

THE JUDGEMENT OF WHOLE KINGDOMS AND NATIONS,

Concerning the

Rights, Power, and Prerogative of the Kings,

and The

Rights, Privileges, and Properties of the People.

By 1st Baron Lord Justice Sir John Somers Keeper of the Seal of Britain

Corrected to Modern English

by:

John; of the Family Tray.

PONTYPRIDD.

2024 Edition.

Recommended as proper, to be kept in all Families, that their Children's Children may know the Birth-Right, Liberty, and Property belonging to The People.

Showing:

The Nature of Government in general, both **from God and Man**. An Account of the **BRITISH Government**, and the **RIGHTS** and **PRIVILEGES of THE PEOPLE** in the Time of the **SAXONS, and SINCE THE CONQUEST.**

The Government which **God** ordained over The Children of Israel and that **all** Magistrates and Governors **proceed from the People**, by many Examples in Scripture and History, and the **Duty** of Magistrates from Scripture and Reason.

An Account of Eleven Emperors, and above Fifty Kings deprived for their **Evil Government.**

The Rights of THE People and the Parliament of Britain, to **RESIST and DEPRIVE their Kings for Evil Government** by King Henry's Charter, and likewise in Scotland, by many Examples.

The Prophets and ancient Jews were Strangers to **ABSOLUTE PASSIVE OBEDIENCE.:** **Resisting of arbitrary Government is allowed by several Examples in Scripture**, by most Nations, and by

undeniable Reason.

A large Account of The Revolution; with Several Speeches, Declarations, Addresses, and the Names and Proceedings of Ten bishops, and above Sixty Peers concerned in The Revolution before King James went out of England.

Several Declarations in Queen Elizabeth's Time of the Clergy in Convocation, and the Parliament who assisted, **and justified** the Scotch, French, and Dutch, **in resisting their Evil and Destructive Princes.**

CONTENTS.

Paragraphs

- 1. The nature of Government in general, both from God and Man.
- 6. An account of the British Government, and of the **Rights and privileges of the People, in the time of the Saxons, and Since the Conquest.**
- 7. Italy, Germany, Switzerland, England, and the Jews, have been under diverse forms of Government.
- 8. True Maxims of Government.
- 18. The power of the **Crown is only a trust.**
- 20. Britain is a mixed limited Monarchy.
- 39. Describing the Government which God ordained over THE CHILDREN OF ISRAEL;
- 46. The **Fundamental RIGHT** of **ALL Nations** asserted in the **CHOICE of their Governors** or **FORMS of Government.**
- 48. Caesar and Tacitus's description of the **LIBERTY and CUSTOMS** of the ancient **Britains** that they had **no Monarch, but councils and Magistrates.**
- 49. Monsieur Mezeray's account of the manners of the ancient Germans: His mournful speech to a gentleman in King Williams Reign, of the miserable condition of the French.
- 50. **The Election** of Magistrates and kings **PROVED to be IN THE People:** But more particularly in **GREAT BRITAIN,** before **and since the Conquest.**
- 53. The **RIGHT of THE People** and Parliament of **Britain to depose their kings for Evil Government; proved** by King Henry's charter, and from an Act of the Twelfth of Richard

