

Chapter 2: The state of nature

4. To understand political power correctly and derive it from its proper source, we must consider what state all men are *naturally* in. In this state men are perfectly free to order their actions, and dispose of their possessions and themselves, in any way they like, without asking anyone's permission—subject only to limits set by the law of nature.

It is also a state of equality, in which no-one has more power and authority than anyone else; because it is simply obvious that creatures of the same species and status, all born to all the same advantages of nature and to the use of the same abilities, should also be equal in other ways, with no-one being subjected to or subordinate to anyone else, unless God, the lord and master of them all, were to declare clearly and explicitly his wish that some one person be raised above the others and given an undoubted right to dominion and sovereignty

5. The judicious Richard Hooker regards this natural equality of men as so obvious and unquestionable that he bases on it men's obligation to love one another, on which he builds their duties towards each other, from which in turn he derives the great maxims of justice and charity.

Here are his words:

A similar natural inducement has led men to realize that they have as much duty to love others as to love themselves. Things that are equal must be measured by a single standard; so if I inevitably want to receive some good—indeed as much good from every man as any man can want for himself—how could I expect to have *any part* of my desire satisfied if I am not careful to satisfy the similar desires that other men, being all of the same nature, are bound to have? To offer them anything inconsistent with their desire will be to grieve them as much as it would grieve me; so that if I do harm I must expect to suffer, because there is no reason why others should show more love to me than I have shown to them. Thus, my desire to be loved as much as possible by my natural equals gives me a natural duty to act towards them with the same love. Everyone knows the rules and canons natural reason has laid down for the guidance of our lives on the basis of this relation of equality between ourselves and those who are like us.

6. But though this is a state of •liberty, it isn't a state of •licence ·in which there are *no* constraints on how people behave·. A man in that state is absolutely free to dispose of himself or his possessions, but he isn't at liberty to *destroy* himself, or even to destroy any created thing in his possession unless its destruction is required for some nobler purpose. The state of nature is governed by a law that creates obligations for everyone. And reason, which is that law, teaches anyone who takes the trouble to consult it, that *because we are all equal and independent, no-one ought to harm anyone else in his life, health, liberty, or possessions*. This is because

- we are all the work of one omnipotent and infinitely wise maker;
- we are all the servants of one sovereign master, sent into the world by his order to do his business;
- we are all the property of him who made us, and he made us to last as long as *he* chooses, not as long as *we* choose;
- we have the same abilities, and share in one common nature, so there can't be any rank-ordering that would authorize some of us to destroy others, as if we were made to be *used* by one another, as the lower kinds of creatures *are* made to be used by us.

Everyone is obliged to preserve himself and not opt out of life willfully, so for the same reason everyone ought, when his own survival isn't at stake, to do as much as he can to preserve the rest of mankind; and except when it's a matter of punishing an offender, no-one may take away or damage anything that contributes to the preservation of someone else's life, liberty, health, limb, or goods.

7. So that •all men may be held back from invading the rights of others and from harming one another, and so that •the law of nature that aims at the peace and preservation

of all mankind may be obeyed, the enforcement of that law of nature (in the state of nature) is in every man's hands, so that everyone has a right to punish law-breakers as severely as is needed to hinder the violation of the law. For the law of nature, like every law concerning men in this world, would be futile if no-one had power to enforce it and thereby preserve the innocent and restrain offenders. And in the state of nature if *anyone* may punish someone for something bad that he has done, then *everyone* may do so. . . .

8. That is how in a state of nature one man comes to have a ·legitimate· power over another. It isn't an unconditional power, allowing him to use a captured criminal according to the hot frenzy or unbridled extremes of his own will; but only a power to punish him so far as calm reason and conscience say is proportionate to his crime, namely as much punishment as may serve for •reparation and •restraint—for •those two are the only reasons why one man may lawfully harm another, which is what we call 'punishment'. By breaking the law of nature, the offender declares himself to live by some rule other than that of reason and common fairness (which is the standard that God has set for the actions of men, for their mutual security); and so he becomes dangerous to mankind because he has disregarded and broken the tie that is meant to secure them from injury and violence. This is an offence against the whole ·human· species, and against the peace and safety that the law of nature provides for the species. Now, every man, by the right he has to preserve mankind in general, may restrain and if necessary *destroy* things that are noxious to mankind; and so he can do to anyone who has transgressed that law as much harm as may make him repent having done it, and thereby deter him—and by his example deter others—from doing the same. So for this reason *every man has a right to enforce the law of nature and punish offenders*.

9. No doubt this will seem a very strange doctrine to some people; but before they condemn it, I challenge them to explain what right any king or state has to put to death or otherwise punish a foreigner for a crime he commits in their country. The right is certainly not based on their laws, through any permission they get from the announced will of the legislature; for such announcements don't get through to a foreigner: they aren't addressed to him, and even if they were, he isn't obliged to listen. . . . Those who have the supreme power of making laws in England, France or Holland are to an Indian merely like the rest of the world, men without authority. So if the law of nature didn't give every man a power to punish offences against it as he soberly judges the case to require, I don't see how the judiciary of any community can punish someone from another country; because they can't have any more power over him than every man can *naturally* have over another.

10. As well as •the crime that consists in violating the law and departing from the right rule of reason—crime through which man becomes so degenerate that he declares that he is deserting the principles of human nature and becoming vermin—there is often •transgression through which someone does harm to someone else. In the latter case, the person who has been harmed has, in addition to the general right of punishment that he shares with everyone else, a particular right to seek reparation from the person who harmed him; and anyone else who thinks this just may also join with the injured party and help him to recover from the offender such damages as may make satisfaction for the harm he has suffered.

11. So there are two distinct rights: **(i)** the right that everyone has, to punish the criminal so as to restrain him and prevent such offences in future; **(ii)** the right that an

injured party has to get reparation. Now, a magistrate, who by being magistrate has the common right of punishing put into his hands, can by his own authority **(i)** cancel the punishment of a criminal offence in a case where the public good doesn't demand that the law be enforced; but he can't **(ii)** cancel the satisfaction due to any private man for the damage he has received. The only one who can do that is the person who has been harmed. The injured party has the power of taking for himself the goods or service of the offender, by right of •self-preservation; and everyone has a power to punish the crime to prevent its being committed again, by the right he has of preserving •all mankind, and doing everything reasonable that he can to that end. And so it is that in the state of nature everyone has a power to kill a murderer, both •to deter others from this crime that no reparation can make up for, by the example of the punishment that everyone inflicts for it, and also •to secure men from future crimes by this criminal; the murderer has renounced reason, the common rule and standard God has given to mankind, and by the unjust violence and slaughter he has committed on one person he has declared war against all mankind, so that he can be destroyed as though he were a lion or a tiger. . . . This is the basis for the great law of nature, *Whoever sheds man's blood, by man shall his blood be shed*. Cain was so fully convinced that everyone had a right to destroy such a criminal that after murdering his brother he cried out 'Anyone who finds me will slay me'—so plainly was this law written in the hearts of all mankind.

12. For the same reason a man in the state of nature may punish lesser breaches of the law of nature. 'By death?' you may ask. I answer that each offence may be punished severely enough to make it a bad bargain for the offender, to give him reason to repent, and to terrify others from offending in the same way. Every offence that can be •committed in

the state of nature may also be •punished in the state of nature—and punished in the same way (as far as possible) as it would be in a commonwealth. I don't want to go into the details of the law of nature or of its punitive measures, •but I will say this much•:- It is certain that there is a •law of nature, which is as intelligible and plain to a reasonable person who studies it as are the •positive laws of commonwealths. [See the explanation of 'positive' after section 1.] It may even be *plainer*—as much plainer as •reason is •plainer•, easier to understand, than the fancies and intricate •theoretical• contrivances of men who have tried to find words that will further their conflicting hidden interests. For that is what has gone into the devising of most of the legislated laws of countries. Really, such laws are right only to the extent that they are founded on the law of nature, which is the standard by which they should be applied and interpreted.

