

TWO OF TREATISES OF Government:

In the Former,
The False Principles and Foundation

OF
Sir Robert Filmer,

And His FOLLOWERS,

ARE

Detected and Overthrown.

The Latter is an

ESSAY

CONCERNING

The True Original, Extent, and End

OF
Civil-Government.

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C H A P. II.

Of the State of Nature.

4. **T**O understand Political Power aright, 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....

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 anothers 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 anothers 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 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, where by every one has a right to punish the transgressors

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 base Preservation calls for it. The State of

fors 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 tye, 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

vided 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....

10. Besides the Crime which consists in violating the Law, and varying from the right Rule of Reason, whereby a Man so far becomes degenerate, and declares himself to quit the Principles of Human Nature, and to be a noxious Creature, there is commonly injury done, and some Person or other, some other Man, receives damage by his Transgression, in which Case he who hath received any damage, has besides the right of punishment common to him with other Men, a particular Right to seek Reparation from him that has done it. And any other Person who finds it just, may also joyn with him that is injur'd, and assist him in recovering from the Offender, so much as may make satisfaction for the harm he has suffer'd.

11. From these two distinct Rights, the one of Punishing the Crime for restraint, and preventing the like Offence, which right of punishing is in every body; the other of taking reparation, which belongs only to the injured party, comes it to pass that the Magistrate, who by being Magistrate, hath the common right of punishing put into his hands, can often, where the publick good demands not the execution of the Law, remit the punishment of Criminal Offences by his own Authority, but yet cannot remit the satisfaction due to any private Man, for the damage he has received. That, he who has suffered the damage has a Right to demand in his own name, and he alone can remit; The damnified Person has this Power of appropriating to himself, the Goods or Service of the Offender, by Right of Self-preservation, as every Man has a Power to punish the Crime, to prevent

vent 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 *Lyon* or a *Tyger*, 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.* And *Cain* was so fully convinced, that every one had a Right to destroy such a Criminal, that after the Murder of his Brother, he cries out, *Every one that findeth me, shall slay me*; so plain was it writ in the Hearts of all Mankind.

12. By the same reason, may a Man in the State of Nature punish the lesser breaches of that Law; It will perhaps be demanded with death? I answer, Each Transgression may be punished to that degree, and with so much Severity as will suffice to make it an ill bargain to the Offender, give him cause to repent, and terrifie 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

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 Phanies 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....

C H A P. VII.

Of Political or Civil Society....

87. Man being born, as has been proved, with a Title to perfect Freedom, and an untroubled enjoyment of all the Rights and Privileges of the Law of Nature, equally with any other Man, or Number of Men in the World, hath by Nature a Power, not only to preserve his Property, that is, his Life, Liberty and Estate, against the Injuries and Attempts of other Men; but to judge of, and punish the breaches of that Law in others, as he is perswaded the Offence deserves, even with Death it self, in Crimes where the heinousness of the Fact, in his Opinion, requires it. But because no Political Society can be, nor subsist without having in it self the Power to preserve the Property, and in order thereunto punish the Offences of all those of that Society: There, and there only is Political Society, where every one of the Members hath quitted this natural Power, resign'd it up into the hands of the Community in all cases that

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exclude him not from appealing for Protection to the Law established by it. And thus all private judgement of every particular Member being excluded, the Community comes to be Umpire, by settled standing Rules; indifferent, and the same to all Parties: And by Men having Authority from the Community for the execution of those Rules, decides all the differences that may happen between any Members of that Society, concerning any matter of right, and punishes those Offences which any Member hath committed against the Society with such Penalties as the Law has established; whereby it is easie to discern who are, and who are not, in Political Society together. Those who are united into one Body, and have a common establish'd Law and Judicature to appeal to, with Authority to decide Controversies between them, and punish Offenders, are in Civil Society one with another; but those who have no such common Appeal, I mean on Earth, are still in the state of Nature, each being, where there is no other, Judge for himself, and Executioner; which is, as I have before shew'd it, the perfect state of Nature.

