

CHAPTER XIX
OF THE SEVERAL KINDS OF COMMONWEALTH BY INSTITUTION, AND OF
SUCCESSION TO THE SOVEREIGN POWER

THE difference of Commonwealths consisteth in the difference of the sovereign, or the person representative of all and every one of the multitude. And because the sovereignty is either in one man, or in an assembly of more than one; and into that assembly either every man hath right to enter, or not every one, but certain men distinguished from the rest; it is manifest there can be but three kinds of Commonwealth. For the representative must needs be one man, or more; and if more, then it is the assembly of all, or but of a part. When the representative is one man, then is the Commonwealth a monarchy; when an assembly of all that will come together, then it is a democracy, or popular Commonwealth; when an assembly of a part only, then it is called an aristocracy. Other kind of Commonwealth there can be none: for either one, or more, or all, must have the sovereign power (which I have shown to be indivisible) entire.

There be other names of government in the histories and books of policy; as tyranny and oligarchy; but they are not the names of other forms of government, but of the same forms misliked. For they that are discontented under monarchy call it tyranny; and they that are displeased with aristocracy call it oligarchy: so also, they which find themselves grieved under a democracy call it anarchy, which signifies want of government; and yet I think no man believes that want of government is any new kind of government: nor by the same reason ought they to believe that the government is of one kind when they like it, and another when they dislike it or are oppressed by the governors.

It is manifest that men who are in absolute liberty may, if they please, give authority to one man to represent them every one, as well as give such authority to any assembly of men whatsoever; and consequently may subject themselves, if they think good, to a monarch as absolutely as to other representative. Therefore, where there is already erected a sovereign power, there can be no other representative of the same people, but only to certain particular ends, by the sovereign limited. For that were to erect two sovereigns; and every man to have his person represented by two actors that, by opposing one another, must needs divide that power, which (if men will live in peace) is indivisible; and thereby reduce the multitude into the condition of war, contrary to the end for which all sovereignty is instituted. And therefore as it is absurd to think that a sovereign assembly, inviting the people of their dominion to send up their deputies with power to make known their advice or desires should therefore hold such deputies, rather than themselves, for the absolute representative of the people; so it is absurd also to think the same in a monarchy. And I know not how this so manifest a truth should of late be so little observed: that in a monarchy he that had the sovereignty from a descent of six hundred years was alone called sovereign, had the title of Majesty from every one of his subjects, and was unquestionably taken by them for their king, was notwithstanding never considered as their representative; that name without contradiction passing for the title of those men which at his command were sent up by the people to carry their petitions and give him, if he permitted it, their advice. Which may serve as an admonition for those that are the true and absolute representative of a people, to instruct men in the nature of that office, and to

take heed how they admit of any other general representation upon any occasion whatsoever, if they mean to discharge the trust committed to them.

The difference between these three kinds of Commonwealth consisteth, not in the difference of power, but in the difference of convenience or aptitude to produce the peace and security of the people; for which end they were instituted. And to compare monarchy with the other two, we may observe: first, that whosoever beareth the person of the people, or is one of that assembly that bears it, beareth also his own natural person. And though he be careful in his politic person to procure the common interest, yet he is more, or no less, careful to procure the private good of himself, his family, kindred and friends; and for the most part, if the public interest chance to cross the private, he prefers the private: for the passions of men are commonly more potent than their reason. From whence it follows that where the public and private interest are most closely united, there is the public most advanced. Now in monarchy the private interest is the same with the public. The riches, power, and honour of a monarch arise only from the riches, strength, and reputation of his subjects. For no king can be rich, nor glorious, nor secure, whose subjects are either poor, or contemptible, or too weak through want, or dissension, to maintain a war against their enemies; whereas in a democracy, or aristocracy, the public prosperity confers not so much to the private fortune of one that is corrupt, or ambitious, as doth many times a perfidious advice, a treacherous action, or a civil war.

Secondly, that a monarch receiveth counsel of whom, when, and where he pleaseth; and consequently may hear the opinion of men versed in the matter about which he deliberates, of what rank or quality soever, and as long before the time of action and with as much secrecy as he will. But when a sovereign assembly has need of counsel, none are admitted but such as have a right thereto from the beginning; which for the most part are of those who have been versed more in the acquisition of wealth than of knowledge, and are to give their advice in long discourses which may, and do commonly, excite men to action, but not govern them in it. For the understanding is by the flame of the passions never enlightened, but dazzled: nor is there any place or time wherein an assembly can receive counsel secrecy, because of their own multitude.

Thirdly, that the resolutions of a monarch are subject to no other inconstancy than that of human nature; but in assemblies, besides that of nature, there ariseth an inconstancy from the number. For the absence of a few that would have the resolution, once taken, continue firm (which may happen by security, negligence, or private impediments), or the diligent appearance of a few of the contrary opinion, undoes today all that was concluded yesterday.

Fourthly, that a monarch cannot disagree with himself, out of envy or interest; but an assembly may; and that to such a height as may produce a civil war.

Fifthly, that in monarchy there is this inconvenience; that any subject, by the power of one man, for the enriching of a favourite or flatterer, may be deprived of all he possesseth; which I confess is a great an inevitable inconvenience. But the same may as well happen where the sovereign power is in an assembly: for their power is the same; and they are as subject to evil counsel, and to be seduced by orators, as a monarch by flatterers; and becoming one another's flatterers, serve one another's covetousness and ambition by turns.

And whereas the favourites of monarchs are few, and they have none else to advance but their own kindred; the favourites of an assembly are many, and the kindred much more numerous than of any monarch. Besides, there is no favourite of a monarch which cannot as well succour his friends as hurt his enemies: but orators, that is to say, favourites of sovereign assemblies, though they have great power to hurt, have little to save. For to accuse requires less eloquence (such is man's nature) than to excuse; and condemnation, than absolution, more resembles justice.