13. To this strange doctrine •of mine•, namely that in the state of nature everyone has the power to enforce the law of nature, I expect this objection to be raised:

It is unreasonable for men to be judges in their own cases, because self-love will bias men in favour of themselves and their friends. And on the other side, hostility, passion and revenge will lead them to punish others too severely. So nothing but confusion and disorder will follow, and that is why God has—as he certainly *has*—established government to restrain the partiality and violence of men.

I freely allow that civil government is the proper remedy for the drawbacks of the state of nature. There must certainly be great disadvantages in a state where men may be judges in their own case; someone who was so •unjust as to do his brother an injury will (we may well suppose) hardly be so •just as to condemn himself for it! But I respond to the objector as follows [the answer runs to the end of the section]:- If

the state of nature is intolerable because of the evils that are bound to follow from men's being judges in their own cases, and government is to be the remedy for this, •let us do a comparison•. On the one side there is the •state of nature; on the other there is

•government where *one man*—and remember that absolute monarchs are only men!—commands a multitude, is free to be the judge in his own case, and can do what he likes to all his subjects, with no-one being allowed to question or control those who carry out his wishes, and everyone having to put up with whatever he does, whether he is led by reason, mistake or passion.

How much *better* it is in the state of nature, where no man is obliged to submit to the unjust will of someone else, and someone who judges wrongly (whether or not it is in his own case) is answerable for that to the rest of mankind!

14. It is often asked, as though this were a mighty objection: 'Where are there—where ever *were* there—any men in such a state of nature?' Here is an answer that may suffice in the mean time:- The world always did and always will have many men in the state of nature, because all monarchs and rulers of independent governments throughout the world are in that state. I include in this *all* who govern independent communities, whether or not they are in league with others; for the state of nature between men isn't ended just by their making a pact with one another. The only pact that ends the state of nature is one in which men agree together mutually to enter into one community and make one body politic. . . . The promises and bargains involved in bartering between two men on a desert island, . . . or between a Swiss and an Indian in the woods of America, are binding on them even though they are perfectly in a state of nature in relation to one another; for truth and promise-keeping belongs to men

•as men, not •as members of society—i.e. as a matter of natural law, not positive law.

15. To those who deny that anyone was ever in the state of nature, I oppose the authority of the judicious Hooker, who writes:

The laws. . . of nature bind men absolutely, just *as men*, even if they have no settled fellowship, no solemn agreement among themselves about what to do and what not to do. What naturally leads us to seek communion and fellowship with other people is the

fact that on our own we haven't the means to provide ourselves with an adequate store of things that we need for the kind of life our nature desires, a life fit for the dignity of man. It was to make up for *those* defects and imperfections of the solitary life that men first united themselves in politic societies. (*The Laws of Ecclesiastical Polity*, Bk 1, sect. 10)

And I also affirm that all men are naturally in the state of nature, and remain so until they *consent* to make themselves members of some political society. I expect to make all this very clear in later parts of this discourse.

Chapter 9: The purposes of political society and government

123. If man in the state of nature is as free as I have said he is—if he is absolute lord of his own person and possessions, equal to the greatest and subject to nobody—why will he part with his freedom? Why will he give up this lordly status and subject himself to the control of someone else’s power? The answer is obvious:

Though in the state of nature he has an unrestricted right to his possessions, he is far from assured that he will be able to get the *use* of them, because they are constantly exposed to invasion by others. All men are kings as much as he is, every man is his equal, and most men are not strict observers of fairness and justice; so his hold on the property he has in this state is very unsafe, very insecure. This makes him willing to leave a state in which he is very free, but which is full of fears and continual dangers; and not unreasonably he looks for others with whom he can enter into a society for the mutual preservation of their •lives, •liberties and •estates, which I call by the general name •‘property’. (The others may be ones who are already united in such a society, or ones who would like to be so united.)

124. So the great and chief purpose of men’s uniting into commonwealths and putting themselves under government is *the preservation of their property*. The state of nature lacks many things that are needed for this; •I shall discuss three of them•. First, The state of nature lacks •an established, settled, known law, received and accepted by common consent as the standard of right and wrong and as the common measure to decide all controversies. What about the law of nature? Well, it is plain and intelligible to all reasonable

creatures; but men are biased by self-interest, as well as ignorant about the law of nature because they don’t study it; and so they aren’t apt to accept it as a law that will bind them if it is applied to their particular cases.

125. Secondly, the state of nature lacks •a known and impartial judge, with authority to settle all differences according to the established law. In that state everyone is both judge and enforcer of the law of nature, •and few men will play either role well•. Men are partial to themselves, so that passion and revenge are very apt to carry them too far, and with too much heat, in their own cases; and their negligence and lack of concern will make them remiss in other men’s cases.

126. Thirdly, the state of nature often lacks •a power to back up and support a correct sentence, and to enforce it properly. People who have committed crimes will usually, if they can, resort to *force* to retain the benefits of their crime; •this includes using force to resist punishment•; and such resistance often makes the punishment dangerous, even destructive, to those who try to inflict it.

127. Thus mankind are in poor shape while they remain in the state of nature—despite all their privileges there—so that they are quickly driven into society. That is why we seldom find any number of men living together for long in this state. The drawbacks it exposes them to. . . make them take refuge under the established laws of government, and seek there to preserve their property. This is what makes each one of them so willingly give up his power of punishing, a power then to be exercised only by whoever is appointed to that role, this being done by whatever rules are agreed on by the community or by those whom they have authorized to draw

up the rules for them. This is the basic cause, as well as the basic justification, for the legislative and executive powers within a government as well as for the governments and societies themselves.

128. For in the state of nature a man has, along with his liberty to enjoy innocent delights, two powers. The first is to do whatever he thinks fit for the preservation of himself and of others, so far as the law of nature permits. This law makes him and all the rest of mankind into one community, one society, distinct from all other creatures. And if it weren't for the corruption and viciousness of degenerate men, there would be no need for any other law—no need for men to separate from this great natural community and by positive agreements combine into separate smaller associations. [See the explanation of 'positive' on page 3.] The other power a man has in the state of nature is the power to punish crimes committed against the law of nature. He gives up both these powers when he joins in a particular politic society—a *private* one, so to speak—and brings himself into any commonwealth, separate from the rest of mankind.

129. The first power. . . he gives up to be regulated by laws made by the society, so far as is required for the preservation of himself and the rest of the society. Such laws greatly restrict the liberty he had under the law of nature.

130. Secondly, he wholly gives up the power of punishing; the natural force that he could use for punishment in the state of nature he now puts at the disposal of the executive power of the society. Now that he is in a new state, in which he will enjoy many advantages from the labour, assis-

tance, and society of others in the same community, as well as protection from the strength of the community as a whole,

he must also give up something. For

he will have to part with as much of his natural freedom to provide for himself as is required for the welfare, prosperity, and safety of the society.

As well as being necessary, this is *fair*, because the other members of the society are doing the same thing.

131. But though men who enter into society give up the equality, liberty, and executive power they had in the state of nature. . . each of them does this only with the intention of *better* preserving himself, his liberty and property (for no rational creature can be thought to change his condition intending to make it *worse*). So the power of the society or legislature that they create can never be supposed to extend further than the common good. It is obliged to secure everyone's property by providing against the three defects mentioned above in sections 124-6, the ones that made the state of nature so unsafe and uneasy. Whoever has the legislative or supreme power in any commonwealth, therefore, is bound **(1)** to govern by established standing laws, promulgated and known to the people (and not by on-the-spot decrees), with unbiased and upright judges appointed to apply those laws in deciding controversies; and **(2)** to employ the force of the community at home only in the enforcement of such laws, or abroad to prevent or correct foreign injuries and secure the community from attack. And all this is to be directed to the peace, safety, and public good of the people, and to nothing else.

