them by unlawful force. If a robber broke into my house and, with a dagger at my throat, made me sign and seal deeds conveying my estate to him, would that give him any title? An unjust con-

queror who forces me into submission has exactly that kind of title by his sword. The injury and the crime are the same whether they are committed by someone who wears a crown or by some petty villain. The offender's title and the number of his followers make no difference to the offense, except to make it worse. The only difference is this: great robbers punish little ones to keep them in line, while the great ones are rewarded with laurels and triumphs, because they are too big for the weak hands of justice in this world and hold in their own hands the very power that ought to punish offenders. What is my remedy against a robber who broke into my house like that? I appeal to the law for justice. But perhaps justice is denied me, or I am disabled and cannot move, or I have been robbed and have no means to pursue it. If God has taken away every means of seeking a remedy, nothing is left but patience. But my son, when he is able, may seek the relief of the law that was denied to me; he, or his son, may renew the appeal until he recovers his right. The conquered, however, or their children, have no court and no arbitrator on earth to appeal to. Then they may appeal to heaven, as Jephthah did, and repeat their appeal until they have recovered the native right of their ancestors, which was to have over them a legislative that the majority approved and freely accepted. If someone objects that this would cause endless trouble, I answer: no more than justice does, when she stands open to everyone who appeals to her. Whoever troubles his neighbor without cause is punished for it by the justice of the court he appeals to. And whoever appeals to heaven must be sure he has right on his side, and a right worth the trouble and cost of the appeal, since he will answer for it at a tribunal that cannot be deceived and that will certainly repay everyone according to the harm he has done to his fellow subjects, that is, to any part of mankind. From this it is plain that someone who conquers in an unjust war gains no title by it to the subjection and obedience of the conquered.

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

First, it is plain that his conquest gives him no power over those who conquered alongside him. Those who fought on his side cannot suffer by the conquest; they must remain at least as free as they were before. Most commonly they serve on terms, on condition of sharing with their leader and enjoying part of the spoils and other advantages that come with the conquering sword, or at least of receiving part of the subdued country. And the conquering people are not, I hope, to become slaves by conquest, wearing their laurels only to show that they are sacrifices to their leader's triumph. Those who base absolute monarchy on the title of the sword turn their heroes, the founders of such monarchies, into out-and-out Drawcansirs. They forget that these heroes had officers and soldiers who fought on their side in the battles they won, or helped them subdue the countries they mastered, or shared in possessing them.[1] Some tell us that the English monarchy is founded on the Norman Conquest, and that our princes therefore have a title to absolute dominion. Even if that were true (and history shows otherwise), and even if William had a right to make war on this island, his dominion by conquest could reach no further than the Saxons and Britons who were then living in this country. The Normans who came with him and helped conquer it, and all their descendants, are free men and not subjects by conquest, whatever dominion conquest may give.[2] And if I, or anyone else, claim freedom as descended from them, it will be very hard to prove the contrary. And it is plain that the law, which draws no distinction between the one group and the other, does not intend that there should be any difference in their freedom or privileges.

178 But suppose, as seldom happens, that the conquerors and the conquered never merge into one people under the same

1 Drawcansir: a blustering hero in the Duke of Buckingham's farce The Rehearsal (1671) who single-handedly kills everyone on both sides of a battle.
2 William the Conqueror, Duke of Normandy, who conquered England in 1066.

laws and freedom. Let us next see what power a lawful conqueror has over the subdued. That power, I say, is purely despotic. He has absolute power over the lives of those who have forfeited them by an unjust war; but not over the lives or fortunes of those who took no part in the war, nor even over the possessions of those who did.

179 Second, I say, then, that the conqueror gains power only over those who actually assisted in, concurred in, or consented to the unjust force used against him. The people gave their governors no power to do an unjust thing, such as making an unjust war, for they never had such a power themselves. So they ought not to be charged as guilty of the violence and injustice committed in an unjust war any further than they actually abet it, any more than they are to be thought guilty of any violence or oppression their governors might use against the people themselves or against any part of their fellow subjects. They authorized the one no more than the other. Conquerors, it's true, seldom trouble themselves to make this distinction; they gladly let the confusion of war sweep everyone together. But that does not change the right. The conqueror's power over the lives of the conquered exists only because they have used force to commit or maintain an injustice, so he can have that power only over those who joined in that force. All the rest are innocent. Over the people of that country who have done him no injury, and so have forfeited nothing of their lives, he has no more title than he has over anyone else who has lived on fair terms with him without any injury or provocation.

180 Third, the power a conqueror gains over those he defeats in a just war is perfectly despotic. He has absolute power over the lives of those who forfeited them by putting themselves in a state of war; but he does not thereby gain a right and title to their possessions. I don't doubt that at first sight this will seem a strange doctrine, since it is so contrary to the practice of the world. Nothing is more familiar, in speaking of the dominion of countries, than to say that so-and-so conquered it, as if conquest by itself, without anything more, conveyed a right of possession.

But we should consider that the practice of the strong and powerful, however universal it may be, is seldom the rule of right, even though it is part of the subjection of the conquered not to argue against the conditions carved out for them by the conquering sword.

181 In every war there is usually a mixture of force and damage, and the aggressor seldom fails to harm the property of those whose persons he attacks. Yet it is only the use of force that puts a man into the state of war. Whether he begins the injury by force, or does the injury quietly and by fraud and then refuses to make reparation and maintains it by force (which is the same as having done it by force in the first place), it is the unjust use of force that makes the war. For someone who breaks into my house and violently throws me out of doors, and someone who gets in peaceably and then keeps me out by force, in effect do the same thing. I am assuming that we are in a condition where we have no common judge on earth whom I can appeal to and whom we are both obliged to submit to, for that is the case I am now speaking of. It is the unjust use of force, then, that puts a man into the state of war with another, and whoever is guilty of it forfeits his life by it. For in abandoning reason, which is the rule given between man and man, and using force, the way of beasts, he becomes liable to be destroyed by the person he uses force against, like any wild beast of prey that is dangerous to his existence.

182 But the father's misdeeds are not the children's faults, and they may be rational and peaceable despite the brutality and injustice of the father. So the father, by his misdeeds and violence, can forfeit only his own life; he does not involve his children in his guilt or destruction. His goods, which nature (which wills the preservation of all mankind as far as possible) has made to belong to the children to keep them from perishing, still continue to belong to his children. For supposing they did not join in the war, whether through infancy, absence, or choice, they have done nothing to forfeit them. Nor does the conqueror have any right to take them away merely because he has sub-

dued the man who tried by force to destroy him. He may perhaps have some right to them to repair the damage he has suffered by the war and in defending his own right; how far that reaches to the possessions of the conquered we shall see shortly. So someone who by conquest has a right over a man's person, to destroy him if he pleases, does not thereby have a right over his estate, to possess and enjoy it. It is the brutal force the aggressor has used that gives his adversary a right to take his life and destroy him, if he pleases, as a harmful creature; but only damage suffered gives him title to another man's goods. I may kill a thief who attacks me on the highway, yet I may not (though it seems a lesser thing) take his money and let him go. That would be robbery on my part. His force, and the state of war he put himself in, made him forfeit his life, but gave me no title to his goods. The right of conquest, then, extends only to the lives of those who joined in the war, and not to their estates, except to make reparation for the damages received and the costs of the war; and even that is subject to the rights of the innocent wife and children.

183 Let the conqueror have as much justice on his side as can be imagined: he still has no right to seize more than the defeated man could forfeit. The loser's life is at the victor's mercy, and the victor may take his labor and goods to compensate himself. But he cannot take the goods of the man's wife and children, for they too had a title to the goods he enjoyed and their shares in the estate he held. For example, suppose that I, in the state of nature (and all commonwealths are in the state of nature with respect to one another), have injured another man and refuse to give him satisfaction, so that it comes to a state of war, in which my defending by force what I had gotten unjustly makes me the aggressor. I am conquered. My life, it's true, is forfeit and at his mercy, but not my wife's and children's lives. They did not make the war or assist in it. I could not forfeit their lives; they were not mine to forfeit. My wife had a share in my estate, and that I could not forfeit either. And my children, being born of me, also had a right to be maintained out of my labor or wealth. So here

is the case: the conqueror has a title to reparation for the damages he received, and the children have a title to their father's estate for their subsistence. As for the wife's share, whether her own labor or a contract gave her title to it, it is plain that her husband could not forfeit what was hers. What is to be done in this case? I answer: since the fundamental law of nature is that all should be preserved as far as possible, it follows that if there is not enough to satisfy both fully, that is, the conqueror's losses and the children's maintenance, then the one who has enough and to spare must give up something of his full satisfaction, and yield to the pressing and stronger title of those who are in danger of perishing without it.