Sixthly, that it is an inconvenience in monarchy that the sovereignty may descend upon an infant, or one that cannot discern between good and evil: and consisteth in this, that the use of his power must be in the hand of another man, or of some assembly of men, which are to govern by his right and in his name as curators and protectors of his person and authority. But to say there is inconvenience in putting the use of the sovereign power into the hand of a man, or an assembly of men, is to say that all government is more inconvenient than confusion and civil war. And therefore all the danger that can be pretended must arise from the contention of those that, for an office of so great honour and profit, may become competitors. To make it appear that this inconvenience proceedeth not from that form of government we call monarchy, we are to consider that the precedent monarch hath appointed who shall have the tuition of his infant successor, either expressly by testament, or tacitly by not controlling the custom in that case received: and then such inconvenience, if it happen, is to be attributed, not to the monarchy, but to the ambition and injustice of the subjects, which in all kinds of government, where the people are not well instructed in their duty and the rights of sovereignty, is the same. Or else the precedent monarch hath not at all taken order for such tuition; and then the law of nature hath provided this sufficient rule, that the tuition shall be in him that hath by nature most interest in the preservation of the authority of the infant, and to whom least benefit can accrue by his death or diminution. For seeing every man by nature seeketh his own benefit and promotion, to put an infant into the power of those that can promote themselves by his destruction or damage is not tuition, but treachery. So that sufficient provision being taken against all just quarrel about the government under a child, if any contention arise to the disturbance of the public peace, it is not to be attributed to the form of monarchy, but to the ambition of subjects and ignorance of their duty. On the other side, there is no great Commonwealth, the sovereignty whereof is in a great assembly, which is not, as to consultations of peace, and war, and making of laws, in the same condition as if the government were in a child. For as a child wants the judgement to dissent from counsel given him, and is thereby necessitated to take the advice of them, or him, to whom he is committed; so an assembly wanteth the liberty to dissent from the counsel of the major part, be it good or bad. And as a child has need of a tutor, or protector, to preserve his person and authority; so also in great Commonwealths the sovereign assembly, in all great dangers and troubles, have need of custodes libertatis; that is, of dictators, or protectors of their authority; which are as much as temporary monarchs to whom for a time they may commit the entire exercise of their power; and have, at the end of that time, been oftener deprived thereof than infant kings by their protectors, regents, or any other tutors.

Though the kinds of sovereignty be, as I have now shown, but three; that is to say, monarchy, where one man has it; or democracy, where the general assembly of subjects hath it; or aristocracy, where it is in an assembly of certain persons nominated, or

otherwise distinguished from the rest: yet he that shall consider the particular Commonwealths that have been and are in the world will not perhaps easily reduce them to three, and may thereby be inclined to think there be other forms arising from these mingled together. As for example, elective kingdoms; where kings have the sovereign power put into their hands for a time; or kingdoms wherein the king hath a power limited: which governments are nevertheless by most writers called monarchy. Likewise if a popular or aristocratical Commonwealth subdue an enemy's country, and govern the same by a president, procurator, or other magistrate, this may seem perhaps, at first sight, to be a democratical or aristocratical government. But it is not so. For elective kings are not sovereigns, but ministers of the sovereign; nor limited kings sovereigns, but ministers of them that have the sovereign power; nor are those provinces which are in subjection to a democracy or aristocracy of another Commonwealth democratically or aristocratically governed, but monarchically.

And first, concerning an elective king, whose power is limited to his life, as it is in many places of Christendom at this day; or to certain years or months, as the dictator's power amongst the Romans; if he have right to appoint his successor, he is no more elective but hereditary. But if he have no power to elect his successor, then there is some other man, or assembly known, which after his decease may elect a new; or else the Commonwealth dieth, and dissolveth with him, and returneth to the condition of war. If it be known who have the power to give the sovereignty after his death, it is known also that the sovereignty was in them before: for none have right to give that which they have not right to possess, and keep to themselves, if they think good. But if there be none that can give the sovereignty after the decease of him that was first elected, then has he power, nay he is obliged by the law of nature, to provide, by establishing his successor, to keep to those that had trusted him with the government from relapsing into the miserable condition of civil war. And consequently he was, when elected, a sovereign absolute.

Secondly, that king whose power is limited is not superior to him, or them, that have the power to limit it; and he that is not superior is not supreme; that is to say, not sovereign. The sovereignty therefore was always in that assembly which had the right to limit him, and by consequence the government not monarchy, but either democracy or aristocracy; as of old time in Sparta, where the kings had a privilege to lead their armies, but the sovereignty was in the Ephori.

Thirdly, whereas heretofore the Roman people governed the land of Judea, for example, by a president; yet was not Judea therefore a democracy, because they were not governed by any assembly into which any of them had right to enter; nor by an aristocracy, because they were not governed by any assembly into which any man could enter by their election: but they were governed by one person, which though as to the people of Rome was an assembly of the people, or democracy; yet as to the people of Judea, which had no right at all of participating in the government, was a monarch. For though where the people are governed by an assembly, chosen by themselves out of their own number, the government is called a democracy, or aristocracy; yet when they are governed by an assembly not of their own choosing, it is a monarchy; not of one man over another man, but of one people over another people.

Of all these forms of government, the matter being mortal, so that not only monarchs, but also whole assemblies die, it is necessary for the conservation of the peace of men that as there was order taken for an artificial man, so there be order also taken for an artificial eternity of life; without which men that are governed by an assembly should return into the condition of war in every age; and they that are governed by one man, as soon as their governor dieth. This artificial eternity is that which men call the right of succession.

There is no perfect form of government, where the disposing of the succession is not in the present sovereign. For if it be in any other particular man, or private assembly, it is in a person subject, and may be assumed by the sovereign at his pleasure; and consequently the right is in himself. And if it be in no particular man, but left to a new choice; then is the Commonwealth dissolved, and the right is in him that can get it, contrary to the intention of them that did institute the Commonwealth for their perpetual, and not temporary, security.

In a democracy, the whole assembly cannot fail unless the multitude that are to be governed fail. And therefore questions of the right of succession have in that form of government no place at all.

