

Second Treatise of Government

John Locke
1690

God gave the earth in common to all; the right of property originates from labor. No one needs the consent of another to appropriate the fruit of his labor. The boundary to possessions is that nothing be left to spoil or waste. The invention of money increased the possibility of wealth without spoilage. The fundamental aim of the legislature, which is the supreme power in government, is the preservation of society. Government can neither deprive the people of their property nor transfer its own power without their consent.

Chapter V Of Property

25. Whether we consider natural *reason*, which tells us, that men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence: or *revelation*, which gives us an account of those grants God made of the world to *Adam*, and to *Noah*, and his sons, it is very clear, that

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God, as king *David* says, Psal. cxv. 16. *has given the earth to the children of men; given it to mankind in common.*

But this being supposed, it seems to some a very great difficulty, how any one should ever come to have a *property* in any thing: I will not content myself to answer, that if it be difficult to make out property, upon a supposition that God gave the world to *Adam*, and his posterity in common, it is impossible that any man, but one universal monarch, should have any *property* upon a supposition, that God gave the world to *Adam*, and his heirs in succession, exclusive of all the rest of his posterity. But I shall endeavour to shew, how men might come to have a *property* in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners.

26. God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life, and convenience. The earth, and all that is therein, is given to men for the support and comfort of their being. And tho' all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature; and no body has originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state: yet being given for the use of men, there must of necessity be *a means to appropriate* them some way or other, before they can be of any use, or at all beneficial to any particular man.

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The fruit, or venison, which nourishes the wild *Indian*, who knows no enclosure, and is still a tenant in common, must be his, and so his, i.e. a part of him, that another can no longer have any right to it, before it can do him any good for the support of his life.

27. Though the earth, and all inferior creatures, be common to all men, yet every man has a *property* in his own *person*: this no body has any right to but himself. The *labour* of his body, and the *work* of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his *labour* with, and joined to it something that is his own, and thereby makes it his *property*. It being by him removed from the common state nature hath placed it in, it hath by this *labour* something annexed to it, that excludes the common right of other men: for this *labour* being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.

28. He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. No body can deny but the nourishment is his. I ask then, when did they begin to be his? when he digested? or when he eat? or when he boiled? or when he brought them home? or when he picked them up? and it is plain, if the first gathering made them not his, nothing else could. That *labour* put a distinction between them and common: that added

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something to them more than nature, the common mother of all, had done; and so they became his private right.

And will any one say, he had no right to those acorns or apples, he thus appropriated, because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him.

We see in *commons*, which remain so by compact, that it is the taking any part of what is common, and removing it out of the state nature leaves it in, which *begins the property*; without which the common is of no use. And the taking of this or that part, does not depend on the express consent of all the commoners. Thus the grass my horse has bit; the turfs my servant has cut; and the ore I have digged in any place, where I have a right to them in common with others, become my *property*, without the assignation or consent of any body. The *labour* that was mine, removing them out of that common state they were in, hath *fixed my property* in them.

29. By making an explicit consent of every commoner, necessary to any one's appropriating to himself any part of what is given in common, children or servants could not cut the meat, which their father or master had provided for them in common, without assigning to every one his peculiar part. Though the water running in the fountain be every one's, yet who can doubt, but that in the pitcher is his only

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who drew it out? His *labour* hath taken it out of the hands of nature, where it was common, and belonged equally to all her children, and *hath* thereby *appropriated* it to himself.

30. Thus this law of reason makes the deer that *Indian's* who hath killed it; it is allowed to be his goods, who hath bestowed his labour upon it, though before it was the common right of every one. And amongst those who are counted the civilized part of mankind, who have made and multiplied positive laws to determine property, this original law of nature, for the *beginning of property*, in what was before common, still takes place; and by virtue thereof, what fish any one catches in the ocean, that great and still remaining common of mankind; or what ambergrise any one takes up here, is by the *labour* that removes it out of that common state nature left it in, *made his property*, who takes that pains about it.

And even amongst us, the hare that any one is hunting, is thought his who pursues her during the chase: for being a beast that is still looked upon as common, and no man's private possession; whoever has employed so much *labour* about any of that kind, as to find and pursue her, has thereby removed her from the state of nature, wherein she was common, and hath *begun a property*.

