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**The Works Of the late Right Honorable Henry St. John,
Lord Viscount Bolingbroke**

In Five Volumes, complete.

Bolingbroke, Henry St. John

London, 1754

XIII.

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to the supreme power of every state, wherever that power is placed. Natural government was designed to last, and did last, till civil government became necessary. Nature instituted one, and directed human reason to the other. She meant the same in both cases, the good of the governed. Her institution and her direction could not have different ends. She intended, no doubt, that they who had been treated like children, under the influence of instinct, should be treated so likewise, under the influence of reason.

XIII.

I HAVE said thus much, in order to shew that political societies grew out of natural, and that civil governments were formed not by the concurrence of individuals, but by the associations of families. It is the more necessary to repeat and to inculcate this distinction, because, for want of making it, and by representing mankind to themselves like a number of savage individuals out of all society in their natural state, instead of considering them as members of families from their birth, and such too long to be at any time the solitary vagabonds of the other hypothesis, our best writers, even Mr. HOOKER, and much more Mr. LOCKE, have reasoned both inconsistently, and on a false foundation. Inconsistently, because they sometimes acknowledge paternal government to have preceded civil, and yet reason about the institution of civil, as if men had been then first assembled in any kind of society, or had been subject to any kind of rule; for to say that the law of nature was of itself such a rule, and that every one of these independent inhabitants of the earth did, or might exercise justice for himself and others, on those who violated this law, was language unworthy of Mr. LOCKE, and unnecessary

fary to his system, and yet it is the language of his second chapter in his second book of civil government. Falsely, because it is easy to demonstrate that mankind never was in such a state of nature as these authors generally, the best and the worst, have assumed, by demonstrating that the generations of men could not have been continued in such a state. It is impossible we should know, by history or tradition, how the first civil governments were established. It is so impossible, that if any history or tradition pretended to give such relations, they would lose deservedly all credit for this very reason. But we may guess with great probability, by analogy from what we know; and we may reject without presumption the whimsies, that speculative men invent in contradiction to this analogy, and to the visible constitution of human nature. "If we may not suppose men ever to have been in the state of nature," says Mr. LOCKE * "because we hear not much of them in such a state, we may as well suppose the armies of SALMANASSER or XERXES were never children, because we hear little of them till they were men, and embodied in armies." But with submission to this great author, the comparison is not at all to his purpose, nor helps him in the least to answer the objection he supposed might be made to him. No man would be mad enough, most certainly, to deny that all these soldiers had been once children, tho he neither knew them nor had ever heard of them in their childhood. But, to make the comparison apposite, no man should be able to affirm that all these soldiers had been members of other communities before they were embodied in these armies. The question is not, whether men lived together in the state of nature since the world was their common habitation, but, what the state of nature was, whether it was composed of men who lived together in families, and

* Civ. Gov. c. viii.

whether

whether these families, by uniting together, gave a beginning to political societies; or whether it was composed of as many solitary individuals as there were men in the world, and whether these men, independent and equal one amongst another, met amicably together, and set up government without any better preparation for it.

LOCKE insists much on the natural equality and freedom of mankind; but he seems to carry his notions on the subject a little further than nature, and the reason of things, will allow. We may distinguish a personal and a social equality. Nature has been far from constituting the first, and the creatures of no other species are probably so unequal in this respect as those of the human. The utmost efforts of art cannot give them even the appearances of equality. But nature has really, if not so apparently, constituted the last; for the father was a son, and the son will be a father; the magistrate might have been a subject, and the subject a magistrate. Nature has determined nothing in these cases, and therefore these last destinations, when they are made with a partial inequality in these societies of men, are due solely to the folly of men, to their neglect of natural indications, not to the indications of nature, and to the imperfection of all human establishments; so that the reverse of them would take effect, for the most part, if the indications of nature were observed and followed. He who sits on a throne would inhabit a cottage, and he who holds a plough would wield a scepter.

THAT all men are born to be free, is undoubtedly true; and therefore I think, that they never were in such a state of nature as LOCKE assumes*. His state of perfect freedom, so he calls

* Ib. c. ii.

it,

it, would have been a state of war and violence, of mutual and alternate oppression, as really as that which HOBBS imagined to have been the state of nature. He distinguishes, indeed, between liberty and licence, and supposes a law of nature in force to restrain the latter. But as he supposes, at the same time, that every man had an equal right to be the executioner of this law, as well as the judge, and to punish the offenders against it, not only for his own preservation, but in order to preserve mankind in general, it is plain that this hypothesis implies the same absurdities as the other, and that the state of mankind under the law of nature, according to LOCKE, would have been very little, if at all, better than the state of nature before there was any such thing as law, according to HOBBS. The pretence of law in one, would have done as much hurt as the want of it in the other; and it is easy to conceive what tyranny and oppression would have prevailed universally, if every man, besides being judge in his own cause, had been an universal judge and executioner.