184 But suppose the costs and damages of the war are to be repaid to the conqueror down to the last penny, and the children of the vanquished, stripped of all their father's goods, are left to starve and perish. Even so, satisfying what is owed the conqueror on this account will hardly give him a title to any country he conquers. For the damages of war can hardly amount to the value of any sizable tract of land in any part of the world where all the land is owned and none lies unused. And if I have not taken the conqueror's land, which, being defeated, I could not possibly have done, hardly any other damage I have done him can amount to the value of my land, assuming it is equally cultivated and anywhere near the size of the part of his that I overran. The destruction of a year's produce, or two years' (for it seldom reaches four or five), is the most damage that can usually be done. As for money, and such riches and treasure taken away, these are not nature's goods; they have only a fanciful, imaginary value. Nature has put no such value on them. By her standard they are worth no more than the wampum of the Native Americans to a European prince, or than the silver money of Europe would once have been to a Native American.[3] And five years' produce is not worth the perpetual inheritance of land where everything is owned and nothing remains unused for the

3 Wampum: strings of shell beads used as currency and in ceremonial exchange by Native Americans of the Northeast.

dispossessed to take up. This will be readily granted if one just sets aside the imaginary value of money: the disproportion is more than that between five and five hundred. At the same time, though, half a year's produce is worth more than the inheritance where there is more land than the inhabitants own and use, so that anyone is free to make use of the unused land. But there conquerors take little trouble to seize the lands of the vanquished. No damage, therefore, that men in the state of nature (as all princes and governments are with respect to one another) suffer from one another can give a conqueror power to dispossess the posterity of the vanquished and turn them out of that inheritance, which ought to belong to them and their descendants for all generations. The conqueror will indeed be inclined to think himself master, and it is the very condition of the subdued that they are unable to dispute their right. But if that is all, it gives no title other than what bare force gives the stronger over the weaker; and by that reasoning, whoever is strongest will have a right to whatever he pleases to seize.

185 Over those, then, who joined him in the war, over those of the subdued country who did not oppose him, and over the posterity even of those who did, the conqueror, even in a just war, gains no right of dominion by his conquest. They are free from any subjection to him, and if their former government is dissolved, they are at liberty to begin and set up another for themselves.

186 It's true that the conqueror usually uses the force he has over them to compel them, with a sword at their chests, to bow to his conditions and submit to whatever government he pleases to give them. But the question is what right he has to do so. If it is said that they submit by their own consent, then this admits that their own consent is necessary to give the conqueror a title to rule them. It only remains to consider whether promises extorted by force, without right, can be counted as consent, and how far they bind. To this I say that they do not bind at all. For whatever someone takes from me by force, I still keep the right to, and he is obliged to give it back at once. Whoever takes my

horse from me by force ought to give him back at once, and I still have a right to take him back. By the same reasoning, whoever forced a promise from me ought to give it back at once, that is, release me from its obligation; or I may take it back myself, that is, choose whether to keep it. For the law of nature, which puts obligations on me only through the rules she prescribes, cannot obligate me through the violation of her rules, and extorting anything from me by force is such a violation. Nor does it change the case at all to say "I gave my promise," any more than it excuses the force and transfers the right when I put my hand in my pocket and hand my purse myself to a thief who demands it with a pistol at my chest.

187 From all this it follows that the government of a conqueror, imposed by force on the subdued, has no binding force on them if he had no right to make war on them, or if, where he did have that right, they did not join in the war against him.

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

189 I say this does not concern their children who are still minors. Since a father does not himself have power over the life or liberty of his child, no act of his can possibly forfeit it. So the children, whatever may have happened to their fathers, are free, and the conqueror's absolute power reaches no further than the persons of the men he subdued, and dies with them. Even if he governs them as slaves, subject to his absolute arbitrary power, he has no such right of dominion over their children. He can have no power over them except by their own consent, whatever he may drive them to say or do; and he has no lawful authority while force, and not choice, compels them to submit.

190 Every man is born with a double right. First, a right of freedom in his own person, over which no other man has any power; the free disposal of it lies with himself. Second, a right, ahead of any other man, to inherit his father's goods together with his brothers.

191 By the first of these, a man is naturally free from subjection to any government, even if he is born in a place under its jurisdiction. But if he disowns the lawful government of the country he was born in, he must also give up the rights that belonged to him under its laws, and the possessions there that descend to him from his ancestors, if it was a government made by their consent.

192 By the second, the inhabitants of any country who are descended from, and derive the title to their estates from, those who were subdued and had a government forced on them against their free consent, keep a right to their ancestors' possessions, even though they do not freely consent to the government whose harsh conditions were imposed by force on the owners of that country. For since the first conqueror never had a title to the land of that country, the people who are descended from, or claim through, those who were forced to submit to the yoke of a government by compulsion always have a right to shake it off and free themselves from the usurpation or tyranny that the sword has brought upon them, until their rulers place them under a frame of government that they willingly and by choice consent to. Who doubts that the Greek Christians, descendants of the ancient owners of that country, may justly throw off the Turkish yoke they have groaned under for so long, whenever they have the chance?[4] For no government can have a right to obedience from a people who have not freely consented to it. And they can never be supposed to have consented until either they are put in a full state of liberty to choose their government and governors, or at least until they have standing laws to which they have given their free consent, themselves or through their representatives, and also until they are allowed their due property. That means being owners of what they have in such a way that nobody can take any part of it without their own consent. Without this, men under any government are not

4 Greece was then part of the Ottoman Empire, which had ruled it since the fifteenth century.

in the condition of free men, but are outright slaves under the force of war.

193 But grant that the conqueror in a just war has a right to the estates as well as power over the persons of the conquered, which he plainly does not. Even so, no absolute power will follow from this in the continuance of the government. For the descendants of the conquered are all free men, and if he grants them estates and possessions to live on in his country (without which it would be worth nothing), then whatever he grants them, they have property in, to the extent it is granted. And the nature of property is that it cannot be taken from a man without his own consent.

194 Their persons are free by a native right, and their properties, be they large or small, are their own and at their own disposal, not his; otherwise it is not property. Suppose the conqueror gives one man a thousand acres, to him and his heirs forever, and leases another man a thousand acres for life at a rent of £50 or £500 a year. Does not the first have a right to his thousand acres forever, and the other to his during his life, as long as he pays the rent? And does not the tenant for life have a property in everything he gains, over and above his rent, by his labor and industry during that term, even supposing it is double the rent? Can anyone say that the king, or conqueror, after making his grant, may by his power as conqueror take all or part of the land away from the heirs of the one, or from the other during his life while he pays the rent? Or can he take away from either of them, at his pleasure, the goods or money they have earned on that land? If he can, then all free and voluntary contracts come to an end and are void in the world. Nothing is needed to dissolve them at any time but enough power, and all the grants and promises of men in power are nothing but mockery and collusion. For could anything be more absurd than to say, "I give you and yours this forever, and in the surest and most solemn form of conveyance that can be devised," and yet to mean that I have a right to take it away from you again tomorrow if I please?

