

*DEMOCRACY VINDICATED.*

AN ESSAY

ON THE

CONSTITUTION & GOVERNMENT

OF THE

Roman State;

FROM THE POSTHUMOUS WORKS OF

*WALTER MOYLE;*

WITH A PREFACE AND NOTES,

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### *Preface to the French Translation, 1801*

[This 'avertissement' by the publisher is almost certainly by Bertrand Barère.]

D'Alembert said of the work of Montesquieu on the Romans, that it could be called, 'Roman history for the use of philosophers and statesmen'. This title would be equally appropriate for the work of Walter Moyle, which we publish today.

It is a thing worth noticing, that the English, a nation whose ancestors were overthrown by the Romans, are the first who have written philosophical reflexions, and given to Europe profound ideas about the Roman Empire. Thus the defeated have become the judges of the conquerors. Gibbon has presented historically the causes of the rise and decadence of this empire. Ferguson has treated the same subject. Edward Wortley Montagu has published his thoughts upon the rise and fall of the Roman Republic. Hooke has produced critical disquisitions on the history and government of ancient Rome.

But most of these works, which may be thought of as the philosophy of Roman history, are posterior to the work which we translate today, under the modest title given it by its author Walter Moyle, *Essay upon the Government of Rome*.

At that time, none of those excellent works cited, had appeared; and the immortal treatise *On the Causes of the Grandeur and the Decadence of the Romans* had not yet illuminated Europe.

This valuable work by Montesquieu, the most perfect of those which have come from his vigorous pen, did not, it is true, appear until 1734; and this which we give to the public was printed in London in 1726, that is, eight years before the work of Montesquieu.

The genius of the author of *The Spirit of the Laws* was formed to discover in itself all that came out of it. But, despite the riches of these resources, several beautiful pages of his *Spirit of the Laws* may be found in Tacitus and Plutarch. Why could it not have found in the English work, the chief ideas which inspired the treatise about *The Causes of the Grandeur and Decadence of the Romans*?... Before writing on the Romans and *The Spirit of the Laws*, Montesquieu travelled in England, and gathered all those ideas which he needed to complete those masterpieces, by which he has enlightened France. It is no mean encomium for a work to have inspired a genius as great and profound as that of Montesquieu, and this praise is merited by the *Essay* Walter Moyle published in London in 1726. Voltaire, in writing that *The Persian Letters* were imitations of Siamois de Dufresny, did nothing to detract from the worth of the ingenious creator of the letters of Usbek and Rica. We are equally free from any

attempt to belittle the great fame of the author of *The Causes of the Grandeur and Decadence of the Romans*, in publishing a work translated from English, which prepared or inspired the profound thought of this worthy admirer of a great people. We seek only to enrich political literature with a volume useful to statesmen and philosophers, and, in the Roman manner, we crown the fountain head.

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## Part One<sup>[1]</sup>

Romulus at the head of a numerous colony from Alba,<sup>[2]</sup> was the first founder of the Roman State. This colony, was in the original state of nature free, and independent of any dominion whatsoever, and only chose Romulus for their leader, till their new city was built, and they were at leisure to consider what form of government they should resolve upon.

Monarchy was the ancient government of Alba, and continued down for many ages in a lineal succession of princes, famous for their justice and moderation at home, and their conquests abroad. The love of their ancient constitution, (so natural to mankind) together with the ease and plenty they enjoyed under former reigns, (which they imagined to be owing to the civil orders and institutions of the state, and not to the virtue and emulation of their particular kings) were considerations strong enough to incline the people in favour of monarchy, which they made choice of by universal consent, and elected Romulus for their first king: who, immediately after his advancement, erected a frame of government, upon such admirable orders, both civil, military and religious, that, if no alteration had been made in the fundamental laws by himself, or his successors, it would have been the most noble, as well as most lasting constitution of limited monarchy that ever was in the world.

His first care was to possess the people with the notion of his divine appointment over them: before he attempted the crown, the gods were consulted in the usual forms; and all the tokens of divine approbation appeared: which left no room for pretenders to dispute his title, nor to the people to repeal their choice. This begot a reverence and a veneration for his person, added weight and authority to his laws, and strength and reputation to his government.

The belief of this divine designation once infused into the minds of the people, he proceeded to lay the foundation of his government, and began with securing the possession of the regal power by a wise institution of an hereditary order of nobility, composed out of the richest and the noblest of his new colony. Out of this order were chosen all the council and magistracies of the commonwealth; all officers, civil and military; and out of these he formed the great council of state, called the senate. A faction, doubtless devoted to the king, by whose favour it was appointed, says Livy: and indeed, this distinction of honour and power, these mighty

privileges and immunities, created a necessary dependence of the nobility upon the crown, and engaged them entirely in the support of monarchy, under whose protection they enjoyed these advantages, to the exclusion of the rest of the people. And in all ages the nobility has been the guard of sovereign power in limited monarchies, and always opposed any innovations in favour of popular government; for fear of introducing an equality, inconsistent with their privileges. <sup>[3]</sup>

But Romulus, wisely considering that this division of the people into two orders would make different parties and factions in the state, which in time would dissolve the government, unless they were united by some common interest, resolved, since he could not make an equality, at least to create a dependence of the commons upon the nobility, by introducing the custom of patronage; which was, allotting such patrons out of the nobility to the commons, who were obliged to defend them in the possession of their rights and properties: to advise them in all matters of weight, and to protect them against all violence and oppression; while the client on his part was obliged to pay all deference and esteem to his patron, and to serve him with his life and fortune in any extremity. This mutual intercourse of good offices begot a confidence and good correspondence between the nobility and commons, without those jealousies and animosities which are the infallible consequences of two parties, between whom there is no common bond of union. <sup>[4]</sup>

Having provided for the support of the monarchy, his next care was to secure his own person from the dangers of any sudden tumult, or popular insurrection, by establishing a guard, composed of the bravest youth of the nobility, who constantly attended his person, and were the executioners of all his orders in the city, and fought by his side in the field.

To defray the necessary expenses of the court, he reserved to himself a good share out of the general division of the land to the people, which he appropriated to the maintenance of the civil list, and to support a splendour becoming his dignity. For the ordinary revenue of the kings of Rome lay in their crown lands; and the extraordinary charges of war and other contingencies, were supported by levying taxes upon the people.

Though he shared the legislative in common with people and senate, and had no power to pass any law without concurrence of both orders, yet he had the sole right of proposing to the people in their assemblies by virtue of his prerogative, which amounted to a full negative voice in all their determinations; neither the people nor senate have the liberty of proposing, debating or enacting laws, till they were first moved from the throne.

Besides this advantage of having the largest share of the legislative power of the commonwealth, he had all the executive power of the state lodged in his hands. He had the supreme power of administration of justice in all causes, civil and criminal, unless in those of little consideration, which he referred to the senate; but in all others he was sovereign judge

in the last resort, without any further appeal to the people: and in time of war he had the absolute command of all the forces of the state.

Thus I have run briefly through the civil orders upon which this great lawgiver founded his dominion, viz. the opinion of a divine appointment; the dependence of the nobility upon his interest, and the dependence of their clients upon them; his standing body of guards; his great revenue in lands; the sole power of the executive, and part of the legislative; and last of all, the administration of justice, and the command of the armies, which were the great branches of the royal prerogative. [5]

The next thing I shall proceed on, is the religious institution of Rome; which, whether we consider the simplicity of its precepts, and their mighty influence upon the morals of the people, or their admirable application to all the ends of civil society, and particularly the support of the monarchy, will appear to be the wisest and the most politic system of religion, that ever any lawgiver founded.

Romulus drew only the rough draft of religion, which was finished and brought to perfection by the great genius of Numa; who from a private man, and a foreigner, was courted to accept of the crown, purely upon the renown of his piety and justice. The principles from which he derived authority and belief to his religion, were, first the reputation of sincerity, which is the universal ground of persuasion; his innocent practice upon the credulity of a barbarous people, by pretending to a supernatural revelation of his laws; and lastly the operation of miracles. This has been the current practice of all the great legislators of antiquity, who thought the opinion of a divine mission and authority, absolutely necessary to procure belief to all their doctrines, and a blind and abandoned submission to all their laws.

Upon this bottom Numa [6] erected the scheme of his religion; in which he avoided all the follies and absurdities of other legislators. He did not enjoin the belief of contradictions and impossibilities, which take off from the reputation of the lawgiver, and discredit his religion; nor did he introduce any opinions unworthy of the gods and inconsistent with the divine nature; nor did he require the belief of many articles of faith, which create schisms and heresies in the church, and end in the ruin of religion. For if schisms and heresies were traced up to their original causes, it would be found that they all sprung chiefly from the multiplying articles of faith, and narrowing the bottom of religion, by clogging it with creeds and catechisms, and endless niceties about the essence, properties and attributes of God. The common principles of religion all mankind agree in; and the belief of these doctrines a lawgiver may venture to enjoin; but he must go no further if he means to preserve an uniformity in religion. For the injunction of positive laws, how much soever they contradict the inclinations of mankind, rarely produce any schisms; so much easier it is for men to practise against their passions, than to believe against their understandings. But Numa, by a wise conduct, prevented all factions and divisions in the church, by the institution of only two articles of faith: 1st, That the Gods were the authors of all good to mankind. 2nd, That to obtain this

good, the Gods were to be worshipped; in which worship, the chief of all was to be innocent, good and just. These were the two fundamental articles of the Roman religion, which Zaleucus seems to have copied in the institution of his commonwealth. [\[7\]](#)

As for the first, though in compliance to the popular opinion, and in a vulgar way, the great men of antiquity spoke of the godhead in the plural number; yet upon all solemn occasions, when they mentioned the godhead with any gravity and emphasis, it was by the name of the best and greatest God. Though the unity of the godhead be as demonstrable as its existence, and though this principle was embraced not only by many private men and sects of philosophers, but by whole nations of antiquity; yet flattery to the memories of their benefactors, the interest of priests, the ignorance of mankind, and many other causes had introduced polytheism into the national religion of the greatest part of the world.

Whatever sentiments Numa had of the godhead, 'tis plain he complied with the current divinity of the times, and established a plurality of gods in his system; perhaps from this consideration, that the absolute and perfect unity of the godhead, was a notion too refined to gain reception in an age universally overrun with polytheism; when even Moses himself, with all his divine inspiration, and the irresistible force of his miracles, found much difficulty to master the popular prejudice against it. But though this perfect unity of the godhead was a doctrine less known to the world, yet the existence of a God, and the providence of some superior powers, are acknowledged by all civilized nations.

The second article is but a natural consequence of the first: and thus we see Numa's system of religion took in all the common opinions of mankind. As for the particular forms of divine worship, he instituted a ritual, which directed the priests in the solemn ceremonies and services of religion, without denying a toleration of other forms; of which more hereafter.

The doctrine of the immortality of the soul, though it was no part of the religion of the Romans, but seems left rather as a problem of philosophy than an article of divinity, yet was always cherished and encouraged by the commonwealth, as an opinion of great use and service to the state. Had it been an established doctrine, Veturia would not have talked so doubtfully of it in her speech to Coriolanus; nor Caesar have openly derided it in the face of the whole senate. I am inclined to believe, it was first transplanted from Greece to Italy by Pythagoras, and from thence derived to the Romans; however it might first have been introduced, we find it was received as a thing plausible; though in the same rank and upon the same level with those fables and other religious histories and traditions which the poets sang. And Polybius blames some who made it their business to dispossess the vulgar of that opinion. Numa likewise interwove his moral precepts with his religious doctrine; for the great principle of his morality, justice, which in a manner comprehends all other moral virtues, was grounded upon this persuasion, 'That the gods were the most excellent nature, and the great examples of highest virtue; that they administered every thing justly, and had a due care and providence over the whole; and that they never bestowed their favours upon unjust men'.