the Second, and **by many examples.**

- 54. The power of our Parliaments, by the Twenty-Fifth, and Twenty-Eighth of Henry the Eighth, and by the Fifteenth of Elizabeth.
- 57. By a Law, An. 787. Kings were to be Elected by Parliament, and other States.
- 58. William the First **was admitted, upon conditions, by the People.**
- 59. **The Law SUPERIOR to King**, from Bradon, a famous Lawyer in Henry the Third time.
- 61. The power of the King, by the Laws of Edward the Confessor.
- 62. William Rufus, Henry the First, and Stephen were **chosen by the People**; and Henry the Fourth, Fifth, and Sixth, were Kings, only, by an act of Parliament.
- 63. The COMPACT with William, called the Conqueror, Henry the First, and Stephen.
- 65. **The ORIGINAL COMPACT with our Kings.**
- 66. **Succession gives NO RIGHT to Kings, but according to the ORIGINAL COMPACT.**
- 67. **The Excommunication and Curse**, made **by King** Henry the Third, **the Nobility, & Company, upon all the infringers of Magna Carta.**
- 68. The **Magna Carta is only an abridgment of OUR ancient Laws and Customs.**
- 69. The Nobility and Parliament of England assert the Laws and Liberties of England.
- 72. King James's speech, An, Dom, 1609, declaring the obligation of a king.
- 73. **The common RIGHT of the Subject**, declared by several ancient Lawyers.
- 75. **Our kings, and their power from the Laws**, declared by several famous Lawyers, and by several acts of Parliament.
- 77. **Six judges**, with the **king's serjeant at Law**, and one of the **king's council at Law**, were **condemned by Parliament, and executed for giving their opinions contrary to Law**, in Richard the Seconds time.
- 80. King Henry the Eighth acknowledged the power of the Parliament.
- 81. The **judges of the Land, NOT to obey the King contrary to Law, under the penalty of TREASON.**

- 82. The **Rights and Liberties of the Subject** from the Act of the First Willam and Mary, in Thirteen articles, with a clause excluding a Popish Prince, or ANY marrying a Papist from the Throne.
- 83. **All Government, Authority, and Magistrty, proceed from the People, and they have the Authority to dispose of them, or alter the succession** upon very urgent Causes, of which some Scripture instances.
- 85. Above Fifty Kings, and Eleven Emperors were deprived for their Evil Government, in France, Spain, Holland, Portugal, Denmark, Poland, Rome, Germany, Scotland, and England.
- 101. Included. All magistrates and Governors proceed from the People, by many examples in Scripture.
- 108. **Reasons for Resistance.**
- 111. The Duty of all Magistrates, from Scripture and reason.
- 112. Saint, Chrysostom's exposition on the Thirteenth of Romans; Pindar, Orpheus, Plato, Aristotle, and Cicero, their description of a **Just** Government, and of Obedience to the Laws.
- 113. **No Absolute Authority is allowed by Scripture.**
- 114. The **Laws were made by the People** in the Reign of Darius.
- 115. **Reasons Against ABSOLUTE PASSIVE OBEDIENCE.**
- 123. The Bishops refuse to disown King James, their inviting over, of the Prince of Orange.
- 124. The Arch-Bishop of Canterbury, and eight Bishops, present King James ten articles, very near the same with that of the Prince of Orange Declaration.
- 125. The Bishops refuse to sign an abhorrence of the Prince of Oranges Intended Invasion.
- 126. The Prince of Oranges speech to the Gentry of Somersetshire and Dorsetshire.
- 127 The Bishop of Canterbury went to the tower and demanded the keys of the Lieutenant, and delivered them to Lord Lucas.
- 128. Prince George of Denmark, Duke of Grafton, Duke of Ormond, Lord Churchill &

Company, went over to the Prince at Sherborn Castle.

