
SECOND TREATISE OF GOVERNMENT

John Locke

1690

[During the founding era, Locke's Second Treatise was the most quoted book by a political philosopher on the subject of political principles. Included here are the passages that best illustrate the political theory of the American founding.]

CHAP. 2. 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. . . .

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 ours. Every one as he is *bound to preserve himself*, and not to quit his station wilfully; so by the like reason when his own preservation comes not in competition, ought he, as much as he can, *to preserve the rest of mankind*, and may not unless it be to do justice 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 mans 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 dictates, 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*. . . .

11. . . . [The injured person] has this power of appropriating to himself, the goods or service of the offender, by *right of self-preservation*, as every man has a power to punish the crime, to prevent its being committed again, *by the right he has of preserving all mankind*, and doing all reasonable things he can in order to that end: and thus it is, that every man in the state of nature, has a power to kill a murderer, both to deter others from doing the like injury, which no reparation can compensate, by the example of the punishment that attends it from every body, and also *to secure* men from the attempts of a criminal, who having renounced

reason, the common rule and measure God hath given to mankind, hath by the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a *lion* or a *tiger*, one of those wild savage beasts, with whom men can have no society nor security: and upon this is grounded the great law of nature, *who so sheddeth mans blood, by man shall his blood be shed*. . . .

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. . . .

14. 'Tis 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, 'tis 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 'tis not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politick; other promises and compacts, men may make one with another, and yet still be in the state of nature. . . .

CHAP. 3. OF THE STATE OF WAR.

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



may be treated as beasts of prey, those dangerous and noxious creatures, that will be sure to destroy him, whenever he falls into their power.

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

19. And here we have the *plain difference between the state of nature, and the state of war*, which however some men have confounded, are as far distant, as a state of peace, good will, mutual assistance, and preservation, and a state of enmity, malice, violence, and mutual destruction are one from another. Men living together according to reason, without a common superior on earth, with authority to judge between them, is *properly the state of nature*. But force, or a declared design of force upon the person of another, where there is no common superior on earth to appeal to for relief, is *the state of war*: . . .

20. . . . *the state of war once begun, continues*, with a right to the innocent party, to destroy the other whenever he can, until the aggressor offers peace, and desires reconciliation on such terms, as may repair any wrongs he has already done, and secure the innocent for the future. . . .

21. To avoid this state of war (wherein there is no appeal but to heaven, and wherein every the least difference is apt to end, where there is no authority to decide between the contenders) is one great *reason of mens putting themselves into society*, and quitting the state of nature.

CHAP. 4. OF SLAVERY.

. . . 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. . . .

CHAP. 5. OF PROPERTY

. . . 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. . . .

34. God gave the world to men in common; but since he gave it them for their

benefit, and the greatest conveniencies of life they were capable to draw from it, it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the industrious and rational, (and labour was to be his title to it;) not to the fancy or covetousness of the quarrelsome and contentious. . . .

37. . . . [h]e who appropriates land to himself by his labour, does not lessen, but increase the common stock of mankind: for the provisions serving to the support of human life, produced by one acre of inclosed and cultivated land, are (to speak much within compass) ten times more than those which are yielded by an acre of land of an equal richness lying waste in common. And therefore he that incloses land, and has a greater plenty of the conveniencies of life from ten acres, than he could have from an hundred left to nature, may truly be said to give ninety acres to mankind: for his labour now supplies him with provisions out of ten acres, which were but the product of an hundred lying in common. . . .

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

42. . . . this shows how much numbers of men are to be preferred to largeness of dominions; and that the increase of lands, and the right employing of them, is the great art of government: and that prince, who shall be so wise and godlike, as by established laws of liberty to secure protection and encouragement to the honest industry of mankind, against the oppression of power and narrowness of party, will quickly be too hard for his neighbours: but this by the by. . . .

43. . . . nature and the earth furnished only the almost worthless materials, as in themselves. . . .

44. From all which it is evident, that though the things of nature are given in common, yet man, by being master of himself, and proprietor of his own person, and the actions or labour of it, had still in himself the great foundation of property; and that, which made up the great part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniencies of life, was perfectly his own, and did not belong in common to others.

CHAP. 6: OF PATERNAL POWER

. . . 54. Though I have said above, Chap. 2, *That all men by nature are equal*, I cannot be supposed to understand all sorts of equality: age or virtue may give men a just precedency: excellency of parts and merit may place others above the common level: birth may subject some, and alliance or benefits others, to pay an observance to those to whom nature, gratitude, or other respects, may have made it due: and yet all this consists with the equality, which all men are in, in respect of jurisdiction or dominion one over another; which was the equality I there spoke of, as proper to the business in hand, being that equal right, that every man hath,

to his natural freedom, without being subjected to the will or authority of any other man. . . .

