

albeit there be no impossibility but that we might, nevertheless we are not so easily able to do otherwise. In this consideration one evil deed is made more pardonable than another. Finally, that which we do being evil, is notwithstanding by so much more pardonable, by how much the exigence of so doing or the difficulty of doing otherwise is greater; unless this necessity or difficulty have originally risen from ourselves. It is no excuse therefore unto him, who being drunk committeth incest, and allegeth that his wits were not his own; inasmuch as himself might have chosen whether his wits should by that mean have been taken from him. Now rewards and punishments do always presuppose something willingly done well or ill; without which respect though we may sometimes receive good or harm, yet then the one is only a benefit and not a reward, the other simply an hurt not a punishment. From the sundry dispositions of man's Will, which is the root of all his actions, there groweth variety in the sequel of rewards and punishments, which are by these and the like rules measured: "Take away the will, and all acts are equal: That which we do not, and would do, is commonly accepted as done¹." By these and the like rules men's actions are determined of and judged, whether they be in their own nature rewardable or punishable.

[2.] Rewards and punishments are not received, but at the hands of such as being above us have power to examine and judge our deeds. How men come to have this authority one over another in external actions, we shall more diligently examine in that which followeth. But for this present, so much all do acknowledge, that sith every man's heart and conscience doth in good or evil, even secretly committed and known to none but itself, either like or disallow itself, and accordingly either rejoice, very nature exulting (as it were) in certain hope of reward, or else grieve (as it were) in a sense of future punishment; neither of which can in this case be looked for from any other, saving only from Him who discerneth and judgeth the very secrets of all hearts:

¹ "Voluntate sublata, omnem ac-
tum parem esse." L. *fedissimam*, c. *de adult.* [Cod. Justin. 968.] "Bonam voluntatem plerumque pro
"facto reputari." L. *si quis in les-
tament.* [Ibid. 732.]

therefore He is the only rewarder and revenger of all such actions; although not of such actions only, but of all whereby the Law of Nature is broken whereof Himself is author. For which cause, the Roman laws, called The Laws of the Twelve Tables, requiring offices of inward affection which the eye of man cannot reach unto, threaten the neglecters of them with none but divine punishment¹.

X. That which hitherto we have set down is (I hope) sufficient to shew their brutishness, which imagine that religion and virtue are only as men will account of them; that we might make as much account, if we would, of the contrary, without any harm unto ourselves, and that in nature they are as indifferent one as the other. We see then how nature itself teacheth laws and statutes to live by. The laws which have been hitherto mentioned do bind men absolutely even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do or not to do². But forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire, a life fit for the dignity of man; therefore to supply those defects and imperfections which are in us living single and solely by ourselves, we are naturally induced to seek communion and fellowship with others. This was the cause of men's uniting themselves at the first in politic Societies, which societies could not be without Government, nor Government without a distinct kind of Law from that which hath been already declared. Two foundations there are which bear up public societies; the one, a natural inclination, whereby all men desire sociable life and fellowship; the other, an order expressly or secretly agreed upon touching the manner of their union in living together. The latter is that which we call the Law of a Commonweal, the very soul of a politic body, the parts whereof are by law animated, held together, and set on work in such actions, as the common good requireth. Laws politic, ordained for external order and regiment amongst men, are never framed as they

¹ "Divos caste adeunto, pietatem
"adhibento: qui secus faxit, Deus
"ipse vindex erit." [Cic. de Leg.
II. 8.]

² "Ἔστι γὰρ, ὃ μαντεύονται τι πάντες
φύσει κοινὸν δίκαιον καὶ ἄδικον, καὶ
μηδεμία κοινωνία πρὸς ἀλλήλους ἢ
μηδὲ σωθῆκη. Arist. Rhet. i. [c. 13.]

should be, unless presuming the will of man to be inwardly obstinate, rebellious, and averse from all obedience unto the sacred laws of his nature; in a word, unless presuming man to be in regard of his depraved mind little better than a wild beast, they do accordingly provide notwithstanding so to frame his outward actions, that they be no hindrance unto the common good for which societies are instituted: unless they do this, they are not perfect. It resteth therefore that we consider how nature findeth out such laws of government as serve to direct even nature depraved to a right end.

