

THE TENURE OF KINGS AND MAGISTRATES

John Milton (1608–1674)

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If men within themselves would be governed by reason, and not generally give up their understanding to a double tyranny of custom from without and blind affections within, they would discern better what it is to favour and uphold the tyrant of a nation. But being slaves within doors, no wonder that they strive so much to have the public state conformably governed to the inward vitious¹ rule by which they govern themselves. For indeed none can love freedom heartily but good men; the rest love not freedom, but licence, which never has more scope or more indulgence than under tyrants.

Hence is it that tyrants are not oft offended nor stand much in doubt of bad men, as being all naturally servile; but in whom virtue and true worth most is eminent, them they fear in earnest, as by right their masters, against them lies all their hatred and suspicion. Consequently neither do bad men hate tyrants, but have been always readiest with the falsified names of loyalty and obedience to colour over their base compliances. And although sometimes for shame and when it comes to their own grievances, of purse especially, they would seem good patriots and side with the better cause, yet when others for the deliverance of their country, endowed with fortitude and heroic virtue to fear nothing but the curse written against those that do the work of the Lord negligently,² would go on to remove not only the calamities and thraldoms of a people, but the roots and causes whence they spring, straight these men, and sure helpers at need, as if they hated only the miseries but not the mischiefs, after they have juggled and paltered with the world, bandied and born arms against their king, divested him, dis-anointed him—nay, cursed him all over in their pulpits and their pamphlets, to the engaging of sincere and real men, beyond what is possible or honest to retreat from—not only turn revolters from those principles which only could at first move them, but lay the stain of disloyalty, and worse, on those proceedings which are the necessary consequences of their own former actions, nor disliked by themselves, were they managed to the entire advantages of their own faction....

But who in particular is a tyrant cannot be determined in a general discourse otherwise than by supposition; his particular charge, and the sufficient proof of it must determine that. Which I leave to magistrates, at least to the uprighter sort of them, and of the people, though in number less by many, in whom faction least has prevailed above the law of nature and right reason to judge as they find cause. But this I dare own as part of my faith, that if such a one there be by whose commission whole massacres have been committed on his faithful subjects, his provinces offered to pawn or alienation as the hire of those whom he had solicited to come in and destroy whole cities and countries; be he king, or tyrant, or emperor, the Sword of Justice is above him in whose hand soever is found sufficient power to avenge the effusion and so great a deluge of innocent blood. For if all human power to execute, not accidentally but intededly, the wrath of God upon evil doers without exception be of God, then that power, whether ordinary or, if that fail, extraordinary, so executing that intent of God is lawful and not to be resisted.

But to unfold more at large this whole question, though with all expedient brevity, I shall here set down from first beginning the original of kings; how and wherefore exalted to that dignity above their brethren; and from thence shall prove that turning to tyranny they may be as lawfully deposed and punished as they were at first elected. This I shall do by authorities and reasons not learnt in corners among schisms and heresies, as our doubling divines are ready to calumniate, but fetched out of the midst of choicest and most authentic learning, and no prohibited authors, nor many heathen, but Mosaic, Christian, orthodox, and which must needs be more convincing to our adversaries, presbyterial.

¹ *vitious*— corrupt or wicked

² “Cursed be he that doeth the worke of the Lord deceitfully, and cursed be he that keepeth backe his sword from blood.” (Jeremiah 48:10)

No man who knows ought can be so stupid to deny that all men naturally were born free, being the image and resemblance of God Himself, and were by privilege above all the creatures born to command and not to obey, and that they lived so. Till from the root of Adam's transgression falling among themselves to do wrong and violence, and foreseeing that such courses must needs tend to the destruction of them all, they agreed by common league to bind each other from mutual injury and jointly to defend themselves against any that gave disturbance or opposition to such agreement. Hence came cities, towns, and commonwealths. And because no faith in all was found sufficiently binding, they saw it needful to ordain some authority that might restrain by force and punishment what was violated against peace and common right.

This authority and power of self-defence and preservation being originally and naturally in every one of them, and unitedly in them all, for ease, for order, and lest each man should be his own partial judge, they communicated and derived either to one whom for the eminence of his wisdom and integrity they chose above the rest, or to more than one whom they thought of equal deserving. The first was called a king, the other magistrates. Not to be their lords and masters (though afterward those names in some places were given voluntarily to such as had been authors of inestimable good to the people) but to be their deputies and commissioners, to execute, by virtue of their entrusted power, that justice which else every man by the bond of nature and of covenant must have executed for himself and for one another. And to him that shall consider well why among free persons one man by civil right should bear authority and jurisdiction over another, no other end or reason can be imaginable. These for a while governed well, and with much equity decided all things at their own arbitrement, until the temptation of such a power left absolute in their hands perverted them at length to injustice and partiality.

