

Chapter I

1. Filmer: Political power comes from “Adam’s private dominion and paternal jurisdiction”.
2. Skepticism: Political power is nothing but force and violence, we live by the law of the strongest.
3. Locke: Political power has another source.

Political power

- Magistrate-subject relation different from father-children, master-servant, husband-wife, lord-slave relations
- Right of (i) making laws backed up by punishment (at most death), (ii) executing laws with community force, (iii) for the public good

In Chapter I, Locke briefly reviews his case against Filmer’s account of political power. Filmer had argued that political power comes from “Adam’s private dominion and paternal jurisdiction”. Since Locke wouldn’t say that political power is nothing but force and violence, or that we live by the law of the strongest, he must hold that political power has another source. He distinguishes the magistrate-subject relation characteristic of political power from other relations: father-children, master-servant, husband-wife, and lord-slave. He finishes by defining political power as the right of (i) making laws backed up by punishment (at most death), (ii) executing laws with community force, (iii) for the public good.

Reading Questions:

1. What is Robert Filmer’s position?
2. What skeptical position does Locke reject?
3. What is Locke’s account of political power (legislative, executive, common good)

Chapter II: *Of the State of Nature*

State of nature

- Freedom: Running one’s life within the law of nature, not by anyone else’s will
 - o [As opposed to running one’s life however one wishes]
- Equality: No one with more power/jurisdiction than anyone else; no subordination
 - o After all, we’re all in the same species, same advantages of nature, etc.
 - o Unless God selects someone to have power
 - o Hooker uses this equality to go from self-love to duties of justice and charity
- Not license: No destruction, harm
 - o No destroying oneself
 - o No destroying one’s useful property
 - o No harming others
 - Others are God’s property, not my property

- Equality among humans means others aren’t for my use (whereas animals *are* for human use)
- We are obligated to preserve humanity (just as we can’t destroy *ourselves*, likewise we can’t harm *others*) [can we take risks with our own lives? others’?]

Continuing his account of political power and its source, Locke characterizes the state of nature, with much appeal to the law of nature. First, the state of nature is a state of *freedom*, defined as running one’s life within the law of nature and not by anyone else’s will. Second, it is a state of *equality*, meaning that no one has more power or jurisdiction than anyone else—there can be no natural subordination. Finally, it is *not* a state of *license*: suicide, destruction of one’s own useful property, and harming of others are all forbidden by the law of nature. Harming others is forbidden because others are God’s property and not one’s own, because natural equality means that fellow humans are not to be used like animals, and because we are under a general obligation to preserve humanity.

Reading Questions:

1. How does Locke conceive of our natural freedom? (rule of law, not rule of men)
2. What about our natural equality? (no natural subordination)
3. What restrictions are put on us by the law of nature, and what justification is there for these restrictions? (...)

Punishment

- Universal right of punishment: Everyone has the right to enforce the law of nature.
 - o If *no one* had this right, the law of nature would be in vain.
 - o If *only some* had this right, then goodbye equality.
 - o Therefore, *everyone* has this right.
- Source of power over others
 - o Not absolute arbitrary power; according to passions, heat.
 - o Only limited retributive power; according to reason.
 - o Violating the law of nature is declaring that you live by another law, which is dangerous to all humanity, and so everyone (having the right to preserve humanity) can restrain or kill you.
- Punishing foreigners
 - o The right to punish foreigners can’t come from the government’s laws; the king of England has no authority over an Indian.
 - o It must come from the power everyone has to enforce the law of nature.
- Injury and reparation
 - o *Two crimes*: Violating the law and dehumanizing oneself, as well as inflicting damages on a specific injured person.
 - o *Two rights*: The injured person has both the right of punishment and the right of seeking reparation. (Others may assist the injured person).

- *Remitting*: Hence the magistrate *can* remit public punishment, but *cannot* remit private reparation.
- An injured person has the right to seek reparation grounded in the right to self-preservation; likewise, everyone has the right to punish grounded in the right to preserve humanity.
- The right to kill murderers has two ends: *deterrence* and *protection*.
- Capital punishment?
 - Can lesser crimes also be punished with death?
 - Punishment should be proportioned by effective deterrence.
 - The law of nature has measures of punishment.
 - The law of nature is plainer than municipal laws, which are just only when founded on the law of nature.
- Conflict of interest
 - *Objection*: Judging in our own cases is unreasonable—we're biased in our own favor and we'll punish too much.
 - *Reply*: Agreed, there are serious inconveniences, and we therefore need civil government. But note the inconveniences of absolute monarchy. It's even worse than the state of nature.