31. It will perhaps be objected to this, that if gathering the acorns, or other fruits of the earth, &c. makes a right to them, then any one may *ingross* as much as he will. To which I answer, Not so. The same law of nature, that does by this means give us prop-

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erty, does also *bound* that *property* too. *God has given us all things richly*, 1 Tim. vi. 12. is the voice of reason confirmed by inspiration. But how far has he given it us? *To enjoy*. As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is more than his share, and belongs to others.

Nothing was made by God for man to spoil or destroy. And thus, considering the plenty of natural provisions there was a long time in the world, and the few spenders; and to how small a part of that provision the industry of one man could extend itself, and ingross it to the prejudice of others; especially keeping within the *bounds*, set by reason, of what might serve for his *use*; there could be then little room for quarrels or contentions about property so established.

32. But the *chief matter of property* being now not the fruits of the earth, and the beasts that subsist on it, but *the earth itself*; as that which takes in and carries with it all the rest; I think it is plain, that *property* in that too is acquired as the former. *As much land* as a man tills, plants, improves, cultivates, and can use the product of, so much is his *property*. He by his labour does, as it were, inclose it from the common.

Nor will it invalidate his right, to say every body else has an equal title to it; and therefore he cannot appropriate, he cannot inclose, without the consent of all his fellow-commoners, all mankind. God, when he gave the world in common to all mankind, commanded man also to labour, and the penury of his condition required it of him. God and his reason

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commanded him to subdue the earth, i.e. improve it for the benefit of life, and therein lay out something upon it that was his own, his labour. He that in obedience to this command of God, subdued, tilled and sowed any part of it, thereby annexed to it something that was his *property*, which another had no title to, nor could without injury take from him.

33. Nor was this *appropriation* of any parcel of *land*, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his enclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. No body could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst: and the case of land and water, where there is enough of both, is perfectly the same.

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.

He that had as good left for his improvement, as was already taken up, needed not complain, ought not to meddle with what was already improved by

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another's labour: if he did, it is plain he desired the benefit of another's pains, which he had no right to, and not the ground which God had given him in common with others to labour on, and whereof there was as good left, as that already possessed, and more than he knew what to do with, or his industry could reach to.

35. It is true, in *land* that is *common* in *England*, or any other country, where there is plenty of people under government, who have money and commerce, no one can inclose or appropriate any part, without the consent of all his fellowcommoners; because this is left common by compact, i.e. by the law of the land, which is not to be violated. And though it be common, in respect of some men, it is not so to all mankind; but is the joint property of this country, or this parish. Besides, the remainder, after such enclosure, would not be as good to the rest of the commoners, as the whole was when they could all make use of the whole; whereas in the beginning and first peopling of the great common of the world, it was quite otherwise.

The law man was under, was rather for appropriating. God commanded, and his wants forced him to *labour*. That was his *property* which could not be taken from him where-ever he had fixed it. And hence subduing or cultivating the earth, and having dominion, we see are joined together. The one gave title to the other. So that God, by commanding to subdue, gave authority so far to *appropriate*: and the condition of human life, which requires labour and

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materials to work on, necessarily introduces private possessions.

36. The *measure of property* nature has well set by the extent of men's *labour and the conveniencies of life*: no man's labour could subdue, or appropriate all; nor could his enjoyment consume more than a small part; so that it was impossible for any man, this way, to intrench upon the right of another, or acquire to himself a property, to the prejudice of his neighbour, who would still have room for as good, and as large a possession (after the other had taken out his) as before it was appropriated. This *measure* did confine every man's *possession* to a very moderate proportion, and such as he might appropriate to himself, without injury to any body, in the first ages of the world, when men were more in danger to be lost, by wandering from their company, in the then vast wilderness of the earth, than to be straitened for want of room to plant in.

And the same *measure* may be allowed still without prejudice to any body, as full as the world seems: for supposing a man, or family, in the state they were at first peopling of the world by the children of *Adam*, or *Noah*; let him plant in some inland, vacant places of America, we shall find that the possessions he could make himself, upon the *measures* we have given, would not be very large, nor, even to this day, prejudice the rest of mankind, or give them reason to complain, or think themselves injured by this man's incroachment, though the race of men have now spread themselves to all the corners of the world, and

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do infinitely exceed the small number was at the beginning.