- 129. Princess Ann, our most gracious and good Queen, with the Churchill Berkley, and the Bishop of London, went to the forces in the North, who declared for the Prince of Orange: The Declaration on of Thirty Lords Spiritual and Temporal, which they made at Guild Hall: December Eleventh, 1681, together with their names, which they sent to the Prince of Orange.
- 130. The address of the Lieutenancy of London to the Prince.
- 131. The Lord Mayor, aldermen, and common council's address to the Prince.
- 132. Ten of the Privy Council and peers made an order on the Fourteenth of December 1688, for all Irish soldiers to deliver up their arms.
- 133. The Duke of Grafton by order of the Lords, went with a regiment of Foot on the Fourteenth of December, to take Tilbury fort from King James Irish Soldiers. On the Seventeenth, King James discharged a Popish Bishop out of Newgate, Sir George Trebys, recorder of London, speech in the name of the City, to the Prince, December, Twenty, 1688.
- 136. About Sixty peers sign an association to the Prince. Fifty-Four Lords Spiritual and Temporal, made an order, December, the Twenty-Second, for Squire Gwyn to sign final orders as they should, from time to time, make. On the Twenty-Third of December, King James went from Rochester. The address of the aforesaid peers to the Prince of Orange, on the Twenty-Fifth of December. On the Ninth of January, following, about Thirty Lords, and Eighty gentlemen of Scotland, signed a paper for the same purpose.
- 140. The convention ordered the thanks of both houses should be returned to His Highness, on behalf of the whole nation, and company and ordered a day of thanksgiving for the Great Deliverance & Company. On the Twenty-Eighth of January, the Commons voted the Throne vacant; and on the Sixth of February, the Lords CONSENTED to the said vote.
- 143. The word Abdicated explained.
- 144. The Lords Spiritual and Temporal, and Commons, ordered the Prince and Princess of Orange to be proclaimed King and Queen.
- 146. The Declaration of the Nobility and Gentry, and Commonalty at Nottingham.
- 147. Our Bishops, Clergy, Nobility, & Company, are damned, who had a hand in THE

REVOLUTION, according to the DOCTRINE OF PASSIVE OBEDIENCE.

- 148. The **Doctrine of Jure Divino, Never heard of, until James the Third Reign.**
- 149. **No ABSOLUTE PASSIVE OBEDIENCE** in the time of the children of Israel, as **proved by many examples** of their **RESISTING their kings.**
- 150. The primitive Christians, and others, **RESIST their Emperors for their TYRANNY.**
- 151. In Several declarations in Queen Elizabeth's time, of the Convocations of the Clergy, and the Parliament of England who **Justified the Protestants in their RESISTING of their Evil Princes**, who gave her money to assist the Scotch, French, and Dutch Protestants. and the Bishops and Clergy of England assisted the Protestants of France in king Charles the Firsts Reign.
- 155. The Protestant Princes of Germany **Resist their Emperors.**
- 156. Bishop Jewel, Luther Meloncton, Saint Chrysostom, & Company **allow of Resistance.**
- 159. Bishop Bilson and Bishop Abbot **allow of Resistance.**
- 160. Seven Princes and Twenty-Four Protestant cities **Resist their Emperor.**
- 163. ZuingNus. one of the First reformers Lucifer de Cagliari, Saint, Athanafius Saint, Austin **for Resistance.**
- 166. The **success and good consequence of RESISTANCE** in several countries.
- 167. The difference between our case and that of the first primitive Christians,
- 168. The prophets and ancient Jews, as well as the primitive **Christians, were strangers to THE DOCTRINE OF ABSOLUTE PASSIVE OBEDIENCE.**
- 169. If all RESISTANCE is UNLAWFUL, then both Jews and primitive Christians are guilty of REBELLION.
- 170. **ABSOLUTE PASSIVE OBEDIENCE is due only to our Laws. To allow PASSIVE OBEDIENCE to be revived in ANY other sense, is to suffer the King/Queen and both the Convention Houses of Parliament to be called REBELS and TRAITORS.**
- 171. **A JUST RESISTANCE is founded in SELF-defense; ABSOLUTE SUBMISSION is a kind of self-murder.**