Chapter 19: The dissolution of government

211. Anyone who wants to speak clearly about the dissolution of •government ought first to distinguish that from the dissolution of a •society. What makes a *community*, and brings men out of the loose state of nature into one politic society, is the agreement that everyone has with everyone else to come together and act as one body and so be one distinct commonwealth. When such a union is dissolved, it is almost always through conquest by a foreign force; for when that happens (so that the people can't maintain and support themselves as one unified and independent body), the union constituting that body must necessarily come to an end, returning everyone to the state he was in before, with a liberty to provide for his own safety as he thinks fit, in some other society. Whenever the •society is dissolved, it is certain that the •government of that society can't survive. Conquerors' swords often cut off governments at the roots, mangling to pieces the societies and separating the subdued or scattered multitude from the protection of the society that ought to have preserved them from violence. This way of dissolving of governments is too well known—and too much *allowed*—for me to need to say anything more about it. It doesn't need much argument to show that when a society is dissolved, its government can't survive; just as the frame of a house can't survive when the materials of it are scattered and dissipated by a whirlwind, or jumbled into a confused heap by an earthquake.

212. Governments can be dissolved not only by being overturned from outside but also by being dissolved from within. •There are two ways for this to happen. I shall discuss one in this and the following eight sections, starting on the second in section 221•.

The first way is by the legislature's being altered. Civil society is a state of peace among its members; they are kept from the state of war by the provisions they have made for the legislature to act as umpire, ending any conflicts that may arise among of them. So it is •the legislature that unites the members of a commonwealth, combining them into one coherent living body. •It is the soul that gives form, life, and unity to the commonwealth, bringing its various members into relationships of mutual influence, sympathy, and connection. Therefore, when the legislature is broken or dissolved, dissolution and death follow for the society, because the essence of the society, and its unity, consists in its having *one will*, declared and kept by a legislature established by the majority for that very purpose. The first and fundamental act of a society is the constituting of a legislature. . . . When one or more *other* people take it upon themselves to make laws, without being appointed to do so by the people, they are making laws without authority, so the people aren't obliged to obey; and this is a way for them to come again out of subjection—no longer under *any* government•—and be free to constitute for themselves a new legislature as they think best. For they will be entirely at liberty to resist the force of those who try without authority to impose anything upon them. When those whom the society has chosen to be the declarers of the public will are excluded from that role, and their place usurped by others who have not been appointed to it, everyone is free to do what he likes.

213. This is usually brought about by members of the commonwealth who have some power, and misuse it; so it's hard to think about it clearly, and know who is to blame for it, unless we know the form of government in which it

happens. So let us suppose that the legislature is placed in the agreement of three distinct persons. 1. •A single hereditary person, having the constant, supreme, executive power, and with it the power of convoking and dissolving the other two within certain periods of time. •2. An assembly of hereditary nobility. •3. An assembly of representatives chosen by the people to serve for limited periods of time. With a government of that form, four things are evident. •I shall give them a section each•.

214. First, when such a single person (or king) sets up his own arbitrary will in place of the laws, which are the will of the society as declared by the legislature, then the legislature is changed. What makes something *the legislature* is its issuing rules and laws that are applied and required to be obeyed; so when laws are set up and rules announced and enforced *other than* those enacted by the legislature that the society has set up, it is clear that the legislature has been changed. Whoever subverts the old laws or introduces new laws without the authority of fundamental appointment [Locke's phrase] by the society thereby disowns and overturns the power by which the old laws were made, and in that way sets up a new legislature.

215. Secondly, when the king prevents the legislature from assembling at its due time, or from acting freely to achieve the purposes for which it was set up, the legislature is altered. What constitutes a legislature is not merely •a certain number of men, or •a certain number of men *meeting together*, unless they have the freedom to discuss and enough time to complete the business of the good of the society. When the freedom or the time is taken away or altered, depriving the society of the •fruits of• the proper exercise of the legislature's power, the legislature is truly altered. . . . He who takes away the freedom or blocks the

action of the legislature in its due seasons in effect takes away the legislature and puts an end to the government.

216. Thirdly, when, by the arbitrary power of the king changes are made in •who is to vote •for members of the legislature• or in •how that vote is to be conducted, without the consent of the people and contrary to their common interests, there again the legislature is altered. For if the voting is done by people other than those whom the society has authorized to vote, or is done in another way than what the society has prescribed, those chosen are not the legislature appointed by the people.

217. Fourthly, if the people are delivered into the subjection of a foreign power, whether by the king or by the legislature, that is certainly a change of the legislature and thus a dissolution of the government. . . .

218. It is obvious why, in a three-part form of government such as I supposed in section 213, the dissolution of the government in these ways is to be blamed on the king. He has at his disposal the force, the treasure and the offices of the state, and he may persuade himself—or be flattered by others into thinking—that as the supreme officer of the law he isn't under any control. Because of all this, he is the only one in a position to make great advances toward such changes •of the legislature• with a pretence of lawful authority; and he alone has available to him the means to terrify or suppress any who oppose him, saying that they are factious, seditious, and enemies to the government. In contrast with him, no other part of the legislature or the people as a whole can by themselves try to alter the legislature except by open and visible rebellion. . . ., and when *this* prevails it has much the same effects as foreign conquest. Besides, the king in such a form of government has the power of dissolving the other parts of the legislature, thereby turning them into private

persons; so they can never in opposition to him (or without his agreement) alter the legislature by a law, his consent being necessary to make any of their decrees valid. But if the other parts of the legislature *do* in any way contribute to any attempt on the government, and either promote such designs or fail to block them when they could have done so, they are guilty of taking part in this, which is certainly the greatest crime men can be guilty of towards one another.

219. There is one more way for such a government to be dissolved, and that is when ‘the king’, he who has the supreme executive power, neglects and abandons his function so that laws that have already been made can no longer be •enforced. This is to reduce everything inevitably and immediately to anarchy, and so in effect to dissolve the government. Laws are not made for their own sakes but so as to serve as the bonds of the society that will keep every part of the body politic in its proper place and function; and they can do that only if they are •enforced. When enforcement stops, the government visibly comes to an end and the people become a confused, disorderly, disconnected multitude. When there is no longer any administration of justice for securing men’s rights, and no remaining power within the community to direct the public’s force or provide for its necessities, there is certainly no government left. When the laws can’t be *applied* it is the same as having no laws, and a government without laws is an absurdity. . . .

220. In cases like these, when the government is dissolved the people are at liberty to provide for themselves by setting up a new legislature that differs from the previous one either in its personnel or its structure or both, depending on what the people find to be best for their safety and welfare. For a society can’t ever through someone else’s fault lose its inborn original right to preserve itself, which it can do only through

a settled legislature and a fair and impartial application of the laws the legislature makes. But the state of mankind is not so miserable that they can’t use this remedy until it is too late, ‘which is how things would stand if they couldn’t work towards a remedy until the government had entirely collapsed’. When a government has *gone*—whether by oppression, trickery, or being handed over to a foreign power—telling the people ‘You may provide for yourselves by setting up a new legislature’ is only telling them that they may expect relief when it is too late and the evil is past cure. It amounts to telling them to be slaves first, and then to take care of their liberty; and telling them when their chains are on that they may act like freemen. This is mockery rather than relief. Men can never be secure from tyranny if they have no way to escape from it until they are completely *under* it. And that’s why they have not only a right to get out of it but also a right to prevent it.

221. That brings us to the second way in which governments are dissolved (‘discussion of the first began in section 212’), namely when the •legislature or the •king act contrary to their trust. ‘I shall discuss this in two parts. The •legislature will be dealt with in this and the following ten sections; the king will come into section 222, but only as manipulating the legislature. Discussion of the •king as acting other than through the legislature will start at section 232’. The legislature acts against the trust given to them when they try to invade the property of the subject, and to make themselves—or any part of the community—masters of the lives, liberties, or fortunes of the people, having all of these at the disposal of their will.

