

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

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

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## CHAP. II.

### *Of the State of Nature.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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### CHAP. III.

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

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

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

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

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

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

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

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

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

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CHAP. IV.  
Of SLAVERY.

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

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

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

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

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

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

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

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

end whereof is the preservation of property.

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

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

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

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

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

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

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

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

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

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

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

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

see.

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

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

## CHAP. VIII.

*Of the Beginning of Political Societies.*

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

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

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

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

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

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

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

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

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

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

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#### CHAP. IX.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

other members of the society do the like.

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

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#### CHAP. X.

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

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

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

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

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#### CHAP. XI.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAP. XII.

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

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