- 172. Several **undeniable reasons against ABSOLUTE PASSIVE OBEDIENCE.**
- 179. The legislature, the ordinance of God in **Britain**, and the executive power in our kings, and company.
- 180. The DOCTRINE OF PASSIVE OBEDIENCE **disproved** by contradicting the glorious attributes of God.
- 181. The Patriarchal scheme, considered and refuted.
- 185. An objection that if the Government is disturbed for UNLAWFUL proceedings., how can it be safe? answered.
- 186. **Rulers or Subjects, overturning the CONSTITUTION by force, Resist the ordinance of God, & Company.**
- 187. An account of the Government of King Charles the First, taken out of Lord Clarendon's history, First volume, Folio; Rushworth's collections, First volume, Folio; and Whitelock's memorials, Folio, & Company. without any observations or reflection.
- 190. Doctor Sacheverell's assertion that the Prince of Orange disclaimed all Resistance, confuted from the Twenty-Fifth paragraph of his Declaration, and his other false assertion, that the Parliament declared that they let the Crown on his head, upon no other Title, but that of the vacancy of the Throne, disproved by the vote of both houses of Parliament, in the 142 paragraph of this book.

THE JUDGEMENT OF WHOLE KINGDOMS AND NATIONS.

1. **GOVERNMENT in general as Ordained and Instituted by God, is circumscribed and limited by Him. To be exercised according to the Laws of nature, in subservancy to his own glory, and the benefit of mankind. All rules are confined by the ALMIGHTY and SUPREME Sovereign, to exert their governing power for the promoting his Service and Honour, and to exercise their Authority for the safety, welfare, and prosperity of those over whom they are established. Though there were no previous Compacts and Agreements between Prince and People as to these, yet Prince would be obliged to observe them, for as much as they are settled and determined by the Law and appointment of the divine legislator, and of the Universal Sovereign. Whosoever, therefore, refuses to Govern in Subordination unto, and for God, and in order to the protection and benefit of the community... Fail to answer the ends unto which Magistracy was first instituted, and for which Rectoral Authority is established over and among Men. Nor is it in the choice or power of any society, at their erecting the forms of Government under which they are contented to live, and at their nominating the persons to**

whom they **commit the right of administering Justice towards, and over themselves**, and of **withstanding and avenging injuries offered them by others**. To enlarge and extend the power of those whom they **CONSTITUTE their Rulers, beyond the limits and boundaries by which God has stated and confined the Magistrates in the Charter of Nature and Revelation**. Though the People may then, both and afterward, **abridge themselves** as they think meet in things **under their own disposal**, and either **contract or enlarge the rulers' power**, in reference to what they have a **Right to retain or depart from**, for the **real or imagined benefit of the community**; Yet they **can, in no ways interpose in the disposal of the Rights which belong unto God**, and which **God has incommunicably reserved to Himself**; Nor can they confer those measures and degrees of Authority upon those whom they **Elect and Advance to Magistracy, which God has antecedently precluded the one from bestowing, and the other from receiving**. for example, **no body or Society of Men can transfer a power unto those whom they select and set apart from among themselves to be Rulers over the community**; by virtue whereof, those vested with Magistratical Authority, can withdraw their Subjects from their allegiance to God, or act arbitrarily in prescribing and imposing what religion they please, or destroy the meanest person, saving upon a previous crime, and a Just Demerit.

2. **No Man of common sense can imagine that**, at the first propagation of mankind, there were such Governments as are among us at this time. But in those times, **each father, without being subject to ANY Superior Power, governed his wife, children, and Servants according to his will and pleasure**. Now it seems very probable, that even at the time of the deluge, **there was no Magistracy or CIVIL CONSTITUTION**, but that **the Government was lodged only in each father of his family**, for it is scarce to be imagined, that such abominable disorders should have been introduced, where the power of Magistracy and Laws was exercised; and it is observable, that after **once the rules of Government were CONSTITUTED, we do not find Mankind in general, run into such enormities, of which God Almighty was obliged to purge the world by an Universal Punishment**: Puffendorff's introduction to the History of Europe.

