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THE
DIVINE POLITICS OF
THOMAS HOBBS

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THE DIVINE POLITICS OF THOMAS HOBBS

AN INTERPRETATION OF
LEVIATHAN

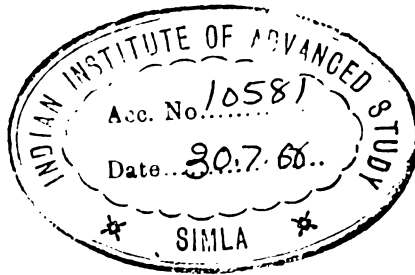
BY

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'Illorum religio pars politicae; horum politica
pars religionis est, et praecepta continet, qualia
illis conveniunt qui in civitatem Dei admittuntur.
Illorum religiones a legislatoribus gentium, horum
religio ab Abrahamo, Mose, et Jesu Christo, qui
regni caelorum leges nos docuerunt,
instituta est.' *O.L.* iii. 89

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TO DODO

PREFACE

WHEN in 1946 I turned from teaching History to teaching Politics I had no inclination to make a special study of Hobbes. But I found *Leviathan* so hard to understand that by 1952 I was devoting all the time that I could spare to reading his English and Latin works; and in 1955 I resigned my Chair to have more time for this study. In 1957 I welcomed Professor Warrender's book on Hobbes's Theory of Obligation as opening a new era in the interpretation of his moral and political thought, in which close examination of the relevant texts should yield increasing understanding. But the present work differs in design, in method, and in many of its conclusions, from Professor Warrender's notable book.

For more than thirty years, I thought that Hobbes was a mechanist, to whom a prime mover could be little more than a logical requisite. I regarded his argument from Scripture as ironical; its object was to discredit the political use of a tool which could be turned against the clergy. I held that he identified duty with interest.

But I could not make sense of his civil philosophy by itself; and philosophers found radical inconsistency in it. On the other hand, I was increasingly impressed by his apparent sincerity and by his boldness as a writer. He freely expressed moral convictions for which I could see no ground in his moral theory. It therefore seemed worth while to try to make sense of his moral and political thought as a whole, on the presumption that he was essentially a sincere writer. The interpretation at which I have arrived has strengthened my confidence in the presumption. It now seems to me reasonable to view Hobbes as a Christian thinker. He is peculiar, in combining Christianity, materialism, scholasticism, and mechanism. He attempted to convert a small part of his Christian moral doctrine into a science which had to be fitted into a

mechanist framework. His failure here is obvious; but so far as I know no one has explained it quite as I seek to do.

I find the clue to an understanding of his limited, *a priori*, moral science of civil philosophy, not in mechanist materialism, but in the method of Euclid. The method of civil philosophy was based upon the method of geometry, the model science, as understood by Hobbes. Many of my conclusions do not depend in any way on the presumption that Hobbes was a sincere Christian. But I treat his doctrine of moral obligation as a religious doctrine, as I suggest that a law of nature was for him a philosophic fiction, comparable with Euclid's fiction of a point.

I am conscious of my indebtedness, particularly in Part I, to Croom Robertson, Brandt, and Lubienski; and there may be unconscious echoes of, or reactions from, other writers. But I base my own interpretation solely on the texts. In interpreting *Leviathan*, I draw largely upon Hobbes's other English and Latin works; and I have found his writings in controversy with Bramhall particularly helpful. For reasons which I give elsewhere I attach more importance to what he wrote from 1646 onwards than to his earlier works; and I take the English edition of *Leviathan* to be his definitive exposition of civil philosophy, though the Latin edition has a better claim to be regarded as definitive on matters of religion.

I have sought to concentrate attention upon what seem to me to be the main issues, rather than to attempt an exhaustive commentary on *Leviathan*. But my interpretation differs so much from any that has come under my notice that I have felt it necessary to support it by extensive quotation and paraphrase of Hobbes's own words.

I desire to thank the many colleagues who have given me much help on special points in the course of the last ten years. And I am specially indebted to Professor W. H. F. Barnes, Mr. J. M. Brown, and Dr. W. von Leyden, with each of whom I have had many, to me profitable, discussions. I am, of course, solely responsible for what I have written.

F. C. H.

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- E.L.* = *The Elements of Law, Natural and Politic*, ed. F. Tönnies, Cambridge, 1928.
- E.W.* = *The English Works of Thomas Hobbes*, ed. Sir William Molesworth, 11 volumes, London, 1839-45.
- L.* = *Leviathan* (Everyman edition), Dent.
- O.L.* = *Thomae Hobbes . . . Opera . . . quae Latine scripsit*, ed. Sir William Molesworth, 5 volumes, London, 1839-45.

PART ONE

GENERAL INTRODUCTION

I

THE SCRIPTURAL BACKGROUND

1. *The Authority of Scripture*

THE argument from Scripture is an essential part of the design of *Leviathan*. Hobbes professed to accord to Scripture, and only to Scripture, unquestionable authority over his mind. The sincerity of this profession has often been doubted or denied. His argument that metaphysical materialism is consistent with Scriptural Christianity is considered later;¹ in any case, inconsistency is not in itself a mark of insincerity. Reliance has sometimes been placed upon a scrap provided by John Aubrey. No great weight can be attached to Aubrey's testimony on such an issue; for what it is worth, it is testimony to the sincerity of Hobbes's Christian profession. Aubrey, however, also gives two comments by Hobbes on Spinoza's *Tractatus Theologico-Politicus*.² The first, *Ne judicate, ne judicemini*, is easily intelligible. The second, 'He (*sc.* Hobbes) told me (*sc.* Aubrey) he (*sc.* Spinoza) had cut thorough him a barre's length, for he durst not write so boldly', raises more questions than it answers. Aubrey has no pretensions to verbal accuracy in reporting; and it would be rash to treat this oddly phrased remark as Hobbes's *ipsissima verba*. It is not credible that Hobbes ever confessed, even by implication, to such a babbler as Aubrey, that he had written much which he did not believe to be true. There were, of course, as Tönnies's work on the manuscript of *Behemoth* has shown, prudent excisions; but the question is whether Hobbes wrote a great deal which he believed to be false.

¹ Ch. XVIII (1).

² A. i. 353, 357.

Once the presumption of insincerity has been questioned it is not easy to find arguments of sufficient weight to justify reversal of the normal presumption that an author believes what he seeks to persuade others to believe. Belief in a man's sincerity or insincerity is ultimately a matter of subjective impression; and, since the issue has been raised, it would be convenient to dismiss it as irrelevant. This, however, cannot be done by anyone who desires to understand Hobbes's moral and political thought, so far as he disclosed it, or even to relate his civil philosophy to the whole doctrine from which Hobbes sought to detach it by means of a philosophic fiction. Hobbes now appears to me to have been essentially a sincere writer; the minor qualification which I make is that he sometimes adopted, in controversy, positions to which he had no great sense of commitment. He grounded the authority of a teacher, the only authority to which he himself could aspire, on sincerity, among other things.¹ His scorn of deceit, except as a weapon of defensive war, has every appearance of being genuine. He was not himself engaged in defensive war. If he made free use of deceit in his writings he employed it to lessen a danger which he voluntarily incurred. This was the offence that he attributed to Descartes, and condemned.

