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A Treatise Of Human Nature

Being An Attempt to introduce the experimental Method of Reasoning Into
Moral Subjects

Of Morals - With An Appendix ; Wherein some Passages of the foregoing
Volumes are illustrated and explain'd

Hume, David

London, 1740

Part II. Of justice and injustice. Sect. I. Justice, whether a natural or
artificial virtue?

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P A R T II.

Of justice and injustice.

S E C T. I.

Justice, whether a natural or artificial virtue ?



HAVE already hinted, that our S E C T. sense of every kind of virtue is I. not natural ; but that there are some virtues, that produce pleasure and approbation by means of an artifice or contrivance, which arises from the circumstances and necessity of mankind. Of this kind I assert *justice* to be ; and shall endeavour to defend this opinion by a short, and, I hope, convincing argument, before I examine the nature of the artifice, from which the sense of that virtue is derived.

D 3

'Tis

PART

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*Of justice
and inju-
stice.*

'TIS evident, that when we praise any actions, we regard only the motives that produced them, and consider the actions as signs or indications of certain principles in the mind and temper. The external performance has no merit. We must look within to find the moral quality. This we cannot do directly; and therefore fix our attention on actions, as on external signs. But these actions are still considered as signs; and the ultimate object of our praise and approbation is the motive, that produc'd them.

AFTER the same manner, when we require any action, or blame a person for not performing it, we always suppose, that one in that situation shou'd be influenc'd by the proper motive of that action, and we esteem it vicious in him to be regardless of it. If we find, upon enquiry, that the virtuous motive was still powerful over his breast, tho' check'd in its operation by some circumstances unknown to us, we retract our blame, and have the same esteem for him, as if he had actually perform'd the action, which we require of him.

IT appears, therefore, that all virtuous actions derive their merit only from virtuous motives, and are consider'd merely as signs
of

of those motives. From this principle I con- S E C T.
 clude, that the first virtuous motive, which I.
 bestows a merit on any action, can never be *Justice,*
 a regard to the virtue of that action, but *whether a*
 must be some other natural motive or prin- *natural or*
 ciple. To suppose, that the mere regard to *artificial*
 the virtue of the action, may be the first *virtue?*
 motive, which produc'd the action, and
 render'd it virtuous, is to reason in a circle.
 Before we can have such a regard, the ac-
 tion must be really virtuous; and this virtue
 must be deriv'd from some virtuous motive:
 And consequently the virtuous motive must
 be different from the regard to the virtue of
 the action. A virtuous motive is requisite to
 render an action virtuous. An action must
 be virtuous, before we can have a regard to
 its virtue. Some virtuous motive, therefore,
 must be antecedent to that regard.

NOR is this merely a metaphysical subtil-
 ty; but enters into all our reasonings in
 common life, tho' perhaps we may not be
 able to place it in such distinct philosophical
 terms. We blame a father for neglecting his
 child. Why? because it shews a want of
 natural affection, which is the duty of every
 parent. Were not natural affection a duty,
 the care of children cou'd not be a duty;
 and 'twere impossible we cou'd have the duty



PART in our eye in the attention we give to our
 II. offspring. In this case, therefore, all men
 suppose a motive to the action distinct from
 a sense of duty.

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 and inju-
 stice.*

HERE is a man, that does many benevo-
 lent actions; relieves the distress'd, comforts
 the afflicted, and extends his bounty even to
 the greatest strangers. No character can be
 more amiable and virtuous. We regard these
 actions as proofs of the greatest humanity.
 This humanity bestows a merit on the ac-
 tions. A regard to this merit is, therefore, a
 secondary consideration, and deriv'd from the
 antecedent principles of humanity, which is
 meritorious and laudable.

IN short, it may be establish'd as an un-
 doubted maxim, *that no action can be vir-
 tuous, or morally good, unless there be in hu-
 man nature some motive to produce it, distinct
 from the sense of its morality.*

BUT may not the sense of morality or
 duty produce an action, without any other
 motive? I answer, It may: But this is no
 objection to the present doctrine. When
 any virtuous motive or principle is common
 in human nature, a person, who feels his
 heart devoid of that motive, may hate him-
 self upon that account, and may perform
 the action without the motive, from a cer-
 tain

tain sense of duty, in order to acquire by practice, that virtuous principle, or at least, to disguise to himself, as much as possible, his want of it. A man that really feels no gratitude in his temper, is still pleas'd to perform grateful actions, and thinks he has, by that means, fulfill'd his duty. Actions are at first only consider'd as signs of motives: But 'tis usual, in this case, as in all others, to fix our attention on the signs, and neglect, in some measure, the thing signify'd. But tho', on some occasions, a person may perform an action merely out of regard to its moral obligation, yet still this supposes in human nature some distinct principles, which are capable of producing the action, and whose moral beauty renders the action meritorious.

Now to apply all this to the present case; I suppose a person to have lent me a sum of money, on condition that it be restor'd in a few days; and also suppose, that after the expiration of the term agreed on, he demands the sum: I ask, *What reason or motive have I to restore the money?* It will, perhaps, be said, that my regard to justice, and abhorrence of villainy and knavery, are sufficient reasons for me, if I have the least grain of honesty, or sense of duty and obligation.

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gation. And this answer, no doubt, is just and satisfactory to man in his civiliz'd state, and when train'd up according to a certain discipline and education. But in his rude and more *natural* condition, if you are pleas'd to call such a condition natural, this answer wou'd be rejected as perfectly unintelligible and sophistical. For one in that situation wou'd immediately ask you, *Wherein consists this honesty and justice, which you find in restoring a loan, and abstaining from the property of others?* It does not surely lie in the external action. It must, therefore be plac'd in the motive, from which the external action is deriv'd. This motive can never be a regard to the honesty of the action. For 'tis a plain fallacy to say, that a virtuous motive is requisite to render an action honest, and at the same time that a regard to the honesty is the motive of the action. We can never have a regard to the virtue of an action, unless the action be antecedently virtuous. No action can be virtuous, but so far as it proceeds from a virtuous motive. A virtuous motive, therefore, must precede the regard to the virtue; and 'tis impossible, that the virtuous motive and the regard to the virtue can be the same.

'Tis



'Tis requisite, then; to find some motive SECT.
 to acts of justice and honesty, distinct from I.
 our regard to the honesty; and in this lies Justice,
 the great difficulty. For shou'd we say, that whether a
 a concern for our private interest or repu- natural or
 tation is the legitimate motive to all honest artificial
 actions; it wou'd follow, that wherever that virtue?
 concern ceases, honesty can no longer have
 place. But 'tis certain, that self-love, when
 it acts at its liberty, instead of engaging us
 to honest actions, is the source of all inju-
 stice and violence; nor can a man ever cor-
 rect those vices, without correcting and re-
 straining the *natural* movements of that ap-
 petite.

BUT shou'd it be affirm'd, that the rea-
 son or motive of such actions is the *regard*
to publick interest, to which nothing is more
 contrary than examples of injustice and dis-
 honesty; shou'd this be said, I wou'd pro-
 pose the three following considerations, as
 worthy of our attention. *First*, public in-
 terest is not naturally attach'd to the obser-
 vation of the rules of justice; but is only
 connected with it, after an artificial conven-
 tion for the establishment of these rules, as
 shall be shewn more at large hereafter. *Se-*
condly, if we suppose, that the loan was se-
 cret, and that it is necessary for the interest of
 the

PART the person, that the money be restor'd in the
 II. same manner (as when the lender wou'd
 conceal his riches) in that case the example
 ceases, and the public is no longer interested
 in the actions of the borrower; tho' I suppose
 there is no moralist, who will affirm, that the
 duty and obligation ceases. *Thirdly*, experience
 sufficiently proves, that men, in the ordinary
 conduct of life, look not so far as the public
 interest, when they pay their creditors, perform
 their promises, and abstain from theft, and
 robbery, and injustice of every kind. That is a
 motive too remote and too sublime to affect the
 generality of mankind, and operate with any
 force in actions so contrary to private interest
 as are frequently those of justice and common
 honesty.

*Of justice
 and injustice.*

IN general, it may be affirm'd, that there
 is no such passion in human minds, as the
 love of mankind, merely as such, independent
 of personal qualities, of services, or of relation
 to ourself. 'Tis true, there is no human, and
 indeed no sensible, creature, whose happiness
 or misery does not, in some measure, affect
 us, when brought near to us, and represented
 in lively colours: But this proceeds merely
 from sympathy, and is no proof of such an
 universal affection to mankind,



kind, since this concern extends itself beyond S E C T.
our own species. An affection betwixt the I.
sexes is a passion evidently implanted in hu-
man nature; and this passion not only ap- *Justice,*
pears in its peculiar symptoms, but also in *whether a*
inflaming every other principle of affection, *natural or*
and raising a stronger love from beauty, wit, *artificial*
kindness, than what wou'd otherwise flow *virtue?*
from them. Were there an universal love
among all human creatures, it wou'd appear
after the same manner. Any degree of a
good quality wou'd cause a stronger affection
than the same degree of a bad quality wou'd
cause hatred; contrary to what we find by
experience. Men's tempers are different,
and some have a propensity to the tender,
and others to the rougher, affections: But
in the main, we may affirm, that man in
general, or human nature, is nothing but
the object both of love and hatred, and re-
quires some other cause, which by a double
relation of impressions and ideas, may ex-
cite these passions. In vain wou'd we en-
deavour to elude this hypothesis. There are
no phænomena that point out any such
kind affection to men, independent of their
merit, and every other circumstance. We
love company in general; but 'tis as we love
any other amusement. An *Englishman* in
Italy

PART II. *Italy is a friend : A Europæan in China ;*
 and perhaps a man wou'd be belov'd as such,
 were we to meet him in the moon. But this
 proceeds only from the relation to ourselves ;
 which in these cases gathers force by being
 confined to a few persons.

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 stice.

IF public benevolence, therefore, or a regard to the interests of mankind, cannot be the original motive to justice, much less can *private benevolence*, or a regard to the interests of the party concern'd, be this motive. For what if he be my enemy, and has given me just cause to hate him ? What if he be a vicious man, and deserves the hatred of all mankind ? What if he be a miser, and can make no use of what I wou'd deprive him of ? What if he be a profligate debauchee, and wou'd rather receive harm than benefit from large possessions ? What if I be in necessity, and have urgent motives to acquire something to my family ? In all these cases, the original motive to justice wou'd fail ; and consequently the justice itself, and along with it all property, right, and obligation.

A RICH man lies under a moral obligation to communicate to those in necessity a share of his superfluities. Were private benevolence the original motive to justice, a
 man

man wou'd not be oblig'd to leave others in S E C T.
 the possession of more than he is oblig'd to I.
 give them. At least the difference wou'd
 be very inconsiderable. Men generally fix *Justice, whether a*
 their affections more on what they are pos- *natural or*
 sess'd of, than on what they never enjoy'd: *artificial*
 For this reason, it wou'd be greater cruelty *virtue?*
 to dispossess a man of any thing, than not to
 give it him. But who will assert, that this
 is the only foundation of justice?

BESIDES, we must consider, that the chief
 reason, why men attach themselves so much
 to their possessions is, that they consider
 them as their property, and as secur'd to
 them inviolably by the laws of society. But
 this is a secondary consideration, and depen-
 dent on the preceding notions of justice and
 property.

A MAN'S property is suppos'd to be fenc'd
 against every mortal, in every possible case.
 But private benevolence is, and ought to be,
 weaker in some persons, than in others:
 And in many, or indeed in most persons,
 must absolutely fail. Private benevolence,
 therefore, is not the original motive of ju-
 stice.

FROM all this it follows, that we have
 no real or universal motive for observing the
 laws of equity, but the very equity and me-



PART rit of that observance; and as no action can
 II. be equitable or meritorious, where it cannot
 arise from some separate motive, there is
 here an evident sophistry and reasoning in a
 circle. Unless, therefore, we will allow,
 that nature has establish'd a sophistry, and
 render'd it necessary and unavoidable, we
 must allow, that the sense of justice and in-
 justice is not deriv'd from nature, but arises
 artificially, tho' necessarily from education,
 and human conventions.

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 stice.

I SHALL add, as a corollary to this rea-
 soning, that since no action can be laudable
 or blameable, without some motives or im-
 pelling passions, distinct from the sense of
 morals, these distinct passions must have a
 great influence on that sense. 'Tis accord-
 ing to their general force in human nature,
 that we blame or praise. In judging of the
 beauty of animal bodies, we always carry in
 our eye the œconomy of a certain species;
 and where the limbs and features observe
 that proportion, which is common to the
 species, we pronounce them handsome and
 beautiful. In like manner we always confi-
 der the *natural* and *usual* force of the pas-
 sions, when we determine concerning vice
 and virtue; and if the passions depart very
 much from the common measures on either
 side,

fide; they are always difapprov'd as vicious. SECT.
 I.
 A man naturally loves his children better than his nephews, his nephews better than his cousins, his cousins better than strangers, where every thing else is equal. Hence arise our common measures of duty, in preferring the one to the other. Our sense of duty always follows the common and natural course of our passions.

Justice, whether a natural or artificial virtue?

To avoid giving offence, I must here observe, that when I deny justice to be a natural virtue, I make use of the word, *natural*, only as oppos'd to *artificial*. In another sense of the word; as no principle of the human mind is more natural than a sense of virtue; so no virtue is more natural than justice. Mankind is an inventive species; and where an invention is obvious and absolutely necessary, it may as properly be said to be natural as any thing that proceeds immediately from original principles, without the intervention of thought or reflection. Tho' the rules of justice be *artificial*, they are not *arbitrary*. Nor is the expression improper to call them *Laws of Nature*; if by natural we understand what is common to any species, or even if we confine it to mean what is inseparable from the species.



S E C T. II.

Of the origin of justice and property.

S E C T.
II.

WE now proceed to examine two questions, viz. *concerning the manner, in which the rules of justice are establish'd by the artifice of men; and concerning the reasons, which determine us to attribute to the observance or neglect of these rules a moral beauty and deformity.* These questions will appear afterwards to be distinct. We shall begin with the former.

OF all the animals, with which this globe is peopled, there is none towards whom nature seems, at first sight, to have exercis'd more cruelty than towards man, in the numberless wants and necessities, with which she has loaded him, and in the slender means, which she affords to the relieving these necessities. In other creatures these two particulars generally compensate each other. If we consider the lion as a voracious and carnivorous animal, we shall easily discover him to be very necessitous; but if we turn



our eye to his make and temper, his agility, his courage, his arms, and his force, we shall find, that his advantages hold proportion with his wants. The sheep and ox are depriv'd of all these advantages; but their appetites are moderate, and their food is of easy purchase. In man alone, this unnatural conjunction of infirmity, and of necessity, may be observ'd in its greatest perfection. Not only the food, which is requir'd for his sustenance, flies his search and approach, or at least requires his labour to be produc'd, but he must be possess'd of cloaths and lodging, to defend him against the injuries of the weather; tho' to consider him only in himself, he is provided neither with arms, nor force, nor other natural abilities, which are in any degree answerable to so many necessities.

'Tis by society alone he is able to supply his defects, and raise himself up to an equality with his fellow-creatures, and even acquire a superiority above them. By society all his infirmities are compensated; and tho' in that situation his wants multiply every moment upon him, yet his abilities are still more augmented, and leave him in every respect more satisfied and happy, than 'tis possible for him, in his savage and solitary

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PART condition, ever to become. When every individual person labours a-part, and only for himself, his force is too small to execute any considerable work ; his labour being employ'd in supplying all his different necessities, he never attains a perfection in any particular art ; and as his force and success are not at all times equal, the least failure in either of these particulars must be attended with inevitable ruin and misery. Society provides a remedy for these *three* inconveniences. By the conjunction of forces, our power is augmented : By the partition of employments, our ability encreases : And by mutual succour we are less expos'd to fortune and accidents. 'Tis by this additional *force, ability, and security*, that society becomes advantageous.

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justice.

BUT in order to form society, 'tis requisite not only that it be advantageous, but also that men be sensible of these advantages ; and 'tis impossible, in their wild uncultivated state, that by study and reflection alone, they should ever be able to attain this knowledge. Most fortunately, therefore, there is conjoin'd to those necessities, whose remedies are remote and obscure, another necessity, which having a present and more obvious remedy, may justly be regarded as
the

the first and original principle of human SOCIETY. This necessity is no other than that natural appetite betwixt the sexes, which unites them together, and preserves their union, till a new tye takes place in their concern for their common offspring. This new concern becomes also a principle of union betwixt the parents and offspring, and forms a more numerous society; where the parents govern by the advantage of their superior strength and wisdom, and at the same time are restrain'd in the exercise of their authority by that natural affection, which they bear their children. In a little time, custom and habit operating on the tender minds of the children, makes them sensible of the advantages, which they may reap from society, as well as fashions them by degrees for it, by rubbing off those rough corners and untoward affections, which prevent their coalition.

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origin of
justice and
property.*

FOR it must be confest, that however the circumstances of human nature may render an union necessary, and however those passions of lust and natural affection may seem to render it unavoidable; yet there are other particulars in our *natural temper*, and in our *outward circumstances*, which are very incommodious, and are even contrary to the

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requisite



PART requisite conjunction. Among the former,
 II. we may justly esteem our *selfishness* to be
 the most considerable. I am sensible, that,
 generally speaking, the representations of
 this quality have been carried much too far;
 and that the descriptions, which certain philo-
 sophers delight so much to form of man-
 kind in this particular, are as wide of na-
 ture as any accounts of monsters, which we
 meet with in fables and romances. So far
 from thinking, that men have no affection
 for any thing beyond themselves, I am of
 opinion, that tho' it be rare to meet with
 one, who loves any single person better than
 himself; yet 'tis as rare to meet with one,
 in whom all the kind affections, taken to-
 gether, do not over-balance all the selfish.
 Consult common experience: Do you not
 see, that tho' the whole expence of the fa-
 mily be generally under the direction of the
 master of it, yet there are few that do not
 bestow the largest part of their fortunes on
 the pleasures of their wives, and the educa-
 tion of their children, reserving the smallest
 portion for their own proper use and enter-
 tainment. This is what we may observe
 concerning such as have those endearing
 ties; and may presume, that the case would
 be

be the same with others, were they plac'd in SECT.
a like situation.

II.

BUT tho' this generosity must be acknow-
ledg'd to the honour of human nature, we
may at the same time remark, that so noble
an affection, instead of fitting men for large
societies, is almost as contrary to them, as the
most narrow selfishness. For while each
person loves himself better than any other
single person, and in his love to others bears
the greatest affection to his relations and ac-
quaintance, this must necessarily produce
an opposition of passions, and a consequent
opposition of actions; which cannot but be
dangerous to the new-establish'd union.

'TIS however worth while to remark,
that this contrariety of passions wou'd be
attended with but small danger, did it not
concur with a peculiarity in our *outward cir-
cumstances*, which affords it an opportunity
of exerting itself. There are three different
species of goods, which we are possess'd of;
the internal satisfaction of our minds, the
external advantages of our body, and the
enjoyment of such possessions as we have
acquir'd by our industry and good fortune.
We are perfectly secure in the enjoyment of
the first. The second may be ravish'd from
us, but can be of no advantage to him who

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deprives



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stice.*

deprives us of them. The last only are both expos'd to the violence of others, and may be transferr'd without suffering any loss or alteration; while at the same time, there is not a sufficient quantity of them to supply every one's desires and necessities. As the improvement, therefore, of these goods is the chief advantage of society, so the *instability* of their possession, along with their *scarcity*, is the chief impediment.

IN vain shou'd we expect to find, in *uncultivated nature*, a remedy to this inconvenience; or hope for any inartificial principle of the human mind, which might controul those partial affections, and make us overcome the temptations arising from our circumstances. The idea of justice can never serve to this purpose, or be taken for a natural principle, capable of inspiring men with an equitable conduct towards each other. That virtue, as it is now understood, wou'd never have been dream'd of among rude and savage men. For the notion of injury or injustice implies an immorality or vice committed against some other person: And as every immorality is deriv'd from some defect or unsoundness of the passions, and as this defect must be judg'd of, in a great measure, from the ordinary course of nature in
the

the constitution of the mind; 'twill be easy S E C T.
 to know, whether we be guilty of any im- II.
 morality, with regard to others, by consider- *Of the ori-*
 ing the natural, and usual force of those fe- *gin of ju-*
 veral affections, which are directed towards *stice and*
 them. Now it appears, that in the original *property.*
 frame of our mind, our strongest attention is
 confin'd to ourselves; our next is extended
 to our relations and acquaintance; and 'tis
 only the weakest which reaches to strangers
 and indifferent persons. This partiality,
 then, and unequal affection, must not only
 have an influence on our behaviour and con-
 duct in society, but even on our ideas of
 vice and virtue; so as to make us regard
 any remarkable transgression of such a de-
 gree of partiality, either by too great an en-
 largement, or contraction of the affections,
 as vicious and immoral. This we may ob-
 serve in our common judgments concern-
 ing actions, where we blame a person, who
 either centers all his affections in his fami-
 ly, or is so regardless of them, as, in any
 opposition of interest, to give the preference
 to a stranger, or mere chance acquaintance.
 From all which it follows, that our natural
 uncultivated ideas of morality, instead of
 providing a remedy for the partiality of our
 affections, do rather conform themselves to
 that

PART that partiality, and give it an additional force
II. and influence.

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stice.