55. *Children*, I confess are not born in this full state of *equality*, though they are born to it. Their parents have a sort of rule and jurisdiction over them when they come into the world, and for some time after, but 'tis but a temporary one. The bonds of this subjection are like the swadling cloths they are wrapt up in, and supported by, in the weakness of their infancy. Age and reason as they grow up, loosen them till at length they drop quite off, and leave a man at his own free disposal.

57. . . . [Regarding children:] no body can be under a law, which is not promulgated to him; and this law being promulgated or made known by *reason* only, he that is not come to the use of his *reason*, cannot be said to be *under this law*; and *Adam's* children being not presently as soon as born, *under this law of reason*, were not presently free. For law, in its true notion, is not so much the limitation as *the direction of a free and intelligent agent* to his proper interest, and prescribes no farther than is for the general good of those under that law. Could they be happier without it, the *law*, as an useless thing would of itself vanish; and that ill deserves the name of confinement which hedges us in only from bogs and precipices. So that, however it may be mistaken, *the end of law* is not to abolish or restrain, but *to preserve and enlarge freedom*: for in all the states of created beings capable of laws, *where there is no law, there is no freedom*. For *liberty* is to be free from restraint and violence from others which cannot be, where there is no law: but freedom is not, as we are told, *a liberty for every man to do what he lists*: (for who could be free, when every other man's humour might domineer over him?) but a *liberty* to dispose, and order, as he lists, his person, actions, possessions, and his whole property, within the allowance of those laws under which he is; and therein not to be subject to the arbitrary will of another, but freely follow his own.

58. The *power*, then, *that parents have* over their children, arises from that duty which is incumbent on them, to take care of their off-spring, during the imperfect state of childhood. To inform the mind, and govern the actions of their yet ignorant nonage, till reason shall take its place, and ease them of that trouble, is what the children want, and the parents are bound to. . . . he that *understands* for him, must *will* for him too; he must prescribe to his will, and regulate his actions; but when he comes to the estate that made his *father a freeman*, the *son is a freeman* too. . . .

CHAP. 7: OF POLITICAL SOCIETY

77. God having made man such a creature, that, in his own judgment, it was not good for him to be alone, put him under strong obligations of necessity, convenience, and inclination to drive him into *society*, as well as fitted him with understanding and language to continue and enjoy it. The *first society* was between man and wife, which gave beginning to that between parents and children; to which, in time, that between master and servant came to be added. . . .



CHAP. 8: OF THE BEGINNING OF POLITICAL SOCIETIES

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

95. Man 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 anyone 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. . . .

CH. 9. 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 'tis obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others. For all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very unsecure. This makes him willing to quit this condition, which however free, is full of fears and continual dangers: and 'tis 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 mens uniting into commonwealths, and putting themselves under government, *is the preservation of their property*. To which in the state of nature there are many things wanting.

First, there wants an *established*, settled, known *law*, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them. For though the law of nature be plain and intelligible to all rational creatures; yet men being biased 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 mens.

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

127. Thus mankind, notwithstanding all the privileges of the state of nature, being but in an ill condition, while they remain in it, are quickly driven into society. Hence it comes to pass, that we seldom find any number of men live any time together in this state. The inconveniencies, that they are therein exposed to, by the irregular and uncertain exercise of the power every man has of punishing the transgressions of others, make them take sanctuary under the established laws of government, and therein seek *the preservation of their property*. 'Tis 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 authorised 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 viciousness of degenerate men, there would be no need of any other; no necessity that men should separate from this great and natural community, and by positive agreements combine into smaller and divided associations.

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

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

130. *Secondly*, the *power of punishing* he wholly *gives up*, and engages his natural force, (which he might before employ in the execution of the law of nature, by his own single authority, as he thought fit) to assist the executive power

of the society, as the law thereof shall require. For being now in a new state, wherein he is to enjoy many conveniencies, from the labour, assistance, and society of others in the same community, as well as protection from its whole strength; he is to part also with as much of his natural liberty in providing for himself, as the good, prosperity, and safety of the society shall require: which is not only necessary, but just; since the other members of the society do the like.