195 I will not argue now about whether princes are exempt from the laws of their country. But this I am sure of: they owe subjection to the laws of God and nature. Nobody and no power can exempt them from the obligations of that eternal law. In the case of promises those obligations are so great and so strong that omnipotence itself can be bound by them. Grants, promises, and oaths are bonds that hold the Almighty, whatever some flatterers tell the princes of the world, who all together, with all their peoples added to them, are, compared with the great God, only like a drop in a bucket or dust on a scale: insignificant, nothing![5]

196 In short, the case of conquest is this. The conqueror, if he has a just cause, has a despotic right over the persons of all who actually aided and joined in the war against him, and a right to make good his damages and costs out of their labor and estates, provided he does not injure the right of anyone else. Over the rest of the people, if there were any who did not consent to the war, and over the children of the captives themselves, or over the possessions of either, he has no power. So he can have no lawful title by virtue of conquest to dominion over them, either for himself or to pass on to his posterity. If he encroaches on their property, he is an aggressor and thereby puts himself in a state of war against them. Neither he nor any of his successors has any better right of rule than Hingar or Hubba, the Danes, had here in England, or than Spartacus would have had if he had conquered Italy: a right, that is, to have their yoke thrown off as soon as God gives those under it the courage and opportunity to do so.[6] Thus, whatever title the kings of Assyria had over Judah by the sword, God helped Hezekiah throw off the dominion of that conquering empire. "And the Lord was with Hezekiah, and he prospered; therefore he went out, and he rebelled against the king of Assyria, and did not serve him" (2 Kings 18:7). From this it is plain that shaking off a power that

5 Isaiah 40:15.

6 Hingar and Hubba (Ivar and Ubba): Viking leaders who invaded England in the 860s. Spartacus: leader of the great Roman slave revolt of 73–71 BC.

force, and not right, has set over anyone, though it is called rebellion, is no offense before God. It is something he allows and approves, even when promises and agreements obtained by force have come in between. For anyone who reads the story of Ahaz and Hezekiah carefully will find it very probable that the Assyrians subdued Ahaz and deposed him, made Hezekiah king in his father's lifetime, and that Hezekiah had by agreement done him homage and paid him tribute all that time.[7]

7 Ahaz and his son Hezekiah were kings of Judah in the eighth century BC (2 Kings 16–18).

Chapter XVII

Of Usurpation
Locke argues a usurper gains no right to rule until the people freely consent.

[197] Just as conquest may be called foreign usurpation, so usurpation is a kind of domestic conquest, with this difference: a usurper can never have right on his side, since there is no usurpation except where someone has taken possession of what another has a right to. Usurpation, as such, is a change only of persons, not of the forms and rules of the government. For if the usurper extends his power beyond what rightfully belonged to the lawful princes or governors of the commonwealth, it is tyranny added to usurpation.

[198] In every lawful government, the designation of the persons who are to rule is as natural and necessary a part as the form of the government itself, and it is something that was originally established by the people. It comes to much the same anarchy to have no form of government at all as to agree that it will be monarchical but appoint no way of designating the person who is to have the power and be the monarch. Hence all commonwealths, along with their established form of government, also have rules for appointing those who are to have any share in public authority, and settled methods of conveying that right to them. For it comes to much the same anarchy to have no form of government at all as to agree that it will be monarchical but appoint no way of knowing or designating the person who is to have the power and be the monarch. Whoever comes to exercise any part of the power by other ways than those the laws of the

community have prescribed has no right to be obeyed, even if the form of the commonwealth is still preserved. For he is not the person the laws have appointed, and consequently not the person the people have consented to. Nor can such a usurper, or anyone deriving from him, ever have a title until the people are both free to consent and have actually consented to allow and confirm in him the power he has until then usurped.

Chapter XVIII

Of Tyranny
Locke defines tyranny as rule beyond right and argues tyrants may be resisted.

TYRANNY

Locke defines tyranny as the exercise of power beyond right for the ruler's own advantage.

199 As usurpation is the exercise of power that someone else has a right to, so tyranny is the exercise of power beyond right, which nobody can have a right to. It is using the power one holds not for the good of those under it but for one's own private, separate advantage. It is when the governor, however entitled, makes not the law but his own will the rule, and his commands and actions are directed not to preserving the property of his people but to satisfying his own ambition, revenge, greed, or any other unruly passion.

200 If anyone doubts that this is true or reasonable because it comes from the obscure pen of a subject, I hope the authority of a king will persuade him. King James I, in his speech to Parliament in 1603, tells them this:

"I will always put the welfare of the public and of the whole commonwealth, in making good laws and constitutions, ahead of any particular and private ends of my own, always considering the wealth and welfare of the commonwealth to be my greatest good and worldly happiness. This is a point in which a lawful king differs directly from a tyrant. For I acknowledge that the special and greatest point of difference between a rightful king and a usurping tyrant is this: the proud and ambitious tyr-

ant thinks his kingdom and people exist only to satisfy his desires and unreasonable appetites, while the righteous and just king, on the contrary, acknowledges that he himself exists to secure the wealth and property of his people."

And again, in his speech to Parliament in 1609, he says this:

"The king binds himself by a double oath to observe the fundamental laws of his kingdom: tacitly, by being a king, and so bound to protect the people as well as the laws of his kingdom; and expressly, by his coronation oath. So every just king in a settled kingdom is bound to observe the compact made with his people by his laws, framing his government in keeping with it, after the pattern of the compact God made with Noah after the Flood: 'While the earth remains, seedtime and harvest, and cold and heat, and summer and winter, and day and night shall not cease.'[1] And therefore a king governing in a settled kingdom ceases to be a king and degenerates into a tyrant as soon as he stops ruling according to his laws."

And a little later:

"Therefore all kings who are not tyrants, or perjurers, will be glad to keep themselves within the limits of their laws; and those who persuade them otherwise are vipers and plagues, both to them and to the commonwealth."

So that learned king, who understood things well, locates the difference between a king and a tyrant in this alone: the one makes the laws the limits of his power and the good of the public the end of his government; the other makes everything give way to his own will and appetite.

201 It is a mistake to think this fault belongs only to monarchies; other forms of government are as liable to it as monarchy is. Wherever the power placed in any hands for governing the people and preserving their property is turned to other ends, and used to impoverish, harass, or subject them to the arbitrary and irregular commands of those who hold it, it immediately becomes tyranny, whether those who use it that way are one or many. So we read of the Thirty Tyrants at Athens as well as the

1 The covenant with Noah: Genesis 8:22.

one at Syracuse; and the intolerable rule of the Decemvirs at Rome was no better.[2]

THE RIGHT OF RESISTANCE

Locke argues rulers who exceed the law may be resisted, and explains how governments are dissolved.

202 Wherever law ends, tyranny begins, if the law is broken to another's harm. Whoever in authority exceeds the power the law gives him, and uses the force under his command to do to the subject what the law does not allow, ceases in that act to be a magistrate; and since he is acting without authority, he may be resisted like any other man who invades another's right by force. This is acknowledged in the case of subordinate magistrates. Someone who has authority to arrest me in the street may be resisted as a thief and a robber if he tries to break into my house to serve a writ, even though I know he has a warrant and legal authority that would empower him to arrest me outside. And I would gladly be told why this should not hold for the highest magistrate as well as the lowest. Is it reasonable that the eldest brother, because he has the largest part of his father's estate, should thereby have a right to take away any of his younger brothers' portions? Or that a rich man who owned a whole region should therefore have a right to seize his poor neighbor's cottage and garden whenever he pleased? Rightfully possessing great power and riches, far beyond most of the sons of Adam, is so far from being an excuse, much less a reason, for plunder and oppression (which is what harming another without authority is) that it greatly aggravates it. Exceeding the bounds of authority is no more a right in a great officer than in a petty one, no more justifiable in a king than in a constable. Indeed, it is all the worse in him, because more trust has been placed in him, he already has a much greater share than the rest

2 The Thirty Tyrants: the oligarchy imposed on Athens by Sparta in 404 BC. Syracuse's tyrants included Dionysius I and II. The Decemvirs: the board of ten appointed at Rome in 451 BC to draw up laws, which then ruled despotically.

of his brothers, and he is supposed, from the advantages of his education, office, and advisers, to know better the measures of right and wrong.

[203] May the commands of a prince, then, be resisted? May he be resisted whenever anyone feels aggrieved and merely imagines he has not been treated rightly? This will unhinge and overturn all political societies and leave, instead of government and order, nothing but anarchy and confusion.

