

Second Treatise of Government

John Locke

Copyright © Jonathan Bennett 2017. All rights reserved

[Brackets] enclose editorial explanations. Small ·dots· enclose material that has been added, but can be read as though it were part of the original text. Occasional •bullets, and also indenting of passages that are not quotations, are meant as aids to grasping the structure of a sentence or a thought. Every four-point ellipsis indicates the omission of a brief passage that seems to present more difficulty than it is worth.—The division into numbered sections is Locke's.

First launched: January 2005

Last amended: March 2008

Contents

Preface	1
Chapter 1	2
Chapter 2: The state of nature	3
Chapter 3: The state of war	7
Chapter 4: Slavery	9
Chapter 5: Property	10
Chapter 6: Paternal power	19
Chapter 7: Political or Civil Society	26

Chapter 8: The beginning of political societies	32
Chapter 9: The purposes of political society and government	40
Chapter 10: The forms of a commonwealth	42
Chapter 11: The extent of the legislative power	43
Chapter 12: The legislative, executive, and federative powers of the commonwealth	46
Chapter 13: The subordination of the powers of the commonwealth	48
Chapter 14: Prerogative	53
Chapter 15: Paternal, political, and despotic power, considered together	56
Chapter 16: Conquest	58
Chapter 17: Usurpation	65
Chapter 18: Tyranny	65
Chapter 19: The dissolution of government	70
Locke on children	80

Chapter 7: Political or Civil Society

·CONJUGAL SOCIETY·

77. God having made man as a creature who, in God's own judgment, ought not to be alone, •drew him strongly—by need, convenience, and inclination—into society, and •equipped him with understanding and language to keep society going and to enjoy it. The first society was between man and wife, which gave rise to the society between parents and children; to which in time the society between master and servant came to be added. All these could and often did meet together, and constitute a single family in which the master or mistress had some appropriate sort of authority. [In Locke's day 'family' commonly meant 'household', i.e. including the servants.] Each of these smaller societies, or all together, fell short of being a *political* society, as we shall see if we consider the different ends, ties, and bounds of each of them.

78. Conjugal society is made by a voluntary compact between man and woman. It mainly consists in the togetherness of bodies and right of access to one another's bodies that is needed for procreation, which is its main purpose; but it brings with it mutual support and assistance, and a togetherness of interests too, this being needed to unite their care and affection and also needed by their offspring, who have a right to be nourished and maintained by them till they are old enough to provide for themselves.

79. The purpose of bonding between male and female is not just •procreation but •the continuation of the species; •meaning that it's not just to *have* children but to *bring them up*; so this link between male and female ought to last beyond procreation, so long as is needed for the nourishment and support of the young ones. . . . This rule that our infinite wise maker has imposed on his creatures can be seen to be

regularly obeyed by the lower animals. In viviparous animals that feed on grass, the bonding of male with female lasts no longer than the mere act of copulation; because the female's teat is sufficient to nourish the young until they can feed on grass, all the male has to do is to beget [= 'to impregnate the female'], and doesn't concern himself with the female or with the young, to whose nourishment he can't contribute anything. But in beasts of prey the conjunction lasts longer, because the dam isn't able to survive and to nourish her numerous offspring by her own prey alone, this being a more laborious way of living than feeding on grass, as well as a more dangerous one. So the male has to help to maintain their common family, which can't survive unaided until the young are able to prey for themselves. This can be seen also with birds, whose young need food in the nest, so that the cock and the hen continue as mates until the young can fly, and can provide for themselves. (The only exception is some domestic birds; the cock needn't feed and take care of the young brood because there is plenty of food.)

80. This brings us to what I think is the chief if not the only reason why the *human* male and female are bonded together for longer than other creatures. It is this:- Long before a human child is able to shift for itself without help from his parents, its mother can again conceive and bear another child; so that the father, who is bound to take care for those he has fathered, is obliged to continue in conjugal society with the same woman for longer than some other creatures. With creatures whose young can make their own way the time of procreation comes around again, the conjugal bond automatically dissolves and the parents are at liberty, till Hymen [the god of marriage] at his usual anniversary season

summons them again to choose new mates. We have to admire the wisdom of the great creator: having •given man foresight and an ability to make preparations for the future as well dealing with present needs, God •made it necessary that the society of man and wife should be more lasting than that of male and female among other creatures; so that their industry might be encouraged and their interests better united to make provision and lay up goods for their shared offspring—an arrangement that would be mightily disturbed if the offspring had an uncertain mixture of parentage or if conjugal society were often and easily dissolved.

81. But though there are these ties that make conjugal bonds firmer and more lasting in humans than in the other species of animals, it is still reasonable to ask:

Once procreation and upbringing have been secured, and inheritance arranged for, why shouldn't this compact ·between man and wife· be like any other voluntary compact? That is, why shouldn't its continuance depend on the consent of the parties, or on the elapsing of a certain period of time, or on some other condition?

·It is a reasonable question because· neither the compact itself nor the purposes for which it was undertaken *require* that it should always be for life. (Unless of course there is a positive law ordaining that all such contracts be perpetual.)

[See the explanation of 'positive' on page 3.]

82. Though the husband and wife have a single common concern, they have different •views about things and so inevitably they will sometimes differ in what they •want to be done. The final decision on any practical question has to rest with *someone*, and it naturally falls to the man's share, because he is the abler [Locke's word] and the stronger of the two. But this applies only to things in which they have a common interest or ownership; it leaves the wife in the full

and free possession of what by contract is her special right, and gives the husband no more power over her life than she has over his! The husband's power is so far from that of an absolute monarch that the wife is in many cases free to separate from him, where natural right or their contract allows it—whether that contract is made by themselves in the state of nature, or made by the customs or laws of the country they live in. When such a separation occurs, the children go to the father or to the mother, depending on what their contract says.

83. All the •purposes of marriage can be achieved under political government as well as in the state of nature, so the civil magistrate doesn't interfere with any of the husband's or wife's rights or powers that are naturally necessary for those •purposes, namely procreation and mutual support and assistance while they are together. He comes into the picture only when called upon to decide any controversy that may arise between man and wife about the purposes in question. [Locke goes on to say that 'absolute sovereignty and power of life and death' doesn't naturally belong to the husband, because this isn't needed for the purposes for which marriage exists; and that if it were needed for that, matrimony would be impossible in countries whose laws forbid any private citizen to have such authority.]

84. As for the society between parents and children, and the distinct rights and powers belonging to each: I discussed this fully enough in chapter 6, and needn't say more about it here. I think it is obvious that it is very different from politic society.

·DOMESTIC GOVERNANCE GENERALLY·

85. 'Master' and 'servant' are names as old as history, but very different relationships can be characterized by them. •A free man may make himself a servant to someone else

by *selling* to him for a specified time the service that he undertakes to do, in exchange for wages he is to receive. This often puts him into the household of his master, and under its ordinary discipline, but it gives the master a power over him that is temporary and is no greater than what is contained in the contract between them. •But there is another sort of servant to which we give the special name ‘slave’. A slave is someone who, being a captive taken in a just war, is by the right of nature subjected to the absolute command and arbitrary power of his master. A slave has forfeited his life and with it his liberty; he has lost all his goods, and as a slave he is not capable of having any property; so he can’t in his condition of slavery be considered as any part of civil society, the chief purpose of which is the preservation of property.

86. Let us then consider a *master of a family* [= ‘household’] with all these subordinate relations of wife, children, servants, and slaves, all brought together under the general label of ‘the domestic rule of a family’. This may look like a *little commonwealth* in its structure and rules, but it is really far from that in its constitution, its power and its purpose. [Locke goes on by saying that if it were a monarchy, it would be an extraordinarily limited one. Then:] But how a family or any other society of men differs from a political society, properly so-called, we shall best see by considering what political society *is*.