Nay, the extent of *ground* is of so little value, *without labour*, that I have heard it affirmed, that in *Spain* itself a man may be permitted to plough, sow and reap, without being disturbed, upon land he has no other title to, but only his making use of it. But, on the contrary, the inhabitants think themselves beholden to him, who, by his industry on neglected, and consequently waste land, has increased the stock of corn, which they wanted.

But be this as it will, which I lay no stress on; this I dare boldly affirm, that the same *rule of propriety*, (*viz.*) that every man should have as much as he could make use of, would hold still in the world, without straitening any body; since there is land enough in the world to suffice double the inhabitants, had not the *invention of money*, and the tacit agreement of men to put a value on it, introduced (by consent) larger possessions, and a right to them; which, how it has done, I shall by and by shew more at large.

37. This is certain, that in the beginning, before the desire of having more than man needed had altered the intrinsic value of things, which depends only on their usefulness to the life of man; or had *agreed, that a little piece of yellow metal*, which would keep without wasting or decay, should be worth a great piece of flesh, or a whole heap of corn; though men had a right to appropriate, by their labour, each one of himself, as much of the things of nature, as he could use: yet this could not be much, nor to the

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prejudice of others, where the same plenty was still left to those who would use the same industry.

To which let me add, that he 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.

I have here rated the improved land very low, in making its product but as ten to one, when it is much nearer an hundred to one: for I ask, whether in the wild woods and uncultivated waste of *America*, left to nature, without any improvement, tillage or husbandry, a thousand acres yield the needy and wretched inhabitants as many conveniencies of life, as ten acres of equally fertile land do in *Devonshire*, where they are well cultivated?

Before the appropriation of land, he who gathered as much of the wild fruit, killed, caught, or tamed, as many of the beasts, as he could; he that so employed his pains about any of the spontaneous products of nature, as any way to alter them from the state which nature put them in, *by* placing any of his *labour* on

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them, did thereby *acquire a propriety in them*: but if they perished, in his possession, without their due use; if the fruits rotted, or the venison putrified, before he could spend it, he offended against the common law of nature, and was liable to be punished; he invaded his neighbour's share, for he had *no right, farther than his use* called for any of them, and they might serve to afford him conveniencies of life.

38. The same *measures* governed the *possession of land* too: whatsoever he tilled and reaped, laid up and made use of, before it spoiled, that was his peculiar right; whatsoever he enclosed, and could feed, and make use of, the cattle and product was also his. But if either the grass of his enclosure rotted on the ground, or the fruit of his planting perished without gathering, and laying up, this part of the earth, notwithstanding his enclosure, was still to be looked on as waste, and might be the possession of any other. Thus, at the beginning, *Cain* might take as much ground as he could till, and make it his own land, and yet leave enough to *Abel's* sheep to feed on; a few acres would serve for both their possessions.

But as families increased, and industry enlarged their stocks, their *possessions enlarged* with the need of them; but yet it was commonly *without any fixed property in the ground* they made use of, till they incorporated, settled themselves together, and built cities; and then, by consent, they came in time, to set out the *bounds of their distinct territories*, and agree on limits between them and their neighbours; and by laws within themselves, settled the *properties* of those

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of the same society: for we see, that in that part of the world which was first inhabited, and therefore like to be best peopled, even as low down as *Abraham's* time, they wandered with their flocks, and their herds, which was their substance, freely up and down; and this *Abraham* did, in a country where he was a stranger.

Whence it is plain, that at least a great part of the *land lay in common*; that the inhabitants valued it not, nor claimed property in any more than they made use of. But when there was not room enough in the same place, for their herds to feed together, they by consent, as *Abraham* and *Lot* did, Gen. xiii. 5. separated and enlarged their pasture, where it best liked them. And for the same reason *Esau* went from his father, and his brother, and planted in *mount Seir*, Gen. xxxvi. 6.

39. And thus, without supposing any private dominion, and property in *Adam*, over all the world, exclusive of all other men, which can no way be proved, nor any one's property be made out from it; but supposing the *world* given, as it was, to the children of men *in common*, we see how *labour* could make men distinct titles to several parcels of it, for their private uses; wherein there could be no doubt of right, no room for quarrel.