Perhaps Locke's boldest thesis about the state of nature is found in his discussion of punishment. Locke holds that everyone in the state of nature has the right to enforce the law of nature. He draws on two lines of support. First, if the law of nature is not in vain, then at least someone must have the right to enforce it, and therefore by equality, everyone must have this right. Second, such a universal right is the only way to explain why governments may legitimately punish foreigners not within their authority. Locke stresses that though this right is the source of power over others, it is not absolute arbitrary power, but a limited right to retribution guided by reason. A few more details about punishment: To this universal right to punish those who have offended all humanity by violating the law of nature, Locke adds the particular right to seek reparation, a right possessed only by those persons injured by the violation and grounded in their right to self-preservation. The severity of punishment should generally be proportioned according to effective deterrence. And to the objection that judging in one's own case is unreasonable due to bias and overreaction, Locke replies that such serious inconveniences are a good reason to have civil government, but that absolute monarchy is even worse. Finally, Locke repeatedly suggests that, by violating the law of nature, one declares oneself to live by a different law—punishment ends up much like killing wild animals.

Reading Questions:

1. What does Locke think about the right of punishment (enforcing the law of nature)? What is his argument? (A second argument comes later)
2. What kind of power over others does this right give us? (not absolute arbitrary power, but a limited right guided by reason)
3. What right does Locke add to the right of punishment? (private reparation) What does this explain about the powers of the civil magistrate? (cannot remit private reparation)
4. What determines the severity of punishment? (murder, lesser)

5. What objection does Locke consider? How does he reply? (judging in one's own case)

Historical reality

- *Objection*: Has there ever been a state of nature?
- *Reply*: All leaders of independent governments are in a state of nature. Even international treaties don't end the state of nature, not unless they are treaties forming a new international government; moreover, people can make promises to each other as individuals and independent of society.
- *Reply*: Hooker says the laws of nature have pre-social authority, and that we form societies because we can't live alone.
- *Reply*: We are naturally in a state of nature, and we enter society by consent.

Locke closes chapter 2 by considering the objection that, in historical reality, there has never been a state of nature. He replies that all leaders of independent governments, even those under international treaties, are in a state of nature with each other—promises being prior to society. Locke insists that we are naturally in a state of nature, and that we enter society by consent.

Reading Questions:

1. Do international treaties end the state of nature? (no)
2. Can people make binding promises in the state of nature? (yes)
3. How do we enter society? (by consent)

Chapter III: *Of the State of War*

Right to kill

- *A* is in a state of war towards *B* = *A* has 'declared' a steady intent to kill *B*
- *B* (and *B*'s crew) has a right to kill *A*.
 - Law of nature says preserve humanity when possible; but when this is impossible, it says to preserve innocent life first.
 - Just like killing wild animals; *A* is under a different law (the law of force)

Absolute power

- If *A* tries to get *B* under his absolute power, then *A* is in a state of war towards *B*
 - Trying to get under absolute power is trying to enslave, which is contrary to preservation.
 - Try to take my freedom and (I may think) you're willing to kill me.
 - This holds true whether in the state of nature or in society.
- This is why it's okay to kill a thief who just wants the money: once I'm in his power, he might well kill me.

State of nature vs. state of war

- *State of nature*: Living together, by reason, without *any* common authority
- *State of war*: Force (or the threat thereof) without *available* common authority

- Even in society, there is a “right of war” to kill a thief when there’s no time to appeal to the law.
- Common authority ends SoN, doesn’t end SoW.

Continuing state of war

- In fair society, SoW ends when the force is over. The law is again available for appeal.
- Before society, SoW continues after the force the over. The right to kill continues until reasonable reparation is offered.
- In unfair society (where justice is repeatedly perverted), the SoW continues. Time for an appeal to heaven.
- Avoiding such continuing SoW is one main reason for ending the SoN and entering society.