•POLITICAL SOCIETY•

87. As I have shown, man was born with a right to perfect freedom, and with an uncontrolled enjoyment of all the rights and privileges of the law of nature, equally with any other man or men in the world. So he has by nature a power not only •to preserve

•his property,

that is,

•his life, liberty and possessions,
 against harm from other men, but •to judge and punish breaches of the law of nature by others—punishing in the manner he thinks the offence deserves, even punishing with *death* crimes that he thinks are so dreadful as to deserve it. But no political society can exist or survive without having *in itself* the power to preserve the property—and therefore to punish the offences—of all the members of that society; and so there can’t be a political society except where every one of the members has given up this natural power, passing it into the hands of the community in all cases. . . . With all private judgments of every particular member of the society being excluded, *the community* comes to be the umpire. It acts in this role •according to settled standing rules, impartially, the same to all parties; acting •through men who have authority from the community to apply those rules. This ‘umpire’ settles all the disputes that may arise between members of the society concerning any matter of right, and punishes offences that any member has committed against the society, with penalties that the law has established. This makes it easy to tell who are and who aren’t members of a political society. Those who

are united into one body with a common established law and judiciary to appeal to, with authority to decide controversies and punish offenders,

are in •civil society with one another; whereas those who have no such common appeal (I mean: no such appeal here on earth)

are still in •the state of nature, each having to judge and to carry out the sentence, because there isn’t anyone else to do those things for him.

88. That's how it comes about that the commonwealth has

- the power of making laws: that is, the power to set down what punishments are appropriate for what crimes that members of the society commit; and
- the power of war and peace: that is, the power to punish any harm done to any of its members by anyone who isn't a member;

all this being done for the preservation of the property of all the members of the society, as far as is possible. [Note the broad meaning given to 'property' near the start of section 87.] Every man who has entered into civil society has thereby relinquished his power to punish offences against the law of nature on the basis of his own private judgment, •giving it to the legislature in all cases; and along with that he has also •given to the commonwealth a right to call on him to employ *his* force for the carrying out of *its* judgments (which are really his own judgments, for they are made by himself or by his representative). So we have the distinction between the •legislative and •executive powers of civil society. The former are used to

judge, by •standing laws, how far offences committed *within* the commonwealth are to be punished;

the latter are used to

determine, by •occasional judgments based on particular circumstances, how far harms from *outside* the commonwealth are to be vindicated.

Each •branch of a commonwealth's power• can employ all the force of all its members, when there is a need for it.

89. Thus, there is a political (or civil) society *when and only when* a number of men are united into one society in such a way that each of them forgoes his executive power of the law of nature, giving it over to the public. And this comes about wherever a number of men in the state of nature enter into society to make one people, one body politic,

under one supreme government. (•A man can become a member of a commonwealth without being in on its creation, namely• when someone joins himself to a commonwealth that is already in existence. In doing this he authorizes the society—i.e. authorizes its legislature—to make laws for him as the public good of the society shall require. . . .) This takes men out of a state of nature into the state of a commonwealth, by setting up a judge on earth with authority to settle all the controversies and redress the harms that are done to any member of the commonwealth. . . . Any group of men who have no such decisive power to appeal to are still in the state of nature, no matter what other kind of association they have with one another.

•ABSOLUTE MONARCHY•

90. This makes it evident that *absolute monarchy*, which some people regard as the only •genuine• government in the world, is actually inconsistent with civil society and so can't be a form of civil government at all! Consider what civil society is *for*. It is set up

to avoid and remedy the drawbacks of the state of nature that inevitably follow from every man's being judge in his own case, by setting up a known authority to which every member of that society can appeal when he has been harmed or is involved in a dispute—an authority that *everyone* in the society ought to obey.

So any people who don't have such an authority to appeal to for the settlement of their disputes are still in the state of nature. Thus, every absolute monarch is in the state of nature with respect to those who are under his dominion. [Locke has a footnote quoting a confirmatory passage from Hooker. Another such is attached to the next section, and two to section 94.]

91. For an absolute monarch is supposed to have both legislative and executive power in himself alone; so there is no judge or court of appeal that can fairly, impartially, and authoritatively make decisions that could provide relief and compensation for any harm that may be inflicted by the monarch or on his orders. So such a man—call him Czar or Grand Seignior or what you will—is as much in the state of nature with respect to his subjects as he is with respect to the rest of mankind. This is a special case of the state of nature, because between it and the ordinary state of nature there is this difference, a woeful one for the subject (really, the *slave*) of an absolute monarch: •in the ordinary state of nature a man is free to judge what he has a right to, and to use the best of his power to maintain his rights; whereas •in an absolute monarchy, when his property is invaded by the will of his monarch, he not only has no-one to appeal to but he isn't even free to judge what his rights are or to defend them (as though he were a cat or a dog, that can't think for itself). He is, in short, exposed to all the misery and inconveniences that a man can fear from someone who is in the unrestrained state of nature and is also corrupted with flattery and armed with power.

92. If you think that absolute power purifies men's blood and corrects the baseness of human nature, *read history*—of this or any other age—and you'll be convinced of the contrary. A man who would have been insolent and injurious in the forests of America isn't likely to be much better on a throne! Possibly even worse, because as an absolute monarch he may have •access to learning and religion that will 'justify' everything he does to his subjects, and •the power of arms to silence immediately all those who dare question his actions. . . .

93. In absolute monarchies, as well in other governments in the world, the subjects can appeal to the law and have judges to decide disputes and restrain violence among the subjects. Everyone thinks this to be necessary, and believes that anyone who threatens it should be thought a declared enemy to society and mankind. But does this come from a true love of mankind and society, and from the charity that we all owe to one another? There is reason to think that it *doesn't*. There is really no more to it than what any man who loves his own power, profit, or greatness will naturally do to prevent fights among animals that labour and drudge purely for his pleasure and advantage, and so are taken care of not out of any love the master has for them but out of love for himself and for the profit they bring him. If we ask 'What security, what fence, do we have to protect us from the violence and oppression of this absolute ruler?', the very question is found to be almost intolerable. They are ready to tell you that even to *ask* about safety from the monarch is an offence that deserves to be punished by death. Between •subjects, they will grant, there must be measures, laws and judges to produce mutual peace and security: but •the ruler ought to be absolute, and is above all such considerations; because he has power to do more hurt and wrong, it is *right* when *he* does it! To ask how you may be guarded from harm coming from the direction where the strongest hand is available to do it is to use the voice of faction and rebellion; as if when men left the state of nature and entered into society they agreed that *all but one* of them should be under the restraint of laws, and that *that one* should keep all the liberty of the state of nature, increased by power, and made licentious by impunity. This implies that men are so foolish that they would take care to avoid harms from polecats or foxes, but think it is *safety* to be eaten by lions.

94. But whatever may be soothingly said to confuse people's understandings, it doesn't stop men from feeling. And when they see that *any* man is outside the bounds of the civil society to which they belong, and that they have no appeal on earth against any harm he may do them, they are apt to think they are in the state of nature with respect to that man, and to take care as soon possible to regain the safety and security in civil society which was their only reason for entering into it in the first place. This holds for *any* such man, whatever his station in life—whether he is a monarch or a street-sweeper. In the early stages of a commonwealth it may happen (this being something I shall discuss more fully later on) that one good and excellent man comes to be pre-eminent, his goodness and virtue causing the others to defer to him as to a kind of natural authority; so that by everyone's tacit consent he comes to be the chief arbitrator of their disputes, with no precautions taken against his abusing that power except their confidence in his uprightness and wisdom. The story could unfold from there in the following way. The careless and unforeseeing innocence of the first years of society—which I have been describing—establish *customs* of deference to one individual; some of the successors to the first pre-eminent man are much inferior to him; but the passage of time gives authority to customs

(some say it makes them *sacred*), and so the custom of deference-to-one stays in place. Eventually the people find that, although the whole purpose of government is the preservation of property, *their* property is not safe under *this* government; and they conclude that the only way for them to be safe and without anxiety—the only way for them to think they are *in* a civil society—is for the legislative power to be given to a collective body of men, call it 'senate', 'parliament', or what you will. In this way every single person—from the highest to the lowest—comes to be subject to the laws that he himself, as part of the legislature, has established. No-one has authority to take himself outside the reach of a law once it has been made; nor can anyone by any claim of superiority plead exemption from the laws, so as to license offences against it by himself or his dependents. No man in civil society can be exempted from its laws; for if *any* man can do what he thinks fit, and there is no appeal on earth for compensation or protection against any harm he may do, isn't he still perfectly in the state of nature, and so not a part or member of that civil society? The only way to avoid the answer 'Yes' is to say that the state of nature and civil society are one and the same thing, and I have never yet found anyone who is such an enthusiast for anarchy that he would affirm *that*.