[204] To this I answer that force is to be opposed only to unjust and unlawful force. Whoever offers resistance in any other case brings on himself just condemnation from both God and man. So no such danger or confusion will follow as is often suggested. For:

[205] First, in some countries the person of the prince is sacred by law, so that whatever he commands or does, his person is still free from all question or violence, not subject to force or to any judicial censure or condemnation. Yet resistance may still be made to the illegal acts of any inferior officer, or anyone else commissioned by him, unless the prince himself, by actually putting himself into a state of war with his people, dissolves the government and leaves them to the defense that belongs to everyone in the state of nature. For in such a case, who can tell how it will end? A neighboring kingdom has shown the world a strange example. In all other cases the sacredness of his person exempts him from all harm, so that he is secure, as long as the government stands, from all violence and injury whatsoever. There could be no wiser arrangement. For the harm he can do in his own person is not likely to happen often or to spread far, nor can he, by his own strength alone, subvert the laws or oppress the body of the people, even if some prince should be weak and ill-natured enough to want to. The disadvantage of some particular harms that may sometimes happen when a headstrong prince comes to the throne is well compensated by public peace and the security of the government, with the person of the chief magistrate placed out of the reach of danger in this way. It is safer for the body that a few private men should sometimes be

in danger of suffering than that the head of the state should be exposed easily and on slight occasions.

206 Second, this privilege belongs only to the king's person. It does not prevent those who use unjust force from being questioned, opposed, and resisted, even if they claim a commission from him that the law does not authorize. This is plain in the case of someone who has the king's writ to arrest a man, which is a full commission from the king. Yet whoever holds it cannot break into a man's house to carry it out, nor execute the king's command on certain days or in certain places, even though the commission contains no such exception. These are the limits of the law, and if anyone oversteps them, the king's commission does not excuse him. For since the king's authority is given him only by the law, he cannot empower anyone to act against the law, or justify him by his commission in doing so. The commission or command of any magistrate, where he has no authority, is as void and meaningless as that of any private man. The difference between the two is that the magistrate has some authority, to a certain extent and for certain ends, and the private man has none at all. For it is not the commission but the authority that gives the right to act, and against the laws there can be no authority. But notwithstanding such resistance, the king's person and authority both remain secure, and so there is no danger to the governor or the government.

207 Third, suppose a government in which the person of the chief magistrate is not sacred in this way. Even so, this doctrine that it is lawful to resist every unlawful exercise of his power will not endanger him or throw the government into turmoil on every slight occasion. For where the injured party can get relief and have his damages repaired by appeal to the law, there can be no excuse for force, which is to be used only where a man is prevented from appealing to the law. Nothing is to be counted hostile force except what leaves no remedy by such an appeal; and it is such force alone that puts whoever uses it into a state of war and makes it lawful to resist him. A man with a sword in his hand demands my purse on the highway when perhaps I don't

have twelve pence in my pocket: this man I may lawfully kill. To another I hand £100 to hold only while I get off my horse; when I have mounted again, he refuses to give it back, and draws his sword to defend his possession of it by force if I try to take it back. The harm this man does me is a hundred, or perhaps a thousand, times greater than what the other perhaps intended (whom I killed before he actually did me any harm); and yet I could lawfully kill the one, and cannot lawfully so much as hurt the other. The reason is plain. The first man was using force that threatened my life, so I had no time to appeal to the law to protect it; and once my life was gone, it would be too late to appeal. The law could not restore life to my dead body. The loss would be irreparable, and to prevent it, the law of nature gave me a right to destroy the man who had put himself into a state of war with me and threatened my destruction. But in the other case, my life not being in danger, I can have the benefit of appealing to the law and get reparation for my £100 that way.

[208] Fourth, suppose the unlawful acts done by the magistrate are upheld by the power he has acquired, and the remedy due by law is blocked by that same power. Even so, the right of resisting, even in such obvious acts of tyranny, will not disturb the government suddenly or on slight occasions. If it reaches no further than some private men's cases, then although they have a right to defend themselves and to recover by force what was taken from them by unlawful force, the right to do so will not easily draw them into a contest in which they are sure to perish. For one or a few oppressed men can no more disturb the government, where the body of the people do not think themselves concerned, than one man in a frenzy or a headstrong malcontent can overturn a well-settled state; the people are as little inclined to follow the one as the other.

[209] But suppose these illegal acts have extended to the majority of the people; or suppose the harm and oppression has fallen only on a few, but in cases where the precedent and consequences seem to threaten everyone, and they are persuaded in their consciences that their laws, and with them their estates,

liberties, and lives, are in danger, and perhaps their religion too. How they are to be kept from resisting illegal force used against them, I cannot tell. This, I admit, is a disadvantage that attends every government whatsoever, when the governors have brought things to the point where they are generally suspected by their people. It is the most dangerous state they can possibly put themselves in, and they deserve all the less pity for it because it is so easily avoided. It is as impossible for a governor who really intends the good of his people, and the preservation of them and their laws together, not to make them see and feel it, as it is for the father of a family not to let his children see that he loves them and takes care of them.

210 But suppose all the world sees pretenses of one kind and actions of another; tricks used to evade the law, and the trust of prerogative (which is an arbitrary power in some matters left in the prince's hands to do good, not harm, to the people) employed contrary to the purpose for which it was given. Suppose the people find ministers and subordinate magistrates chosen to suit such ends, and favored or set aside according to whether they promote or oppose them. Suppose they see several experiments made in arbitrary power, and that religion which is readiest to bring it in secretly favored (though publicly condemned), and its agents supported as far as possible,[3] and, when that cannot be done, still approved of and liked all the better. If a long train of actions shows that the government's counsels all tend that way, how can a man any more keep himself from being convinced in his own mind which way things are going, or from looking about for how to save himself, than he could keep from believing that the captain of the ship he was on was carrying him and the rest of the company to Algiers, when he found him always steering that course, even though cross winds, leaks in his ship, and lack of men and provisions often forced him to

3 "That religion": Roman Catholicism, which Locke's contemporaries associated with absolutism, as under Charles II and James II.

turn aside for a while, a course he steadily returned to as soon as the wind, the weather, and other circumstances allowed?[4]

4 Algiers: a base of the Barbary corsairs, who sold captured European sailors and passengers into slavery.

Chapter XIX

Of the Dissolution of Government
Locke explains how governments dissolve and argues the people may then establish a new legislative.

211 Anyone who wants to speak with any clarity about the dissolution of government ought first to distinguish between the dissolution of the society and the dissolution of the government. What makes the community, and brings men out of the loose state of nature into one political society, is the agreement each person makes with the rest to incorporate and act as one body, and so be one distinct commonwealth. The usual, and almost the only, way this union is dissolved is by the invasion of a foreign force that conquers them. For in that case, since they are no longer able to maintain and support themselves as one whole and independent body, the union belonging to that body, which consisted in this, must necessarily end. So everyone returns to the condition he was in before, free to fend for himself and provide for his own safety as he thinks fit in some other society. Whenever the society is dissolved, it is certain that the government of that society cannot remain. So conquerors' swords often cut governments up by the roots and hack societies to pieces, separating the subdued or scattered multitude from the protection of, and dependence on, the society that ought to have preserved them from violence. The world knows this way of dissolving governments too well, and is too ready to accept it, to need anything more said about it. And it takes little argument to prove that where the society is dissolved, the government cannot remain. That is as impossible as for the frame of a house to

stand when its materials are scattered and dispersed by a whirlwind, or jumbled into a confused heap by an earthquake.

212 Besides this overturning from outside, governments are dissolved from within.

First, when the legislative is altered. Civil society is a state of peace among those who belong to it. The state of war is excluded from it by the umpire they have provided in their legislative for ending all disagreements that may arise among any of them. So it is in their legislative that the members of a commonwealth are united and combined into one coherent living body. This is the soul that gives form, life, and unity to the commonwealth. From it the several members have their mutual influence, sympathy, and connection. And therefore, when the legislative is broken or dissolved, dissolution and death follow. For the essence and union of the society consists in having one will, and the legislative, once established by the majority, has the declaring—and, as it were, the keeping—of that will. The constitution of the legislative is the first and fundamental act of society. By it provision is made for the continuation of their union under the direction of persons, and the bonds of laws, made by persons authorized to do so by the consent and appointment of the people. Without that, no one man or number of men among them can have the authority to make laws that bind the rest. When any one or more take it upon themselves to make laws without being appointed by the people to do so, they make laws without authority, which the people are therefore not bound to obey. By this means the people come to be out of subjection again, and may set up a new legislative for themselves as they think best, being fully free to resist the force of those who, without authority, would impose anything on them. Everyone is at the disposal of his own will when those who, by the delegation of the society, had the declaring of the public will are excluded from it, and others usurp the place who have no such authority or delegation.