Hobbes's attitude to Theology suggests, not insincerity, but sincerity. He never attacked Theology as such; but only a particular theology, School Divinity. Here he could claim that the Protestant Doctors of the Church were with him. He denied Bramhall's charge that he spoke disrespectfully of the Doctors of the Church. He slighted only School Divines, and 'much revered and admired' Luther, Melancthon, Calvin, and Perkins, 'that did write their sense clearly'.² School Divinity is a monstrous Empusa, 'walking on one foot firmly, which is Holy Scripture, but halted on the other rotten foot, which the Apostle Paul called vain, and might have called pernicious philosophy'.³ School Divinity was to Hobbes an instrument of the Kingdom of Darkness. It lent support to sacerdotal claims,

¹ L. 380 (*E.W.* iii. 695).

³ *E.W.* i, pp. x-xi; iv. 264.

² *E.W.* v. 64-65, 266.

and it tyrannized over men's reason and understanding, not by the Scriptures, but by the pretence of learning. 'The Empusa was to be exorcized by distinguishing between the rules of religion, which we have from the laws, and the rules of philosophy, 'that is, the opinions of private men'; and by yielding what is due to religion, to the Holy Scripture, and what is due to philosophy, to natural reason. Philosophy, even true philosophy, should not be mingled with religion. Scholastic Theology, in proclaiming that Theology was queen of the sciences, was untrue both to Theology and to science. There can be no science of Theology. This is, by clear implication, an affirmation of the Protestant position that the only true Theology is a Biblical Theology. Hobbes is here exposing a limitation, not of Theology, but of scientific method. God is not beneath, but above, science. 'We ought not to dispute of God's nature; He is no fit subject of our philosophy.'¹

Hobbes was the child of a Reformation parsonage, schooled in Elizabethan England. In the England of his youth Calvinist theology was influential, and his reference to William Perkins is not without significance. Hobbes was a member of Magdalen Hall, Oxford, a flourishing and markedly Protestant society which later became a centre of Oxford Puritanism. Some later words suggest that as a young man he made a close study of the Bible. The 'controversy between the Papist and the Reformed Churches could not choose but make every man, to the best of his power, examine by the Scriptures, which of them was in the right'.² As Rome was an enemy of England, Hobbes's study of Scripture must, from the first, have been fired by controversial zeal. He brought an independent mind to the study of Scripture; to the end, he retained that freedom of thought which had marked the earliest stage of the Reformation, but which in his time was being stifled by a thickening crust of Protestant dogmatism. His attitude displays a combination of the critical and the fundamentalist. His odd interpretations of some texts need cause no surprise; in most cases he had little commitment to them; and the ablest men of his

¹ *E.W.* v. 436.

² *B.* 21 (*E.W.* vi. 190).

generation and of the succeeding generation could entertain odd as well as fruitful ideas.

Hobbes's personal religion, so far as he disclosed it, was moralistic rather than devotional. He was obliged to outward profession in accordance with the Christian public instruction provided by his Christian sovereign. Apart from this instruction his soul was no concern of any other man. His inward beliefs were the concern only of himself and of God. I have found only a scrap of evidence of devoutness, but it is significant because incidental. He wrote in a private letter that he did not wonder that a young woman, hourly expecting death, should be more devout than at other times: "'Twas my own case.'¹ There are instances² in which an insincere appeal to the grace of God is wholly uncalled for, however timid the hypocrite.

Hobbes would never have embarked upon the enterprise of civil philosophy had he not believed that men were obliged in conscience.³ My suggestion that he introduced obligation of conscience into civil philosophy, in *Leviathan*, as a fiction of the philosophic mind, does not depend in any way upon a presumption that he was sincere in his Christian profession. If this suggestion is correct, his civil philosophy is not independent of religion; and he himself explicitly stated that religion is essential in every commonwealth.⁴ Theism will not suffice for true politics. In the Kingdom of God by nature, subjects believe that God governs them by His laws; but the laws of nature are not yet laws properly so-called; they are still no more than the uncertain conclusions of private men,⁵ and as such they do not oblige. The laws of nature oblige in fact, and not merely by definition, only as delivered in Scripture as the commands of God. Hobbes's civil philosophy is not independent of his Christian religion; in *Leviathan* the detachment of civil philosophy from Christian religion is fictitious.

Scripture was the only source of Hobbes's moral convictions.

¹ *E.W.* vii. 464.

³ Ch. I (3).

² e.g. *L.* 162 (*E.W.* iii. 293).

⁴ *O.L.* iii. 549.

⁵ Ch. III (5).

He never attempted a systematic exposition of his Scriptural doctrine of moral duty. The scope of *Leviathan* is limited to the entire doctrine of civil duty; moral duty is treated only in relation to civil duty. And what Hobbes wrote of obligation by laws of nature is intelligible only in the light of his Scriptural conception of obligation by the Moral Law of God.

My position is that the presumption that Hobbes was sincere in his Christian profession can be supported by arguments at least as strong as any that have been advanced in favour of the contrary presumption. The adoption of either presumption must influence interpretation of *Leviathan* as a whole. Neither presumption should influence interpretation of the argument from principles of nature only; but allowance has to be made for the limited purpose and scope of this argument.¹

2. *The Moral Law*

Hobbes's conception of religion was thoroughly political; but he was here adhering, not to a pagan secularization of religion, but to a Christian sanctification of politics. The Old Testament contains the Law; the New Testament contains no new laws of God but the Gospel. The first table of the Decalogue, the law of sovereignty, can be reduced to the one commandment to love God. The second table, the Moral Law, can be reduced to the one commandment of mutual charity.²

Hobbes's fundamental moral conviction, only implicit in *Leviathan*, is stated explicitly elsewhere.

It is the law from whence proceeds the difference between the moral and the natural goodness . . . the actions of subjects, if they be conformable to the law, are morally good, and yet cease not to be naturally good; and the praise of them passeth to the Author of Nature as well as of any other good whatsoever. . . . All the real good, which we call honest and morally virtuous, is that which is not repugnant to the law, civil or natural, for the law is all the right reason we have and . . . is the infallible rule of moral goodness.³

¹ Ch. III (3).

² *L.* 182, 281, 320 (*E.W.* iii. 330, 513-14, 586); *O.L.* iii. 378-9.

³ *E.W.* v. 193-4.

In this passage Hobbes was primarily concerned with the civil law, but he did not divorce it from the natural. 'The Moral Law of God is the only moral law, and civil law makes the difference between moral and natural goodness only because obedience to civil law is grounded on the Moral Law. This is an affirmation of the Christian conviction that the moral laws of God are moral ultimates behind which man cannot go. There can be no moral ground of man's natural subjection to God; this subjection is not voluntary but is necessitated by belief in the Providence of God.¹ Moral good, being relative to God's laws, is determined for and not by man.

'Laws are the rules of just and unjust.'² Laws require men to do or to forbear. But the Moral Law does more than this for it pertains to conscience.³ The man who strives with all possible endeavour to fulfil the laws of God is just. The just man does not in fact fulfil the Law; there is none who has not transgressed, but God accepts the insufficient plea of the just who believe in Christ. God accepts the will for the work as well in good as in evil men.⁴ Fulfilment of the Law requires both the will to fulfil and the appropriate deed. But the Law does not require man to expose himself to prey by acting peaceably towards an enemy. Where there is no hope of reciprocity and consequently insecurity, the Moral Law allows man liberty to endeavour as best he can to preserve himself. There is no exception to the requirement that man strive by all possible endeavour to fulfil the Law. The Law is never fulfilled by outward observance only. Christ explained that the commands of God are disobeyed, not by deeds only, but also by the will. Not only unjust deeds, but the designs and intentions to do them, though hindered by accident, are injustice. Injustice consists 'in the pravity of the will, as well as in the irregularity of the act'.⁵

'The desires, and other passions of man, are in themselves no sin.'⁶ God does not command man to have certain natural

¹ Ch. XVII.