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From this root sprung that noble branch of their morals, the love of their country; which afterwards grew to be the fundamental article of their ethics, and the standard of all virtue and vice. This principle was passionately pursued by all the great Romans; at this, the inexorable Coriolanus relented; for this, the Decii and Curtii devoted themselves; to this principle Brutus sacrificed his son; this was improved and cultivated by the force of education, and confirmed by more generous examples than any age or nation can boast of.

Nor did he sour his religion with needless severities and affected austerities, by imposing doctrines of penance, abstinence, and mortification, which serve only to cross the innocent appetites of mankind, without making them better or wiser.

Besides the influence of his religion upon the duties of private life, he likewise made it a part of the Roman policy and subservient to all the great ends of government and society. All the elections of their magistrates, and all their public resolutions, were ratified by the solemn approbation of their gods, consulted by their college of diviners; than which nothing could be a greater reach of policy, to teach the people obedience to their magistrates and subjection to their laws. This was likewise a mighty incentive to valour and resolution to their armies upon any desperate service, and won them many victories; for prophecies by the assurance they give of success, are oftentimes the causes of the events that they foretell.

Numa, by the wide bottom of his religion, prevented all heresies in fundamentals; and in the particular forms of divine worship he allowed a general liberty of conscience. This generous principle of tolerating all religions in the commonwealth, was that above all others which fitted his system to the chief design of the government; for the rise and progress of the Roman greatness were wholly owing to the mighty confluence of people from all parts of the world, (with customs and ceremonies very different from the Romans) who would never have settled there, with an allowance of the free exercise of their particular religions. It is true, the Romans were very cautious of introducing any new rites into their national religion; and there are frequent instances in their histories of their forbidding the magistrates to make any innovations in the public worship. But this order did not extend to regulate the opinions or devotions of private men, as appears by the decree of the senate, enacted upon the suppression of the Bacchanalia: that any one who asked leave of the senate might celebrate the mysteries in private, though they dissolved the public assemblies of the Bacchanalia, as a seminary of all debauchery, and dangerous to the state.

This wise institution of an universal liberty in religion, seems to be owing to this single cause, viz. 'That the government of the national religion was lodged in the senate and people'. It is true, under the government of the kings, the priests had a very large jurisdiction, being the public directors of all the divine rights, with an unlimited power of judging and determining all religious disputes whatsoever, without being accountable to any superior authority: but their mighty power declined after the subversion of the monarchy; and after that, the sole power of religion devolved upon the civil magistrate, as may be easily made appear by the Roman

historians. First, all neglects of the national religion, and the introduction of foreign rites and ceremonies, were punished and prohibited by the senate, the priests never interposing their authority: but the execution of all the religious orders of the senate were committed to the aediles and praetors, who were civil magistrates; and all toleration of mysteries and ceremonies, contrary to the established religion, were granted by the senate. All innovations in the national worship, such as adoption of new gods, and the institutions of new forms and ceremonies in religion, were appointed by the authority of the senate. Nor had the priests any right to consult the great oracles of their divine worship, the sibylline verses, in which they placed the infallibility of their religion, unless by the express command of the senate. Nor did the senate make any scruple of acting against the authority of the high priest, who was the supreme governor of the hierarchy. <sup>[9]</sup>

It is evident likewise that the whole order of the high-priests were subject to the jurisdiction of the tribunes of the people, for Cicero tells Claudius, the tribune, that by the virtue of his tribuneship he could compel them to obey his orders. Cicero likewise declares the supreme power of religion to be lodged in the people; for when Claudius had consecrated his house, and one of the high priests assisted at the solemnity, the people in their assembly pronounced the consecration void. In the people's hands, says Tully, the supreme power of all things is placed. And when the further consideration of that affair was referred to the college of the high-priests by the orders of the senate, not that the thing admitted of any doubt after the determination of the people, their sentence was not valid till it was reported to the senate, and ratified by their authority.

By what paces and methods the civil power wrested the government of religion out of the hands of the priests, is difficult to determine, in the silence of all the ancient writers. But probably the usurping the right of electing the high priest, after the expulsion of the kings, was the leading step to the invasion of all their other privileges.

The government of religion being in the hands of the state, was a necessary cause of liberty of conscience; for there is scarce any instance in history of a persecution raised by a free government. Persecutions are generally made to gratify the pride, the ambition, or the interests of the clergy; which a state, that has the command of the national conscience, will never indulge at the expense of the public good.

A free government is designed for the liberty of the whole society, which persecution is inconsistent with; and it is against all the rules of policy to persecute opinions not destructive to humane society; for a necessary consequence of such a practice, is the narrowing of the bottom of the community, by weakening the strength and force of the commonwealth, which consists in the number of the people, who in all appearance will, when thus disturbed, retire to an easier government; nor can this fail to break the firm unity of the nation, which these severe arts of government are inconsistent with. But persecutions are generally encouraged only by tyrants and priests. By tyrants, either from a false bigotry or misguided zeal for



religion; or from a boundless vanity and pride of forcing all their subjects to comply with their opinions as well as commands; or from a barbarous policy of thinning the people, that they may with the greater ease oppress the rest; or from an apprehension that revolutions in religion may be attended with revolutions in state; or from the hopes of gaining a further support to their tyranny by engaging the clergy, whose interest it will eternally be, to make war upon all contrary religions. This last consideration has produced most of the modern persecutions. Priests and tyrants having joined their interest to enslave the world, and share the booty between them. Persecutions are made by priests from a dread that changes in national religion may end in the ruin of all their privileges and revenues; which being originally bestowed upon them from an opinion of their divine mission, and the reverence to the religion committed to their charge, whenever the religion is abolished, must of course return to the state, or be transferred to the heads of the prevailing sect. This was the fate of the revenues of the heathen priesthood, (which were all seized upon by Theodosius the Great, in the final dissolution of their religion) and the same also was the fate of the Romish clergy at the time of the Reformation. [\[10\]](#)

As the religion of the Romans was a part of their policy, so their clergy likewise was a part of their laity, and interwoven into the general interest of the state; not a separate independent body from the rest of the community, nor any considerable balance of the civil government; but settled upon such an institution, as they could have neither interest nor power to act against the public good. A constitution which the modern policy has overlooked out of ignorance or neglected out of design; as appears from the unlimited power of the modern priesthood, who have usurped a supremacy, or at least an independency on the civil power over half of Europe, and (where their jurisdiction is more restrained) by virtue of their great possessions and endowments, look the civil government in the face, and have raised such convulsions in the later ages, as were unknown to the ancient world.

But the Roman priests had no interest to set up any particular by ends in opposition to the national good; for their stake in the civil government was infinitely greater than their dependence upon the church. They were by their original constitution all chosen out of the nobility, and afterwards out of the richest and greatest men of the commonwealth: and consequently had such an interest in the civil state, as they would not sacrifice to their particular order. They were likewise promiscuously admitted to all the great offices and dignities of the commonwealth, which they set a much higher value upon, than any of their ecclesiastical charges; as appears from the resentment the nobility showed upon the admission of the commons to the great magistracies of the Republic. The *Salii* and *Flamines* are never void of command and authority, but when they offer sacrifices for the people. That was the sense of the nobility upon the passing of that law. And there are instances in the Roman story, of men who have been compelled against their inclination to accept the priesthood; so far were the dignities of the church from being equal to those of the state. These considerations must necessarily make the clergy true to the interests of the whole community, because their own advantages were involved in the national good. Thus the

Romans, wisely prevented the two only fatal effects which the religious orders of the state can have upon the civil government. The first is, from the nature and institution of the religion itself, which from the multitude of doctrines and articles of faith, may divide the people into schisms and heresies in the church, which generally end in parties and factions in the state, and they always in the dissolution of the government. The other is, making the clergy a separate independent body from the laity, with ends and designs interfering with the public interests of the civil society; which is erecting one empire on another, and directly opposite to all the maxims of ancient policy. Nor had the Roman priesthood power to set up for themselves, or to give laws to the civil magistrate, or to usurp any extraordinary jurisdictions, or to make any considerable figure in the balance of the civil government.

Power is of two kinds, imaginary or real. Imaginary power is authority founded upon opinion: real power is authority founded upon dominion and property. But the Roman clergy had little of the first, and none of the last, till the ruin of the commonwealth.

Authority built upon opinion is usually derived to the clergy, from a persuasion in the people of their divine mission and designation; or from a reverence to their mystic ceremonies and institutions; or for their pretended empire over the consciences of mankind. As for the first, they had no more title to claim such a supernatural warrant to their authority, than all the civil officers of the state, whose elections as well as theirs were all confirmed by divine approbation. They were likewise chosen in the assemblies of the people, and were frequently degraded upon very slight occasions, and oftentimes by the authority of the civil power: which is a proof that they had no extraordinary virtue, or privilege inherent to their character: the priests of the first order (all but the augurs) not being exempt from the penalty of deprivation. Their empire over the consciences of mankind, is exercised either by the infliction of spiritual censures, which they pretend to be seconded by divine displeasure, or by the absolution of crimes, by virtue of certain lustrations and expiatory sacrifices: and all the precedents that I can meet with of the first kind amount to no more than an exclusion of impious and irreligious persons from the solemn sacrifices; a sentence which had little authority with men of their character. Their power of absolution extended no farther than to pardon crimes of inadvertency, or some neglects in the outward form of religious worship: but great offences and notorious immoralities could be atoned by no expiation whatsoever. Omissions of external ceremonies, says Tully, were done away by the sprinkling of water, or length of time: but those of a blacker hue could never be blotted out, either by length of years, or the greatest efforts. And whenever the priests pretended to a power of expiating immoralities, the Romans were too wise and too virtuous to admit of such an infamous refuge. Witness the famous instance of Regulus, who having taken a solemn oath to return to Carthage, in case the Romans refused the conditions offered by the Carthaginians, when the high priests, by virtue of their authority offered to absolve him from the guilt of perjury, he rejected the notion with indignation; which he never would have done, had he imagined that any power upon earth could dissolve so sacred an obligation or any expiation atone for such a crime.

The mystic ceremonies and institutions of the Grecians, which procured such a veneration and

reverence to the Grecian clergy, were grounded upon a superstitious apprehension amongst the weaker sort of people, 'That many advantages in life, and certain benefits in a state hereafter depended on their admission to participate in those mysterious rites and institutions'. Which trade, however advantageous it may seem to have been to the priesthood of that time, was not however of that profit and honour, as to raise them to any consideration or note above other professions, so as to be an order of men making any figure, or bearing any sway in the states or commonwealth we read of. These mysteries had no part in the religious institutions of the Romans, for Dionysius expressly says they had no occult mysteries, in the very corruption of the commonwealth. From hence it is evident that the Roman church wanted these natural sources, by which authority is derived to the characters and persons of the clergy, and by which arts, others have so successfully mastered the opinions and consciences of mankind, and consequently influenced their actions, and commanded their fortunes.

Authority founded on dominion, results to the clergy, either from a right of supremacy over the church, or from a legal jurisdiction and coercive power over the actions, the lives, and the conduct of the laity. But I have already proved, that the high priest was so far from having the government of the church, that his authority under the popular state amounted to little more than a power of representation, or advice to the senate in all religious controversies that lay before the consideration of the senate. Besides the arguments already urged, the dependence of the Roman church upon the civil power, appears from the appeals made by the clergy to the people, upon disputes arising between the priests of different orders. Their subjection to the tribunes appears from their being compelled by their authority to pay their share to the general taxes, in spite of their pretended immunities; and their exemption from all wars, which they enjoyed by the donation of Romulus, was repealed by a civil law. Appius the censor likewise transferred the priesthood of Hercules, entailed upon the Potitian family by Hercules himself, to the public servants of the state. Thus the people by their authority obliged the high priest, in spite of all his protestations against it, to consecrate the temple of Concord. Domitius the tribune translated the right of electing the priests to the people, although by the constitution of Numa, that power was vested in the college of the high priests themselves.

