

John Locke (1632-1704)

John Locke was born into a middle-class, liberal Puritan family. If Thomas Hobbes' defining moment was the execution of a king in 1649, John Locke's was the Glorious Revolution of 1688, when a corrupt restored monarchy was replaced bloodlessly by Whigs who invited Protestants William and Mary to preside over a new constitutional monarchy. Locke's education was at Oxford where he was first a student and then a tutor of moral philosophy, and where he pursued medical studies. Locke practiced medicine occasionally during his life, most notably in a successful operation on Whig leader Lord Ashley (later Lord Shaftesbury), who became a patron and ally. Locke followed Shaftesbury into exile in Holland during James II's reign, and returned to England on the same boat carrying Princess Mary to her new post. His *Two Treatises of Government* were written most immediately to justify the overthrow of absolutist Catholic kings by his Whig friends.

A contemporary Locke scholar, Rosalie Cole writes, "Locke's major contributions to political thought are in his *Second Treatise* (1690) . . . which expressed the parliamentary ideals of mixed government and separation of powers established in England by the political settlement reached after William's invasion. The tract . . . was designed to justify constitutional change, for which Locke undertook to investigate the origins and structure of civil (political) society. His polemical aim was to diminish popular acceptance of the patriarchalism which gave authority to much of the contemporary argument for absolutism; to do so, he postulated an original, direct relation of every man to God rather than to or through any political intermediary. Each man was in some sense God's 'property': bypassing the notion

of Adam as a model ruler of the social group, Locke postulated a state of nature regulated by laws derived from God, a state of nature in which men were equal and free before the Lord and each other. Paradoxically, the rule of law (in this case, the rule of the law of nature) was requisite for freedom; without such natural law man's 'freedom' would have been anarchy. In this sense Locke's conception approached the anarchic state of nature postulated by Hobbes, although his insistence upon fundamental natural law saved him from Hobbes's pessimism about the lawlessness of basic human nature. From this natural condition, Locke inferred both a 'law of reason,' by which individuals reach and assent to social consensus, and the practical laws requisite to permit, even to insure, personal freedom. Originally, in the state of nature, executive power of the natural law was vested in every individual; subsequently—whether suddenly or gradually is not made clear—men consented to live in a common society regulated by the communal executive power of the law of nature. Locke divided this communal power into three—the legislative, executive, and federative powers—with judicial decision a general power of the political commonwealth.

"To effect the passage from the state of nature to 'civil society,' Locke developed his important variation on the idea of property, which in turn graded into his theory of labor. From the natural-law postulate that a man has property in his own life, Locke derived the view that a man has property in the things necessary to the preservation of that life, so long as those things are rightfully his (that is, taken from the commonwealth at a point when the specific acquisition harmed or deprived no one else). A man has a right in himself and thus in his own labor; in turn, he has a right to what 'he hath mixed his labor with,' or a right to his property. A corollary of this is Locke's formulation of the labor theory of value, almost incidental to his argument: the

value and the price of commodities in any society reflect the labor that has gone into them.

"There are two sorts of relations between men, the first a natural social contract, entered into by the exercise of rational considerations of self-preservation, the second defined by rights in property. The function and end of government are the preservation of life, liberty, and property. One corollary of this formulation is that political rights derive from property and that the propertyless are either without political rights or are slaves. Such a conception of the commonwealth permits emphasis both on the common interest and on private holdings, which in Locke's essay (in line with seventeenth-century usage and notions of value) generally means land.

"Without in any sense denying the importance and validity of a familial organization of society, Locke demonstrated that the power over children and dependents vested in the father (who shares it with the mother, interestingly enough) is simply a form of trusteeship: the guardian—father—has certain obligations toward his children, especially to educate them; when the children reach full exercise of their reason, they are free 'from subjection to the will and command of the father.' The family was, for Locke, important in his theory of the origins of civil society, the conjunction of male and female being both a symbol of a wider assent and obligation and a primary stage in the voluntary community of mankind. Thus, even in families, arbitrary government is 'impossible'; in commonwealths the necessary consent of each individual to enter into the bond of civil society (the social contract) eventuates in election, the choice of representatives charged to exercise legislative power. Legislative power is supreme in Locke's mixed government of separate legislative, executive, and federative powers. His assumption is that a man with political