THE remedy, then, is not deriv'd from nature, but from *artifice*; or more properly speaking, nature provides a remedy in the judgment and understanding, for what is irregular and incommodious in the affections. For when men, from their early education in society, have become sensible of the infinite advantages that result from it, and have besides acquir'd a new affection to company and conversation; and when they have observ'd, that the principal disturbance in society arises from those goods, which we call external, and from their looseness and easy transition from one person to another; they must seek for a remedy, by putting these goods, as far as possible, on the same footing with the fix'd and constant advantages of the mind and body. This can be done after no other manner, than by a convention enter'd into by all the members of the society to bestow stability on the possession of those external goods, and leave every one in the peaceable enjoyment of what he may acquire by his fortune and industry. By this means, every one knows what he may safely possess; and the passions are restrain'd in their partial and contradictory

ctory motions. Nor is such a restraint con- S E C T.
 trary to these passions; for if so, it cou'd II.
 never be enter'd into, nor maintain'd; but ^{Of the ori-}
 it is only contrary to their heedless and im- ^{gin of ju-}
 petuous movement. Instead of departing ^{stice and}
^{property.}
 from our own interest, or from that of our
 nearest friends, by abstaining from the pos-
 sessions of others, we cannot better consult
 both these interests, than by such a conven-
 tion; because it is by that means we maintain
 society, which is so necessary to their well-
 being and subsistence, as well as to our own.

THIS convention is not of the nature of
 a *promise*: For even promises themselves, as
 we shall see afterwards, arise from human
 conventions. It is only a general sense of
 common interest; which sense all the mem-
 bers of the society express to one another,
 and which induces them to regulate their
 conduct by certain rules. I observe, that it
 will be for my interest to leave another in the
 possession of his goods, *provided* he will act
 in the same manner with regard to me. He
 is sensible of a like interest in the regulation
 of his conduct. When this common sense
 of interest is mutually express'd, and is known
 to both, it produces a suitable resolution
 and behaviour. And this may properly
 enough be call'd a convention or agreement
 betwixt

PART betwixt us, tho' without the interposition of
 II. a promise; since the actions of each of us

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 stice.*

have a reference to those of the other, and are perform'd upon the supposition, that something is to be perform'd on the other part. Two men, who pull the oars of a boat, do it by an agreement or convention, tho' they have never given promises to each other. Nor is the rule concerning the stability of possession the less deriv'd from human conventions, that it arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it. On the contrary, this experience assures us still more, that the sense of interest has become common to all our fellows, and gives us a confidence of the future regularity of their conduct: And 'tis only on the expectation of this, that our moderation and abstinence are founded. In like manner are languages gradually establish'd by human conventions without any promise. In like manner do gold and silver become the common measures of exchange, and are esteem'd sufficient payment for what is of a hundred times their value.

AFTER this convention, concerning abstinence from the possessions of others, is enter'd into, and every one has acquir'd

a



a stability in his possessions, there immediately arise the ideas of justice and injustice; as also those of *property*, *right*, and *obligation*. The latter are altogether unintelligible without first understanding the former. Our property is nothing but those goods, whose constant possession is establish'd by the laws of society; that is, by the laws of justice. Those, therefore, who make use of the words *property*, or *right*, or *obligation*, before they have explain'd the origin of justice, or even make use of it in that explication, are guilty of a very gross fallacy, and can never reason upon any solid foundation. A man's property is some object related to him. This relation is not natural, but moral, and founded on justice. 'Tis very preposterous, therefore, to imagine, that we can have any idea of property, without fully comprehending the nature of justice, and shewing its origin in the artifice and contrivance of men. The origin of justice explains that of property, The same artifice gives rise to both. As our first and most natural sentiment of morals is founded on the nature of our passions, and gives the preference to ourselves and friends, above strangers; 'tis impossible there can be naturally any such thing as a fix'd right or property,

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PART perty, while the opposite passions of men
 II. impel them in contrary directions, and are
 not restrain'd by any convention or agree-
 ment.

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 and inju-
 stice.*

No one can doubt, that the convention for the distinction of property, and for the stability of possession, is of all circumstances the most necessary to the establishment of human society, and that after the agreement for the fixing and observing of this rule, there remains little or nothing to be done towards settling a perfect harmony and concord. All the other passions, beside this of interest, are either easily restrain'd, or are not of such pernicious consequence, when indulg'd. *Vanity* is rather to be esteem'd a social passion, and a bond of union among men. *Pity* and *love* are to be consider'd in the same light. And as to *envy* and *revenge*, tho' pernicious, they operate only by intervals, and are directed against particular persons, whom we consider as our superiors or enemies. This avidity alone, of acquiring goods and possessions for ourselves and our nearest friends, is insatiable, perpetual, universal, and directly destructive of society. There scarce is any one, who is not actuated by it; and there is no one, who has not reason to fear from it, when it acts without
 any

any restraint, and gives way to its first and most natural movements. So that upon the whole, we are to esteem the difficulties in the establishment of society, to be greater or less, according to those we encounter in regulating and restraining this passion.

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II.
Of the origin of justice and property.

'TIS certain, that no affection of the human mind has both a sufficient force, and a proper direction to counter-balance the love of gain, and render men fit members of society, by making them abstain from the possessions of others. Benevolence to strangers is too weak for this purpose; and as to the other passions, they rather inflame this avidity, when we observe, that the larger our possessions are, the more ability we have of gratifying all our appetites. There is no passion, therefore, capable of controlling the interested affection, but the very affection it self, by an alteration of its direction. Now this alteration must necessarily take place upon the least reflection; since 'tis evident, that the passion is much better satisfy'd by its restraint, than by its liberty, and that in preserving society, we make much greater advances in the acquiring possessions, than in the solitary and forlorn condition, which must follow upon violence and an universal licence. The question, therefore, concerning



PART ing the wickedness or goodness of human nature, enters not in the least into that other question concerning the origin of society ; nor is there any thing to be consider'd but the degrees of men's sagacity or folly. For

II.
*Of justice
 and inju-
 stice.*

whether the passion of self-interest be esteem'd vicious or virtuous, 'tis all a case ; since itself alone restrains it : So that if it be virtuous, men become social by their virtue ; if vicious, their vice has the same effect.

Now as 'tis by establishing the rule for the stability of possession, that this passion restrains itself ; if that rule be very abstruse, and of difficult invention ; society must be esteem'd, in a manner, accidental, and the effect of many ages. But if it be found, that nothing can be more simple and obvious than that rule ; that every parent, in order to preserve peace among his children, must establish it ; and that these first rudiments of justice must every day be improv'd, as the society enlarges : If all this appear evident, as it certainly must, we may conclude, that 'tis utterly impossible for men to remain any considerable time in that savage condition, which precedes society ; but that his very first state and situation may justly be esteem'd social. This, however, hinders not, but that philosophers may, if they please, extend

extend their reasoning to the suppos'd *state of* S E C T.
nature; provided they allow it to be a mere II.
 philosophical fiction, which never had, and Of the ori-
 never cou'd have any reality. Human gin of ju-
 nature being compos'd of two principal stice and
 parts, which are requisite in all its actions, property.

the affections and understanding; 'tis certain, that the blind motions of the former, without the direction of the latter, incapacitate men for society: And it may be allow'd us to consider separately the effects, that result from the separate operations of these two component parts of the mind. The same liberty may be permitted to moral, which is allow'd to natural philosophers; and 'tis very usual with the latter to consider any motion as compounded and consisting of two parts separate from each other, tho' at the same time they acknowledge it to be in itself uncompounded and inseparable.

THIS *state of nature*, therefore, is to be regarded as a mere fiction, not unlike that of the *golden age*, which poets have invented; only with this difference, that the former is describ'd as full of war, violence and injustice; whereas the latter is painted out to us, as the most charming and most peaceable condition, that can possibly be imagin'd. The seasons, in that first age of nature,



PART II. *Of justice and injustice.*
 ture, were so temperate, if we may believe the poets, that there was no necessity for men to provide themselves with cloaths and houses as a security against the violence of heat and cold. The rivers flow'd with wine and milk: The oaks yielded honey; and nature spontaneously produc'd her greatest delicacies. Nor were these the chief advantages of that happy age. The storms and tempests were not alone remov'd from nature; but those more furious tempests were unknown to human breasts, which now cause such uproar, and engender such confusion. Avarice, ambition, cruelty, selfishness, were never heard of: Cordial affection, compassion, sympathy, were the only movements, with which the human mind was yet acquainted. Even the distinction of *mine* and *thine* was banish'd from that happy race of mortals, and carry'd with them the very notions of property and obligation, justice and injustice.

THIS, no doubt, is to be regarded as an idle fiction; but yet deserves our attention, because nothing can more evidently shew the origin of those virtues, which are the subjects of our present enquiry. I have already observ'd, that justice takes its rise from human conventions; and that these are intended

tended as a remedy to some inconveniences, S E C T.
 which proceed from the concurrence of cer- II.
 tain *qualities* of the human mind with the Of the
situation of external objects. The qualities origin of
 of the mind are *selfishness* and *limited gene-* justice and
rosity: And the situation of external objects property.
 is their *easy change*, join'd to their *scarcity*
 in comparison of the wants and desires of
 men. But however philosophers may have
 been bewilder'd in those speculations, poets
 have been guided more infallibly, by a cer-
 tain taste or common instinct, which in
 most kinds of reasoning goes farther than
 any of that art and philosophy, with which
 we have been yet acquainted. They easily
 perceiv'd, if every man had a tender re-
 gard for another, or if nature supplied abun-
 dantly all our wants and desires, that the
 jealousy of interest, which justice supposes,
 could no longer have place; nor would there
 be any occasion for those distinctions and
 limits of property and possession, which at
 present are in use among mankind. En-
 crease to a sufficient degree the benevolence
 of men, or the bounty of nature, and you
 render justice useless, by supplying its place
 with much nobler virtues, and more valuable
 blessings. The selfishness of men is animated
 by the few possessions we have, in propor-
 tion



PARTITION to our wants; and 'tis to restrain this
 II. selfishness, that men have been oblig'd to
 separate themselves from the community,
 and to distinguish betwixt their own goods
 and those of others.

*Of justice
 and inju-
 stice.*

NOR need we have recourse to the fictions of poets to learn this; but beside the reason of the thing, may discover the same truth by common experience and observation. 'Tis easy to remark, that a cordial affection renders all things common among friends; and that married people in particular mutually lose their property, and are unacquainted with the *mine* and *thine*, which are so necessary, and yet cause such disturbance in human society. The same effect arises from any alteration in the circumstances of mankind; as when there is such a plenty of any thing as satisfies all the desires of men: In which case the distinction of property is entirely lost, and every thing remains in common. This we may observe with regard to air and water, tho' the most valuable of all external objects; and may easily conclude, that if men were supplied with every thing in the same abundance, or if *every one* had the same affection and tender regard for *every one* as for himself; justice and injustice would be equally unknown among mankind.

HERE

HERE then is a proposition, which, I SECT.
 think, may be regarded as certain, *that 'tis* II.
only from the selfishness and confin'd generosity ^{Of the}
of men, along with the scanty provision nature ^{origin of}
has made for his wants, that justice derives ^{justice and}
its origin. ^{property.} If we look backward we shall
 find, that this proposition bestows an addi-
 tional force on some of those observations,
 which we have already made on this
 subject.

First, we may conclude from it, that a
 regard to public interest, or a strong exten-
 sive benevolence, is not our first and original
 motive for the observation of the rules of
 justice; since 'tis allow'd, that if men were
 endow'd with such a benevolence, these rules
 would never have been dreamt of.

Secondly, we may conclude from the same
 principle, that the sense of justice is not
 founded on reason, or on the discovery of
 certain connexions and relations of ideas,
 which are eternal, immutable, and univer-
 sally obligatory. For since it is confess'd, that
 such an alteration as that above-mention'd,
 in the temper and circumstances of mankind,
 wou'd entirely alter our duties and obligations,
 'tis necessary upon the common system, *that the*
sense of virtue is deriv'd from reason, to shew



PART the change which this must produce in the
 II. relations and ideas. But 'tis evident, that
Of justice and injustice. the only cause, why the extensive generosity
 of man, and the perfect abundance of every
 thing, wou'd destroy the very idea of justice,
 is because they render it useles; and that, on the
 other hand, his confin'd benevolence, and his
 necessitous condition, give rise to that virtue,
 only by making it requisite to the publick
 interest, and to that of every individual. 'Twas
 therefore a concern for our own, and the publick
 interest, which made us establish the laws of
 justice; and nothing can be more certain, than
 that it is not any relation of ideas, which gives
 us this concern, but our impressions and
 sentiments, without which every thing in nature
 is perfectly indifferent to us, and can never in
 the least affect us. The sense of justice, therefore,
 is not founded on our ideas, but on our
 impressions.

Thirdly, we may farther confirm the foregoing
 proposition, *that those impressions, which give
 rise to this sense of justice, are not natural to
 the mind of man, but arise from artifice and
 human conventions.* For since any considerable
 alteration of temper and circumstances destroys
 equally justice and injustice; and since such an
 alteration has an effect

effect only by changing our own and the publick interest ; it follows, that the first establishment of the rules of justice depends on these different interests. But if men pursu'd the publick interest naturally, and with a hearty affection, they wou'd never have dream'd of restraining each other by these rules ; and if they pursu'd their own interest, without any precaution, they wou'd run head-long into every kind of injustice and violence. These rules, therefore, are artificial, and seek their end in an oblique and indirect manner ; nor is the interest, which gives rise to them, of a kind that cou'd be pursu'd by the natural and inartificial passions of men.

SECT. II.

Of the origin of justice and property.

To make this more evident, consider, that tho' the rules of justice are establish'd merely by interest, their connexion with interest is somewhat singular, and is different from what may be observ'd on other occasions. A single act of justice is frequently contrary to *publick interest* ; and were it to stand alone, without being follow'd by other acts, may, in itself, be very prejudicial to society. When a man of merit, of a beneficent disposition, restores a great fortune to a miser, or a seditious bigot, he has acted justly and laudably, but the public is a real sufferer. Nor is



PART every single act of justice, consider'd apart,
 II. more conducive to private interest, than to
 public ; and 'tis easily conceiv'd how a man
 may impoverish himself by a signal instance
 of integrity, and have reason to wish, that
 with regard to that single act, the laws of
 justice were for a moment suspended in the
 universe. But however single acts of ju-
 stice may be contrary, either to public or
 private interest, 'tis certain, that the whole
 plan or scheme is highly conducive, or in-
 deed absolutely requisite, both to the support
 of society, and the well-being of every in-
 dividual. 'Tis impossible to separate the
 good from the ill. Property must be stable,
 and must be fix'd by general rules. Tho'
 in one instance the public be a sufferer, this
 momentary ill is amply compensated by the
 steady prosecution of the rule, and by the
 peace and order, which it establishes in so-
 ciety. And even every individual person
 must find himself a gainer, on ballancing
 the account ; since, without justice, society
 must immediately dissolve, and every one
 must fall into that savage and solitary con-
 dition, which is infinitely worse than the
 worst situation that can possibly be suppos'd
 in society. When therefore men have had
 experience enough to observe, that whatever
 may

Of justice
 and inju-
 stice.



may be the consequence of any single act of S E C T.
 justice, perform'd by a single person, yet II.
 the whole system of actions, concurr'd in by Of the ori-
 the whole society, is infinitely advantageous gin of ju-
 to the whole, and to every part ; it is not stice and
 long before justice and property take place. property.

Every member of society is sensible of this interest : Every one expresses this sense to his fellows, along with the resolution he has taken of squaring his actions by it, on condition that others will do the same. No more is requisite to induce any one of them to perform an act of justice, who has the first opportunity. This becomes an example to others. And thus justice establishes itself by a kind of convention or agreement ; that is, by a sense of interest, suppos'd to be common to all, and where every single act is perform'd in expectation that others are to perform the like. Without such a convention, no one wou'd ever have dream'd, that there was such a virtue as justice, or have been induc'd to conform his actions to it. Taking any single act, my justice may be pernicious in every respect ; and 'tis only upon the supposition, that others are to imitate my example, that I can be induc'd to embrace that virtue ; since nothing but this combination can render justice advantageous,

or



PART or afford me any motives to conform my self
 II. to its rules.

*Of justice
 and inju-
 stice.*

WE come now to the *second* question we propos'd, *viz.* *Why we annex the idea of virtue to justice, and of vice to injustice.* This question will not detain us long after the principles, which we have already establish'd. All we can say of it at present will be dispatch'd in a few words: And for farther satisfaction, the reader must wait till we come to the *third* part of this book. The *natural* obligation to justice, *viz.* interest, has been fully explain'd; but as to the *moral* obligation, or the sentiment of right and wrong, 'twill first be requisite to examine the natural virtues, before we can give a full and satisfactory account of it.

AFTER men have found by experience, that their selfishness and confin'd generosity, acting at their liberty, totally incapacitate them for society; and at the same time have observ'd, that society is necessary to the satisfaction of those very passions, they are naturally induc'd to lay themselves under the restraint of such rules, as may render their commerce more safe and commodious. To the imposition then, and observance of these rules, both in general, and in every particular



lar instance, they are at first induc'd only SECT.
by a regard to interest; and this motive, on II.
the first formation of society, is sufficiently Of the ori-
strong and forcible. But when society has gin of ju-
become numerous, and has encreas'd to a stice and
tribe or nation, this interest is more remote; property.
nor do men so readily perceive, that disorder and confusion follow upon every breach of these rules, as in a more narrow and contracted society. But tho' in our own actions we may frequently lose sight of that interest, which we have in maintaining order, and may follow a lesser and more present interest, we never fail to observe the prejudice we receive, either mediately or immediately, from the injustice of others; as not being in that case either blinded by passion, or byas'd by any contrary temptation. Nay when the injustice is so distant from us, as no way to affect our interest, it still displeases us; because we consider it as prejudicial to human society, and pernicious to every one that approaches the person guilty of it. We partake of their uneasiness by *sympathy*; and as every thing, which gives uneasiness in human actions, upon the general survey, is call'd Vice, and whatever produces satisfaction, in the same manner, is denominated Virtue; this is the reason why the sense of moral good and evil follows upon justice and injustice. And tho' this sense, in
the

PART. the present case, be deriv'd only from contemplating the actions of others, yet we fail not to extend it even to our own actions.

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*Of justice
and injustice.*

The *general rule* reaches beyond those instances, from which it arose; while at the same time we naturally *sympathize* with others in the sentiments they entertain of us. *Thus self-interest is the original motive to the establishment of justice: but a sympathy with public interest is the source of the moral approbation, which attends that virtue.*

THO' this progress of the sentiments be *natural*, and even necessary, 'tis certain, that it is here forwarded by the artifice of politicians, who, in order to govern men more easily, and preserve peace in human society, have endeavour'd to produce an esteem for justice, and an abhorrence of injustice. This, no doubt, must have its effect; but nothing can be more evident, than that the matter has been carry'd too far by certain writers on morals, who seem to have employ'd their utmost efforts to extirpate all sense of virtue from among mankind. Any artifice of politicians may assist nature in the producing of those sentiments, which she suggests to us, and may even on some occasions, produce alone an approbation or esteem for any particular action; but 'tis impossible it should be the sole cause of the distinction we make betwixt vice and virtue.

For



For if nature did not aid us in this particular, 'twou'd be in vain for politicians to talk of *honourable* or *dishonourable*, *praiseworthy* or *blameable*. These words wou'd be perfectly unintelligible, and wou'd no more have any idea annex'd to them, than if they were of a tongue perfectly unknown to us. The utmost politicians can perform, is, to extend the natural sentiments beyond their original bounds; but still nature must furnish the materials, and give us some notion of moral distinctions.

S E C T.

II.

Of the origin of justice and property.

As publick praise and blame encrease our esteem for justice; so private education and instruction contribute to the same effect. For as parents easily observe, that a man is the more useful, both to himself and others, the greater degree of probity and honour he is endow'd with; and that those principles have greater force, when custom and education assist interest and reflection: For these reasons they are induc'd to inculcate on their children, from their earliest infancy, the principles of probity, and teach them to regard the observance of those rules, by which society is maintain'd, as worthy and honourable, and their violation as base and infamous. By this means the sentiments of honour may take root in their tender minds,

and

PART and acquire such firmness and solidity, that
 II. they may fall little short of those principles,
 which are the most essential to our natures,
 and the most deeply radicated in our internal
 constitution.

*Of justice
 and injustice.*

WHAT farther contributes to encrease their solidity, is the interest of our reputation, after the opinion, *that a merit or demerit attends justice or injustice*, is once firmly establish'd among mankind. There is nothing, which touches us more nearly than our reputation, and nothing on which our reputation more depends than our conduct, with relation to the property of others. For this reason, every one, who has any regard to his character, or who intends to live on good terms with mankind, must fix an inviolable law to himself, never, by any temptation, to be induc'd to violate those principles, which are essential to a man of probity and honour.

I SHALL make only one observation before I leave this subject, *viz.* that tho' I assert, that in the *state of nature*, or that imaginary state, which preceded society, there be neither justice nor injustice, yet I assert not, that it was allowable, in such a state, to violate the property of others. I only maintain, that there was no such thing as property; and consequently cou'd be no such thing

thing as justice or injustice. I shall have oc- S E C T.
 casion to make a similar reflection with re- II.
 gard to *promises*, when I come to treat of *Of the ori-*
 them; and I hope this reflection, when duly *gin of ju-*
 weigh'd, will suffice to remove all odium *stice and*
 from the foregoing opinions, with regard to *property.*
 justice and injustice.