Chapter 8: The beginning of political societies

95. Men all being naturally free, equal, and independent, no-one can be deprived of this freedom etc. and subjected to the political power of someone else, without his own consent. The only way anyone can strip off his natural liberty and clothe himself in the bonds of civil society is for him to agree with other men to unite into a community, so as to live together comfortably, safely, and peaceably, in a secure enjoyment of their properties and a greater security against outsiders. Any number of men can do this, because it does no harm to the freedom of the rest; *they* are left with the liberty of the state of nature, which they had all along. When any number of men have in this way consented to make one community or government, this immediately incorporates them, turns them into a single *body politic* in which the majority have a right to act on behalf of the rest and to bind them by its decisions. [‘incorporate’ comes from Latin *corpus* = ‘body’.]

96. [In this section Locke makes the point that a unified single body can move in only one way, and that must be in the direction in which ‘the greater force carries it, which is the consent of the majority’. Majoritarian rule is the only possibility for united action. Locke will discuss one alternative—namely universal agreement—in section 98.]

97. Thus every man, by agreeing with others to make one body politic under one government, puts himself under an obligation to everyone in that society to submit to the decisions of the majority, and to be bound by it. Otherwise—that is, if he were willing to submit himself only to the majority acts that he approved of—the original compact through which he and others incorporated into one society would be meaningless; it wouldn’t be a compact if it left him as free

of obligations as he had been in the state of nature. . . .

98. For if the consent of ‘the majority isn’t accepted as the act of the whole ·body politic· and as binding on every individual, the only basis there could be for something’s counting as an act of the whole would be its having the consent of ‘every individual. But it is virtually impossible for that ever to be had. Even with an assembly *much* smaller than that of an entire commonwealth, many will be kept from attending by ill-health or by the demands of business. For that reason, and also because of the variety of opinions and conflicts of interests that inevitably occur in any collection of men, it would be absurd for them to come into society on such terms, that is, on the basis that the society as a whole does nothing that isn’t assented to by each and every member of it. It would be like Cato’s coming into the theatre only to go out again. [This refers to an episode in which the younger Cato conspicuously walked out of a theatrical performance in ancient Rome, to protest what he thought to be indecency in the performance.] Such a constitution as this would give the ‘supposedly·mighty Leviathan a shorter life than the feeblest creatures; it wouldn’t live beyond the day it was born. [For ‘Leviathan’, see *Job* 41. Hobbes had adapted the word as a name for the politically organised state.] We can’t think that this is what rational creatures would *want* in setting up political societies. . . .

99. So those who out of a state of nature unite into a community must be understood to give up all the power required to secure its purposes to the majority of the community (unless they explicitly agree on some number greater than the majority). They achieve this simply by agreeing *to unite into one political society*; that’s all the compact that is needed between the individuals that create or join a commonwealth.

Thus, what begins a political society and keeps it in existence is nothing but the consent of any number of free men capable of a majority [Locke's phrase] to unite and incorporate into such a society. This is the only thing that did *or could* give a beginning to any lawful government in the world.

100. To this I find two objections made. First,

History shows no examples of this, no cases where a group of independent and equal men met together and in this way began and set up a government.

Secondly,

It is impossible for men *rightly* to do this, because all men are born under government, and so they are bound to submit to that government and aren't at liberty to begin a new one.

I shall discuss these in turn, giving twelve sections to the first of them.

·THE 'HISTORY IS SILENT' OBJECTION·

101. Here is an answer to the first objection. It is no wonder that history gives us very little account of men living together in the state of nature. As soon as any number of men were brought together by the inconveniences of that state, and by their love of society and their lack of it, they immediately united and incorporated if they planned to continue together. If we can conclude that men never were in the state of nature because we don't hear not much about them in such a state, we can just as well conclude that the soldiers of Salmanasser or Xerxes were never children because we hear little of them before the time when they were men and became soldiers. In all parts of the world there was government before there were records; writing seldom comes in among a people until a long stretch of civil society has, through other more necessary arts ·such as agriculture and architecture·, provided for their safety, ease, and affluence. When writing

does eventually come in, people begin to look into the history of their founders, researching their origins when no memory remains of them; for commonwealths are like individual persons in being, usually, ignorant of their own births and infancies; and when a commonwealth does know something about its origins, they owe that knowledge to the records that others happen to have kept of it. And such records as we have of the beginnings of political states give no support to *paternal dominion*, except for the Jewish state, where God himself stepped in. They are all either plain instances of the kind of beginning that I have described mentioned or at least show clear signs of it.

102. Rome and Venice had their starts when a number of men, free and independent of one another and with no natural superiority or subjection, came together ·to form a political society·. Anyone who denies *this* must have a strange inclination to deny any evident matter of fact that doesn't agree with his hypothesis. [Locke then quotes an historian who reports that in many parts of the American continent people had lived together in 'troops' with no government at all, some of them continuing thus into Locke's time. Then:] You might object: 'Every man there was born subject to his father, or to the head of his family'; but I have already shown that the subjection a child owes to a father still leaves him free to join in whatever political society he thinks fit. But be that as it may, it is obvious that these men were actually *free*; and whatever superiority some political theorists would now accord to any of them, they themselves made no such claim; by consent they were all equal until by that same consent they set rulers over themselves. So their political societies all began from a voluntary union, and the mutual agreement of men freely acting in the choice of their governors and forms of government.

103. [Locke gives another example: colonists from ancient Sparta. Then:] Thus I have given several historical examples of free people in the state of nature who met together, incorporated, and began a commonwealth. Anyway, if the lack of such examples *were* a good argument to show that governments couldn't have been started in this way, the defenders of the *paternal empire* ·theory of government· would do better leave it unused rather than urging it against natural liberty ·and thus against my theory·: my advice to them would be not to search too much into the origins of governments, lest they should find at the founding of most of them something very little favourable to the design *they* support and the governmental power *they* contend for. We wouldn't be running much of a risk if we said 'Find plenty of historical instances of governments begun on the basis of paternal right, and we'll accept your theory'; though really there is no great force in an argument from what •has been to what •should of right be, ·even if they had the historical premise for the argument·.

104. [This short section repeats the conclusion of the preceding sections.]

105. I don't deny that if we look back as far as history will take us into the origins of commonwealths, we shall generally find them under the government and administration of one man. Also, I am inclined to believe this:

Where a family was numerous enough to survive on its own without mixing with others (as often happens where there is much land and few people), the government commonly began in the father. By the law of nature he had the power to punish, as he thought fit, any offences against that law; this included punishing his offspring when they offended, even after they had become adults; and it is very likely that each

submitted to his own punishment and supported the father in punishing the others when they offended, thereby giving him power to carry out his sentence against any transgression. This would in effect make him the law-maker and governor over everyone who continued to be joined up with his family. He was the most fit to be trusted; paternal affection secured their property and interest under his care; and the childhood custom of obeying him made it easier to submit to him than to anyone else. So if they had to have •one man to rule them (for government can hardly be avoided when men live together), who so likely to be •the man as their common father, unless negligence, cruelty, or some other defect of mind or body made him unfit for it?

But when •the father died and left as his next heir someone who was less fit to rule (because too young, or lacking in wisdom, courage, or the like), or when •several families met and agreed to continue together, it can't be doubted that then •they used their natural freedom to set up as their ruler the one whom they judged to be the ablest and the most likely to rule well. And so we find the people of America—ones who lived out of the reach of the conquering swords and spreading domination of the two great empires of Peru and Mexico—enjoyed their own natural freedom, ·and made their own choices of ruler·. Other things being equal, they have commonly preferred the heir of their deceased king; but when they find him to be any way weak or incapable, they pass him over and choose the toughest and bravest man as their ruler.