MR. LOCKE doubted not but his doctrine would seem very strange to some men; and, in truth, they must be very strange men to whom it does not appear such. He asks, however, before it be condemned, to have this question resolved, by what right princes or states can put to death or punish an alien for any crime he commits in their countries? The alien is not subject to their laws. They must punish him, therefore, by the law of nature; and, if by the law of nature every man hath not power to punish offences against it, he does not see how the magistrates of any community can punish an alien. This is the question, this the argument; and a sufficient answer may be given to both, without consulting GROTIUS, PUFFENDORF, or any of the oracles of law. Tho an alien does not owe allegiance to the sovereign power of the country wherein he

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is an alien, because two distinct allegiances cannot be due from the same person at the same time; yet he is under the protection of that government, and a subject of it who should rob or murder him would be punished by the laws of it. He is therefore liable to be punished by the same laws, and it is not true that they who make them and they who execute them are to him, in such cases as these, men without authority. The laws that concern men as denizens only concern him not, for he enjoys none of the advantages peculiarly and exclusively attributed to denizens. But the laws that are necessary to preserve the peace and good order of a community concern every man who lives in it, and the alien submits himself voluntarily to them when he resolves to do so. He can be entitled to protection on no other condition. He accepts this condition: he is punishable therefore by his own consent, and the municipal laws, not the laws of nature alone, condemn him justly. But if the former did not speak to him, if he was not bound to hearken to them, as LOCKE affirms too generally and too rashly, would there be no difference between the right which he assumes to belong to every man by nature of punishing offences against her laws, as this man soderly judges the case to require, and that right which a court of justice has to proceed by stated rules, that reason authorises, and general consent approves, against an alien who violates at once the particular laws of a community and the universal laws of nature? Would there be so little difference that one could not stand without the other, nor the conduct of princes and states in punishing aliens in these cases be justified, unless this strange doctrine were admitted? I think no man who is capable of reflection will be of this mind. But thus it happens to men of the greatest genius, when they grow to be overfond of an hypothesis. They pursue the trains of their abstract, that is their general ideas, wherever these carry them.

Thus they are led to maintain propositions so little conformable to the real constitution of things, that he who reasons less on general notions, and confines himself more to observe this constitution in every particular, will have frequent occasions to discern a wide difference between the speculations of philosophers and the original invariable system of nature.

I AM not as much persuaded as Mr. LOCKE was, that all political societies began from a voluntary union. Many of them did, and I think that this union was a voluntary union of families in societies that may be called legal, because they were made according to natural and divine appointment; for those, that may be called illegal, will fall under another consideration. I think thus because the most early traditions, and the most antient as well as modern histories, even those that are cited to prove the contrary, shew me mankind not only in their childhood, but in their manhood, assembled in families before they were so in civil societies. JOSEPH ACOSTA, who is cited by LOCKE, says "there was reason to conjecture, that the people of PERU had neither kings nor commonwealths for a long time." But how did they live during this time? Were they so many individuals scattered about the country without any form or appearance of society? By no means. They lived in troops as they do at this day in Florida, and we know how the people of Florida and North-America live at this day, by a multitude of persons, missionaries and others, who all represent them as tribes or families, that observe the precepts and customs of their ancestors, that have public assemblies for consultation wherein their elders preside, and that give the supreme command, over them, in time of war at least, to persons they elect, as other savages submit to the more permanent authority of their caciques. I think it evident beyond all contradiction, from observing the constitution of human nature, physical, and moral,

moral, that mankind could not have subsisted, nor have been propagated, if men had been ever out of society, and that having been educated till their years of discretion in it, tho they might possibly but rarely change societies, they would never go out of society, nor could become such unassociated independent creatures, as they are supposed to have been by the other hypothesis, till they became members of some political society. I think it easy to conceive how men were prepared, by living, in natural to live in political societies, and impossible to conceive how strolling savages, who knew no subordination, nor had been accustomed to observe any rules of social life, could be picked up one by one, as it were, and reduced at once under the laws of any civil government. Whenever this was done, paternal authority had, no doubt, a great share in determining their families to unite with one another; but if we believe that the consent of every family was collectively taken, we shall assume no more than what is actually practised among the savages on every occasion, of making war and peace, of huntings and transmigrations from one settlement to another. In short, I think, as tradition, history, an analogy to what passes in some sort before our eyes, and the actual constitution of human nature lead me to think; whereas much abler men are led into different extremes, to support different hypotheses. To support the divine right and absolute power of kings, FILMER advanced the silly and slavish notion of royal fatherhood. Silly, indeed, as well as slavish it must be reputed; since tho the power of the father was, on many accounts, greater and lasted longer than that of the mother, and since he could not therefore have talked of royal motherhood, if it had served his purpose, with as much seeming propriety as of royal fatherhood; yet is it certain that even the paternal was a temporary power, as it has been explained above, and that when it continued longer than the minority of children,

this was due to gratitude, to habitual reverence, or to circumstances of conveniency, and, in no sort, to any natural right that the father had. To deduce therefore from hence a right and power, such as FILMER would ascribe to kings, is perhaps one of the greatest absurdities that was ever committed to paper. A very commendable zeal to explode these false notions of government, and to assert the cause of liberty, carried LOCKE into another extreme, very unnecessarily, as I apprehend. He assumed the state of nature to be such as could never exist, and the method of establishing civil societies to be such as could never be executed. Will it be said that he meant only to give an abstract system of the natural rights of mankind? I shall ask, if it be said, to what purpose it was to make an abstract system of rights, that never did nor could exist, and of a method of establishing civil government that never could be taken? It could serve surely no other purpose, than to give us a notion of natural liberty very different from the real constitution of nature, by which we are less able to preserve liberty without some sort or other of government, than we are liable to lose it by the abuse of government. I shall ask, in the next place, whether the right of mankind to be governed by law, and not by will, under every form of civil government, be not as well established by referring the original of all these forms to the consent of men assembled in families, as to the consent of men dispersed, God knows why, after having been educated in one kind of society, and assembled, God knows how, to establish another.

XIV.

AS it is much more reasonable to judge, in all cases, by a consideration of the actual constitution of human nature, than