3. Now, God having in the institution of Magistracy, confined such as shall be **Chosen Rulers**, within no other limits, in reference to our Civil concerns, save that **they are to Govern for the good of those over whom they come to be established; it remains free and entire to The People at their first erection of, and Submission to Government, to prescribe and define what shall be the measures and boundaries of the public good, and unto what rules and standard the Magistrate shall be restrained**, in order to his defending and promoting the benefit of the society **of which he is created the Civil and Political Head**. and **everyone being Equally Master of his own Property and Liberty**, antecedently to their agreement with one another, and to the **Compact** of this Universality, or at least of the majority with Him, or those whom **they call to rule over them**; It evidently follows, that **those who come to be clothed with Magistracy, can lay claim to no more Authority over the Liberty, or PRETEND to no more Right, in, and over the Property, of that Body Politic... than what the community conferred upon them, and does voluntarily divest themselves of**, upon the prospect of the advantages arising to them from

their living in societies, and under Magistrates. We Just suppose all mankind to have been infatuated, if they should have submitted themselves to the Jurisdiction of one who had no antecedent Right to command them, merely in order to their being in a worse condition than they previously were. and therefore seeing the power, extent, and latitude of the Magistrate's power must owe its original, to some Grant of the People, it is incumbent upon Him to prove and justify the several degrees and measures of Authority and prerogatives which he PRETENDS to Claim. and what he cannot derive from some concession of the society... must be acknowledged to remain still vested in the People, as their reserved privilege and Right. and whatever injurious power he assumes and exercises over them, which he cannot prove their surrender of themselves to Him, argues, NOT ONLY HIS DEPARTING FROM THE COMPACT between Him and the Community, by virtue whereof he was ordained and created their ruler, but it renders Him GUILTY OF AN INVASION upon the Rights of the Whole Society, and upon Every individual member of it. Force or Conquest gives no Just nor legal Title over a People, by which the Conquerer becomes their Magistrate, until they, by some CONSENT either Tacit, or Explicit, DECLARE their SUBMISSION to, and Acquiescence in Him, upon the Best Terms which they can obtain, and that he is willing to Grant. and as no Civil Government is Lawful, but what is founded upon COMPACT and AGREEMENT between those chosen to Govern, and them who condescended to be Governed; so the Articles upon which they First Stipulate the One with the Other, become the fundamentals of the respective CONSTITUTIONS of Nations, and together with Super-Added positive Laws, are both the limits of the ruler's Authority and the measures of the Subjects Obedience... To Extend the Governor's Right to Command, and Subjects Duty to Obey... BEYOND the Laws of one's country, is TREASON against the CONSTITUTION, and TREACHERY to the Society where'of we are members; and to dissolve the ties by which Princes stand confined, and overthrow the Hedges by which the Reserved Rights, Privileges, and Properties of the Subjects are fenced about, tempts Every Prince to become a TYRANT, and to make all his Subjects SLAVES. all previous Agreements, Stipulations, and Laws are made insignificant by that pernicious and adulatory, Doctrine of non-Resistance, when our Rights are arbitrarily invaded, and the CONSTITUTION, and Government openly attacked: Such a Doctrine, tricks and cheats those that were antecedently free, into a noose, and state of Thraldom and Bondage, under the specious and gilded PRETENCE of the Divine Rights of Princes.

4. As it is, by Virtue of Compacts, Stipulations, Compromises, and Agreements, that all legal Governments have their Original and Establishment, that various and distinct forms obtain in different countries, and that a Title and Right to exercise Authority, and the method of arriving at it, is provided for and procured, so Every Subjects allegiance is first owing to the CONSTITUTION, and to the Ruler, only in the force and virtue, of what Every Member of the Political Society is Bound to, by the Terms of the Original Pact and Settlement... Abstracting from the CONSTITUTION, and the obligations which it lays us under, no Man can challenge a Right of commanding us, nor do we owe Him ANY Duty of Subjection and Obedience.