40. Nor is it so strange, as perhaps before consideration it may appear, that the *property of labour* should be able to over-balance the community of land: for it is *labour* indeed that *puts the difference of value* on every thing; and let any one consider what the difference is between an acre of land planted with

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tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common, without any husbandry upon it, and he will find, that the improvement of *labour makes* the far greater part of the value.

I think it will be but a very modest computation to say, that of the *products* of the earth useful to the life of man nine tenths are the *effects of labour*: nay, if we will rightly estimate things as they come to our use, and cast up the several expences about them, what in them is purely owing to *nature*, and what to *labour*, we shall find, that in most of them ninety-nine hundredths are wholly to be put on the account of *labour*.

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. To make this a little clearer, let us but trace some of the ordinary provisions of life, through their several progresses, before they come to our use, and see how much they receive of their *value from human industry*.

Bread, wine and cloth, are things of daily use, and great plenty; yet notwithstanding, acorns, water and

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leaves, or skins, must be our bread, drink and cloathing, did not labour furnish us with these more useful commodities: for whatever *bread* is more worth than acorns, wine than water, and *cloth* or *silk*, than leaves, skins or moss, that is wholly *owing to labour* and *industry*; the one of these being the food and raiment which unassisted nature furnishes us with; the other, provisions which our industry and pains prepare for us, which how much they exceed the other in value, when any one hath computed, he will then see how much *labour makes the far greatest part of the value* of things we enjoy in this world: and the ground which produces the materials, is scarce to be reckoned in, as any, or at most, but a very small part of it; so little, that even amongst us, land that is left wholly to nature, that hath no improvement of pasturage, tillage, or planting, is called, as indeed it is, *waste*; and we shall find the benefit of it amount to little more than nothing.

This shews 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. To return to the argument in hand,

43. An acre of land, that bears here twenty bushels of wheat, and another in *America*, which, with

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the same husbandry, would do the like, are, without doubt, of the same natural intrinsic value: but yet the benefit mankind receives from the one in a year, is worth 5l. and from the other possibly not worth a penny, if all the profit an *Indian* received from it were to be valued, and sold here; at least, I may truly say, not one thousandth. It is labour then which puts the greatest part of value upon land, without which it would scarcely be worth any thing; it is to that we owe the greatest part of all its useful products; for all that the straw, bran, bread, of that acre of wheat, is more worth than the product of an acre of as good land, which lies waste, is all the effect of labour.

For it is not barely the plough-man's pains, the reaper's and thresher's toil, and the baker's sweat, is to be counted into the *bread* we eat; the labour of those who broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are a vast number, requisite to this corn, from its being feed to be sown to its being made bread, must all be *charged* on the account of labour, and received as an effect of that: nature and the earth furnished only the almost worthless materials, as in themselves.

It would be a strange *catalogue of things, that industry provided and made use of, about every loaf of bread*, before it came to our use, if we could trace them; iron, wood, leather, bark, timber, stone, bricks, coals, lime, cloth, dying drugs, pitch, tar, masts, ropes, and all the materials made use of in the ship, that brought

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any of the commodities made use of by any of the workmen, to any part of the work; all which it would be almost impossible, at least too long, to reckon up.

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.

45. Thus *labour*, in the beginning, *gave a right of property*, wherever any one was pleased to employ it upon what was common, which remained a long while the far greater part, and is yet more than mankind makes use of.

Men, at first, for the most part, contented themselves with what unassisted nature offered to their necessities: and though afterwards, in some parts of the world (where the increase of people and stock, with the *use of money*, had made land scarce, and so of some value), the several communities settled the bounds of their distinct territories, and by laws within themselves regulated the properties of the private men of their society, and so, *by compact and agreement, settled the property* which labour and industry began; and the leagues that have been made between several states and kingdoms, either expressly or tacitly disowning all claim and right to the land in the others possession, have, by common consent,

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given up their pretences to their natural common right, which originally they had to those countries, and so have, by *positive agreement*, settled a *property* amongst themselves, in distinct parts and parcels of the earth; yet there are still *great tracts of ground* to be found, which (the inhabitants thereof not having joined with the rest of mankind, in the consent of the use of their common money) *lie waste*, and are more than the people who dwell on it do, or can make use of, and so still lie in common; tho' this can scarce happen amongst that part of mankind that have consented to the use of money.