Next Locke considers the state of war. This is when one person has declared a steady intent to kill another, which gives this person a right to kill the first—our obligation to preserve humanity has a bias towards the innocent, and killing in self-defense is like killing a wild animal. Locke makes the provocative claim that trying to get people under one’s absolute power puts one in a state of war with them—if you’re willing to take their freedom, then who’s to say you won’t kill them? Locke also draws a contrast between the state of nature and the state of war. The state of nature obtains when there is no common judge. But the state of war requires only that there is merely no common judge *available for appeal*: even in society, if a thief tries to get me in his power and there’s no time to alert the law, this is a state of war and it is okay to kill the thief. Locke closes the chapter with a discussion of *continuing* state of war. In a just society, he argues, the state of war ends when the actual force is over, because the law is again available for appeal. But prior to society, or even in a society where justice is repeatedly denied, the state of war can continue long after the force is over. Avoiding such continuing states of war is one of the main reasons for ending the state of nature and entering society.

Reading Questions:

1. When are people in a state of war? (declared steady intent)
2. What does the law of nature say about killing people? (prefer innocent over dangerous)
3. What does Locke say about absolute power and the state of war? What is his line of reasoning?
4. What is the difference between the state of nature and the state of war? (common judge + availability)
5. What is a continuing state of war? (force ends, war continues until reparation, no justice coming soon)

Chapter IV: *Of Slavery*

Liberty

- *Natural liberty*: Running your life by the law of nature, not by anyone else’s will.
- *Liberty in society*: Running your life by the standing laws of the established lawmaking authority, not by anyone else’s will.
- *Filmer’s ‘freedom’*: Running your life as you please, by no laws at all.

Becoming a slave

- Freedom from absolute arbitrary authority is tied to self-preservation.
- It *cannot* be voluntarily surrendered: we have no right to end our own lives, so we can’t surrender this right to others, hence we can’t enslave ourselves to others.
- It *can* be forfeited: if we deserve death, others can keep us alive as slaves, though we may then kill ourselves if slavery seems worse than death.
- Slavery is just the state of war continued. If the two sides have an agreement, then both the state of war and the slavery vanish. After all, there can be no slavery by agreement (the Jews had mere ‘drudgery’ by agreement).

Next Locke considers slavery. He starts by characterizing its opposite, liberty: (i) natural liberty, we’ve seen, is running your life by the law of nature and not by anyone else’s will, (ii) liberty in society is running your life by the standing laws of the established lawmaking authority and not by anyone else’s will, with both in contrast to (iii) Filmer’s ‘freedom’ (rejected by Locke) of running your life as you please, by no laws at all. Locke has only one approved route of becoming a slave. If you forfeit your right to life by some act that deserves death, then it’s okay for others to keep you alive as a slave (and it’s okay to kill yourself to escape slavery)—this is just the state of war continued. But Locke denies that one can voluntarily surrender one’s right to freedom from absolute arbitrary authority, enslaving oneself to others. And since there can be no such ‘slavery by agreement’, any agreements between slave and slaveholder put an end to the state of war and the slavery.

Reading Questions:

1. What are the three kinds of liberty or freedom considered by Locke? Explain them.
2. Can we voluntarily put ourselves into slavery? Why not? (no right to end our own lives)
3. Is there a way of getting ourselves into slavery? How so? (forfeiture through capital crime, mere drudgery through agreement)

Chapter V: Of Property

Puzzle

- God gave Earth to humanity in common.
 - o Reason: Right to self-preservation requires right to natural resources.
 - o Revelation
- But how (absent worldwide permission) can we acquire private property?
- NB: this puzzle is even worse if God gave Earth to Adam's line alone.
- We can't even make use of nature unless we can acquire private property. Since the whole point was making use of nature, there *must* be some way to acquire it.

Reading Questions:

1. What does Locke think the initial situation is when it comes to natural resources? What reasons does he give?
2. What puzzle does this give rise to?

Labor

- Earth is common property. But labor is private property. So mixing labor with natural resources makes it private property—no one else may make use of my property or anything it's mixed into.
- Somewhere from gathering to nourishment, private property showed up. Nothing if not gathering.

Reading Question:

1. What solution does Locke give to this puzzle?

Taking from a commons

- The absence of worldwide permission doesn't matter. By that standard, we could never make use of anything.
- Thus in the case of commons, we can remove something and make it our own, without needing worldwide permission (e.g., cut the meat, fountain of water, Indian's deer, ocean, hunting hares).
- *Objection:* So people can take all they want? *Reply:* No, the law of nature says we can take only what we can use before it spoils; this isn't much, so no need to fight.