S E C T. III.
*Of the rules, which determine
 property.*

T H O' the establishment of the rule, S E C T.
 concerning the stability of possession, III.
 be not only useful, but even absolutely ne-
 cessary to human society, it can never serve
 to any purpose, while it remains in such ge-
 neral terms. Some method must be shewn,
 by which we may distinguish what particular
 goods are to be assign'd to each particular per-
 son, while the rest of mankind are excluded
 from their possession and enjoyment. Our
 next business, then, must be to discover the
 reasons which modify this general rule, and
 fit it to the common use and practice of the
 world.

'TIS obvious, that those reasons are not
 deriv'd from any utility or advantage, which
 either

PART II. either the *particular* person or the public may reap from his enjoyment of any *particular* goods, beyond what wou'd result from the possession of them by any other person.

Of justice and injustice.

'Twere better, no doubt, that every one were possess'd of what is most suitable to him, and proper for his use: But besides, that this relation of fitness may be common to several at once, 'tis liable to so many controversies, and men are so partial and passionate in judging of these controversies, that such a loose and uncertain rule wou'd be absolutely incompatible with the peace of human society. The convention concerning the stability of possession is enter'd into, in order to cut off all occasions of discord and contention; and this end wou'd never be attain'd, were we allow'd to apply this rule differently in every particular case, according to every particular utility, which might be discover'd in such an application. Justice, in her decisions, never regards the fitness or unfitness of objects to particular persons, but conducts herself by more extensive views. Whether a man be generous, or a miser, he is equally well receiv'd by her, and obtains with the same facility a decision in his favours, even for what is entirely useless to him.

IT



It follows, therefore, that the general SECT.
 rule, *that possession must be stable*, is not ap- III.
 ply'd by particular judgments, but by other Of the
 general rules, which must extend to the rules,
 whole society, and be inflexible either by which de-
 spite or favour. To illustrate this, I propose termine
 the following instance. I first consider men property.

I first consider men in their savage and solitary condition; and suppose, that being sensible of the misery of that state, and foreseeing the advantages that wou'd result from society, they seek each other's company, and make an offer of mutual protection and assistance. I also suppose, that they are endow'd with such sagacity as immediately to perceive, that the chief impediment to this project of society and partnership lies in the avidity and selfishness of their natural temper; to remedy which, they enter into a convention for the stability of possession, and for mutual restraint and forbearance. I am sensible, that this method of proceeding is not altogether natural; but besides that I here only suppose those reflections to be form'd at once, which in fact arise insensibly and by degrees; besides this, I say, 'tis very possible, that several persons, being by different accidents separated from the societies, to which they formerly belong'd, may be oblig'd to form a new society

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PART among themselves; in which case they are
 II. entirely in the situation above-mention'd.

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 and inju-
 stice.*

'TIS evident, then, that their first difficulty, in this situation, after the general convention for the establishment of society, and for the constancy of possession, is, how to separate their possessions, and assign to each his particular portion, which he must for the future inalterably enjoy. This difficulty will not detain them long; but it must immediately occur to them, as the most natural expedient, that every one continue to enjoy what he is at present master of, and that property or constant possession be conjoin'd to the immediate possession. Such is the effect of custom, that it not only reconciles us to any thing we have long enjoy'd, but even gives us an affection for it, and makes us prefer it to other objects, which may be more valuable, but are less known to us. What has long lain under our eye, and has often been employ'd to our advantage, *that* we are always the most unwilling to part with; but can easily live without possessions, which we never have enjoy'd, and are not accustom'd to. 'Tis evident, therefore, that men wou'd easily acquiesce in this expedient, *that every one continue to enjoy what he is at present possess'd of;*
 and



and this is the reason, why they wou'd so S E C T.
naturally agree in preferring it ^a.

III.

BUT we may observe, that tho' the rule
of the assignment of property to the present
possessor be natural, and by that means use-
ful,

*Of the
rules,
which de-
termine
property.*

G 2

^a No questions in philosophy are more difficult, than when a number of causes present themselves for the same phenomenon, to determine which is the principal and predominant. There seldom is any very precise argument to fix our choice, and men must be contented to be guided by a kind of taste or fancy, arising from analogy, and a comparison of similar instances. Thus, in the present case, there are, no doubt, motives of public interest for most of the rules, which determine property; but still I suspect, that these rules are principally fix'd by the imagination, or the more frivolous properties of our thought and conception. I shall continue to explain these causes, leaving it to the reader's choice, whether he will prefer those deriv'd from publick utility, or those deriv'd from the imagination. We shall begin with the right of the present possessor.

'Tis a quality, which (a) I have already observ'd in human nature, that when two objects appear in a close relation to each other, the mind is apt to ascribe to them any additional relation, in order to compleat the union; and this inclination is so strong, as often to make us run into errors (such as that of the conjunction of thought and matter) if we find that they can serve to that purpose. Many of our impressions are incapable of place or local position; and yet those very impressions we suppose to have a local conjunction with the impressions of sight and touch, merely because they are conjoin'd by causation, and are already united in the imagination. Since, therefore, we can feign a new relation, and even an absurd one, in order to compleat any union, 'twill easily be imagin'd, that if there be any relations, which depend on the mind, 'twill readily conjoin them to any preceding relation, and unite, by a new bond, such objects as have already an union in the fancy. Thus for instance, we never fail, in our arrangement of bodies, to place those which are *resembling* in *contiguity* to each other, or at least in *cor-*
respondent

(a) *Book I. Part IV. Sect. 5.*

PART II. *Of justice and injustice.* ful, yet its utility extends not beyond the first formation of society; nor wou'd any thing be more pernicious, than the constant observance of it; by which restitution wou'd be excluded, and every injustice wou'd be authoriz'd and rewarded. We must, therefore, seek for some other circumstance, that may give rise to property after society is once establish'd; and of this kind, I find four most considerable, *viz.* Occupation, Prescription, Accession, and Succession. We shall

respondent points of view; because we feel a satisfaction in joining the relation of contiguity to that of resemblance, or the resemblance of situation to that of qualities. And this is easily accounted for from the known properties of human nature. When the mind is determin'd to join certain objects, but undetermin'd in its choice of the particular objects, it naturally turns its eye to such as are related together. They are already united in the mind: They present themselves at the same time to the conception; and instead of requiring any new reason for their conjunction, it wou'd require a very powerful reason to make us over-look this natural affinity. This we shall have occasion to explain more fully afterwards, when we come to treat of *beauty*. In the mean time, we may content ourselves with observing, that the same love of order and uniformity, which arranges the books in a library, and the chairs in a parlour, contribute to the formation of society, and to the well-being of mankind, by modifying the general rule concerning the stability of possession. And as property forms a relation betwixt a person and an object, 'tis natural to find it on some preceding relation; and as property is nothing but a constant possession, secur'd by the laws of society, 'tis natural to add it to the present possession, which is a relation that resembles it. For this also has its influence. If it be natural to conjoin all sorts of relations, 'tis more so, to conjoin such relations as are resembling, and are related together.

briefly

briefly examine each of these, beginning SECT.
with *Occupation*. III.

THE possession of all external goods is ^{Of the} changeable and uncertain; which is one of ^{rules,} the most considerable impediments to the ^{which de-} establishment of society, and is the reason ^{termine} why, by universal agreement, express or tacite, men restrain themselves by what we now call the rules of justice and equity. The misery of the condition, which precedes this restraint, is the cause why we submit to that remedy as quickly as possible; and this affords us an easy reason, why we annex the idea of property to the first possession, or to *occupation*. Men are unwilling to leave property in suspense, even for the shortest time, or open the least door to violence and disorder. To which we may add, that the first possession always engages the attention most; and did we neglect it, there wou'd be no colour of reason for assigning property to any succeeding possession^b.

G 3

THERE

^b Some philosophers account for the right of occupation, by saying, that every one has a property in his own labour; and when he joins that labour to any thing, it gives him the property of the whole: But, 1. There are several kinds of occupation, where we cannot be said to join our labour to the object we acquire: As when we possess a meadow by grazing our cattle upon it. 2. This accounts for the matter by means of *accession*; which is taking a needless circuit. 3. We cannot be said to join our labour to any thing
but

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II.

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and inju-
stice.*

THERE remains nothing, but to determine exactly, what is meant by possession; and this is not so easy as may at first sight be imagin'd. We are said to be in possession of any thing, not only when we immediately touch it, but also when we are so situated with respect to it, as to have it in our power to use it; and may move, alter, or destroy it, according to our present pleasure or advantage. This relation, then, is a species of cause and effect; and as property is nothing but a stable possession, deriv'd from the rules of justice, or the conventions of men, 'tis to be consider'd as the same species of relation. But here we may observe, that as the power of using any object becomes more or less certain, according as the interruptions we may meet with are more or less probable; and as this probability may increase by insensible degrees; 'tis in many cases impossible to determine when possession begins or ends; nor is there any certain standard, by which we can decide such controversies. A wild boar, that falls into our snares, is deem'd to be in our possession, if

but in a figurative sense. Properly speaking, we only make an alteration on it by our labour. This forms a relation betwixt us and the object; and thence arises the property, according to the preceding principles.

if

it be impossible for him to escape. But SECT.
 what do we mean by impossible? How do III.
 we separate this impossibility from an impro- Of the
 bability? And how distinguish that exactly rules,
 from a probability? Mark the precise limits which de-
 of the one and the other, and shew the termine
 standard, by which we may decide all dis- property.
 putes that may arise, and, as we find by ex-
 perience, frequently do arise upon this sub-
 ject ^c. G 4 BUT

^c If we seek a solution of these difficulties in reason and public interest, we never shall find satisfaction; and if we look for it in the imagination, 'tis evident, that the qualities, which operate upon that faculty, run so insensibly and gradually into each other, that 'tis impossible to give them any precise bounds or termination. The difficulties on this head must encrease, when we consider, that our judgment alters very sensibly, according to the subject, and that the same power and proximity will be deem'd possession in one case, which is not esteem'd such in another. A person, who has hunted a hare to the last degree of weariness, wou'd look upon it as an injustice for another to rush in before him, and seize his prey. But the same person, advancing to pluck an apple, that hangs within his reach, has no reason to complain, if another, more alert, passes him, and takes possession. What is the reason of this difference, but that immobility, not being natural to the hare, but the effect of industry, forms in that case a strong relation with the hunter, which is wanting in the other?

Here then it appears, that a certain and infallible power of enjoyment, without touch or some other sensible relation, often produces not property: And I farther observe, that a sensible relation, without any present power, is sometimes sufficient to give a title to any object. The sight of a thing is seldom a considerable relation, and is only regarded as such, when the object is hidden, or very obscure; in which case we find, that the view alone conveys a property; according to that maxim, *that even a whole continent belongs to the nation, which first discover'd it.* 'Tis however remarkable, that

PART II. BUT such disputes may not only arise concerning the real existence of property and possession, but also concerning their extent ; and these disputes are often susceptible of no decision, or can be decided by no other faculty than the imagination. A person who lands on the shore of a small island, that is desert and uncultivated, is deem'd its possessor from the very first moment, and acquires the

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and in-
justice.

that both in the case of discovery and that of possession, the first discoverer and possessor must join to the relation an intention of rendering himself proprietor, otherwise the relation will not have its effect ; and that because the connexion in our fancy betwixt the property and the relation is not so great, but that it requires to be help'd by such an intention.

From all these circumstances, 'tis easy to see how perplex'd many questions may become concerning the acquisition of property by occupation ; and the least effort of thought may present us with instances, which are not susceptible of any reasonable decision. If we prefer examples, which are real, to such as are feign'd, we may consider the following one, which is to be met with in almost every writer, that has treated of the laws of nature. Two *Grecian* colonies, leaving their native country, in search of new seats, were inform'd that a city near them was deserted by its inhabitants. To know the truth of this report, they dispatch'd at once two messengers, one from each colony ; who finding on their approach, that their information was true, began a race together with an intention to take possession of the city, each of them for his countrymen. One of these messengers, finding that he was not an equal match for the other, launch'd his spear at the gates of the city, and was so fortunate as to fix it there before the arrival of his companion. This produc'd a dispute betwixt the two colonies, which of them was the proprietor of the empty city ; and this dispute still subsists among philosophers. For my part I find the dispute impossible to be decided, and that because the whole question hangs upon the fancy, which in this case is not possess'd of any precise or determinate standard, upon which it can give sentence.

the property of the whole; because the ob-
 ject is there bounded and circumscrib'd in
 the fancy, and at the same time is propor-
 tion'd to the new possessor. The same per-
 son landing on a desert island, as large as
Great Britain, extends his property no far-
 ther than his immediate possession; tho' a
 numerous colony are esteem'd the proprietors
 of the whole from the instant of their de-
 barkment.

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 rules,
 which de-
 termine
 property.

BUT it often happens, that the title of
 first possession becomes obscure thro' time;
 and that 'tis impossible to determine many
 controversies, which may arise concerning it.
 In that case long possession or *prescription* na-
 turally takes place, and gives a person a suf-
 ficient property in any thing he enjoys. The

tence. To make this evident, let us consider, that if these
 two persons had been simply members of the colonies, and
 not messengers or deputies, their actions wou'd not have been
 of any consequence; since in that case their relation to the
 colonies wou'd have been but feeble and imperfect. Add to
 this, that nothing determin'd them to run to the gates rather
 than the walls, or any other part of the city, but that the
 gates, being the most obvious and remarkable part, satisfy the
 fancy best in taking them for the whole; as we find by the
 poets, who frequently draw their images and metaphors from
 them. Besides we may consider, that the touch or contact of
 the one messenger is not properly possession, no more than
 the piercing the gates with a spear; but only forms a rela-
 tion; and there is a relation, in the other case, equally ob-
 vious, tho' not, perhaps, of equal force. Which of these
 relations, then, conveys a right and property, or whether any
 of them be sufficient for that effect, I leave to the decision of
 such as are wiser than myself.

nature

PART nature of human society admits not of any
 II. great accuracy ; nor can we always remount
Of justice and injustice. to the first origin of things, in order to determine their present condition. Any considerable space of time sets objects at such a distance, that they seem, in a manner, to lose their reality, and have as little influence on the mind, as if they never had been in being. A man's title, that is clear and certain at present, will seem obscure and doubtful fifty years hence, even tho' the facts, on which it is founded, shou'd be prov'd with the greatest evidence and certainty. The same facts have not the same influence after so long an interval of time. And this may be receiv'd as a convincing argument for our preceding doctrine with regard to property and justice. Possession during a long tract of time conveys a title to any object. But as 'tis certain, that, however every thing be produc'd in time, there is nothing real, that is produc'd by time ; it follows, that property being produc'd by time, is not any thing real in the objects, but is the offspring of the sentiments, on which alone time is found to have any influence ^d. WE

^d Present possession is plainly a relation betwixt a person and an object ; but is not sufficient to counter-balance the relation of first possession, unless the former be long and uninterrupted : In which case the relation is encreas'd on the side of the present

WE acquire the property of objects by *ac-* S E C T.
cession, when they are connected in an inti- III.
 mate manner with objects that are already *Of the*
 our property, and at the same time are infe- *rules,*
 rior to them. Thus the fruits of our garden, *which de-*
 the offspring of our cattle, and the work of *termine*
 our slaves, are all of them esteem'd our pro- *property.*
 perty, even before possession. Where ob-
 jects are connected together in the imagina-
 tion, they are apt to be put on the same
 footing, and are commonly suppos'd to be
 endow'd with the same qualities. We readily
 pass from one to the other, and make no
 difference in our judgments concerning them;
 especially if the latter be inferior to the for-
 mer ^c.

THE

present possession, by the extent of time, and diminish'd on that of first possession, by the distance. This change in the relation produces a consequent change in the property.

^c This source of property can never be explain'd but from the imaginations; and one may affirm, that the causes are here unmix'd. We shall proceed to explain them more particularly, and illustrate them by examples from common life and experience.

It has been observ'd above, that the mind has a natural propensity to join relations, especially resembling ones, and finds a kind of fitness and uniformity in such an union. From this propensity are deriv'd these laws of nature, *that upon the first formation of society, property always follows the present possession*; and afterwards, *that it arises from first or from long possession*. Now we may easily observe, that relation is not confin'd merely to one degree; but that from an object, that is related to us, we acquire a relation to every other object, which is related to it, and so on, till the thought loses the chain by too long a progress. However the relation may
 weaken

PART THE right of *succession* is a very natural
 II. one, from the presum'd consent of the pa-
 rent or near relation, and from the general
 interest of mankind, which requires, that
 men's

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 stice.

weaken by each remove, 'tis not immediately destroy'd; but frequently connects two objects by means of an intermediate one, which is related to both. And this principle is of such force as to give rise to the right of *accession*, and causes us to acquire the property not only of such objects as we are immediately possess'd of, but also of such as are closely connected with them.

Suppose a *German*, a *Frenchman*, and a *Spaniard* to come into a room, where there are plac'd upon the table three bottles of wine, *Rhenish*, *Burgundy* and *Port*; and suppose they shou'd fall a quarrelling about the division of them; a person, who was chosen for umpire, wou'd naturally, to shew his impartiality, give every one the product of his own country: And this from a principle, which, in some measure, is the source of those laws of nature, that ascribe property to occupation, prescription and accession.

In all these cases, and particularly that of accession, there is first a *natural* union betwixt the idea of the person and that of the object, and afterwards a new and *moral* union produc'd by that right or property, which we ascribe to the person. But here there occurs a difficulty, which merits our attention, and may afford us an opportunity of putting to tryal that singular method of reasoning, which has been employ'd on the present subject. I have already observ'd, that the imagination passes with greater facility from little to great, than from great to little, and that the transition of ideas is always easier and smoother in the former case than in the latter. Now as the right of accession arises from the easy transition of ideas, by which related objects are connected together, it shou'd naturally be imagin'd, that the right of accession must encrease in strength, in proportion as the transition of ideas is perform'd with greater facility. It may, therefore, be thought, that when we have acquir'd the property of any small object, we shall readily consider any great object related to it as an accession, and as belonging to the proprietor of the small one; since the transition is in that case very easy from the small object to the great one, and shou'd connect them together in the closest manner. But in fact the case is always found to be

men's possessions shou'd pass to those, who are dearest to them, in order to render them more industrious and frugal. Perhaps these

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III.

causes are seconded by the influence of *relation* Of the rules, which determine property.

be otherwise. The empire of *Great Britain* seems to draw along with it the dominion of the *Orkneys*, the *Hebrides*, the isle of *Man*, and the isle of *Wight*; but the authority over those lesser islands does not naturally imply any title to *Great Britain*. In short, a small object naturally follows a great one as its accession; but a great one is never suppos'd to belong to the proprietor of a small one related to it, merely on account of that property and relation. Yet in this latter case the transition of ideas is smoother from the proprietor to the small object, which is his property, and from the small object to the great one, than in the former case from the proprietor to the great object, and from the great one to the small. It may therefore be thought, that these phenomena are objections to the foregoing hypothesis, *that the ascribing of property to accession is nothing but an affect of the relations of ideas, and of the smooth transition of the imagination.*

'Twill be easy to solve this objection, if we consider the agility and unsteadiness of the imagination, with the different views, in which it is continually placing its objects. When we attribute to a person a property in two objects, we do not always pass from the person to one object, and from that to the other related to it. The objects being here to be consider'd as the property of the person, we are apt to join them together, and place them in the same light. Suppose, therefore, a great and a small object to be related together; if a person be strongly related to the great object, he will likewise be strongly related to both the objects, consider'd together, because he is related to the most considerable part. On the contrary, if he be only related to the small object, he will not be strongly related to both, consider'd together, since his relation lies only with the most trivial part, which is not apt to strike us in any great degree, when we consider the whole. And this is the reason, why small objects become accessions to great ones, and not great to small.

'Tis the general opinion of philosophers and civilians, that the sea is incapable of becoming the property of any nation; and that because 'tis impossible to take possession of it, or form any such distinct relation with it, as may be the foundation of property.



PART *tion*, or the association of ideas, by which we
 II. are naturally directed to consider the son af-
 ter the parent's decease, and ascribe to him a
 title to his father's possessions. Those goods
 must

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 and inju-
 stice.*

property. Where this reason ceases, property immediately takes place. Thus the most strenuous advocates for the liberty of the seas universally allow, that friths and bays naturally belong as an accession to the proprietors of the surrounding continent. These have properly no more bond or union with the land, than the *pacific* ocean wou'd have; but having an union in the fancy, and being at the same time *inferior*, they are of course regarded as an accession.

The property of rivers, by the laws of most nations, and by the natural turn of our thought, is attributed to the proprietors of their banks, excepting such vast rivers as the *Rhine* or the *Danube*, which seem too large to the imagination to follow as an accession the property of the neighbouring fields. Yet even these rivers are consider'd as the property of that nation, thro' whose dominions they run; the idea of a nation being of a suitable bulk to correspond with them, and bear them such a relation in the fancy.

The accessions, which are made to lands bordering upon rivers, follow the land, say the civilians, provided it be made by what they call *alluvion*, that is, insensibly and imperceptibly; which are circumstances that mightily assist the imagination in the conjunction. Where there is any considerable portion torn at once from one bank, and join'd to another, it becomes not his property, whose land it falls on, till it unite with the land, and till the trees or plants have spread their roots into both. Before that, the imagination does not sufficiently join them.