Whosoever he be that, under a PRETENCE of being a CONSTITUTED Sovereign, does invade and subvert the fundamental Laws of the society, he does thereby, by the very fact, Annul ALL the legal Right he has to Govern, and absolves ALL, who were before his Subjects, from the legal engagements they were under, of yielding Him Obedience; To that the immediate and natural effect of a Princes Claiming what the rules of the CONSTITUTION are, far from entitling Him unto, that they preclude Him from it, is the depriving Himself of all Right to Claim anything, and a restoring of The People to their state and condition of Primitive Freedom; of which, as they Only divested themselves by and Upon the Terms of the CONSTITUTION, so they did not depart from it any longer than that should be kept Sacred and Inviolable, nor any further than was COVENANTED and Stipulated, in the Terms and Agreements Therein Specified and Contained. and seeing it proceeds from the efficacy of the aforementioned CONTRACTS, That one becomes advanced from the common level, to the Title and Authority of a Sovereign, and that all others are BY THEIR OWN CONSENT, put into the condition of Subjects, there does arise from thence, not only a mutual relation between Him that governs, and them that are governed, but the FIRST and biggest TREASON is that which is committed against the CONSTITUTION, and such crimes against the person and dignity of the Supreme Magistrate, are only made and declared to be so, by reason of the capacity he is put into by the CONSTITUTION, of protecting and defending the society, and because it is needful, in order to the peace, welfare and safety of the community, that he should be covered from all danger, and rendered Sacred in his person, and inviolable in his Regal Honour, while he answereth the Trust: which The People, upon their assembling and uniting into a Body Politic, committed unto Him, and does neither depart from the Essential and Fundamental Terms of the ORIGINAL COMPACT, nor from their necessary provisions afterwards added and, enacted, for Preserving the Government in its Primitive State and frame. So that they neither are nor can be Traitors who endeavor to Preserve and maintain the CONSTITUTION; but they are TRAITORS who design and pursue the SUBVERSION of it. They are the REBELS who go about to overthrow the Government of their Country, whereas such as seek to Support and Defend it, are the Truly Loyal Persons, and do it Conformable to the Ties and Obligation of Fealty. Nor is it merely the FIRST and HIGHEST TREASON in itself, that a member of a Political Society is capable of committing, to go about to Subvert the CONSTITUTION; but it is also the greatest TREASON he can perpetrate against the person, Crown, and dignity of the king; for such an endeavor both ANNULS and VACATES, 'ALL' his Title to Superiority over those above whom he was Exalted from the Common level, by Virtue of the CONSTITUTION, and deprives Him of 'ALL' Rightful and legal Claim of Rectoral Authority over the society. by DESTROYING the ALONE FOUNDATION upon which it was created, and by which he became vested with it. By canceling the charter from which he deriveth and holdeth his governing power, he NOT only makes his Title to sovereignty precarious, but renders Every Claim of that kind, and Every challenge of governing the community, to be an INVASION and USURPATION.

- 5. To all which I Will only further add under this head that as **all legal Government is Founded upon a Mutual Stipulation and Compact**, so the **FIRST and MOST ABSOLUTE OBLIGATION** arising from **This Agreement, Lies Upon the Prince, Towards THE People**. Whereas the **Fealty and Duty** which, by the **Said Contract and Covenant**, they **Bind and Engage Themselves Unto, towards Him, is in order, BUT, SECONDARY and CONDITIONAL**. Whenever **any person is chosen from the rest of the society**, and **RAISED to Kingship** upon a **foregoing and previous contract with the community**, he becomes, **upon the very Accepting of it, BOUND ABSOLUTELY, and WITHOUT RESERVE, to Govern them According to the Terms and Measures which they have AGREED and STIPULATED, and to Rule them by the Tenor of the Laws, Unto Which THEY have Circumscribed and Confined Him**. Whereas all the **Obedience and Fealty** which they, who **by That Agreement** have **Rendered themselves Subjects**, owe unto their **Ordained and Created Sovereign** do derive their **Obligatory Power over them**, and become due unto Him, upon his **Governing them according to the Concerted and Stipulated Conditions, and his PRESERVING Unto Them, THEIR RESERVED PRIVILEGES, LIBERTIES, and RIGHTS**.