In an aristocracy, when any of the assembly dieth, the election of another into his room belonged to the assembly, as the sovereign, to whom belonged the choosing of all counsellors and officers. For that which the representative doth, as actor, every one of the subjects doth, as author. And though the sovereign assembly may give power to others to elect new men, for supply of their court, yet it is still by their authority that the election is made; and by the same it may, when the public shall require it, be recalled.

The greatest difficulty about the right of succession is in monarchy: and the difficulty ariseth from this, that at first sight, it is not manifest who is to appoint the successor; nor many times who it is whom he hath appointed. For in both these cases, there is required a more exact ratiocination than every man is accustomed to use. As to the question who shall appoint the successor of a monarch that hath the sovereign authority; that is to say, who shall determine of the right of inheritance (for elective kings and princes have not the sovereign power in propriety, but in use only), we are to consider that either he that is in possession has right to dispose of the succession, or else that right is again in the dissolved multitude. For the death of him that hath the sovereign power in property leaves the multitude without any sovereign at all; that is, without any representative in whom they should be united, and be capable of doing any one action at all: and therefore they are incapable of election of any new monarch, every man having equal right to submit himself to such as he thinks best able to protect him; or, if he can, protect himself by his own sword; which is a return to confusion and to the condition of a war of every man against every man, contrary to the end for which monarchy had its first institution. Therefore it is manifest that by the institution of monarchy, the disposing of the successor is always left to the judgment and will of the present possessor.

And for the question which may arise sometimes, who it is that the monarch in possession hath designed to the succession and inheritance of his power, it is determined by his express words and testament; or by other tacit signs sufficient.

By express words, or testament, when it is declared by him in his lifetime, viva voce, or by writing; as the first emperors of Rome declared who should be their heirs. For the word heir does not of itself imply the children or nearest kindred of a man; but whomsoever a man shall any way declare he would have to succeed him in his estate. If therefore a monarch declare expressly that such a man shall be his heir, either by word or writing, then is that man immediately after the decease of his predecessor invested in the right of being monarch.

But where testament and express words are wanting, other natural signs of the will are to be followed: whereof the one is custom. And therefore where the custom is that the next of kindred absolutely succeedeth, there also the next of kindred hath right to the succession; for that, if the will of him that was in possession had been otherwise, he might easily have declared the same in his lifetime. And likewise where the custom is that the next of the male kindred succeedeth, there also the right of succession is in the next of the kindred male, for the same reason. And so it is if the custom were to advance the female. For whatsoever custom a man may by a word control, and does not, it is a natural sign he would have that custom stand.

But where neither custom nor testament hath preceded, there it is to be understood; first, that a monarch's will is that the government remain monarchical, because he hath approved that government in himself. Secondly, that a child of his own, male or female, be preferred before any other, because men are presumed to be more inclined by nature to advance their own children than the children of other men; and of their own, rather a male than a female, because men are naturally fitter than women for actions of labour and danger. Thirdly, where his own issue faileth, rather a brother than a stranger, and so still the nearer in blood rather than the more remote, because it is always presumed that the nearer of kin is the nearer in affection; and it is evident that a man receives always, by reflection, the most honour from the greatness of his nearest kindred.

But if it be lawful for a monarch to dispose of the succession by words of contract, or testament, men may perhaps object a great inconvenience: for he may sell or give his right of governing to a stranger; which, because strangers (that is, men not used to live under the same government, nor speaking the same language) do commonly undervalue one another, may turn to the oppression of his subjects, which is indeed a great inconvenience: but it proceedeth not necessarily from the subjection to a stranger's government, but from the unskillfulness of the governors, ignorant of the true rules of politics. And therefore the Romans, when they had subdued many nations, to make their government digestible were wont to take away that grievance as much as they thought necessary by giving sometimes to whole nations, and sometimes to principal men of every nation they conquered, not only the privileges, but also the name of Romans; and took many of them into the Senate, and offices of charge, even in the Roman city. And this was it our most wise king, King James, aimed at in endeavouring the union of his two realms of England and Scotland. Which, if he could have obtained, had in all likelihood prevented the civil wars which both those kingdoms, at this present, miserable. It is not therefore any injury to the people for a monarch to dispose of the succession by will; though by the fault of many princes, it hath been sometimes found inconvenient. Of the lawfulness of it, this also is an argument; that whatsoever inconvenience can arrive by giving a kingdom to a stranger, may arrive also by

so marrying with strangers, as the right of succession may descend upon them: yet this by all men is accounted lawful.

CHAPTER XX OF DOMINION PATERNAL AND DESPOTICAL

A COMMONWEALTH by acquisition is that where the sovereign power is acquired by force; and it is acquired by force when men singly, or many together by plurality of voices, for fear of death, or bonds, do authorise all the actions of that man, or assembly, that hath their lives and liberty in his power.

And this kind of dominion, or sovereignty, differeth from sovereignty by institution only in this, that men who choose their sovereign do it for fear of one another, and not of him whom they institute: but in this case, they subject themselves to him they are afraid of. In both cases they do it for fear: which is to be noted by them that hold all such covenants, as proceed from fear of death or violence, void: which, if it were true, no man in any kind of Commonwealth could be obliged to obedience. It is true that in a Commonwealth once instituted, or acquired, promises proceeding from fear of death or violence are no covenants, nor obliging, when the thing promised is contrary to the laws; but the reason is not because it was made upon fear, but because he that promiseth hath no right in the thing promised. Also, when he may lawfully perform, and doth not, it is not the invalidity of the covenant that absolveth him, but the sentence of the sovereign. Otherwise, whensoever a man lawfully promiseth, he unlawfully breaketh: but when the sovereign, who is the actor, acquitteth him, then he is acquitted by him that extorted the promise, as by the author of such absolution.