There are other cases, which somewhat resemble this of accession, but which, at the bottom, are considerably different, and merit our attention. Of this kind is the conjunction of the properties of different persons, after such a manner as not to admit of *separation*. The question is, to whom the united mass must belong.

Where this conjunction is of such a nature as to admit of *division*, but not of *separation*, the decision is natural and easy. The whole mass must be suppos'd to be common betwixt the proprietors of the several parts, and afterwards must be divided according to the proportions of these parts. But
 here

must become the property of some body: SECT.
But *of whom* is the question. Here 'tis evi- III.

dent the persons children naturally present
them- Of the
rules,
which de-
termine
property.

here I cannot forbear taking notice of a remarkable subtilty of the *Roman* law, in distinguishing betwixt *confusion* and *commixtion*. *Confusion* is an union of two bodies, such as different liquors, where the parts become entirely undistinguishable. *Commixtion* is the blending of two bodies, such as two bushels of corn, where the parts remain separate in an obvious and visible manner. As in the latter case the imagination discovers not so entire an union as in the former, but is able to trace and preserve a distinct idea of the property of each; this is the reason, why the *civil* law, tho' it establish'd an entire community in the case of *confusion*, and after that a proportional division, yet in the case of *commixtion*, supposes each of the proprietors to maintain a distinct right; however necessity may at last force them to submit to the same division.

Quod si frumentum Titii frumento tuo mistum fuerit: siquidem ex voluntate vestra, commune est: quia singula corpora, id est, singula grana, quæ cujusque propria fuerunt, ex consensu vestro communicata sunt. Quod si casu id mistum fuerit, vel Titius id miscuerit sine tua voluntate, non videtur id commune esse; quia singula corpora in sua substantia durant. Sed nec magis istis casibus commune sit frumentum quam grex intelligitur esse communis, si pecora Titii tuis pecoribus mista fuerint. Sed si ab alterutro vestrum totum id frumentum retineatur, in rem quidem actio pro modo frumenti cujusque competit. Arbitrio autem judicis, ut ipse aestimet quale cujusque frumentum fuerit. Inst. Lib. II. Tit. 1. §. 28.

Where the properties of two persons are united after such a manner as neither to admit of *division* nor *separation*, as when one builds a house on another's ground, in that case, the whole must belong to one of the proprietors: And here I assert, that it naturally is conceiv'd to belong to the proprietor of the most considerable part. For however the compound object may have a relation to two different persons, and carry our view at once to both of them, yet as the most considerable part principally engages our attention, and by the strict union draws the inferior along it; for this reason, the whole bears a relation to the proprietor of that part, and is regarded as his property. The only difficulty is, what we shall be pleas'd to call the most considerable part, and most attractive to the imagination. This

PART themselves to the mind; and being already
 II. connected to those possessions by means of
 their

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 stice.*

This quality depends on several different circumstances, which have little connexion with each other. One part of a compound object may become more considerable than another, either because it is more constant and durable; because it is of greater value; because it is more obvious and remarkable; because it is of greater extent; or because its existence is more separate and independent. 'Twill be easy to conceive, that, as these circumstances may be conjoin'd and oppos'd in all the different ways, and according to all the different degrees, which can be imagin'd, there will result many cases, where the reasons on both sides are so equally ballanc'd, that 'tis impossible for us to give any satisfactory decision. Here then is the proper business of municipal laws, to fix what the principles of human nature have left undetermin'd,

The superficies yields to the soil, says the civil law: The writing to the paper: The canvas to the picture. These decisions do not well agree together, and are a proof of the contrariety of those principles, from which they are deriv'd.

But of all the questions of this kind the most curious is that, which for so many ages divided the disciples of *Proculus* and *Sabinus*. Suppose a person shou'd make a cup from the metal of another, or a ship from his wood, and suppose the proprietor of the metal or wood shou'd demand his goods, the question is, whether he acquires a title to the cup or ship. *Sabinus* maintain'd the affirmative, and asserted that the substance or matter is the foundation of all the qualities; that it is incorruptible and immortal, and therefore superior to the form, which is casual and dependent. On the other hand, *Proculus* observ'd, that the form is the most obvious and remarkable part, and that from it bodies are denominat'd of this or that particular species. To which he might have added, that the matter or substance is in most bodies so fluctuating and uncertain, that 'tis utterly impossible to trace it in all its changes. For my part, I know not from what principles such a controversy can be certainly determin'd. I shall therefore content my self with observing, that the decision of *Trebonian* seems to me pretty ingenious; that the cup belongs to the proprietor of the metal, because it can be brought back to its first form: But that the ship belongs to the author of its form for a contrary reason. But however ingenious this reason

their deceas'd parent, we are apt to connect SECT.
 them still farther by the relation of property. III.

Of this there are many parallel instances^f.

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 rules
 which de-
 termine
 property.*

son may seem, it plainly depends upon the fancy, which by the possibility of such a reduction, finds a closer connexion and relation betwixt a cup and the proprietor of its metal, than betwixt a ship and the proprietor of its wood, where the substance is more fix'd and unalterable.

^f In examining the different titles to authority in government, we shall meet with many reasons to convince us, that the right of succession depends, in a great measure on the imagination. Mean while I shall rest contented with observing one example, which belongs to the present subject. Suppose that a person die without children, and that a dispute arises among his relations concerning his inheritance; 'tis evident, that if his riches be deriv'd partly from his father, partly from his mother, the most natural way of determining such a dispute, is, to divide his possessions, and assign each part to the family, from whence it is deriv'd. Now as the person is suppos'd to have been once the full and entire proprietor of those goods; I ask, what is it makes us find a certain equity and natural reason in this partition, except it be the imagination? His affection to these families does not depend upon his possessions; for which reason his consent can never be presum'd precisely for such a partition. And as to the public interest, it seems not to be in the least concern'd on the one side or the other.

H

SECT.



S E C T. IV.

Of the transference of property by consent.

S E C T. IV. **H**OWEVER useful, or even necessary, the stability of possession may be to human society, 'tis attended with very considerable inconveniences. The relation of fitness or suitableness ought never to enter into consideration, in distributing the properties of mankind; but we must govern ourselves by rules, which are more general in their application, and more free from doubt and uncertainty. Of this kind is *present* possession upon the first establishment of society; and afterwards *occupation*, *prescription*, *accession*, and *succession*. As these depend very much on chance, they must frequently prove contradictory both to men's wants and desires; and persons and possessions must often be very ill adjusted. This is a grand inconvenience, which calls for a remedy. To apply one directly, and allow every man to seize by violence what he judges to be fit for him, wou'd destroy society; and therefore the rules of justice seek

seek some medium betwixt a rigid stability, S E C T.
 and this changeable and uncertain adjust- IV.
 ment. But there is no medium better than
 that obvious one, that possession and pro- *Of the*
 perty shou'd always be stable, except when *transfe-*
 the proprietor consents to bestow them on *rence of pro-*
 some other person. This rule can have no *perty by*
 ill consequence, in occasioning wars and *consent.*
 dissensions; since the proprietor's consent,
 who alone is concern'd, is taken along in
 the alienation: And it may serve to many
 good purposes in adjusting property to per-
 sons. Different parts of the earth produce
 different commodities; and not only so, but
 different men both are by nature fitted for
 different employments, and attain to greater
 perfection in any one, when they confine
 themselves to it alone. All this requires a
 mutual exchange and commerce; for which
 reason the translation of property by consent
 is founded on a law of nature, as well as its
 stability without such a consent.

So far is determin'd by a plain utility and
 interest. But perhaps 'tis from more trivial
 reasons, that *delivery*, or a sensible trans-
 ference of the object is commonly requir'd
 by civil laws, and also by the laws of na-
 ture, according to most authors, as a requi-
 site circumstance in the translation of pro-
 perty.



PART perty. The property of an object, when
 II. taken for something real, without any re-
 Of justice ference to morality, or the sentiments of the
 and inju- mind, is a quality perfectly insensible, and
 stice. even inconceivable; nor can we form any
 distinct notion, either of its stability or
 translation. This imperfection of our ideas
 is less sensibly felt with regard to its stability,
 as it engages less our attention, and is easily
 past over by the mind, without any scrupulous
 examination. But as the translation
 of property from one person to another is a
 more remarkable event, the defect of our
 ideas becomes more sensible on that occa-
 sion, and obliges us to turn ourselves on
 every side in search of some remedy. Now
 as nothing more enlivens any idea than a
 present impression, and a relation betwixt
 that impression and the idea; 'tis natural for
 us to seek some false light from this quarter.
 In order to aid the imagination in conceiving
 the transference of property, we take the
 sensible object, and actually transfer its pos-
 session to the person, on whom we wou'd
 bestow the property. The suppos'd resem-
 blance of the actions, and the presence of
 this sensible delivery, deceive the mind, and
 make it fancy, that it conceives the myste-
 rious transition of the property. And that
 this

this explication of the matter is just, appears S E C T. hence, that men have invented a *symbolical* IV. delivery, to satisfy the fancy, where the real one is impracticable. Thus the giving the keys of a granary is understood to be the delivery of the corn contain'd in it: Of the transference of property by consent.

The giving of stone and earth represents the delivery of a manor. This is a kind of superstitious practice in civil laws, and in the laws of nature, resembling the *Roman catholic* superstitions in religion. As the *Roman catholics* represent the inconceivable mysteries of the *Christian* religion, and render them more present to the mind, by a taper, or habit, or grimace, which is suppos'd to resemble them; so lawyers and moralists have run into like inventions for the same reason, and have endeavour'd by those means to satisfy themselves concerning the transference of property by consent.

S E C T. V.

Of the obligation of promises.

THAT the rule of morality, which enjoins the performance of promises, is not *natural*, will sufficiently appear from

PART these two propositions, which I proceed to

II. prove, viz. *that a promise wou'd not be intelligible, before human conventions had establis'd it; and that even if it were intelligible, it wou'd not be attended with any moral obligation.*

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and inju-
stice.*

I SAY, *first*, that a promise is not intelligible naturally, nor antecedent to human conventions; and that a man, unacquainted with society, could never enter into any engagements with another, even tho' they could perceive each other's thoughts by intuition. If promises be natural and intelligible, there must be some act of the mind attending these words, *I promise*; and on this act of the mind must the obligation depend. Let us, therefore, run over all the faculties of the soul, and see which of them is exerted in our promises.

THE act of the mind, express'd by a promise, is not a *resolution* to perform any thing: For that alone never imposes any obligation. Nor is it a *desire* of such a performance: For we may bind ourselves without such a desire, or even with an aversion, declar'd and avow'd. Neither is it the *will* of that action, which we promise to perform: For a promise always regards some future time, and the will has an influence
only



only on present actions. It follows, there-
 fore, that since the act of the mind, which
 enters into a promise, and produces its obli-
 gation, is neither the resolving, desiring, nor
 willing any particular performance, it must
 necessarily be the *willing* of that *obligation*,
 which arises from the promise. Nor is this
 only a conclusion of philosophy; but is en-
 tirely conformable to our common ways of
 thinking and of expressing ourselves, when
 we say that we are bound by our own con-
 sent, and that the obligation arises from our
 mere will and pleasure. The only question,
 then, is, whether there be not a manifest
 absurdity in supposing this act of the mind,
 and such an absurdity as no man could fall
 into, whose ideas are not confounded with
 prejudice and the fallacious use of language.

ALL morality depends upon our senti-
 ments; and when any action, or quality of
 the mind, pleases us *after a certain man-
 ner*, we say it is virtuous; and when the
 neglect, or non-performance of it, displeases
 us *after a like manner*, we say that we lie
 under an obligation to perform it. A change
 of the obligation supposes a change of the
 sentiment; and a creation of a new obliga-
 tion supposes some new sentiment to arise.
 But 'tis certain we can naturally no more

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 V.
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 ligation of
 promises.



PART change our own sentiments, than the motions of the heavens; nor by a single act of our will, that is, by a promise, render any action agreeable or disagreeable, moral or immoral; which, without that act, wou'd have produc'd contrary impressions, or have been endow'd with different qualities. It wou'd be absurd, therefore, to will any new obligation, that is, any new sentiment of pain or pleasure; nor is it possible, that men cou'd naturally fall into so gross an absurdity. A promise, therefore, is *naturally* something altogether unintelligible, nor is there any act of the mind belonging to it^a.

BUT

^a Were morality discoverable by reason, and not by sentiment, 'twou'd be still more evident, that promises cou'd make no alteration upon it. Morality is suppos'd to consist in relation. Every new imposition of morality, therefore, must arise from some new relation of objects; and consequently the will cou'd not produce *immediately* any change in morals, but cou'd have that effect only by producing a change upon the objects. But as the moral obligation of a promise is the pure effect of the will, without the least change in any part of the universe; it follows, that promises have no *natural* obligation.

Shou'd it be said, that this act of the will being in effect a new object, produces new relations and new duties; I wou'd answer, that this is a pure sophism, which may be detected by a very moderate share of accuracy and exactness. To will a new obligation, is to will a new relation of objects; and therefore, if this new relation of objects were form'd by the volition itself, we shou'd in effect will the volition; which is plainly absurd and impossible. The will has here no object to which it cou'd tend; but must return upon itself *in infinitum*. The new obligation depends upon new relations.

The

BUT, *secondly*, if there was any act of the mind belonging to it, it could not naturally produce any obligation. This appears evidently from the foregoing reasoning. A promise creates a new obligation. A new obligation supposes new sentiments to arise. The will never creates new sentiments. There could not naturally, therefore, arise any obligation from a promise, even supposing the mind could fall into the absurdity of willing that obligation.

THE same truth may be prov'd still more evidently by that reasoning, which prov'd justice in general to be an artificial virtue. No action can be requir'd of us as our duty, unless there be implanted in human nature some actuating passion or motive, capable of producing the action. This motive cannot be the sense of duty. A sense of duty supposes an antecedent obligation: And where an action is not requir'd by any natural passion, it cannot be requir'd by any natural obligation; since it may be omitted without proving

The new relations depend upon a new volition. The new volition has for object a new obligation, and consequently new relations, and consequently a new volition; which volition again has in view a new obligation, relation and volition, without any termination. 'Tis impossible, therefore, we cou'd ever will a new obligation; and consequently 'tis impossible the will cou'd ever accompany a promise, or produce a new obligation of morality.

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Of the obligation of promises.

PART proving any defect or imperfection in the
 II. mind and temper, and consequently without

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 stice.*

any vice. Now 'tis evident we have no motive leading us to the performance of promises, distinct from a sense of duty. If we thought, that promises had no moral obligation, we never shou'd feel any inclination to observe them. This is not the case with the natural virtues. Tho' there was no obligation to relieve the miserable, our humanity wou'd lead us to it; and when we omit that duty, the immorality of the omission arises from its being a proof, that we want the natural sentiments of humanity. A father knows it to be his duty to take care of his children: But he has also a natural inclination to it. And if no human creature had that inclination, no one cou'd lie under any such obligation. But as there is naturally no inclination to observe promises, distinct from a sense of their obligation; it follows, that fidelity is no natural virtue, and that promises have no force, antecedent to human conventions.

If any one dissent from this, he must give a regular proof of these two propositions, viz. *that there is a peculiar act of the mind, annexed to promises; and that consequent to this act of the mind, there arises an inclination*

inclination to perform, distinct from a sense SECT.
of duty. I presume, that it is impossible to V.
 prove either of these two points; and there- *Of the ob-*
 fore I venture to conclude, that promises are *ligation of*
 human inventions, founded on the necessities *promises.*
 and interests of society.

IN order to discover these necessities and interests, we must consider the same qualities of human nature, which we have already found to give rise to the preceding laws of society. Men being naturally selfish, or endow'd only with a confin'd generosity, they are not easily induc'd to perform any action for the interest of strangers, except with a view to some reciprocal advantage, which they had no hope of obtaining but by such a performance. Now as it frequently happens, that these mutual performances cannot be finish'd at the same instant, 'tis necessary, that one party be contented to remain in uncertainty, and depend upon the gratitude of the other for a return of kindness. But so much corruption is there among men, that, generally speaking, this becomes but a slender security; and as the benefactor is here suppos'd to bestow his favours with a view to self-interest, this both takes off from the obligation, and sets an example of selfishness, which is the true
 mother

PART mother of ingratitude. Were we, therefore,

II.

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and inju-
stice.*

to follow the natural course of our passions and inclinations, we shou'd perform but few actions for the advantage of others, from disinterested views; because we are naturally very limited in our kindness and affection: And we shou'd perform as few of that kind, out of a regard to interest; because we cannot depend upon their gratitude. Here then is the mutual commerce of good offices in a manner lost among mankind, and every one reduc'd to his own skill and industry for his well-being and subsistence. The invention of the law of nature, concerning the *stability* of possession, has already render'd men tolerable to each other; that of the *transference* of property and possession by consent has begun to render them mutually advantageous: But still these laws of nature, however strictly observ'd, are not sufficient to render them so serviceable to each other, as by nature they are fitted to become. Tho' possession be *stable*, men may often reap but small advantage from it, while they are possess'd of a greater quantity of any species of goods than they have occasion for, and at the same time suffer by the want of others. The *transference* of property, which is the proper remedy
for



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Of the obligation of promises.

for this inconvenience, cannot remedy it entirely; because it can only take place with regard to such objects as are *present* and *individual*, but not to such as are *absent* or *general*. One cannot transfer the property of a particular house, twenty leagues distant; because the consent cannot be attended with delivery, which is a requisite circumstance. Neither can one transfer the property of ten bushels of corn, or five hogheads of wine, by the mere expression and consent; because these are only general terms, and have no direct relation to any particular heap of corn, or barrels of wine. Besides, the commerce of mankind is not confin'd to the barter of commodities, but may extend to services and actions, which we may exchange to our mutual interest and advantage. Your corn is ripe to-day; mine will be to-morrow. 'Tis profitable for us both, that I shou'd labour with you to-day, and that you shou'd aid me to-morrow. I have no kindness for you, and know you have as little for me. I will not, therefore, take any pains upon your account; and should I labour with you upon my own account, in expectation of a return, I know I shou'd be disappointed, and that I shou'd in vain depend upon your gratitude. Here then I
leave



PART leave you to labour alone: You treat me in
 II. the same manner. The seasons change;
 and both of us lose our harvests for want
 of mutual confidence and security.

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 and inju-
 stice.*

ALL this is the effect of the natural and inherent principles and passions of human nature; and as these passions and principles are inalterable, it may be thought, that our conduct, which depends on them, must be so too, and that 'twou'd be in vain, either for moralists or politicians, to tamper with us, or attempt to change the usual course of our actions, with a view to public interest. And indeed, did the success of their designs depend upon their success in correcting the selfishness and ingratitude of men, they wou'd never make any progress, unless aided by omnipotence, which is alone able to new-mould the human mind, and change its character in such fundamental articles. All they can pretend to, is, to give a new direction to those natural passions, and teach us that we can better satisfy our appetites in an oblique and artificial manner, than by their headlong and impetuous motion. Hence I learn to do a service to another, without bearing him any real kindness; because I foresee, that he will return my service, in expectation of another of the same kind,

kind, and in order to maintain the same
correspondence of good offices with me or
with others. And accordingly, after I have
serv'd him, and he is in possession of the
advantage arising from my action, he is in-
duc'd to perform his part, as foreseeing the
consequences of his refusal.

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*Of the ob-
ligation of
promises.*

BUT tho' this self-interested commerce of
men begins to take place, and to predomi-
nate in society, it does not entirely abolish
the more generous and noble intercourse of
friendship and good offices. I may still do
services to such persons as I love, and am
more particularly acquainted with, without
any prospect of advantage; and they may
make me a return in the same manner, with-
out any view but that of recompensing my
past services. In order, therefore, to distinguish
those two different sorts of commerce, the
interested and the disinterested, there is a *cer-
tain form of words* invented for the former,
by which we bind ourselves to the per-
formance of any action. This form of
words constitutes what we call a *promise*,
which is the sanction of the interested com-
merce of mankind. When a man says *he
promises any thing*, he in effect expresses a
resolution of performing it; and along with
that, by making use of this *form of words*,
subjects

PART subjects himself to the penalty of never being trusted again in case of failure. A resolution is the natural act of the mind, which promises express: But were there no more than a resolution in the case, promises would only declare our former motives, and would not create any new motive or obligation. They are the conventions of men, which create a new motive, when experience has taught us, that human affairs would be conducted much more for mutual advantage, were there certain *symbols* or *signs* instituted, by which we might give each other security of our conduct in any particular incident. After these signs are instituted, whoever uses them is immediately bound by his interest to execute his engagements, and must never expect to be trusted any more, if he refuse to perform what he promis'd.

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and injustice.

NOR is that knowledge, which is requisite to make mankind sensible of this interest in the *institution* and *observance* of promises, to be esteem'd superior to the capacity of human nature, however savage and uncultivated. There needs but a very little practice of the world, to make us perceive all these consequences and advantages. The shortest experience of society discovers them to every mortal; and when each individual perceives the

the



the same sense of interest in all his fellows, he immediately performs his part of any contract, as being assur'd, that they will not be wanting in theirs. All of them, by concert, enter into a scheme of actions, calculated for common benefit, and agree to be true to their word; nor is there any thing requisite to form this concert or convention, but that every one have a sense of interest in the faithful fulfilling of engagements, and express that sense to other members of the society. This immediately causes that interest to operate upon them; and interest is the *first* obligation to the performance of promises.