Reading Questions:

1. Does Locke think you need worldwide permission in order to appropriate natural resources for yourself? Why not?
2. What analogy does he use?
3. What objection does he consider? What is his reply?

Land

- Acquisition works the same way: mix in your own labor and take as much as you can use, no need for worldwide permission, otherwise we couldn't even make use of it, despite God's command.

- This doesn't harm anyone else. It leaves more than enough, with everyone practically no worse off (e.g., drinking from a river).
- God didn't want the land to remain unused. He made labor the title. No sense complaining, when there's more than enough left.
- Of course, with official government commons, appropriation *does* require permission. But this is a matter of the positive law of a single nation (foreigners have no right to it), and appropriation *would* in fact leave others worse off.
- Since subduing land generates property in land, God's command to subdue thereby gave authority to appropriate.

Reading Questions:

1. According to Locke, does appropriating land harm anyone else? Why not?
2. What does he say about official government commons?

Measure of property

- Set by "the extent of men's *labour and the conveniencies of life*"
- Long ago: Appropriation left more than enough, harmed no one, left everyone practically no worse off; private possessions kept within moderation.
- Even today: Take part of America, more than enough left, no one worse off.
- Ground without labor nearly valueless: in Spain, you can use any unused land, everyone else thanks you for increasing the stock of corn.
- If not for money, the same rule of property could hold even today without harming anyone.
- Appropriation in fact *increases* the common stock of mankind.
- Before land, gathering food was okay unless it perished (spoiled), which was a violation of the law of nature, calling for punishment.
- With land, enclosing and using was okay unless it perished (fell into waste), which was injurious to others. Bible: small families (no fixed property), large families (no fixed property), cities (fixed property but with commons aplenty).

Reading Questions:

1. According to Locke, how much land are we allowed to appropriate in the state of nature? Why? Does this still apply today?
2. Does Locke think appropriation increases or decreases the amount of useful resources in the world?
3. What does the law of nature say about property acquisition?

Labor and value

- *Objection:* How can the private character of labor win out over the common character of land? *Reply:* Labor is what makes things valuable.
- 9/10 or 99/100 of the value of things traces back to labor rather than nature (e.g., America).

- Check out “the ordinary provisions of life”. Land not improved by labor is called waste (governments take notice).
- Cultivated and uncultivated land have “the same natural intrinsic value” but different payoffs in terms of “the benefit mankind receives”.
- Hence self-ownership is able to win out over nature given in common.

Reading Question:

1. Locke thinks labor is private and land is common, but that the private-y nature of labor wins out over the common-y nature of land: why?

Consent and money

- First, people had whatever they had. Then (after cities and money) land was scarce and of value, and positive laws (“by *compact* and agreement”) settled the domestic property arrangements. Then international law (“by common consent”) had nations renouncing their claims to the land of other nations, settling international property arrangements. But still (especially in places without money) there are wastelands in common.
- Most truly useful things (as opposed to artificially valuable things) are short-lived. These things could be appropriated as long as they didn’t perish uselessly, and you could always give them away or barter them. So you could trade excess short-lived things for durable things and store them up without worry.
- That’s money: “some lasting thing that men might keep without spoiling, and that by mutual consent men would take in exchange for the truly useful, but perishable supports of life”
- Enlarged possessions come from money. On an island with nothing fit to be money (durable and scarce), there’d be no point in enlarging one’s possessions. Without being able to sell the product, there’d be no point in owning a lot of land.
- Since gold isn’t truly useful, we’ve given consent to vast inequality in property. Independent of society, without compact, we’ve agreed to use gold and give it an artificial value. In governments, property arrangements are settled by positive law.

Reading Questions:

1. Why, according to Locke, does money come into existence? What background conditions explain the emergence of money?
2. What is Locke’s definition or account of ‘money’?
3. What changes are ushered in by use of money?
4. How is this connected with consent?

Chapter VI: Of paternal Power

Terminology

- Mothers have just as much power as fathers.
- Calling it ‘parental power’ might have kept people from seeing it as absolute dominion and regal authority.