213 This is usually brought about by those in the commonwealth who misuse the power they have. So it is hard to consider it rightly, and to know at whose door to lay it, without knowing

the form of government in which it happens. Let us suppose, then, that the legislative is placed in the concurrence of three distinct persons:

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

(2) An assembly of hereditary nobility.

(3) An assembly of representatives chosen by the people for the time being (pro tempore). Supposing such a form of government, it is evident:

214 First, that when such a single person, or prince, sets up his own arbitrary will in place of the laws—which are the will of the society, declared by the legislative—then the legislative is changed. For the legislative is in effect the body whose rules and laws are put into execution and required to be obeyed. When laws and rules other than those enacted by the legislative the society constituted are set up, claimed, and enforced, it is plain that the legislative is changed. Whoever introduces new laws without being authorized to do so by the fundamental appointment of the society, or overturns the old ones, disowns and overturns the power by which they were made, and so sets up a new legislative.

215 Second, when the prince prevents the legislative from assembling at its proper time, or from acting freely in pursuit of the ends for which it was constituted, the legislative is altered. For the legislative does not consist in a certain number of men—no, nor in their meeting—unless they also have freedom to debate, and leisure to perfect, what is for the good of the society. When these are taken away or altered so as to deprive the society of the due exercise of its power, the legislative is truly altered. It is not names that constitute governments, but the use and exercise of the powers that were intended to accompany them. So whoever takes away the freedom of the legislative, or hinders it from acting at its proper times, in effect takes away the legislative and puts an end to the government.

216 Third, when the electors or the methods of election are altered by the arbitrary power of the prince, without the consent and contrary to the common interest of the people, there too the legislative is altered. For if people other than those the society has authorized do the choosing, or they choose in a way other than the society has prescribed, those chosen are not the legislative appointed by the people.

217 Fourth, handing the people over into subjection to a foreign power, whether by the prince or by the legislative, is certainly a change of the legislative, and so a dissolution of the government. For the purpose for which people entered into society was to be preserved as one entire, free, independent society, governed by its own laws; and this is lost whenever they are given up into the power of another.

218 Why, in a constitution like this, the dissolution of the government in these cases is to be blamed on the prince is evident. He has the force, treasury, and offices of the state at his disposal, and he often persuades himself, or is flattered by others into believing, that as supreme magistrate he is beyond control. So he alone is in a position to make great advances toward such changes under the pretense of lawful authority, and he has it in his power to terrify or suppress those who oppose him as factious, seditious, and enemies of the government. By contrast, no other part of the legislative, nor the people, can by themselves attempt any alteration of the legislative without open and visible rebellion, which is apt enough to be noticed; and when it prevails, it produces effects very little different from a foreign conquest. Besides, in such a form of government the prince has the power of dissolving the other parts of the legislative and thereby making them private persons. So they can never alter the legislative by a law in opposition to him, or without his concurrence, since his consent is necessary to give any of their decrees that sanction. Still, insofar as the other parts of the legislative in any way contribute to any attempt on the government, and either promote such designs or fail to hinder them as far as lies in their power, they are guilty and share in this crime,

which is certainly the greatest crime men can commit against one another.

219 There is one more way in which such a government may be dissolved: when the one who has the supreme executive power neglects and abandons that charge, so that the laws already made can no longer be put into execution. This demonstrably reduces everything to anarchy, and so effectively dissolves the government. For laws are not made for their own sake, but to be, through their execution, the bonds of the society, keeping every part of the body politic in its proper place and function. When that entirely stops, the government visibly stops, and the people become a confused multitude, without order or connection. Where there is no longer any administration of justice to secure men's rights, nor any power remaining within the community to direct its force or provide for the needs of the public, there is certainly no government left. Where the laws cannot be executed, it is the same as if there were no laws; and a government without laws is, I suppose, a mystery in politics, inconceivable to human capacity and inconsistent with human society.

220 In these and similar cases, when the government is dissolved, the people are at liberty to provide for themselves by setting up a new legislative, differing from the old one in its persons, its form, or both, as they find best for their safety and good. For the society can never, through someone else's fault, lose the native and original right it has to preserve itself, which can only be done by a settled legislative and a fair and impartial execution of the laws it makes. But the condition of mankind is not so miserable that they are unable to use this remedy until it is too late to look for any. To tell people they may provide for themselves by setting up a new legislative when their old one is gone—through oppression, trickery, or being handed over to a foreign power—is only to tell them they may expect relief when it is too late and the evil is past cure. In effect, this is nothing more than telling them first to be slaves and then to take care of their liberty, and, once their chains are on, telling them they may act like free men. If that were all, it would be mockery

rather than relief. Men can never be secure from tyranny if there is no means of escaping it until they are completely under it. And that is why they have a right not only to get out of it, but to prevent it.

221 There is therefore, secondly, another way in which governments are dissolved: when the legislative or the prince, either of them, acts contrary to its trust.

First, the legislative acts against the trust placed in it when it tries to invade the property of the subject, and to make itself, or any part of the community, masters or arbitrary disposers of the lives, liberties, or fortunes of the people.

222 The reason men enter into society is the preservation of their property. And the purpose for which they choose and authorize a legislative is that laws may be made and rules set as guards and fences to the property of all the members of the society, to limit the power and moderate the dominion of every part and member of the society. For it can never be supposed to be the will of the society that the legislative should have a power to destroy the very thing everyone aims to secure by entering into society, and for which the people submitted themselves to legislators of their own making. So whenever the legislators try to take away and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people. The people are then released from any further obedience, and are left to the common refuge that God has provided for all men against force and violence. Whenever, therefore, the legislative transgresses this fundamental rule of society, and—whether through ambition, fear, folly, or corruption—tries to grasp for itself, or to put into the hands of anyone else, an absolute power over the lives, liberties, and estates of the people, then by this breach of trust it forfeits the power the people had put into its hands for quite contrary ends. That power devolves to the people, who have a right to resume their original liberty and, by establishing a new legislative (such as they think fit), to provide for their own safety and security, which is the end for which they are in society. What I

have said here about the legislative in general holds true also of the supreme executor. He has a double trust placed in him—both to have a part in the legislative and to carry out the supreme execution of the law—and he acts against both when he sets out to establish his own arbitrary will as the law of the society. He also acts contrary to his trust when he uses the force, treasury, and offices of the society to corrupt the representatives and win them over to his purposes; or when he openly engages the electors in advance and dictates their choice, pressing on them candidates he has won over to his designs by solicitations, threats, promises, or other means, and uses them to bring in those who have promised beforehand how they will vote and what they will enact. To manage candidates and electors in this way, and to remodel the methods of election—what is that but to cut up the government by the roots and poison the very fountain of public security? For the people, having reserved to themselves the choice of their representatives as the fence around their property, could have done so for no other purpose than that the representatives might always be freely chosen and, once chosen, might freely act and advise as the necessity of the commonwealth and the public good should, after examination and mature debate, be judged to require. Those who give their votes before they hear the debate and have weighed the reasons on all sides are not capable of doing this. To prepare such an assembly, and to try to set up the declared supporters of his own will as the true representatives of the people and the lawmakers of the society, is certainly as great a breach of trust, and as complete a declaration of a design to subvert the government, as can possibly be found. If one adds to this rewards and punishments visibly used to the same end, and all the arts of perverted law used to remove and destroy everyone who stands in the way of such a design and will not comply and consent to betray the liberties of their country, there will be no doubt about what is going on. What power those who use it this way—contrary to the trust that went along with it at its first institution—ought to have in the society is easy to determine. And one cannot help seeing that

anyone who has once attempted such a thing can no longer be trusted.

DOES THIS INVITE REBELLION?

Locke answers the charge that his doctrine invites frequent rebellion, arguing people are slow to revolt.