As for the coercive power of the church, Dionysius says that the high priests had power to fine such of the clergy and laity as disobeyed their orders. But this privilege of the clergy, originally instituted by Numa, was abolished immediately after the expulsion of the kings, by the

Valerian Law, <sup>[11]</sup> which gave liberty to any citizen that was fined or condemned by the sentence of any magistrate, to appeal to the judgement of the people: and there are instances in the Roman story of the people's reversing fines imposed by the high priests. From these numerous instances it is plain that the Roman church was subject to the civil power: and that the state had power to make what alterations they pleased in the ecclesiastic constitution. I have insisted larger upon this subject, because Dionysius seems to give the college of the high priests such an unlimited jurisdiction; but it is evident that that passage must be understood of their authority during the monarchy only.

The consideration I shall next enter upon, is the authority of the priests founded on property and possessions, which is the only standing foundation of dominion; for power grounded upon opinion is seldom long-lived, unless backed by temporal greatness and solid force.

The ordinary revenues of the priesthood in all ages, have consisted either in the voluntary oblations of the people, or in endowments of lands, and possessions, or in certain shares of the gains and labour of the people.

That the profits of the Roman priests were very inconsiderable, is evident from the opinion the nobility had of ecclesiastical dignities, which they always held inferior to the posts of the civil government; and instead of pursuing and canvassing were often compelled to accept them: which is a proof that they could get little benefit or advantage by them; and there can be no reasons assigned why the employments of the church should have any extraordinary maintenance, when all the civil magistrates had none. Their clergy were all men of quality and riches, and were content with the bare honour of their dignities, and had a temporal fortune to support their expenses: and the reason why their priests were originally composed of the nobility, was, lest the sacred authority of their religion, by the poverty of its professors, should be prostituted to mercenary, ungenerous ends. This is plain from Tully, who says there was an ancient law, that such a number of the young noblemen should be instructed in the Tuscan arts of divination; lest so great an art should lose the authority and dignity of religion, and be brought so low as to be considered a recompense, or reward, on account of the low state of them who were engaged therein. And Dionysius seems to reckon the salaries of the augurs, after the ruin of the commonwealth among the corruptions of their religion. But the diviners had the greatest power and authority, of all the religious orders; and if they had no revenues, it is improbable the rest had any: and Augustus after the subversion of the commonwealth, and Tiberius were forced to settle large appointments upon the clergy, to give authority and reputation to the order. The Vestal Virgins, it is true, by their original constitution, had public allowance settled on them by the state. But I cannot collect from any of the ancient writers, that any considerable revenue, salary, or perquisites belonged to any of the other orders, till the time of Augustus.

First, they were not supported by the voluntary oblations of the people. The Romans in their religious institutions took particular care that religion should not be a rent-charge on the people: from that principle arose the frugality of their sacrifices, and the meanness of their offerings, and presents to the gods. This order likewise extended to regulate the bounties and charities of private men to the clergy, for fear the superstition of the common people should ruin their families.

Cicero in the model of his commonwealth (which he owns to have transcribed out of the ancient laws and constitutions of Rome) forbids all these kinds of voluntary offerings, unless to the priests of Cybele, lest they gut their houses of their contents. And there are frequent instances in Livy of forbidding, under severe penalties, all those, who under different pretences raised contributions upon the people, by working on their superstition; and such as

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exercised this unlawful gain, were called by the opprobrious name of *aeruscatores*. It is true, there were some mendicant orders, who had a privilege of driving this trade, as the priests of Cybele and Isis; but these were of a foreign growth, and not of a Roman institution, and were had in contempt by the wisest and best of the Romans, as no Roman was ever a priest of that order. We likewise often read of voluntary oblations of the people; but those were applied (not to the maintenance of their priests), but to the celebration of their religious games, or the solemn feasts and entertainment of their gods. And in general we find that all those kinds of offerings were discouraged by the state: I will not own them, says Cicero, who enrich themselves on such occasions. Nor were the incomes of the church appropriated to the revenues of the priests, but entered into the treasury, and issued out in order to be applied to the adornment and decoration of their temples, or to the expenses of their solemn plays and sacrifices; it being originally exacted from fines and forfeitures in cases criminal and civil.

The second branch of the usual revenues of the church consists in donations of lands and possessions. Romulus in the first division of the lands of Rome, reserved a considerable share to be applied to the expenses of the sacrifices and other religious duties, (but these lands were afterwards divided in common to the people by Tullus Hostilius, upon his accession to the throne; and the charges of the public sacrifices defrayed out of his paternal estate) but it does not appear that these lands which were excepted out of the general dividend by Romulus, were ever appropriated to the private revenues of the clergy, but to the building of temples, and the solemn services and sacrifices of their religion. There is frequent mention made in the Roman story of lands and territories consecrated to particular gods. But it is manifest from the authority of the best writers, that those lands could be applied to no human purpose whatsoever; much less converted to the gains and profits of any particular body of men; they lay fallow and uncultivated, and it was esteemed the highest irreligion and sacrilege to turn them to the common use of other lands. Thus the Romans, when Tarquin had plowed up the field of Mars, which had been anciently dedicated to that god; though they divided all the rest of Tarquin's goods, yet threw the corn of that field into the river; not daring, from a religious apprehension, to make use of the products of a consecrated soil.

My next consideration is the revenues of the priest, which arise from the payment of certain portions out of the gains and labour of the people, which are commonly made to consist of the tenths of their incomes. I shall first examine whether there lay any obligation upon the Romans from their religion or the laws of the land, of paying such a proportion out of their fortunes and incomes. Secondly, I shall examine the reasons upon which this obligation was founded. And lastly, to what uses it was applied.

Had there been any obligations upon the Romans to pay their tenths, it must have extended indifferently to all, which it plainly did not; for why should the decimations made by Sulla, Crassus and Lucullus, be reckoned so extraordinary if the rest of the people had made the same offering? Why should so many authors barely affirm that there were frequent consecrations of the tenths? Why should not one of any authority make mention of a standing

law, which enforced the payment of tithes to the whole community? Nothing is more frequently mentioned than the payment of tithes by the ancient writers: yet not one mentions it as a custom of universal obligation, but only practised upon some extraordinary occasions: nor would so superstitious a people as the Romans have banished Camillus for vowing the tenths of the spoil of Veii to Apollo, if the payment of tithes had been an article of their religion, or an institution of their state. For though there were other causes that concurred to his banishment, yet this above all other inflamed the animosity of the people against him, imposing tithes upon the citizens; so averse were the people to all these kind of offerings. And Camillus probably forced the people to contribute the tenths of all the spoils to Apollo, for the same politic consideration that Cyrus did upon the like occasion, for fear the people should grow rich and ungovernable. It is true, Aurelius Victor (a modern author of little authority) says, that originally tithes were paid to kings, but by institution of Hercules were afterwards paid to the gods. And even this passage concludes strongly against those who assert the divine right of tithes from the antiquity and universality of their application to divine uses, since they were anciently offered up to kings by the confession of Victor.

As for the consecration of tithes to the gods by Hercules, if we should allow the authority of Victor it only extended to Evander and his successors, and never was a law in force among the Romans; for all the conquered provinces paid the tenths of the annual products of their harvests to the state, and not to the gods; and the tenths of the spoils of war were sometimes bestowed on a single person, who had particularly distinguished himself in the action.

The usual reason for making these oblations to the gods, and more particularly to Hercules, was sometimes from an opinion that a consecration of such a portion of their goods, would make their lives easy and happy; sometimes from politic considerations of the envy and jealousy which great riches are always attended with, and which they wisely avoided by such a decimation of their fortunes. But I never met with any historian who assigns the maintenance of the clergy to be the reason of these oblations. All the ancient writers unanimously agree in the application of these offerings to the public feasts and entertainments of the people: feasts were given in the public squares in the honour of Orestes out of the tithes, says Cicero. Thus Sulla made a mighty entertainment to the people from the oblation of his tithes to Hercules; as likewise Lucullus. And Varro in Macrobius, says that the old Romans every tenth day feasted the people from the expenses of these offerings. And they were so far from being appropriated to the priests of Hercules, that of two families, who had the priesthood by descent, the one was excluded from those solemn banquets; the other, by the persuasion of Appius, transferred their hereditary honour to the care of public servants: which they never would have so tamely submitted to, had they enjoyed such a mighty income, as the oblation of the tenths of Hercules.

It may seem strange to our age, where the appearance of godliness is such a great gain, that the Roman clergy should serve their gods for nought; but there will be no reason to wonder, if they consider that none of their civil officers had any pensions, and that even their private soldiers fought the battles of the state without pay, for some hundreds of years after the

foundation of the city. Romans took particular care never to trust the state in mercenary hands, and seldom listed any of the poorer ranks of citizens in their armies, but upon great extremities. <sup>[13]</sup> And the commons, as Dionysius expressly says, were excluded from the priesthood in regard of their poverty; which would have been no reason, had there been any profits or revenues belonging to their order. After the subversion of the commonwealth, the emperors (for priestcraft and tyranny go hand in hand) settled large stipends, salaries and endowments upon the clergy, and established lands for the maintenance of the Vestal Virgins. And indeed in all ages it has been a current maxim of arbitrary princes, to engage the authority of the church to support their tyranny: witness the mighty power and jurisdiction of the clergy, under the eastern tyrannies, and their subjection to all popular governments, both ancient and modern, that ever were founded in the world.

My next consideration shall be to examine how Numa applied the authority of the church to defend the grandeur of the monarchy. The people, by their original constitution, had a negative vote in the choice of their magistrates, in the passing of all laws, and in the resolution of peace and war. The elections of the magistrates before the institution of the Assembly of the People <sup>[14]</sup> by Servius, lay almost wholly in the power of the people, who out-voted the nobility by their numbers. But Numa, by an artful policy, curbed this mighty privilege of the commons: for he instituted a college of augurs, or diviners, who were to consult the gods upon the creation of their officers; and without the concurrence and authority of this college, all the public resolutions of the people were void: so that the augurs were a kind of fourth estate; and, being chosen out of the nobility, were the creatures and dependents of the kings, and interposed their authority to vacate the election of any magistrates disliked by the king, without throwing the odium upon the regal power. The supreme power of the result, <sup>[15]</sup> in the enacting of all laws, was likewise vested in the commons: which Numa destroyed by the same policy. 'Tis true, by the ancient constitution of Rome, the kings had the sole right of proposing laws to the people, and consequently had no need of the augurs to put a negative upon any law. But Numa was too wise to hazard the affection of the people, by refusing to propose any popular laws, and rather chose to make use of the authority of the augurs upon a dead-lift, than expose his prerogative to the hatred of the people. Though it appears from Pliny, that Numa had parted with that branch of the regal power, the sole right of proposing to the people; for he makes mention of a *lex posthumia* (Posthumous law), (and all laws were denominated from their proposers) enacted in the time of Numa: a concession which Numa very dextrously destroyed by the authority of his college of diviners. By the same artifice he invaded the third branch of the people's power, the right of determining of peace and war. But in his nature being averse to war, and turning the streams of his counsels to the peaceful arts of government, he took particular care to secure the possession of his right to the crown; in order to which design, he added to the unlimited jurisdiction of the augurs an institution of a College of Heralds at Arms, composed of the nobility, whose province was to judge and determine of the rights of war and peace, and were, in other words, the public casuists of the state: with such an unbounded authority, that though the three states and the augurs had

concurred upon declaring war, yet the heralds, by virtue of their office, had power to reverse their resolutions, unless the causes of the war appeared to them to be just and honourable. This order was founded upon the same principle with the former. That if the people had resolved upon war, against his inclination, he might still have a reserve to apply to in order to prevent it.