[2.] All men desire to lead in this world a happy life. That life is led most happily, wherein all virtue is exercised without impediment or let. The Apostle¹, in exhorting men to contentment although they have in this world no more than very bare food and raiment, giveth us thereby to understand that those are even the lowest of things necessary; that if we should be stripped of all those things without which we might possibly be, yet these must be left; that destitution in these is such an impediment, as till it be removed suffereth not the mind of man to admit any other care. For this cause, first God assigned Adam maintenance of life, and then appointed him a law to observe². For this cause, after men began to grow to a number, the first thing we read they gave themselves unto was the tilling of the earth and the feeding of cattle. Having by this mean whereon to live, the principal actions of their life afterward are noted by the exercise of their religion³. True it is, that the kingdom of God must be the first thing in our purposes and desires⁴. But inasmuch as righteous life presupposeth life; inasmuch as to live virtuously it is impossible except we live; therefore the first impediment, which naturally we endeavour to remove, is penury and want of things without which we cannot live. Unto life many implements are necessary; moe, if we seek (as all men naturally do) such a life as hath in it joy, comfort, delight, and pleasure. To this end we see how quickly sundry arts mechanical were found out, in the very prime of the world⁵. As things of greatest

¹ 1 Tim. vi. 8.² Gen. i. 29; ii. 17.³ Gen. iv. 2, 26.⁴ Matt. vi. 33.⁵ Gen. iv. 20, 21, 22.

necessity are always first provided for, so things of greatest dignity are most accounted of by all such as judge rightly. Although therefore riches be a thing which every man wisheth, yet no man of judgment can esteem it better to be rich, than wise, virtuous, and religious. If we be both or either of these, it is not because we are so born. For into the world we come as empty of the one as of the other, as naked in mind as we are in body. Both which necessities of man had at the first no other helps and supplies than only domestical; such as that which the Prophet implieth, saying, "Can a mother forget her child¹?" such as that which the Apostle mentioneth, saying, "He that careth not for his own is worse than an infidel²;" such as that concerning Abraham, "Abraham will command his sons and his household after him, that they keep the way of the Lord³."

[3.] But neither that which we learn of ourselves nor that which others teach us can prevail, where wickedness and malice have taken deep root. If therefore when there was but as yet one only family in the world, no means of instruction human or divine could prevent effusion of blood⁴; how could it be chosen but that when families were multiplied and increased upon earth, after separation each providing for itself, envy, strife, contention and violence must grow amongst them? For hath not Nature furnished man with wit and valour, as it were with armour, which may be used as well unto extreme evil as good? Yea, were they not used by the rest of the world unto evil; unto the contrary only by Seth, Enoch, and those few the rest in that line⁵? We all make complaint of the iniquity of our times: not unjustly; for the days are evil. But compare them with those times wherein there were no civil societies, with those times wherein there was as yet no manner of public regiment established, with those times wherein there were not above eight persons righteous living upon the face of the earth⁶; and we have surely good cause to think that God hath blessed us exceedingly, and hath made us behold most happy days.

[4.] To take away all such mutual grievances, injuries, and wrongs, there was no way but only by growing unto com-

¹ Isa. xlix. 15.² 1 Tim. v. 8.³ Gen. xviii. 19.⁴ Gen. iv. 8.⁵ Gen. vi. 5; Gen. v.⁶ 2 Pet. ii. 5.

position and agreement amongst themselves, by ordaining some kind of government public, and by yielding themselves subject thereunto; that unto whom they granted authority to rule and govern, by them the peace, tranquillity, and happy estate of the rest might be procured. Men always knew that when force and injury was offered they might be defenders of themselves; they knew that howsoever men may seek their own commodity, yet if this were done with injury unto others it was not to be suffered, but by all men and by all good means to be withstood; finally they knew that no man might in reason take upon him to determine his own right, and according to his own determination proceed in maintenance thereof, inasmuch as every man is towards himself and them whom he greatly affecteth partial; and therefore that strifes and troubles would be endless, except they gave their common consent all to be ordered by some whom they should agree upon: without which consent there were no reason that one man should take upon him to be lord or judge over another; because, although there be according to the opinion of some very great and judicious men a kind of natural right in the noble, wise, and virtuous, to govern them which are of servile disposition¹; nevertheless for manifestation of this their right, and men's more peaceable contentment on both sides, the assent of them who are to be governed seemeth necessary.