223 To this it may perhaps be said that the people are ignorant and always discontented, and that to lay the foundation of government on the unsteady opinion and uncertain mood of the people is to expose it to certain ruin; no government will be able to survive long if the people may set up a new legislative whenever they take offense at the old one. To this I answer: quite the contrary. People are not so easily moved out of their old forms as some are apt to suggest. They can hardly be persuaded to correct acknowledged faults in the framework they have grown used to. And if there are any original defects, or incidental ones introduced by time or corruption, it is not easy to get them changed, even when all the world sees there is an opportunity for it. In the many revolutions this kingdom has seen in this and former ages, this slowness and reluctance of the people to abandon their old constitutions has kept us to—or, after some interval of fruitless attempts, brought us back again to—our old legislative of king, Lords, and Commons. And whatever provocations have caused the crown to be taken from the heads of some of our princes, they never carried the people so far as to place it in another line.[1]

224 But it will be said that this hypothesis plants the seeds of frequent rebellion. To this I answer:

First, no more than any other hypothesis. When the people are made miserable and find themselves exposed to the abuses of arbitrary power, you may praise their governors as much as you like as sons of Jupiter; let them be sacred and divine, des-

1 Locke has in mind the Civil War and Interregnum (1642–60), ended by the restoration of Charles II, and the removal of James II in 1688, when the crown passed to his daughter Mary and her husband William of Orange.

ceded from or authorized by heaven; present them as whoever or whatever you please—the same thing will happen. People who are generally mistreated, and against right, will be ready at any opportunity to relieve themselves of a burden that weighs heavily on them. They will wish and look for the opportunity, which, given the changes, weaknesses, and accidents of human affairs, is seldom slow to present itself. Anyone who has not seen examples of this in his own time must have lived only a short while in the world; and anyone who cannot produce examples of it in every kind of government in the world must have read very little.

225 Second, I answer that such revolutions do not happen at every little mismanagement of public affairs. Great mistakes by those who rule, many wrong and inconvenient laws, and all the slips of human frailty will be borne by the people without mutiny or murmur. But if a long train of abuses, deceptions, and tricks, all tending the same way, makes the design visible to the people—so that they cannot help feeling what they are under and seeing where they are headed—it is no wonder that they should then rouse themselves and try to put the rule into hands that may secure for them the ends for which government was first set up. Without those ends, ancient names and plausible forms are so far from being better than the state of nature, or pure anarchy, that they are much worse: the inconveniences are all as great and as near, but the remedy is further off and more difficult.

226 Third, I answer that this doctrine—of a power in the people to provide for their safety anew by a new legislative when their legislators have acted contrary to their trust by invading their property—is the best defense against rebellion and the likeliest means of preventing it. For rebellion is opposition not to persons but to authority, which is founded only on the constitutions and laws of the government. Those, whoever they are, who break through these by force, and justify their violation of them by force, are truly and properly rebels. For when men, by entering into society and civil government, have excluded force and

introduced laws for the preservation of property, peace, and unity among themselves, those who set up force again in opposition to the laws do rebellare—that is, bring back the state of war—and are properly rebels. And since those in power are the likeliest to do this (because of their claim to authority, the temptation of the force they have in their hands, and the flattery of those around them), the best way to prevent the evil is to show its danger and injustice to those who are under the greatest temptation to fall into it.[2]

227 In both the cases mentioned above—when either the legislative is changed, or the legislators act contrary to the end for which they were constituted—those responsible are guilty of rebellion. For if anyone by force takes away the established legislative of any society, and the laws it has made in keeping with its trust, he thereby takes away the umpire that everyone had consented to for the peaceful settlement of all their disputes, and as a barrier to the state of war among them. Those who remove or change the legislative take away this decisive power, which nobody can have except by the appointment and consent of the people. By destroying the authority that the people set up, and that nobody else can set up, and by introducing a power the people have not authorized, they actually introduce a state of war, which is force without authority. And so, by removing the legislative established by the society (in whose decisions the people acquiesced and united, as in those of their own will), they untie the knot and expose the people anew to the state of war. And if those who take away the legislative by force are rebels, the legislators themselves, as has been shown, must be considered no less so when they, who were set up for the protection and preservation of the people, their liberties and properties, invade these by force and try to take them away. By doing so they put themselves into a state of war with those who made them the protectors and guardians of their peace, and are properly, and with the greatest aggravation, rebellantes—rebels.

2 Latin rebellare, from re- ("again") and bellum ("war"): literally, to renew war.

228 But suppose those who say this lays a foundation for rebellion mean that it may give rise to civil wars or internal strife to tell the people they are released from obedience when illegal attempts are made on their liberties or properties, and that they may oppose the unlawful violence of those who were their magistrates when these invade their properties contrary to the trust placed in them; and that therefore this doctrine should not be allowed, being so destructive to the peace of the world. They might just as well say, on the same grounds, that honest men may not oppose robbers or pirates, because this may give rise to disorder or bloodshed. If any harm comes about in such cases, it is not to be charged to the one who defends his own right, but to the one who invades his neighbor's. If the innocent, honest man must quietly give up all he has, for the sake of peace, to anyone who lays violent hands on it, I ask that it be considered what kind of peace there will be in the world—one consisting only of violence and plunder, and maintained only for the benefit of robbers and oppressors. Who would not think it an admirable peace between the mighty and the lowly when the lamb, without resistance, yielded its throat to be torn by the domineering wolf? Polyphemus's den gives us a perfect model of such a peace and such a government, in which Ulysses and his companions had nothing to do but quietly let themselves be devoured. And no doubt Ulysses, being a prudent man, preached passive obedience and urged them to quiet submission, by pointing out to them how important peace was to mankind, and by showing the inconveniences that might follow if they tried to resist Polyphemus, who now had power over them.[3]

229 The end of government is the good of mankind. And which is better for mankind: that the people should always be exposed to the boundless will of tyranny, or that rulers should sometimes be liable to be opposed when they grow excessive in the

3 In Homer's Odyssey (book 9), the Cyclops Polyphemus traps Ulysses (Odysseus) and his men in his cave and eats several of them; they escape by blinding him. Locke is being ironic.

use of their power and employ it for the destruction, not the preservation, of their people's property?

230 Nor let anyone say that harm can arise from this whenever some busybody or turbulent spirit pleases to want the government changed. It is true that such men may stir things up whenever they please, but only to their own just ruin and destruction. For until the harm has become general, and the rulers' evil designs have become visible, or their attempts are felt by the greater part, the people—who are more inclined to suffer than to set things right by resistance—are not apt to stir. Examples of particular injustice, or the oppression of an unfortunate man here and there, do not move them. But if they are universally persuaded, on clear evidence, that designs are being carried on against their liberties, and the general course and tendency of things cannot help giving them strong suspicions of their governors' evil intentions, who is to blame for that? Who can help it if those who could have avoided it bring this suspicion on themselves? Are the people to blame if they have the sense of rational creatures, and can think of things only as they find and feel them? And is it not rather the fault of those who put things in such a state that they would not want them thought to be what they are? I grant that the pride, ambition, and turbulence of private men have sometimes caused great disorders in commonwealths, and that factions have been fatal to states and kingdoms. But whether the trouble has more often begun in the people's wantonness and desire to throw off the lawful authority of their rulers, or in the rulers' insolence and attempts to get and exercise arbitrary power over their people—whether oppression or disobedience first gave rise to the disorder—I leave to impartial history to determine. This I am sure of: whoever, ruler or subject, sets out by force to invade the rights of either prince or people, and lays the foundation for overturning the constitution and framework of any just government, is guilty of the greatest crime, I think, that a man is capable of. He must answer for all the harms of bloodshed, plunder, and desolation that the breaking apart of governments brings on a coun-

try. And whoever does it is rightly to be regarded as the common enemy and plague of mankind, and is to be treated accordingly.

231 That subjects or foreigners who attempt by force to seize the property of any people may be resisted with force is agreed on all sides. But that magistrates doing the same thing may be resisted has lately been denied—as if those who had the greatest privileges and advantages under the law thereby had a power to break those laws, by which alone they were placed above their brethren. On the contrary, their offense is all the greater, both because they are ungrateful for the larger share the law gives them, and because they also break the trust their brethren placed in their hands.

BARCLAY ON RESISTING KINGS

Locke uses the royalist Barclay's own admissions to show that tyrannical kings may be resisted.