88. And thus the Commonwealth comes by a Power to set down what punishment shall belong to the several transgressions they think worthy of it, committed amongst the Members of that Society, (which is the power of making Laws) as well as it has the power to punish any Injury done unto any of its Members, by any one that is not of it, (which is the power of War and Peace;) and all this for the preservation of the property of all the Members of that Society, as far as is possible. But though every

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Man enter'd into Society, has quitted his power to punish Offences against the Law of Nature, in prosecution of his own private Judgment; yet with the Judgment of Offences which he has given up to the Legislative in all Cases where he can Appeal to the Magistrate, he has given up a right to the Commonwealth to employ his force for the Execution of the Judgments of the Commonwealth, whenever he shall be called to it, which indeed are his own Judgments, they being made by himself, or his Representative. And herein we have the original of the Legislative and Executive Power of Civil Society, which is to judge by standing Laws how far Offences are to be punished when committed within the Commonwealth; and also by occasional Judgments founded on the present Circumstances of the Fact, how far Injuries from without are to be vindicated, and in both these to employ all the force of all the Members when there shall be need.

89. Where-ever therefore any number of Men are so united into one Society, as to quit every one his Executive Power of the Law of Nature, and to resign it to the publick, there and there only is a Political, or Civil Society. And this is done where-ever any number of Men, in the state of Nature, enter into Society to make one People, one Body Politick under one Supreme Government, or else when any one joyns himself to, and incorporates with any Government already made. For hereby he authorizes the Society, or which is all one, the Legislative thereof to make Laws for him as the publick good of the Society shall require; to the Execution whereof, his own

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assistance (as to his own Decrees) is due. And this puts Men out of a State of Nature into that of a Commonwealth, by setting up a Judge on Earth, with Authority to determine all the Controversies, and redress the Injuries that may happen to any Member of the Commonwealth ; which Judge is the Legislative, or Magistrates appointed by it. And where-ever there are any number of Men, however associated, that have no such decisive power to appeal to, there they are still in the state of Nature....

95. **M**EN being, as has been said, by Nature, all free, equal and independent, no one can be put out of his Estate, and subjected to the Political Power of another, without his own Consent, which is done by agreeing with other Men to joyn and unite into a Community, for their comfortable, safe, and peaceable living one amongst another, in a secure Enjoyment of their Properties, and a greater Security against any that are not of it. This any number of Men may do, because it injures not the Freedom of the rest; they are left as they were in the Liberty of the State of Nature. When any number of Men have so consented to make one Community or Government, they are thereby presently incorporated, and make one Body Politick, wherein the Majority have a Right to act and conclude the rest.

96. For when any number of Men have by the consent of every individual made a Community, they have thereby made that Community one Body, with a Power to Act as one Body, which is only by the will and determination of the majority. For that which acts any Community, being only the consent of the individuals of it, and it being one Body must move one way; it is necessary the Body should move that way †

whether the greater force carries it, which is the consent of the majority: or else it is impossible it should act or continue one Body, one Community, which the consent of every individual that united into it, agreed that it should; and so every one is bound by that consent to be concluded by the majority. And therefore we see that in Assemblies impowered to act by positive Laws where no number is set by that positive Law which impowers them, the act of the Majority passes for the act of the whole, and of course determines, as having by the Law of Nature and Reason, the power of the whole.

97. And thus every Man by consenting with others to make one Body Politick under one Government, puts himself under an Obligation to every one of that Society, to submit to the determination of the majority, and to be concluded by it; or else this original Compact, whereby he with others incorporates into one Society, would signifie nothing, and be no Compact if he be left free, and under no other ties than he was in before in the State of Nature. For what appearance would there be of any Compact? What new Engagement if he were no farther tied by any Decrees of the Society than he himself thought fit, and did actually consent to? This would be still as great a liberty as he himself had before his Compact, or any one else in the State of Nature hath, who may submit himself and consent to any acts of it if he thinks fit....

beginning to any lawful Government in the World....

99. Whosoever therefore out of a state of Nature unite into a Community, must be understood to give up all the power necessary to the ends for which they unite into Society, to the majority of the Community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to unite into one Political Society, which is all the Compact that is, or needs be, between the Individuals that enter into or make up a Common-wealth. And thus that which begins and actually constitutes any Political Society, is nothing but the consent of any number of Freemen capable of a majority to unite and incorporate into such a Society. And this is that, and that only which did or could give
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119. Every Man being, as has been shewed, naturally free, and nothing being able to put him into subjection to any Earthly Power, but only his own Consent: It is to be considered, what shall be understood to be a sufficient Declaration of a Mans Consent, to make him subject to the Laws of any Government. There is a common distinction of an exprefs and a tacit consent, which will concern our present Case. No body doubts but an exprefs Consent, of any Man, entering into any Society, makes him a perfect Member of that Society, a Subject of that Government. The difficulty is, what ought to be look'd upon as a tacit Consent, and how far it binds, *i.e.* how far any one shall be looked on to have consented, and thereby submitted to any Government, where he has made no Expressions of it at all. And to this I say, that every Man, that hath any
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Possession, or Enjoyment, of any part of the Dominions of any Government, doth thereby give his tacit Consent, and is as far forth obliged to Obedience to the Laws of that Government, during such Enjoyment, as any one under it; whether this his Possession be of Land, to him and his Heirs for ever, or a Lodging only for a Week; or whether it be barely travelling freely on the Highway; and in Effect, it reaches as far as the very being of any one within the Territories of that Government.