Then did they who now by trial had found the danger and inconveniences of committing arbitrary power to any invent laws either framed or consented to by all that should confine and limit the authority of whom they chose to govern them, that so man, of whose failing they had proof, might no more rule over them, but law and reason abstracted as much as might be from personal errors and frailties. While as the magistrate was set above the people, so the law was set above the magistrate. When this would not serve but that the law was either not executed or misapplied, they were constrained from that time the only remedy left them, to put conditions and take oaths from all kings and magistrates, at their first installment, to do impartial justice by law. Who, upon those terms and no other, received allegiance from the people; that is to say, bond or covenant to obey them in execution of those laws which they, the people, had themselves made or assented to. And this oft-times with express warning that if the king or magistrate proved unfaithful to his trust, the people would be disengaged.

They added also counselors and parliaments, nor to be only at his beck, but with him or without him, at set times, or at all times, when any danger threatened to have care of the public safety. Therefore says Claudius Sesell, a French statesman, the parliament was set as a bridle to the king;¹ which I instance rather becausethat monarchy is granted by all to be a far more absolute than ours.

That this and the rest of what hath hitherto been spoken is most true might be copiously made appear throughout all stories, heathen and Christian, even of those nations where kings and emperors have sought means to abolish all ancient memory of the people's right by their encroachments and usurpations. But I spare long insertions, appealing to the German, French, Italian, Aragonese, English, and not least the Scottish histories. Not forgetting this only by the way, that William the Norman, though a conqueror and not unsworn at his coronation, was compelled the second time to take oath at Saint Albans ere the people would be brought to yield obedience.

It being thus manifest that the power of kings and magistrates is nothing else but what is only derivative, transferred, and committed to them in trust from the people to the common good of them all, in whom the power yet remains fundamentally and cannot be taken from them without a violation of their natural

¹ Claude de Seyssel, *La Grande Monarchie de France* (1519)

birthright, and seeing that from hence Aristotle and the best of political writers have defined a King—him who governs to the good and profit of his people, and not for his own ends—it follows from necessary causes that the titles of sovereign lord, natural lord, and the like are either arrogancies or flatteries, not admitted by emperors and kings of best note, and disliked by the church, both of Jews (Isaiah 26:13) and ancient Christians, as appears by Tertullian and others. Although generally the people of Asia, and with them the Jews also, especially since the time they chose a king against the advice and counsel of God, are noted by wise authors much inclinable to slavery.

Secondly, that to say, as is usual, the king has as good right to his crown and dignity as any man to his inheritance is to make the subject no better than the king's slave, his chattel, or his possession that may be bought and sold. And doubtless if hereditary title were sufficiently inquired, the best foundation of it would be found either but in courtesy or convenience. But suppose it to be of right hereditary, what can be more just and legal if a subject for certain crimes be to forfeit by law from himself, and posterity, all his inheritance to the king, than that a king for crimes proportional should forfeit all his title and inheritance to the people. Unless the people must be thought created all for him, he not for them, and they all in one body inferior to him single, which were a kind of treason against the dignity of mankind to affirm.

Thirdly it follows that to say kings are accountable to none but God is the overturning of all law and government. For if they may refuse to give account, then all covenants made with them at coronation, all oaths are in vain and mere mockeries, all laws which they swear to keep made to no purpose; for if the king fear not God—as how many of them do not?—we hold then our lives and estates by the tenure of his mere grace and mercy, as from a god, not a mortal magistrate, a position that none but court parasites or men besotted would maintain.

And no Christian prince not drunk with high mind and prouder then those pagan Cæsars that deified themselves would arrogate so unreasonably above human condition, or derogate so basely from a whole nation of men his brethren, as if for him only subsisting and to serve his glory; valuing them in comparison of his own brute will and pleasure, no more then so many beasts or vermin under his feet, not to be reasoned with, but to be injured; among whom there might be found so many thousand men for wisdom, virtue, nobleness of mind, and all other respects, but the fortune of his dignity, far above him.