That these were the considerations upon which Numa founded the institution of the augurs, is apparent from the authority of Cicero; who says expressly, may the augurs be kept for the use of the commons, and for other great services of the common people: and in another place, that their favourable delays might hinder many useless meetings. Besides the power of dissolving the assemblies of the people, and annulling their votes and decrees, the monarchy derived other advantages from the creation of these two orders: for by making the consent and approbation of the gods (consulted by their diviners) necessary to the success of all their public councils and undertakings; and the nobility claiming this right of enquiring into the will of heaven, by virtue of a pretended sanctity inherent to their characters; the commons were excluded the great magistracies of the state, under a pretence that they had not the *auspicia*; that is, that they had not such an imaginary holiness as was necessary to engage the gods to give manifest tokens of their approbation or dislike upon their election, or upon any expedition to be undertaken by a plebian magistrate. This politic device of the nobility lasted for some ages after the expulsion of the kings, till the commons grew wiser, and discovered the juggle. But of the declension of these two orders, I shall treat hereafter, when I come to examine the causes of the dissolution of the aristocracy of Rome. [\[16\]](#)

These politic orders were the great springs and wheels upon which this mighty fabric turned: but as all natural bodies are born with seeds of dissolution in their own frame, so these great artificial bodies, commonwealths, are founded with such original flaws in their first constitution, as, in some periods of time, corrupt and dissolve them.

The guard of the Roman monarchy was the clergy and the nobility, whose interests were closely interwoven with those of the royalty; which is the only balance in nature, that a limited constitution of monarchy can be founded on. This was wisely thought on by Romulus; but he took some false measures, which were the leading steps to change the form of government from monarchic to popular; the most considerable of which were, the making the monarchy elective; allowing such a share of property to the commons; increasing the number of people by naturalizing all foreigners, [\[17\]](#) and trusting arms in their hands.

The first defect in the constitution of the monarchy was the making it elective. It is true, elective monarchies are for the interest and advantage of the people, but are not calculated to support the authority and grandeur of the crown. The people by the favour of elective empires, avoid all the weak reigns of minors and women, successions of dissolute and degenerate princes, and contests about disputed titles and pretensions, which make such convulsions in hereditary governments. And the crown being conferred upon virtue and merit,



not on the rash result of fortune and descent, must produce a more illustrious succession of princes. Witness the mild and happy reigns of the kings of Rome, who came to the crown by the free choice and consent of the people, all renowned for justice, virtue and the honest arts of government: whilst of all the Roman emperors that inherited the monarchy by succession and descent, two only had the reputation of virtuous and moderate princes.

For a proof of this assertion, that elective monarchy is less dangerous to the liberties of the people, I need only observe, there is not one instance in ancient or modern story of an absolute elective monarchy, except that of Rome under the emperors, and that of Egypt under the Mamelukes, which were both military governments, and the popedom which is an ecclesiastic one; and 'tis generally observed that elective empires end in commonwealths, and hereditary ones in tyrannies and arbitrary governments. These are the happy effects of elective monarchies with regard to the liberties of the subjects: but they want force and vigour from their inward constitution, to preserve the authority of the regal rights, much more to increase and enlarge the prerogative of the crown.

Men advanced from a private fortune to this great station, retain their first impressions of freedom, which the condition of a private life taught them under the dominion of their predecessors which incline them to protect those rights and privileges as sovereigns, which they contended for as subjects. And a wise people seldom make choice of a man to command them, the experience of whose private life has not warranted the moderation of his reign; and none are so likely to make good governors, as they who in their private capacities have observed the different tempers and inclinations of the people, upon the different conduct and genius of princes: the true vein and current of a nation being generally concealed from kings by crowds of designing ministers, and adulation of servile flatterers. These considerations may probably sway with some princes, not to invade the liberties and laws of the nation: but most elective kings are deterred from such an attempt, by the difficulty of the undertaking: they rarely have strength to put in force such resolutions.

Hereditary princes, whose authority has been established by a long succession of their ancestors, strengthened with leagues and alliances abroad, supported by mighty dependencies at home, of those who share with them in the government, or push on their fortunes at the expense of the public, cultivated by the same course of measures and counsels, and made sacred by the force of custom and the habit of obeying, may aspire with all these helps to absolute dominion with some probable grounds of success. But elective monarchs are destitute of all these great springs of power and authority; and rarely succeed in such an attempt without a lucky hit or an extraordinary concurrence of accidents and causes; but generally lose ground, and decline every succession, by reason of the authority of the people, who being vested with the right of disposing the crown, force every new prince they advance, to prune his prerogative; and increase their privileges to a degree inconsistent with the sovereign power. Nor can the nobility (the best guards of monarchy) in such a constitution be so wholly devoted to the king; for they must engage the votes and interests of the people, by all the arts of popularity, if ever they expect to have their pretensions to the crown upon a

vacancy, seconded by the favour and concurrence of the multitude.

Besides these limitations and bounds of elective monarchs, they have a nearer interest not to invade the liberties of their country, which is the good of their families; for the crown not descending to the next of blood, they are certain that as much as they add to the grandeur of the monarchy, so much they add to the slavery of their posterity, who are to be private men. And should an elective prince form a design of making the crown hereditary he will certainly be opposed by the commonalty, whose right of election is violated, and by the nobility, whose hopes of succeeding are destroyed. From these considerations I am inclined to think, that this constitution of the Roman monarchy was a fault in the first concoction, and was the original of the succeeding laws in favour of the people. But whether it was first designed by Romulus, or instituted by the Romans after his death, is uncertain; though I am apt to believe that Romulus having no children, as in his life time he gave liberty to Alba, which descended to him by the death of his grandfather Numitor; so after his death he designed at least to have left the election of their kings to the people, without appointing any successor of his own nomination. Whoever was the author of this institution, it is certain, that it was the great moving cause of all their following concessions and privileges to the people.

Romulus, their first king, to reward the good affections of his new subjects, made an equal distribution among the people of the territory belonging to Rome, except of the crown and church lands; and as he grew greater, divided all the conquered lands among the multitude, (a custom followed by most of the succeeding kings.) This donation was a false step never to be reconciled to the true interest of sovereign power, from that eternal principle, that equality of possession makes equality of power: and whenever the balance of property sways to the people, the monarchy naturally resolves into a popular government.

The third fault was the making a limited monarchy, a government for increase in order to which the numbers of the people must be enlarged, and the sword put in their hands; for conquests abroad must be gained by the vigour of a brave militia at home; and a brave militia must be formed of men spirited by freedom, plenty, and property. Conquests abroad must be preserved by force of numbers of people; and numbers of people can be gained only by naturalization of foreigners, who never will be tempted from their native seats, unless allured by the ease and liberty of the government. Thus the generous ambition of extending their empire, made the kings of Rome sacrifice the rights of the monarchy to the liberties of the people; for without freedom and property they found it impossible to compose a brave or a numerous militia, both which are the genuine roots of a commonwealth: for a people that have property in possession, and swords in their hands, rarely submit to the dominion of one. Independence being the interest of the many, and monarchy but of the few; by how much greater the number of the people is, by so much stronger is the guard of liberty.

These were the natural seeds of the generation of the Roman commonwealth, concurring with many other accidental causes, such as the example of most of the neighbouring states of Greece and Italy, who were generally republics. For changes of government are often derived

by imitation into the humours and customs of a nation; and the Jews chose a monarchy, because the people round them were all under that constitution : and the late revolutions in England were in some manner owing to the example of Holland, and other foreign commonwealths. Another cause, was, their king's leaving no issue behind him, (at least of age and abilities to command) who by the numbers of his father's dependants and retainers, might have pretended to the crown, and made it hereditary. And last of all, the moderation and virtue of their kings (which was owing to the constitution of elective monarchy) who all successively vied in emulation who should be the greatest benefactors to the people.

In this place it will not be improper to take a short survey by what paces and steps this great revolution, from a kingly government to an aristocracy, was brought about in Rome. Romulus made the first institution of dividing the public and conquered lands among the people, and afterwards made Alba a free state; which set the Romans a longing for a commonwealth, (as Plutarch observes) which they established upon his death, but had not strength to continue, from their own divisions and the unsettled posture of their own affairs; which made way for the promotion of Numa, who divided the public lands of the city among the citizens who had no lots, and committed a great oversight in dividing the chief priesthood from the kingly power, it having been vested before in Romulus, and afterwards by the policy of the Roman emperors inseparably annexed to the crown. Numa likewise disbanded his guards. Hostilius divided all the church and crown lands among the people and instituted or confirmed their rights of hearing all appeals which was making them sovereign judges in the last resort.

And though Ancus left things in the same state he found them, and Tarquin made some steps to recover the grandeur of the monarchy by the addition of one hundred new senators (he enlarged the dignity of the senate by adding members thereto, says Florus) and adorned the imperial dignity with the ensigns of royalty, and the outward forms of greatness; yet he debased the majesty of his character by submitting his title to the people, and pleading his cause before them; which was owning the supreme authority to be lodged in them.

But Servius being advanced to the throne by the favour of the commons, against the will of the nobility, gave the finishing stroke to the ruin of the monarchy, by dispossessing the patricians of all the public lands they had engrossed, [\[18\]](#) and distributing them to the people; by paying the debts of the commons; by erecting courts of judicature independent of the crown; and by the institution of such laws as established an equality between the two orders, in the decision of civil controversies, and in their contributions to the public charges. It is true, he strengthened the patrician interest by introducing an inequality of suffrages in their favour. But he quickly repented his conduct, and applied himself so entirely to the good of the people, that the nobility were alarmed at it; and in conjunction with the new pretender Tarquin, formed a design to dethrone him. And when (by his great authority with the commons) they miscarried in an open attempt of deposing him, they cut him off by a barbarous assassination, in the midst of that glorious design he had formed of introducing an equal commonwealth. Thus Tullius plainly inclined the balance of power and property from the nobility to the

commons.

After his death, Tarquin usurped the throne in a lawless manner, without the usual forms of election and consecration, to the dislike of the nobility, and an utter abhorrence and detestation of the commons, for the barbarous murder of their great patron and benefactor Servius. And the whole course of his reign was answerable to his beginning; he invaded the senate and people, and exercised his tyrannies with all the inhumanity and barbarity imaginable, without engaging any party to support him, or making use of one order to destroy the other, that he might with more ease oppress all. His foreign guards, instead of protecting him from the popular fury, served only to inflame the general abhorrence of his tyrannies, without being an over-balance to the people. But his arbitrary government being settled upon no solid foundation, could be of no long standing: the senate wanting nothing but a favourable conjuncture, and the commons nothing but a warm leader, to break out into open rebellion. The rape of Lucretia inflamed the general discontents, and raised such a storm, as ended in the expulsion of Tarquin and his family, and the dissolution of the monarchy.

Thus I have traced this great revolution from its original, in its remotest and most distant causes, down to the last period of the monarchy under Tarquin. The natural causes of it were the mighty concessions and privileges conferred on the commons by the bounty of their kings, and such a share of property as over-balanced the possessions of the kings and the nobility together, which begets an independence; after which there can be no cause in nature assigned for obedience and subjection. So that the balance of dominion being vested in the commons, the monarchy of course must die a natural death. And to finish the revolution, the nobility disobliged by Tarquin, closing with the people: and the army (the last refuge of tyranny) being composed of men of property, and by consequence conspiring with the national interest, Tarquin had no reserve to appeal to, but lost his crown without striking a blow: and the monarchy resolved into an aristocracy; and that into a democracy; and that too relapsed into a monarchy, as the balance of lands varied from one order to another.

These periods and revolutions of empires are the natural transmigrations of dominion, from one form of government to another: and make the common circle in the generation and corruption of all states. The succession of these changes Polybius knew from experience, but not from their true natural causes: for he plainly derives these alterations from moral reasons; such as vices and corruptions, the oppression and tyranny of their governors, which made the people impatient of the yoke, and fond of new forms; and not from the change of the only true ground and foundation of power, property. <sup>[19]</sup> To confute this great man, I only appeal to the examples of the famous monarchies of Rome (under the emperors) and of Turkey; which being founded on the balance of land, after so many successions of effeminate and tyrannical princes, stood firm; and the people, provoked often by their oppressions, rebelled against the monarch, but never against the monarchy: for while the root of power continues, the government will last, though the branches are lopped off. But the first Roman empire not being founded on this steady balance, the people, who were in possession of it, wanted

nothing but oppression to make them exert their power, and nothing but a tyrant to set them free. Thus it appears that land is the true centre of power, and that the balance of dominion changes with the balance of property; as the needle in the compass shifts its points just as the great magnet in the earth changes its place. This is an eternal truth, and confirmed by the experience of all ages and governments; and so fully demonstrated by the great Harrington in his *Oceana*, that it is as difficult to find out new arguments for it, as to resist the cogency of the old.

