

# Laws of Ecclesiastical Polity

Richard Hooker

1594

*We are drawn into society by need. The laws of the commonwealth govern us within the community. They are fitted for men who are in some measure depraved. They restrain our wickedness and promote the common good. We become subject to these laws by consent, though our representatives may give it on our behalf. The law of nations governs the relations that exist among the independent peoples of the world.*

Book I

Chapter 10

1. That which hitherto we have set down is (I hope) sufficient to shew their brutishness, which imagine that religion and virtue are only as men will account of them; that we might make as much account, if we would, of the contrary, without any harm unto ourselves, and that in nature they are as indifferent one as the other.

We see then how nature itself teacheth laws and statutes to live by. The laws which have been hitherto

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mentioned do bind men absolutely even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do or not to do (Ἔστι γὰρ, ὁ μαντεύονται τι πάντες φύσει κοινὸν δίκαιον καὶ ἄδικον, καὶ μὴ μὴδεμία κοινωνία πρὸς ἀλλήλους ἢ μὴδὲ συνθήκη. Arist. Rhet. i.).

But forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire, a life fit for the dignity of man; therefore to supply those defects and imperfections which are in us living single and solely by ourselves, we are naturally induced to seek communion and fellowship with others. This was the cause of men's uniting themselves at the first in politic Societies, which societies could not be without Government, nor Government without a distinct kind of Law from that which hath been already declared.

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

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obstinate, rebellious, and averse from all obedience unto 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. It resteth therefore that we consider how nature findeth out such laws of government as serve to direct even nature depraved to a right end.

8. Howbeit laws do not take their constraining force from the quality of such as devise them, but from that power which doth give them the strength of laws. That which we spake before concerning the power of government must here be applied unto the power of making laws whereby to govern; which power God hath over all: and by the natural law, whereunto he hath made all subject, the lawful power of making laws to command whole politic societies of men belongeth so properly unto the same entire societies, that for any prince or potentate of what kind soever upon earth to exercise the same of himself, and not either 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. But approbation not only they give who personally declare their assent by voice

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sign or act, but also when others do it in their names by right originally at the least derived from them. As in parliaments, councils, and the like assemblies, although we be not personally ourselves present, notwithstanding our assent is by reason of others agents there in our behalf. And what we do by others, no reason but that it should stand as our deed, no less effectually to bind us than if ourselves had done it in person.

In many things assent is given, they that give it not imagining they do so, because the manner of their assenting is not apparent. As for example, when an absolute monarch commandeth his subjects that which seemeth good in his own discretion, hath not his edict the force of a law whether they approve or dislike it? Again, that which hath been received long sithence and is by custom now established, we keep as a law which we may not transgress; yet what consent was ever thereunto sought or required at our hands?

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 are part hath at any time before consented, without revoking the same after by the like universal agreement.

Wherefore as any man's deed past is good as long as himself continueth; so the act of a public society of men done five hundred years sithence standeth

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as theirs who presently are of the same societies, because corporations are immortal; we were then alive in our predecessors, and they in their successors do live still. Laws therefore human, of what kind soever, are available by consent.

12. Now besides that law which simply concerneth men as men, and that which belongeth unto them as they are men linked with others in some form of politic society, there is a third kind of law which toucheth all such several bodies politic, so far forth as one of them hath public commerce with another. And this third is the Law of Nations.

Between men and beasts there is no possibility of sociable communion, because the well-spring of that communion is a natural delight which man hath to transfuse from himself into others, and to receive from others into himself especially those things wherein the excellency of his kind doth most consist. The chiefest instrument of human communion therefore is speech, because thereby we impart mutually one to another the conceits of our reasonable understanding (Arist. Polit. i. cap. 2).

And for that cause seeing beasts are not hereof capable, forasmuch as with them we can use no such conference, they being in degree, although above other creatures on earth to whom nature hath denied sense, yet lower than to be sociable companions of man to whom nature hath given reason; it is of Adam said that amongst the beasts "he found not for himself any meet companion" (Gen. ii. 20).

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Civil society doth more content the nature of man than any private kind of solitary living, because in society this good of mutual participation is so much larger than otherwise. Herewith notwithstanding we are not satisfied, but we covet (if it might be) to have a kind of society and fellowship even with all mankind. Which thing Socrates intending to signify professed himself a citizen, not of this or that commonwealth, but of the world (Cic. Tusc. v. et i. de Legib.). And an effect of that very natural desire in us (a manifest token that we wish after a sort an universal fellowship with all men) appeareth by the wonderful delight men have, some to visit foreign countries, some to discover nations not heard of in former ages, we all to know the affairs and dealings of other people, yea to be in league of amity with them: and this not only for traffick's sake, or to the end that when many are confederated each may make other the more strong, but for such cause also as moved the Queen of Saba to visit Salomon (1 Kings x. 1; 2 Chron. ix. 1; Matt. xii. 42; Luke xi. 31); and in a word, because nature doth presume that how many men there are in the world, so many gods as it were there are, or at leastwise such they should be towards men.