

Algernon Sidney was the younger son of the earl of Leicester, and his mother was a Percy, daughter of the earl of Northumberland. He was educated in Paris, where his father was ambassador, and may have also attended the huguenot Academy in Saumur. He mentions, Jean Daillé, minister at the huguenot church in Charenton, near Paris as an influence. About 1665 he wrote the *Court Maxims, Discussed and Refilled*, in the form of a series of dialogues between “Eunomius, the Commonwealthsman”, who is the spokesman for Sidney, and “Philalethes, a moral, honest Courtier and lover of state truth.” who represents the court of Charles II. The “state truth” mentioned turns out to be all that is corrupt and pernicious.

An edition of *Court Maxims* was published in 1996 by Cambridge University Press from a transcription of a copy of Sidney’s manuscript, and with the addition of an introduction, explanatory notes, indexes, etc. Below are excerpts of Sidney’s material that show his view of God’s law.

Fourth Dialogue, p. 62.

EUNOMIUS: I reckon not that all God's commands to the Jews binding or examples we ought to follow, as neither the judicial laws that were appropriated to that people nor the ceremonial law that contained types of what now is accomplished, and so they are abrogated. But those commands which concern the duty of man to man or man to God are perpetual. By the law we know murder, adultery, and theft are sins. As for your other scruples of God giving them kings as an example to us to set up kings, it is quite contrary. For God gave them not kings till they sinned in asking them, and we ought not to imitate them in their sin that we be not made like them in their punishment, who, after they had groaned long under the race of idolatrous tyrants, were at last wholly captivated by foreigners so that to this day we know not what is become of the ten tribes. And the other two were brought to that misery that their very enemies did pity them.

Ninth Dialogue, p. 116.

PHILALETHES: why, what can a prince fear, who is in possession of the whole power, and, besides foreign allies, has so strong a party in the nation to maintain it?

EUNOMIUS: he ought to fear God, man, and the principles of his government, enemies unto both. God seeks the happiness and perfection of his creatures, has given laws to mankind which show the way to that happiness and perfection. He that walks in this way and draws others to it does a work beneficial unto man and acceptable unto God. Whoever does the contrary becomes an enemy to man and incurs the wrath of God for his disobedience. Such ought to fear, unless they have power above both, so as to be able to defend themselves against God and good men.

Ninth Dialogue, pp. 122-123.

EUNOMIUS: ... Commonwealths or civil societies are constituted for the attaining of justice, that everyone living in them may enjoy that which justly belongs to him and suffer nothing from others but what he has justly deserved. The links of these societies are the respective laws. These laws are either compacts made by men, or are given by God, who has a true sovereign power about all. All laws made by men ought to tend to the preservation of those societies in doing justice to all the individuals thereof. Every man thereby is to see that he shall suffer what he would not, if he do what he ought not. If his just penalty be death, his blood is upon his own head. Hence I infer:

First, those laws only do answer the end for which they were made, that take care no man shall be deprived of what justly belongs unto him, unless he forfeit it by some act prejudicial to the society.

Secondly, laws being made to punish offences tending to a dissolution of the civil society, the penalties thereof are justly inflicted when proportioned to deter those that are viciously inclined from like offences. No man can be deterred from anything but by knowing his danger, and he cannot know his danger, threatened by law, unless he understand that law for the transgression of which he shall be punished. No man can walk according to a rule that is unknown to him, nor be deterred from offending unless he know when he offends. The justice therefore of all laws does necessarily and essentially depend on the plainness and clearness of them, that every man may understand them if he will, or justly bear the penalty of his neglect if he will not when he might. Otherwise offences are not prevented that are prejudicial to the society, and consequently the society is not thereby preserved.

The essence of the law consists solely in the justice of it: if it be not just, it is no law. The justice of it depends upon the end: if it conduces not to a good end, it cannot be just. Laws are made for the right regulating and preservation of societies, and to obviate offences tending to the disturbance thereof. Those acts or decrees which tend not thereunto have no justice in them, nor in any respect deserve the name or power of laws. Instead of landmarks to warn and prevent dangers, they become snares to catch and destroy men unawares. The utmost deviation that can be from this rule in making laws is when through the multiplicity and intricacy of them they are rendered unintelligible. The lawyers tell us *the law is written reason*, and that whatever they find in their books is just. But that is Westminster Hall prate, hardly worth an answer. If the law were written reason, it would be universally and eternally the same, as reason is; ever just and good, as reason is; ever suitable to his law who is justice itself. If this were true of the law, every wise man would be a good lawyer. He that is a good lawyer in England would be so in France and Spain also. As reason is the same on this side of the sea and beyond it, that law which they call written reason would be also the same. For the understanding of this law we should not need to study Littleton and Coke, but Plato and other great masters of human reason. But above all the Scripture, which, being the dictate of God's own spirit, is the efflux or manifestation of the eternal word, which is the reason and wisdom of the father.