But the rights and consequences of sovereignty are the same in both. His power cannot, without his consent, be transferred to another: he cannot forfeit it: he cannot be accused by any of his subjects of injury: he cannot be punished by them: he is judge of what is necessary for peace, and judge of doctrines: he is sole legislator, and supreme judge of controversies, and of the times and occasions of war and peace: to him it belonged to choose magistrates, counsellors, commanders, and all other officers and ministers; and to determine of rewards and punishments, honour and order. The reasons whereof are the same which are alleged in the precedent chapter for the same rights and consequences of sovereignty by institution.

Dominion is acquired two ways: by generation and by conquest. The right of dominion by generation is that which the parent hath over his children, and is called paternal. And is not so derived from the generation, as if therefore the parent had dominion over his child because he begat him, but from the child's consent, either express or by other sufficient arguments declared. For as to the generation, God hath ordained to man a helper, and there be always two that are equally parents: the dominion therefore over the child should belong equally to both, and he be equally subject to both, which is impossible; for no man can obey two masters. And whereas some have attributed the dominion to the man only, as being of the more excellent sex, they misreckon in it. For there is not always that difference of strength or prudence between the man and the woman as that the right can be determined without war. In Commonwealths this controversy is decided by the civil law:

and for the most part, but not always, the sentence is in favour of the father, because for the most part Commonwealths have been erected by the fathers, not by the mothers of families. But the question lieth now in the state of mere nature where there are supposed no laws of matrimony, no laws for the education of children, but the law of nature and the natural inclination of the sexes, one to another, and to their children. In this condition of mere nature, either the parents between themselves dispose of the dominion over the child by contract, or do not dispose thereof at all. If they dispose thereof, the right passeth according to the contract. We find in history that the Amazons contracted with the men of the neighbouring countries, to whom they had recourse for issue, that the issue male should be sent back, but the female remain with themselves: so that the dominion of the females was in the mother.

If there be no contract, the dominion is in the mother. For in the condition of mere nature, where there are no matrimonial laws, it cannot be known who is the father unless it be declared by the mother; and therefore the right of dominion over the child dependeth on her will, and is consequently hers. Again, seeing the infant is first in the power of the mother, so as she may either nourish or expose it; if she nourish it, it oweth its life to the mother, and is therefore obliged to obey her rather than any other; and by consequence the dominion over it is hers. But if she expose it, and another find and nourish it, dominion is in him that nourisheth it. For it ought to obey him by whom it is preserved, because preservation of life being the end for which one man becomes subject to another, every man is supposed to promise obedience to him in whose power it is to save or destroy him.

If the mother be the father's subject, the child is in the father's power; and if the father be the mother's subject (as when a sovereign queen marrieth one of her subjects), the child is subject to the mother, because the father also is her subject.

If a man and a woman, monarchs of two several kingdoms, have a child, and contract concerning who shall have the dominion of him, the right of the dominion passeth by the contract. If they contract not, the dominion followeth the dominion of the place of his residence. For the sovereign of each country hath dominion over all that reside therein.

He that hath the dominion over the child hath dominion also over the children of the child, and over their children's children. For he that hath dominion over the person of a man hath dominion over all that is his, without which dominion were but a title without the effect.

The right of succession to paternal dominion proceedeth in the same manner as doth the right of succession to monarchy, of which I have already sufficiently spoken in the precedent chapter.

Dominion acquired by conquest, or victory in war, is that which some writers call despotical from Despotes, which signifieth a lord or master, and is the dominion of the master over his servant. And this dominion is then acquired to the victor when the vanquished, to avoid the present stroke of death, covenanteth, either in express words or by other sufficient signs of the will, that so long as his life and the liberty of his body is allowed him, the victor shall have the use thereof at his pleasure. And after such covenant made, the vanquished is a servant, and not before: for by the word servant (whether it be derived from servire, to

serve, or from servare, to save, which I leave to grammarians to dispute) is not meant a captive, which is kept in prison, or bonds, till the owner of him that took him, or bought him of one that did, shall consider what to do with him: for such men, commonly called slaves, have no obligation at all; but may break their bonds, or the prison; and kill, or carry away captive their master, justly: but one that, being taken, hath corporal liberty allowed him; and upon promise not to run away, nor to do violence to his master, is trusted by him.

It is not therefore the victory that giveth the right of dominion over the vanquished, but his own covenant. Nor is he obliged because he is conquered; that is to say, beaten, and taken, or put to flight; but because he cometh in and submitteth to the victor; nor is the victor obliged by an enemy's rendering himself, without promise of life, to spare him for this his yielding to discretion; which obliges not the victor longer than in his own discretion he shall think fit.

And that which men do when they demand, as it is now called, quarter (which the Greeks called Zogria, taking alive) is to evade the present fury of the victor by submission, and to compound for their life with ransom or service: and therefore he that hath quarter hath not his life given, but deferred till further deliberation; for it is not a yielding on condition of life, but to discretion. And then only is his life in security, and his service due, when the victor hath trusted him with his corporal liberty. For slaves that work in prisons, or fetters, do it not of duty, but to avoid the cruelty of their task-masters.

The master of the servant is master also of all he hath, and may exact the use thereof; that is to say, of his goods, of his labour, of his servants, and of his children, as often as he shall think fit. For he holdeth his life of his master by the covenant of obedience; that is, of owning and authorising whatsoever the master shall do. And in case the master, if he refuse, kill him, or cast him into bonds, or otherwise punish him for his disobedience, he is himself the author of the same, and cannot accuse him of injury.

In sum, the rights and consequences of both paternal and despotical dominion are the very same with those of a sovereign by institution; and for the same reasons: which reasons are set down in the precedent chapter. So that for a man that is monarch of diverse nations, he hath in one the sovereignty by institution of the people assembled, and in another by conquest; that is by the submission of each particular, to avoid death or bonds; to demand of one nation more than of the other, from the title of conquest, as being a conquered nation, is an act of ignorance of the rights of sovereignty. For the sovereign is absolute over both alike; or else there is no sovereignty at all, and so every man may lawfully protect himself, if he can, with his own sword, which is the condition of war.