rights (by reason of his property in himself) enters into political life, inheriting with his property his obligations to the government that represents him. In turn, the government may not touch his property (i.e., levy taxes) without his consent through his representative. One implication of this formulation is a doctrine of resistance, or revolution, as expressed in the last chapter of the *Second Treatise*, the chapter which, above all others, made Locke objectionable to the government before 1688 and valuable to the government thereafter. Unlike the Protestant resistance-theorists of the sixteenth century, Locke did not base his revolutionary theory upon sanctions of conscience or religion; unlike the English parliamentarians of the 1640s, he did not base it on precedents in English law; unlike Algernon Sidney, he did not base it on a metaphysical and metapsychological natural right to liberty; rather, he advocated a restrained and considered revolution for the restoration of proper balance in the body politic.

"Locke's theory of government emphasizes process, both the hypothetical process of human development from a state of nature to civil society and the processes of self-government. He therefore limited the number of specifiable elements in the proper commonwealth and was careful to leave ample room for adjustments to changing social needs. He was, in short, indicating a successful process of representative majority rule rather than setting up an exclusive structure for one. Hence, there are large areas of his thought which seem blank, either because he was unconcerned with total consistency or because he was concerned with leaving social alternatives open, especially in 'matters of indifference'."

While Hobbes may rightly be called the founder of Liberalism, Locke made Liberalism safe for America, so to speak. Locke softened the hard edges of Hobbes'

philosophy, giving his readers a clearer sense of the worth of the individual, and above all supplying Liberalism with a theory of revolution, which had been lacking in Hobbes. This latter, parts of which show up in almost verbatim quotations in the Declaration of Independence (although Jefferson later denied any knowing borrowing from Locke or anyone else), enabled the 18th century American revolutionaries to justify separation from Great Britain by appeal to high philosophical argument rather than merely transient expediency. Also, unlike Hobbes, Locke was widely read in 18th century America and, through the founding documents and the history of American jurisprudence, he continues to exert profound influence on America's public thinking.

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Sources: Rosalie Cole, "Locke" in *International Encyclopedia of Social Sciences* (New York: Macmillan Company and Free Press, 1968); William Ebenstein and Alan O. Ebenstein, "Locke" in *Great Political Thinkers: Plato to the Present* (Fort Worth: Holt, Rinehart and Winston, 1991), 425-434.

Second Treatise of Government (1690)

Chapter II: Of THE STATE OF NATURE.

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

A *state* also of *equality*, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident, than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection, unless the

lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty.

5: This *equality* of men by nature, the judicious Hooker looks upon as so evident in itself, and beyond all question, that he makes it the foundation of that obligation to mutual love amongst men, on which he builds the duties 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 this case, and upon this ground, *every man hath a right to punish the offender, and be executioner of the law of nature*.

9: I doubt not but this will seem a very strange doctrine to some men: but before they condemn it, I desire them to resolve me, by what right any prince or state can put to death, or *punish 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 require, I see not how the magistrates of any community can *punish an alien* of another country; since, in reference to him, they can have no more power than what every man naturally may have over another.

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

11: From these *two distinct rights*, the one of *punishing the crime for restraint*, and preventing the like offence, which right of punishing is in every body; the other of taking *reparation*, which belongs only to the injured party, comes it to pass that the magistrate, who by being magistrate hath the common right of punishing put into his hands, can often, where the public good demands not the execution of the law, *remit* the punishment of criminal offences by his own authority, but yet cannot *remit* the satisfaction due to any private man for the damage he has received. That, he who has suffered the damage has a right to demand in his own name, and he alone can remit: the damnified person has this power of appropriating to himself the goods or service of the offender, *by right of self-preservation*, as every man has a power to punish the crime, to prevent its being committed again, *by the right he has of preserving all mankind*, and doing all reasonable things he can in order to that end: and thus it is, that every man, in the state of nature, has a power to kill a murderer, both to *deter* others from doing the like injury, which no reparation can compensate, by the example of the punishment that attends it from every body, and also to *secure* men from the attempts of a criminal, who having renounced reason, the common rule and measure God hath given to mankind, hath, by the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a *lion* or a *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. Feasibly 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, 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 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 remain so, till by their own consents they make themselves members of some politic society; and I doubt not in the sequel of this discourse, to make it very clear.

Chapter 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, *Exodus xxi.*

Chapter V: Of PROPERTY.