131. But though men when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative, as the good of the society shall require; yet it being only with an intention in every one the better to preserve himself his liberty and property; (for no rational creature can be supposed to change his condition with an intention to be worse) the power of the society, or *legislative* constituted by them, *can never be supposed to extend farther than the common good*; but is obliged to secure every ones 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 imploy 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 publick good* of the people. . . .

CHAP. 11. OF THE EXTENT OF THE LEGISLATIVE POWER.

134. The great end of mens entering into society, being the enjoyment of their properties in peace and safety, and the great instrument and means of that being the laws established in that society; the *first and fundamental positive law* of all commonwealths, *is the establishing of the legislative power*; as the *first and fundamental natural law*, which is to govern even the legislative it self, is the preservation of the society, and (as far as will consist with the publick 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. . . .

135. Though the *legislative*, whether placed in one or more, whether it be always in being, or only by intervals, tho' 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 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 publick 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 humane laws known penalties annexed to them, to enforce their observation. Thus the law of nature stands as an eternal rule to all men, *legislators* as well as others. . . .

136. *Secondly*, the *legislative*, or supreme authority, cannot assume to its self a power to rule by extemporary arbitrary decrees, but *is bound to dispense justice*, and decide the rights of the subject *by promulgated standing laws, and known authorised judges*. . . .

137. Absolute arbitrary power, or governing without *settled standing laws*, can neither of them consist with the ends of society and government, which men would not quit the freedom of the state of nature for, and tie themselves up under, were it not to preserve their lives, liberties and fortunes; and by *stated rules* of right and property to secure their peace and quiet. It cannot be supposed that they should intend, had they a power so to do, to give to any one, or more, an *absolute arbitrary power* over their persons and estates, and put a force into the magistrates hand to execute his unlimited will arbitrarily upon them: this were to put themselves into a worse condition than the state of nature, wherein they had a liberty to defend their right against the injuries of others, and were upon equal terms of force to maintain it, whether invaded by a single man, or many in combination. . . .

138. *Thirdly*, the *supreme power* cannot take from any man any part of his *property* without his own consent. . . .

139. But *government* into whatsoever hands it is put, being as I have before shown, intrusted with this condition, and *for this end*, that men might have and secure *their properties*, the prince or senate, however it may have power to make laws for the regulating of *property* between the subjects one amongst another, yet can never have a power to take to themselves the whole or any part of the subjects *property*, without their own consent. For this would be in effect to leave them no *property* at all. . . .

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

141. *Fourthly*, the *legislative* cannot transfer the power of making law to any other hands. For it being but a delegated power from the people, they, who have it, cannot pass it over to others. The people alone can appoint the form of the



commonwealth, which is by constituting the legislative, and appointing in whose hands that shall be. . . .

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 commonwealth, 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. . . .

CHAP. 14. OF PREROGATIVE.

159. Where the legislative and executive power are in distinct hands, (as they are in all moderated monarchies, and well-framed governments) there the good of the society requires, that several things should be left to the discretion of him, that has the executive power. For the legislators not being able to foresee, and provide, by laws, for all, that may be useful to the community, the executor of the laws, having the power in his hands, has by the common law of nature, a right to make use of it, for the good of the society, in many cases, where the municipal law has given no direction, till the legislative can conveniently be assembled to provide for it. Many things there are, which the law can by no means provide for, and those must necessarily be left to the discretion of him, that has the executive power in his hands, to be ordered by him, as the publick good and advantage shall require: nay, 'tis fit that the laws themselves should in some cases give way to the executive power, or rather to this fundamental law of nature and government, *viz.* That as much as may be, *all* the members of the society are to be *preserved*. For since many accidents may happen, wherein a strict and rigid observation of the laws may do harm; (as not to pull down an innocent man's house to stop the fire, when the next to it is burning) and a man may come sometimes within the reach of the law, which makes no distinction of persons, by an action, that may deserve reward and pardon; 'tis fit, the ruler should have a power, in many cases, to mitigate the severity of the law, and pardon some offenders: for the *end of government* being the *preservation of all*, as much as may be, even the guilty are to be spared, where it can prove no prejudice to the innocent.

160. This power to act according to discretion, for the publick good, without the prescription of the law, and sometimes even against it, *is* that which is called *prerogative*. . . .

CHAP. 16. OF CONQUEST.