106. So the prevalence in early times of government by one man doesn't destroy what I affirm, namely that

the beginning of political society depends upon the individuals' consenting to create and join into one

society; and when they are thus incorporated they can set up whatever form of government they think fit.

But people have been misled by the historical records into thinking that by nature government is monarchical, and belongs to the father. So perhaps we should consider here *why* people in the beginning generally chose this one-man-form of government. The father's pre-eminence might explain this in the first stages of some commonwealths, but obviously the reason why government by a single person continued through the years was not a respect for paternal authority; since all small monarchies (and most are small in their early years) have at least sometimes been *elective*.

107. [Locke repeats the reasons given in section 105 for fathers to be accepted as rulers in the early years of a political society. Then:] Add to that a further fact:-

Monarchy would be *simple and obvious* to men whose experience hadn't instructed them in forms of government, and who hadn't encountered the ambition or insolence of empire, which might teach them to beware of the . . . drawbacks of absolute power which a hereditary monarchy was apt to lay claim to.

So it wasn't at all strange if they didn't take the trouble to think much about methods of restraining any excesses on the part of those to whom they had given authority over them, and of balancing the power of government by placing different parts of it in different hands. . . . It is no wonder that they gave themselves a form of government that was not only obvious and simple but also best suited to their present state and condition, in which they needed defence against foreign invasions and injuries more than they needed a multiplicity of laws. [Locke elaborates that last point: 'the equality of a simple poor way of living' meant that there would be few internal disputes, whereas there was always a need to be

defended against foreign attack.]

108. And thus we see that the kings of the Indians in America are little more than generals of their armies. They command absolutely in war, because *there* there can't be a plurality of governors and so, naturally, command is exercised on the king's sole authority; but at home and in times of peace they exercise very little power, and have only a very moderate kind of sovereignty, the resolutions of peace and war being ordinarily made either by the people as a whole or by a council. It is important to keep America in mind, because America even now is similar to how Asia and Europe were in the early years when there was more land than the people could use, and the lack of people and of money left men with no temptation to enlarge their possessions of land.

109. And thus in Israel itself the chief business of their judges and first kings seems to have been to be leaders of their armies. [This long section backs up that claim with a number of Old Testament references, all from *Judges* and *1 Samuel*.]

110. So there are two ways in which a commonwealth might begin.

•A family gradually grew up into a commonwealth, and the fatherly authority was passed on in each generation to the older son; everyone grew up under this system, and tacitly submitted to it because its easiness and equality didn't offend anyone; until time seemed to have confirmed it, and made it a rule that the right to governing authority was to be hereditary. •Several families. . . somehow came to be settled in proximity to one another, and formed a social bond; they needed a general whose conduct might defend them against their enemies in war; and so they made one man their ruler, with no explicit

limitation or restraint except what was implied by the nature of the thing [Locke's phrase] and the purposes of government. This lack of precautions reflected the great mutual confidence of the men who first started commonwealths—a product of the innocence and sincerity of that poor but virtuous age.

Whichever of those it was that first put the rule into the hands of a single person, it is certain that •when someone was entrusted with the status of ruler this was for the public good and safety, and that •in the infancies of commonwealths those who had that status usually used it for those ends. If they hadn't, young societies could not have survived. . . .

111. That was in the golden age, before vain ambition and wicked greed had corrupted men's minds into misunderstanding the nature of true power and honour. That age had more virtue, and consequently better governors and less vicious subjects, •than we do now; so there was (on one side) •no stretching of powers to oppress the people, and consequently (on the other side) •no disputatious attempts to lessen or restrict the power of the government, and therefore •no contest *between* rulers and people about governors or government. In later ages, however, ambition and luxury led monarchs to retain and increase their power without doing the work for which they were given it; and led them also (with the help of flattery) to have distinct and separate interests from their people. So men found it necessary to examine more carefully the origin and rights of government; and to discover ways to restrain the excesses and prevent the abuses of the power they had put into someone's hands only for their own good, finding that in fact it was being used to hurt them. [This section has another footnote quoting Hooker.]

112. This shows us how probable it is •that people who were naturally free, and who by their own consent created a government in either of the ways I have described, generally put the rule into one man's hands and chose to be under the conduct of a single person, without explicitly limiting or regulating his power, which they entrusted to his honesty and prudence. And •that they did this without having *dreamed* of monarchy being 'by divine right' (which indeed no-one heard of until it was revealed to us by the theological writers of recent years!), and without treating paternal power as the foundation of all government. What I have said •from section 101 up to here• may suffice to show that as far as we have any light from history we have reason to conclude that all peaceful beginnings of government have been laid in the consent of the people. I say 'peaceful' because I shall have to deal later with *conquest*, which some regard as a way for governments to begin.

•THE 'BORN UNDER GOVERNMENT' OBJECTION•

113. The other objection I find urged against my account of how political societies begin—•see section 100—is this:

All men are born under some government or other, so it is impossible for anyone to be at liberty to unite with others to begin a new government; impossible, anyway, to do this *lawfully*.

If this argument is sound, how did there come to be so many lawful monarchies in the world? To someone who accepts the argument I say: Show me any one man in any age of the world who was free to begin a lawful monarchy, and I'll show you ten other free men who were at liberty, at that time, to unite and begin a new government of some form or other. For it can be demonstrated that if *someone* who was born under the dominion of someone else can be free enough to •come to• have a right to command others in a new and distinct empire,

everyone who is born under the dominion of someone else can have that same freedom to become a ruler, or subject, of a distinct separate government. And so according to this line of thought, either •all men, however born, are free, or •there is only one lawful monarch, one lawful government, in the world. In the latter case, all that remains for my opponents to do is to *point him out*; and when they have done that I'm sure that all mankind will easily agree to obey him!

114. This is a sufficient answer to their objection; it shows that the objection makes as much trouble for their position as it does for the one they are opposing. Still, I shall try to reveal the weakness of their argument a little further. They say:

All men are born under some government and therefore can't be at liberty to begin a new one. Everyone is born a subject to his father, or his king, and is therefore perpetually a subject who owes allegiance to someone.

It is obvious mankind has never admitted or believed that any natural subjection that they were born into without their own consent, whether to father or to king, made them *subjects* ·for the rest of their lives· and did the same to their heirs. **115.** For history, both religious and secular, is full of examples of men removing themselves and their obedience from the jurisdiction they were born under and from the family or community they grew up in, and setting up new governments in other places. That was the source of all the numerous little commonwealths in the early years: they went on multiplying as long as there was room enough for them, until the stronger or luckier swallowed the weaker; and then those large ones in turn broke into pieces which became smaller dominions. Thus history is full of testimonies against *paternal sovereignty*, plainly proving that what made

governments in the beginning was *not* a natural right of the father being passed on to his heirs. If that *had* been the basis of government, there couldn't possibly have been so many little kingdoms. There could only have been *one universal monarchy* unless men had been free to choose to separate themselves from their families and whatever kind of government their families had set up for themselves, and to go and make distinct commonwealths and other governments.

116. This has been the practice of the world from its first beginning to the present day. Men who are now born under constituted and long-standing political states, with established laws and set forms of government, are no more restricted in their freedom by that fact about their birth than they would be if they had been born in the forests among the ungoverned inhabitants who run loose there. Those who want to persuade us that by being born under a government we are naturally subject to it. . . .have only one argument for their position (setting aside the argument from paternal power, which I have already answered), namely: our fathers or ancestors gave up their natural liberty, and thereby bound up themselves *and their posterity* to perpetual subjection to the government to which they themselves submitted. . . . But no-one can by any compact whatever bind his children or posterity; for when his son becomes an adult he is altogether as free as the father, so an act of the father can no more give away the liberty of the son than it can give away anyone else's liberty. A father can indeed attach conditions to the inheritance of his land, so that the son can't have possession and enjoyment of possessions that used to be his fathers unless he becomes ·or continues to be· a subject of the commonwealth to which the father used to belong. Because that estate is the father's property, he can dispose of it in any way he likes.