³ *O.L.* ii. 207-8 (*E.W.* ii. 60-62).

⁵ *L.* 182 (*E.W.* iii. 330).

² *L.* 140 (*E.W.* iii. 251).

⁴ *L.* 327 (*E.W.* iii. 599).

⁶ *L.* 65 (*E.W.* iii. 114).

passions and forbid him to have others, God requires that man shall act in accordance with His Law even though the Law is contrary to his natural passions. In this sense God commands man to submit his will, his last appetite, to the will of God as revealed in the Law.

Man is not free to deliberate as to good in cases governed by the Law. The sin of Adam was that he 'took upon him to be as God, judging between good and evil, not by his Creator's commandment, but by his own sense'.¹ In Hobbes's naturalist thought, will can be no more than last appetite for natural good; but in his religious thought, there is a will to obedience which is not of nature but of grace.² Men are capable of despising the wealth and titles of this world.³

God's Law is eternal, but the actions which accord with it vary with circumstances. Hence God's Law does not command specific actions but conscientious action, action in accordance with an honest, though fallible, judgement of what the Law requires a man to do in a particular situation. The Moral Law, being eternal, is the Law of Virtue. The virtues can never be unlawful nor the vices lawful.⁴ The Law commands good manners (*bonos mores*) or the virtues.⁵ The Moral Law is law for the inward as well as for the outward man, and the inward is morally more significant than the outward; the action may be just yet the man unjust. The most important thing for man is that his heart should be right.⁶ This means that he should be right in spirit; and 'the most common acceptation of the word spirit is in the signification of a man's intention, mind, or disposition'.⁷

Hobbes was disposed to relax what he held to be an over-severe view. He distinguished the purpose to transgress the Law from imaginary delight in the enjoyment of forbidden fruit, and he was reluctant to count such day-dreaming as sin. But he did not denounce those who held the severe view, 'that the first motions of the mind (though checked with the fear of

¹ L. 219 (E.W. iii. 397).

⁴ O.L. ii. 195 (E.W. ii. 46).

⁶ O.L. ii. 207 (E.W. ii. 61).

² Ch. X (6).

³ E.W. iv. 378.

⁵ O.L. ii. 197 (E.W. ii. 48).

⁷ L. 231 (E.W. iii. 421).

God) be sins'. He confessed that it is safer to err on that side than on the other. What he made decisive was the purpose or intention to pluck the forbidden fruit. The distinction is between being delighted in the imagination and willing; '*aliud . . . est imaginantem delectari, aliud velle.*'¹

There is no deliberation in imaginary delight in forbidden fruit for there is no design to pluck it. The inward sin is a deliberation as to the plucking of forbidden fruit whose conclusion is that it is impossible to do so, or that the result will be an excess of natural evil over natural good. In every long deliberation a man has 'a great many wills and nills'. These Hobbes calls inclinations and intentions. Only the last will, which is immediately followed by the voluntary action, is ordinarily called will. 'But nevertheless, both he that hath those intentions, and God that seeth them, reckoneth them for so many wills.'² Intentions or inclinations are for Hobbes wills, and such wills may be sins.

An intention, being endeavour, is the interior beginning of all the voluntary actions which are the necessary means to the attainment of the desired object. To know a man's intention, it is necessary to know the cause of his endeavour, the external object which has moved him, his external motive. It is one thing to know that a man has acted voluntarily, but another thing to know his intention in doing a voluntary action which can be a necessary means to a number of different objects. Moreover, inward endeavour is the cause of outward motion, and in this sense a man's intention is his motive. But the decisive point is the external motive which is the final and efficient cause of the inward and outward motions of the man. Of this, human judgement must always be imperfect; but what is morally decisive for Hobbes is whether a man has been moved by forbidden fruit or by the Moral Law.

The Law of God does not command anything which man cannot do, if he will. In this sense 'ought' implies 'can'. But Hobbes was a predestinarian. Man cannot make himself either good or wicked; God frames the will of man as He

¹ L. 154 (*E.W.* iii. 277-8); *O.L.* iii. 210.

² *E.W.* v. 362.

pleases.¹ The manner of God's predestination is an incomprehensible mystery. Scripture is not the profession of what God intends 'but an indication of what those men shall necessarily intend, whom He hath chosen to salvation, and whom He hath determined to destruction'.² Those whom God has predestinated to destruction cannot do what they ought to do, because they cannot will what they ought to will. A man necessarily follows the last dictate of his understanding, but he ought not to follow it when it is erroneous.³ 'Is not good, good, and evil, evil, though they be not in our power?'⁴ Free will is an error 'that maketh men unthankful for God's graces, by thinking them to proceed from the natural ability of their own will'.⁵ A man's understanding may dictate that he ought to obey God's Law, and to refrain from measuring good by his own appetite.

Hobbes denied that predestination had anything to do with morality. The cause of the submission of man's will to God's will is morally irrelevant. The morality of man is a quality just as is the speed of a horse; and in neither case does recognition of the quality depend upon knowledge of its cause. A particular man necessarily possesses or lacks the quality of righteousness. Whether he possesses or lacks it depends entirely upon God. Moral striving is not excluded but is itself caused by God. The righteous man acts on his will to obedience or repents his failure to do so; and God necessitates the will to obedience, the failure, and the repentance. The Moral Law is a moral ultimate; morality means no more than inward and outward conformity with the Moral Law. Yet Hobbes can write that every man has to 'hazard' his soul upon his own judgement of what beliefs are necessary to salvation.⁶

God's Law was for Hobbes the only fundamental, unalterable, law. In relation to God commonwealths do not exist in their own right (*non sunt sui juris*), and cannot be said to make laws.⁷ God's Law is law for man as man. This Law ought to

¹ *E.W.* v. 216, 219-20, 235.

³ *E.W.* v. 324.

⁶ *L.* 374 (*E.W.* iii. 684).

⁴ *E.W.* v. 53.

² *E.W.* v. 213.

⁵ *E.W.* v. 442.

⁷ *O.L.* ii. 319 (*E.W.* ii. 191).

govern man's conduct in this world but it was not for Hobbes law in this world, because it is not executed as law in this world. Accountability is of the essence of law; and accountability implies authoritative interpretation, accusation, judgement, and penalty. Man, as man, is not accountable to man but only to God; and man is accountable to God only at the Last Judgement in the world to come. In relation to the Last Judgement God's Law is properly law, and is the only law. Man is accountable to God as a natural person for what he does purely as a natural person or as a natural person acting in an artificial capacity. In the sight of God subjects and sovereigns are equally subject.

The morality with which Hobbes is concerned in *Leviathan* is the morality of the just man. Morality always has reference to will. Natural, that is moral, justice is a constant will to give each his own. But the Moral Law is not a law of distributive justice. No man has by nature, that is by the Moral Law, anything as his own. Hence there can be no actual injustice of man to man outside the commonwealth. What is a man's own, his property in the broad sense of the word, is determined by civil laws. The moral laws against killing, stealing, and adultery enjoin obedience to civil laws regulating homicide, the ownership of goods, and marriage.¹ The civil law is a measure of moral justice, of the actions which the just man ought to do in obedience to God's command to keep faith with those to whom he has given his promise in covenant. The conformity of actions with civil law is morality only if it is the result of the will to obey the Moral Law. Conformity of actions with civil law proceeding from will as last appetite for natural good is not morality, but only legality of actions.