120. To understand this the better, it is fit to consider, that every Man, when he, at first, incorporates himself into any Commonwealth, he, by his uniting himself thereunto, annexed also, and submits to the Community those Possessions, which he has, or shall acquire, that do not already belong to any other Government. For it would be a direct Contradiction, for any one, to enter into Society with others for the securing and regulating of Property: And yet to suppose his Land, whose Property is to be regulated by the Laws of the Society, should be exempt from the Jurisdiction of that Government, to which he himself the Proprietor of the Land, is a Subject. By the same Act therefore, whereby any one unites his Person, which was before free, to any Commonwealth; by the same he unites his Possessions, which were before free, to it also; and they become, both of them, Person and Possession, subject to the Government and Dominion of that Commonwealth, as long as it hath a being. Whoever therefore, from thenceforth, by Inheritance, Purchase, Permission, or otherways enjoys any part of the Land, so another

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next to, and under the Government of that Commonwealth, must take it with the Condition it is under; that is, of submitting to the Government of the Commonwealth, under whose Jurisdiction it is, as far forth, as any Subject of it.

121. But since the Government has a direct Jurisdiction only over the Land, and reaches the Possessor of it, (before he has actually incorporated himself in the Society) only as he dwells upon, and enjoys that: The Obligation any one is under, by Virtue of such Enjoyment, to submit to the Government, begins and ends with the Enjoyment; so that whenever the Owner, who has given nothing but such a tacit Consent to the Government, will, by Donation, Sale, or otherwise, quit the said Possession: He is at liberty to go and incorporate himself into any other Commonwealth, or agree with others to begin a new one, *in vacuis locis*, in any part of the World they can find free and unpossessed: Whereas he that has once, by actual Agreement, and any express Declaration, given his Consent to be of any Commonwealth, is perpetually and indispensably obliged to be and remain unalterably a Subject to it, and can never be again in the liberty of the state of Nature; unless by any Calamity, the Government, he was under, comes to be dissolved; or else by some publick Act cuts him off from being any longer a Member of it....

C H A P. IX.

*Of the Ends of Political Society
and Government.*

123. **I**F 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 is 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 joyn 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.

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First, There wants an establish'd, settled, known Law, received and allowed by common consent to be the Standard of Right and Wrong, and the common measure to decide all Controversies between them. For though the Law of Nature be plain and intelligible to all rational Creatures; yet Men being biassed by their Interest, were 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, 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

and uncertain exercise of the Power every Man has of punishing the transgressions of others, make them take Sanctuary under the establish'd 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 authorized by it to them, to that purpose shall agree on. And in this we have the original right and rise of both the Legislative and Executive Power, as well as of the Governments and Societies themselves.

128. For in the State of Nature, to omit the liberty he has of innocent Delights, a Man has two Powers.

The first is to do whatsoever he thinks fit for the preservation of himself and others within the permission of the Law of Nature; by which Law common to them all, he and all the rest of Mankind are one Community, make up one Society distinct from all other Creatures, and were it not for the corruption and vitiousness of degenerate Men, there would be no need of any other, no necessity that Men should separate from this great and natural Community, and associate into less Combinations.

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 joyns in a private, if I may so call it, or particular Political Society, and incorporates into any Commonwealth, 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 Conveniences 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

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 Commonwealth, is bound to govern by established standing Laws, promulgated and known to the People, and not by Extemporary Decrees; by indifferent and upright Judges, who are to decide Controversies by those Laws; And to employ the force of the Community at home, only in the Execution of such Laws, or abroad to prevent or redress Foreign Injuries, and secure the Community from Inroads and Invasion. And all this to be directed to no other end, but the Peace, Safety, and publick good of the People....