By this it appears that a great family, if it be not part of some Commonwealth, is of itself, as to the rights of sovereignty, a little monarchy; whether that family consist of a man and his children, or of a man and his servants, or of a man and his children and servants together; wherein the father or master is the sovereign. But yet a family is not properly a Commonwealth, unless it be of that power by its own number, or by other opportunities, as not to be subdued without the hazard of war. For where a number of men are manifestly too weak to defend themselves united, every one may use his own reason in time of danger to save his own life, either by flight, or by submission to the enemy, as he shall think best; in

the same manner as a very small company of soldiers, surprised by an army, may cast down their arms and demand quarter, or run away rather than be put to the sword. And thus much shall suffice concerning what I find by speculation, and deduction, of sovereign rights, from the nature, need, and designs of men in erecting of Commonwealths, and putting themselves under monarchs or assemblies entrusted with power enough for their protection.

Let us now consider what the Scripture teacheth in the same point. To Moses the children of Israel say thus: "Speak thou to us, and we will hear thee; but let not God speak to us, lest we die." [Exodus, 20. 19] This is absolute obedience to Moses. Concerning the right of kings, God Himself, by the mouth of Samuel, saith, "This shall be the right of the king you will have to reign over you. He shall take your sons, and set them to drive his chariots, and to be his horsemen, and to run before his chariots, and gather in his harvest; and to make his engines of war, and instruments of his chariots; and shall take your daughters to make perfumes, to be his cooks, and bakers. He shall take your fields, your vineyards, and your olive-yards, and give them to his servants. He shall take the tithe of your corn and wine, and give it to the men of his chamber, and to his other servants. He shall take your manservants, and your maidservants, and the choice of your youth, and employ them in his business. He shall take the tithe of your flocks; and you shall be his servants." [I Samuel, 8. 11-17] This is absolute power, and summed up in the last words, you shall be his servants. Again, when the people heard what power their king was to have, yet they consented thereto, and say thus, "We will be as all other nations, and our king shall judge our causes, and go before us, to conduct our wars." [*Ibid.*, 8. 19, 20] Here is confirmed the right that sovereigns have, both to the militia and to all judicature; in which is contained as absolute power as one man can possibly transfer to another. Again, the prayer of King Solomon to God was this: "Give to thy servant understanding, to judge thy people, and to discern between good and evil." [I Kings, 3. 9] It belonged therefore to the sovereign to be judge, and to prescribe the rules of discerning good and evil: which rules are laws; and therefore in him is the legislative power. Saul sought the life of David; yet when it was in his power to slay Saul, and his servants would have done it, David forbade them, saying, "God forbid I should do such an act against my Lord, the anointed of God." [I Samuel, 24. 6] For obedience of servants St. Paul saith, "Servants obey your masters in all things"; [Colossians, 3. 22] and, "Children obey your parents in all things." [*Ibid.*, 3. 20] There is simple obedience in those that are subject to paternal or despotical dominion. Again, "The scribes and Pharisees sit in Moses' chair, and therefore all that they shall bid you observe, that observe and do." [Matthew, 23. 2, 3] There again is simple obedience. And St. Paul, "Warn them that they subject themselves to princes, and to those that are in authority, and obey them." [Titus, 3. 1] This obedience is also simple. Lastly, our Saviour Himself acknowledges that men ought to pay such taxes as are by kings imposed, where He says, "Give to Caesar that which is Caesar's"; and paid such taxes Himself. And that the king's word is sufficient to take anything from any subject, when there is need; and that the king is judge of that need: for He Himself, as king of the Jews, commanded his Disciples to take the ass and ass's colt to carry him into Jerusalem, saying, "Go into the village over against you, and you shall find a she ass tied, and her colt with her; untie them, and bring them to me. And if any man ask you, what you mean by it, say the Lord hath need of them: and they will let them go." [Matthew, 21. 2, 3] They will not ask whether his necessity be a sufficient title; nor whether he be judge of that necessity; but acquiesce in the will of the Lord.

To these places may be added also that of Genesis, "You shall be as gods, knowing good and evil." [Genesis, 3. 5] And, "Who told thee that thou wast naked? Hast thou eaten of the tree, of which I commanded thee thou shouldest not eat?" [*Ibid.*, 3. 11] For the cognizance or judicature of good and evil, being forbidden by the name of the fruit of the tree of knowledge, as a trial of Adam's obedience, the devil to inflame the ambition of the woman, to whom that fruit already seemed beautiful, told her that by tasting it they should be as gods, knowing good and evil. Whereupon having both eaten, they did indeed take upon them God's office, which is judicature of good and evil, but acquired no new ability to distinguish between them aright. And whereas it is said that, having eaten, they saw they were naked; no man hath so interpreted that place as if they had been formerly blind, and saw not their own skins: the meaning is plain that it was then they first judged their nakedness (wherein it was God's will to create them) to be uncomely; and by being ashamed did tacitly censure God Himself. And thereupon God saith, "Hast thou eaten," etc., as if He should say, doest thou that owest me obedience take upon thee to judge of my commandments? Whereby it is clearly, though allegorically, signified that the commands of them that have the right to command are not by their subjects to be censured nor disputed.

So that it appeareth plainly, to my understanding, both from reason and Scripture, that the sovereign power, whether placed in one man, as in monarchy, or in one assembly of men, as in popular and aristocratical Commonwealths, is as great as possibly men can be imagined to make it. And though of so unlimited a power, men may fancy many evil consequences, yet the consequences of the want of it, which is perpetual war of every man against his neighbour, are much worse. The condition of man in this life shall never be without inconveniences; but there happeneth in no Commonwealth any great inconvenience but what proceeds from the subjects' disobedience and breach of those covenants from which the Commonwealth hath its being. And whosoever, thinking sovereign power too great, will seek to make it less, must subject himself to the power that can limit it; that is to say, to a greater.