3. *The Commonwealth*

God's laws would suffice for man if men were what they ought to be. Men would live together in mutual charity, settling any differences by arbitration. There would be peace

¹ O.L. ii. 385-7 (E.W. ii. 265-7).

without the subjection of man to man. But the passions of sinful men are contrary to the laws of God. God has provided a remedy for the sin of man in the Gospel in relation to salvation, and in the commonwealth in relation to man's preservation in this world. The commonwealth is the divinely appointed remedy for that sinfulness of man which makes necessary the coercion of man by man. The commonwealth must be a coercive institution, but it must also be a moral institution. Coercion must be both grounded on and limited by the Moral Law. The commands of a human sovereign are laws because he is appointed by God to make civil laws. Civil law, though necessarily imperfect, is a part of God's law because made by a lieutenant of God; and Christ counselled his followers to obey the civil law. Kings and other sovereigns were by God ordained for the welfare of the people. God made kings for the people, and not people for kings.¹

God's Law is an expression of right reason. Right reason does not exist *in rerum natura*. It is therefore necessary that men set up an artificial standard of right reason. If men were what they ought to be, the reason of an arbitrator could serve as such a standard in cases of difference. The sinfulness of man makes it necessary that there shall be an arbitrator or judge with coercive power. The reason of a human sovereign must be set up as an artificial standard of right reason if men are to live peaceably together. The minds of men are generally so perturbed by passion that they neglect God's laws. Among independent men there could be only moral anarchy and war. Civil laws were for Hobbes the only possible rules of right action, common to a multitude of men, and enforceable in this world by accusation, judgement, and penalty.

The sovereign can make law but not morality. The transgression of civil law is crime; and it is only of crime that the sovereign can judge. The transgression of civil law is sin only because it is also a transgression of the Moral Law. God is the only judge of sin and men are not judged by God in this world. A civil law may be immoral but it is still law for subjects. The

¹ *E.W.* vi. 13.

sovereign has sinned in making such a law but he can never commit crime, and he is accountable to no one in this world but only to God in the world to come. The subject neglects a law of God, and so acts immorally, if he refuses to obey a civil law which he judges immoral. But civil law is observed by words and deeds, and the subject is at liberty to dissent inwardly from the act which he is not at liberty to omit. 'The principal moral law for Hobbes is 'that we should not violate our faith, that is a commandment to obey our civil sovereigns, which we constituted over us by mutual pact one with another'.¹

The only accountability in this world is the accountability of subject to sovereign within the commonwealth; and the only law under which man can be accountable to man is civil law, the law for man as citizen. God does not allow citizens to break His Law by appealing to it in respect to words and deeds commanded by civil law; any such appeal is a violation of faith. Civil law does not extend to conscience. Man is incapable of judging the conscience of another. The subject who obeys the civil law is guiltless but only God can judge whether he is also just. Morality is an attribute of man which finds expression in action; legality is an attribute only of actions. Hobbes's conception of morality was that of a predestinarian, an extrinsic determinist. In distinguishing law for man as man, from law for man as citizen, he distinguished what was for him the morality of man from legality of actions. The only law in this world is a law of just actions; and justice of actions is made by man, by pacts, and civil laws. Legality of actions is sufficient for mutual peace and common defence; the morality of man is conducive to these and is necessary for salvation.

The Moral Law does not command men to make the commonwealth. The commonwealth is Divinely ordained because sinful men cannot live by the Moral Law alone. But the commonwealth has to be grounded on that moral law which forbids violation of faith. The commonwealth has to be grounded on obligation of conscience. Obligation of conscience is the mark

¹ *L.* 320 (*E.W.* iii. 586-7).

by which Hobbes distinguishes a commonwealth from a temporal league. A man may depart at pleasure from a temporal league 'as being entered into by each man for his private interest, without any obligation of conscience'.¹ A commonwealth is an artificial body, but there is a real unity of its members; and this unity is real because moral, that is religious.² Private interest can be an adequate motive for desire to erect a commonwealth, but cannot by itself make the erection of a commonwealth possible. Men can be for Hobbes the matter and the artificers of the commonwealth only because they acknowledge obligation of conscience even though most of them habitually neglect it.

4. *Conclusion*

Hobbes's morality is traditional and Christian. His Scriptural doctrine of civil obedience is a traditional Christian doctrine, stripped of the medieval safeguard of an independent spiritual authority. In acting as an obedient subject of his civil sovereign, a Christian observes and never transgresses the Moral Law. The rights which the Moral Law allows subjects against their sovereign can be of little profit to them in this world so long as the sovereign is capable of fulfilling his function. But the subject has a moral right to disobey the sovereign when his disobedience does not frustrate the end of the commonwealth. Refusal to deny that Jesus is the Christ can never frustrate the end of the commonwealth as Christ commanded His followers to obey infidel sovereigns: here a man has a moral right to choose death rather than obedience. And there are other cases in which a man has the right to choose death rather than obedience.

There is nothing that is original in Hobbes's moral thought. *Leviathan* is misinterpreted if it is taken as an original contribution to the substance of moral doctrine. Its originality lies in its method.

¹ *E. IV.* v. 184.

² *Ch. XI* (5).

II

THE PHILOSOPHIC FRAMEWORK

HOBBS's passion for philosophy, apparently dormant for twenty years, was reawakened by his discovery of Euclid. He had a natural bent for logic, and an urge towards systematization. He had found the logic and philosophy of the schools unsatisfying to himself, and scorned by men whose opinions he respected. Euclid gave him a new vision of what logic could achieve. To logic as displayed in mathematics, he attributed the advance in natural science. He was particularly impressed by the work of Galileo. Yet he pursued an independent line of thought. He was always more interested in man than in nature; and it was the problem of sense which first attracted him. To vision, the noblest of the senses, he gave most attention; and he ranked his work on Optics second only to his discovery of the new science of civil philosophy. In Hobbes's hands Optics could have a certain political relevance; for the exposure of optical illusions was a weapon in the war against the Kingdom of Darkness.

The inquiry into the problem of sense led him to his mechanical conception of nature. Hitherto he had had a religious view of the world. It is characteristic of him that, in adopting new convictions, he seldom abandoned old. Many, both Christians and materialists, see an inherent contradiction between Christianity and metaphysical materialism. Everything suggests that Hobbes himself regarded his mechanical conception of nature as an amplification of a religious view of the universe. Science is restricted to the study of secondary causes. In displaying the operation of such causes, science is displaying the ordinary work of God, the Author of Nature. Nature itself is simply the aggregate of created things.

Hobbes worked out both a theory of knowledge and a philosophy of nature, and it is within this framework that

Leviathan must be set; but it is not necessary to pursue the study of his philosophy further than is required for this limited purpose.