222. . . . It can never be supposed to be the will of the society that the legislature should have a power to destroy what everyone aimed to keep safe by entering into society and

submitting themselves to legislators of their own making. So when the legislators try to take away and destroy the property of the people or to reduce them to slavery, they put themselves into a state of war with the people, who are thereby absolved from any further obedience and are left to the common escape that God has provided for all men against force and violence. So whenever the legislature breaks this fundamental rule of society and—whether through ambition, fear, folly or corruption—try to grasp for themselves or for anyone else 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 different purposes. And then the people have a right to resume their original ·natural· liberty, and to set up a new legislature. . . .to provide for their own safety and security. . . . What I have said here about the legislature in general holds true also for the supreme executive, ·the king·. He has a double trust put in him, both •to have a part in the legislature and •to be in charge of the enforcement of the law; and he acts against *both* when he tries to set up his own arbitrary will as the law of the society. He also acts contrary to his trust when he either •employs the force, treasure, and offices of the society to corrupt the representatives and win them over to his schemes; or •openly courts the electorate, persuading them to choose the legislators whom he has already won over to his side by persuasion, threats, promises, or whatever—thus getting the electorate to bring in ones who have promised before-hand how they will vote and what legislation they will pass. Regulating candidates and electors in this way, re-shaping the electoral procedures—what is this but digging up the government by the roots, and poisoning the very fountain of public security? The people kept *for themselves* the choice of their representatives, as the fences around their properties; and the only reason they could have for this was

so that the representatives would always be freely chosen, and—having been chosen—would freely act and advise in ways that they judged, after examination and mature debate, to be necessary for the commonwealth and the public good. Representatives can't do this if they have given their votes in advance, before hearing the debate and weighing the reasons on all sides. For someone to prepare such a ·legislative· assembly as *this*, and try to set up the declared supporters of his own will as the true representatives of the people and the law-makers of the society, is certainly as great a breach of trust, and as complete an admission that he plans to subvert the government, as could be met with. If there is any doubt as to whether that is what is going on, it will be blown away if rewards and punishments are visibly employed for the same purpose, with all the tricks of perverted law being used to eliminate and destroy all who stand in the way of such a design and refuse to go along with and consent to betraying the liberties of their country. It is easy to see what power in the society ought to be allowed to those who have used their power contrary to the trust with which they were given it; anyone can see that someone who has once attempted such a thing as this can no longer be trusted ·with anything·.

223. You may want to object:

The people are ignorant and always discontented. To base government on *their* unsteady opinions and uncertain moods is to expose it to certain ruin. No government can last for long if the people can set up a new legislature whenever they take offence at the old one.

I answer, Quite the contrary! It is harder to get people out of their old forms ·of government· than some writers are apt to suggest. It is almost impossible to get them to amend the admitted faults in the system they have grown used

to. And if there are any systemic defects, or less deep ones introduced by decay or by the passage of time, it's hard to get them changed even when everyone sees that there's an opportunity to do so. This slow reluctance of the people to give up their old constitutions has, in the many revolutions that have occurred in this kingdom recently and in earlier centuries, still kept us to our old legislature of •king, •lords and •commons (or, when we didn't *keep* to it, there was a period of fruitless attempts ·to have a different form of government·, after which we *returned* to the system of king, lords, and commons). And whatever provocations have made the crown be taken from some of our monarchs' heads, they never carried the people so far as to give it to someone who is not in the same line of descent.

224. 'But', it will be said, 'this hypothesis creates a ferment for frequent rebellion!' To which I have three answers. •First, It doesn't do so more than any other hypothesis does: for when the people are made miserable and find themselves exposed to mistreatment by arbitrary power,

praise their governors as much as you will as sons of Jupiter, let them be sacred and divine, descended from heaven or authorized by it, make them out to be anyone or anything you please,

and the same thing will happen! The people who are generally and wrongfully ill-treated will be ready on any occasion to free themselves of a burden that sits heavily on them. They will want an opportunity to do this, and will look for one; and in the changes, weakness and accidents of human affairs they usually won't have to look for long. Someone who hasn't seen examples of this in his own lifetime must be very young, and someone who can't cite examples of it in all sorts of governments in the world can't have read much!

225. •Secondly, I answer that such revolutions don't happen with every little mismanagement in public affairs. Great mistakes by the rulers, many wrong and inconvenient laws, and all the slips of human frailty—these will be born by the people without mutiny or murmur. But if a long series of abuses, lies, and tricks, all tending the same way, make the *design* visible to the people so that they can't help •feeling what they are oppressed by and •seeing where they are going, it's not surprising that they should then rouse themselves and try to put the ruling power into hands that will achieve for them the purposes for which government was at first established. When those purposes are not achieved, ·governments based on· ancient names and glittering rituals are no better than the state of nature, or pure anarchy. Indeed, they are *worse*, because under such governments the inconveniences are as great and as near as in the state of nature, and the remedy ·for them· further off and more difficult.

226. •Thirdly, to the charge that this hypothesis 'creates a ferment for frequent rebellion' I answer that ·on the contrary· this doctrine giving the people a power to provide anew for their safety by establishing a new legislature, when their legislators have acted contrary to their trust by invading their property, is the best *barrier* to rebellion and the best means to *block* it. Here is why. Rebellion is opposition not to •persons but to •authority, of which the only basis is the constitutions and laws of the government. So those who by force break through, and by force justify their violation of the constitution and laws, are truly and properly *rebels*. For when men by entering into society and civil-government have excluded force and introduced laws for the preservation of property, peace, and unity among themselves, those who set up force again in opposition to the laws do *rebellare*,

that is, bring back *again* the state of *war* [*bellare* is Latin for 'make war', so that 'rebel' = *rebellare* = 'make war again']. Those who are most likely to rebel against the constitution and the laws are those who are in power, because of their claim to authority, the temptation of the force they have at their disposal, and the flattery of those around them; and the best way to prevent this evil is to show those likely offenders the danger and injustice of it.

227. In both of the aforementioned cases, where

the legislature is changed,

and where

the legislators act contrary to the purpose for which they were made legislators,

those who are guilty are *guilty of rebellion*. [The rest of the section explains this. The explanation is very wordy, and can easily be worked out from what has gone before. In brief: someone who changes the legislature or who as a legislator acts contrary to his trust thereby introduces a state of war, he wars-again, he rebels.]

228. Those who say I am laying a foundation for rebellion mean that my doctrine may lead to civil wars or internal unrest. What do they infer from that?

I tell the people •that they are absolved from obedience when illegal attempts are made upon their liberties or properties, and •that they may oppose the unlawful violence of those who were their law-officers, when they invade their properties contrary to the trust put in them.

Do my opponents hold that this doctrine of mine is not to be allowed because it is so destructive to the peace of the world? That would be like saying that honest men may not oppose robbers or pirates because this may lead to disorder or bloodshed! If any harm comes about in such a case, it

is not to be charged against him who defends his own right but against him who attacks his neighbours. [The rest of the section jeeringly elaborates this comparison. A typical sample: 'Who would not think it an admirable peace between the powerful and the weak when the lamb passively yields his throat to be torn by the imperious wolf?']

229. The purpose of government is the good of mankind. Which is better for mankind: that the people be always exposed to the limitless will of tyranny, or that the rulers be sometimes liable to meet with opposition when they grow exorbitant in the use of their power and use it for the destruction and not the preservation of the properties of their people?