117. This has led to a widespread mistake concerning political subjection. Commonwealths don't permit any part of their *land* to be dismembered, or to be enjoyed by any but their own members; so a son can't ordinarily enjoy the possessions—mainly consisting of land—of his father except on the terms on which his father did, namely becoming by his own consent a member of that society; and that immediately subjects him to the government he finds established there, just as much as any other subject of that commonwealth. So free men who are born under government *do* give their consent to it, doing this through the inheritance of land; but they do this one by one, as each reaches the age at which he can inherit, rather than doing it as group, all together; so people don't notice this, and think that consent isn't given at all or isn't necessary; from which they infer that they are *naturally subjects* just as they are *naturally men*.

118. But clearly that isn't how governments themselves understand the matter: they don't claim that the power they had over the father gives them power over the son, regarding children as being their subjects just because their fathers were so. If a subject of England has a child by an English woman in France, whose subject is the child? Not the king of England's; for he must *apply* to be accounted an Englishman. And not the king of France's; for his father is at liberty to bring him out of France and bring him up anywhere he likes; and anyway who ever was judged as a traitor (or deserter) because he left (or fought against) a country in which he was born to parents who were foreigners there? It is clear, then, from the practice of governments themselves as well as from the law of right reason, that a child at birth is not a subject of any country or government. He is under his father's tuition and authority until he reaches the age of discretion; and then he is free to choose what government

he will put himself under, what body politic he will unite himself to. . . .

119. I have shown that every man is naturally free, and that nothing can make him subject to any earthly power except his own consent. That raises the question: What are we to understand as a sufficient declaration of a man's consent—sufficient, that is, to make him subject to the laws of some government? The common distinction between *explicit* and *tacit* consent is relevant here. Nobody doubts that an explicit consent of a man entering into a society makes him perfectly a member of that society, a subject of that government. Our remaining question concerns tacit consent: What counts as tacit consent, and how far does it bind? That is: What does a man have to do to be *taken to have* consented to be subject of a given government, when he hasn't explicitly given such consent? I answer:

If a man owns or enjoys some part of the land under a given government, *while that enjoyment lasts* he gives his tacit consent to the laws of that government and is obliged to obey them. [See the explanation of 'enjoyment' in section 31.] This holds, whether the land is the owned property of himself and his heirs for ever, or he only lodges on it for a week. It holds indeed if he is only travelling freely on the highway; and in effect it holds as long as he is merely *in* the territories of the government in question.

120. To understand this better, consider how land comes within the reach of governments. When a man first incorporates himself into any commonwealth he automatically brings with him and submits to the community the possessions that he does or will have (if they don't already belong to some other government). Why? Well, suppose it is wrong, and that

someone could enter with others into society for securing and regulating property, while assuming that his land, his ownership of which is to be regulated by the laws of the society, should be exempt from the jurisdiction of the government to which he himself is subject.

This is an outright contradiction! So the act through which a person unites •himself—his previously free self—to any commonwealth also unites •his possessions—his previously free possessions—to that commonwealth. Both of them, the person and his possessions, are subject to the government and dominion of that commonwealth for as long as it exists. From that time on, therefore, anyone who comes to enjoy that land—whether through inheritance, purchase, permission, or whatever—must take it with the condition it is already under, namely, submission to the government of the commonwealth under whose jurisdiction it falls.

121. •So much for •land; now for •the users of land•. If a land-owner hasn't actually incorporated himself in the society •of the commonwealth whose domain includes the land in question•, the government •of that commonwealth• has direct jurisdiction only over *the land*; its jurisdiction reaches as far as *the land-owner* only when and to the extent that he lives on his land and enjoys it. The political obligation that someone is under by virtue of his enjoyment of his land begins and ends with the enjoyment. So •if a land-owner who has given only this sort of *tacit* consent to the government wants to give, sell, or otherwise get rid of his land, he is at liberty to go and incorporate himself into some other commonwealth, or to agree with others to begin a new one in any

part of the world that they can find free and unpossessed. In contrast with that, if •someone has once by actual agreement and an explicit declaration given his consent to belonging to some commonwealth, he is perpetually and irrevocably obliged to continue as its subject; he can never be again in the liberty of the state of nature—unless through some calamity the government in question •comes to be dissolved, or by some public act •cuts him off from being any longer a member of that commonwealth.

122. But submitting to the laws of a country, living quietly and enjoying privileges and protection under them, doesn't make a man a *member* of that society; all it does is to give him *local* protection from, and oblige him to pay *local* homage to, the government of that country. This doesn't make him a member of that society, a perpetual subject of that commonwealth, any more than you would become subject to me because you found it convenient to live for a time in my household (though while you were there you would be obliged to comply with the laws and submit to the government that you found there). And so we see that foreigners who live all their lives under another government, enjoying the privileges and protection of it, don't automatically come to be subjects or members of that commonwealth (though they are bound, •by positive law and• even in conscience, to submit to its administration, just as its subjects or members are). Nothing can make a man a subject except his actually entering into the commonwealth by positive engagement, and explicit promise and compact.—That is what I think regarding the beginning of political societies, and the consent that makes one a member of a commonwealth.

Chapter 9: The purposes of political society and government

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

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

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

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

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

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

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

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

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

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

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

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

he must also give up something. For

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

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

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

Chapter 10: The forms of a commonwealth

132. When men first unite into a society, a majority of them naturally have (as I have shown) the whole power of the community, and may employ all that power in making laws for the community from time to time, and enforcing those laws through officials whom they have appointed. When that happens, the form of the government is a thorough **democracy**. Or they may put the law-making power into the hands of a select few, and their heirs or successors; and then the government is an **oligarchy**. If they put the power into the hands of one man, their government is a **monarchy**. (If the power is given to that man and his heirs, it is an hereditary monarchy: if to him only for life, with them retaining the power to nominate a successor, it is an elective monarchy.) Out of these possibilities a community may make compounded and mixed forms of government if they see fit to do so. And if the majority first give the legislative power to one or more persons for their lifetimes or for some stipulated period, taking the supreme power back after that time has elapsed, *then* the community may dispose of it in any way they please, and so set up a new form of government.

For the form of government depends on where the supreme power is placed; and the supreme power is the legislative power. (If it weren't, legislation would be in the hands of some less-than-supreme power, which as a legislator would be in a position to *prescribe* to whoever had the supreme power; and that doesn't make sense.)

133. I use 'commonwealth' throughout this work to mean (not a democracy or any other specific form of government, but more generally) any independent community—that is, any community that is not part of a larger political community. The Latin word for this was *civitas*, for which the best English translation is 'commonwealth'. Used correctly, it expresses such a society of men, which 'community' and 'city' in English do not—for there may be subordinate *communities* under a single government, and we use 'city' to mean something quite different from 'commonwealth'. So please let me avoid ambiguity by using the word 'commonwealth' in the sense I have explained, the sense in which I find it used by King James I—what I think to be its *genuine* sense. If you don't like it, feel free to substitute something else.

Chapter 11: The extent of the legislative power

[Locke's usual meaning for the word 'arbitrary', explained at the end of section 22, is at work in this and the next few chapters; but sometimes he seems rather to use the word in its now-current stronger sense of 'decided for no reason' or 'decided on a whim' or the like. The older, weaker sense is at work in section 135; the stronger sense seems to be involved in section 136, at least at its start. Sometimes, as at the start of section 137, it isn't clear which sense is involved.]

134. The great •purpose for which men enter into society is •to be safe and at peace in their use of their property; and the great •instrument by which this is to be achieved is •the laws established in that society. So the first and fundamental *positive* law of any commonwealth is the establishing of the legislative power; and the first and fundamental *natural* law—which should govern even the legislature itself—is the preservation of the society and (as far as the public good allows it) the preservation of every person in it.

