

50. *Dissertation on the Canon and
the Feudal Law*

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"Ignorance and inconsideration are the two great causes of the ruin of mankind." This is an observation of Dr. Tillotson, with relation to the interest of his fellow men in a future and immortal state. But it is of equal truth and importance if applied to the happiness of men in society, on this side the grave. In the earliest ages of the world, absolute monarchy seems to have been the universal form of government. Kings, and a few of their great counsellors and captains, exercised a cruel tyranny over the people, who held a rank in the scale of intelligence, in those days, but little higher than the camels and elephants that carried them and their engines to war.

By what causes it was brought to pass that the people in the Middle Ages became more intelligent in general would not, perhaps, be possible in these days to discover. But the fact is certain; and wherever a general knowledge and sensibility have prevailed among the people, arbitrary government and every kind of oppression have lessened and disappeared in proportion. Man has certainly an exalted soul; and the same principle in human nature—that aspiring, noble principle founded in benevolence, and cherished by knowledge; I mean the love of power, which has been so often the cause of slavery—has, whenever freedom has existed, been the cause of freedom. If it is this principle that has always prompted the princes and nobles of the earth, by every species of fraud and violence to shake off all the limitations of their power, it is the same that has always stimulated the common people to aspire at independency, and to endeavor at confining the power of the great within the limits of equity and reason.

The poor people, it is true, have been much less successful than the great. They have seldom found either leisure or opportunity to form a union and exert their strength; ignorant as they were of arts and letters, they have seldom been able to frame and support a regular opposition.

This, however, has been known by the great to be the temper of mankind; and they have accordingly labored, in all ages, to wrest from the populace, as they are contemptuously called, the knowledge of their rights and wrongs, and the power to assert the former or redress the latter. I say rights, for such they have, undoubtedly, antecedent to all earthly government—*Rights*, that cannot be repealed or restrained by human laws—*Rights*, derived from the great Legislator of the universe.

Since the promulgation of Christianity, the two greatest systems of tyranny that have sprung from this original are the canon and the feudal law. . . .

By the former of these, the most refined, sublime, extensive, and astonishing constitution of policy that ever was conceived by the mind of man was framed by the Romish clergy for the aggrandizement of their own order. . . .

In the latter we find another system, similar in many respects to the former; which, although it was originally formed, perhaps, for the necessary defence of a barbarous people against the inroads and invasions of her neighboring nations, yet for the same purposes of tyranny, cruelty, and lust which had dictated the canon law, it was soon adopted by almost all the princes of Europe, and wrought into the constitutions of their government. It was originally a code of laws for a vast army in a perpetual encampment. . . .

But another event still more calamitous to human liberty was a wicked confederacy between the two systems of tyranny above described. It seems to have been even stipulated between them that the temporal grandees should contribute everything in their power to maintain the ascendancy of the priesthood, and that the spiritual grandees in their turn should employ their ascendancy over the consciences of the people, in impressing on their minds a blind, implicit obedience to civil magistracy.

Thus, as long as this confederacy lasted, and the people were held in ignorance, liberty, and with her, knowledge and virtue too, seem to have deserted the earth, and one age of darkness succeeded another, till God in his benign providence raised up the champions who began and conducted the Reformation. From the time of the Reformation to the first settlement of America, knowledge gradually spread in Europe, but especially in England; and in proportion as that increased and spread among the people, ecclesiastical and civil tyranny, which I use as synonymous expressions for the canon and feudal laws, seem to have lost their strength and weight. The people grew more and more sensible of the wrong that was done them by these systems, more and more impatient under it, and determined at all hazards to rid themselves of it; till at last, under the execrable race of the Stuarts, the struggle between the people and the confederacy aforesaid of temporal and spiritual tyranny became formidable, violent, and bloody.

It was this great struggle that peopled America. It was not religion alone, as is commonly supposed; but it was a love of universal liberty, and a hatred, a dread, a horror, of the infernal confederacy before described, that projected, conducted, and accomplished the settlement of America.

It was a resolution formed by a sensible people—I mean the Puritans—almost in despair. They had become intelligent in general, and many of them learned. . . .