232 Whoever uses force without right—as everyone in society does who uses it without law—puts himself into a state of war with those against whom he uses it. In that state all former ties are canceled, all other rights cease, and everyone has a right to defend himself and to resist the aggressor. This is so evident that Barclay himself, that great champion of the power and sacredness of kings, is forced to admit that it is lawful for the people, in some cases, to resist their king—and that, too, in a chapter in which he claims to show that divine law bars the people from every kind of rebellion.[4] It is evident from this, even by his own doctrine, that since the people may resist in some cases, not all resistance to princes is rebellion. His words are these: Quod siquis dicat, Ergone populus tyrannicae crudelitati & furori jugulum semper praebebit? Ergone multitude civitates suas fame, ferro, & flamma vastari, seque, conjuges, & liberos fortunae ludibrio & tyranni libidini exponi, inque omnia vitae pericula

4 William Barclay (1546–1608), Scottish jurist, author of De regno et regali potestate (1600), a defense of royal power against the "monarchomachs" ("king-fighters") such as George Buchanan.

omnesque miserias & molestias a rege deduci patientur? Num illis quod omni animantium generi est a natura tributum, denegari debet, ut sc. vim vi repellant, seseq; ab injuria, tueantur? Huic breviter responsum sit, Populo universo negari defensionem, quae juris naturalis est, neque ultionem quae praeter naturam est adversus regem concedi debere.[5] Quapropter si rex non in singulares tantum personas aliquot privatum odium exerceat, sed corpus etiam reipublicae, cujus ipse caput est, i.e. totum populum, vel insignem aliquam ejus partem immani & intoleranda saevitia seu tyrannide divexet; populo, quidem hoc casu resistendi ac tuendi se ab injuria potestas competit, sed tuendi se tantum, non enim in principem invadendi: & restituendae injuriae illatae, non recedendi a debita reverentia propter acceptam injuriam. Praesentem denique impetum propulsandi non vim praeteritam ulciscenti jus habet. Horum enim alterum a natura est, ut vitam scilicet corpusque tueamur. Alterum vero contra naturam, ut inferior de superiori supplicium sumat. Quod itaque populus malum, antequam factum sit, impedire potest, ne fiat, id postquam factum est, in regem authorem sceleris vindicare non potest: populus igitur hoc amplius quam privatus quispiam habet: quod huic, vel ipsis adversariis judicibus, excepto Buchanano, nullum nisi in patientia remedium superest. Cum ille si intolerabilis tyrannus est (modicum enim ferre omnino debet) resistere cum reverentia possit. Barclay, Contra Monarchomachos, Book III, chapter 8.

In English, this runs:

[233] But if anyone should ask: Must the people, then, always lay themselves open to the cruelty and rage of tyranny? Must they see their cities plundered and burned to ashes, their wives and children exposed to the tyrant's lust and fury, and themselves and their families reduced by their king to ruin and all the miseries of want and oppression—and yet sit still? Must men alone be denied the common privilege of opposing force with force, which nature so freely allows all other creatures to protect themselves from injury? I answer: self-defense is part of the

5 Locke quotes Barclay in Latin and then gives the passage in English (§233).

law of nature, and it cannot be denied to the community, even against the king himself. But taking revenge on him must by no means be allowed them, since that is not consistent with that law. Therefore, if the king shows hatred not only toward some particular persons, but sets himself against the body of the commonwealth, of which he is the head, and with intolerable abuse cruelly tyrannizes over the whole people or a considerable part of it, then in this case the people have a right to resist and to defend themselves from injury. But it must be with this caution: that they only defend themselves and do not attack their prince. They may repair the damage they have received, but must not, whatever the provocation, exceed the bounds of due reverence and respect. They may repel the present attack, but must not avenge past violence. For it is natural for us to defend life and limb, but for an inferior to punish a superior is against nature. The people may prevent the harm intended for them before it is done; but once it is done, they must not avenge it on the king, even though he is the author of the villainy. This, therefore, is the privilege of the people as a whole beyond what any private person has: particular individuals, by our adversaries' own admission (Buchanan alone excepted), have no remedy but patience; but the body of the people may, with respect, resist intolerable tyranny—for when it is only moderate, they ought to endure it.[6]

234 This is how far that great advocate of monarchical power allows resistance.

235 It is true that he has attached two limitations to it, to no purpose:

First, he says, it must be with reverence.

Second, it must be without retaliation or punishment; and the reason he gives is that an inferior cannot punish a superior. As to the first: how to resist force without striking back, or how to strike with reverence, will take some skill to make intelligible. Someone who meets an assault only with a shield to receive the

6 George Buchanan (1506–1582), Scottish humanist whose De jure regni apud Scotos (1579) defended the people's right to resist, depose, and punish tyrants.

blows, or in some even more respectful posture, without a sword in his hand to check the confidence and force of his attacker, will quickly come to the end of his resistance, and will find that such a defense serves only to bring worse treatment on himself. This is as ridiculous a way of resisting as Juvenal thought it a way of fighting: ubi tu pulsas, ego vapulo tantum.[7] And the outcome of the fight will inevitably be the same as he describes it there:

> -----Libertas pauperis haec est:
> Pulsatus rogat, et pugnis concisus, adorat,
> Ut liceat paucis cum dentibus inde reverti.[8]

This will always be the result of such an imaginary resistance, where men may not strike back. Whoever may resist, therefore, must be allowed to strike. And then let our author, or anyone else, combine a knock on the head or a cut across the face with as much reverence and respect as he thinks fit. Whoever can reconcile blows and reverence may, for all I know, ask as a reward for his pains a civil, respectful beating wherever he can find one.

Second, as to his second point—that an inferior cannot punish a superior—that is true, generally speaking, while the superior remains his superior. But resisting force with force is the state of war, which levels the parties and cancels all former relations of reverence, respect, and superiority. And then the only difference left is that whoever opposes the unjust aggressor has this superiority over him: he has a right, when he prevails, to punish the offender both for the breach of the peace and for all the evils that followed from it. Barclay, therefore, in another place, more consistently with himself, denies that it is lawful to resist a king in any case. But there he names two cases in which a king may un-king himself. His words are:

Quid ergo, nulline casus incidere possunt quibus populo sese erigere atque in regem impotentius dominantem arma capere &

7 Juvenal (early second century AD), Roman satirist, Satires 3.289: "where you do the beating and I only take the blows."

invadere jure suo suaque authoritate liceat? Nulli certe quamdiu rex manet. Semper enim ex divinis id obstat, Regem honorificato; & qui potestati resistit, Dei ordinationi resisit: non alias igitur in eum populo potestas est quam si id committat propter quod ipso jure rex esse desinat. Tunc enim se ipse principatu exuit atque in privatis constituit liber: hoc modo populus & superior efficitur, reverso ad eum sc. jure illo quod ante regem inauguratum in interregno habuit. At sunt paucorum generum commissa ejusmodi quae hunc effectum pariunt.[9] At ego cum plurima animo perlustrem, duo tantum invenio, duos, inquam, casus quibus rex ipso facto ex rege non regem se facit & omni honore & dignitate regali atque in subditos potestate destituit; quorum etiam meminit Winzerus. Horum unus est, Si regnum disperdat, quemadmodum de Nerone fertur, quod is nempe senatum populumque Romanum, atque adeo urbem ipsam ferro flammaque vastare, ac novas sibi sedes quaerere decrevisset. Et de Caligula, quod palam denunciarit se neque civem neque principem senatui amplius fore, inque animo habuerit interempto utriusque ordinis electissimo quoque Alexandriam commigrare, ac ut populum uno ictu interimeret, unam ei cervicem optavit. Talia cum rex aliquis meditator & molitur serio, omnem regnandi curam & animum ilico abjicit, ac proinde imperium in subditos amittit, ut dominus servi pro derelicto habiti dominium.

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

8 Juvenal, Satires 3.299–301: "This is the poor man's liberty: beaten, he begs; pummeled with fists, he pleads to be allowed to go home with a few teeth left."
9 Locke's English version of this passage follows (§§237–238).

nec quod ipse in regno imperium habuit retineat, nec in eum cui collatum voluit, juris quicquam transferat; atque ita eo facto liberum jam & suae potestatis populum relinquit, cujus rei exemplum unum annales Scotici suppeditant. Barclay, Contra Monarchomachos, Book III, chapter 16.