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V.

Of the obligation of promises.

AFTERWARDS a sentiment of morals concurs with interest, and becomes a new obligation upon mankind. This sentiment of morality, in the performance of promises, arises from the same principles as that in the abstinence from the property of others. *Public interest, education, and the artifices of politicians,* have the same effect in both cases. The difficulties, that occur to us, in supposing a moral obligation to attend promises, we either surmount or elude. For instance; the expression of a resolution is not commonly suppos'd to be obligatory; and we cannot readily conceive how the

I

making

PART making use of a certain form of words

II. shou'd be able to cause any material difference. Here, therefore, we *feign* a new act of the mind, which we call the *willing* an obligation; and on this we suppose the morality to depend. But we have prov'd already, that there is no such act of the mind, and consequently that promises impose no natural obligation.

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stice.*

To confirm this, we may subjoin some other reflections concerning that will, which is suppos'd to enter into a promise, and to cause its obligation. 'Tis evident, that the will alone is never suppos'd to cause the obligation, but must be express'd by words or signs, in order to impose a tye upon any man. The expression being once brought in as subservient to the will, soon becomes the principal part of the promise; nor will a man be less bound by his word, tho' he secretly give a different direction to his intention, and with-hold himself both from a resolution, and from willing an obligation. But tho' the expression makes on most occasions the whole of the promise, yet it does not always so; and one, who shou'd make use of any expression, of which he knows not the meaning, and which he uses without any intention of binding himself, wou'd not certainly



certainly be bound by it. Nay, tho' he knows its meaning, yet if he uses it in jest only, and with such signs as shew evidently he has no serious intention of binding himself, he wou'd not lie under any obligation of performance; but 'tis necessary, that the words be a perfect expression of the will, without any contrary signs. Nay, even this we must not carry so far as to imagine, that one, whom, by our quickness of understanding, we conjecture, from certain signs, to have an intention of deceiving us, is not bound by his expression or verbal promise, if we accept of it; but must limit this conclusion to those cases, where the signs are of a different kind from those of deceit. All these contradictions are easily accounted for, if the obligation of promises be merely a human invention for the convenience of society; but will never be explain'd, if it be something *real* and *natural*, arising from any action of the mind or body.

I SHALL farther observe, that since every new promise imposes a new obligation of morality on the person who promises, and since this new obligation arises from his will; 'tis one of the most mysterious and incomprehensible operations that can possibly be imagin'd, and may even be compar'd to

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PART *transubstantiation, or holy orders*^a, where a certain form of words, along with a certain intention, changes entirely the nature of an external object, and even of a human creature. But tho' these mysteries be so far alike, 'tis very remarkable, that they differ widely in other particulars, and that this difference may be regarded as a strong proof of the difference of their origins. As the obligation of promises is an invention for the interest of society, 'tis warp'd into as many different forms as that interest requires, and even runs into direct contradictions, rather than lose sight of its object. But as those other monstrous doctrines are mere priestly inventions, and have no public interest in view, they are less disturb'd in their progress by new obstacles; and it must be own'd, that, after the first absurdity, they follow more directly the current of reason and good sense. Theologians clearly perceiv'd, that the external form of words, being mere sound, require an intention to make them have any efficacy; and that this intention being once consider'd as a requisite circumstance, its absence must equally prevent the effect,

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^a I mean so far, as holy orders are suppos'd to produce the *indelible character*: In other respects they are only a legal qualification.

effect, whether avow'd or conceal'd, whether S E C T.
 sincere or deceitful. Accordingly they have V.
 commonly determin'd, that the intention of *Of the ob-*
 the priest makes the sacrament, and that *ligation of*
 when he secretly withdraws his intention, he *promises.*
 is highly criminal in himself; but still de-
 stroys the baptism, or communion, or holy
 orders. The terrible consequences of this
 doctrine were not able to hinder its taking
 place; as the inconvenience of a similar
 doctrine, with regard to promises, have pre-
 vented that doctrine from establishing itself.
 Men are always more concern'd about the
 present life than the future; and are apt to
 think the smallest evil, which regards the
 former, more important than the greatest,
 which regards the latter.

WE may draw the same conclusion, con-
 cerning the origin of promises, from the
force, which is suppos'd to invalidate all con-
 tracts, and to free us from their obligation.
 Such a principle is a proof, that promises
 have no natural obligation, and are mere
 artificial contrivances for the convenience
 and advantage of society. If we consider
 aright of the matter, force is not essentially
 different from any other motive of hope or
 fear, which may induce us to engage our
 word, and lay ourselves under any obliga-
 tion.



PART II. A man, dangerously wounded, who promises a competent sum to a surgeon to cure him, wou'd certainly be bound to performance; tho' the case be not so much different from that of one, who promises a sum to a robber, as to produce so great a difference in our sentiments of morality, if these sentiments were not built entirely on public interest and convenience.

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S E C T. VI.

Some farther reflections concerning justice and injustice.

S E C T. VI. **W**E have now run over the three fundamental laws of nature, *that of the stability of possession, of its transference by consent, and of the performance of promises.* 'Tis on the strict observance of those three laws, that the peace and security of human society entirely depend; nor is there any possibility of establishing a good correspondence among men, where these are neglected. Society is absolutely necessary for the well-being of men; and these are as necessary to the support of society. Whatever restraint they may impose on the passions of men, they are the real offspring of those

those passions, and are only a more artful SECT.
and more refin'd way of satisfying them. VI.

Nothing is more vigilant and inventive than Some farther reflections concerning justice and injustice.
our passions; and nothing is more obvious,
than the convention for the observance of
these rules. Nature has, therefore, trusted
this affair entirely to the conduct of men,
and has not plac'd in the mind any peculiar
original principles, to determine us to a set
of actions, into which the other principles
of our frame and constitution were sufficient
to lead us. And to convince us the more
fully of this truth, we may here stop a mo-
ment, and from a review of the preceding
reasonings may draw some new arguments,
to prove that those laws, however necessary,
are entirely artificial, and of human inven-
tion; and consequently that justice is an
artificial, and not a natural virtue.

I. THE first argument I shall make use
of is deriv'd from the vulgar definition of
justice. Justice is commonly defin'd to be
*a constant and perpetual will of giving every
one his due.* In this definition 'tis suppos'd,
that there are such things as right and pro-
perty, independent of justice, and antece-
dent to it; and that they wou'd have sub-
sisted, tho' men had never dreamt of prac-



PART tising such a virtue. I have already ob-
 II. serv'd, in a cursory manner, the fallacy of
 this opinion, and shall here continue to open
 up a little more distinctly my sentiments on
 that subject.

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 and in-
 justice.*

I SHALL begin with observing, that this quality, which we call *property*, is like many of the imaginary qualities of the *peripatetic* philosophy, and vanishes upon a more accurate inspection into the subject, when consider'd a-part from our moral sentiments. 'Tis evident property does not consist in any of the sensible qualities of the object. For these may continue invariably the same, while the property changes. Property, therefore, must consist in some relation of the object. But 'tis not in its relation with regard to other external and inanimate objects. For these may also continue invariably the same, while the property changes. This quality, therefore, consists in the relations of objects to intelligent and rational beings. But 'tis not the external and corporeal relation, which forms the essence of property. For that relation may be the same betwixt inanimate objects, or with regard to brute creatures; tho' in those cases it forms no property. 'Tis, therefore, in some internal relation, that the property consists; that is,
 in

in some influence, which the external relations of the object have on the mind and actions. Thus the external relation, which we call *occupation* or first possession, is not of itself imagin'd to be the property of the object, but only to cause its property. Now 'tis evident, this external relation causes nothing in external objects, and has only an influence on the mind, by giving us a sense of duty in abstaining from that object, and in restoring it to the first possessor. These actions are properly what we call *justice*; and consequently 'tis on that virtue that the nature of property depends, and not the virtue on the property.

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If any one, therefore, wou'd assert, that justice is a natural virtue, and injustice a natural vice, he must assert, that abstracting from the notions of *property*, and *right* and *obligation*, a certain conduct and train of actions, in certain external relations of objects, has naturally a moral beauty or deformity, and causes an original pleasure or uneasiness. Thus the restoring a man's goods to him is consider'd as virtuous, not because nature has annex'd a certain sentiment of pleasure to such a conduct, with regard to the property of others, but because she has annex'd that sentiment to such a conduct, with regard

PART regard to those external objects, of which
 II. others have had the first or long possession,
 or which they have receiv'd by the consent
 of those, who have had first or long possession. If nature has given us no such sentiment, there is not, naturally, nor antecedent to human conventions, any such thing as property. Now, tho' it seems sufficiently evident, in this dry and accurate consideration of the present subject, that nature has annex'd no pleasure or sentiment of approbation to such a conduct; yet that I may leave as little room for doubt as possible, I shall subjoin a few more arguments to confirm my opinion.

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stice.*

First, If nature had given us a pleasure of this kind, it wou'd have been as evident and discernible as on every other occasion; nor shou'd we have found any difficulty to perceive, that the consideration of such actions, in such a situation, gives a certain pleasure and sentiment of approbation. We shou'd not have been oblig'd to have recourse to notions of property in the definition of justice, and at the same time make use of the notions of justice in the definition of property. This deceitful method of reasoning is a plain proof, that there are contain'd in the subject some obscurities and difficulties,
 which

which we are not able to surmount, and SECT.
 which we desire to evade by this artifice. VI.

Secondly, Those rules, by which properties, rights, and obligations are determin'd, have in them no marks of a natural origin, but many of artifice and contrivance. They are too numerous to have proceeded from nature: They are changeable by human laws: And have all of them a direct and evident tendency to public good, and the support of civil society. This last circumstance is remarkable upon two accounts. *First*, because, tho' the cause of the establishment of these laws had been a *regard* for the public good, as much as the public good is their natural tendency, they wou'd still have been artificial, as being purposely contriv'd and directed to a certain end. *Secondly*, because, if men had been endow'd with such a strong regard for public good, they wou'd never have restrain'd themselves by these rules; so that the laws of justice arise from natural principles in a manner still more oblique and artificial. 'Tis self-love which is their real origin; and as the self-love of one person is naturally contrary to that of another, these several interested passions are oblig'd to adjust themselves after such a manner as to concur in some system
 of

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PART of conduct and behaviour. This system, therefore, comprehending the interest of each individual, is of course advantageous to the public; tho' it be not intended for that purpose by the inventors.

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stice.

II. IN the second place we may observe, that all kinds of vice and virtue run insensibly into each other, and may approach by such imperceptible degrees as will make it very difficult, if not absolutely impossible, to determine when the one ends, and the other begins; and from this observation we may derive a new argument for the foregoing principle. For whatever may be the case, with regard to all kinds of vice and virtue, 'tis certain, that rights, and obligations, and property, admit of no such insensible gradation, but that a man either has a full and perfect property, or none at all; and is either entirely oblig'd to perform any action, or lies under no manner of obligation. However civil laws may talk of a perfect *dominion*, and of an imperfect, 'tis easy to observe, that this arises from a fiction, which has no foundation in reason, and can never enter into our notions of natural justice and equity. A man that hires a horse, tho' but for a day, has as full a right to
to
make

make use of it for that time, as he whom we call its proprietor has to make use of it any other day; and 'tis evident, that however the use may be bounded in time or degree, the right itself is not susceptible of any such gradation, but is absolute and entire, so far as it extends. Accordingly we may observe, that this right both arises and perishes in an instant; and that a man entirely acquires the property of any object by occupation, or the consent of the proprietor; and loses it by his own consent; without any of that insensible gradation, which is remarkable in other qualities and relations. Since, therefore, this is the case with regard to property, and rights, and obligations, I ask, how it stands with regard to justice and injustice? After whatever manner you answer this question, you run into inextricable difficulties. If you reply, that justice and injustice admit of degree, and run insensibly into each other, you expressly contradict the foregoing position, that obligation and property are not susceptible of such a gradation. These depend entirely upon justice and injustice, and follow them in all their variations. Where the justice is entire, the property is also entire: Where the justice is imperfect, the property must also be imperfect.

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PART II. And *vice versa*, if the property admit of no such variations, they must also be incompatible with justice. If you assent, therefore, to this last proposition, and assert, that justice and injustice are not susceptible of degrees, you in effect assert, that they are not *naturally* either vicious or virtuous; since vice and virtue, moral good and evil, and indeed all *natural* qualities, run insensibly into each other, and are, on many occasions, undistinguishable.

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stice.

AND here it may be worth while to observe, that tho' abstract reasoning, and the general maxims of philosophy and law establish this position, *that property, and right, and obligation admit not of degrees*, yet in our common and negligent way of thinking, we find great difficulty to entertain that opinion, and do even *secretly* embrace the contrary principle. An object must either be in the possession of one person or another. An action must either be perform'd or not. The necessity there is of choosing one side in these dilemmas, and the impossibility there often is of finding any just medium, oblige us, when we reflect on the matter, to acknowledge, that all property and obligations are entire. But on the other hand, when we consider the origin of property and obligation,

ligation, and find that they depend on public utility, and sometimes on the propensity of the imagination, which are seldom entire on any side; we are naturally inclin'd to imagine, that these moral relations admit of an insensible gradation. Hence it is, that in references, where the consent of the parties leave the referees entire masters of the subject, they commonly discover so much equity and justice on both sides, as induces them to strike a medium, and divide the difference betwixt the parties. Civil judges, who have not this liberty, but are oblig'd to give a decisive sentence on some one side, are often at a loss how to determine, and are necessitated to proceed on the most frivolous reasons in the world. Half rights and obligations, which seem so natural in common life, are perfect absurdities in their tribunal; for which reason they are often oblig'd to take half arguments for whole ones, in order to terminate the affair one way or other.

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III. THE third argument of this kind I shall make use of may be explain'd thus. If we consider the ordinary course of human actions, we shall find, that the mind restrains not itself by any general and universal rules; but acts on most occasions as it is determin'd

PART determin'd by its present motives and inclination. As each action is a particular individual event, it must proceed from particular principles, and from our immediate situation within ourselves, and with respect to the rest of the universe. If on some occasions we extend our motives beyond those very circumstances, which gave rise to them, and form something like *general rules* for our conduct, 'tis easy to observe, that these rules are not perfectly inflexible, but allow of many exceptions. Since, therefore, this is the ordinary course of human actions, we may conclude, that the laws of justice, being universal and perfectly inflexible, can never be deriv'd from nature, nor be the immediate offspring of any natural motive or inclination. No action can be either morally good or evil, unless there be some natural passion or motive to impel us to it, or deter us from it; and 'tis evident, that the morality must be susceptible of all the same variations, which are natural to the passion. Here are two persons, who dispute for an estate; of whom one is rich, a fool, and a batchelor; the other poor, a man of sense, and has a numerous family: The first is my enemy; the second my friend. Whether I be actuated in this affair
by

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stice.



by a view to public or private interest, by
 friendship or enmity, I must be induc'd to
 do my utmost to procure the estate to the
 latter. Nor wou'd any consideration of the
 right and property of the persons be able to
 restrain me, were I actuated only by natural
 motives, without any combination or con-
 vention with others. For as all property de-
 pends on morality; and as all morality de-
 pends on the ordinary course of our passions
 and actions; and as these again are only
 directed by particular motives; 'tis evident,
 such a partial conduct must be suitable to
 the strictest morality, and cou'd never be a
 violation of property. Were men, there-
 fore, to take the liberty of acting with re-
 gard to the laws of society, as they do in
 every other affair, they wou'd conduct them-
 selves, on most occasions, by particular judg-
 ments, and wou'd take into consideration
 the characters and circumstances of the per-
 sons, as well as the general nature of the
 question. But 'tis easy to observe, that this
 wou'd produce an infinite confusion in hu-
 man society, and that the avidity and par-
 tiality of men wou'd quickly bring disorder
 into the world, if not restrain'd by some
 general and inflexible principles. 'Twas,
 therefore, with a view to this inconvenience,

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 flections
 concerning
 justice and
 injustice.*



PART that men have establish'd those principles,
 II. and have agreed to restrain themselves by
 general rules, which are unchangeable by
 spite and favour, and by particular views of
 private or public interest. These rules, then,
 are artificially invented for a certain purpose,
 and are contrary to the common principles
 of human nature, which accommodate them-
 selves to circumstances, and have no stated
 invariable method of operation.

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 and inju-
 stice.*

NOR do I perceive how I can easily be
 mistaken in this matter. I see evidently, that
 when any man imposes on himself general
 inflexible rules in his conduct with others,
 he considers certain objects as their property,
 which he supposes to be sacred and inviolable.
 But no proposition can be more evident,
 than that property is perfectly unintelligible
 without first supposing justice and injustice;
 and that these virtues and vices are as unin-
 telligible, unless we have motives, inde-
 pendent of the morality, to impel us to just
 actions, and deter us from unjust ones. Let
 those motives, therefore, be what they will,
 they must accommodate themselves to cir-
 cumstances, and must admit of all the vari-
 ations, which human affairs, in their in-
 cessant revolutions, are susceptible of. They
 are consequently a very improper foundation
 for

for such rigid inflexible rules as the laws of SECT.
nature; and 'tis evident these laws can only VI.
be deriv'd from human conventions, when Some farther
reflections
concerning
justice and
injustice.
men have perceiv'd the disorders that result
from following their natural and variable
principles.

UPON the whole, then, we are to consider this distinction betwixt justice and injustice, as having two different foundations, *viz.* that of *interest*, when men observe, that 'tis impossible to live in society without restraining themselves by certain rules; and that of *morality*, when this interest is once observ'd, and men receive a pleasure from the view of such actions as tend to the peace of society, and an uneasiness from such as are contrary to it. 'Tis the voluntary convention and artifice of men, which makes the first interest take place; and therefore those laws of justice are so far to be consider'd as *artificial*. After that interest is once establish'd and acknowledg'd, the sense of morality in the observance of these rules follows *naturally*, and of itself; tho' 'tis certain, that it is also augmented by a new *artifice*, and that the public instructions of politicians, and the private education of parents, contribute to the giving a sense of
K 2 honour



PART honour and duty in the strict regulation of
 II. our actions with regard to the properties of
 others.

*Of justice
 and inju-
 stice.*

S E C T. VII.

Of the origin of government.

SECT. VII. **N**OTHING is more certain, than that
 men are, in a great measure, govern'd
 by interest, and that even when they extend
 their concern beyond themselves, 'tis not to
 any great distance; nor is it usual for them,
 in common life, to look farther than their
 nearest friends and acquaintance. 'Tis no
 less certain, that 'tis impossible for men to
 consult their interest in so effectual a manner,
 as by an universal and inflexible observance
 of the rules of justice, by which alone they
 can preserve society, and keep themselves
 from falling into that wretched and savage
 condition, which is commonly represented
 as the *state of nature*. And as this interest,
 which all men have in the upholding of
 society, and the observation of the rules of
 justice, is great, so is it palpable and evident,
 even to the most rude and uncultivated of
 human race; and 'tis almost impossible for
 any

any one, who has had experience of society, SECT.
 to be mistaken in this particular. Since, VII.
 therefore, men are so sincerely attach'd to Of the
 their interest, and their interest is so much origin of
 concern'd in the observance of justice, and govern-
 this interest is so certain and avow'd; it ment.
 may be ask'd, how any disorder can ever
 arise in society, and what principle there is
 in human nature so *powerful* as to overcome
 so strong a passion, or so *violent* as to ob-
 scure so clear a knowledge?

IT has been observ'd, in treating of the
 passions, that men are mightily govern'd by
 the imagination, and proportion their affec-
 tions more to the light, under which any
 object appears to them, than to its real and
 intrinsic value. What strikes upon them
 with a strong and lively idea commonly pre-
 vails above what lies in a more obscure light;
 and it must be a great superiority of value,
 that is able to compensate this advantage.
 Now as every thing, that is contiguous to
 us, either in space or time, strikes upon us
 with such an idea, it has a proportional effect
 on the will and passions, and commonly
 operates with more force than any object,
 that lies in a more distant and obscure light.
 Tho' we may be fully convinc'd, that the
 latter object excels the former, we are not



PART able to regulate our actions by this judgment; but yield to the solicitations of our passions, which always plead in favour of whatever is near and contiguous.

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 and injustice.*

THIS is the reason why men so often act in contradiction to their known interest; and in particular why they prefer any trivial advantage, that is present, to the maintenance of order in society, which so much depends on the observance of justice. The consequences of every breach of equity seem to lie very remote, and are not able to counterbalance any immediate advantage, that may be reap'd from it. They are, however, never the less real for being remote; and as all men are, in some degree, subject to the same weakness, it necessarily happens, that the violations of equity must become very frequent in society, and the commerce of men, by that means, be render'd very dangerous and uncertain. You have the same propensity, that I have, in favour of what is contiguous above what is remote. You are, therefore, naturally carried to commit acts of injustice as well as me. Your example both pushes me forward in this way by imitation, and also affords me a new reason for any breach of equity, by shewing me, that I should be the cully of my integrity, if I alone

alone shou'd impose on myself a severe re-
 straint amidst the licentiousness of others.

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THIS quality, therefore, of human nature, not only is very dangerous to society, but also seems, on a cursory view, to be incapable of any remedy. The remedy can only come from the consent of men; and if men be incapable of themselves to prefer remote to contiguous, they will never consent to any thing, which wou'd oblige them to such a choice, and contradict, in so sensible a manner, their natural principles and propensities. Whoever chuses the means, chuses also the end; and if it be impossible for us to prefer what is remote, 'tis equally impossible for us to submit to any necessity, which wou'd oblige us to such a method of acting.