Yet some would persuade us that this absurd opinion was King David's because in the 51 Psalm he cries out to God, "Against Thee only have I sinned", as if David had imagined that to murder Uriah and adulterate his wife had been no sin against his neighbour, when as that law of Moses was to the King expressly (Deuteronomy 17) not to think so highly of himself above his brethren.¹ David therefore by those words could mean no other than either that the depth of his guiltiness was known to God only, or to so few as had not the will or power to question him, or that the sin against God was greater beyond compare than against Uriah. Whatever his meaning were, any wise man will see that the pathetic words of a Psalm can be no certain decision to a point that has abundantly more certain rules to go by. How much more rationally spoke the heathen king Demophon in a tragedy of Euripides than these interpreters would put upon King David, "I rule not my people by tyranny, as if they were barbarians, but am myself liable, if I do unjustly, to suffer justly." Not unlike was the speech of

¹ When thou art come unto the land which the Lord thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, "I will set a King over mee, like as all the nations that are about me:" Thou shalt in any wise set him King over thee whom the Lord thy God shall choose. One from among thy brethren shalt thou set King over thee: thou mayest not set a stranger over thee, which is not thy brother. But he shall not multiply horses to himselfe, nor cause the people to returne to Egypt, to the ende that hee should multiply horses: for as much as the Lord hath said unto you, "Yee shall henceforth returne no more that way." Neither shall he multiply wives to himselfe, that his heart turne not away: neither shall hee greatly multiply to himselfe silver and gold. And it shall be when he sitteth upon the Throne of his kingdome that he shall write him a copy of this Law in a booke, out of that which is before the Priests the Levites. And it shall be with him, and hee shall reade therein all the dayes of his life, that hee may learne to feare the Lord his God, to keep all the words of this Law, and these Statutes, to do them: That his heart bee not lifted up above his brethren, and that hee turne not aside from the Commandement, to the right hand, or to the left: to the end that hee may prolong his dayes in his kingdome, hee, and his children in the midst of Israel. (Deuteronomy 17:14-20, KJV)

Trajan, the worthy Emperor, to one whom he made general of his Prætorian forces. “Take this drawn sword,” said he, “to use for me if I reign well; if not, to use against me.” Thus Dion relates. And not Trajan only, but Theodosius the younger, a Christian Emperor and one of the best, caused it to be enacted as a rule undeniable and fit to be acknowledged by all kings and emperors that a prince is bound to the laws; that on the authority of law the authority of a prince depends, and to the laws ought submit. Which edict of his remains yet unrepealed in the Code of Justinian, I.14.4, as a sacred constitution to all the succeeding Emperors.¹ How then can any king in Europe maintain and write himself accountable to none but God, when emperors in their own imperial statutes have written and decreed themselves accountable to law. And indeed where such account is not feared, he that bids a man reign over him above law may bid as well a savage beast.

It follows lastly that since the king or magistrate holds his authority of the people, both originally and naturally for their good in the first place, and not his own, then may the people as oft as they shall judge it for the best either choose him or reject him, retain him or depose him though no tyrant, merely by the liberty and right of free-born men to be governed as seems to them best. This, though it cannot but stand with plain reason, shall be made good also by Scripture. “When you are come into the Land which the LORD your God gives you, and shall say I will set a king over me, like as all the nations about me.” (Deuteronomy 17:14) These words confirm us that the right of choosing, yea of changing their own government is by the grant of God Himself in the people. And therefore, when they desired a king, though then under another form of government and though their changing displeased Him, yet He that was Himself their king and rejected by them would not be a hindrance to what they intended further than by persuasion, but that they might do therein as they saw good. (I Samuel 8) Only He reserved to himself the nomination of who should reign over them.

Neither did that exempt the king, as if he were to God only accountable, though by His especial command anointed. Therefore David first made a covenant with the elders of Israel, and so was by them anointed king. (I Chronicles 11) And Jehoiada the priest making Jehoash king, made a covenant between him and the people. (II Kings 11:17) Therefore when Rehoboam at his coming to the crown rejected those conditions which the Israelites brought him, hear what they answer him, “What portion have we in David, or inheritance in the son of Jesse. See to your own house, David.”² And for the like conditions not performed, all Israel before that time deposed Samuel; not for his own default, but for the mis-government of his sons. But some will say to both these examples, it was evilly done. I answer that not the latter, because it was expressly allowed them in the law to set up a king if they pleased, and God Himself joined with them in the work; though in some sort it was at that time displeasing to Him, in respect of old Samuel who had governed them uprightly. As Livy praises the Romans who took occasion from Tarquinius, a wicked prince, to gain their liberty, which to have extorted says he, from Numa or any of the good kings before, had not been seasonable. Nor was it in the former example done unlawfully; for when Rehoboam had prepared a huge army to reduce the Israelites, he was forbidden by the Prophet. “Thus says the Lord, you shall not go up nor fight against your brethren, for this thing is from me.” (I Kings 12:24) He calls them their brethren, not rebels, and forbids to be proceeded against them, owning the thing Himself, not by single providence, but by approbation, and that not only of the act, as in the former example, but of the fit season also; He had not otherwise forbid to molest them. And those grave and wise counselors whom Rehoboam first advised with, spoke no such thing as our old gray-headed flatterers now are wont—stand upon your birth-right, scorn to capitulate, you hold of God, and not of them—for they knew no such matter, unless conditionally, but gave him politic counsel, as in a civil transaction.