This legislature is not only the supreme power of the commonwealth, but is sacred and unalterable in the hands in which the community have placed it; and no other person or organisation, whatever its form and whatever power it has behind it, can make edicts that have the force of law and create obligations as a law does unless they have been permitted to do this by the legislature that the public has chosen and appointed. Without this, the law would lack something that it absolutely must have if it is to *be* a law, namely *the consent of the society*. Nobody has power to subject a society to laws except with the society's consent and by their authority; and therefore all the obedience that anyone can owe, even under the most solemn obligations, ultimately terminates in [Locke's three words] this supreme power—the legislature of

the commonwealth—and is governed by the laws it enacts. No oaths to any foreign power, or any subordinate power in a man's own commonwealth, can free him from his obedience to the legislature. . . . [This section has a long footnote, quoting two confirmatory passages from Hooker. The next two sections have one such footnote each.]

135. Though the legislature (whether one person or more, whether functioning intermittently or continuously at work) is the supreme power in every commonwealth, there are four important things to be said about what it may *not* do. I shall present one right away, the second in sections 136-7, the third in 138-40, the fourth in 141.

First, it doesn't and can't possibly have absolutely arbitrary power over the lives and fortunes of the people. For the legislative power is simply the combined power of every member of the society, which has been handed over to the person or persons constituting the legislature; there can't be *more* of this power than those people had in the state of nature before they entered into society and gave their power to the community. Nobody can transfer to someone else more power than he has himself; and nobody has an absolute arbitrary power to destroy his own life, or take away someone else's life or property. . . . A man in the state of nature has no arbitrary power over the life, liberty, or possessions of someone else; he has only as much freedom or moral power as the law of nature gave him for the preservation of himself and everyone else; this is all the power he has, so it is all he can give up to the commonwealth and thus to the legislature; so the legislature can't have more than this. The outer limit of its power is set by the good of the society as a whole. It is a power whose only purpose is preservation, and therefore

the legislature can never have a right to destroy, enslave, or deliberately impoverish the subjects. The obligations of the law of nature don't cease in society; in many cases indeed they pull in tighter there, with human laws enforcing them and punishing breaches of them. Thus the law of nature stands as an eternal rule to all men, legislators as well as others. The rules that legislators make for other men's actions. . . . must conform to the law of nature, which is a declaration of the will of God. The fundamental law of nature enjoins the preservation of mankind, and no human sanction can be valid against it.

136. Secondly, the legislature or supreme authority cannot give itself a power to rule by sudden, arbitrary decrees. It is bound to dispense justice and decide the rights of the subject by published standing laws, and known authorized judges. The law of nature is unwritten, and thus can be found only in the minds of men; so when people mis-state or mis-apply it (whether through passion or through self-interest) it is hard to convince them they are wrong when there isn't an established judge to appeal to. For this reason, the law of nature doesn't serve as well as it should to determine the rights and protect the properties of those who live under it, especially where everyone is judge, interpreter, and enforcer of it too, even in his own case. . . . To avoid these drawbacks which disorder men's property in the state of nature, men unite into societies so as to have •the united strength of the whole society to secure and defend their properties, and have •standing rules to hold the society together, rules that let everyone know what is *his*. . . .

137. Absolute arbitrary power [section 135] and governing without settled standing laws [section 136] are both inconsistent with the purposes of society and government. Men wouldn't quit the freedom of the state of nature for a governed

society, and tie themselves up under it, if it weren't to preserve their lives, liberties and fortunes with help from stated rules of right and property. It can't be thought that they should intend to give to anyone an absolute arbitrary power over their persons and estates, and strengthen the law-officer's hand so that he could do anything he liked with them. This would be putting themselves into a condition *worse* than the state of nature, in which they were free to defend their right against harm from others, and [now Locke's exact words to the end of the sentence] were upon equal terms of force to maintain it, whether invaded by a single man or by many in combination. In contrast with that, if they gave themselves up to the absolute arbitrary power and will of a legislator, they would be disarming themselves and arming someone else to prey on them as he chose. It is much worse to be exposed to the arbitrary power of one man who has the command of 100,000 than to be exposed to the arbitrary power of 100,000 single men; because someone's having 100,000 men under his command is no guarantee that his *will*, as distinct from his *force*, is any better than anyone else's. And therefore, whatever the form of the commonwealth, its ruling power ought to govern by laws that have been published and taken in, and not by spur-of-the-moment dictates and frivolous decisions. . . . This achieves two things. **(1)** The people know their duty, and are safe and secure within the limits of the law. **(2)** The rulers are kept within their bounds, and are not tempted by their power to misuse it, using it for purposes and by means that they •don't want the public to know and •wouldn't willingly own up to.

138. Thirdly, the supreme power can't take from any man any part of his property without his consent. What men enter into societies with governments *for* is the •preservation of their property; so it would be a gross absurdity to have a government that •deprived them of that very property! So

men in society

have property,

which means that

•they have such a right to the goods that are theirs according to the law of the community, and •nobody has a right to take any part of those goods from them without their own consent.

Without that second clause they would have no *property* at all; for something isn't really my property if someone else can rightfully take it from me against my will, whenever he pleases. Hence it is a mistake to think that the supreme (or legislative) power of a commonwealth can do what it likes, and dispose of the estates of a subject arbitrarily, or take any part of them that it fancies. There is not much fear of this with governments where the legislature involves •assemblies whose membership varies—ones whose members, when the assembly disbands, are subjects under the common laws of their country, on a par with everyone else. But in governments where the legislature is •one lasting assembly that is always in existence, or •one man (as in absolute monarchies), there is a danger that they will think they have interests different from those of the rest of the community, and so will be apt to increase their own riches and power by taking whatever they want from the people. •This would obviously be a terrible situation•, for a man's property is not at all secure, even if there are fair laws protecting the property from the man's fellow subjects, if they who command those subjects have the power to take from any one of them any part of his property that they want, and use and dispose of it as they choose.

139. . . . Sometimes it is necessary for power to be absolute, but that doesn't mean that it is arbitrary; even absolute power, •when it is legitimate•, is restricted to the purposes that required it to be absolute. To see that this is so, we

need only to look at the usual form of military discipline. The preservation of the army, and through that the preservation of the whole commonwealth, requires *absolute obedience* to the command of every superior officer; and •even• when a command is dangerous or unreasonable, disobedience to it is rightly punished with death. And yet a sergeant who could command a soldier to march up to the mouth of a cannon, or stand in a breach •in the defensive walls• where he is almost sure to be killed, may *not* command that same soldier to give him one penny of his money. A general who can condemn the soldier to death for deserting his post or for not obeying the most desperate orders may *not*, for all his absolute power of life and death, help himself to the least little thing among that soldier's possessions. •The reason for the difference is clear•. The commander has his power for a •purpose, namely the preservation of all the people; for that •purpose blind obedience is necessary; and that is why the general can command anything and hang men for the least disobedience. Whereas taking a soldier's goods has nothing to do with that •purpose.

140. It is true that governments need a great deal of money for their support, and it is appropriate that each person who enjoys his share of the protection should pay his proportion of the cost. But it must be with his consent, i.e. the consent of the majority, given either •directly• by themselves or through representatives they have chosen; for if anyone claims a power to impose taxes on the people by his own authority and without such consent of the people, he is invading the fundamental law of property and subverting the purpose of government. . . .

141. Fourthly, the legislature cannot transfer the power of making laws to any other hands. It was delegated to them from the people, and they aren't free to pass it on

to others. Only the people can decide the form of the commonwealth, which they do by instituting a legislature and deciding whose hands to put it into. . . . The power of the legislature, being derived from the people by a positive voluntary grant and institution, can't be anything different from what that positive grant conveyed; and what it conveyed was the power •to make laws, not •to make legislators; so the legislature can have no power to transfer to anyone else their authority to make laws.