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 ment.*

BUT here 'tis observable, that this infirmity of human nature becomes a remedy to itself, and that we provide against our negligence about remote objects, merely because we are naturally inclin'd to that negligence. When we consider any objects at a distance, all their minute distinctions vanish, and we always give the preference to whatever is in itself preferable, without considering its situation and circumstances. This gives rise to what in an improper sense we

K 4

call



PART call *reason*, which is a principle, that is often contradictory to those propensities that display themselves upon the approach of the object. In reflecting on any action, which I am to perform a twelve-month hence, I always resolve to prefer the greater good, whether at that time it will be more contiguous or remote; nor does any difference in that particular make a difference in my present intentions and resolutions. My distance from the final determination makes all those minute differences vanish, nor am I affected by any thing, but the general and more discernable qualities of good and evil. But on my nearer approach, those circumstances, which I at first over-look'd, begin to appear, and have an influence on my conduct and affections. A new inclination to the present good springs up, and makes it difficult for me to adhere inflexibly to my first purpose and resolution. This natural infirmity I may very much regret, and I may endeavour, by all possible means, to free myself from it. I may have recourse to study and reflection within myself; to the advice of friends; to frequent meditation, and repeated resolution: And having experienc'd how ineffectual all these are, I may embrace with pleasure any other expedient, by which

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I may impose a restraint upon myself, and guard against this weakness.

THE only difficulty, therefore, is to find out this expedient, by which men cure their natural weakness, and lay themselves under the necessity of observing the laws of justice and equity, notwithstanding their violent propensity to prefer contiguous to remote. 'Tis evident such a remedy can never be effectual without correcting this propensity; and as 'tis impossible to change or correct any thing material in our nature, the utmost we can do is to change our circumstances and situation, and render the observance of the laws of justice our nearest interest, and their violation our most remote. But this being impracticable with respect to all mankind, it can only take place with respect to a few, whom we thus immediately interest in the execution of justice. These are the persons, whom we call civil magistrates, kings and their ministers, our governors and rulers, who being indifferent persons to the greatest part of the state, have no interest, or but a remote one, in any act of injustice; and being satisfied with their present condition, and with their part in society, have an immediate interest in every execution of justice, which is so necessary to the upholding of society.

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PART society. Here then is the origin of civil government and society. Men are not able radically to cure, either in themselves or others, that narrowness of soul, which makes them prefer the present to the remote. They cannot change their natures. All they can do is to change their situation, and render the observance of justice the immediate interest of some particular persons, and its violation their more remote. These persons, then, are not only induc'd to observe those rules in their own conduct; but also to constrain others to a like regularity, and enforce the dictates of equity thro' the whole society. And if it be necessary, they may also interest others more immediately in the execution of justice, and create a number of officers, civil and military, to assist them in their government.

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BUT this execution of justice, tho' the principal, is not the only advantage of government. As the violent passions hinder men from seeing distinctly the interest they have in an equitable behaviour towards others; so it hinders them from seeing that equity itself, and gives them a remarkable partiality in their own favours. This inconvenience is corrected in the same manner as that above-mention'd. The same persons, who

who execute the laws of justice, will also SECT. decide all controversies concerning them; VII. and being indifferent to the greatest part of the society, will decide them more equitably than every one wou'd in his own case. *Of the origin of government.*

By means of these two advantages, in the *execution* and *decision* of justice, men acquire a security against each others weakness and passion, as well as against their own, and under the shelter of their governors, begin to taste at ease the sweets of society and mutual assistance. But government extends farther its beneficial influence; and not contented to protect men in those conventions they make for their mutual interest, it often obliges them to make such conventions, and forces them to seek their own advantage, by a concurrence in some common end or purpose. There is no quality in human nature, which causes more fatal errors in our conduct, than that which leads us to prefer whatever is present to the distant and remote, and makes us desire objects more according to their situation than their intrinsic value. Two neighbours may agree to drain a meadow, which they possess in common; because 'tis easy for them to know each others mind; and each must perceive, that the immediate consequence of his failing in his part, is, the abandoning

PART abandoning the whole project. But 'tis very

II. difficult, and indeed impossible, that a thousand persons shou'd agree in any such action; it being difficult for them to concert so complicated a design, and still more difficult for them to execute it; while each seeks a pretext to free himself of the trouble and expence, and wou'd lay the whole burden on others. Political society easily remedies both these inconveniences. Magistrates find an immediate interest in the interest of any considerable part of their subjects. They need consult no body but themselves to form any scheme for the promoting of that interest. And as the failure of any one piece in the execution is connected, tho' not immediately, with the failure of the whole, they prevent that failure, because they find no interest in it, either immediate or remote. Thus bridges are built; harbours open'd; ramparts rais'd; canals form'd; fleets equip'd; and armies disciplin'd; every where, by the care of government, which, tho' compos'd of men subject to all human infirmities, becomes, by one of the finest and most subtle inventions imaginable, a composition, which is, in some measure, exempted from all these infirmities.

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S E C T. VIII.

Of the source of allegiance.

THOUGH government be an invention very advantageous, and even in some circumstances absolutely necessary to mankind; it is not necessary in all circumstances, nor is it impossible for men to preserve society for some time, without having recourse to such an invention. Men, 'tis true, are always much inclin'd to prefer present interest to distant and remote; nor is it easy for them to resist the temptation of any advantage, that they may immediately enjoy, in apprehension of an evil, that lies at a distance from them: But still this weakness is less conspicuous, where the possessions, and the pleasures of life are few, and of little value, as they always are in the infancy of society. An *Indian* is but little tempted to dispossess another of his hut, or to steal his bow, as being already provided of the same advantages; and as to any superior fortune, which may attend one above another in hunting and fishing, 'tis only casual and temporary, and will have but small tendency to

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PART to disturb society. And so far am I from

II. thinking with some philosophers, that men
Of justice are utterly incapable of society without
and inju- government, that I assert the first rudiments
stice. of government to arise from quarrels, not
 among men of the same society, but among
 those of different societies. A less degree of
 riches will suffice to this latter effect, than
 is requisite for the former. Men fear nothing
 from public war and violence but the resist-
 ance they meet with, which, because they
 share it in common, seems less terrible; and
 because it comes from strangers, seems less
 pernicious in its consequences, than when
 they are expos'd singly against one whose
 commerce is advantageous to them, and
 without whose society 'tis impossible they
 can subsist. Now foreign war to a society
 without government necessarily produces civil
 war. Throw any considerable goods among
 men, they instantly fall a quarrelling, while
 each strives to get possession of what pleases
 him, without regard to the consequences.
 In a foreign war the most considerable of all
 goods, life and limbs, are at stake; and as
 every one shuns dangerous ports, seizes the
 best arms, seeks excuse for the slightest
 wounds, the laws, which may be well
 enough observ'd, while men were calm, can
 now

now no longer take place, when they are in
such commotion.

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THIS we find verified in the *American* Of the source of allegiance.
tribes, where men live in concord and
amity among themselves without any estab-
lish'd government; and never pay submission
to any of their fellows, except in time of
war, when their captain enjoys a shadow of
authority, which he loses after their return
from the field, and the establishment of
peace with the neighbouring tribes. This
authority, however, instructs them in the
advantages of government, and teaches them
to have recourse to it, when either by the
pillage of war, by commerce, or by any
fortuitous inventions, their riches and pos-
sessions have become so considerable as to
make them forget, on every emergence, the
interest they have in the preservation of
peace and justice. Hence we may give a
plausible reason, among others, why all
governments are at first monarchical, without
any mixture and variety; and why republics
arise only from the abuses of monarchy and
despotic power. Camps are the true mothers
of cities; and as war cannot be administred,
by reason of the suddenness of every exi-
gency, without some authority in a single
person, the same kind of authority naturally
takes

PART takes place in that civil government, which succeeds the military. And this reason I take to be more natural, than the common one deriv'd from patriarchal government, or the authority of a father, which is said first to take place in one family, and to accustom the members of it to the government of a single person. The state of society without government is one of the most natural states of men, and must subsist with the conjunction of many families, and long after the first generation. Nothing but an encrease of riches and possessions cou'd oblige men to quit it; and so barbarous and uninstructed are all societies on their first formation, that many years must elapse before these can encrease to such a degree, as to disturb men in the enjoyment of peace and concord.

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 stice.*

BUT tho' it be possible for men to maintain a small uncultivated society without government, 'tis impossible they shou'd maintain a society of any kind without justice, and the observance of those three fundamental laws concerning the stability of possession, its translation by consent, and the performance of promises. These are, therefore, antecedent to government, and are suppos'd to impose an obligation before the
 duty

duty of allegiance to civil magistrates has
 once been thought of. Nay, I shall go far-
 ther, and assert, that government, *upon its*
first establishment, wou'd naturally be sup-
 pos'd to derive its obligation from those laws
 of nature, and, in particular, from that con-
 cerning the performance of promises. When

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men have once perceiv'd the necessity of
 government to maintain peace, and execute
 justice, they wou'd naturally assemble to-
 gether, wou'd chuse magistrates, determine
 their power, and *promise* them obedience.
 As a promise is suppos'd to be a bond or
 security already in use, and attended with a
 moral obligation, 'tis to be consider'd as the
 original sanction of government, and as the
 source of the first obligation to obedience.
 This reasoning appears so natural, that it has
 become the foundation of our fashionable
 system of politics, and is in a manner the
 creed of a party amongst us, who pride
 themselves, with reason, on the soundness of
 their philosophy, and their liberty of thought.

*All men, say they, are born free and equal:
 Government and superiority can only be estab-
 lish'd by consent: The consent of men, in
 establishing government, imposes on them a
 new obligation, unknown to the laws of na-
 ture. Men, therefore, are bound to obey their*

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magistrates.

PART magistrates, only because they promise it; and

II. if they had not given their word, either expressly or tacitly, to preserve allegiance, it would never have become a part of their moral duty. This conclusion, however,

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when carried so far as to comprehend government in all its ages and situations, is entirely erroneous; and I maintain, that tho' the duty of allegiance be at first grafted on the obligation of promises, and be for some time supported by that obligation, yet it quickly takes root of itself, and has an original obligation and authority, independent of all contracts. This is a principle of moment, which we must examine with care and attention, before we proceed any farther.

'Tis reasonable for those philosophers, who assert justice to be a natural virtue, and antecedent to human conventions, to resolve all civil allegiance into the obligation of a promise, and assert that 'tis our own consent alone, which binds us to any submission to magistracy. For as all government is plainly an invention of men, and the origin of most governments is known in history, 'tis necessary to mount higher, in order to find the source of our political duties, if we wou'd assert them to have any *natural* obligation of morality. These philosophers,

Iosophers, therefore, quickly observe, that SOCIETY is as antient as the human species, SECT. VIII. and those three fundamental laws of nature as antient as society: So that taking advantage of the antiquity, and obscure origin of these laws, they first deny them to be artificial and voluntary inventions of men, and then seek to ingraft on them those other duties, which are more plainly artificial. But being once undeceiv'd in this particular, and having found that *natural*, as well as *civil* justice, derives its origin from human conventions, we shall quickly perceive, how fruitless it is to resolve the one into the other, and seek, in the laws of nature, a stronger foundation for our political duties than interest, and human conventions; while these laws themselves are built on the very same foundation. On which ever side we turn this subject, we shall find, that these two kinds of duty are exactly on the same footing, and have the same source both of their *first invention* and *moral obligation*. They are contriv'd to remedy like inconveniences, and acquire their moral sanction in the same manner, from their remedying those inconveniences. These are two points, which we we shall endeavour to prove as distinctly as possible.



PART WE have already shewn, that men *in-*
 II. *vented* the three fundamental laws of nature,
 Of justice and inju- when they observ'd the necessity of society
 stice. to their mutual subsistence, and found, that
 'twas impossible to maintain any correspon-
 dence together, without some restraint on
 their natural appetites. The same self-love,
 therefore, which renders men so incommo-
 dious to each other, taking a new and more
 convenient direction, produces the rules of
 justice, and is the *first* motive of their ob-
 servance. But when men have observ'd,
 that tho' the rules of justice be sufficient to
 maintain any society, yet 'tis impossible for
 them, of themselves, to observe those rules,
 in large and polish'd societies; they establish
 government, as a new invention to attain
 their ends, and preserve the old, or procure
 new advantages, by a more strict execution of
 justice. So far, therefore, our *civil* duties
 are connected with our *natural*, that the
 former are invented chiefly for the sake of
 the latter; and that the principal object of
 government is to constrain men to observe
 the laws of nature. In this respect, however,
 that law of nature, concerning the per-
 formance of promises, is only compriz'd
 along with the rest; and its exact observance
 is to be consider'd as an effect of the insti-
 tution

tution of government, and not the obedience SECT.
 to government as an effect of the obligation VIII.
 of a promise. Tho' the object of our civil Of the
 duties be the enforcing of our natural, yet source of
 the ^a *first* motive of the invention, as well allegiance.
 as performance of both, is nothing but self-
 interest: And since there is a separate inter-
 est in the obedience to government, from
 that in the performance of promises, we
 must also allow of a separate obligation. To
 obey the civil magistrate is requisite to pre-
 serve order and concord in society. To per-
 form promises is requisite to beget mutual
 trust and confidence in the common offices
 of life. The ends, as well as the means,
 are perfectly distinct; nor is the one subor-
 dinate to the other.

To make this more evident, let us con-
 sider, that men will often bind themselves
 by promises to the performance of what it
 wou'd have been their interest to perform,
 independent of these promises; as when
 they wou'd give others a fuller security, by
 super-adding a new obligation of interest to
 that which they formerly lay under. The
 interest in the performance of promises, be-
 sides its moral obligation, is general, avow'd,
 and of the last consequence in life. Other
 interests

^a First in time, not in dignity or force.

PART interests may be more particular and doubtful; and we are apt to entertain a greater suspicion, that men may indulge their humour, or passion, in acting contrary to them. Here, therefore, promises come naturally in play, and are often requir'd for fuller satisfaction and security. But supposing those other interests to be as general and avow'd as the interest in the performance of a promise, they will be regarded as on the same footing, and men will begin to repose the same confidence in them. Now this is exactly the case with regard to our civil duties, or obedience to the magistrate; without which no government cou'd subsist, nor any peace or order be maintain'd in large societies, where there are so many possessions on the one hand, and so many wants, real or imaginary, on the other. Our civil duties, therefore, must soon detach themselves from our promises, and acquire a separate force and influence. The interest in both is of the very same kind: 'Tis general, avow'd, and prevails in all times and places. There is, then, no pretext of reason for founding the one upon the other; while each of them has a foundation peculiar to itself. We might as well resolve the obligation to abstain from the possessions of others, into
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the obligation of a promise, as that of alle-
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 giance. The interests are not more distinct
 VIII. in the one case than the other. A regard to
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 property is not more necessary to natural
 society, than obedience is to civil society or
 government; nor is the former society more
 necessary to the being of mankind, than the
 latter to their well-being and happiness. In
 short, if the performance of promises be ad-
 vantageous, so is obedience to government:
 If the former interest be general, so is the
 latter: If the one interest be obvious and
 avow'd, so is the other. And as these two
 rules are founded on like obligations of in-
 terest, each of them must have a peculiar
 authority, independent of the other.

BUT 'tis not only the *natural* obligations
 of interest, which are distinct in promises
 and allegiance; but also the *moral* obliga-
 tions of honour and conscience: Nor does
 the merit or demerit of the one depend in
 the least upon that of the other. And in-
 deed, if we consider the close connexion
 there is betwixt the natural and moral obli-
 gations, we shall find this conclusion to be
 entirely unavoidable. Our interest is always
 engag'd on the side of obedience to magi-
 stracy; and there is nothing but a great pre-
 sent advantage, that can lead us to rebellion,



PART by making us over-look the remote interest, which we have in the preserving of peace and order in society. But tho' a present interest may thus blind us with regard to our own actions, it takes not place with regard to those of others; nor hinders them from appearing in their true colours, as highly prejudicial to public interest, and to our own in particular. This naturally gives us an uneasiness, in considering such seditious and disloyal actions, and makes us attach to them the idea of vice and moral deformity. 'Tis the same principle, which causes us to disapprove of all kinds of private injustice, and in particular of the breach of promises. We blame all treachery and breach of faith; because we consider, that the freedom and extent of human commerce depend entirely on a fidelity with regard to promises. We blame all disloyalty to magistrates; because we perceive, that the execution of justice, in the stability of possession, its translation by consent, and the performance of promises, is impossible, without submission to government. As there are here two interests entirely distinct from each other, they must give rise to two moral obligations, equally separate and independant. Tho' there was no such thing as a promise in the world, government

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vernment wou'd still be necessary in all large S E C T. and civiliz'd societies; and if promises had VIII. only their own proper obligation, without *Of the source of allegiance.* the separate sanction of government, they wou'd have but little efficacy in such societies. This separates the boundaries of our public and private duties, and shews that the latter are more dependant on the former, than the former on the latter. *Education, and the artifice of politicians,* concur to bestow a farther morality on loyalty, and to brand all rebellion with a greater degree of guilt and infamy. Nor is it a wonder, that politicians shou'd be very industrious in inculcating such notions, where their interest is so particularly concern'd.

LEST those arguments shou'd not appear entirely conclusive (as I think they are) I shall have recourse to authority, and shall prove, from the universal consent of mankind, that the obligation of submission to government is not deriv'd from any promise of the subjects. Nor need any one wonder, that tho' I have all along endeavour'd to establish my system on pure reason, and have scarce ever cited the judgment even of philosophers or historians on any article, I shou'd now appeal to popular authority, and oppose the sentiments of the rabble to any philosophical

PART phical reasoning. But it must be observ'd,

II. that the opinions of men, in this case, carry

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with them a peculiar authority, and are, in a great measure, infallible. The distinction of moral good and evil is founded on the pleasure or pain, which results from the view of any sentiment, or character; and as that pleasure or pain cannot be unknown to the person who feels it, it follows, ^a that there is just so much vice or virtue in any character, as every one places in it, and that 'tis impossible in this particular we can ever be mistaken. And tho' our judgments concerning the *origin* of any vice or virtue, be not so certain as those concerning their *degrees*; yet, since the question in this case regards not any philosophical origin of an obligation, but a plain matter of fact, 'tis not easily conceiv'd how we can fall into an error. A man, who acknowledges himself to be bound to another, for a certain sum, must certainly know whether it be by his own bond, or that of his father; whether it be of his mere good-will, or for money lent him;

^a This proposition must hold strictly true, with regard to every quality, that is determin'd merely by sentiment. In what sense we can talk either of a *right* or a *wrong* taste in morals, eloquence, or beauty, shall be consider'd afterwards. In the mean time, it may be observ'd, that there is such an uniformity in the *general* sentiments of mankind, as to render such questions of but small importance.

him; and under what conditions, and for SECT. what purposes he has bound himself. In VIII. like manner, it being certain, that there is a moral obligation to submit to government, because every one thinks so; it must be as certain, that this obligation arises not from a promise; since no one, whose judgment has not been led astray by too strict adherence to a system of philosophy, has ever yet dreamt of ascribing it to that origin. Neither magistrates nor subjects have form'd this idea of our civil duties.

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WE find, that magistrates are so far from deriving their authority, and the obligation to obedience in their subjects, from the foundation of a promise or original contract, that they conceal, as far as possible, from their people, especially from the vulgar, that they have their origin from thence. Were this the sanction of government, our rulers wou'd never receive it tacitly, which is the utmost that can be pretended; since what is given tacitly and insensibly can never have such influence on mankind, as what is perform'd expressly and openly. A tacit promise is, where the will is signified by other more diffuse signs than those of speech; but a will there must certainly be in the case, and that can never escape the person's notice,



PART tice, who exerted it, however silent or tacit.
 II. But were you to ask the far greatest part of
 the nation, whether they had ever consented
 to the authority of their rulers, or promis'd
 to obey them, they wou'd be inclin'd to
 think very strangely of you; and wou'd cer-
 tainly reply, that the affair depended not on
 their consent, but that they were born to
 such an obedience. In consequence of this
 opinion, we frequently see them imagine
 such persons to be their natural rulers, as
 are at that time depriv'd of all power and
 authority, and whom no man, however
 foolish, wou'd voluntarily chuse; and this
 merely because they are in that line, which
 rul'd before, and in that degree of it, which
 us'd to succeed; tho' perhaps in so distant a
 period, that scarce any man alive cou'd ever
 have given any promise of obedience. Has
 a government, then, no authority over such
 as these, because they never consented to it,
 and wou'd esteem the very attempt of such
 a free choice a piece of arrogance and im-
 piety? We find by experience, that it pu-
 nishes them very freely for what it calls trea-
 son and rebellion, which, it seems, accord-
 ing to this system, reduces itself to com-
 mon injustice. If you say, that by dwelling
 in its dominions, they in effect consented to
 the

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the establish'd government; I answer, that SECT.
 this can only be, where they think the affair VIII.
 depends on their choice, which few or none, Of the
 beside those philosophers, have ever yet source of
 imagin'd. It never was pleaded as an ex- allegiance.
 cuse for a rebel, that the first act he per-
 form'd, after he came to years of discretion,
 was to levy war against the sovereign of
 the state; and that while he was a child he
 cou'd not bind himself by his own consent,
 and having become a man, shou'd plainly,
 by the first act he perform'd, that he had no
 design to impose on himself any obligation
 to obedience. We find, on the contrary,
 that civil laws punish this crime at the same
 age as any other, which is criminal, of it-
 self, without our consent; that is, when the
 person is come to the full use of reason:
 Whereas to this crime it ought in justice
 to allow some intermediate time, in which
 a tacit consent at least might be suppos'd.
 To which we may add, that a man living
 under an absolute government, wou'd owe
 it no allegiance; since, by its very nature,
 it depends not on consent. But as that is
 as *natural* and *common* a government as any,
 it must certainly occasion some obligation;
 and 'tis plain from experience, that men,
 who are subjected to it, do always think
 so.