All natural knowledge is derived directly or indirectly from sensory perceptions. These yield absolute knowledge of matter of fact. The senses may, however, deceive, and such deception is error. Man, alone among animals, can advance from this absolute knowledge of fact to the conditional, but certain, knowledge of science. He makes this advance because he possesses the quality of curiosity in a more eminent degree than any other animal, and because, alone among animals, he is capable of speech. Speech is the most noble and profitable of all inventions. Hobbes treats of speech before reason; but he is not guilty of the paradox that speech produces reason. Speech is an invention, reason a faculty. Man is capable of ratiocination without words, but he cannot without words long remember the conclusions of his ratiocinations.¹ Through speech he greatly increases his use of reason and is capable of science. Moreover, Hobbes implies that reason plays its part, if not in the invention of speech, at least in the significant use of speech. Men impose names upon things arbitrarily; but if speech is to be for public and not merely private use, there must be agreement among men as to the names of things. The imposition of the name is arbitrary, but its subsequent use is not arbitrary. Speech must be in accordance with rules if it is not to be ambiguous or meaningless. The use of speech is significant, i.e. meaningful, but there can be an abuse of speech, for insignificant (meaningless) speech is still speech. Coherent, significant, speech is an attribute of man as a rational creature, capable of framing and following rules of speech. Science is only one, and not the greatest, of the benefits which man derives from the use of speech. The greatest benefit is political; speech enables man to issue and to understand commands.

Error is possible where, as in the case of animals, there is no power of speech; but with speech comes the distinction between true and false. Truth is not an attribute of things, but

¹ *E.W.* i. 13.

of the statements which men make about things. As speech is made by man, and truth is an attribute of speech, truth is made by man. It does not follow that truth is arbitrary. Truth and a true proposition are the same thing: and the order of the words in a proposition is not arbitrary. Hobbes never said that truth was arbitrary. There is a right way of making truth as there is a right way of making a commonwealth. There is nothing arbitrary in the causal connexions which philosophy demonstrates. The same causal connexion may be truly stated in two propositions which mean the same thing but employ different names. The laws of nature are not arbitrary; but they can be truly stated in English or in Latin.

Words 'are but the seed, and no part of the harvest of philosophy'.¹ Knowledge depends upon 'evidence' as well as upon truth. The important thing is not the words, the signs, but the things signified. To know a proposition, we must understand as well as repeat the words. A parrot may speak truth, but does not know the truth it utters, because it does not understand the words it uses. We understand a word only when it is accompanied in our minds by the image, or idea, which it signifies. It is this association of words with concepts which Hobbes called 'evidence'. He accused the Schoolmen of using words which were not associated with any image. Such words were to him literally nonsensical, unrooted in any sense impression.² Understanding of the meaning of words is not knowledge of anything but of language, an aid to the acquisition of knowledge of the appearances of things. Knowledge of fact is knowledge of the appearances of real things; philosophy is knowledge of the consequences of one affirmation to another, yielding knowledge of causal relationships between the appearances of real things. Hobbes can however use 'true' in the sense of real, e.g. the true liberty of the subject; and he could write in a philosophic work '*Sunt quidem veritates quae sciri ab homine omnino non possunt*'.³ There are truths which man cannot possibly know.

¹ *E.W.* vii. 226.

² *E.L.* 19 (*E.W.* iv. 28).

³ *O.L.* v. 203.

All natural knowledge is derived from sensory perception. Hobbes's theory of perception seems to commit him to phenomenalism as all that we can know is appearance. But he is not a phenomenalist, for here, as at every other critical point, he is prepared to make the leap of faith. Our senses may on occasion deceive us, but it would be impiety to think that God had given men senses which did nothing but deceive. Hobbes never doubted that the appearances which we perceive are caused by self-subsistent things. All that we can know is the appearance of such self-subsistent things, i.e. of bodies. But Hobbes leaps again and asserts that nothing exists but body, i.e. matter. He has no hesitation in affirming a metaphysical, as distinct from a merely methodological materialism, though his theory of knowledge should limit him to the latter.

The appearances which we perceive are the qualities, or accidents, of a body—shape, position, colour, &c. These appearances are subject to change. In studying perception, Hobbes lit upon the idea (*forte fortuna mentem subiit*)¹ that the cause of everything that happened was to be found in diversity of motion. This happy discovery cannot be demonstrated for it is a principle, or starting-point, of demonstration. It needs no demonstration, for it is 'known by nature'.² His discovery is a supposition, a hypothesis, with whose working he was for the rest of his life entirely satisfied.

Everything that happens is explicable in terms of the motion of matter. Science knows God only as the first cause, that is as the prime mover. God is the only being who can move Himself, and who is not moved by external force. All created bodies, so long as they are bodies, are in motion one way or another. Each body receives motion from the push or pull of some external body in accordance with its own 'passive power', its power to be moved. Bodies communicate some of their imparted motion to other bodies in accordance with their active power, their power to attract or to repel other bodies. 'Whatsoever is moved, will always be moved, except there be some other body, besides it, which causeth it to rest.'³

¹ O.L. i, pp. xx-xxi.

² E.W. i. 69, 80.

³ E.W. i. 115.

Every motion is thus initiated outside the body which is moved and, being caused, is a necessary motion. No motion that takes place could possibly be otherwise than it is. To this extent Hobbes's theory is one of extrinsic determination. The motion of any body depends upon its own power to be moved; and this may vary from body to body. A body moves as it does because, being what it is, it cannot respond otherwise to the force exerted upon it. And a body is what it is, because it has been made so. No created body either made itself or can change itself. It necessarily is what it is, and it necessarily moves as it moves. Thus the theory is wholly one of extrinsic determination.

No event can be contingent in the sense of being uncaused; but men talk of contingency when the cause is unknown. Ignorant men see contingency in events the causes of which are well known to wiser men; but the wisest of men do not know the causes of all happenings. In every case a natural cause is to be sought; but Hobbes affirms that some events have had supernatural causes beyond human knowledge. The First Cause has power greater than any of which men can conceive; and by His immediate working, God can make the event other than it would have been as the result of His ordinary working through secondary causes. Everything is ultimately dependent upon the power of God working naturally or supernaturally; but science is restricted to the natural. A science of construction, such as geometry, can reason *a priori*, from cause to effect, and can thus display necessary effects of known causes. Physics is forced to reason *a posteriori*, from known effect to possible cause. The possibility that the effect was produced in some other way cannot here be excluded.

Geometry was for Hobbes the model science. By making it a science of construction, displaying a necessary relationship of cause and effect, he came near to assimilating the relationship of cause and effect to the relationship of antecedent and consequent in logic. In every particular instance cause precedes effect, but the statement of a causal relationship is a timeless universal proposition.

In becoming a materialist, Hobbes did not cease to be a Christian; in becoming a scientist, if he ever did become one, he did not cease to be a deductive rationalist. Though he was a pioneer of a mechanist conception of nature, he completely failed to understand the development of empirical science which was taking place before his eyes. He never appreciated the inductive foundations upon which his friend, Harvey, based the discovery of the circulation of the blood. He never appreciated the part which induction and verification played in the method of his admired Galileo. Despite his reaction from scholastic philosophy, the scholastic mould in which he had been cast in youth was never broken, and he emerged as a scholastic mechanist.¹ In his theory of knowledge there is no place for inductive science. It is not possible to conclude anything universally on the basis of experience; certainty, not probability, is the mark of science, and only deductive reasoning can yield certainty as to causal relations. On this fundamental point of method Hobbes was at one with the Schoolmen and fought them with their own weapon. He did not regard his empirical psychology as science. It was absolute knowledge of fact derived from experience; it could not be rationally demonstrated. It was not science, and its function was only to yield material for science, principles from which deduction could begin.