Reading Questions:

1. Locke starts out with a complaint about terminology. What’s his complaint?
2. According to Locke, do mothers have as much parental authority as fathers?

Natural freedom

- Natural equality is equality of jurisdiction (= equal right to natural freedom from others).
- Children are born *to* (not with) natural freedom, but with temporary subjection to parents.
- Parents have a natural obligation (grounded in the law of nature) to “preserve, nourish and educate” their children (as God’s workmanship).
- Children are not under the law of nature: laws require promulgation, this law is promulgated by reason, and children don’t have reason. They are therefore (temporarily) unfree: law is no limitation on freedom, but instead direction to one’s good/happiness, and since freedom/liberty requires the restraint of others, therefore the end of law is preserving/enlarging freedom.

Reading Questions:

1. According to Locke, do children have natural freedom?
2. What is the relationship between law and freedom?

- Paternal power comes from the temporary duty to care for children until the age of reason; children lack their own *reason* and therefore lack their own *will*.
- *All laws*
 - o Law of nature: *Maturity* is what puts you under this law.
 - o Law of England: *Capacity* of knowing the law (*21 years*) is what puts you under this law. If the father dies, a tutor takes over. At 21, father and son or tutor and pupil are equally free.
- *Disabilities*: if you are never capable of knowing the law, then you are never free. Others must take care of you (this is no regal authority, this is just the duty to care for children).
 - o Lunatics and idiots
 - o Children and innocents
 - o Madmen
- Natural freedom and subjection to parents are compatible, and founded on the same principle [living by reason?]. We are born free and rational, but temporarily immature. *Example*: a toddler sovereign must submit to its caretakers and yet it has the right to be king. *Question*: “When exactly is the age of reason?” Whenever age it is that you can become king.

- Commonwealths don't require pledges of allegiance of children.
- Liberty is grounded in reason. Premature liberty isn't a privilege, it's a death sentence. Hence God made parents love their kids.
- Caretaking duties fall well short of absolute arbitrary dominion.
- Fathers have no peculiar right. Deadbeat dads lose their power to the foster-father. What about polyandry? Mothers' custody? Dead father? The mother's power falls well short of "the proper *power of the magistrate*". The father's power "reaches not [the] life or property" of the children.

Reading Questions:

1. Parents have a duty to care for their children. Does this give them absolute arbitrary power over their children?
2. Do biological fathers have any distinctive rights?

Honoring parents

- Even grown children have a permanent duty to honor their parents: "inward esteem", never hurting, always helping. But this falls well short of "absolute obedience and submission".
- Distinguish (i) parents' caretaking authority, from (ii) their right to honor.
 - o *Caretaking authority*: This is the "privilege of children", not a "prerogative of paternal power". There is a "*power of commanding and chastising*", but softened by natural parental "tenderness". This duty is alienable—one can transfer it to another caretaker.
 - o *Right to honor*: This is the "duty of the child, and the proper privilege of the parents". This looks weaker than caretaking authority, because that involves visible commands: grandfather-father-son example. But this duty is inalienable. It may, however, be varied by giving some children more care than others.
 - o *Both*: Fall well short of the powers of lawmaking and enforcement.
- This is why the king has no parental power over my kids, despite having all the political power—political power is quite different from paternal power. Even the king must honor his parents.

Reading Question:

1. Though Locke denies that children are under their parents' absolute arbitrary power, he accepts that children owe something to their parents: what do they owe? Is this true only of young children, or even of adult children?

Inheritance

- Fathers often have another power: the power to bestow estates on their favorites.
- Thus people think fathers can oblige their posterity to political regimes: inheritance makes for obedient children, and the estates carry obligations to political regimes. But this is a matter of voluntary consent: children are free to decline the inheritance. There's no special power of fathers here, just a set of incentives: Frenchman-Englishman example.

Reading Question:

1. Locke thinks that fathers *cannot* obligate their descendants to obey political regimes. But he thinks he can explain why people mistakenly think that they *can*. What's his explanation?

Fathers as monarchs

- Despite all this, it was easy and natural for fathers to become monarchs, just by inertia together with "express or tacit consent". This isn't paternal authority—a father can just as well kill a foreigner who murders his children—it's the natural right to enforce the law of nature.
- The father seemed the best umpire available, and so they "made no distinction betwixt minority and full age".
- And as they had heirs, "they laid the foundations of hereditary, or elective kingdoms". But all the same goes for priesthood, and nobody's saying that fathers have a natural right to be the priest!