230. Don't say: 'Mischief can arise from that whenever it shall please a busy head or turbulent spirit [Locke's phrase] to want to alter the government.' Indeed, men like that may stir up trouble whenever they please, but it will be only to their own rightful ruin and perdition. That is because the people, who are more disposed to suffer than to right themselves by resistance, are not likely to rise up until the mischief has become general, and the wicked schemes of the rulers have become visible or their attempts have made themselves felt in the lives of the majority. They are not moved by individual examples of injustice, here and there an unfortunate man oppressed. But if they all become convinced on clear evidence that schemes are being launched against their liberties, and the general course and tendency of things forces them to suspect the evil intention of their governors, who is to be blamed for that? Who can help it if rulers bring themselves under this suspicion when they could have avoided it? Are the people to be blamed if they have the sense of rational creatures, and think of things as they find and feel them? . . . I grant that the pride, ambition,

and turbulence of private men have sometimes caused great disorders in commonwealths, and factions have been fatal to states and kingdoms. But whether the mischief has oftener begun in

- the people's irresponsibility and a desire to throw off the lawful authority of their rulers, or in
- the rulers' insolence and attempts to get and exercise an arbitrary power over their people,

i.e. whether it has usually been

- disobedience or •oppression

that started the disorder, I leave to impartial history to decide. I am sure of this, though. Anyone—whether ruler or subject—who by force tries to invade the rights of either monarch or people, and lays the foundation for overturning the constitution and structure of any just government, is highly guilty of the greatest crime a man is capable of. Such a person must answer for all the mischiefs of blood, looting, and desolation that come on a country when its government is broken to pieces. And he who does it should be regarded as the common enemy and pest of mankind, and treated accordingly.

231. Everyone agrees that •subjects or •foreigners who bring force against the properties of any people may be resisted with force. But it has recently been denied that one may resist •law-officers who do the same thing. As if those to whom the laws give the greatest privileges and advantages automatically get also a power to *break* those laws, the very laws that put them in a better place than their brethren! Actually, their privileged position makes their offence even worse: in it they •show themselves as ungrateful for the bigger share that the law gives them, and they •break the trust that was put into their hands by their brethren.

232. Anyone who uses force without right (as everyone in society *does* if he uses force without law) puts himself into a •state of war with those against whom he uses it; and in •that state all former bonds are cancelled, all other rights cease, and everyone has a right to defend himself, and to resist the aggressor. This is so obvious that Barclay himself, that great assertor of the power and sacredness of kings, is forced to admit that *it is sometimes lawful for the people to resist their king*; and he says it, what's more, in a chapter in which he offers to show that the divine law blocks the people from every kind of •rebellion! In fact his own doctrine makes it clear that since the people may •resist in some cases, not all resistance to monarchs is rebellion. His words are these. [Locke gives them first in Latin in this section, then in English occupying the whole of the next section.]

233. Someone may ask:

Must the people then always lay themselves open to the cruelty and rage of tyranny? Must they see their cities pillaged and reduced to ashes, their wives and children exposed to the tyrant's lust and fury, and themselves and their households brought by their king to ruin and to all the miseries of want and oppression—and yet *sit still*? The common privilege of opposing force with force, which nature allows so freely to all other creatures for their preservation from injury—must men *alone* be debarred from having it?

I answer that self-defence is a part of the law of nature, and it can't be denied to the community, even against the king himself; but that law doesn't allow them to *revenge* themselves upon him. So if the king in hatred sets himself not merely against this or that person but against the body of the commonwealth of which he is the head, and with intolerable ill usage cruelly tyrannizes over all or many

of the people, *then* the people have a right to resist and defend themselves from injury. But in doing this they must be careful only to •defend themselves, and not to •attack their king. They may make good the damages they have received, but must not under *any* provocation cross the line of appropriate reverence and respect. They may push back the present attempt but must not take *revenge* for past violences; for it is natural for us to •defend life and limb, but it is against nature for •an inferior to *punish* a superior. . . . So this is the privilege of the people in general, as compared with any private person: particular men. . . . have no other remedy but patience, whereas the body of the people may respectfully resist intolerable tyranny. •I stress *intolerable*; for when the tyranny is only moderate they ought to endure it•. [End of quotation from Barclay]

234. That is the extent to which this great advocate of monarchical power allows for resistance.

235. It is true that he has put two limitations on such resistance. First, •it must be done with reverence. Secondly, •it must be without retribution or punishment because an inferior cannot punish a superior. First, it will need some skill to make clear how one is to resist force without striking back, or how to strike with reverence! Someone who opposes an assault with nothing but a shield to take the blows, or in some more respectful posture but without a sword in his hand tries to lessen the assailant's confidence and force, will quickly come to the end of his resistance and will find that such a defence will only serve to make things worse for him. [Locke now quotes the Latin poet Juvenal to that effect. Then:] This will always be the outcome of such an imaginary 'resistance' in which men may not strike back. So someone who is allowed to resist must be allowed to strike. And then let our author or anyone else join a knock

on the head or a cut on the face with as much reverence and respect as he thinks fit. For all I know, someone who can reconcile blows with reverence deserves to be rewarded for his •reconciling• labours by being beaten up only in a civil and respectful manner. Secondly, *An inferior cannot punish a superior*. That is true, generally speaking, while he is his superior. But resisting force with force is the state of *war* that levels the ground and cancels all former relations of reverence, respect, and superiority. The only superior/inferior relationship that remains is this: he who opposes the unjust aggressor is his superior in that he has a right when he wins to punish the offender, both for the breach of the peace and for all the evils that followed from it. So Barclay is more consistent with himself when, in another place, he denies that it is *ever* lawful to resist a king. But in that place he describes two ways in which a king *may* un-king himself. [Again Locke gives them first in Latin, starting in this section and running on to the end of **236**, and then in English in the following two sections.]

237. . . . The people can never come by a power over the king unless he does something that makes him cease to be a king. When he does that, he divests himself of his crown and dignity, and returns to the state of a private man; and then the people become free and superior, regaining the power that they had. . . . before they crowned him king. But there aren't many ways for this to happen. After considering it thoroughly I can find only two cases in which a king ceases to be a king and loses all power and regal authority over his people. . . . The first is, •if he tries to overturn the government, that is, if he plans to ruin the kingdom and commonwealth. An example is Nero, of whom it is recorded that he resolved to cut off the senate and people of Rome, lay the city waste with fire and sword, and then go to some other place. And

Caligula is reported to have openly declared that he would no longer be a head to the people or the senate, and that he was thinking of cutting off the worthiest men of both ranks and then retiring to Alexandria; and that he wished that the people had only one neck so that he could kill them all by one blow. When any king harbours in his thoughts such plans as these, and seriously promotes them, he thereby gives up all care and thought of the commonwealth, and consequently loses the power of governing his subjects—just as a master loses command over his slaves when he abandons them.

238. The other case is •when a king makes himself dependent on someone else, and subjects his kingdom—left to him by his ancestors and freely put into his hands by the people—to the command of that other person. Even if the king doesn't *intend* to harm the people, he has *alienated* [here = 'made to be foreign'] his kingdom: because he has •given up the principal part of royal dignity, namely being immediately under God supreme in his kingdom; and also •because he betrayed or forced his people, whose liberty he ought to have carefully preserved, into the power and dominion of a foreign nation. By this alienation (as it were) of his kingdom he loses the power he had in it previously, without transferring the faintest right to those to whom he wants to give the power; and so by this he act sets the people free, leaving them to behave as they see fit. [End of quotation from Barclay]