The greatest objection is that of the practice; when men ask where and when such power has by subjects been acknowledged. But one may ask them again, when or where has there been a kingdom long free from sedition and civil war? In those nations whose Commonwealths have been long-lived, and not been destroyed but by foreign war, the subjects never did dispute of the sovereign power. But howsoever, an argument from the practice of men that have not sifted to the bottom, and with exact reason weighed the causes and nature of Commonwealths, and suffer daily those miseries that proceed from the ignorance thereof, is invalid. For though in all places of the world men should lay the foundation of their houses on the sand, it could not thence be inferred that so it ought to be. The skill of making and maintaining Commonwealths consisteth in certain rules, as doth arithmetic and geometry; not, as tennis play, on practice only: which rules neither poor men have the leisure, nor men that have had the leisure have hitherto had the curiosity or the method, to find out.

CHAPTER XXI OF THE LIBERTY OF SUBJECTS

LIBERTY, or freedom, signifieth properly the absence of opposition (by opposition, I mean external impediments of motion); and may be applied no less to irrational and inanimate creatures than to rational. For whatsoever is so tied, or environed, as it cannot move but within a certain space, which space is determined by the opposition of some external body, we say it hath not liberty to go further. And so of all living creatures, whilst they are imprisoned, or restrained with walls or chains; and of the water whilst it is kept in by banks or vessels that otherwise would spread itself into a larger space; we use to say they are not at liberty to move in such manner as without those external impediments they would. But when the impediment of motion is in the constitution of the thing itself, we use not to say it wants the liberty, but the power, to move; as when a stone lieth still, or a man is fastened to his bed by sickness.

And according to this proper and generally received meaning of the word, a freeman is he that, in those things which by his strength and wit he is able to do, is not hindered to do what he has a will to. But when the words free and liberty are applied to anything but bodies, they are abused; for that which is not subject to motion is not to subject to impediment: and therefore, when it is said, for example, the way is free, no liberty of the way is signified, but of those that walk in it without stop. And when we say a gift is free, there is not meant any liberty of the gift, but of the giver, that was not bound by any law or covenant to give it. So when we speak freely, it is not the liberty of voice, or pronunciation, but of the man, whom no law hath obliged to speak otherwise than he did. Lastly, from the use of the words free will, no liberty can be inferred of the will, desire, or inclination, but the liberty of the man; which consisteth in this, that he finds no stop in doing what he has the will, desire, or inclination to do.

Fear and liberty are consistent: as when a man throweth his goods into the sea for fear the ship should sink, he doth it nevertheless very willingly, and may refuse to do it if he will; it is therefore the action of one that was free: so a man sometimes pays his debt, only for fear of imprisonment, which, because no body hindered him from detaining, was the action of a man at liberty. And generally all actions which men do in Commonwealths, for fear of the law, are actions which the doers had liberty to omit.

Liberty and necessity are consistent: as in the water that hath not only liberty, but a necessity of descending by the channel; so, likewise in the actions which men voluntarily do, which, because they proceed their will, proceed from liberty, and yet because every act of man's will and every desire and inclination proceedeth from some cause, and that from another cause, in a continual chain (whose first link is in the hand of God, the first of all causes), proceed from necessity. So that to him that could see the connexion of those causes, the necessity of all men's voluntary actions would appear manifest. And therefore God, that seeth and disposeth all things, seeth also that the liberty of man in doing what he will is accompanied with the necessity of doing that which God will and no more, nor less. For though men may do many things which God does not command, nor is therefore author of them; yet they can have no passion, nor appetite to anything, of which appetite God's will is not the cause. And did not His will assure the necessity of man's will, and consequently of all that on man's will dependeth, the liberty of men would be a contradiction and impediment to the omnipotence and liberty of God. And this shall suffice, as to the matter in hand, of that natural liberty, which only is properly called liberty.

But as men, for the attaining of peace and conservation of themselves thereby, have made an artificial man, which we call a Commonwealth; so also have they made artificial chains, called civil laws, which they themselves, by mutual covenants, have fastened at one end to the lips of that man, or assembly, to whom they have given the sovereign power, and at the other to their own ears. These bonds, in their own nature but weak, may nevertheless be made to hold, by the danger, though not by the difficulty of breaking them.

In relation to these bonds only it is that I am to speak now of the liberty of subjects. For seeing there is no Commonwealth in the world wherein there be rules enough set down for the regulating of all the actions and words of men (as being a thing impossible): it followeth necessarily that in all kinds of actions, by the laws pretermitted, men have the liberty of doing what their own reasons shall suggest for the most profitable to themselves. For if we take liberty in the proper sense, for corporal liberty; that is to say, freedom from chains and prison, it were very absurd for men to clamour as they do for the liberty they so manifestly enjoy. Again, if we take liberty for an exemption from laws, it is no less absurd for men to demand as they do that liberty by which all other men may be masters of their lives. And yet as absurd as it is, this is it they demand, not knowing that the laws are of no power to protect them without a sword in the hands of a man, or men, to cause those laws to be put in execution. The liberty of a subject lieth therefore only in those things which, in regulating their actions, the sovereign hath pretermitted: such as is the liberty to buy, and sell, and otherwise contract with one another; to choose their own abode, their own diet, their own trade of life, and institute their children as they themselves think fit; and the like.

Nevertheless we are not to understand that by such liberty the sovereign power of life and death is either abolished or limited. For it has been already shown that nothing the sovereign representative can do to a subject, on what pretence soever, can properly be called injustice or injury; because every subject is author of every act the sovereign doth, so that he never wanteth right to any thing, otherwise than as he himself is the subject of God, and bound thereby to observe the laws of nature. And therefore it may and doth often happen in Commonwealths that a subject may be put to death by the command of the sovereign power, and yet neither do the other wrong; as when Jephthah caused his daughter to be sacrificed: in which, and the like cases, he that so dieth had liberty to do the action, for which he is nevertheless, without injury, put to death. And the same holdeth also in a sovereign prince that putteth to death an innocent subject. For though the action be against the law of nature, as being contrary to equity (as was the killing of Uriah by David); yet it was not an injury to Uriah, but to God. Not to Uriah, because the right to do what he pleased was given him by Uriah himself; and yet to God, because David was God's subject and prohibited all iniquity by the law of nature. Which distinction, David himself, when he repented the fact, evidently confirmed, saying, "To thee only have I sinned." In the same manner, the people of Athens, when they banished the most potent of their Commonwealth for ten years, thought they committed no injustice; and yet they never questioned what crime he had done, but what hurt he would do: nay, they commanded the banishment of they knew not whom; and every citizen bringing his oyster shell into the market place, written with the name of him he desired should be banished, without actually accusing him sometimes banished an Aristides, for his reputation of justice; and sometimes a scurrilous

jester, as Hyperbolus, to make a jest of it. And yet a man cannot say the sovereign people of Athens wanted right to banish them; or an Athenian the liberty to jest, or to be just.