To fathers within their private families Nature hath given a supreme power; for which cause we see throughout the world even from the foundation thereof, all men have ever been taken as lords and lawful kings in their own houses. Howbeit over a whole grand multitude having no such dependency upon any one, and consisting of so many families as every politic society in the world doth, impossible it is that any should have complete lawful power, but by consent of men, or immediate appointment of God; because not having the natural superiority of fathers, their power must needs be either usurped, and then unlawful; or, if lawful, then either granted or consented unto by them over whom they exercise the same, or else given extraordinarily from God, unto whom all the world is subject. It is no improbable opinion therefore which the arch-philosopher was of, that as the chiefest person

¹ Arist. Polit. lib. iii. et iv.

in every household was always as it were a king, so when numbers of households joined themselves in civil society together, kings were the first kind of governors amongst them¹. Which is also (as it seemeth) the reason why the name of *Father* continued still in them, who of fathers were made rulers; as also the ancient custom of governors to do as Melchisedec, and being kings to exercise the office of priests, which fathers did at the first, grew perhaps by the same occasion.

Howbeit not this the only kind of regiment that hath been received in the world. The inconveniences of one kind have caused sundry other to be devised. So that in a word all public regiment of what kind soever seemeth evidently to have risen from deliberate advice, consultation, and composition between men, judging it convenient and behoveful; there being no impossibility in nature considered by itself, but that men might have lived without any public regiment. Howbeit, the corruption of our nature being presupposed, we may not deny but that the Law of Nature doth now require of necessity some kind of regiment, so that to bring things unto the first course they were in, and utterly to take away all kind of public government in the world, were apparently to overturn the whole world.

[5.] The case of man's nature standing therefore as it doth, some kind of regiment the Law of Nature doth require; yet the kinds thereof being many, Nature tieth not to any one, but leaveth the choice as a thing arbitrary. At the first when some certain kind of regiment was once approved, it may be that nothing was then further thought upon for the manner of governing, but all permitted unto their wisdom and discretion which were to rule²; till by experience they found this for all parts very inconvenient, so as the thing which they had devised for a remedy did indeed but increase the sore which it should have cured. They saw that to live by one man's will became the cause of all men's misery. This constrained

¹ Arist. Polit. lib. i. cap. 2. Vide et Platonem in 3. de Legibus. [t. ii. 680.]

² "Cum premeretur initio multitudo ab iis qui majores opes habebant, ad unum aliquem confu-

"giebant virtute præstantem, qui cum prohiberet injuria tenuiores, æquitate constituenda summos cum infimis pari jure retinebat. Cum id minus contingeret, leges sunt inventæ." Cic. Offic. lib. ii. [c. 12.]

them to come unto laws, wherein all men might see their duties beforehand, and know the penalties of transgressing them. If things be simply good or evil, and withal universally so acknowledged, there needs no new law to be made for such things¹. The first kind therefore of things appointed by laws human containeth whatsoever being in itself naturally good or evil, is notwithstanding more secret than that it can be discerned by every man's present conceit, without some deeper discourse and judgment. In which discourse because there is difficulty and possibility many ways to err, unless such things were set down by laws, many would be ignorant of their duties which now are not, and many that know what they should do would nevertheless dissemble it, and to excuse themselves pretend ignorance and simplicity, which now they cannot².

[6.] And because the greatest part of men are such as prefer their own private good before all things, even that good which is sensual before whatsoever is most divine; and for that the labour of doing good, together with the pleasure arising from the contrary, doth make men for the most part slower to the one and proner to the other, than that duty prescribed them by law can prevail sufficiently with them: therefore unto laws that men do make for the benefit of men it hath seemed always needful to add rewards, which may more allure unto good than any hardness deterreth from it, and punishments, which may more deter from evil than any sweetness thereto allureth. Wherein as the generality is natural, *virtue rewardable and vice punishable*; so the particular determination of the reward or punishment belongeth unto them by whom laws are made. Theft is naturally punishable, but the kind of punishment is positive, and such lawful as men shall think with discretion convenient by law to appoint.

[7.] In laws, that which is natural bindeth universally, that which is positive not so. To let go those kind of positive

¹ Τὸ γονέας τιμῶν καὶ φίλους εὐποιεῖν καὶ τοῖς εὐεργέταις χάριν ἀποδίδουαι, ταῦτα καὶ τὰ τούτοις ὅμοια οὐ προστάττουσι τοῖς ἀνθρώποις οἱ γεγραμμένοι νόμοι ποιεῖν, ἀλλ' εὐθὺς ἀγράφῃ καὶ κοινῷ νόμῳ νομίζεται.

Arist. Rhet. ad Alex. [c. 2.]