PART so. This is a clear proof, that we do not
 II. commonly esteem our allegiance to be deriv'd from our consent or promise; and a
Of justice and injustice. farther proof is, that when our promise is upon any account expressly engag'd, we always distinguish exactly betwixt the two obligations, and believe the one to add more force to the other, than in a repetition of the same promise. Where no promise is given, a man looks not on his faith as broken in private matters, upon account of rebellion; but keeps those two duties of honour and allegiance perfectly distinct and separate. As the uniting of them was thought by these philosophers a very subtle invention, this is a convincing proof, that 'tis not a true one; since no man can either give a promise, or be restrain'd by its sanction and obligation unknown to himself.

S E C T. IX.

Of the measures of allegiance.

SECT. IX. **T**HOSE political writers, who have had recourse to a promise, or original contract, as the source of our allegiance to government, intended to establish a principle, which is perfectly just and reasonable; tho'

tho' the reasoning, upon which they endeavour'd to establish it, was fallacious and sophistical. They wou'd prove, that our submission to government admits of exceptions, and that an egregious tyranny in the rulers is sufficient to free the subjects from all ties of allegiance. Since men enter into society, say they, and submit themselves to government, by their free and voluntary consent, they must have in view certain advantages, which they propose to reap from it, and for which they are contented to resign their native liberty. There is, therefore, something mutual engag'd on the part of the magistrate, *viz.* protection and security; and 'tis only by the hopes he affords of these advantages, that he can ever persuade men to submit to him. But when instead of protection and security, they meet with tyranny and oppression, they are free'd from their promises, (as happens in all conditional contracts) and return to that state of liberty, which preceded the institution of government. Men wou'd never be so foolish as to enter into such engagements as shou'd turn entirely to the advantage of others, without any view of bettering their own condition. Whoever proposes to draw any profit from our submission, must engage himself, either expressly

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of alle-
giance.*



PART expressly or tacitly, to make us reap some advantage from his authority; nor ought he to expect, that without the performance of his part we will ever continue in obedience.

II.
*Of justice
 and inju-
 stice.*

I REPEAT it: This conclusion is just, tho' the principles be erroneous; and I flatter myself, that I can establish the same conclusion on more reasonable principles. I shall not take such a compass, in establishing our political duties, as to assert, that men perceive the advantages of government; that they institute government with a view to those advantages; that this institution requires a promise of obedience; which imposes a moral obligation to a certain degree, but being conditional, ceases to be binding, whenever the other contracting party performs not his part of the engagement. I perceive, that a promise itself arises entirely from human conventions, and is invented with a view to a certain interest. I seek, therefore, some such interest more immediately connected with government, and which may be at once the original motive to its institution, and the source of our obedience to it. This interest I find to consist in the security and protection, which we enjoy in political society, and which we can never attain, when perfectly free and independent.

As

As the interest, therefore, is the immediate S E C T.
 sanction of government, the one can have IX.
 no longer being than the other; and when-
 ever the civil magistrate carries his oppression *Of the*
 so far as to render his authority perfectly *measures*
 intolerable, we are no longer bound to sub- *of alle-*
 mit to it. The cause ceases; the effect must *giance.*
 cease also.

So far the conclusion is immediate and direct, concerning the *natural* obligation which we have to allegiance. As to the *moral* obligation, we may observe, that the maxim wou'd here be false, that *when the cause ceases, the effect must cease also*. For there is a principle of human nature, which we have frequently taken notice of, that men are mightily addicted to *general rules*, and that we often carry our maxims beyond those reasons, which first induc'd us to establish them. Where cases are similar in many circumstances, we are apt to put them on the same footing, without considering, that they differ in the most material circumstances, and that the resemblance is more apparent than real. It may, therefore, be thought, that in the case of allegiance our moral obligation of duty will not cease, even tho' the natural obligation of interest, which is its cause, has ceas'd; and



PART that men may be bound by *conscience* to

II. submit to a tyrannical government against their own and the public interest. And indeed, to the force of this argument I so far submit, as to acknowledge, that general rules commonly extend beyond the principles, on which they are founded; and that we seldom make any exception to them, unless that exception have the qualities of a general rule, and be founded on very numerous and common instances. Now this I assert to be entirely the present case. When men submit to the authority of others, 'tis to procure themselves some security against the wickedness and injustice of men, who are perpetually carried, by their unruly passions, and by their present and immediate interest, to the violation of all the laws of society. But as this imperfection is inherent in human nature, we know that it must attend men in all their states and conditions; and that those, whom we chuse for rulers, do not immediately become of a superior nature to the rest of mankind, upon account of their superior power and authority. What we expect from them depends not on a change of their nature but of their situation, when they acquire a more immediate interest in the preservation of order and the execution

execution of justice. But besides that this SECT.
interest is only more immediate in the ex- IX.
ecution of justice among their subjects; be- Of the
sides this, I say, we may often expect, from measures
the irregularity of human nature, that they of alle-
will neglect even this immediate interest, and giance.
be transported by their passions into all the
excesses of cruelty and ambition. Our ge-
neral knowledge of human nature, our ob-
servation of the past history of mankind,
our experience of present times; all these
causes must induce us to open the door to
exceptions, and must make us conclude,
that we may resist the more violent effects
of supreme power, without any crime or
injustice.

ACCORDINGLY we may observe, that
this is both the general practice and principle
of mankind, and that no nation, that cou'd
find any remedy, ever yet suffer'd the cruel
ravages of a tyrant, or were blam'd for their
resistance. Those who took up arms against
Dionysius or *Nero*, or *Philip the second*, have
the favour of every reader in the perusal of
their history; and nothing but the most
violent perversion of common sense can ever
lead us to condemn them. 'Tis certain,
therefore, that in all our notions of morals
we never entertain such an absurdity as that



PART of passive obedience, but make allowances
 II. for resistance in the more flagrant instances
 of tyranny and oppression. The general
 opinion of mankind has some authority in
 all cases; but in this of morals 'tis perfectly
 infallible. Nor is it less infallible, because
 men cannot distinctly explain the principles,
 on which it is founded. Few persons can
 carry on this train of reasoning: " Govern-
 " ment is a mere human invention for the
 " interest of society. Where the tyranny
 " of the governor removes this interest, it
 " also removes the natural obligation to obe-
 " dience. The moral obligation is founded
 " on the natural, and therefore must cease
 " where *that* ceases; especially where the
 " subject is such as makes us foresee very
 " many occasions wherein the natural obli-
 " gation may cease, and causes us to form
 " a kind of general rule for the regulation
 " of our conduct in such occurrences." But
 tho' this train of reasoning be too subtle for
 the vulgar, 'tis certain, that all men have an
 implicit notion of it, and are sensible, that
 they owe obedience to government merely
 on account of the public interest; and at
 the same time, that human nature is so
 subject to frailties and passions, as may
 easily pervert this institution, and change
 their

their governors into tyrants and public enemies. If the sense of public interest were not our original motive to obedience, I wou'd fain ask, what other principle is there in human nature capable of subduing the natural ambition of men, and forcing them to such a submission? Imitation and custom are not sufficient. For the question still recurs, what motive first produces those instances of submission, which we imitate, and that train of actions, which produces the custom? There evidently is no other principle than public interest; and if interest first produces obedience to government, the obligation to obedience must cease, whenever the interest ceases, in any great degree, and in a considerable number of instances.

S E C T. X.

Of the objects of allegiance.

BUT tho', on some occasions, it may be justifiable, both in sound politics and morality, to resist supreme power, 'tis certain, that in the ordinary course of human affairs nothing can be more pernicious and criminal; and that besides the convulsions,

M 3

which



PART which always attend revolutions, such a
 II. practice tends directly to the subversion of
 all government, and the causing an universal
 anarchy and confusion among mankind. As
 numerous and civiliz'd societies cannot subsist without government, so government is entirely useless without an exact obedience. We ought always to weigh the advantages, which we reap from authority, against the disadvantages; and by this means we shall become more scrupulous of putting in practice the doctrine of resistance. The common rule requires submission; and 'tis only in cases of grievous tyranny and oppression, that the exception can take place.

*Of justice
and injustice.*

SINCE then such a blind submission is commonly due to magistracy, the next question is, *to whom it is due, and whom we are to regard as our lawful magistrates?* In order to answer this question, let us recollect what we have already establish'd concerning the origin of government and political society. When men have once experienc'd the impossibility of preserving any steady order in society, while every one is his own master, and violates or observes the laws of interest, according to his present interest or pleasure, they naturally run into the invention of government, and put it out of
 their

their own power, as far as possible, to trans-
gress the laws of society. Government,
therefore, arises from the voluntary conven-
tion of men; and 'tis evident, that the same
convention, which establishes government,
will also determine the persons who are to
govern, and will remove all doubt and am-
biguity in this particular. And the volun-
tary consent of men must here have the
greater efficacy, that the authority of the
magistrate does *at first* stand upon the foun-
dation of a promise of the subjects, by
which they bind themselves to obedience; as
in every other contract or engagement. The
same promise, then, which binds them to
obedience, ties them down to a particular
person, and makes him the object of their
allegiance.

S E C T.

X.

*Of the
objects of
allegiance.*

BUT when government has been establish'd
on this footing for some considerable time,
and the separate interest, which we have in
submission, has produc'd a separate senti-
ment of morality, the case is entirely alter'd,
and a promise is no longer able to determine
the particular magistrate; since it is no
longer consider'd as the foundation of go-
vernment. We naturally suppose ourselves
born to submission; and imagine, that such
particular persons have a right to command,



PART as we on our part are bound to obey.

II. These notions of right and obligation are deriv'd from nothing but the *advantage* we reap from government, which gives us a repugnance to practise resistance ourselves, and makes us displeas'd with any instance of it in others. But here 'tis remarkable, that in this new state of affairs, the original function of government, which is *interest*, is not admitted to determine the persons, whom we are to obey, as the original function did at first, when affairs were on the footing of a *promise*. A *promise* fixes and determines the persons, without any uncertainty: But 'tis evident, that if men were to regulate their conduct in this particular, by the view of a peculiar *interest*, either public or private, they wou'd involve themselves in endless confusion, and wou'd render all government, in a great measure, ineffectual. The private interest of every one is different; and tho' the public interest in itself be always one and the same, yet it becomes the source of as great dissentions, by reason of the different opinions of particular persons concerning it. The same interest, therefore, which causes us to submit to magistracy, makes us renounce itself in the choice of our magistrates, and binds us
down

Of justice
and inju-
stice.



down to a certain form of government, and SECT.
to particular persons, without allowing us to X.
aspire to the utmost perfection in either. Of the
The case is here the same as in that law objects of
of nature concerning the stability of pos- allegiance.
session. 'Tis highly advantageous, and even
absolutely necessary to society, that possession
shou'd be stable; and this leads us to the
establishment of such a rule: But we find,
that were we to follow the same advantage,
in assigning particular possessions to particu-
lar persons, we shou'd disappoint our end,
and perpetuate the confusion, which that
rule is intended to prevent. We must,
therefore, proceed by general rules, and re-
gulate ourselves by general interests, in mo-
difying the law of nature concerning the
stability of possession. Nor need we fear,
that our attachment to this law will diminish
upon account of the seeming frivolousness
of those interests, by which it is determin'd.
The impulse of the mind is deriv'd from a
very strong interest; and those other more
minute interests serve only to direct the mo-
tion, without adding any thing to it, or
diminishing from it. 'Tis the same case
with government. Nothing is more advan-
tageous to society than such an invention;
and this interest is sufficient to make us em-
brace

PART brace it with ardour and alacrity; tho' we
 II. are oblig'd afterwards to regulate and direct
 our devotion to government by several con-
 siderations, which are not of the same im-
 portance, and to chuse our magistrates with-
 out having in view any particular advantage
 from the choice.

Of justice
 and inju-
 stice!

THE *first* of those principles I shall take notice of, as a foundation of the right of magistracy, is that which gives authority to all the most establish'd governments of the world without exception: I mean, *long possession* in any one form of government, or succession of princes. 'Tis certain, that if we remount to the first origin of every nation, we shall find, that there scarce is any race of kings, or form of a commonwealth, that is not primarily founded on usurpation and rebellion, and whose title is not at first worse than doubtful and uncertain. Time alone gives solidity to their right; and operating gradually on the minds of men, reconciles them to any authority, and makes it seem just and reasonable. Nothing causes any sentiment to have a greater influence upon us than custom, or turns our imagination more strongly to any object. When we have been long accusom'd to obey any set of men, that general instinct or tendency, which

which we have to suppose a moral obligation S E C T.
 attending loyalty, takes easily this direction, ^{X.}
 and chuses that set of men for its objects. ^{Of the}
 'Tis interest which gives the general instinct; ^{objects of}
 but 'tis custom which gives the particular ^{allegiance.}
 direction.

AND here 'tis observable, that the same length of time has a different influence on our sentiments of morality, according to its different influence on the mind. We naturally judge of every thing by comparison; and since in considering the fate of kingdoms and republics, we embrace a long extent of time, a small duration has not in this case a like influence on our sentiments, as when we consider any other object. One thinks he acquires a right to a horse, or a suit of cloaths, in a very short time; but a century is scarce sufficient to establish any new government, or remove all scruples in the minds of the subjects concerning it. Add to this, that a shorter period of time will suffice to give a prince a title to any additional power he may usurp, than will serve to fix his right, where the whole is an usurpation, The kings of *France* have not been possess'd of absolute power for above two reigns; and yet nothing will appear more extravagant to *Frenchmen* than to talk
 of

PART of their liberties. If we consider what has

II. been said concerning *accession*, we shall easily account for this phenomenon.

*Of justice
and inju-
stice.*

WHEN there is no form of government establish'd by *long* possession, the *present* possession is sufficient to supply its place, and may be regarded as the *second* source of all public authority. Right to authority is nothing but the constant possession of authority, maintain'd by the laws of society and the interests of mankind; and nothing can be more natural than to join this constant possession to the present one, according to the principles above-mention'd. If the same principles did not take place with regard to the property of private persons, 'twas because these principles were counter-ballanc'd by very strong considerations of interest; when we observ'd, that all restitution wou'd by that means be prevented, and every violence be authoriz'd and protected. And tho' the same motives may seem to have force, with regard to public authority, yet they are oppos'd by a contrary interest; which consists in the preservation of peace, and the avoiding of all changes, which, however they may be easily produc'd in private affairs, are unavoidably attended with bloodshed

shed and confusion, where the public is interested. SECT.
X.

ANY one, who finding the impossibility of accounting for the right of the present possessor, by any receiv'd system of ethics, shou'd resolve to deny absolutely that right, and assert, that it is not authoriz'd by morality, wou'd be justly thought to maintain a very extravagant paradox, and to shock the common sense and judgment of mankind. No maxim is more conformable, both to prudence and morals, than to submit quietly to the government, which we find establish'd in the country where we happen to live, without enquiring too curiously into its origin and first establishment. Few governments will bear being examin'd so rigorously. How many kingdoms are there at present in the world, and how many more do we find in history, whose governors have no better foundation for their authority than that of present possession? To confine ourselves to the *Roman* and *Grecian* empire; is it not evident, that the long succession of emperors, from the dissolution of the *Roman* liberty, to the final extinction of that empire by the *Turks*, cou'd not so much as pretend to any other title to the empire? The election of the senate was a mere form, which always follow'd

*Of the
objects of
allegiance.*



PART follow'd the choice of the legions; and
 II. these were almost always divided in the dif-
 ferent provinces, and nothing but the sword
 was able to terminate the difference. 'Twas
 by the sword, therefore, that every emperor
 acquir'd, as well as defended his right; and
 we must either say, that all the known
 world, for so many ages, had no govern-
 ment, and ow'd no allegiance to any one,
 or must allow, that the right of the stronger,
 in public affairs, is to be receiv'd as legiti-
 mate, and authoriz'd by morality, when not
 oppos'd by any other title.

Of justice
 and inju-
 stice.

THE right of *conquest* may be consider'd
 as a *third* source of the title of sovereigns.
 This right resembles very much that of pre-
 sent possession; but has rather a superior
 force, being seconded by the notions of
 glory and honour, which we ascribe to *con-*
querors, instead of the sentiments of hatred
 and detestation, which attend *usurpers*. Men
 naturally favour those they love; and there-
 fore are more apt to ascribe a right to suc-
 cessful violence, betwixt one sovereign and
 another, than to the successful rebellion of a
 subject against his sovereign^a.

WHEN

^a It is not here asserted, that *present possession* or *conquest*
 are sufficient to give a title against *long possession* and *posi-*
tive laws: But only that they have some force, and will
 be

WHEN neither long possession, nor present possession, nor conquest take place, as when the first sovereign, who founded any monarchy, dies; in that case, the right of *succession* naturally prevails in their stead, and men are commonly induc'd to place the son of their late monarch on the throne, and suppose him to inherit his father's authority. The presum'd consent of the father, the imitation of the succession to private families, the interest, which the state has in chusing the person, who is most powerful, and has the most numerous followers; all these reasons lead men to prefer the son of their late monarch to any other person^b.

THESE reasons have some weight; but I am persuaded, that to one, who considers impartially of the matter, 'twill appear, that there concur some principles of the imagination, along with those views of interest. The royal authority seems to be connected with the young prince even in his father's

life-

be able to cast the ballance where the titles are otherwise equal, and will even be sufficient *sometimes* to sanctify the weaker title. What degree of force they have is difficult to determine. I believe all moderate men will allow, that they have great force in all disputes concerning the rights of princes.

^b To prevent mistakes I must observe, that this case of succession is not the same with that of hereditary monarchies, where custom has fix'd the right of succession. These depend upon the principle of long possession above explain'd,

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X.

*Of the
objects of
allegiance.*



PART life-time, by the natural transition of the thought; and still more after his death: So that nothing is more natural than to complete this union by a new relation, and by putting him actually in possession of what seems so naturally to belong to him.

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*Of justice
 and inju-
 stice.*

To confirm this we may weigh the following phænomena, which are pretty curious in their kind. In elective monarchies the right of succession has no place by the laws and settled custom; and yet its influence is so natural, that 'tis impossible entirely to exclude it from the imagination, and render the subjects indifferent to the son of their deceas'd monarch. Hence in some governments of this kind, the choice commonly falls on one or other of the royal family; and in some governments they are all excluded. Those contrary phænomena proceed from the same principle. Where the royal family is excluded, 'tis from a refinement in politics, which makes people sensible of their propensity to chuse a sovereign in that family, and gives them a jealousy of their liberty, lest their new monarch, aided by this propensity, shou'd establish his family, and destroy the freedom of elections for the future.

THE

THE history of *Artaxerxes*, and the younger *Cyrus*, may furnish us with some reflections to the same purpose. *Cyrus* pretended a right to the throne above his elder brother, because he was born after his father's accession. I do not pretend, that this reason was valid. I wou'd only infer from it, that he wou'd never have made use of such a pretext, were it not for the qualities of the imagination above-mention'd, by which we are naturally inclin'd to unite by a new relation whatever objects we find already united. *Artaxerxes* had an advantage above his brother, as being the eldest son, and the first in succession: But *Cyrus* was more closely related to the royal authority, as being begot after his father was invested with it.

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allegiance.

SHOU'D it here be pretended, that the view of convenience may be the source of all the right of succession, and that men gladly take advantage of any rule, by which they can fix the successor of their late sovereign, and prevent that anarchy and confusion, which attends all new elections: To this I wou'd answer, that I readily allow, that this motive may contribute something to the effect; but at the same time I assert, that without another principle, 'tis impossible



PART such a motive shou'd take place. The interest of a nation requires, that the succession to the crown shou'd be fix'd one way or other; but 'tis the same thing to its interest in what way it be fix'd: So that if the relation of blood had not an effect independent of public interest, it wou'd never have been regarded, without a positive law; and 'twou'd have been impossible, that so many positive laws of different nations cou'd ever have concur'd precisely in the same views and intentions.