Science is 'knowledge of all the consequences of names appertaining to the subject in hand. . . . Science is the knowledge of consequences, and dependence of one fact upon another'.² Science is conditional knowledge; 'and that not the consequence of one thing to another; but of one name of a thing, to another name of the same thing'.³

The method of science is a logical deduction from antecedent to consequent. But the names which science employs are significant names; hence the harvest of science is not a barren verbiage, but a fruitful knowledge of the causal

¹ F. Brandt: *Thomas Hobbes's Mechanical Conception of Nature*, London, 1928, pp. 378, 476.

² L. 21 (*E.W.* iii. 35).

³ L. 31 (*E.W.* iii. 52).

dependence of one fact upon another. Hobbes's conception of science was utilitarian. 'The end of knowledge is power . . . the scope of all speculation is the performance of some action, or thing to be done.'¹ When we see 'how anything comes about, upon what causes, and by what manner; when the like causes come into our power, we see how to make it (*sic*) produce the like effects'.²

Hobbes valued science highly; science had raised man from savagery to civilization. He valued science for its utility; but he could not value it for the depth of understanding which it brought. Science could plumb no depths; its realm was the superficial. The principles of natural science 'cannot teach us our own nature, nor the nature of the smallest creature living'.³

Logic is the science of consequences from speech in reasoning; and 'they that study the demonstrations of mathematicians, will sooner learn true logic, than they that spend time reading the rules of syllogizing which logicians have made'.⁴ Logic teaches addition and subtraction in the consequences of words; adding together names to make propositions, propositions to make a syllogism, and syllogisms to make a demonstration.⁵ Logicians say that the premises are the causes of the conclusion, and though this may pass, it is 'not properly spoken; for though understanding be the cause of understanding, yet speech is not the cause of speech'.⁶ Words 'are wise men's counters, they do but reckon by them'.⁷ As all motion is natural, all necessity is natural. There is no such thing as moral necessity. Logical necessity is natural necessity discovered by reasoning rightly.

Hobbes's determinism does not imply acceptance of what is, or waiting upon the inevitable event. Men do not know in advance what is the necessary event, and they are necessitated to move in the way that will bring it to pass. It was determined from all eternity that Hobbes must write *Leviathan*. He was necessitated to do so by the force exerted upon him by the

¹ *E.W.* i. 7.

² *L.* 21 (*E.W.* iii. 35).

³ *L.* 195 (*E.W.* iii. 354).

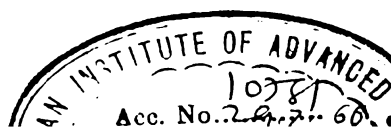
⁴ *E.W.* i. 54-55.

⁵ *L.* 18 (*E.W.* iii. 30).

⁶ *E.W.* i. 43.

⁷ *L.* 16 (*E.W.* iii. 25).

movements of external bodies, the actions of other men. The nature of the passions thus excited in him is here irrelevant. The book, once written, was itself a factor in extrinsic determination, though not in the way, nor to the extent, that Hobbes had hoped.



III

RELIGIOUS WHOLE AND PHILOSOPHIC PART

1. *Two Summaries*

HOBBS summarized his Christian political thought in a passage in *Behemoth*. In the last chapter of the Latin edition of *Leviathan* he summarized the contents of the book. It is probable that these two summaries were written about 1668. His philosophic theory represents only a part of his religious doctrine of politics:

True politics should be such as are fit to make men know, that it is their duty to obey all laws whatsoever that shall by the authority of the King be enacted, till by the same authority they shall be repealed; such as are fit to make men understand, that the civil laws are God's laws, as they that make them are by God appointed to make them; and to make men know, that the people and the Church are one thing, and have but one head, the King; and that no man has title to govern under him, that has it not from him; that the King owes his crown to God only, and to no man, ecclesiastic or other; and that the religion they teach them, be a quiet waiting for the coming again of our blessed Saviour, and in the meantime a resolution to obey the King's laws, which also are God's laws; to injure no man, to be in charity with all men, to cherish the poor and sick, and to live soberly and free from scandal; without mingling our religion with points of natural philosophy, as freedom of will, incorporeal substance, everlasting nows, ubiquities, hypostases, which the people understand not, nor will ever care for.¹

Nothing in this doctrine depends upon mechanist materialism or upon the method of Euclid. Hobbes never suggested that his scientific studies had brought any change in his political convictions; he valued Euclid for his method.² It is reasonable to believe that his basic political convictions were temporally prior to his philosophic political theory. The doctrine was for him the doctrine of the Divine politics which

¹ B. 58 (E.W. vi. 236-7).

² O.L. i, p. xxvi.

are a part of the true religion of Christ and His Apostles, revealed in Scripture. The purpose of his argument from Scripture was to bring to light the old and true doctrine of Christian politics, long obscured by erroneous interpretations introduced by the children of darkness. He would have dismissed as impious any claim to establish a new morality. His political convictions were moral convictions; and moral convictions were for him religious convictions. In the absence of evidence to the contrary, it is a reasonable presumption that a man has attained his basic religious convictions before the age of forty; and this particular man was marked by the tenacity with which he adhered to his convictions rather than by readiness to change them.

Hobbes himself suggests that his Christian political thought was logically prior to his philosophic political theory. In 1674 he maintained that knowledge is necessarily prior to demonstration. No one can demonstrate to himself or to another what he does not already know to be true. No one can know unless he has discovered. It is very rare for anyone to discover what he is not looking for. There is no certain art of discovery.¹ In his civil philosophy Hobbes set out to demonstrate his religious convictions as to the content of the civil duty of man.

His discovery of Euclid came at a time critical for England, and hence for himself. He may well have thought at the time, as he was later to write, that in the Petition of Right, Parliament demanded 'essential parts of the power sovereign'.² It may well have been in 1628 that he began to take a graver view of the English political situation. If he now saw the issue as one of sovereign right, he could no longer rely upon history. History might teach men prudence but it could not teach them morality. History can provide 'no argument of right, but only examples of fact'.³ Already a political monitor, Hobbes was baulked as such unless he could discover a new line of approach. Scripture alone would not suffice; here he would be only one of many discordant voices with no special claim to

¹ *O.L.* v. 158, 201-2.

² *B.* 27 (*E.W.* vi. 197).

³ *B.* 76 (*E.W.* vi. 259).

be heard. Was his discovery of Euclid one of those very rare instances of a man discovering what he was not looking for? Or was it a Hobbes, dissatisfied with history, and seeking a more effective approach to the political problem of his country, who lit upon Euclid and fell in love with his method? Ten years elapsed before he wrote the first version of his political theory; after 1629 the urgency temporarily disappeared; and he could devote himself to philosophy with civil philosophy as a distant goal.

He claimed that he was the discoverer of a new science, civil philosophy, the only possible moral science. In each of his three expositions of his political thought the argument from principles of nature preceded the argument from Scripture, for it was as a philosopher that he hoped to win recognition. But he valued philosophy for its utility; and he wrote *Leviathan* for the benefit of Christian men. Despite his own procedure, his Christian political thought provides the best approach to his civil philosophy. He knew well that he could treat only a part of his Christian political thought philosophically and that he must not mingle religion with philosophy.

The starting-point of Hobbes's political thinking was not the rights but the duties of man. The rights of man find no place in his summary of true Christian politics. Civil philosophy is above all a theory of civil duty. He called the earliest exposition of the new science *The Elements of Law*. Throughout the whole of *De Cive* he endeavoured to unfold the Law of Nature.¹ One of the reasons which he gave for writing *Leviathan* was that he could not bear that so many great and horrible crimes should be attributed to the commands of God.²

His Christian moral thought has its own difficulty as the thought of a predestinarian. Yet those to whom the language of religion is meaningful find his summary of Christian politics easily intelligible, though unacceptable. He claimed that his brief summary³ of *Leviathan* would have been a sufficient

¹ O.L. ii. 316 (E.W. ii. 186).