46. The greatest part of *things really useful* to the life of man, and such as the necessity of subsisting made the first commoners of the world look after, as it doth the *Americans* now, are generally things of *short duration*; such as, if they are not consumed by use, will decay and perish of themselves: gold, silver and diamonds, are things that fancy or agreement hath put the value on, more than real use, and the necessary support of life.

Now of those good things which nature hath provided in common, every one had a right (as hath been said) to as much as he could use, and *property* in all that he could effect with his labour; all that his *industry* could extend to, to alter from the state nature had put it in, was his. He that *gathered* a hundred bushels of acorns or apples, had thereby a property in them, they were his goods as soon as gathered. He was only to look, that he used them before they spoiled, else he took more than his share, and robbed others.

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And indeed it was a foolish thing, as well as dishonest, to hoard up more than he could make use of. If he gave away a part to any body else, so that it perished not uselessly in his possession, these he also made use of. And if he also bartered away plums, that would have rotted in a week, for nuts that would last good for his eating a whole year, he did no injury; he wasted not the common stock; destroyed no part of the portion of goods that belonged to others, so long as nothing perished uselessly in his hands.

Again, if he would give his nuts for a piece of metal, pleased with its colour; or exchange his sheep for shells, or wool for a sparkling pebble or a diamond, and keep those by him all his life he invaded not the right of others, he might heap up as much of these durable things as he pleased; the *exceeding of the bounds* of his just *property* not lying in the largeness of his possession, but the perishing of any thing uselessly in it.

47. And thus *came in the use of money*, some lasting thing that men might keep without spoiling, and that by mutual consent men would take in exchange for the truly useful, but perishable supports of life.

48. And as different degrees of industry were apt to give men possessions in different proportions, so this *invention of money* gave them the opportunity to continue and enlarge them: for supposing an island, separate from all possible commerce with the rest of the world, wherein there were but an hundred families, but there were sheep, horses and cows, with other useful animals, wholesome fruits, and land enough

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for corn for a hundred thousand times as many, but nothing in the island, either because of its commonness, or perishableness, fit to supply the place of *money*; what reason could any one have there to enlarge his possessions beyond the use of his family, and a plentiful supply to its *consumption*, either in what their own industry produced, or they could barter for like perishable, useful commodities, with others?

Where there is not some thing, both lasting and scarce, and so valuable to be hoarded up, there men will not be apt to enlarge their *possessions of land*, were it never so rich, never so free for them to take: for I ask, what would a man value ten thousand, or an hundred thousand acres of excellent *land*, ready cultivated, and well stocked too with cattle, in the middle of the inland parts of *America*, where he had no hopes of commerce with other parts of the world, to draw *money* to him by the sale of the product? It would not be worth the enclosing, and we should see him give up again to the wild common of nature, whatever was more than would supply the conveniences of life to be had there for him and his family.

49. Thus in the beginning all the world was *America*, and more so than that is now; for no such thing as *money* was any where known. Find out something that hath *the use and value of money* amongst his neighbours, you shall see the same man will begin presently to enlarge his possessions.

50. But since gold and silver, being little useful to the life of man in proportion to food, raiment, and carriage, has its *value* only from the consent of men,

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whereof *labour yet makes*, in great part, the measure, it is plain, that men have agreed to a disproportionate and unequal *possession of the earth*, they having, by a tacit and voluntary consent, found out, a way how a man may fairly possess more land than he himself can use the product of, by receiving in exchange for the overplus gold and silver, which may be hoarded up without injury to any one; these metals not spoiling or decaying in the hands of the possessor.

This partage of things in an inequality of private possessions, men have made practicable out of the bounds of society, and without compact, only by putting a value on gold and silver, and tacitly agreeing in the use of money: for in governments, the laws regulate the right of property, and the possession of land is determined by positive constitutions.

51. And thus, I think, it is very easy to conceive, without any difficulty, *how labour could at first begin a title of property* in the common things of nature, and how the spending it upon our uses bounded it.