¹ For a sovereign to acknowledge himself bound by the laws is a statement befitting the majesty of a ruler and, therefore, Our authority depends upon the authority [of] law. And for a sovereign to submit himself to the laws is in fact a greater thing than imperial power. And by the announcement of the present edict We show what We do not permit Ourselves to do. (Fred H. Blume, *Annotated Justinian Code*)

² So when all Israel saw that the king hearkned not unto them, the people answered the king, saying, What portion have we in David? neither have we inheritance in the son of Jesse: to your tents, O Israel: now we see to thine owne house, David. So Israel departed unto their tents. (II Kings 12:16, KJV)

Therefore kingdom and magistracy, whether supreme or subordinate, is called a human ordinance (I Peter 2:13, etc.), which we are there taught is the will of God we should submit to, so far as for the punishment of evil doers and the encouragement of them that do well. Submit says he, as free men. There is no power but of God, says Paul (Romans 13), as much as to say God put it into man's heart to find out that way at first for common peace and preservation, approving the exercise thereof; else it contradicts Peter, who calls the same authority an ordinance of man. It must be also understood of lawful and just power, else we read of great power in the affairs and kingdoms of the world permitted to the Devil. For, says he to Christ, "All this power will I give you and the glory of them, for it is delivered to me, and to whomsoever I will, I give it." (Luke 4:6) Neither did he lie or Christ gainsay what he affirmed, for in the thirteenth of the Revelation we read how the Dragon gave to the beast his power, his seat, and great authority; which beast so authorized most expound to be the tyrannical powers and kingdoms of the earth. Therefore Saint Paul, in the fore-cited chapter, tells us that such magistrates he means as are not a terror to the good but to the evil; such as bear not the sword in vain, but to punish offenders and to encourage the good. If such only be mentioned here as powers to be obeyed, and our submission to them only required, then doubtless those powers that do the contrary are no powers ordained of God, and by consequence no obligation laid upon us to obey or not to resist them.

And it may be well observed that both these apostles, whenever they give this precept, express it in terms not concrete but abstract, as logicians are wont to speak; that is, they mention the ordinance, the power, the authority before the persons that execute it; and what that power is, least we should be deceived, they describe exactly. So that if the power be not such, or the person execute not such power, neither the one nor the other is of God, but of the Devil, and by consequence to be resisted. From this exposition Chrysostom also on the same place dissents not, explaining that these words were not written in behalf of a tyrant. And this is verified by David, himself a king and likeliest to be author of the Psalm 94:20, which says "Shall the throne of iniquity have fellowship with thee?"

And it were worth the knowing, since kings in these days, and that by Scripture, boast the justness of their title by holding it immediately of God, yet cannot show the time when God ever set on the throne them or their forefathers, but only when the people chose them. Why by the same reason, since God ascribes as oft to Himself the casting down of princes from the throne, it should not be thought as lawful and as much from God when none are seen to do it but the people, and that for just causes. For if it needs must be a sin in them to depose, it may as likely be a sin to have elected. And contrary, if the people's act in election be pleaded by a king, as the act of God and the most just title to enthrone him, why may not the people's act of rejection be as well pleaded by the people as the act of God and the most just reason to depose him? So that we see the title and just right of reigning or deposing, in reference to God, is found in Scripture to be all one; visible only in the people, and depending merely upon justice and demerit.

Thus far has been considered briefly the power of kings and magistrates—how it was and is originally the people's, and by them conferred in trust only to be employed to the common peace and benefit. With liberty therefore and right remaining in them to re-assume it to themselves if by kings or magistrates it be abused, or to dispose of it by any alteration as they shall judge most conducing to the public good.

We may from hence with more ease and force of argument determine what a tyrant is and what the people may do against him. A tyrant, whether by wrong or by right coming to the crown, is he who, regarding neither law nor the common good, reigns only for himself and his faction. Thus Saint Basil, among others, defines him. And because his power is great, his will boundless and exorbitant, the fulfilling whereof is for the most part accompanied with innumerable wrongs and oppressions of the people—murders, massacres, rapes, adulteries, desolation, and subversion of cities and whole provinces. Look how great a good and happiness a just king is, so great a mischief is a tyrant; as he the public father of his country, so this the common enemy....