² O.L. i, p. xcii.

³ O.L. iii. 507-10.

statement of his teaching, had he been writing for hearts that were pure, and unsullied by errors, but we are still struggling to understand the full exposition, and the summary taken by itself is unintelligible. The whole purpose of *Leviathan* is to show that violation of the laws cannot be justified by any pretext. Men, without law, destroy one another in mutual slaughter owing to the right of all to all things. Laws, without punishments, and punishments, without a supreme authority (*sine potestate summa*), are useless; authority (*potestas*), without the union of arms and means (*opibus*) in the hands of one person, is a mere word, of no avail for the peace or defence of citizens. Therefore for the good, not of their rulers, but of themselves (*sui, non imperantium, boni causa*), all citizens are obliged to defend and strengthen the commonwealth so far as is in their power; and they ought to do this according to the judgement (*arbitrio*) of the person to whom they have given sovereign power. This is the summary of the first and second parts of *Leviathan*, that is of the argument from principles of nature only.

Eternal life and the salvation of individuals are contained in Holy Scripture, the reading of which the Church of England both allows and commends to all. Each reads and interprets Scripture for himself at the peril of his own soul. It is therefore equitable that consciences should not be burdened with more articles of faith than are necessary to salvation. What these articles are is explained in the third part of *Leviathan*. Finally, in the fourth part, the ambitious and astute designs (*consilia*) of the enemies of the Anglican Church are exposed so that the people may not be seduced by false doctrines.

The fuller explanation, required by the contamination of men's minds, had been given in English when the civil war was being waged and there was no understanding of Divine justice. Hobbes now wishes it to appear in Latin. It is not possible to extinguish by arms dissensions over opinion and over superiority of wits. The dark democratic stain must be washed out by preaching, writing, disputing. This cannot be done except through the universities. Meanwhile we must all

beware that we do not suffer further foreign oppression as a result of domestic dissensions. In 1668 Hobbes still looked back to 1588.

All that can be said of obligation on principles of nature is that citizens are obliged for their own good. Hobbes never thought that any man could be obliged by, or with, his own good. Obligation, the central concept of his moral and political thought, was for him a religious concept which he could not make intelligible on principles of nature only. He indicates that *Leviathan* must present difficulty to those who have no understanding of Divine justice.

2. *The New Science*

Hobbes claimed that before him nothing had been written on Ethics beyond commonplace opinions. Moral philosophers had not discharged their function as happily as had natural philosophers; their writings are a collection of hermaphrodite doctrines, partly right and comely, partly brutal and wild. It has been left to Hobbes to make moral philosophy what it should be, a science. This he has done by deriving the manners (*mores*) of men from human nature, the virtues and the vices from the natural law, and the goodness and the evil of actions from the laws of commonwealths.¹

The relationship between the English and the Latin texts of *Leviathan* is discussed in the next chapter; but it is significant that it is the English text which fixes the place which Hobbes finally assigned to his new science. In the Latin text he drew no distinction between natural and civil philosophy. Ethics, logic, rhetoric, and finally politics, or civil philosophy, are given as examples of sciences which arise from the contemplation of man and of his faculties. Any attempt at an exhaustive enumeration of the sciences is disclaimed.² In the English text³ Hobbes attempted a more ambitious tabulated classification of the sciences. He now distinguished civil philosophy from all other sciences; and his claims for his new science

¹ O.L. i, p. xix; ii. 137, 144-5 (E.W. ii, pp. iv, xii-xiii).

² O.L. iii. 67.

³ L. 42 (E.W. iii. 72-3).

certainly did not abate with time. Science, otherwise called philosophy, is divided into natural and civil philosophy. Ethics is a branch of natural philosophy, as knowledge of consequences from the passions of men. The science of just and unjust is also a branch of natural philosophy, as knowledge of consequences of speech in contracting. These sciences are the product of an unbroken chain of deduction from first principles; and are themselves sub-branches of physics, the science of consequences from the qualities of natural bodies. Civil philosophy, or politics, is accorded an independent status as a branch of philosophy distinct from natural philosophy. Civil philosophy is knowledge of consequence from the accidents, not of natural, but of artificial bodies. Civil philosophy is subdivided into (1) knowledge of consequences from the institution of commonwealths to the rights and duties of the body politic or sovereign, and (2) knowledge of consequences from the same to the duty and right of the subjects. 'The rights of the sovereign are placed before his duties; the duty of the subject is placed before his right. At the end of Part II, neither the duties of the sovereign, nor the right of the subject, are accorded mention; Hobbes has written thus far 'concerning the constitution, nature, and right of sovereigns, and concerning the duty of subjects, derived from the principles of natural reason'.¹

In *De Corpore* also civil philosophy was distinguished from natural as the science of an artificial body. The commonwealth is made by the wills and agreement of men. To know the properties of the commonwealth, it is necessary to know first the dispositions, affections, and manners of men. Hence civil philosophy consists of two parts: ethics, which treats of men's dispositions and manners; and politics, 'or simply civil philosophy', which takes cognizance of their civil duties.²

It is politics, 'or simply civil philosophy', which is the new *a priori* science. The ethics which must come first are necessary for the attainment of the principles, the starting-points, of the new science. And the new science is the science of civil duty.

¹ L. 197 (E.W. iii. 357).

² E.W. i. 11.

There is a coincidence between what reason shows to be true natural good in the conversation and society of mankind, and what God commands, a coincidence between what men should do from enlightened self-interest, and what men ought to do because commanded by God. This coincidence does not abolish the distinction between natural and moral goodness. So long as goodness is measured by the appetite of man, it remains merely natural; goodness, to be moral, must be measured by the command of God.

3. *The Limitations of the Argument from Principles of Nature only*

The understanding of *Leviathan* depends upon recognition of the limits which Hobbes set to his argument from nature. There can be no natural knowledge of the existence of the Moral Law of God, that is of the difference between moral and natural goodness. Hence the moral can be treated philosophically only as the natural. Natural good cannot be measured by reason, but only by appetite. The most that reason can do is to approve a good for which men have appetite as true, and not merely seeming, natural good, and to guide them to its attainment. Hobbes was fond of paradoxes, but he did not draw attention to the paradox that there could be nothing strictly moral in his moral science. His argument from nature is limited to the attainment of a natural good which is a possible object of appetite. All men desire preservation, and it is possible that some men may come to desire peace as a necessary means to preservation from dangers arising from discord.

As the argument from nature is limited to natural good, Hobbes's psychology of voluntary actions is restricted to a psychology of deliberation. In his argument from nature all voluntary actions are the result of deliberation as to natural good. He does not attempt to account for actions which are done because they are in conformity with God's Law; his later suggestions as to the conduct of the just man¹ are not covered by the psychology which he expounded in the sixth

¹ Ch. IX (3).

chapter of *Leviathan*. The only will of which Hobbes can take account in his argument from nature is last appetite. The will to obedience has to be excluded; it is not a natural passion in men who are naturally inclined to liberty. On principles of nature, Hobbes does not, and cannot, account for the performance of moral duty. Without the will to obedience there would be radical inconsistency in his moral thought, but will, as last appetite, is sufficient for his limited moral science. He did not set out to provide an entire doctrine of moral duty, but only an entire doctrine of civil duty. The performance of civil duty is a moral duty. On this point Hobbes is insistent. But he thought that most men neglected moral duty. It was necessary, and sufficient, to show how civil duty could be performed, though the moral duty to perform was neglected. His psychology indicates how men may do as naturally good, what they ought to do as morally good. Men may do, because compelled, what they ought to do, because obliged; they see their natural good in the lesser of two evils.