Ninth Dialogue, pp. 124-125.

PHILALETHES: what do you conceive is required to the justice and essence of a law, besides the authority of him or them that make it?

EUNOMIUS: three things are requisite:

First, that it be consonant to the law of God, the great sovereign Lord and creator of mankind, whose authority is above all. He that opposes him incurs the guilt of undeniable wickedness and injustice. An act in opposition to him cannot be obliging to any other, and therefore can be no law, if repugnant to his law.

Secondly, it must agree with the light of nature and reason in man. This is full of truth, as having its beginning in God. The authority thereof is revered by all that deserve the name of men. What man or number of men soever enact anything contrary to this light, do most unjustly oppose all the rest of mankind, who are above them or him, and God, who is above all. Such laws are void and null also for the reason above alleged.

Thirdly, no law can be just which destroys or impairs the ends for which laws are made. If they are made to preserve societies, societies established for obtaining of justice, justice sought because good and helpful to mankind; what law soever is made prejudicial to those of that society, perverting justice, destroys the end for which it ought to be established, is therefore in the highest degree unjust and utterly invalid.

Ninth Dialogue, pp. 127-129.

PHILALETHES: what do you take to be the greatest evil in the institution or administration of laws?

EUNOMIUS: the greatest evil in the institution is when that is enacted by man which is contrary to the law of God, to the light of nature in man, and the ends for which societies are established, that is, the obtaining of justice.

The greatest evil in the administration is, when the law, made conformable to these ends, is by corruption turned against them. This will be best explained by examples. The law of God given to Israel was certainly the best and most perfect in its institution, as to the true ends for which all laws ought to be made. Those, therefore, which are most conformable unto that are the best, next unto that which is best of all. And those which differ most from it, or are most contrary to it, are the worst. Magistrates ought so to exercise their power, as that under them we may live in all godliness and honesty, says the apostle. The like is said by all philosophers who deserve to be harkened to. Aristotle says the end of civil society is *vita beata secundum virtutem*, Socrates and Plato say the perfection of action and contemplation, others, the attaining of justice in order to arrive at that perfection in action and contemplation; which must needs be much hindered by injuries and molestations, unless speedy and easy remedy can be had. We may truly say that all rational men without the law, and all inspired men under the old law and new, have agreed in showing this to be the end of government. Whatever decree therefore is contrary to the law of God and light of nature, is consequently unjust and evil, and so cannot be a law.

The next point to be considered in the law itself is, that the law given by God relating to civil government was in all points the most short, easy, and plain of any that is known unto man. Those facts were punished which by the light of nature were known to be crimes. Punishments were proportionable to the offences. The whole tended to make the nation happy. No part favoured in the least degree, nor the interest of one or a few men promoted to the prejudice of the nation. God the giver often respected not persons. Those parts of it which determined propriety were so clear and simple that there could be no long, intricate, or expensive disputes upon any title unto goods moveable or immoveable. Such judges were appointed for determining all controversies arising among the people, who were most knowing, upright, and that had neither interest to incline them to pervert judgment, nor power to preserve themselves from punishment if they did prevaricate. The utmost contrariety unto this that man can imagine, is when the law is made various, flexible, uncertain, infinite, unintelligible; when things are punished as crimes which are themselves eminent virtues; when grievous punishments are inflicted for slight offences; when the interest of one or a few is set up in opposition to that of the nation; and lastly when it favours vice and wickedness, tending to corrupt and oppress the nation, that is, to make it vile, naught, sottish, and miserable in soul and body.

As to the administration, it may be rightly said that law is imperfect, which does not take care that it