142. The legislative power of every commonwealth, in every form of government, is subject to the following limits to the trust that is put in them by the society and by the law of God and the law of nature. First, they are to govern by published

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 peasant at his plough. Secondly, these laws ought to be designed for no other ultimate purpose than the good of the people. Thirdly, they must not raise taxes on people's property without their consent, whether given directly or through deputies. This is relevant only for governments where the legislature is always in existence, or at least where the people haven't made any provision for some part of the legislature to be chosen, from time to time, by themselves. Fourthly, the legislature must not transfer the power of making laws to anyone else, or place it anywhere but where the people have placed it.

Chapter 12: The legislative, executive, and federative powers of the commonwealth

143. It is the legislative power that has a right to direct how the force of the commonwealth shall be employed for preserving the community and its individual members. But laws that are to be continuously in force and constantly enforced don't take much time to *make*; so there is no need for the legislature to be always in existence because it doesn't always have business to do. In well ordered commonwealths, where the good of the whole is properly taken into account, the legislative power is put into the hands of a number of people who have when assembled a power to make laws, after which they are to separate again and are to be subject to the laws they have made. This arrangement helps to keep a rein on them, so that they will be careful to legislate for the

public good. •An alternative would be for the legislators to be continuously in government service, filling the times between legislative sessions by acting as executors of the law. But this is rightly rejected in well ordered commonwealths• because it may be too great a temptation to human power-seeking frailty for the very people who have the power to make laws also to have the power to enforce them; for if they did, they might come to •exempt themselves from obedience to the laws they had made, and to •adapt the law—both in making and in enforcing it—to their own private advantage. That would separate their interests from those of the rest of the community, which would be contrary to the purpose of society and government.

144. But once a law has been swiftly made, it has a constant and lasting force and needs to be enforced all the time, or at least there must always be someone on duty to enforce it when there is need for that. So there must be a power that—unlike the legislature—is always in existence, a power that will see to the enforcement of the laws that have been made and not repealed. That is how the legislative and executive powers come to be separated in many commonwealths. [Here and elsewhere, ‘enforce’ is used in place of Locke’s ‘execute’. The latter remains in the adjective ‘executive’ and the noun ‘executor’; but ‘execute’ and ‘executioner’ too easily suggest to modern ears that the topic is specifically capital punishment, which it isn’t.]

145. In every commonwealth there is another power that one may call ‘natural’, because it corresponds to the power every man *naturally* had before he entered into society. The members of a commonwealth are •distinct persons in relation to one another, and as such are governed by the laws of the society; but in relation to the rest of mankind they constitute •one body, which relates to the rest of mankind in the way the individual members related to one another in the state of nature. And so when any member of the society gets into a controversy with someone from outside it, the affair is managed by the public; and if a member of the •political• body is harmed •by an outsider•, the whole body is engaged in getting reparation. . . .

146. This •whole body• therefore has the power of •war and peace, •leagues and alliances, and •all transactions with individuals and communities outside the commonwealth. This power might be called ‘federative’. As long as the thing is understood, I don’t care about the name.

147. These two powers, •executive and •federative, are distinct from one another: one involves •the enforcement of the society’s laws upon all its members, while the other involves •the management of the security and interest of the public externally, in relation to those •outsiders• from whom it may receive benefit or damage. Although this federative power is of great importance to the commonwealth, it is much less capable than the executive power of being directed by antecedent, standing, positive laws; and so it must necessarily be left to the prudence and wisdom of those who have the power to exercise it for the public good. •The reason for this difference is as follows•. The laws concerning how subjects relate to one another are meant to •direct their actions, and so need to •precede them. But the function of the federative power is •not to *direct* the actions of citizens but rather• to *respond* to the actions of foreigners, and the plans and interests of foreigners vary so greatly that •they can’t be anticipated by a set of standing laws for each eventuality; and so• the federative power must be left in great part to the prudence of those who have it, trusting them to do their best for the advantage of the commonwealth.

148. Though the executive and federative powers of every community are really distinct in themselves, they are hardly to be separated and put into the hands of distinct sets of people. For they both require the *force* of the society for their exercise, and it is hardly practicable to place the force of the commonwealth in distinct hands, neither subordinate to the other. If the executive and federative powers were given to different •groups of• people, they might act separately, thus putting the force of the public under different commands—and that would be apt sooner or later to cause disorder and ruin.

Chapter 13: The subordination of the powers of the commonwealth

149. In a constituted commonwealth, standing on its own basis and acting according to its own nature (i.e. acting for the preservation of the community), there can be only one supreme power, the legislative power, to which all the rest are and must be subordinate. But this is only a fiduciary [= ‘entrusted’] power to act for certain ends, so that the people retain a supreme power to remove or alter the legislature when they find it acting contrary to the trust that had been placed in it. [The root of ‘fiduciary’ is the Latin *fide* = ‘trust’.] All power that is given with trust for attaining a certain end is limited by that purpose; when the purpose is obviously neglected or opposed by the legislature, the trust is automatically forfeited and the power returns into the hands of those who gave it. They may then make a new assignment of it, to whomever they think best for their safety and security. And thus the community never loses its supreme power of saving itself from the attempts and plans of anybody, even of their own legislators if they are so foolish or so wicked as to develop and carry out plans against the liberties and properties of the subject. No man or society of men has a power to hand over their preservation (or, therefore, the means to it) to the absolute will and arbitrary dominion of someone else; so when someone tries to bring them into that slavish condition, they will always have a right to preserve the liberty that they don’t have the power to part with, and to rid themselves of those who invade this fundamental, sacred, and unalterable law of self-preservation, which was their reason for entering into society in the first place. In this respect the community may be said to be *always the supreme power*; but not as considered under any particular form of government, because this power of the people can

never be exercised until the government is dissolved.

150. [This section repeats the reason, given at the end of section 132, why the legislature must be the supreme power in the commonwealth.]

151. In some commonwealths, where the legislature is not always in existence, and the executive power is given to a single person who *also* has a share in the legislative power, that single person can in a reasonable sense be called ‘supreme’. Not because he has all the supreme power (which he doesn’t, because that is the power of law-making, in which he has only a share), but because he has the supreme executive power, from which all the lower law-officers derive all or most of their various subordinate powers, and he has no legislature superior to him. That is because no law can be made without his consent, and he can’t be expected to consent to any that would make him subject to the other part of the legislature. [Interruption: Locke has laid no basis for saying that the executive’s ‘consent’ is needed for any new law. This entire chapter, though mostly written in the language of general political theory, is aimed at the specific situation of England in the early 1680s, when Locke was writing. In that situation, the ‘executive’ was the king, and his consent *was* constitutionally required for any legislation. Here and at one point in section 152 Locke seems to have *slid* into thinking in terms of the English politics of his time at the expense of coherence with the political theory he has been building, and also drifting away from his immediate framework, which is the status of the executive at times when the legislature is *not* in existence. In contrast with this, sections 154-6, concerning the executive’s power to call the legislature into session, are thoroughly grounded in what Locke has said up there while *also* being sharply relevant to the English situation, in which Charles II had announced his right to rule without parliament.

England's troubles come to the fore again at section 213, but this time by open stipulation rather than a silent slide.] But notice that although oaths of allegiance and loyalty are taken to him, it is to him *not* as supreme legislator but as supreme executor of the law that he and others jointly made; for •allegiance is nothing but •obedience according to law. This distinction is important, because if this supreme executor violates the law he then has no right to obedience; he can claim obedience not as a private person but only as *the public person vested with the power of the law*; he is to be considered as the image or representative of the commonwealth, empowered by the will of the society as declared in its laws; and thus he has no will, no power, other than that of the law. If he leaves this representative function, this public will, and acts by his own private will, he demotes himself and becomes again a single private person, with no power or will that has any right to obedience. . . .

152. When the executive power is placed anywhere other than in a person who also has a share in the legislature, it is visibly subordinate and accountable to the legislature, which can place it elsewhere if it chooses. So what is exempt from subordination—i.e. isn't subordinate to anyone or anything—isn't simply

- the supreme executive power

but rather

- the supreme executive power when held by someone who has a share in the legislature.