Reading Question:

1. Locke thinks that fathers have no distinctive right to become monarchs. But he agrees that fathers often do become monarchs, and he thinks he can explain why it happens. What's his explanation?

Chapter VII: *Of political or civil Society*

Kinds of society

- *Conjugal society*
 - o Voluntary compact not just for procreation but also for childrearing (and love).
 - o Parents stay together for the sake of childrearing, as seen in nature: herbivores, carnivores, birds. Humans stay together so long because women get fertile and pregnant again before the previous child is fully raised.
 - o You might wonder: if it's a voluntary compact, why can't it have a specific deadline and specific conditions?
 - o Couples will naturally disagree, and men will naturally end up with the final authority on common decisions. But men have no life-or-death power over women, and sometimes women can even separate.
 - o Marriage predates governments, and governments can only decide controversies. No absolute authority in a marriage is required: it can vary with what's convenient.
- *Parent-child*: See above.
- *Master-servant*: Masters have only temporary contractual power over servants. But slaves have forfeited their life, and are not part of civil society.
- *Paterfamilias-household*: The paterfamilias has no life-or-death power over anyone (except slaves).

All are voluntary. None are absolute arbitrary power.

Political society

- We have natural rights to preserve our property and enforce the law of nature. But political societies must have these powers. Therefore, political society exists only when we've all given these powers to the community at large, making the community an umpire with "settled standing rules". With this, political society. Without this, state of nature.
- This is how commonwealths have legislative and executive power for the preservation of citizens' property. We've given up our power to punish, but our judgments and our power is still at work (through our representatives). Thus legislative power over domestic and international matters, as well as executive power.
- Either by forming a new political society or by joining an existing one, we end up with a commonwealth. Otherwise, state of nature.

Reading Questions:

1. What does Locke mean by 'property'?
2. How does a political community get the right to settle disputes and exact punishment?
3. What conditions must be met in order to be out of the state of nature?

Absolute monarchy

- Absolute monarchy is inconsistent with civil society. There needs to be a common umpire with standing rules. But there is none between absolute monarchs and their subjects—they're still in the state of nature.
- There is no appeal for injuries from an absolute monarch. At least in the state of nature, the subject would have liberty to judge and defend his rights on his own. But now even that is denied.
- History shows that absolute power doesn't purify men's blood.
- Of course, absolute monarchies do have a common umpire with standing rules for disputes between subjects. But this is like keeping one's animals from hurting each other. And you can't even ask about injuries from an absolute monarch. As if we were morons.
- Say whatever you want, people will naturally take steps to protect themselves from an absolute monarch. Maybe some good king was given lots of authority, but after some bad kings, people realized safety required legislative bodies. Then everyone is equally subject to the law. Otherwise, the state of nature resumes—and no one would say that the state of nature and civil society are the same thing.

Reading Questions:

1. Is absolute monarchy a form of civil society?
2. Locke admits that absolute monarchies have a common umpire with standing rules for disputes between subjects. But what is his explanation for this?
3. Locke has an objection to Hobbes. How does it go?
4. After enough bad absolute monarchs, what did people realize?

Chapter VIII: *Of the Beginnings of Political Societies*

Consent

- Natural freedom, etc. means political power requires consent. Any group may form a (majoritarian) community/government.
- In order for the community to act as a body and by consent, it must move according to majority consent (barring positive law setting other standards). Every individual is bound by majority consent.
- Otherwise the compact would accomplish nothing—consent of every individual would still be in force.
- Consent of every individual is the only alternative to consent of the majority. It's practically impossible for everyone to attend the public assembly. And diversity of opinion would make the government immediately dissolve—and it would be irrational to form such a fleeting state.
- So everyone agrees to give power to the majority (barring positive law setting supermajorities). So it's all a matter of consent.