So that there could then be no reason of quarrelling about title, nor any doubt about the largeness of possession it gave. Right and conveniency went together; for as a man had a right to all he could employ his labour upon, so he had no temptation to labour for more than he could make use of. This left no room for controversy about the title, nor for encroachment on the right of others; what portion a man carved to himself, was easily seen; and it was useless, as well as dishonest, to carve himself too much, or take more than he needed.

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Chapter XI Of the Extent of the Legislative Power

134. THE great end of men's entering into society, being the enjoyment of their properties in peace and safety, and the great instrument and means of that being the laws established in that society; the *first and fundamental positive law* of all commonwealths is the *establishing of the legislative power*; as the *first and fundamental natural law*, which is to govern even the legislative itself, is the preservation of the society, and (as far as will consist with the public good) of every person in it.

This *legislative* is not only *the supreme power* of the common-wealth, but sacred and unalterable in the hands where the community have once placed it; nor can any edict of any body else, in what form soever conceived, or by what power soever backed, have the force and obligation of a *law*, which has not its *sanction from that legislative* which the public has chosen and appointed: for without this the law could not have that, which is absolutely necessary to its being a *law*,* *the consent of the society*, over whom no body can have a power to make laws, but by their own consent, and by authority received from them; and therefore all the *obedience*, which by the most solemn ties any one can be obliged to pay, ultimately terminates in this *supreme power*, and is directed by those laws which it enacts: nor can any oaths to any foreign power whatsoever, or any domestic subordinate power, discharge any member of the society

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from his *obedience to the legislative*, acting pursuant to their trust; nor oblige him to any obedience contrary to the laws so enacted, or farther than they do allow; it being ridiculous to imagine one can be tied ultimately to *obey any power* in the society, which is not the *supreme*.

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

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

First, It is *not*, nor can possibly be absolutely *arbitrary* over the lives and fortunes of the people: for it being but the joint power of every member of the

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society given up to that person, or assembly, which is legislator; it can be no more than those persons had in a state of nature before they entered into society, and gave up to the community: for no body can transfer to another more power than he has in himself; and no body has an absolute arbitrary power over himself, or over any other, to destroy his own life, or take away the life or property of another.

A man, as has been proved, cannot subject himself to the arbitrary power of another; and having in the state of nature no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself, and the rest of mankind; this is all he doth, or can give up to the common-wealth, and by it to the *legislative power*, so that the legislative can have no more than this. Their power, in the utmost bounds of it, is *limited to the public good* of the society.

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

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tion of mankind, no human sanction can be good, or valid against it.

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

136. Secondly,* The *legislative*, or supreme authority, cannot assume to its self a power to rule by extemporary arbitrary decrees, but *is bound to dispense justice*, and decide the rights of the subject *by promulgated standing laws, and known authorized judges*: for the law of nature being unwritten, and so no where to be found but in the minds of men, they who through passion or interest shall miscite, or misapply it, cannot so easily be convinced of their mistake where there is no established judge: and so it serves not, as it ought, to determine the rights, and fence the properties of those that live under it, espe-

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cially where every one is judge, interpreter, and executioner of it too, and that in his own case: and he that has right on his side, having ordinarily but his own single strength, hath not force enough to defend himself from injuries, or to punish delinquents.

(*Human laws are measures in respect of men whose actions they must direct, howbeit such measures they are as have also their higher rules to be measured by, which rules are two, the law of God, and the law of nature; so that laws human must be made according to the general laws of nature, and without contradiction to any positive law of scripture, otherwise they are ill made. Hooker's Eccl. Pol. l. iii. sect. 9. To constrain men to any thing inconvenient doth seem unreasonable. Ibid. l. i. sect. 10.)

To avoid these inconveniences, which disorder men's properties in the state of nature, men unite into societies, that they may have the united strength of the whole society to secure and defend their properties, and may have *standing rules* to bound it, by which every one may know what is his. To this end it is that men give up all their natural power to the society which they enter into, and the community put the legislative power into such hands as they think fit, with this trust, that they shall be governed by declared laws, or else their peace, quiet, and property will still be at the same uncertainty, as it was in the state of nature.