The latter has no distinct superior legislature to be subordinate and accountable *to*, except in ways that he will consent to, so that he is only as subordinate as he himself thinks he should be, which certainly won't be much. I needn't discuss •other delegated and subordinate powers in a commonwealth; they are so many and so infinitely various across the different customs and constitutions of distinct

commonwealths that it's impossible to describe them all in detail. All I need for my purposes is to point out that none of •them has any authority beyond what is delegated to it by positive grant and commission, and are all of them are accountable to some other power in the commonwealth.

153. It isn't necessary—it isn't even advisable—that the legislature should be in existence all the time; but it's absolutely necessary that the executive power be. There isn't always a need for new laws to be made, but there *is* always a need for laws that have been made to be enforced. When the •legislature puts the enforcement of the laws they make into the hands of a separate •executive power, they retain the power to take it back again if they find cause to do so, and to punish •the executive for any conduct that goes against the laws. The same holds for the •federative power, because it and the executive are both powers that have been delegated by the legislature and are subordinate to it—the legislature being supreme in a constituted commonwealth, as I have shown. The legislature may assemble and exercise their legislative power at the times specified by their original constitution or at their adjournment—or, if no time has been specified by either of these, and no other procedure is prescribed for convoking them, they may meet at any time they please. For the supreme power, having been placed in them by the people, is *always* in them, and they may exercise it when they please unless by their original constitution they are limited to certain seasons or by an act of their supreme power they have adjourned to a certain time. . . . In writing about when the legislature may 'assemble' I have been assuming that it consists of several persons. If it is a single person, it can't help being always in existence, and will naturally have the supreme executive power as well as the supreme legislative power. It may delegate executive power, perhaps to one person, but *he* won't ever have *supreme*

executive power because it isn't ever true of him (see section 151) that 'he has no legislature superior to him'.

154. If the legislature or any part of it is made up of representatives chosen by the people for a specified period of time, after which they are to return to the ordinary condition of subjects and to have no further share in the legislature unless they are chosen again, this power of *choosing again* must also be exercised by the people either at certain appointed times or else when they are called to it. In the latter case, the power of convoking the legislature by calling for a general election is ordinarily given to the executive, and is to be exercised in one of these two ways. **(1)** If the original constitution lays down the intervals at which the legislature is to assemble and act, all the executive power has to do is dutifully to issue directions for the proper conduct of the election and the assembly. **(2)** Otherwise, it is left to the executive's prudence to call for new elections, when the benefits or needs of the public require the amendment of old laws or the making of new ones, or the correction or prevention of any misfortunes that have occurred or are threatening the people.

155. You may want to ask: 'What if the executive power, having control of the force of the commonwealth, makes use of that force to prevent the legislature from meeting and acting at a time when its original constitution specifies that it should meet or the needs of the commonwealth require that it do so?' I reply: Someone who uses force against the people, without authority and contrary to the trust they had given him, puts himself into a state of war with the people. They have a right to oppose this executive and reinstate their legislature in the exercise of its power. They have set up a legislature intending it to exercise the power of making laws—either at certain set times or when there

is need of it—and when the legislature is hindered by any force from doing what is needed by the society for the safety and preservation of the people, the people have a right to remove that force by force. In all states and conditions, the true remedy for unauthorized force is to oppose it with force. . . .

156. The executive's power of assembling and dismissing the legislature doesn't make him superior to it. This power has been *entrusted* to him for the safety of the people, in a situation where human affairs were too uncertain and variable for there to be a fixed rule settling in advance when the legislature could be assembled and disbanded. Those who first set up the government couldn't possibly see into the future well enough to know in advance exactly what time-table for the legislature would—for all time to come!—meet the needs of the commonwealth. . . .

•Constant frequent meetings of the legislature, and long continuations of their assemblies when there was no need, would be burdensome to the people and would be bound eventually to produce more dangerous drawbacks. •Affairs might sometimes develop so fast that the legislature's help was needed immediately, so that any delay in their convening might endanger the public. •Sometimes too their business might be so great that a time-limited sitting would be too short for their work, and rob the public of the benefit that could be had only from their mature deliberation.

To save the community from being exposed at some time or other to serious danger by having a legislature that met and acted only at fixed intervals and for fixed periods, what could be done other than entrusting it—i.e. the power to call the legislative assembly into session—to the prudence of someone who was always present, was acquainted with the

state of public affairs, and could use this prerogative for the public good? and where better to place this prerogative than in the hands of him who was entrusted with the enforcement of the laws, also for the public good? So, given that the regulation of times for the assembling and sitting of the legislature was not settled by the original constitution, it naturally fell into the hands of the executive, not •as an arbitrary power for him to exercise however he chose, but •as something he was entrusted with to use for the public good as changing circumstances might require. It is not my business to consider which is the least inconvenient—

settled periods for the legislature to convene,
the monarch left free to convoke the legislature, or
a mixture of those two systems.

All I have wanted is to show that though the executive power may have the prerogative of convoking and dissolving such assemblies of the legislature, that doesn't make it superior to the legislature. [This is the first time in this work that Locke has explicitly allowed that the holder of the delegated executive power might be a monarch (his word is 'prince').]

157. Things in this world are in such a constant flux that nothing remains for long in the same state. Thus people, riches, trade, power, change their positions, flourishing mighty cities come to ruin and end up as neglected desolate corners, while other empty places grow into populous regions, filled with wealth and inhabitants. But things don't always change equally, and the reasons for various customs and privileges may cease to apply, though people for their own purposes keep the customs and privileges in place. So it often happens in governments where part of the legislature consists of representatives chosen by the people that in the course of time this representation becomes very unequal and disproportionate to the reasons that first supported it. We can see what gross absurdities can come from following

a custom when there is no longer reason for it when we see that the mere *name* of a town, with not even the ruins of the actual town remaining—with virtually no housing beyond a sheep-pen and no inhabitants beyond a single shepherd—may send as many representatives to the grand assembly of law-makers as a whole rich and populous county. Foreigners stand amazed at this, and everyone must admit that it needs to be remedied; but most people think it is hard to find a remedy, and here is why. The setting up of the legislature was •the original and supreme act of the society, •coming before any of the positive laws that it passed, and •depending wholly on the people; so no inferior power can alter it. Thus, once the legislature has been set up (in the kind of government I have been speaking of), the people have no power to act as long as the government stands; and this inconvenience is thought •by some to be •incapable of a remedy.

158. *The welfare of the people is the supreme law* [Locke gives it in Latin] is certainly so just and fundamental a rule that no-one who sincerely follows it can dangerously err. So it is open to the executive, who has the power of convoking the legislature, to do this:

Regulate the number of members of the legislature that each place has a right to have as its representatives, basing this not on precedent but on facts about population, not on custom but on true reason. . . .

If the executive does this, it can't be judged to have set up a new legislature, but only to have restored the old and true one, and to have rectified the disorders that the passage of time had gradually and inevitably introduced. For it is the interest as well as the intention of the people to have fair and equal representation; so whoever brings it nearest to that is an undoubted friend to. . . .government, and must have the consent and approval of the community. For a

monarch's *prerogative* is nothing but his power to provide for the public good in cases where, because of unforeseen and uncertain events, certain and unalterable laws could not safely be relied on. Any exercise of the prerogative does and always will count as *just* if it is done manifestly for the good of the people and for establishing the government on its true foundations. The power of establishing new municipalities and thus new representatives carries with it a supposition that in time the proportions of representation might vary: places might come to have a just right to be represented, though they before had none; and places that had previously been represented might cease to have that right and be

regarded as too inconsiderable for such a privilege. What tends to subvert government is not mere *change* from the present state. . . .but the tendency of change to injure or oppress the people and unfairly to subject one part of the populace to the rest. Whatever is obviously of advantage to the society and to people in general, upon just and lasting measures, will always justify itself; and whenever the people choose their representatives upon just and undeniably equal measures that are suitable to the original scheme of the government, it must be agreed to be the will and act of the society, whoever permitted or caused them so to do. [The two 'upon just. . . measures' phrases are in Locke's exact words.]