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

26: God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life, and convenience. The earth, and all that is therein, is given to men for the support and comfort of their being. And tho' all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature; and no body has originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state: yet being given for the use of men, there must of necessity be a means to appropriate them some way or other, before they can be of any use, or at all beneficial to any particular man. The fruit, or venison, which nourishes the wild *Indian*, who knows no inclosure, and is still a tenant in common, must be his, and so his, i.e. a part of him, that another can no longer have any right to it, before it can do him any good for the support of his life.

27: Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and

thereby makes it his *property*. It being by him removed from the common state nature hath placed it in, it hath by this *labour* something annexed to it, that excludes the common right of other men: for this *labour* being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.

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

Chapter VII: Of POLITICAL OR CIVIL SOCIETY.

... 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.

Chapter VIII: Of THE BEGINNING OF POLITICAL SOCIETIES.

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

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.

119. *Every man* being, as has been shewed, *naturally free*, and nothing being able to put him into subjection to any earthly power, but only his own *consent*; it is to be considered, what shall be understood to be a *sufficient declaration* of a man's *consent*, to make him *subject* to the laws of any government. There is a common distinction of an express and a tacit consent, which will concern our present case. No body doubts but an express *consent*, of any man entering into any society, makes him a perfect member of that society, a subject of that government. The difficulty is, what ought to be looked upon as a *tacit consent*, and how far it binds, *i.e.* how far any one shall be looked on to have consented, and thereby submitted to any government, where he has made no expressions of it at all. And to this I say, that every man, that hath any possessions, or enjoyment, of any part of the dominions of any government, doth thereby give his *tacit consent*, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as any one under it; whether this his possession be of land, to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway; and in effect, it reaches as far as the very being of any one within the territories of that government.

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

Chapter IX: Of THE ENDS OF POLITICAL SOCIETY AND GOVERNMENT.

123. IF man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? why will he give up this empire, and subject himself to the dominion and controul of any other power? To which it is obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties and estates, which I call by the general name, *property*.

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

First, There wants an *establish'd*, 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 inconveniences 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.

Chapter XI: Of THE EXTENT OF THE LEGISLATIVE POWER.

134. THE great end of men's entering into society, being the enjoyment of their properties in peace and safety, and the great instrument and means of that being the laws established in that society; the *first and fundamental positive law* of all 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 *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.

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?

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.

Chapter XIX. Of THE DISSOLUTION OF GOVERNMENT.

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

First, The legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties, or fortunes of the people.

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

of trust they *forfeit the power* the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and, by the establishment of a new legislative, (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society. What I have said here, concerning the legislative in general, holds true also concerning the supreme executor, who having a double trust put in him, both to have a part in the legislative, and the supreme execution of the law, acts against both, when he goes about to set up his own arbitrary will as the law of the society. He *acts also contrary to his trust*, when he either employs the force, treasure, and offices of the society, to corrupt the *representatives*, and gain them to his purposes; or openly pre-engages the *electors*, and prescribes to their choice, such, whom he has, by solicitations, threats, promises, or otherwise, won to his designs; and employs them to bring in such, who have promised before-hand what to vote, and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, what is it but to cut up the government by the roots, and poison the very fountain of public security? For the people having reserved to themselves the choice of their *representatives*, as the fence to their properties, could do it for no other end, but that they might always be freely chosen, and so chosen, freely act, and advise, as the necessity of the common-wealth, and the public good should, upon examination, and mature debate, be judged to require. This, those who give their votes before they hear the debate, and have weighed the reasons on all sides, are not capable of doing. To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will, for the true representatives of the people, and the law-makers of the society, is certainly as great a *breach of trust*, and as perfect a declaration of a design to subvert the government, as is possible to be met with. To which, if one shall add rewards and punishments visibly employed to the same end, and all the arts of perverted law made use of, to take off and destroy all that stand in the way of such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing. What power they ought to have in the society, who thus employ it contrary to the trust that went along with it in its first institution, is easy to determine; and one cannot but see, that he, who has once attempted any such thing as this, cannot any longer be trusted.

223. To this perhaps it will be said, that the people being ignorant, and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people, is to expose it to certain ruin; and *no government will be able long to subsist*, if the people may set up a new legislative, whenever they take offence at the old one. To this I answer, Quite the contrary. People are not so easily

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

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

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

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