239. Barclay, the great champion of absolute monarchy, is forced to allow that in these cases a king may be resisted and stops being a king. Cutting a long story short: *when he has no authority he is no king, and may be resisted*, for where the authority ceases the king ceases too, and becomes like other men who have no authority. The two circumstances that Barclay mentions don't differ much from the ones I cited as destructive to governments. The only difference is that

he omits the principle from which his doctrine flows, namely the breach of trust involved in •not preserving the form of government that had been agreed on, and in •not aiming to achieve the purpose of government as such, which is the public good and preservation of property. When a king has dethroned himself and entered a state of war against his people, what is to hinder them from prosecuting him—no longer a king—as they would any other man who has made war against them? Barclay and those who agree with him would do well to answer that. Notice that Barclay says that the people may prevent *planned* harm before it occurs; so he allows resistance when tyranny is still at the design stage. He says that when any king harbours in his thoughts and seriously promotes such designs, he immediately gives up all care and thought of the commonwealth; so that according to Barclay the neglect of the public good is to be taken as an evidence of such a design, or at least as a sufficient ground for resistance. And he gives the reason for all this in these words: 'Because he betrayed or forced his people, whose liberty he ought carefully to have preserved. . . .' What he adds, namely '. . . into the power and dominion of a foreign nation', signifies nothing; because the fault and forfeiture comes from the loss of their liberty, which he ought to have preserved, and not from any facts about *which* persons the power was handed over to. Whether they are made slaves to members of their own nation or a foreign one, the people's right is invaded and their liberty lost, just the same; and *this* is the injury, and against only *this* do they have the right of defence. And there are instances to be found in all countries which show that what gives offence is not the change of *nationality in their governors* but the change of *government*. [Locke then names several writers who agree with his position and who cannot be suspected to be ignorant of our government or to be enemies to it'. And

he writes scornfully of those who have endorsed Hooker's political conclusions while denying his Lockean premises. Their work, he says, can be twisted around by 'cunninger workmen' to serve even worse purposes. He describes the latter as men who were willing when it suited them to 'resolve all government into absolute tyranny, and hold that all men are born to slavery, which is what their skimpy souls fitted them for'.]

240. At this point you are likely to ask:

Who is to be the judge of whether the monarch or legislature have acted contrary to their trust? That they *have* so acted is the sort of thing that can be spread around among the people by discontented and factious men, when all the king has done is to make use of his legitimate prerogative.

To this I reply, *The people should be judge*; for who should judge whether a trustee or deputy has acted well and according to the trust reposed in him, if not the person who deposes him? Having deputed him, he must have still a power to discard him when he fails in his trust. If this is reasonable in particular cases of private men, why should it be otherwise in this most important case where the welfare of millions is concerned, and where the threatened evil is greater, and redressing it is very difficult, costly, and dangerous?

241. Furthermore, the question 'Who is to be the judge?' can't mean that there is no judge at all; for when there is no judicature on earth to decide controversies among men, God in heaven is the judge. It is true that God alone is the judge of what is right. But every man is judge for himself, in this case as in all others, of whether another man has put himself into a state of war with him, and whether he should appeal to the supreme judge.

242. If a controversy arises between a king and *some* of the people, in a matter of great importance where the law

is silent, or doubtful, I think the right umpire would be the body of the people. For in cases where the king has a trust placed in him and is dispensed from the common ordinary rules of the law, if any *private* men are aggrieved and think that the king acts beyond that trust or contrary to it, the body of the people who first placed that trust in him are clearly the best judges of how far they meant the trust to extend. If that way of settling the matter is turned down by the king, or whoever is administering the government, the only court of appeal is in heaven. . . . What we have here is properly a state of war, in which the only appeal is to heaven; and in that state the injured party must judge for himself when it is fit for him to make such an appeal.

243. To conclude, the power that every individual gave to the society when he entered into it can never revert to the individuals again as long as the society lasts, but will always remain in the community; because without this there can't be a community, a commonwealth, and that would be contrary to the original agreement. So also when the society has placed the legislative power in any assembly of men, to continue in them and their successors with direction and authority for providing such successors, the legislative power can never revert to the people while that government lasts; because having provided a legislature with power to continue for ever, they have given to it their political power and cannot get it back. But •if they have set limits to the duration of their legislature, and given this supreme power to some person or assembly only temporarily, or •if it is forfeited through the misbehaviour of those in authority, •at the set time or •at the time of the forfeiture the power does revert to the society, and then the people have a right to act as supreme and to continue the legislature in themselves; or to set up a new form of government, or retain the old form while placing it in new hands, as they see fit.

BOOK XI.: OF THE LAWS WHICH ESTABLISH POLITICAL LIBERTY, WITH REGARD TO THE CONSTITUTION.

CHAP. I.: A general Idea.

I make a distinction between the laws that establish political liberty, as it relates to the constitution, and those by which it is established, as it relates to the citizen. The former shall be the subject of this book; the latter I shall examine in the next.

CHAP. II.: Different Significations of the Word, Liberty.

THERE is no word that admits of more various significations, and has made more different impressions on the human mind, than that of *liberty*. Some have taken it for a facility of deposing a person on whom they had conferred a tyrannical authority: others, for the power of choosing a superior whom they are obliged to obey; others, for the right of bearing arms, and of being thereby enabled to use violence: others, in fine, for the privilege of being governed by a native of their own country, or by their own laws. * A certain nation, for a long time, thought liberty consisted in the privilege of wearing a long beard. † Some have annexed this name to one form of government exclusive of others: those who had a republican taste applied it to this species of polity: those who liked a monarchical state gave it to monarchy. ‡ Thus they have all applied the name of *liberty* to the government most suitable to their own customs and inclinations; and as, in republics, the people have not so constant and so present a view of the causes of their misery, and as the magistrates seem to act only in conformity to the laws, hence liberty is generally said to reside in republics, and to be banished from monarchies. In fine, as in democracies the people seem to act almost as they please, this sort of government has been deemed the most free, and the power of the people has been confounded with their liberty.

CHAP. III.: In what Liberty consists.

IT is true that, in democracies, the people seem to act as they please; but political liberty does not consist in an unlimited freedom. In governments, that is, in

societies directed by laws, liberty can consist only in the power of doing what we ought to will, and in not being constrained to do what we ought not to will.

We must have continually present to our minds the difference between independence and liberty. Liberty is a right of doing whatever the laws permit; and, if a citizen could do what they forbid, he would be no longer possessed of liberty, because all his fellow-citizens would have the same power.

CHAP. IV.: The same Subject continued.

DEMOCRATIC and aristocratic states are not in their own nature free. Political liberty is to be found only in moderate governments; and even in these it is not always found. It is there only when there is no abuse of power: but constant experience shews us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go. Is it not strange, though true, to say, that virtue itself has need of limits?

To prevent this abuse, it is necessary, from the very nature of things, power should be a check to power. A government may be so constituted, as no man shall be compelled to do things to which the law does not oblige him, nor forced to abstain from things which the law permits.

CHAP. V.: Of the End or View of different Governments.

THOUGH all governments have the same general end, which is that of preservation, yet each has another particular object. Increase of dominion was the object of Rome; war, that of Sparta; religion, that of the Jewish

laws; commerce, that of Marseilles; public tranquillity, that of the laws of China ^{*} ; navigation, that of the laws of Rhodes; natural liberty, that of the policy of the savages; in general, the pleasures of the prince, that of despotic states; that of monarchies, the prince's and the kingdom's glory: the independence of individuals is the end aimed at by the laws of Poland; from thence results the oppression of the whole. [†]

One nation there is also in the world, that has, for the direct end of its constitution, political liberty. We shall presently examine the principles on which this liberty is founded: if they are sound, liberty will appear in its highest perfection.

To discover political liberty in a constitution, no great labour is requisite. If we are capable of seeing it where it exists, it is soon found, and we need not go far in search of it.

CHAP. VI.: Of the Constitution of England.

IN every government there are three sorts of power: the legislative; the executive in respect to things dependent on the law of nations; and the executive in regard to matters that depend on the civil law.

By virtue of the first, the prince or magistrate enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies, establishes the public security, and provides against invasions. By the third, he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other, simply, the executive power of the state.

The political liberty of the subject is a tranquillity of mind arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.

There would be an end of every thing, were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.

Most kingdoms in Europe enjoy a moderate government, because the prince, who is invested with the two first powers, leaves the third to his subjects.

In Turkey, where these three powers are united in the sultan's person, the subjects groan under the most dreadful oppression.

In the republics of Italy, where these three powers are united, there is less liberty than in our monarchies. Hence their government is obliged to have recourse to as violent methods, for its support, as even that of the Turks; witness the state-inquisitors, * and the lion's

mouth into which every informer may at all hours throw his written accusations.