² "Tanta est enim vis voluptatum, ut et ignorantiam protelet in occasionem, et conscientiam corrumpat in dissimulationem." Tertull. lib. de Spectacul. [c. 1.]

laws which men impose upon themselves, as by vow unto God, contract with men, or such like; somewhat it will make unto our purpose, a little more fully to consider what things are incident into the making of the positive laws for the government of them that live united in public society. Laws do not only teach what is good, but they enjoin it, they have in them a certain constraining force. And to constrain men unto any thing inconvenient doth seem unreasonable. Most requisite therefore it is that to devise laws which all men shall be forced to obey none but wise men be admitted. Laws are matters of principal consequence; men of common capacity and but ordinary judgment are not able (for how should they?) to discern what things are fittest for each kind and state of regiment. We cannot be ignorant how much our obedience unto laws dependeth upon this point. Let a man though never so justly oppose himself unto them that are disordered in their ways, and what one amongst them commonly doth not stomach at such contradiction, storm at reproof, and hate such as would reform them? Notwithstanding even they which brook it worst that men should tell them of their duties, when they are told the same by a law, think very well and reasonably of it. For why? They presume that the law doth speak with all indifferency; that the law hath no side-respect to their persons; that the law is as it were an oracle proceeded from wisdom and understanding¹.

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

¹ [Arist. Eth. Nic. x. c. ix. 12.]

their consent upon whose persons they impose laws, it is no better than mere tyranny.

Laws they are not therefore which public approbation hath not made so. But approbation not only they give who personally declare their assent by voice sign or act, but also when others do it in their names by right originally at the least derived from them. As in parliaments, councils, and the like assemblies, although we be not personally ourselves present, notwithstanding our assent is by reason of others agents there in our behalf. And what we do by others, no reason but that it should stand as our deed, no less effectually to bind us than if ourselves had done it in person. In many things assent is given, they that give it not imagining they do so, because the manner of their assenting is not apparent. As for example, when an absolute monarch commandeth his subjects that which seemeth good in his own discretion, hath not his edict the force of a law whether they approve or dislike it? Again, that which hath been received long sithence and is by custom now established, we keep as a law which we may not transgress; yet what consent was ever thereunto sought or required at our hands?

Of this point therefore we are to note, that sith men naturally have no full and perfect power to command whole politic multitudes of men, therefore utterly without our consent we could in such sort be at no man's commandment living. And to be commanded we do consent, when that society whereof we are part hath at any time before consented, without revoking the same after by the like universal agreement. Wherefore as any man's deed past is good as long as himself continueth; so the act of a public society of men done five hundred years sithence standeth as theirs who presently are of the same societies, because corporations are immortal; we were then alive in our predecessors, and they in their successors do live still. Laws therefore human, of what kind soever, are available by consent.

[9.] If here it be demanded how it cometh to pass that this being common unto all laws which are made, there should be found even in good laws so great variety as there

is; we must note the reason hereof to be the sundry particular ends, whereunto the different disposition of that subject or matter, for which laws are provided, causeth them to have especial respect in making laws. A law there is mentioned amongst the Grecians whereof Pittacus is reported to have been author; and by that law it was agreed, that he which being overcome with drink did then strike any man, should suffer punishment double as much as if he had done the same being sober¹. No man could ever have thought this reasonable, that had intended thereby only to punish the injury committed according to the gravity of the fact: for who knoweth not that harm advisedly done is naturally less pardonable, and therefore worthy of the sharper punishment? But forasmuch as none did so usually this way offend as men in that case, which they wittingly fell into, even because they would be so much the more freely outrageous; it was for their public good where such disorder was grown to frame a positive law for remedy thereof accordingly. To this appertain those known laws of making laws; as that law-makers must have an eye to the place where, and to the men amongst whom; that one kind of laws cannot serve for all kinds of regiment; that where the multitude beareth sway, laws that shall tend unto preservation of that state must make common smaller offices to go by lot, for fear of strife and division likely to arise; by reason that ordinary qualities sufficing for discharge of such offices, they could not but by many be desired, and so with danger contended for, and not missed without grudge and discontentment, whereas at an uncertain lot none can find themselves grieved, on whomsoever it lighteth; contrariwise the greatest, whereof but few are capable, to pass by popular election, that neither the people may envy such as have those honours, inasmuch as themselves bestow them, and that the chiefest may be kindled with desire to exercise all parts of rare and beneficial virtue, knowing they shall not lose their labour by growing in fame and estimation amongst the people: if the helm of chief government be in the hands of a few of the wealthiest, that then laws providing for continuance thereof must make the punishment of contumely and wrong offered

¹ Arist. Polit. lib. ii. cap. ult.