175. Though governments can originally have no other rise than that before mentioned, nor *polities* be *founded* on any thing but *the consent of the people*; yet such has been the disorders ambition has filled the world with, that in the noise of war, which makes so great a part of the history of mankind, this *consent* is little taken notice of: and therefore many have mistaken the force of arms, for the consent of the people; and reckon conquest as one of the originals of government. But *conquest* is as far from setting up any government, as demolishing an house is from building a new one in the place. Indeed it often makes way for a new frame of a common-wealth, by destroying the former; but, without the consent of the people, can never erect a new one. . . .

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

178. . . . let us see next *what power a lawful conqueror has over the subdued*; and that I say is purely despotical. He has an absolute power over the lives of those, who by an unjust war have forfeited them; but not over the lives or fortunes of those, who engaged not in the war, nor over the possessions even of those, who were actually engaged in it.

179. *Secondly*, I say then the *conqueror* gets no power but only over those, who have actually assisted, concurred, or consented to that unjust force, that is used against him. . . .

180. *Thirdly*, the *power a conqueror gets* over those he overcomes *in a just war*, is *perfectly despotical*: he has an absolute power over the lives of those, who by putting themselves in a state of war, have forfeited them; but he has not thereby a right and title to their possessions. . . .

182. But because the miscarriages of the father are no faults of the children, and they may be rational and peaceable, notwithstanding the brutishness and injustice of the father; the father, by his miscarriages and violence, can forfeit but his own life, but involves not his children in his guilt or destruction. His goods, which nature, that willeth the preservation of all mankind as much as is possible, hath made to belong to the children to keep them from perishing, do still continue to belong to his children. . . . the *right then of conquest extends only to the lives* of those who joined in the war, *not to their estates*, but only in order to make reparation for the damages received, and the charges of the war, and that too with reservation of the right of the innocent wife and children. . . .

190. Every man is born with a double right: *first, a right of freedom to his person*, which no other man has a power over, but the free disposal of it lies in himself. *Secondly, a right*, before any other man, to *inherit*, with his brethren, his fathers goods.

191. By the first of these, a man is *naturally free* from subjection to any government, though he be born in a place under its jurisdiction. . . .

192. By the second, the *inhabitants* of any country, who are descended, and derive a title to their estates from those, who are subdued, and had a government forced upon them against their free consents, *retain a right to the possession of their ancestors*, though they consent not freely to the government, whose hard

conditions were by force imposed on the possessors of that country. For the first *conqueror never having had a title to the land* of that country, the people who are the descendants of, or claim under those, who were forced to submit to the yoke of a government by constraint, have always a right to shake it off, and free themselves from the usurpation, or tyranny, which the sword hath brought in upon them, till their rulers put them under such a frame of government, as they willingly, and of choice consent to. Who doubts but the Grecian Christians, descendants of the ancient possessors of that country, may justly cast off the Turkish yoke which they have so long groaned under, whenever they have a power to do it? For no government can have a right to obedience from a people who have not freely consented to it: which they can never be supposed to do, till either they are put in a full state of liberty to choose their government and governors, or at least till they have such standing laws, to which they have by themselves or their representatives, given their free consent, and also till they are allowed their due property, which is so to be proprietors of what they have, that nobody can take away any part of it without their own consent, without which, men under any government are not in the state of free-men, but are direct slaves under the force of war.

CHAP. 19: OF THE DISSOLUTION OF GOVERNMENT

[Editor's note: I have italicized passages in this chapter that have parallels in the Declaration of Independence.]

. . . 222. The reason why men enter into society, is the preservation of their property; and the end why they choose 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 everyone designs to secure, by entering into society, and for which the people submitted themselves to the legislators of their own making; whenever the legislators endeavor 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, endeavor 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 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. . . .*

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 humor of the people, is to expose it to certain ruin; and no government will be able 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*. . . .

224. But 'twill be said, this hypothesis lays a ferment for frequent rebellion. To which I answer,

225. . . . 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; 'tis not to be wondered, that they should then rouse themselves, and endeavor to put the rule into such hands, which may secure to them the ends for which government was at first erected. . . .

230. Nor let anyone say, that mischief can arise from hence, as often as it shall please a busy head, or turbulent spirit, to desire the alteration of the government. . . . For till the mischief be grown general, and the ill design of the rulers become visible, or their attempts sensible to the greater part, the people, who *are more disposed to suffer, than right themselves* by resistance, are not apt to stir. . . .

243. [W]hen, by the miscarriages of those in authority, *it [the legislative power]* is forfeited; . . . *it reverts to the society, and the people have a right to act as supreme, and continue the legislative in themselves, or erect a new form, or under the old form place it in new hands, as they think good*. . . .