Which in English runs like this:

237 What then, can no case arise in which the people may, by right and on their own authority, help themselves, take up arms, and attack their king when he domineers over them imperiously? None at all, as long as he remains a king. "Honor the king" and "he who resists the power resists the ordinance of God" are divine oracles that will never permit it. The people, therefore, can never gain a power over him unless he does something that makes him cease to be a king. For then he strips himself of his crown and dignity and returns to the condition of a private man, and the people become free and superior, since the power they had in the interregnum, before they crowned him king, devolves to them again. But there are only a few kinds of misconduct that bring matters to this point. After considering it well from every side, I can find only two.[10] There are two cases, I say, in which a king ipso facto (by that very act) becomes no king, and loses all power and royal authority over his people; these are also noted by Winzerus.[11]

The first is if he tries to overturn the government—that is, if he has a purpose and design to ruin the kingdom and commonwealth—as it is recorded of Nero that he resolved to destroy the senate and people of Rome, lay the city waste with fire and sword, and then move somewhere else. And of Caligula, that he openly declared he would no longer be a head to either the people or the senate, and that he had it in mind to kill the worthiest men of both orders and then withdraw to Alexandria; and he wished that the people had only one neck, so that he could dispatch them all at a single blow. When any king harbors such

10 1 Peter 2:17; Romans 13:2.

11 Probably Ninian Winzet (c. 1518–1592), Scottish Catholic controversialist and opponent of Buchanan.

designs in his thoughts and seriously pursues them, he immediately gives up all care and thought for the commonwealth, and consequently forfeits the power of governing his subjects, just as a master forfeits dominion over slaves he has abandoned.

238 The other case is when a king makes himself the dependent of another, and subjects his kingdom—which his ancestors left him and the people placed free in his hands—to the dominion of another. For though it may perhaps not be his intention to harm the people, yet he has thereby lost the principal part of royal dignity, namely, to be next and immediately under God, supreme in his kingdom; and he has also betrayed or forced his people, whose liberty he ought to have carefully preserved, into the power and dominion of a foreign nation. By this alienation, as it were, of his kingdom, he himself loses the power he previously had in it, without transferring the least right to those on whom he wished to bestow it. And so by this act he sets the people free and leaves them at their own disposal. One example of this is to be found in the Scottish annals.

239 In these cases Barclay, the great champion of absolute monarchy, is forced to allow that a king may be resisted and ceases to be a king. That is, in short—not to multiply cases—wherever he has no authority, there he is no king and may be resisted. For wherever the authority ceases, the king ceases too, and becomes like other men who have no authority. And these two cases he cites differ little from those mentioned above as destructive to governments, except that he has left out the principle from which his doctrine flows: namely, the breach of trust in not preserving the form of government agreed on, and in not pursuing the end of government itself, which is the public good and the preservation of property. When a king has dethroned himself and put himself into a state of war with his people, what is to prevent them from prosecuting him, who is no king, as they would any other man who has put himself into a state of war with them? Barclay and those of his opinion would do well to tell us. I would further like this point from Barclay to be noticed. He says, "The harm intended for them, the people may

prevent before it is done"—by which he allows resistance when tyranny is only in design. "When any king harbors such designs in his thoughts and seriously pursues them," he says, "he immediately gives up all care and thought for the commonwealth"—so that, according to him, neglect of the public good is to be taken as evidence of such a design, or at least as sufficient cause for resistance. And he gives the reason for all of it in these words: "Because he betrayed or forced his people, whose liberty he ought carefully to have preserved." What he adds—"into the power and dominion of a foreign nation"—means nothing. The fault and forfeiture lie in the loss of their liberty, which he ought to have preserved, and not in any distinction between the persons to whose dominion they were subjected. The people's right is equally invaded, and their liberty lost, whether they are made slaves to someone of their own nation or of a foreign one; this is where the injury lies, and against this alone they have the right of defense. And there are instances to be found in every country which show that it is not a change of nationality in the persons of their governors, but a change of government, that gives the offense. Bilson, a bishop of our church and a great stickler for the power and prerogative of princes, does, if I am not mistaken, acknowledge in his treatise on Christian subjection that princes may forfeit their power and their title to their subjects' obedience. And if authority were needed in a case where reason is so plain, I could send my reader to Bracton, Fortescue, the author of the Mirror, and others—writers who cannot be suspected of being ignorant of our government or hostile to it. But I thought Hooker alone might be enough to satisfy those men who rely on him for their ecclesiastical polity and yet, by a strange fate, are led to deny the principles on which he builds it.[12] Whether in this they are being made the tools of craftier workmen to pull down their own building, they had best look to. This I am sure

12 Thomas Bilson (1547–1616), bishop of Winchester, author of The True Difference between Christian Subjection and Unchristian Rebellion (1585); Henry de Bracton (d. 1268) and Sir John Fortescue (c. 1394–c. 1479), English jurists; The Mirror of Justices, a medieval English legal treatise.

of: their civil policy is so new, so dangerous, and so destructive to both rulers and people that, just as former ages could never tolerate its being put forward, so it may be hoped that ages to come, freed from the impositions of these Egyptian under-taskmasters, will abhor the memory of such servile flatterers—who, while it seemed to serve their turn, reduced all government to absolute tyranny, and would have all men born to what their own mean souls fitted them for: slavery.[13]

WHO SHALL BE JUDGE?

Locke concludes that the people shall judge whether rulers have broken their trust.

240 Here, probably, the common question will be raised: Who shall be judge whether the prince or the legislative acts contrary to their trust? Ill-disposed and factious men may perhaps spread this among the people when the prince is only making use of his due prerogative. To this I reply: the people shall be judge. For who shall judge whether a trustee or deputy acts well and according to the trust placed in him, but the one who deputes him, and who, by having deputed him, must still have the power to dismiss him when he fails in his trust? If this is reasonable in the particular cases of private men, why should it be otherwise in the case of greatest importance, where the welfare of millions is at stake, and where the evil, if not prevented, is greater, and the remedy very difficult, costly, and dangerous?

241 But further, this question (Who shall be judge?) cannot mean that there is no judge at all. For where there is no judicial authority on earth to decide disputes among men, God in heaven is judge. He alone, it is true, is judge of the right. But every man is judge for himself, in this case as in all others, whether another has put himself into a state of war with him,

13 An allusion to the Egyptian taskmasters over the enslaved Israelites (Exodus 1 and 5).

and whether he should appeal to the Supreme Judge, as Jephthah did.[14]

242 If a dispute arises between a prince and some of the people in a matter where the law is silent or doubtful, and the thing is of great consequence, I would think the proper umpire in such a case should be the body of the people. For in cases where the prince has a trust placed in him and is exempted from the common, ordinary rules of the law, if any men find themselves aggrieved and think the prince acts contrary to or beyond that trust, who is so fit as the body of the people (who first placed that trust in him) to judge how far they meant it to extend? But if the prince, or whoever is in the administration, refuses that way of settling it, then the appeal lies nowhere but to heaven. Force between persons who have no known superior on earth, or force that permits no appeal to a judge on earth, is properly a state of war, in which the appeal lies only to heaven; and in that state the injured party must judge for himself when he thinks fit to make use of that appeal and rely on it.

243 To conclude: the power that every individual gave the society when he entered into it can never revert to the individuals again as long as the society lasts, but will always remain in the community; because without this there can be no community, no commonwealth, which is contrary to the original agreement. So also, when the society has placed the legislative in any assembly of men, to continue in them and their successors, with direction and authority for providing such successors, the legislative can never revert to the people while that government lasts. For having provided a legislative with power to continue forever, they have given up their political power to the legislative and cannot take it back. But if they have set limits to the duration of their legislative, and made this supreme power in any person or assembly only temporary; or else if it is forfeited through the misconduct of those in authority—then, upon the forfeiture or at the end of the set time, it reverts to the society. The people then have a right to act as supreme, and either to

14 Judges 11:27; see §21 and §176.

continue the legislative in themselves, or to set up a new form, or, under the old form, to place it in new hands, as they think good.