After their arrival here, they began their settlement, and formed their plan, both of ecclesiastical and civil government, in direct opposition to the canon and the feudal systems. . . . Tyranny in every form, shape, and appearance was their disdain and abhorrence; no fear of punishment, nor even of death itself in exquisite tortures, had been sufficient to conquer that steady, manly, pertinacious spirit with which they had opposed the tyrants of those days in church and state. They were very far from being enemies to monarchy; and they knew as well as any men the just regard and honor that is due to the character of a dispenser of the mysteries of the gospel of grace. But they saw clearly that popular powers must be placed as a guard, a control, a balance, to the powers of the monarch and the priest, in every government, or else it would soon become the man of sin, the whore of Babylon, the mystery of iniquity, a great and detestable system of fraud, violence, and usurpation. Their greatest concern seems to have been to establish a government of the church more consistent with the Scriptures, and a government of the state more agreeable to the dignity of human nature, than any they had seen in Europe, and to transmit such a government down to their posterity, with the means of securing and preserving it forever. To render the popular power in their new government as great and wise as their principles of theory, that is, as human nature and the Christian religion require it should be, they endeavored to remove from it as many of the feudal inequalities and dependencies as could be spared, consistently with the preservation of a mild limited monarchy. And in this they discovered the depth of their wisdom and the warmth of their friendship to human nature. But the first place is due to religion. They saw clearly that of all the nonsense and delusion which had ever passed through the mind of man, none had ever been more extravagant than the notions of absolutions, indelible characters, uninterrupted successions, and the rest of those fantastical ideas, derived from the canon law, which had thrown such a glare of mystery, sanctity, reverence, and right reverend eminence and holiness around the idea of a priest, as no mortal could deserve, and as always must, from the constitution of human nature, be dangerous in society. . . .

They knew that government was a plain, simple, intelligible thing, founded in nature and reason, and quite comprehensible by common sense. They detested all the base services and servile dependencies of the feudal system. They knew that no such unworthy dependencies took

place in the ancient seats of liberty, the republics of Greece and Rome; and they thought all such slavish subordinations were equally inconsistent with the constitution of human nature and that religious liberty with which Jesus had made them free. . . .

They were convinced, by their knowledge of human nature, derived from history and their own experience, that nothing could preserve their posterity from the encroachments of the two systems of tyranny, in opposition to which, as has been observed already, they erected their government in church and state, but knowledge diffused generally through the whole body of the people. Their civil and religious principles, therefore, conspired to prompt them to use every measure and take every precaution in their power to propagate and perpetuate knowledge. For this purpose they laid very early the foundations of colleges, and invested them with ample privileges and emoluments; and it is remarkable that they have left among their posterity so universal an affection and veneration for those seminaries, and for liberal education, that the meanest of the people contribute cheerfully to the support and maintenance of them every year, and that nothing is more generally popular than projections for the honor, reputation, and advantage of those seats of learning. But the wisdom and benevolence of our fathers rested not here. They made an early provision by law that every town consisting of so many families should be always furnished with a grammar school. They made it a crime for such a town to be destitute of a grammar schoolmaster for a few months, and subjected it to a heavy penalty. So that the education of all ranks of people was made the care and expense of the public, in a manner that I believe has been unknown to any other people ancient or modern.

The consequences of these establishments we see and feel every day. A native of America who cannot read and write is as rare an appearance as a Jacobite or a Roman Catholic, that is, as rare as a comet or an earthquake. It has been observed that we are all of us lawyers, divines, politicians, and philosophers. And I have good authorities to say that all candid foreigners who have passed through this country and conversed freely with all sorts of people here will allow that they have never seen so much knowledge and civility among the common people in any part of the world. . . . And liberty cannot be preserved without a general knowledge among the people, who have a right, from the frame of their nature, to knowledge, as their great Creator, who does nothing in vain, has given them understandings, and a desire to know; but besides this, they have a right, an indisputable, unalienable, indefeasible, divine right to that most dreaded and envied kind of knowledge—I mean, of the characters and conduct of their rulers. Rulers are no more than attorneys, agents, and trustees, for the people; and if the cause, the interest and trust, is insidiously betrayed, or wantonly trifled away, the people have a right to revoke the authority that they themselves have deputed, and to constitute