II.
*Of justice
 and injustice.*

THIS leads us to consider the *fifth* source of authority, viz. *positive laws*; when the legislature establishes a certain form of government and succession of princes. At first sight it may be thought, that this must resolve into some of the preceding titles of authority. The legislative power, whence the positive law is deriv'd, must either be establish'd by original contract, long possession, present possession, conquest, or succession; and consequently the positive law must derive its force from some of those principles. But here 'tis remarkable, that tho' a positive law can only derive its force from these principles, yet it acquires not all the force of the principle from whence it is deriv'd, but loses considerably in the transition;

tion; as it is natural to imagine. For in-
 stance; a government is establish'd for many
 centuries on a certain system of laws, forms,
 and methods of succession. The legislative
 power, establish'd by this long succession,
 changes all on a sudden the whole system of
 government, and introduces a new constitu-
 tion in its stead. I believe few of the sub-
 jects will think themselves bound to comply
 with this alteration, unless it have an evi-
 dent tendency to the public good: But will
 think themselves still at liberty to return to
 the antient government. Hence the notion
 of *fundamental laws*; which are suppos'd to
 be inalterable by the will of the sovereign:
 And of this nature the *Salic law* is under-
 stood to be in *France*. How far these funda-
 mental laws extend is not determin'd in any
 government; nor is it possible it ever shou'd.
 There is such an insensible gradation from
 the most material laws to the most trivial,
 and from the most antient laws to the most
 modern, that 'twill be impossible to set
 bounds to the legislative power, and deter-
 mine how far it may innovate in the prin-
 ciples of government. That is the work
 more of imagination and passion than of
 reason.

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PART

II.

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stice.*

WHOEVER considers the history of the several nations of the world; their revolutions, conquests, increase, and diminution; the manner in which their particular governments are establish'd, and the successive right transmitted from one person to another, will soon learn to treat very lightly all disputes concerning the rights of princes, and will be convinc'd, that a strict adherence to any general rules, and the rigid loyalty to particular persons and families, on which some people set so high a value, are virtues that hold less of reason, than of bigotry and superstition. In this particular, the study of history confirms the reasonings of true philosophy; which, shewing us the original qualities of human nature, teaches us to regard the controversies in politics as incapable of any decision in most cases, and as entirely subordinate to the interests of peace and liberty. Where the public good does not evidently demand a change; 'tis certain, that the concurrence of all those titles, *original contract, long possession, present possession, succession, and positive laws*, forms the strongest title to sovereignty, and is justly regarded as sacred and inviolable. But when these titles are mingled and oppos'd in different degrees, they

they often occasion perplexity; and are less SECT.
 capable of solution from the arguments of X.
 lawyers and philosophers, than from the ^{Of the}
 swords of the soldiery. Who shall tell me, ^{objects of}
 for instance, whether *Germanicus*, or *Drusus*, ^{allegiance.}
 ought to have succeeded *Tiberius*, had he
 died while they were both alive, without
 naming any of them for his successor?
 Ought the right of adoption to be receiv'd
 as equivalent to that of blood in a nation,
 where it had the same effect in private fami-
 lies, and had already, in two instances, taken
 place in the public? Ought *Germanicus* to
 be esteem'd the eldest son, because he was
 born before *Drusus*; or the younger, because
 he was adopted after the birth of his brother?
 Ought the right of the elder to be regarded
 in a nation, where the eldest brother had no
 advantage in the succession to private fami-
 lies? Ought the *Roman* empire at that time
 to be esteem'd hereditary, because of two
 examples; or ought it, even so early, to be
 regarded as belonging to the stronger, or the
 present possessor, as being founded on so
 recent an usurpation? Upon whatever prin-
 ciples we may pretend to answer these and
 such like questions, I am afraid we shall
 never be able to satisfy an impartial enquirer,
 who adopts no party in political controver-
 N 3 sies,

PART lies, and will be satisfied with nothing but
 II. found reason and philosophy.

Of justice
 and inju-
 stice.

BUT here an *English* reader will be apt to enquire concerning that famous *revolution*, which has had such a happy influence on our constitution, and has been attended with such mighty consequences. We have already remark'd, that in the case of enormous tyranny and oppression, 'tis lawful to take arms even against supreme power; and that as government is a mere human invention for mutual advantage and security, it no longer imposes any obligation, either natural or moral, when once it ceases to have that tendency. But tho' this *general* principle be authoriz'd by common sense, and the practice of all ages, 'tis certainly impossible for the laws, or even for philosophy, to establish any *particular* rules, by which we may know when resistance is lawful; and decide all controversies, which may arise on that subject. This may not only happen with regard to supreme power; but 'tis possible, even in some constitutions, where the legislative authority is not lodg'd in one person, that there may be a magistrate so eminent and powerful, as to oblige the laws to keep silence in this particular,

ticular. Nor wou'd this silence be an effect SECT.
only of their *respect*, but also of their *pru-* X.
dence; since 'tis certain, that in the vast va- Of the
riety of circumstances, which occur in all objects of
governments, an exercise of power, in so allegiance.
great a magistrate, may at one time be bene-
ficial to the public, which at another time
wou'd be pernicious and tyrannical. But
notwithstanding this silence of the laws in
limited monarchies, 'tis certain, that the
people still retain the right of resistance;
since 'tis impossible, even in the most des-
potic governments, to deprive them of it.
The same necessity of self-preservation, and
the same motive of public good, give them
the same liberty in the one case as in the
other. And we may farther observe, that
in such mix'd governments, the cases,
wherein resistance is lawful, must occur
much oftener, and greater indulgence be
given to the subjects to defend themselves
by force of arms, than in arbitrary govern-
ments. Not only where the chief magistrate
enters into measures, in themselves, ex-
tremely pernicious to the public, but even
when he wou'd encroach on the other parts
of the constitution, and extend his power
beyond the legal bounds, it is allowable to
resist and dethrone him; tho' such resistance



PART and violence may, in the general tenor of
 II. the laws, be deem'd unlawful and rebellious.
 For besides that nothing is more essential
 to public interest, than the preservation of
 public liberty; 'tis evident, that if such a
 mix'd government be once suppos'd to be
 establish'd, every part or member of the
 constitution must have a right of self-defence,
 and of maintaining its antient bounds against
 the encroachment of every other authority.
 As matter wou'd have been created in vain,
 were it depriv'd of a power of resistance,
 without which no part of it cou'd preserve
 a distinct existence, and the whole might be
 crowded up into a single point: So 'tis a
 gross absurdity to suppose, in any govern-
 ment, a right without a remedy, or allow,
 that the supreme power is shar'd with the
 people, without allowing, that 'tis lawful
 for them to defend their share against every
 invader. Those, therefore, who wou'd seem
 to respect our free government, and yet deny
 the right of resistance, have renounc'd all
 pretensions to common sense, and do not
 merit a serious answer.

It does not belong to my present pur-
 pose to shew, that these general principles
 are applicable to the late *revolution*; and that
 all the rights and privileges, which ought
 to

to be sacred to a free nation, were at that SECT.
 time threaten'd with the utmost danger. I X.
 am better pleas'd to leave this controverted Of the
 subject, if it really admits of controversy; objects of
 and to indulge myself in some philosophical allegiance.
 reflections, which naturally arise from that
 important event.

First, We may observe, that shou'd the
lords and *commons* in our constitution, with-
 out any reason from public interest, either
 depose the king in being, or after his death
 exclude the prince, who, by laws and settled
 custom, ought to succeed, no one wou'd
 esteem their proceedings legal, or think
 themselves bound to comply with them.
 But shou'd the king, by his unjust practices,
 or his attempts for a tyrannical and despotic
 power, justly forfeit his legal, it then not
 only becomes morally lawful and suitable to
 the nature of political society to dethrone
 him; but what is more, we are apt likewise
 to think, that the remaining members of the
 constitution acquire a right of excluding his
 next heir, and of chusing whom they please
 for his successor. This is founded on a very
 singular quality of our thought and imagi-
 nation. When a king forfeits his authority,
 his heir ought naturally to remain in the
 same situation, as if the king were remov'd
 by

PART by death; unless by mixing himself in the
 II. tyranny, he forfeit it for himself. But tho'
 this may seem reasonable, we easily comply
 with the contrary opinion. The deposition
 of a king, in such a government as ours, is
 certainly an act beyond all common autho-
 rity, and an illegal assuming a power for
 public good, which, in the ordinary course
 of government, can belong to no member
 of the constitution. When the public good
 is so great and so evident as to justify the
 action, the commendable use of this licence
 causes us naturally to attribute to the *parlia-
 ment* a right of using farther licences; and
 the antient bounds of the laws being once
 transgressed with approbation, we are not apt
 to be so strict in confining ourselves precisely
 within their limits. The mind naturally
 runs on with any train of action, which it
 has begun; nor do we commonly make any
 scruple concerning our duty, after the first
 action of any kind, which we perform.
 Thus at the *revolution*, no one who thought
 the deposition of the father justifiable,
 esteem'd themselves to be confin'd to his
 infant son; tho' had that unhappy monarch
 died innocent at that time, and had his son,
 by any accident, been convey'd beyond seas,
 there is no doubt but a regency wou'd have
 been

Of justice
 and inju-
 stice.

been appointed till he shou'd come to age, SECT.
and cou'd be restor'd to his dominions. As X.
the slightest properties of the imagination *Of the*
have an effect on the judgments of the *objects of*
people, it shews the wisdom of the laws *allegiance.*
and of the parliament to take advantage of
such properties, and to chuse the magistrates
either in or out of a line, according as the
vulgar will most naturally attribute authority
and right to them.

Secondly, Tho' the accession of the *Prince*
of *Orange* to the throne might at first give
occasion to many disputes, and his title be
contested, it ought not now to appear doubt-
ful, but must have acquir'd a sufficient au-
thority from those three princes, who have
succeeded him upon the same title. No-
thing is more usual, tho' nothing may, at
first sight, appear more unreasonable, than
this way of thinking. Princes often *seem* to
acquire a right from their successors, as well
as from their ancestors; and a king, who
during his life-time might justly be deem'd
an usurper, will be regarded by posterity
as a lawful prince, because he has had the
good fortune to settle his family on the
throne, and entirely change the antient form
of government. *Julius Cæsar* is regarded
as the first *Roman* emperor; while *Sylla* and
Marius,

PART *Marius*, whose titles were really the same as his, are treated as tyrants and usurpers. II. Time and custom give authority to all forms of government, and all successions of princes; and that power, which at first was founded only on injustice and violence, becomes in time legal and obligatory. Nor does the mind rest there; but returning back upon its footsteps, transfers to their predecessors and ancestors that right, which it naturally ascribes to the posterity, as being related together, and united in the imagination. The present *king of France* makes *Hugh Capet* a more lawful prince than *Cromwell*; as the establish'd liberty of the *Dutch* is no inconsiderable apology for their obstinate resistance to *Philip* the second.

Of justice
and in-
justice.

S E C T. XI.

Of the laws of nations.

SECT. XI. **W**HEN civil government has been establish'd over the greatest part of mankind, and different societies have been form'd contiguous to each other, there arises a new set of duties among the neighbouring states, suitable to the nature of that commerce, which they carry on with each other.

other. Political writers tell us, that in every kind of intercourse, a body politic is to be consider'd as one person; and indeed this assertion is so far just, that different nations, as well as private persons, require mutual assistance; at the same time that their selfishness and ambition are perpetual sources of war and discord. But tho' nations in this particular resemble individuals, yet as they are very different in other respects, no wonder they regulate themselves by different maxims, and give rise to a new set of rules, which we call *the laws of nations*. Under this head we may comprize the sacredness of the persons of ambassadors, the declaration of war, the abstaining from poison'd arms, with other duties of that kind, which are evidently calculated for the commerce, that is peculiar to different societies.

BUT tho' these rules be super-added to the laws of nature, the former do not entirely abolish the latter; and one may safely affirm, that the three fundamental rules of justice, the stability of possession, its transference by consent, and the performance of promises, are duties of princes, as well as of subjects. The same interest produces the same effect in both cases. Where possession has no stability, there must be perpetual war.

S E C T.

XI.

Of the
laws of
nations.



PART war. Where property is not transferr'd by
 II. consent, there can be no commerce. Where
 Of justice promises are not observ'd, there can be no
 and inju- leagues nor alliances. The advantages,
 stice. therefore, of peace, commerce, and mutual
 succour, make us extend to different king-
 doms the same notions of justice, which
 take place among individuals.

THERE is a maxim very current in the world, which few politicians are willing to avow, but which has been authoriz'd by the practice of all ages, *that there is a system of morals calculated for princes, much more free than that which ought to govern private persons.* 'Tis evident this is not to be understood of the lesser *extent* of public duties and obligations; nor will any one be so extravagant as to assert, that the most solemn treaties ought to have no force among princes. For as princes do actually form treaties among themselves, they must propose some advantage from the execution of them; and the prospect of such advantage for the future must engage them to perform their part, and must establish that law of nature. The meaning, therefore, of this political maxim is, that tho' the morality of princes has the same *extent*, yet it has not the same *force* as that of private persons, and

and may lawfully be transgress'd from a more trivial motive. However shocking such a proposition may appear to certain philosophers, 'twill be easy to defend it upon those principles, by which we have accounted for the origin of justice and equity.

SECT.

IX.

*Of the
laws of
nations.*

WHEN men have found by experience, that 'tis impossible to subsist without society, and that 'tis impossible to maintain society, while they give free course to their appetites; so urgent an interest quickly restrains their actions, and imposes an obligation to observe those rules, which we call *the laws of justice*. This obligation of interest rests not here; but by the necessary course of the passions and sentiments, gives rise to the moral obligation of duty; while we approve of such actions as tend to the peace of society, and disapprove of such as tend to its disturbance. The same *natural* obligation of interest takes place among independent kingdoms, and gives rise to the same *morality*; so that no one of ever so corrupt morals will approve of a prince, who voluntarily, and of his own accord, breaks his word, or violates any treaty. But here we may observe, that tho' the intercourse of different states be advantageous, and even sometimes necessary, yet it is not so necessary nor advantageous as that



PART that among individuals, without which 'tis

II. utterly impossible for human nature ever to
 Of justice and injustice. subſiſt. Since, therefore, the *natural* obligation to juſtice, among different ſtates, is not ſo ſtrong as among individuals, the *moral* obligation, which ariſes from it, muſt partake of its weakneſs; and we muſt neceſſarily give a greater indulgence to a prince or miniſter, who deceives another; than to a private gentleman, who breaks his word of honour.

SHOU'D it be aſk'd, *what proportion theſe two ſpecies of morality bear to each other?* I wou'd answer, that this is a queſtion, to which we can never give any precise answer; nor is it poſſible to reduce to numbers the proportion, which we ought to fix betwixt them. One may ſafely affirm, that this proportion finds itſelf, without any art or ſtudy of men; as we may obſerve on many other occaſions. The practice of the world goes farther in teaching us the degrees of our duty, than the moſt ſubtile philoſophy, which was ever yet invented. And this may ſerve as a convincing proof, that all men have an implicit notion of the foundation of thoſe moral rules concerning natural and civil juſtice, and are ſenſible, that they ariſe merely from human conventions, and from the in-
 tereſt

terest, which we have in the preservation of S E C T.
 peace and order. For otherwise the dimi- XI.
 nution of the interest wou'd never produce *Of the*
 a relaxation of the morality, and reconcile *laws of*
 us more easily to any transgression of justice *nations.*
 among princes and republics, than in the
 private commerce of one subject with ano-
 ther.

S E C T. XII.

Of chastity and modesty.

I F any difficulty attend this system con- S E C T.
 cerning the laws of nature and nations, XII.
 'twill be with regard to the universal appro-
 bation or blame, which follows their ob-
 servance or transgression, and which some
 may not think sufficiently explain'd from
 the general interests of society. To remove,
 as far as possible, all scruples of this kind, I
 shall here consider another set of duties, *viz.*
 the *modesty* and *chastity* which belong to
 the fair sex: And I doubt not but these
 virtues will be found to be still more con-
 spicuous instances of the operation of those
 principles, which I have insisted on.



PART THERE are some philosophers, who at-

II. tack the female virtues with great vehemence, and fancy they have gone very far in detecting popular errors, when they can show, that there is no foundation in nature for all that exterior modesty, which we require in the expressions, and dress, and behaviour of the fair sex. I believe I may spare myself the trouble of insisting on so obvious a subject, and may proceed, without farther preparation, to examine after what manner such notions arise from education, from the voluntary conventions of men, and from the interest of society.

*Of justice
and inju-
stice.*

WHOEVER considers the length and feebleness of human infancy, with the concern which both sexes naturally have for their offspring, will easily perceive, that there must be an union of male and female for the education of the young, and that this union must be of considerable duration. But in order to induce the men to impose on themselves this restraint, and undergo chearfully all the fatigues and expences, to which it subjects them, they must believe, that the children are their own, and that their natural instinct is not directed to a wrong object, when they give a loose to love and tenderness. Now if we examine
the



the structure of the human body, we shall find, that this security is very difficult to be attain'd on our part; and that since, in the copulation of the sexes, the principle of generation goes from the man to the woman, an error may easily take place on the side of the former, tho' it be utterly impossible with regard to the latter. From this trivial and anatomical observation is deriv'd that vast difference betwixt the education and duties of the two sexes.

WERE a philosopher to examine the matter *a priori*, he wou'd reason after the following manner. Men are induc'd to labour for the maintenance and education of their children, by the persuasion that they are really their own; and therefore 'tis reasonable, and even necessary, to give them some security in this particular. This security cannot consist entirely in the imposing of severe punishments on any transgressions of conjugal fidelity on the part of the wife; since these public punishments cannot be inflicted without legal proof, which 'tis difficult to meet with in this subject. What restraint, therefore, shall we impose on women, in order to counter-balance so strong a temptation as they have to fidelity? There seems to be no restraint possible, but in the

SECT.
XII.
*Of chastity
and modesty.*



PART punishment of bad fame or reputation ; a
 II. punishment, which has a mighty influence
Of justice on the human mind, and at the same time
and inju- is inflicted by the world upon surmizes, and
stice. conjectures, and proofs, that wou'd never
 be receiv'd in any court of judicature. In
 order, therefore, to impose a due restraint
 on the female sex, we must attach a pecu-
 liar degree of shame to their infidelity, above
 what arises merely from its injustice, and
 must bestow proportionable praises on their
 chastity.

BUT tho' this be a very strong motive to
 fidelity, our philosopher wou'd quickly dis-
 cover, that it wou'd not alone be sufficient
 to that purpose. All human creatures, espe-
 cially of the female sex, are apt to over-look
 remote motives in favour of any present
 temptation : The temptation is here the
 strongest imaginable : Its approaches are in-
 sensible and seducing : And a woman easily
 finds, or flatters herself she shall find, cer-
 tain means of securing her reputation, and
 preventing all the pernicious consequences of
 her pleasures. 'Tis necessary, therefore, that,
 beside the infamy attending such licences,
 there shou'd be some preceding backwardness
 or dread, which may prevent their first ap-
 proaches, and may give the female sex a
 repugnance

repugnance to all expressions, and postures, SECT.
and liberties, that have an immediate rela- XII.
tion to that enjoyment.

Of chastity
and mo-
desty.
SUCH wou'd be the reasonings of our
speculative philosopher: But I am persuaded,
that if he had not a perfect knowledge of
human nature, he wou'd be apt to regard
them as mere chimerical speculations, and
wou'd consider the infamy attending infide-
lity, and backwardness to all its approaches,
as principles that were rather to be wish'd
than hop'd for in the world. For what
means, wou'd he say, of persuading man-
kind, that the transgressions of conjugal
duty are more infamous than any other kind
of injustice, when 'tis evident they are more
excusable, upon account of the greatness of
the temptation? And what possibility of
giving a backwardness to the approaches of
a pleasure, to which nature has inspir'd so
strong a propensity; and a propensity that
'tis absolutely necessary in the end to comply
with, for the support of the species?

BUT speculative reasonings, which cost
so much pains to philosophers, are often
form'd by the world naturally, and without
reflection: As difficulties, which seem un-
surmountable in theory, are easily got over
in practice. Those, who have an interest



PART in the fidelity of women, naturally dis-
 II. approve of their infidelity, and all the ap-
 proaches to it. Those, who have no in-
 Of justice and inju-
 stice. terest, are carried along with the stream.
 Education takes possession of the ductile
 minds of the fair sex in their infancy. And
 when a general rule of this kind is once
 establish'd, men are apt to extend it beyond
 those principles, from which it first arose.
 Thus batchelors, however debauch'd, cannot
 chuse but be shock'd with any instance of
 lewdness or impudence in women. And
 tho' all these maxims have a plain reference
 to generation, yet women past child-bearing
 have no more privilege in this respect, than
 those who are in the flower of their youth
 and beauty. Men have undoubtedly an im-
 plicit notion, that all those ideas of modesty
 and decency have a regard to generation;
 since they impose not the same laws, *with*
the same force, on the male sex, where that
 reason takes not place. The exception is
 there obvious and extensive, and founded on
 a remarkable difference, which produces a
 clear separation and disjunction of ideas.
 But as the case is not the same with regard
 to the different ages of women, for this
 reason, tho' men know, that these notions
 are founded on the public interest, yet the
 general

general rule carries us beyond the original S E C T.
 principle, and makes us extend the notions XII.
 of modesty over the whole sex, from their Of chastity
 earliest infancy to their extremest old-age and mo-
 and infirmity. defty.

COURAGE, which is the point of honour among men, derives its merit, in a great measure, from artifice, as well as the chastity of women; tho' it has also some foundation in nature, as we shall see afterwards.

As to the obligations which the male sex lie under, with regard to chastity, we may observe, that according to the general notions of the world, they bear nearly the same proportion to the obligations of women, as the obligations of the law of nations do to those of the law of nature. 'Tis contrary to the interest of civil society, that men shou'd have an *entire* liberty of indulging their appetites in venereal enjoyment: But as this interest is weaker than in the case of the female sex, the moral obligation, arising from it, must be proportionably weaker. And to prove this we need only appeal to the practice and sentiments of all nations and ages.