In what a situation must the poor subject be, under those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and, as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions.

The whole power is here united in one body; and, though there is no external pomp that indicates a despotic sway, yet the people feel the effects of it every moment.

Hence it is that many of the princes of Europe, whose aim has been levelled at arbitrary power, have constantly set out with uniting, in their own persons, all the branches of magistracy, and all the great offices of state.

I allow, indeed, that the mere hereditary aristocracy of the Italian republics does not exactly answer to the despotic power of the Eastern princes. The number of magistrates sometimes moderates the power of the magistracy; the whole body of the nobles do not always concur in the same design; and different tribunals are erected, that temper each other. Thus, at Venice, the legislative power is in the *council*, the executive in the *pregadi*, and the judiciary in the *quarantia*. But the mischief is, that these different tribunals are composed of magistrates all belonging to the same body; which constitutes almost one and the same power.

The judiciary power ought not to be given to a standing senate; it should be exercised by persons taken from the body of the people, * at certain times of the year, and consistently with a form and manner prescribed by

law, in order to erect a tribunal that should last only so long as necessity requires.

By this method, the judicial power, so terrible to mankind, not being annexed to any particular state or profession, becomes, as it were, invisible. People have not then the judges continually present to their view; they fear the office, but not the magistrate.

In accusations of a deep and criminal nature, it is proper the person accused should have the privilege of choosing, in some measure, his judges, in concurrence with the law; or, at least, he should have a right to except against so great a number, that the remaining part may be deemed his own choice.

The other two powers may be given rather to magistrates or permanent bodies, because they are not exercised on any private subject; one being no more than the general will of the state, and the other the execution of that general will.

But, though the tribunals ought not to be fixt, the judgements ought; and to such a degree, as to be ever conformable to the letter of the law. Were they to be the private opinion of the judge, people would then live in society without exactly knowing the nature of their obligations.

The judges ought likewise to be of the same rank as the accused, or, in other words, his peers; to the end, that he may not imagine he is fallen into the hands of persons inclined to treat him with rigour.

If the legislature leaves the executive power in possession of a right to imprison those subjects who can give security for their good behaviour, there is an end of liberty; unless they are taken up in order to answer, without delay, to a capital crime; in which case

they are really free, being subject only to the power of the law.

But, should the legislature think itself in danger, by some secret conspiracy against the state, or by a correspondence with a foreign enemy, it might authorize the executive power, for a short and limited time, to imprison suspected persons, who, in that case, would lose their liberty only for a while, to preserve it for ever.

And this is the only reasonable method that can be substituted to the tyrannical magistracy of the *Ephori*, and to the *state inquisitors* of Venice, who are also despotical.

As, in a country of liberty, every man who is supposed a free agent ought to be his own governor, the legislative power should reside in the whole body of the people. But, since this is impossible in large states, and in small ones is subject to many inconveniences, it is fit the people should transact by their representatives what they cannot transact by themselves.

The inhabitants of a particular town are much better acquainted with its wants and interests than with those of other places; and are better judges of the capacity of their neighbours than of that of the rest of their countrymen. The members, therefore, of the legislature should not be chosen from the general body of the nation; but it is proper, that, in every considerable place, a representative should be elected by the inhabitants.

The great advantage of representatives is, their capacity of discussing public affairs. For this, the people collectively are extremely unfit, which is one of the chief inconveniences of a democracy.

It is not at all necessary that the representatives, who have received a general instruction from their

constituents, should wait to be directed on each particular affair, as is practised in the diets of Germany. True it is, that, by this way of proceeding, the speeches of the deputies might, with greater propriety, be called the voice of the nation; but, on the other hand, this would occasion infinite delays; would give each deputy a power of controlling the assembly; and, on the most urgent and pressing occasions, the wheels of government might be stopped by the caprice of a single person.

When the deputies, as Mr. Sidney well observes, represent a body of people, as in Holland, they ought to be accountable to their constituents; but it is a different thing in England, where they are deputed by boroughs.

All the inhabitants of the several districts ought to have a right of voting at the election of a representative, except such as are in so mean a situation as to be deemed to have no will of their own.

One great fault there was in most of the ancient republics, that the people had a right to active resolutions, such as require some execution, a thing of which they are absolutely incapable. They ought to have no share in the government but for the choosing of representatives, which is within their reach. For, though few can tell the exact degree of men's capacities, yet there are none but are capable of knowing, in general, whether the person they choose is better qualified than most of his neighbours.

Neither ought the representative body to be chosen for the executive part of government, for which it is not so fit; but for the enacting of laws, or to see whether the laws in being are duly executed; a thing suited to their abilities, and which none indeed but themselves can properly perform.

In such a state, there are always persons distinguished by their birth, riches, or honours: but, were they to be confounded with the common people, and to have only the weight of a single vote, like the rest, the common liberty would be their slavery, and they would have no interest in supporting it, as most of the popular resolutions would be against them. The share they have, therefore, in the legislature ought to be proportioned to their other advantages in the state; which happens only when they form a body that has a right to check the licentiousness of the people, as the people have a right to oppose any encroachment of theirs.

The legislative power is, therefore, committed to the body of the nobles, and to that which represents the people; each having their assemblies and deliberations apart, each their separate views and interests.

Of the three powers abovementioned, the judiciary is, in some measure, next to nothing: there remain, therefore, only two: and, as these have need of a regulating power to moderate them, the part of the legislative body composed of the nobility is extremely proper for this purpose.

The body of the nobility ought to be hereditary. In the first place, it is so in its own nature; and, in the next, there must be a considerable interest to preserve its privileges: privileges, that, in themselves, are obnoxious to popular envy, and of course, in a free state, are always in danger.

But, as an hereditary power might be tempted to pursue its own particular interests, and forget those of the people, it is proper, that, where a singular advantage may be gained by corrupting the nobility, as in the laws relating to the supplies, they should have no other share in the legislation than the power of rejecting, and not that of resolving.

By the *power of resolving*, I mean, the right of ordaining by their own authority, or of amending what has been ordained by others. By the *power of rejecting*, I would be understood to mean, the right of annulling a resolution taken by another; which was the power of the tribunes at Rome. And, though the person possessed of the privilege of rejecting may likewise have the right of approving, yet this approbation passes for no more than a declaration that he intends to make no use of his privilege of rejecting, and is derived from that very privilege.

The executive power ought to be in the hands of a monarch, because this branch of government, having need of dispatch, is better administered by one than by many: on the other hand, whatever depends on the legislative power, is oftentimes better regulated by many than by a single person.

But, if there were no monarch, and the executive power should be committed to a certain number of persons, selected from the legislative body, there would be an end of liberty, by reason the two powers would be united; as the same persons would sometimes possess, and would be always able to possess, a share in both.

Were the legislative body to be a considerable time without meeting, this would likewise put an end to liberty. For, of two things, one would naturally follow; either that there would be no longer any legislative resolutions, and then the state would fall into anarchy; or that these resolutions would be taken by the executive power, which would render it absolute.

It would be needless for the legislative body to continue always assembled. This would be troublesome to the representative, and moreover would cut out too much work for the executive power, so as to take off its attention to its office, and oblige it to think only of

defending its own prerogatives and the right it has to execute.

Again, were the legislative body to be always assembled, it might happen to be kept up only by filling the places of the deceased members with new representatives; and, in that case, if the legislative body were once corrupted, the evil would be past all remedy. When different legislative bodies succeed one another, the people, who have a bad opinion of that which is actually sitting, may reasonably entertain some hopes of the next: but, were it to be always the same body, the people, upon seeing it once corrupted, would no longer expect any good from its laws; and, of course, they would either become desperate or fall into a state of indolence.