But to return from my digression, in the next place I shall examine what methods the Romans took to hinder the restoration of Tarquin, and preserve their liberties.

Their first step was their solemn abjuration of the regal title and office, made by the whole body of the Roman people, in the name of themselves and their posterity; a precedent which they copied from the Greek commonwealths, who after the expulsion of their tyrants, entered into solemn oaths and engagements to defend their liberty. This was a wise council of the Romans, and in the greatest distress of their affairs, made them suffer the last extremities rather than hearken to any overtures of restoring their tyrants: so sacred and binding was the obligation of an oath to that great and virtuous people. Secondly, an act of general indemnity and oblivion, which took in all those who joined with Tarquin, more from an apprehension and dread of punishment from the state, or having favoured the illegal usurpations of the tyranny, than from any personal affection or engagement to his cause. The severe punishment of the consul's sons, and the rest of the nobility, who had conspired to restore the Tarquins: for however monarchies or tyrannies may subsist, commonwealths can never stand without a rigorous execution of that great sanction of their laws, rewards and punishments. And last of all, the restoration of the popular laws of Servius, and the institution of new ones together with the distribution of the goods of Tarquin among the people, and the division of all his lands to the commons; which with all the forfeitures and confiscations under such a tyrannical reign, must amount to a mighty revenue. This made the breach between the crown and the people irreparable, by involving the whole community in one common guilt: and widened the popular balance, by multiplying the property of the state into so many hands; which gave the people such a degree of power as made the return of Tarquin, by any inward convulsion, impossible: for it is ridiculous to imagine, that any free, brave, independent people, could have the least shadow of interest to subject their reasons, lives and liberties to the arbitrary commands and resolutions of a private will, instead of being ruled by laws of their own making, magistrates of their own creation, and a form of government of their own choosing.

These popular concessions of the nobility, effectually excluded Tarquin and the monarchy: but were the leading causes of the destruction of their new aristocracy, which shall be the subject of my next consideration.

I have often wondered that the Romans, instead of settling a democracy after the expulsion of their kings, should make choice of an aristocracy; considering that the revolution was brought about by the people and not by the nobility, who had been utterly ruined by the tyranny of

Tarquin, and were in no condition to make head against his arbitrary conduct: much less by their numbers, and their authority, to influence such a mighty turn of affairs. Their share in the revolution was no more than breaking the ice, and inflaming the people to take up arms; but without their concurrence they had infallibly perished in the attempt. All that can be said in vindication of the people, is, that they were unused to command; and from the habit of obeying, willingly submitted to any constitution which the nobility imposed on them; or else for want of a demagogue to form a popular model, or from ignorance of union, were not sensible to their true force and strength; or else their terror and apprehension from abroad of Tarquin and his return, made them assent to the dominion of the senate, rather than hazard all by an unseasonable division at home. But whatever the considerations were, it is plain they lodged the sovereign power in the senate and the two consuls, who were vested with all the royal authority:

But when the storm of Tarquin blew over, and their apprehensions of foreign invasions ceased, they grew quickly sensible of their error, in surrendering the government into so few hands; and in short time turned their new masters out of their seats, and by degrees moulded the government into a more popular model. [\[20\]](#)

The aristocracy was founded upon the shattered balance of the monarchy and composed of the nobility, unequal either by their numbers, possessions or authority, to the riches and greatness of the commons, who had been growing many ages, by the lenity and indulgence of the former reigns, and the new concession of the senate, after the expulsion of the last kings (which I have already mentioned:) so that the government stood on no solid foundation of real power, and only depended upon an imaginary balance of authority, derived from the institution of these two laws.

First, the exclusion of the commons from all places of command, under a pretence that they were not qualified for the right of divination, which was necessary to the obtaining all the great magistracies. And secondly, the institution of the dictatorial power, which was an expedient contrived by the nobility to destroy the right of appeals, confirmed to the people by the Valerian Law; which this magistracy absolutely subverted, and got an unlimited jurisdiction in all criminal and civil cases, in the last resort, without any appeal to the people. But these laws being founded against the true balance of the commonwealth, wanted force and strength to support the dominion of the patricians; nor had the patricians authority and power to support these laws against the irresistible greatness of their rivals, the commons, who would obey no longer than the counsels and resolutions of the senate were directed to the public good of the whole community. For when the commons saw pretences of one kind, and actions of another; when they beheld the senate to be governed by their private factions and interests, violating their own laws and liberties, exercising power with all the inhumanity and barbarity imaginable, handling their debtors without mercy, and imprisoning them for not paying money taken up at unreasonable interest, the debtors (not the seventh part of the people) in conjunction with part of the senate, and the whole order of the commons, kindled

such a flame as ended in the dissolution of the aristocracy, and the settlement of an equal commonwealth. The causes from which this revolution was derived, shall be the subject of my next consideration.

A man who would take a survey of the original principles of this second change of government, must take wing from a rising ground, and mount up to those remoter and more distant causes which insensibly and by degrees influenced this mighty revolution, viz. The decay of the power and authority of the patricians, under so many successions of kings; their visible declension under Servius; and the almost utter ruin of the order, under the tyranny of Tarquin: and the proportionable growth and increase of the commons by the addition of so many privileges and immunities to their order; their great possessions, the plenty of their fortunes, their independence of the nobility; of all which, power and dominion is but the natural result.

These two former causes I have discoursed of at large; the more immediate cause, was the dissolution of the monarchy by the joint counsels and united interests of the whole body of the people; this made them reasoners in matters of politics and government, and impatient of any insolence and oppression: this taught them a refuge to appeal to from the tyranny of any other governors, and made them disdain any other subjection, than to the empire of the laws: the filling up of the vacant places in the senate with commoners, who must of course be more warmly concerned for the interests of the people than hereditary nobles. The right of electing the senate conferred on them by Brutus, after the expulsion of the kings: which the people continued in possession of till the first creation of the censors. This gave the people an advantage of choosing more popular members into the senate, and was perhaps the reason which engaged such a strong party in the senate to oppose the unjust encroachments of the patricians, and to favour the just pretensions of the people.

These were the natural causes of the final period of this government, with which some other accidents concurred: as, 1. The conjuncture of a foreign war; which the senate being unable to manage, in such a distracted state, they consented more easily to the demands of the commons. 2. The invincible courage and matchless virtue of the old Romans, and their disdain of servitude, from the force of custom, or the impressions of education. All these causes conspired to make the aristocracy an easy triumph to the people. Thus the weak constitution of this government, not founded on the true centre of dominion, land, nor on any standing foundation of authority or reverence, nor riveted in the esteem and affections of the people; and being attacked by the strong passion, general interest, and joint forces of the people, mouldered away of course, and pined of a lingering consumption, till it was totally swallowed up by the prevailing faction, and the nobility were moulded into the mass of the people.

In the next place, I shall examine upon what laws and orders the popular frame of government was erected, and by what policies and institutions secured from a relapse into any of the old forms.

The first blow given to the aristocracy, was the recision of the debts to the commons, which weakened the interest of the nobility, by taking off the great dependence of the inferior rank of the people upon them. The second was the erection of the tribunes and other plebeian magistrates, for the security and protection of the commons, with a sacred authority and negative vote upon all the proceedings of the senate. The institution of this magistracy of the people, besides all the other advantages derived from it to the commons, united the whole body of the people under the general conduct of leaders and demagogues of their own order, made their counsels steady, and their resolutions unanimous; and took off that impression of single fear, which the commons had of the patricians, from the ignorance of union; was a certain refuge to appeal to, for the redress of all their grievances; and taught them to make regular advances and approaches to the destruction of the aristocracy.

The third was the power of proposing and debating laws, which the commons assumed by virtue of their new magistrates, whom they advanced at last to a power of enacting laws, with the authority of the senate. The fourth was the usurping a right to try the nobility for crimes committed against the state; which was a security wisely provided for by the people, to soften the absolute power of the dictator, who by this law was accountable to the people, after the resignation of his office, for severities exercised against them in the time of his jurisdiction. This likewise confirmed the old law of appeals to the people from the magistrates, which had been dextrously destroyed by the nobility by introducing the dictatorial power. The fifth was regaining an equality of suffrages in the elections of their own magistrates, and in the enacting of their laws; a right which they formerly enjoyed in the *Comitia Curiata*, but which they lost in the *Comitia Centuriata*, introduced by Servius Tullius, and recovered again in the trial of Coriolanus by the *Comitia Tributa*. The sixth was the obtaining a standing body of laws, collected from the wise institutions of the Grecian commonwealths. This system of laws prescribed the bounds of right and wrong, and regulated the proceedings of their courts of judicature; whereas formerly all controversies between man and man were decided by the arbitrary will of the consul, without any known forms or established methods of judging.

Seventhly, the excluding the diviners from interposing their authority and jurisdiction in the debates and resolutions of any popular assemblies: for whereas by their ancient constitution, no election of any magistrate, nor any public determination was valid, till ratified by their approbation, under this pretence they opposed all the just rights and pretensions of the people. To destroy therefore the negative vote of the diviners, the tribunes contrived an expedient to institute a new form of assembling, which they called the *Comitia Tributa*, wherein the augurs were not allowed to consult the gods; and by consequence the people were left absolute masters of their own proceedings and resolutions. Eighthly, the Agrarian Law; which though the people never perfectly obtained, yet they got large shares of the conquered lands into their possession, either by allotments to the citizens at home, or by planting colonies in the enemies' territories abroad; which confirmed and kept up the popular balance against the encroachments of the nobility. Ninthly, the mighty growth and increase of the numbers of the people, occasioned by laws prohibiting the barbarous practice of exposing their children; by manumitting their slaves, and enrolling them in the list of their free citizens:



by the institution of such laws as compelled every Roman citizen to marry at such a determinate age, under severe penalties: And lastly, by the promiscuous naturalization of all foreigners. [\[21\]](#)

To the growth of the multitude of the people may be attributed the growth of their power; for the numbers of the people are the true guards of liberty, and always opposite in interest, and an over-match in power to an aspiring faction. This accession of strength to the commons, together with their warlike temper, inflamed by perpetual victory abroad, spirited them with a generous sense of freedom and made them disdain subjection to the dominion of the few. Tenthly, the repealing the law, which forbade a common intercourse of marriages between the patricians and plebeians: which rooted out that fatal distinction between the two orders, which had kindled so many flames, and raised such storms in the state: but which being now repealed, established the whole community on an equal foot of liberty: for as Livy very well observes, all the various distinctions by which the different orders and degrees were distinguished are totally done away with by liberty and equality. This promiscuous communion of marriages increased both orders, not only in alliance but interest; and by degrees formed them into one body: for whereas formerly the nobility, by virtue of an imaginary excellency peculiar to their families, challenged the sole right of divination, and consequently engrossed all the great posts of command; this law introduced such a mixture and confusion of blood as cut off that pretence and made way for the easy reception of the eleventh law, which gave the commons a right to be elected into the civil government of the state to be consuls, dictators, priests, and in course of time to be equally admitted to all the great dignities and offices of the commonwealth. [\[22\]](#)

The nobility being thus moulded into the mass of the people, and both orders entitled to a common right of enjoying the same privileges and dignities, the next care of the people was to secure the present settlement, by making timely provision, that no single man, or order of men, by their riches, possessions, or authority, should so over-balance the rest of the community, as to aspire to absolute dominion. In order to which, they made these following institutions: First, the Licinian Law, which limited the possessions of all private men to five hundred acres of land; which established the great balance of the commonwealth, and would have rendered it immortal, had the law been effectually put in execution. Secondly, the Cincian Law, which prohibited the payment of fees and pensions to all patrons and advocates: whereas before the enacting of this law, the people were tributary to the great men and the senators, who were the only lawyers of the state: the people, says Livy, already began to be taxed by the senate. Thirdly, the Flaminian Law, which enjoined that no senator should possess any ship of considerable burden; which hindered them from enriching themselves by the gain of foreign trade and commerce.