137. Absolute arbitrary power, or governing without *settled standing laws*, can neither of them consist with the ends of society and government, which men would not quit the freedom of the state of nature for,

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and tie themselves up under, were it not to preserve their lives, liberties and fortunes, and by *stated rules* of right and property to secure their peace and quiet. It cannot be supposed that they should intend, had they a power so to do, to give to any one, or more, an *absolute arbitrary power* over their persons and estates, and put a force into the magistrate's hand to execute his unlimited will arbitrarily upon them.

This were to put themselves into a worse condition than the state of nature, wherein they had a liberty to defend their right against the injuries of others, and were upon equal terms of force to maintain it, whether invaded by a single man, or many in combination. Whereas by supposing they have given up themselves to the *absolute arbitrary power* and will of a legislator, they have disarmed themselves, and armed him, to make a prey of them when he pleases; he being in a much worse condition, who is exposed to the arbitrary power of one man, who has the command of 100,000, than he that is exposed to the arbitrary power of 100,000 single men; no body being secure, that his will, who has such a command, is better than that of other men, though his force be 100,000 times stronger.

And therefore, whatever form the commonwealth is under, the ruling power ought to govern by *declared* and *received laws*, and not by extemporary dictates and undetermined resolutions: for then mankind will be in a far worse condition than in the state of nature, if they shall have armed one, or a few men with the joint power of a multitude, to force

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

138. *Thirdly*, The *supreme power cannot take* from any man any part of his *property* without his own consent: for the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires, that the people should *have property*, without which they must be supposed to lose that, by entering into society, which was the end for which they entered into it; too gross an absurdity for any man to own.

Men therefore in society *having property*, they have such a right to the goods, which by the law of the community are their's, that no body hath a right to take their substance or any part of it from them, without their own consent: without this they have no *property* at all; for I have truly no *property* in that, which another can by right take from me, when he pleases, against my consent. Hence it is a mistake

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to think, that the *supreme or legislative power* of any commonwealth, can do what it will, and dispose of the estates of the subject *arbitrarily*, or take any part of them at pleasure.

This is not much to be feared in governments where the *legislative* consists, wholly or in part, in assemblies which are variable, whose members, upon the dissolution of the assembly, are subjects under the common laws of their country, equally with the rest. But in governments, where the *legislative* is in one lasting assembly always in being, or in one man, as in absolute monarchies, there is danger still, that they will think themselves to have a distinct interest from the rest of the community; and so will be apt to increase their own riches and power, by taking what they think fit from the people: for a man's *property* is not at all secure, tho' there be good and equitable laws to set the bounds of it between him and his fellow subjects, if he who commands those subjects have power to take from any private man, what part he pleases of his property, and use and dispose of it as he thinks good.

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

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And to let us see, that even *absolute power*, where it is necessary, is *not arbitrary* by being absolute, but is still limited by that reason, and confined to those ends, which required it in some cases to be absolute, we need look no farther than the common practice of martial discipline: for the preservation of the army, and in it of the whole common-wealth, requires an *absolute obedience* to the command of every superior officer, and it is justly death to disobey or dispute the most dangerous or unreasonable of them; but yet we see, that neither the serjeant, that could command a soldier to march up to the mouth of a cannon, or stand in a breach, where he is almost sure to perish, can command that soldier to give him one penny of his money; nor the *general*, that can condemn him to death for deserting his post, or for not obeying the most desperate orders, can yet, with all his *absolute power* of life and death, dispose of one farthing of that soldier's estate, or seize one jot of his goods; whom yet he can command any thing, and hang for the least disobedience; because such a blind obedience is necessary to that end, for which the commander has his power, viz. the preservation of the rest; but the disposing of his goods has nothing to do with it.

140. It is true, governments cannot be supported without great charge, and it is fit every one who enjoys his share of the protection, should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent, i.e. the consent of the majority, giving it either by themselves, or their representatives chosen by them: for if any one shall

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claim a *power* to lay and levy *taxes* on the people, by his own authority, and without such consent of the people, he thereby invades the *fundamental law of property*, and subverts the end of government: for what property have I in that, which another may by right take, when he pleases, to himself?

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

The power of the *legislative*, being derived from the people by a positive voluntary grant and institution, can be no other than what that positive grant conveyed, which being only to make *laws*, and not to make *legislators*, the *legislative* can have no power to transfer their authority of making laws, and place it in other hands.

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

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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.