may be rightly administered, hindering or punishing corrupt practices. As the imperfection of the law is the cause of the mal-administration; the mal-administration does as well increase the perversity of the law, as evidence it. Both these evils, as proceeding from the same root, are to be mended by the same pattern. God shows us the way in both that his law might be as pure in its administration as perfect in its institution. He appointed a leader unto his people, excellent in wisdom and holiness, seventy chosen men to be his assistants, gives of his spirit to them and to Joshua his successor. The other qualifications required in them are expressed in Exodus (18:27). They were to be able men, such as fear God, men of truth, hating covetousness. These were to be rulers of thousands, hundreds, fifties, and tens. And, lest a king should come in and overthrow this whole fabric of justice, you have seen what shackles were prepared for him. Deut. 17. In this model the chief interpretation of the law was given to the seventy, that is, the great Sanhedrin, who were least to be suspected of such corruption as should lead them to unjust practices, or to give unrighteous judgment. He foresaw how apt man is, if drawn by a powerful interest, to fall into wickedness, and did therefore, as far as did consist with the nature of man, choose the best means to obviate all manner of corruption. The number of seventy chosen for their excellency in learning, wisdom, piety, and all virtues were not likely to be easily corrupted. The like care was taken to allot unto inferior magistrates that which was proportionable to their abilities. The success proved suitable to the wisdom of the institution. Nothing was able to over-throw that government but a universal defection of the nation to idolatry, which drew them at length to that mad and wicked desire of setting up a king, like unto the Gentiles. In all the strange revolutions of that people we see not many marks of the Sanhedrin fall from administering justice according to the law. Even when the great catastrophe approached wherein the government was to be over-thrown, the people led captive, Jerusalem destroyed, they continued so sincere, that Herod, not being able with all his wealth, subtlety, and power to corrupt them, slew them. The like rectitude seems to have continued in the elders and chosen persons of every city or tribe. They were also kept in awe by the personal punishments they were subject unto, as in the case of Susanna, if they prevaricated. All this considered, it cannot be imagined how better provision could be made for maintaining of justice, unless God had sent angels to administer the law, which he had given by them to that people (Psalm 68:17, Acts 7:53). This holy, just, and perfect law thus administered, discovers the imperfection, injustice, and wickedness of other decrees called laws, as a straight line laid by a crooked one discovers it to be so.

Ninth Dialogue, pp. 139-140.

EUNOMIUS: ... And having promised to speak of the kingdom of Israel upon this point, I will now add a few words concerning some of their kings and then conclude. God the lawgiver of Israel, by the hand of Moses and the law of the kingdom written in a book by Samuel, had so clearly declared his will, that it was not easy for wicked kings to invent any fine pretences to overthrow and invalidate them under colour of amendment. When therefore they resolved to reject the law as inconsistent with the manner in which they resolved to govern, it was necessary for them either to set up another worship directly contrary to what was prescribed in it; as Jeroboam did when he made the calves, knowing that idolatry was so great a step to tyranny that they who had rendered their consciences subject to the will of the king in that would not contradict him in other matters; or, if they were not bold enough to attempt this course, they brought the people insensibly so to neglect and forget the law of God, that not as much as a copy of it could be found in Joshua's time but providentially by those who repaired the temple. Men thus left, as without law, received such laws as were given by the kings, as were the statute of Omri, or else suffered themselves to be governed by will. The next work was to remove all such as were raised by God to recall people from idolatry to the observance of the law, as Elias and other prophets and holy men. They corrupted such as remained in authority.

Ninth Dialogue, pp. 146-147.

EUNOMIUS: ... [T]here is a great difference between a magistrate and a common person, but it principally depends upon the manner in which he executes his office. If I follow the law of God I can make no difference between the punishment due to him if he transgress, and another man that does in like manner transgress against him. The same law which says: he that sheds man's blood, by man shall his blood be shed, does neither exempt a magistrate from the punishment due for murder if he commit it, nor inflict anything beyond death upon a private man that kills him. We find no such thing as treason in God's law. We first hear of that word from Athaliah, Joram, and Jezebel. The tyrants of Rome and other places, when they had overthrown the power of the law, made edicts, and forcibly extorted them from the senate or other assemblies, whereby not only conspiracies against them, but any word or act that savoured of disaffection or disrespect unto them was made criminal. This alone subverted and destroyed all liberty, justice, virtue, and happiness in the empire. Though the consuls, praetors, and other inferior magistrates had then the full exercise of their power, *legesque, si maiestatis quaestio eximeretur, bono in usu*, that alone filled the cities and provinces with terror, blood, and all the other mischiefs accompanying tyranny. Princes in other countries have ever sought to introduce the like, and where they have prevailed, they have established mischief by law so-called, and maintained it by force until the oppressed nations broke their yokes. There is another kind of treason, which is ever evil, comprehending many crimes, that is, conspiracies or actions against the true king or sovereign power of a nation. As all civil laws are made to preserve civil societies, he that endeavours to overthrow them must needs incur the greatest penalties denounced by them. This is a very common crime, but seldom are any others guilty of it but he that wears the crown and those that wickedly assist him, overthrowing the political government of a nation to set up his own tyranny. Civil wars and sedition (says Machiavelli) are the distempers of a state, the introduction of a tyrant is the death of it. He that does this is the worst of all men, and those that assist him in his wickedness are next unto him.