The liberty whereof there is so frequent and honourable mention in the histories and philosophy of the ancient Greeks and Romans, and in the writings and discourse of those that from them have received all their learning in the politics, is not the liberty of particular men, but the liberty of the Commonwealth: which is the same with that which every man then should have, if there were no civil laws nor Commonwealth at all. And the effects of it also be the same. For as amongst masterless men, there is perpetual war of every man against his neighbour; no inheritance to transmit to the son, nor to expect from the father; no propriety of goods or lands; no security; but a full and absolute liberty in every particular man: so in states and Commonwealths not dependent on one another, every Commonwealth, not every man, has an absolute liberty to do what it shall judge, that is to say, what that man or assembly that representeth it shall judge, most conducing to their benefit. But withal, they live in the condition of a perpetual war, and upon the confines of battle, with their frontiers armed, and cannons planted against their neighbours round about. The Athenians and Romans were free; that is, free Commonwealths: not that any particular men had the liberty to resist their own representative, but that their representative had the liberty to resist, or invade, other people. There is written on the turrets of the city of Luca in great characters at this day, the word LIBERTAS; yet no man can thence infer that a particular man has more liberty or immunity from the service of the Commonwealth there than in Constantinople. Whether a Commonwealth be monarchical or popular, the freedom is still the same.

But it is an easy thing for men to be deceived by the specious name of liberty; and, for want of judgement to distinguish, mistake that for their private inheritance and birthright which is the right of the public only. And when the same error is confirmed by the authority of men in reputation for their writings on this subject, it is no wonder if it produce sedition and change of government. In these western parts of the world we are made to receive our opinions concerning the institution and rights of Commonwealths from Aristotle, Cicero, and other men, Greeks and Romans, that, living under popular states, derived those rights, not from the principles of nature, but transcribed them into their books out of the practice of their own Commonwealths, which were popular; as the grammarians describe the rules of language out of the practice of the time; or the rules of poetry out of the poems of Homer and Virgil. And because the Athenians were taught (to keep them from desire of changing their government) that they were freemen, and all that lived under monarchy were slaves; therefore Aristotle puts it down in his *Politics* "In democracy, liberty is to be supposed: for it is commonly held that no man is free in any other government." [Aristotle, *Politics*, Bk VI] And as Aristotle, so Cicero and other writers have grounded their civil doctrine on the opinions of the Romans, who were taught to hate monarchy: at first, by them that, having deposed their sovereign, shared amongst them the sovereignty of Rome; and afterwards by their successors. And by reading of these Greek and Latin authors, men from their childhood have gotten a habit, under a false show of liberty, of favouring tumults, and of licentious controlling the actions of their sovereigns; and again of controlling those controllers; with the effusion of so much blood, as I think I may truly say there was never anything so dearly bought as these western parts have bought the learning of the Greek and Latin tongues.

To come now to the particulars of the true liberty of a subject; that is to say, what are the things which, though commanded by the sovereign, he may nevertheless without injustice refuse to do; we are to consider what rights we pass away when we make a Commonwealth; or, which is all one, what liberty we deny ourselves by owning all the actions, without exception, of the man or assembly we make our sovereign. For in the act of our submission consisteth both our obligation and our liberty; which must therefore be inferred by arguments taken from thence; there being no obligation on any man which ariseth not from some act of his own; for all men equally are by nature free. And because such arguments must either be drawn from the express words, "I authorise all his actions," or from the intention of him that submitteth himself to his power (which intention is to be understood by the end for which he so submitteth), the obligation and liberty of the subject is to be derived either from those words, or others equivalent, or else from the end of the institution of sovereignty; namely, the peace of the subjects within themselves, and their defence against a common enemy.

First therefore, seeing sovereignty by institution is by covenant of every one to every one; and sovereignty by acquisition, by covenants of the vanquished to the victor, or child to the parent; it is manifest that every subject has liberty in all those things the right whereof cannot by covenant be transferred. I have shown before, in the fourteenth Chapter, that covenants not to defend a man's own body are void. Therefore,

If the sovereign command a man, though justly condemned, to kill, wound, or maim himself; or not to resist those that assault him; or to abstain from the use of food, air, medicine, or any other thing without which he cannot live; yet hath that man the liberty to disobey.

If a man be interrogated by the sovereign, or his authority, concerning a crime done by himself, he is not bound (without assurance of pardon) to confess it; because no man, as I have shown in the same chapter, can be obliged by covenant to accuse himself.

Again, the consent of a subject to sovereign power is contained in these words, "I authorise, or take upon me, all his actions"; in which there is no restriction at all of his own former natural liberty: for by allowing him to kill me, I am not bound to kill myself when he commands me. It is one thing to say, "Kill me, or my fellow, if you please"; another thing to say, "I will kill myself, or my fellow." It followeth, therefore, that

No man is bound by the words themselves, either to kill himself or any other man; and consequently, that the obligation a man may sometimes have, upon the command of the sovereign, to execute any dangerous or dishonourable office, dependeth not on the words of our submission, but on the intention; which is to be understood by the end thereof. When therefore our refusal to obey frustrates the end for which the sovereignty was ordained, then there is no liberty to refuse; otherwise, there is.