Fourthly, the institution of the *leges usurariae*, or the laws restraining usury within moderate bounds. The Romans had found by experience the mischievous consequences of high interest for money, and wisely sunk it, first to one per cent, and then reduced it one half lower, and at

last utterly abolished all usury. These laws (as Livy remarks) were no ways pleasing to the great ones: for the senators, by the advantages they had of commanding the armies and other opportunities, were the monied men who exercised this unlawful trade, and consequently engaged a dependence of the commons upon them, which the passing of this law destroyed; and likewise established the national balance entirely on land, which the people had the largest share of. Fifthly, the institution of the *leges annales*, or the laws of determining the age requisite for enjoying all the great magistracies of the commonwealth. This law cut off the early ambition of young men, and was one way to prevent the same persons from being often in the same dignities. Sixthly, the laws against canvassing and soliciting for places, which destroyed the freedom of elections (of which a commonwealth ought to be tender) and laid open all the great honours to bribery and corruption, instead of virtue and merit; which is always fatal to the liberties of a free state, as Lucan finely remarks:

The sordid wretch who strives a vote to gain,  
By curs'd corruption, or by bribery,  
A harmless people loads with endless pain,  
And banishes sweet freedom far away.

Seventhly, the laws in force against the continuation of magistracy; for nothing sooner dissolves a commonwealth than the continuance of authority too long in the same hands. It likewise subverts that successive change of magistracy, which is the fundamental constitution of all equal governments, where the whole community ought to have their turns of commanding and obeying: the change of the magistracy is the preservation of liberty, says Livy. Eighthly, the laws against accumulation of magistracy, directed to the same ends with the former, lest the possession of too much authority should tempt the magistracy to invade the liberties of the nation. Plurality of offices also destroys the free rotation of dignities; and is, as Livy truly says, that a free city is not by any pretence, to suffer such proceedings — against all right and equity a dangerous precedent, and never to be encouraged and endured by a free government.

Ninthly, the limitations of those offices in time, which were unlimited in power, as the censors and dictators, and the limitation of those offices in power, which were unlimited in time; as the whole order of the clergy, whose jurisdiction was abridged under the popular government (as I have proved at large) and little distinction of value and authority left them after the publication of the laws, rituals, and calendars, the custody of which they were anciently entrusted with. This law was founded upon very good reasons; for, as Livy says, what greatly conduces to preserve liberty is the limiting of those offices in time which are unlimited in power, and the limiting of those offices in power which are unlimited in time. Tenthly, the making the fundamental branches of their constitution, as the abolition of the kingly office, and the institution of the magistracy of the tribunes, sacred and unalterable, and confirmed by the most solemn oaths and engagements of the whole body of the people, in the name of themselves and their posterity. Nor could any of the first rate of magistrates be admitted to act, till they had sworn to support and maintain those and all other laws of the commonwealth.

Eleventhly, the *leges tabellariae*, or the institution of voting by the ballot, which was an expedient found out to preserve the freedom of elections, which were awed and influenced by the greatness and authority of the senators. The people oppressed by the authority and power of the great ones, have insisted upon the institution of voting by ballot. This single law reprieved the fate of the commonwealth for an age, after all the other popular laws were abolished by disuse, or openly invaded or broken in upon by the great men. It was the guardian of liberty, and the only barrier which hindered the aristocracy from subverting the popular government, by engrossing all the magistracies of the state, which they could have commanded by their interests and dependencies among the people, if a way had not been contrived to conceal the suffrages of the commons, and screen them from the resentments of their patrons. And in such a case, where the people are left to their own liberty, they will make choice not of those whom they fear, but of those whom they esteem and love, for their own engagement to the national interest. Nor was the ballot only restrained to the election of magistrates, but at last was indifferently applied to all the public resolutions and determinations of the assemblies of the people.

Upon the balance of these orders and institutions stood the mighty fabric, immortal from all inward diseases, and invincible by any foreign attacks, had the same conduct and steadiness of counsels been directed to the execution of these laws, <sup>[23]</sup> as were applied to the first founding of them. But the original causes and principles of the corruption and dissolution of this admirable government, shall be the subject of another discourse.

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## *Part Two*

In the former part of this discourse I have attempted to take a short survey of the civil and ecclesiastical constitution of the Roman commonwealth, together with the various changes and revolutions of their government, deduced from their true and natural causes, down to the last great reformation of their government, and the foundation of a more equal commonwealth; and in the conclusion of the whole, I have endeavoured to give a brief account of the chief laws and institutions which so equally balanced this last establishment, by such a wise and proportioned distribution of power among the several orders, councils and magistrates, as rendered it so many ages secure and unshaken by foreign force or domestic rage.

The subject of this following part is the declension and decay of the Roman government, with a free enquiry into the original causes and principles, which, by insensibly corrupting their ancient laws, discipline, and manners, reduced it in conclusion to an absolute monarchy. But before I enter upon this argument, it may not be improper to remove some popular calumnies, which have been raised in particular against the Roman commonwealth, and against all free

governments whatsoever, by the advocates for tyranny. They object, that after the recovery of their liberty, the Romans immediately fell into confusion and disorder; that we find nothing in the histories of those times but tumults and seditions between the two contending parties, no stability in their councils, nor steadiness in their resolutions, but all governed by popular fury and faction: to which they oppose the quiet and tranquillity of the kingly government; and upon these grounds found all the objections they make, in order to decry the popular frames of government. But that the weakness of these objections may more fully appear, I shall advance these following observations. Firstly, the kingly government was not free from seditions. Secondly, that under the kingly government there was no sufficient security provided for the liberties of the people. Thirdly, that the kingly government was incapable of making conquests. Fourthly, that the popular seditions under the commonwealth never came to blood. Fifthly, that they reformed and perfected the Roman government. Sixthly, that there were no seditions after the commonwealth became more equal. Seventhly, and that during this last period the Romans conquered the world.

Nothing can appear more manifest than the **first** proposition, that the kingly government was not free from seditions: for by what other name can we call so many plots and conspiracies, and the assassination of no less than four kings out of seven, and the expulsion of a fifth? If it be objected, that these were only accidental disorders raised by the ambition or discontents of a few private persons; it must still be allowed, that although they were more particular in their causes, they were more universal in their effects than the violence of any popular commotions: for what can the rage and folly of a multitude commit equal to such a desperate attempt, as dissolves the government at a blow, and exposes all to anarchy and confusion; not to mention the dangerous factions which exercised the reigns of Tarquin and Servius, and which ended in the murder of these excellent princes? What seditions were raised upon the very first interregnum, and other vacancies of the throne? A defect essential to the very nature of elective monarchy, where the supreme command must of course be more strongly contended for than the annual and successive honours of a republic.

**Secondly**, nor was there a sufficient security provided for the liberties of the people under the kingly governments, for want of a due balance to keep the constitution steady. The regal authority was indeed limited by laws; but laws are dead letters, and can make no resistance to the arbitrary will of a prince, unless there is such a force in the government as is strong enough to support them. The guard of liberty in most regulated monarchies, has been placed in some popular magistrates, who carefully watched all innovations upon the constitution, and had authority to question the kings themselves for any arbitrary or illegal proceedings: of this nature were the ephors at Sparta, and the justiciar at Aragon. In other mixed governments, the guard of liberty was entrusted to frequent assemblies of the people in person, or by their representatives, who had a right to enquire into the management of their rulers, and had power sufficient to face and defeat the strongest league that could be formed for the subversion of their liberties. This constitution chiefly prevailed in the gothic governments established in Europe. The wisdom of other nations limited the regal power, by placing the sword in the hands of the subject; which was the best security of all, and was the ancient

constitution of England, while the power of the militia belonged to the nobility and gentry, in a manner independent of the crown.

These institutions were the great fences of liberty in the most celebrated mixed governments, both ancient and modern, which were all wanting under the kingly government of Rome. Popular magistrates they had none, till the tyranny of the senate, after the expulsion of the kings, had brought them to have recourse to that remedy. Assemblies indeed they had, but the kings only having the right of convening them, and nothing being to be propounded or debated in them, but with the royal approbation, it is no wonder they proved no stronger defences against the encroachments of the last kings. The kings had likewise the absolute command of the whole military power of the state. I easily foresee a plausible objection that may be urged. How it came to pass then that the Romans, instead of falling into absolute slavery, got ground upon the monarchy, till they entirely abolished it. To which I answer, that Romulus, about the latter end of his reign, had made himself absolute; but the government being conferred on Numa, a just and virtuous prince, he disbanded the guards, which were the chief power of his predecessor, and governed with great moderation. This example was pursued by the rest, who all generously increased the privileges of the people; whether out of fear or virtue, I will not determine; for it is manifest it was not owing to the constitution, which could not preserve them from Tarquin, who followed other maxims. But although there was no counterpoise in the laws to balance the regal authority, yet the liberty seems to have been in a great measure supported by the mere weight of the people, whose property was the noblest root of liberty; which being at first planted by Romulus, and cherished by the succeeding princes, and being attended with that valour and spirit which is the effect of ease and plenty, made it a dangerous adventure; especially for kings who did not inherit by succession, and three of whom were strangers, to attempt upon their liberties.

But errors in the superstructures may endanger the fabric, be the foundation ever so well laid, as the Romans found to their cost under Tarquin; who claiming by succession, assumed the government without the consent of the people; and being backed at first by the patrician interest, and by the keeping up foreign guards and having armed himself with a power superior to all laws, turned the government into an absolute tyranny; and had he reigned long enough to have impoverished or corrupted the people, liberty, in all likelihood, would never have been restored; but foolishly disobliging the patricians, and putting arms into the hands of his oppressed and courageous subjects, he left an example to all future tyrants, that an army of freeholders will always turn their swords against their oppressors, whenever an opportunity presents itself.

**Thirdly**, that the kingly government was incapable of making conquests, there needs no other argument to demonstrate, than that so many warlike and victorious princes could not extend their territories above fifteen miles beyond the walls of Rome. The little progress the Romans made under the monarchy, may be chiefly ascribed to these following reasons. Their military discipline was not established till the reign of Servius Tullius, their last king except one; nor was it then brought to perfection, but received continual improvements from the experience of

after ages. Their armies received no pay, were incapable of making long expeditions. We find in their histories but one colony planted in their conquered countries, from the time of Romulus to the reign of Tarquinius Superbus: an omission which made all their victories ineffectual; colonies being the only way by which an infant state can propagate her empire, and which Romulus wisely perceived. The maxims which the following kings seemed to pursue, was increasing the numbers of their people, by transplanting the inhabitants of the cities they had conquered into Rome, and incorporating them into the commonwealth. This institution, it is confessed, was of excellent use, but much inferior in all respects to colonies, as I shall endeavour to show in the following part of this discourse. The kings did not fall into the wise measures of communicating the rights of the city to the bordering states; which was a cheap and easy way of enlarging their territories, and practised with good success by the commonwealth. Most of the wars, which the kings made, were defensive; and we commonly find, that after they had vanquished their enemies, they were content with an honourable satisfaction for the injuries committed; sometimes with a bare submission, and often with vain titles of honour bestowed on them by the conquered countries, in token of their dependence, which signified little to hold them under a real subjection: these conquests never failing to revolt upon the death of the king, either presuming on the unactive genius of the successor, or pretending they lay under no obligation to perform these conditions with the prince who came after. Rome, in its infancy, was encompassed round with warlike and numerous nations, living at their ease under free and independent governments, who contended bravely for their liberties, and held the Roman fortune long in play: under which constitution nations are very difficultly mastered by monarchies, and seldom thoroughly subdued, but by commonwealths of greater virtue and liberty than their own.