The legislative body should not meet of itself. For a body is supposed to have no will but when it is met: and besides, were it not to meet unanimously, it would be impossible to determine which was really the legislative body, the part assembled, or the other. And, if it had a right to prorogue itself, it might happen never to be prorogued; which would be extremely dangerous, in case it should ever attempt to encroach on the executive power. Besides, there are seasons (some more proper than others) for assembling the legislative body: it is fit, therefore, that the executive power should regulate the time of meeting, as well as the duration, of those assemblies, according to the circumstances and exigences of a state, known to itself.

Were the executive power not to have a right of restraining the encroachments of the legislative body, the latter would become despotic: for, as it might arrogate to itself what authority it pleased, it would soon destroy all the other powers.

But it is not proper, on the other hand, that the legislative power should have a right to stay the

executive. For, as the execution has its natural limits, it is useless to confine it: besides, the executive power is generally employed in momentary operations. The power, therefore, of the Roman tribunes was faulty, as it put a stop not only to the legislation, but likewise to the executive part of government; which was attended with infinite mischiefs.

But, if the legislative power, in a free state, has no right to stay the executive, it has a right, and ought to have the means, of examining in what manner its laws have been executed; an advantage which this government has over that of Crete and Sparta, where the Cosmi and the Ephori gave no account of their administration.

But, whatever may be the issue of that examination, the legislative body ought not to have a power of arraigning the person, nor, of course, the conduct, of him who is entrusted with the executive power. His person should be sacred, because, as it is necessary, for the good of the state, to prevent the legislative body from rendering themselves arbitrary, the moment he is accused or tried there is an end of liberty.

In this case, the state would be no longer a monarchy, but a kind of republic, though not a free government. But, as the person, intrusted with the executive power, cannot abuse it without bad counsellors, and such as hate the laws as ministers, though the laws protect them, as subjects these men may be examined and punished: an advantage which this government has over that of *Gnidus*, where the law allowed of no such thing as calling the *Amymones* * to an account, even after their administration † ; and therefore the people could never obtain any satisfaction for the injuries done them.

Though, in general, the judiciary power ought not to be united with any part of the legislative, yet this is liable

to three exceptions, founded on the particular interest of the party accused.

The great are always obnoxious to popular envy; and, were they to be judged by the people, they might be in danger from their judges, and would moreover be deprived of the privilege, which the meanest subject is possessed of in a free state, of being tried by his peers. The nobility, for this reason, ought not to be cited before the ordinary courts of judicature, but before that part of the legislature which is composed of their own body.

It is possible that the law, which is clear-sighted in one sense, and blind in another, might, in some cases, be too severe. But, as we have already observed, the national judges are no more than the mouth that pronounces the words of the law, mere passive beings, incapable of moderating either its force or rigour. That part, therefore, of the legislative body, which we have just now observed to be a necessary tribunal on another occasion, is also a necessary tribunal in this: it belongs to its supreme authority to moderate the law in favour of the law itself, by mitigating the sentence.

It might also happen, that a subject, intrusted with the administration of public affairs, may infringe the rights of the people, and be guilty of crimes which the ordinary magistrates either could not, or would not, punish. But, in general, the legislative power cannot try causes; and much less can it try this particular case, where it represents the party aggrieved, which is the people. It can only, therefore, impeach. But before what court shall it bring its impeachment? Must it go and demean itself before the ordinary tribunals, which are its inferiors, and, being composed moreover of men who are chosen from the people as well as itself, will naturally be swayed by the authority of so powerful an accuser? No: in order to preserve the dignity of the

people and the security of the subject, the legislative part which represents the people must bring in its charge before the legislative part which represents the nobility, who have neither the same interests nor the same passions.

Here is an advantage which this government has over most of the ancient republics where this abuse prevailed, that the people were at the same time both judge and accuser.

The executive power, pursuant to what has been already said, ought to have a share in the legislature by the power of rejecting; otherwise it would soon be stripped of its prerogative. But, should the legislative power usurp a share of the executive, the latter would be equally undone.

If the prince were to have a part in the legislature by the power of resolving, liberty would be lost. But, as it is necessary he should have a share in the legislature for the support of his own prerogative, this share must consist in the power of rejecting.

The change of government at Rome was owing to this, that neither the senate, who had one part of the executive power, nor the magistrates, who were entrusted with the other, had the right of rejecting, which was entirely lodged in the people.

Here, then, is the fundamental constitution of the government we are treating of. The legislative body being composed of two parts, they check one another by the mutual privilege of rejecting. They are both restrained by the executive power, as the executive is by the legislative.

These three powers should naturally form a state of repose or inaction: but, as there is a necessity for

movement in the course of human affairs, they are forced to move, but still in concert.

As the executive power has no other part in the legislative than the privilege of rejecting, it can have no share in the public debates. It is not even necessary that it should propose; because, as it may always disapprove of the resolutions that shall be taken, it may likewise reject the decisions on those proposals which were made against its will.

In some ancient commonwealths, where public debates were carried on by the people in a body, it was natural for the executive power to propose and debate in conjunction with the people; otherwise their resolutions must have been attended with a strange confusion.

Were the executive power to determine the raising of public money otherwise than by giving its consent, liberty would be at an end; because it would become legislative in the most important point of legislation.

If the legislative power were to settle the subsidies, not from year to year, but for ever, it would run the risk of losing its liberty, because the executive power would be no longer dependent; and, when once it was possessed of such a perpetual right, it would be a matter of indifference whether it held it of itself or of another. The same may be said if it should come to a resolution of intrusting, not an annual, but a perpetual, command of the fleets and armies to the executive power.

To prevent the executive power from being able to oppress, it is requisite that the armies with which it is intrusted should consist of the people, and have the same spirit as the people, as was the case at Rome till the time of *Marius*. To obtain this end, there are only two ways; either that the persons employed in the army should have sufficient property to answer for their

conduct to their fellow-subjects, and be enlisted only for a year, as was customary at Rome; or, if there should be a standing-army composed chiefly of the most despicable part of the nation, the legislative power should have a right to disband them as soon as it pleased; the soldiers should live in common with the rest of the people; and no separate camp, barracks, or fortress, should be suffered.

When once an army is established, it ought not to depend immediately on the legislative, but on the executive, power; and this from the very nature of the thing, its business consisting more in action than deliberation.

It is natural for mankind to set a higher value upon courage than timidity, on activity than prudence, on strength than counsel. Hence the army will ever despise a senate, and respect their own officers: they will naturally slight the orders sent them by a body of men whom they look upon as cowards, and therefore unworthy to command them: so that, as soon as the troops depend entirely on the legislative body, it becomes a military government; and, if the contrary has ever happened, it has been owing to some extraordinary circumstances. It is because the army was always kept divided; it is because it was composed of several bodies, that depended each on a particular province; it is because the capital towns were strong places, defended by their natural situation, and not garrisoned with regular troops. Holland, for instance, is still safer than Venice; she might drown or starve the revolted troops; for, as they are not quartered in towns capable of furnishing them with necessary subsistence, this subsistence is of course precarious.

In perusing the admirable treatise of Tacitus on the manners of the Germans, * we find it is from that nation the English have borrowed the idea of their

political government. This beautiful system was invented first in the woods.

As all human things have an end, the state we are speaking of will lose its liberty, will perish. Have not Rome, Sparta, and Carthage, perished? It will perish when the legislative power shall be more corrupt than the executive.

It is not my business to examine whether the English actually enjoy this liberty, or not. Sufficient it is for my purpose to observe, that it is established by their laws; and I inquire no farther.

Neither do I pretend by this to undervalue other governments, nor to say that this extreme political liberty ought to give uneasiness to those who have only a moderate share of it. How should I have any such design; I who think that even the highest refinement of reason is not always desirable, and that mankind generally find their account better in mediums than in extremes?

Harrington, in his *Oceana*, has also enquired into the utmost degree of liberty to which the constitution of a state may be carried. But, of him, indeed, it may be said, that, for want of knowing the nature of real liberty, he busied himself in pursuit of an imaginary one; and that he built a Chalcedon, though he had a Byzantium before his eyes.