Upon this ground a man that is commanded as a soldier to fight against the enemy, though his sovereign have right enough to punish his refusal with death, may nevertheless in many cases refuse, without injustice; as when he substituteth a sufficient soldier in his place: for in this case he deserteth not the service of the Commonwealth. And there is

allowance to be made for natural timorousness, not only to women (of whom no such dangerous duty is expected), but also to men of feminine courage. When armies fight, there is on one side, or both, a running away; yet when they do it not out of treachery, but fear, they are not esteemed to do it unjustly, but dishonourably. For the same reason, to avoid battle is not injustice, but cowardice. But he that enrolleth himself a soldier, or taketh impressed money, taketh away the excuse of a timorous nature, and is obliged, not only to go to the battle, but also not to run from it without his captain's leave. And when the defence of the Commonwealth requireth at once the help of all that are able to bear arms, every one is obliged; because otherwise the institution of the Commonwealth, which they have not the purpose or courage to preserve, was in vain.

To resist the sword of the Commonwealth in defence of another man, guilty or innocent, no man hath liberty; because such liberty takes away from the sovereign the means of protecting us, and is therefore destructive of the very essence of government. But in case a great many men together have already resisted the sovereign power unjustly, or committed some capital crime for which every one of them expecteth death, whether have they not the liberty then to join together, and assist, and defend one another? Certainly they have: for they but defend their lives, which the guilty man may as well do as the innocent. There was indeed injustice in the first breach of their duty: their bearing of arms subsequent to it, though it be to maintain what they have done, is no new unjust act. And if it be only to defend their persons, it is not unjust at all. But the offer of pardon taketh from them to whom it is offered the plea of self-defence, and maketh their perseverance in assisting or defending the rest unlawful.

As for other liberties, they depend on the silence of the law. In cases where the sovereign has prescribed no rule, there the subject hath the liberty to do, or forbear, according to his own discretion. And therefore such liberty is in some places more, and in some less; and in some times more, in other times less, according as they that have the sovereignty shall think most convenient. As for example, there was a time when in England a man might enter into his own land, and dispossess such as wrongfully possessed it, by force. But in after times that liberty of forcible entry was taken away by a statute made by the king in Parliament. And in some places of the world men have the liberty of many wives: in other places, such liberty is not allowed.

If a subject have a controversy with his sovereign of debt, or of right of possession of lands or goods, or concerning any service required at his hands, or concerning any penalty, corporal or pecuniary, grounded on a precedent law, he hath the same liberty to sue for his right as if it were against a subject, and before such judges as are appointed by the sovereign. For seeing the sovereign demandeth by force of a former law, and not by virtue of his power, he declareth thereby that he requireth no more than shall appear to be due by that law. The suit therefore is not contrary to the will of the sovereign, and consequently the subject hath the liberty to demand the hearing of his cause, and sentence according to that law. But if he demand or take anything by pretence of his power, there lieth, in that case, no action of law: for all that is done by him in virtue of his power is done by the authority of every subject, and consequently, he that brings an action against the sovereign brings it against himself.

If a monarch, or sovereign assembly, grant a liberty to all or any of his subjects, which grant standing, he is disabled to provide for their safety; the grant is void, unless he directly renounce or transfer the sovereignty to another. For in that he might openly (if it had been his will), and in plain terms, have renounced or transferred it and did not, it is to be understood it was not his will, but that the grant proceeded from ignorance of the repugnancy between such a liberty and the sovereign power: and therefore the sovereignty is still retained, and consequently all those powers which are necessary to the exercising thereof; such as are the power of war and peace, of judicature, of appointing officers and counsellors, of levying money, and the rest named in the eighteenth Chapter.

The obligation of subjects to the sovereign is understood to last as long, and no longer, than the power lasteth by which he is able to protect them. For the right men have by nature to protect themselves, when none else can protect them, can by no covenant be relinquished. The sovereignty is the soul of the Commonwealth; which, once departed from the body, the members do no more receive their motion from it. The end of obedience is protection; which, wheresoever a man seeth it, either in his own or in another's sword, nature applieth his obedience to it, and his endeavour to maintain it. And though sovereignty, in the intention of them that make it, be immortal; yet is it in its own nature, not only subject to violent death by foreign war, but also through the ignorance and passions of men it hath in it, from the very institution, many seeds of a natural mortality, by intestine discord.

If a subject be taken prisoner in war, or his person or his means of life be within the guards of the enemy, and hath his life and corporal liberty given him on condition to be subject to the victor, he hath liberty to accept the condition; and, having accepted it, is the subject of him that took him; because he had no other way to preserve himself. The case is the same if he be detained on the same terms in a foreign country. But if a man be held in prison, or bonds, or is not trusted with the liberty of his body, he cannot be understood to be bound by covenant to subjection, and therefore may, if he can, make his escape by any means whatsoever.

If a monarch shall relinquish the sovereignty, both for himself and his heirs, his subjects return to the absolute liberty of nature; because, though nature may declare who are his sons, and who are the nearest of his kin, yet it dependeth on his own will, as hath been said in the precedent chapter, who shall be his heir. If therefore he will have no heir, there is no sovereignty, nor subjection. The case is the same if he die without known kindred, and without declaration of his heir. For then there can no heir be known, and consequently no subjection be due.

If the sovereign banish his subject, during the banishment he is not subject. But he that is sent on a message, or hath leave to travel, is still subject; but it is by contract between sovereigns, not by virtue of the covenant of subjection. For whosoever entereth into another's dominion is subject to all the laws thereof, unless he have a privilege by the amity of the sovereigns, or by special license.

If a monarch subdued by war render himself subject to the victor, his subjects are delivered from their former obligation, and become obliged to the victor. But if he be held prisoner, or have not the liberty of his own body, he is not understood to have given away the right of

sovereignty; and therefore his subjects are obliged to yield obedience to the magistrates formerly placed, governing not in their own name, but in his. For, his right remaining, the question is only of the administration; that is to say, of the magistrates and officers; which if he have not means to name, he is supposed to approve those which he himself had formerly appointed.