**Fourthly**, that the seditions of the Roman commonwealth never came to blood, is apparent from the authority of all their histories. 'Tis true, there was much clamour and violence in these popular tumults, but their utmost fury ended in a voluntary retreat from the city, says Livy. I would not be understood of those seditions which happened in the corruption of the republic, which were headed by mercenary tribunes, to promote the ambitious designs of some aspiring citizens; of which more hereafter.

**Fifthly**, that the seditions of Rome perfected their government. Seditions do not proceed from the nature of commonwealths in general; for many republics have been entirely free from them, as Sparta, Venice, etc., but from defects in particular constitutions. Aristocracies, where the body of the people are excluded from the administration, are most subject to these disorders; as is remarkable in the little governments of Italy, which being all aristocratical, were seldom free from commotions. The reformation of governments, which are so unequal in their constitutions, must be attended with popular tumults and violence; while the nobility contend for their hereditary honours and privileges, and the commons strive to reduce the government to an equality. From this cause arose all the seditions of Rome; which, though for the present, creating some little disorders in the state, introduced excellent orders into the government, and were succeeded by lasting quiet and tranquillity: so that upon the whole, these seditions were of excellent use to the commonwealth. Although seditious practices were

in general hurtful, yet some may be said to have their good effects; for it is certain, that, unless the nobility had disagreed and quarrelled among themselves, kings never would have been driven out of the city, nor tribunes created, neither would the consular dignity have been diminished by the law of the commons, nor would the permission of appealing, which is nothing less than the bulwark of the city and support of their liberties, ever have been granted to the Roman people; as was truly and judiciously observed by Crassus in his defence of Norbanus.

I have insisted the less upon these two preceding articles, because little can be added to the remarks which Harrington and Machiavel have already made on the same subject. I shall therefore conclude this chapter with these two remarks: 1. That notwithstanding all that has been objected against the popular commotions under commonwealths, monarchies are more subject to seditions, which always come to blood, and never reform the government, unless they chance to dissolve it; which is easily proved by comparing the reigns of the twelve Caesars with that space of time during which Rome was seditious, both periods containing near the same compass of time. 2. That the tranquillity of those monarchies, which happen to be free from seditions, is an argument that the subjects are so impoverished, debased or diminished, by the arbitrary violence and oppression of their masters, that they have neither the will, the courage, nor the ability to shake off their chains: which is the present condition of most of the monarchies in Europe. And who is there that would not prefer a factious liberty before such a settled tyranny?

**Sixthly**, that Rome was free from seditions, after the government became more equal. The senate, after the expulsion of the kings, tyrannizing over the commons, compelled them, for their own preservation, to create new magistrates out of their own order, called tribunes; under whose conduct they gradually diminished the power of the aristocracy, till at last they utterly extinguished it, and established the whole body of the people upon an equal foundation of liberty. This gradual reformation seems to have been completed at the creation of the first plebeian consul, three hundred eighty-six years from the foundation of the city. The introduction of equality into the government may be best placed at this juncture, when the highest station in the commonwealth was communicated to the basis and extent of liberty; and which, as the same author observes, after long and violent contentions, begot an universal concord and union. After this time, the nobility made little opposition to any popular laws: seeing they were accustomed to be overcome by such kind of contentious litigations, as Livy remarks. Nor did there happen any domestic disorder, in near two hundred and forty years, which deserves the name of sedition, except a light tumult of debtors and bankrupts, who retired in a rage to Mount Janiculus; but which is omitted by several historians in the

catalogue of the Roman seditions. <sup>[24]</sup> I am not ignorant that other writers make this sedition more considerable, but all authors agree that it was composed without bloodshed by Hortensius the dictator, and that it ended in the revival of an excellent but antiquated law. From this tumult, which happened in the four hundred sixty-seventh year of the city, to the seditions of Gracchus in the six hundred and twentieth year of the city, Rome enjoyed a

profound quiet and prosperity, not interrupted by the least domestic dissension: an example of lasting tranquillity, that can be paralleled in no monarchy whatsoever. This interval of time was the most happy and most glorious period of the Roman commonwealth, and gave rise to that valour and industry which extended their conquests over the world. And this leads me to the last proposition I advanced.

**Seventhly**, that the Romans, during the equality of the commonwealth, subdued the universe. I have already assigned the most probable reasons which interrupted the progress of the Roman conquests under the monarchy. After the expulsion of the kings, the patricians assumed the government, and fell naturally into the defensive maxims, which all aristocracies do or ought to pursue. 'Tis evident, from the whole tenor of their histories that they aimed only at the quiet and preservations of their government, that the wars they at first undertook were just and necessary, either to repel or revenge a foreign invasion; but fortune, which so often seconded the virtue of Rome, would not suffer the mighty genius of that people to languish in obscurity, and found means to interrupt the establishment of those slothful measures, by foreign wars or domestic discord; both which, by a strange fatality, equally conspired to the rise and growth of Roman greatness.

After the banishment of the kings, the Roman people made a wonderful progress in all kinds of virtue; and the indulgence of the senate in the first years of their administration, had so raised their spirits, that the following oppressions of the nobility, instead of melting and quelling them, served only to inflame their minds, who were content with liberty before, to contend for honour and dominion with their proud and imperious masters. To divert these dangerous contentions at home, the nobility entered into wars abroad, not with designs of conquest, but either to prevent or punish a domestic sedition; choosing rather to be vanquished in the field by their enemies, than to have hard laws imposed on them in the city by the victorious tribunes.

Colonies, the best way of securing their acquisitions, were very seldom and very unwillingly planted; sometimes to appease a popular tumult, at other times to prevent divisions of land nearer home, or else to encourage the commons to take up arms more cheerfully, to resist a dangerous invasion which threatened them from abroad. Such were the designs and policy of that government; and 'tis no wonder in such a divided state and such distracted counsels, if the progress of the Roman arms were in a manner at a stand. But this advantage they reaped from their foreign wars and civil dissensions, the one preserved the courage and discipline of their armies, and the other reformed the constitution of their government. But conquest and dominion were reserved to complete the felicity of a free and impartial commonwealth, the establishment of which I place at the three hundred eighty-sixth year of the city, when the consulship was laid open to the commons, and the Licinian law enacted, which was the chief strength of the popular constitution of government.

After this reformation of the commonwealth, their affairs quickly assumed another face: that virtue and ambition which had been so long oppressed by the faction and dominion of the



few, had a free scope to exert itself, and a wide field to range in: hence fresh conquests, says Livy; at this time they began to aspire to the dominion of Italy: and although they were weakened by the revolt of their old allies the Latins, and attacked about the same time by the Samnites, the most warlike, and the Tuscans, <sup>[25]</sup> the richest and most populous nation of Italy; yet their unwearied virtue and industry overcame all these difficulties, and in less than a hundred years reduced all Italy under their obedience, which had held them at bay for so many ages before. Pyrrhus was an easy triumph; and the Carthaginians, who disputed the empire of the world with them in three long and bloody wars with various successes, being at length borne down by the mere weight of their constitution, as Polybius observes; and Philip, with Antiochus and Perseus, being an unequal match for their arms, they remained, in conclusion, the absolute masters of the universe. This amazing progress of their conquests may be chiefly assigned to these following reasons: that their domestic factions being extinguished, left them at liberty to pursue their foreign conquests. That the counsels of popular assemblies are more bold and courageous than the resolutions of senates and princes. There is a certain natural vigour that animates the debates of a multitude, and has oftentimes a mixture of rashness in it; a defect, 'tis confessed, but flowing from a noble principle. To what other cause can be assigned the vast hopes and ambitious designs of the states of Athens, Carthage and other governments, where the people bore the greatest sway, but to an excess of courage, flowing from liberty and equality which raised the same spirit and disposition in the Romans; but regulated by wiser orders, strengthened by better discipline, and founded on a larger bottom? And to this, that fame, ambition and avarice, the common inducements to all great undertakings of this nature, reign very strongly in popular assemblies, where the spoils or the honour are to be divided among a multitude; which is more hard to satisfy, than the private glory or profits of a prince or a senate. To this may be joined the virtue and emulation of their particular magistrates and commanders, with which a commonwealth will always abound, where the supreme dignities are annual and successive, and are the never-failing reward of the highest desert and abilities.

These were the principal causes that gave rise to those counsels, which led them to all their succeeding greatness. For whereas the wars under the aristocracy were chiefly defensive, and carried on with more fury than perseverance, the conquests of Veii being the only considerable acquisition made in a hundred and forty years; under the popular government, the avarice of the people, the courage of the soldiers, and the emulation of the generals, made the Romans commonly the aggressors. Wars were undertaken upon slighter grounds, pursued with more obstinacy, and concluded with greater advantage; this remarkably appears in the first Punic war, which was voted and resolved on by the people, in conjunction with their consuls, against the express authority and approbation of the senate, and was the first foreign expedition they ever undertook. To which may be added, the advantageous situation of Rome for the conquest of Italy, and of Italy for the conquest of the world; and that the governments of Italy were less warlike in proportion to their distance from Rome, and less obstinate lovers and defenders of their liberty. Nor was the justice and magnanimity of the Romans to their conquered nations, a small inducement to foreign nations to submit to their government;

which was rather the patronage than empire of the world.

Besides these general and more remote considerations, I shall assign some particular causes, which concurred more immediately to the growth and preservation of the Roman conquests.

The perfection of their military discipline, which I shall handle so far forth as it bears any relation to the constitution of the civil government.

The vast increase of their people, after the equality of the government; their excellent way of maintaining their conquests by colonies at first, by equal leagues afterwards, and at last by unequal leagues and provincial governments. [\[26\]](#)

The people multiplied very fast under the kingly government; their stock was very much diminished under the beginnings of the aristocracy, and increased prodigiously after the commonwealth became equal: for from the general survey in the year 410, not long after the last change of their government, to the year 435, we find an increase of 90,000 inhabitants. How the growth of their numbers conduced to the enlargement of their empire, will appear by the next article of colonies.

Colonies [\[27\]](#) were of excellent use to the commonwealth: 1. To enlarge their empire. 2. To defend their borders against a revolt of their allies. 3. To multiply their people. 4. To transplant their poor citizens. 5. To prevent seditions. 6. To reward their veterans. To which may be added, the preserving the popular balance by such large divisions of land to the commons, and the infusing the Roman manners and discipline into the conquered provinces, says Tacitus. The first institutions of colonies was owing to the wisdom of Romulus, who planted seven: but his example was ill pursued by his successors, there being only one more planted between his reign and that of Tarquin the Proud, who planted two more. The aristocracy, as they made little progress in their conquests, so by consequence sent forth very few colonies, not above ten or twelve in compass of a hundred and forty years. Under the popular government, when liberty and equality had removed all the obstacles which controlled the conquering genius of that mighty people, they extended their colonies and their victories over all Italy; having from the year 336, to the second Punic war, planted forty; and from thence to the sedition of Gracchus twenty more, with much greater numbers of citizens, larger proportions of acres, and at much greater distances from Rome than formerly. The institution of planting colonies was of greater benefit to the public, than transplanting the inhabitants of the conquered cities to Rome: a method that served only to increase the numbers of their citizens, which the other did more effectually by providing a larger subsistence for them; not to repeat the other advantages of colonies, which were all wanting in this institution.

The prodigious increase of their inhabitants enabled the Romans to plant such a barrier of colonies on the frontiers, as more effectually maintained all their conquests, than treble the

number of garrisons could have done; which being composed of regular forces, kept up in constant discipline and pay, would have consumed their people, created a vast charge, and certainly destroyed their liberties: whereas their colonies still retained their reverence for their mother city, and were the only support of the Roman state, when they were sunk by so many losses in the second Punic war.