Objection 1: Nowhere in history

- Reply: History
 - o No surprise that historical records of the state of nature are slim—people move quick to form governments, and literacy and recordkeeping postdate stable government.
 - o What records we have match Locke: Rome, Venice, American Indians, Sparta. Paternal power boosters had better not pry too deeply into history (though what has been doesn't settle what should be).
- Reply: Explaining one-man rule
 - o It's not like the father has special authority. It's just that the father was fittest to be trusted. And when the father died, they'd select the fittest candidate (with a bias towards heirs).
 - o No conflict between historical one-man rule and Locke's consent theory. But let's explain one-man rule in more detail.
 - o One-man rule is backed by custom and success. It's also simple and obvious, and experience of tyranny is what leads people to balance powers. And the pressing need was defense against foreign invasion, not a legal system for domestic disputes—there were few controversies over property, and the fellow citizens were friends and family.
 - o This emphasis on foreign invasion led kings to be (first and foremost) military leaders: Jephthah, Gideon, Abimelech, Saul, David.
 - o Where a single family develops into a paternal commonwealth, and where several families join together and set up a military leader, the end of one-man rule is "the public good and safety".
 - o In the golden age, there were no disputes about prerogative or privilege or the proper role of government. Later, when ambition, luxury, and flattery "taught princes to have distinct and separate interests from their people", people got interested in the proper role

of government and methods of limiting government power.
[footnote: move from one-man rule to rule of law]

- This is how naturally free people consensually agreed to one-man rule without any explicit limits on government power, despite never buying into divine right of kings or paternal-cum-political power (temporarily ignoring non-peaceful beginnings of government like conquest).

Objection 2: No right to start a government

- Reply: Starting monarchies
- Reply: Historical record
- Reply: Parents binding children, land

Tacit Consent

Chapter IX: *Of the Ends of political Society of Government*

'Property'

- The reason why individuals give up their natural freedom is that enjoyment of it is uncertain in the state of nature. They unite to preserve their lives, liberties, and estates—their property.

State of Nature: Drawbacks

- No “*established*, settled, known *law*”
- No “*known and indifferent judge*”
- Not enough power to enforce the law of nature.
- This is why individuals are quick to form governments; and this is “the original *right and rise of both the legislative and executive power*, as well as of the governments and societies themselves”

State of Nature: Powers

- Ignoring “the liberty [an individual] has of innocent delights”
 - Power 1: Take steps (consistent with the law of nature) to preserve humanity.
 - Partially given up: Now living by the society’s laws (with the ends of preserving the society)
 - Power 2: Enforce the law of nature.
 - Entirely given up: Now assisting the executive power.
 - General: Only given up for the sake of the common good, and avoiding the “three defects” above.
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Chapter X: *Of the Forms of a Commonwealth*

- The majority naturally has lawmaking authority: it may exercise it (democracy), transfer it to an elite class (oligarchy), or transfer it to a single leader (monarchy, hereditary or elective). If the transfer is temporary, it will revert back to the majority. Form of government depends on where the lawmaking authority resides: no inferior power can possess such authority, and the form of government obviously depends on the supreme power.
- The term ‘commonwealth’ is intended to be neutral with respect to form of government.

[...]

Chapter XIV: *Of Prerogative*

- Since the legislative can’t anticipate everything, isn’t perfect, and isn’t always in session, the executive therefore has the discretionary power to act without the backing of law or even against the law, when it’s for the public good (i.e., the preservation of society).
 - When done for the public good, prerogative goes unquestioned. The public good decides any questions.
 - In early family-style governments, everything was prerogative and it was unlimited. But bad kings led the people to insist on *limitations to prerogative*.
 - It’s crazy to say such limitations amount to *encroachments* on prerogative. No political authority has a right to do anything contrary to the public good. It’s not like kings have their own legitimate interests at stake.
 - If we were *inferior creatures*, prerogative might be an arbitrary power to harm the public. But we’re *rational creatures*, and we wouldn’t give others the power to harm us.
 - With good kings, there was lots of prerogative. But this set a dangerous precedent for bad kings.
 - Calling parliaments falls under prerogative. But it’s to be used only for the public good, it’s just that we needed someone to make the call.
 - *Objection*: “So some prerogative is legitimate and some isn’t. But who decides?” There’s no judge on earth, so we resort to an appeal to heaven. The people have no legal standing as the judge, but the law of nature gives them the right to use their best judgment and appeal to heaven. This right cannot be surrendered—no destroying oneself. This isn’t a “perpetual foundation for disorder”, because it takes problems serious enough to rattle the majority.
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