abler and better agents, attorneys, and trustees. And the preservation of the means of knowledge among the lowest ranks is of more importance to the public than all the property of all the rich men in the country. It is even of more consequence to the rich themselves, and to their posterity. The only question is, whether it is a public emolument; and if it is, the rich ought undoubtedly to contribute, in the same proportion as to all other public burdens—that is, in proportion to their wealth, which is secured by public expenses. But none of the means of information are more sacred, or have been cherished with more tenderness and care by the settlers of America, than the press. Care has been taken that the art of printing should be encouraged, and that it should be easy and cheap and safe for any person to communicate his thoughts to the public. . . . Let us tenderly and kindly cherish, therefore, the means of knowledge. Let us dare to read, think, speak, and write. Let every order and degree among the people rouse their attention and animate their resolution. Let them all become attentive to the grounds and principles of government, ecclesiastical and civil. Let us study the law of nature; search into the spirit of the British constitution; read the histories of ancient ages; contemplate the great examples of Greece and Rome; set before us the conduct of our own British ancestors, who have defended for us the inherent rights of mankind against foreign and domestic tyrants and usurpers, against arbitrary kings and cruel priests, in short, against the gates of earth and hell. Let us read and recollect and impress upon our souls the views and ends of our own more immediate forefathers, in exchanging their native country for a dreary, inhospitable wilderness. Let us examine into the nature of that power, and the cruelty of that oppression, which drove them from their homes. Recollect their amazing fortitude, their bitter sufferings—the hunger, the nakedness, the cold, which they patiently endured—the severe labors of clearing their grounds, building their houses, raising their provisions, amidst dangers from wild beasts and savage men, before they had time or money or materials for commerce. Recollect the civil and religious principles and hopes and expectations which constantly supported and carried them through all hardships with patience and resignation. Let us recollect it was liberty, the hope of liberty for themselves and us and ours, which conquered all discouragements, dangers, and trials. In such researches as these, let us all in our several departments cheerfully engage—but especially the proper patrons and supporters of law, learning, and religion!

Let the pulpit resound with the doctrines and sentiments of religious liberty. Let us hear the danger of thralldom to our consciences from ignorance, extreme poverty, and dependence, in short, from civil and political slavery. Let us see delineated before us the true map of man. Let us hear the dignity of his nature, and the noble rank he holds among the works of God—that consenting to slavery is a sacrilegious breach of trust, as offensive in the sight of God as it is derogatory from our own honor or

interest or happiness—and that God Almighty has promulgated from heaven liberty, peace, and good-will to man!

Let the bar proclaim “the laws, the rights, the generous plan of power” delivered down from remote antiquity—inform the world of the mighty struggles and numberless sacrifices made by our ancestors in defence of freedom. Let it be known that British liberties are not the grants of princes or parliaments, but original rights, conditions of original contracts, coequal with prerogative, and coeval with government; that many of our rights are inherent and essential, agreed on as maxims, and established as preliminaries, even before a parliament existed. Let them search for the foundations of British laws and government in the frame of human nature, in the constitution of the intellectual and moral world. There let us see that truth, liberty, justice, and benevolence are its everlasting basis; and if these could be removed, the superstructure is overthrown of course.

Let the colleges join their harmony in the same delightful concert. Let every declamation turn upon the beauty of liberty and virtue, and the deformity, turpitude, and malignity of slavery and vice. Let the public disputations become researches into the grounds and nature and ends of government, and the means of preserving the good and demolishing the evil. Let the dialogues, and all the exercises, become the instruments of impressing on the tender mind, and of spreading and distributing far and wide, the ideas of right and the sensations of freedom.

In a word, let every sluice of knowledge be opened and set a-flowing. The encroachments upon liberty in the reigns of the first James and the first Charles, by turning the general attention of learned men to government, are said to have produced the greatest number of consummate statesmen which has ever been seen in any age or nation. The Brookses, Hampdens, Vanes, Seldens, Miltons, Nedhams, Harringtons, Nevilles, Sidneys, Lockes, are all said to have owed their eminence in political knowledge to the tyrannies of those reigns. The prospect now before us in America ought in the same manner to engage the attention of every man of learning, to matters of power and of right, that we may be neither led nor driven blindfolded to irretrievable destruction. Nothing less than this seems to have been meditated for us, by somebody or other in Great Britain. There seems to be a direct and formal design on foot to enslave all America. This, however, must be done by degrees. The first step that is intended seems to be an entire subversion of the whole system of our fathers, by the introduction of the canon and feudal law into America. The canon and feudal systems, though greatly mutilated in England, are not yet destroyed. Like the temples and palaces in which the great contrivers of them once worshipped and inhabited, they exist in ruins; and much of the domineering spirit of them still remains. . . . But it seems very manifest from the Stamp Act itself that a design is formed to strip us in a great measure of the means of knowledge, by loading the press,

the colleges, and even an almanac and a newspaper, with restraints and duties; and to introduce the inequalities and dependencies of the feudal system, by taking from the poorer sort of people all their little subsistence, and conferring it on a set of stamp officers, distributors, and their deputies. . . . These are not the vapors of a melancholy mind, nor the effusions of envy, disappointed ambition, nor of a spirit of opposition to government, but the emanations of a heart that burns for its country's welfare. No one of any feeling, born and educated in this once happy country, can consider the numerous distresses, the gross indignities, the barbarous ignorance, the haughty usurpations, that we have reason to fear are meditating for ourselves, our children, our neighbors, in short, for all our countrymen and all their posterity, without the utmost agonies of heart and many tears.