Rome, as Harrington judiciously observes, in her rise proceeded by colonies: for the acquisition of an infant government must be retained in subjection by an actual force, till the terror and reputation of their arms can procure a submission and obedience to their bare authority. Rome in growth proceeded by leagues, either equal, as the alliance with the Latins and other nations, on whom the rights of the city were bestowed; which was an excellent policy to propagate their empire, and rarely practised by the preceding governments: or unequal, as the Italian right, which was a donation of the city without suffrage, or by provincial governments; But for this last article, I shall refer the reader to Sigonius, who has handled it with great judgement and accuracy, and shall content myself with making two observations. 1. That the subjects of the Romans lived under the mildest administration, and the gentlest yoke in the world; which engaged them in a willing obedience and voluntary submission to a nation of greater virtues than their own, without those frequent tumults and rebellions with which oppression and tyranny are always attended. 2. That the Roman policy secured their conquests with so much ease, and so effectually, that there is hardly any example to be found in all their histories that they ever surrendered one spot of ground, of which they had once got the dominion.

But 'tis time to return from this long digression, and resume the subject of my discourse.

The reasons of the corruption and ruin of the Roman commonwealth, may be reduced to these general heads. The negligent execution of the laws and orders on which the popular government was founded. Some original defects in the first constitution of the government. And lastly, to some succeeding laws and institutions in favour of an aristocratical government, or of an absolute monarchy.

The ill execution of the laws and orders on which the popular government was founded, proceeded from these two causes, 1. That the government was not often enough reduced to its first principles. 2. From the alteration of their way of living. Cicero, and from him Machiavel, and other modern writers of politics lay down for a certain maxim, that commonwealths cannot subsist, unless they are frequently renewed by their magistrates, either by reviving the reverence and terror of the laws, or by restoring the ancient virtue and discipline or by a thorough reformation of those corruptions and disorders, which length of time, a loose administration, and the depravity of human nature will introduce into the soundest and firmest constitutions of government. This Machiavel styles resuming the commonwealth and reducing it to its first principles, of which there are many memorable instances in the rise of the popular government.

These renovations of the Roman commonwealth were effected either by their ordinary magistrates; as the tribunes, to whom the guard of liberty, or the censors, to whom the inspection of their discipline, manners, and suffrages was committed: or else by extraordinary ones, as the dictators, who were commonly created upon some great and sudden emergency, either to resist a foreign war, or to correct some domestic disorder. Under the vigilance and conduct of these magistrates, for some ages after the institution of the popular government, the administration was steady and regular; those laws which were the great fences of liberty were strictly obeyed, or severely executed, as the Licinian and usury laws, etc. and others whose authority was decaying were revived and re-enacted, as the law of appeals to the people, which was thrice renewed: another, that a vote of the commons without the concurrence of the senate, should have the force and authority of a law, was as often revived. It would be endless to enumerate examples of this kind during the purity of the commonwealth, by which the constitution was so often strengthened and reinforced. To this rigour and severity succeeded a loose and negligent administration; the vigour and influence of their laws was abolished by disuse; and the best constitution in the world, not being renewed or revived, departed from the principles on which it was first founded, and was entirely subverted.

This fatal management seems to owe its rise to the following occasions. 1. The mistaken liberty which the people assumed of dispensing with the most fundamental laws of their constitution, as the yearly elections, and the laws against continuation of magistracy, with many others which ought to have been sacred and unalterable.

The supreme power of a nation, 'tis confessed, can be bounded or limited by no precedent law; but in such cases it would have well become the wisdom of the people to have laid a voluntary restraint on their own authority, and have had recourse to the dictatorial power, or any other expedient, rather than to expose and weaken the great bulwarks of their constitution, by assuming such a dispensing power; which, although at first it was exercised upon good grounds, (as all evil precedents have good beginnings) yet in process of time, had a dangerous influence on the commonwealth. For this popular levity of dispensing with their most solemn orders and institutions, framed by the united wisdom and experience of so many ages, diminished by degrees the reverence and reputation of the laws; and led them naturally to conclude that those laws which at some junctures were judged inconvenient, were at all times unnecessary: and although there was an outward appearance of liberty in the maxim on which this proceeding was founded, to wit, that the last resolution of the people was the undoubted law of the commonwealth; yet nothing can be more certain, than that no constitution can subsist, where the whole frame of the laws may be shaken or suspended by the sudden temporary counsels of a multitude, and where the laws are governed by the people, instead of the people being governed by the laws. In after-times the exercise of this power was assumed, and in a manner engrossed by the senate, till the people, after they had miscarried in an attempt to restore it to their own assemblies, were content to divide it with the senate, under certain restraints and limitations.

But the commonwealth gained little advantage by this alteration; the power being equally pernicious, in whatever hands it was placed. In former times, it is confessed, it was rather dangerous in example than fact; but in the corrupt ages of the government, it gave a rise to that fatal neglect in the observance of all the laws, so essential to their constitution; and made way for the seven consulships of Marius, the early and multiplied honours of Pompey, and the long continuation of Caesar's command in Gaul; which are on all hands allowed to have been the direct and immediate causes of the ruin of the commonwealth.

2. Another reason was the omission or alteration of the custom of accusing. The laws can never be maintained in force in a nation, where it is held dishonourable to accuse: for which reason, all wise commonwealths have cherished and encouraged by rewards and marks of honour and distinction, accusations of all public offenders. At Rome, in particular, accusers were held in great esteem; such men being reputed the defenders of the laws, and the guardians of the constitution. Their greatest men commonly entered the world with the prosecution of some delinquent: nor did the highest persons in the state, as Scipio, Cato, and others, think it a disparagement, after all their honours, to undertake this province.

The laws had their due weight and authority, whilst they were defended by such excellent patrons; but in after-times, and in a more degenerate age, they were abandoned by their champions. Accusations were generally declined by the men of rank and dignity, and seldom or never undertaken unless by mean and mercenary informers, or raw and unskilful youths; so that the laws in a manner were left unguarded and defenceless; and what an effect this must have upon the constitution I leave every man to judge, and the event sufficiently declared. 'Tis

true, Cicero, <sup>[28]</sup> and others, began to revive the old custom of accusing: but 'twas then too late, the corruption of the commonwealth being too big for the laws, and obstinate to all remedies. Nor was the authority of many of their laws armed with such sanctions and penalties as were necessary to imprint that awe and terror on the minds of the people, which alone can dispose them to obedience. The famous law of appeals was guarded by no other sanction than a bare declaration, that the breach of it should be esteemed a wicked action: nor were their other laws, except some few of their fundamental ones, backed with severer

punishments. <sup>[29]</sup> The ordinary vigour of their laws extended only to ignominy or pecuniary mulcts: death being seldom inflicted unless in cases of high treason, parricide, or crimes of an extraordinary nature. Banishment in itself was no penalty, but a refuge to avoid the punishment of the laws; disfranchisement or deprivation of liberty, were penalties, if we may believe Cicero, above the reach of the supreme power of the commonwealth to inflict; even pecuniary mulcts were anciently limited to some determined sums, not to be exceeded. But succeeding ages, in a manner, abolished all the power of the laws, by exempting their citizens from all corporal punishments, and allowing the highest offenders to evade the sentence of the law, by retiring into voluntary exile. The moderation of the Roman laws was the worst part

of their constitution; <sup>[30]</sup> and in some junctures, as the attempt of Saturninus, Catiline, etc., would have endangered the very being of commonwealth, if the senate and magistrates had

not exerted an illegal, but necessary power, for the preservation of the whole. But withal, it gives one a strange idea of the excellence of the Roman discipline and manners, which flourished for so many ages, by a mere sense of honour and fear of ignominy, with so little dread or apprehension of severer punishments.

That the commonwealth was not oftener reduced to its first principles, chiefly arose from the reasons I have alleged: to which may be justly added certain defects and errors in the nature and power of those magistrates, to whose charge the preservation of the laws was committed, as the tribunes and censors.

In the institution of the tribunitian power, there was this original defect, that the number of the tribunes was too great; they were at first five, but their number was afterwards increased to ten, which the people weakly imagined to be an accession of strength and honour to the magistracy: but the senate wisely perceived, that the increase of their number would be a diminution of their power, as it proved in the event; for every single tribune, by virtue of his office, being armed with a power of putting a full stop to all proceedings whatsoever, as well as of the people as of the senate, they seldom found it a difficult matter, out of so great a number, to engage one corrupt tribune to hinder the result of all the popular counsels, and defeat the designs of the other nine, however unanimous soever for the public advantage.

Of this kind it would be endless to produce testimonies; so many examples occurring in the Roman histories of mercenary tribunes forbidding the passing of new popular laws, or the revival and execution of old ones. But this defect was succeeded by a worse, I mean the

Atinian Law, which permitted senators to be chosen tribunes. <sup>[31]</sup> This law destroyed all the good effects of the tribunitian power, and perverted the ends of its institution: for the tribunes were at first created to be a check on the senate, and for that reason composed of men of a different order and interest, senators being expressly excluded from that office, and the two employments judged inconsistent; the ancient policy thinking it absurd to imagine that a senator in such a station would ever act for the advantage of the commons, against the interest of his own order. These were apparent defects in the powers and qualifications of the tribunes; the first rendering them in a manner useless and ineffectual, and the second dangerous and pernicious; and the ill-effects of both on the whole constitution of the Roman government, are obvious at first view to every man who considers the excellent use of the tribunitian power, whilst it continued on its ancient establishment.

The office of the censors was one of the noblest institutions of the commonwealth; their ordinary jurisdiction extended to the regulation of private expenses, the enacting of sumptuary laws, the farming the revenues, and the reformation of dangerous abuses and disorders in the popular assemblies; of which last we have many examples. But their chief province was to direct and preserve the public discipline and manners, to preside at the tribunal of fame, to reward the brave and virtuous with marks of honour and distinction, and to brand the degenerate and corrupt with dishonour and ignominy.

This institution was of admirable use in maintaining the morals and virtue of the people; and at the same time highly contributed to support the vigour of the laws, and to preserve or restore the constitution to its first principles: for it is a certain maxim, that as good laws make good men, so good men defend good laws, and are both a mutual defence to each other. But there was this essential defect in the frame of this office, that there were two censors instead of one; for all great commands are better managed by a single person than by many, especially such as require the utmost rigour and severity in their execution. For power divided between many, naturally produces discord; of which we have many remarkable examples in the censorships of Scipio and Mummius, Livius and Claudius, Crassus and Domitius, and many others, who all by their discord and dissension destroyed the good effects of their magistracy, which depended solely on their concord and unanimity; both enjoying an equal authority, and either of them having power to vacate the degrees of his colleague. But in succeeding ages this magistracy was intermitted for many years. It is true, it was some time after revived, but with such limitations in its power and authority, as disabled the censors from resisting that torrent of corruption which first overthrew the discipline, and afterwards the liberties of Rome.

Another reason which seems to have very much contributed to the steady support of the constitution upon its original principles was, that, after the rise of the popular government, there arose every age, men of such superior virtue and merit, as by their example gave an influence and authority to the laws, who made a resolute stand against all innovations upon the great fences of their liberties, and either maintained or revived their ancient constitution. But in after-times the commonwealth was destitute of such supports. Not but that Rome, in its lowest decays, produced very extraordinary men; but they were such men, whose great qualities served only to arm their ambition against the freedom of their country.

It is an observation of Machiavel, that great dangers and violent extremities often rectify and recover a constitution of government tending towards corruption; of which he gives an excellent example in the sacking of Rome by the Gauls; to which may be added the Straits of Caudium, the battle of Cannae, and many other losses in the beginning and progress of the commonwealth: all which roused and revived their ancient virtue and discipline, and proved a remedy instead of a ruin. But in after ages, the continual success of their arms, and the profound security they enjoyed by the conquest of Carthage, and of all their foreign enemies, let loose the reins of their administration, introduced a depravity and corruption of manners, and, in conclusion, destroyed the commonwealth. [\[32\]](#)