Man is considered in Part I of *Leviathan* only as the matter and the artificer of the commonwealth because civil philosophy is the only possible moral science. Hobbes is able to attain all the principles which he requires for civil philosophy except one. Philosophy, as a study of causal relationships, is a study of natural necessitations, not of moral obligations. Hobbes did not think it possible to construct the commonwealth except on a basis of obligation of conscience. Obligation of conscience was for him obligation by God, and its instrument was the Moral Law. Of such obligation there can be no natural knowledge; it is a concept unrooted in sensory perception. Hence there can be no natural knowledge of moral right. Reason can tell men only what they should do *recte*; reason cannot tell men that they ought to do anything *lege*, or that they may do anything *jure*. How Hobbes attempted to overcome this difficulty is considered later.¹

He could not bring the whole even of his Scriptural political doctrine within the scope of his moral science. His doctrine of

¹ Ch. VIII (2).

Divine Right had to be excluded, for the obvious reason that science is confined to secondary causes. Nevertheless, he was unable to prevent the doctrine from breaking into the exposition of civil philosophy. The sovereign, and only the sovereign, receives his power *Dei gratia* simply.¹ The sovereign's Divine Right is in fact as essential as the subject's obligation of conscience. Civil philosophy cannot be Divine politics; on the other hand, civil philosophy cannot be human politics, of which false religion is a part. Human politics find a place in *Leviathan* only in connexion with the Kingdom of Darkness. Civil philosophy must be true politics. Civil philosophy was for Hobbes that part of Divine politics which could be treated naturalistically. Civil philosophy demonstrates as necessary part of what Scripture teaches regarding the duty of man.

Civil philosophy is the only possible moral science. Those who consider man *per se*, and as if outside civil society, can have no moral science because of the lack of a certain measure by which virtue and vice can be weighed and defined. All sciences begin from definitions; otherwise they are not sciences but mere discourses (*sermones*). Outside civil society there are as many different measures of the virtues and the vices as there are men. Within the commonwealth subjects are obliged to follow the judgement (*sententiam*) of the sovereign. The civil law is the only possible common measure of virtues and vices. It is immaterial that there are many different commonwealths. Though there are thus different measures of virtue and vice in different parts of the world, there is one rule common to the subjects of every commonwealth. It is always, and everywhere, the virtue of the citizen not to violate the civil law, and the vice of the citizen to neglect the civil law.² The true and only moral philosophy is the science, not of all the laws of nature, but only of those laws of nature, dictating peace, deduced in Chapter XV of *Leviathan*; and these laws of nature are not the conclusions, but the principles of moral science.

Moral science is the science of what is good and evil in the

¹ L. 127 (*E.W.* iii. 228).

² O.L. ii. 116-17.

conversation and society of mankind. This good and evil are natural good and evil, names which signify our appetites and aversions. A man is in the condition of war as long as private appetite is the measure of good and evil. Consequently all men agree that peace, and the means to peace, are good. Hobbes over-states his position. Some, possibly most, men are inclined to peace only so long as memories of the miseries of war are fresh and vivid. The virtues are the means to peace, that is to say moral virtues. This is one of the few cases in which Hobbes uses the adjective 'moral' in his moral philosophy. Moral philosophy is the science of the virtue and vice of the citizen; and by this Hobbes means, of man as citizen. Legality is of words and deeds, and is not virtue. Naturalistically the moral virtues and vices of man as citizen are qualities of natural persons conducive, or inimical, to peace. The virtues could not be qualities necessary for peace, for this would make peace impossible. They could only be qualities conducive to peace, derived from necessary articles of peace. Science is of consequences, and all that is necessary for peace is that men do what is necessary for peace. Yet Hobbes makes moral philosophy the science of qualities conducive, or inimical, to peace. As a moralist, he is interested, not merely in the actions of citizens, but in the qualities of men.

In claiming that he was the first writer on Ethics to derive the virtues from the laws of nature, he meant that he was the first to derive traditional virtues from the laws of nature, deduced as necessary articles of peace. He was therefore the first to show wherein the natural goodness of these virtues consisted. Common sense had here done better than the unscientific moral philosophy of Aristotle and his successors, for the virtues 'come to be praised as the means of peaceable, sociable, and comfortable living'.¹

What is good as means to a desired object is profitable. In deducing what men must do for the attainment of an object of natural appetite, moral science deduces only what each man should do in his own private interest. Hobbes did not equate

¹ L. 82-83 (*E.W.* iii. 146-7).

duty with private interest, but moral science is possible only because it is to the real, as distinct from the apparent, private interest of the individual to do his duty in respect to other men. It is only because of this coincidence that Hobbes can say that right reason causes men to see those duties towards other men whose performance is necessary for their own conservation.¹ The deduction of duties as interests is dictated by his scientific method and is independent of his view of human nature.

Something can be said of religion on principles of nature. It is necessary that something should be said as civil philosophy cannot by itself yield entire knowledge of civil duty. But Chapter XXXI of *Leviathan* merely supplements civil philosophy by taking account of man's duty to worship God. The existence of obligation is now seen to be a matter of religious belief. For Hobbes it could never be more than this. The most that he ever did was to assert that rejection of this belief is irrational; on his own principles of nature, this can be no more than an expression of personal opinion; and in fact he here appealed to Scripture.²

When Hobbes said that moral philosophers had not hitherto pursued the right method, he said by implication that they had failed to recognize how limited was the scope of moral philosophy. They had erred in thinking that moral philosophy could expound the goodness of man as man. What they had written had not been science, but discourses on their personal moral ideals or religious convictions. To Hobbes the goodness of man as man was his righteousness in the sight of God. He had no urge to save men's souls, and he was reticent as to his personal religion. But it is clearly illegitimate to equate the moral science of the philosopher with the whole moral thought of the man. He recognized that his ideal of the just man, could not be realized by human laws. He recognized that he could not demonstrate a certain rule and measure of friendship. In *De Homine* he gave passing recognition to the part played by love in friendship. The man who loves a woman seeks his own

¹ *O.L.* ii. 170 n. (*E.W.* ii. 16 n.).

² Ch. XVII.

good; but the man who loves another man seeks the good of his friend.¹ The men whom Hobbes admired were the just, that is the morally good, minority. In the verse autobiography, which he wrote at the age of 84 for posthumous publication, he claimed that he himself belonged to this just minority: my life is not inconsistent with my writings; justice I teach, and justice I cultivate. If pride is the sin which is politically the most dangerous, it now appears that avarice is the most deadly sin; no one who is not avaricious can be wicked, and no one who is avaricious can do a handsome action.²

The morality of the man can merely be glimpsed; but, so far as he reveals it, it is the Christian morality that each ought to do his duty in that state of life to which it shall please God to call him. What is called honesty in men of low degree is called honour in men of high degree.³

An interpreter of *Leviathan* should remember that it is 'the scope of the writer that giveth the true light, by which any writing is to be interpreted'.⁴ Hobbes repeatedly indicated that his scope in *Leviathan* was the entire doctrine of civil duty. Only a limited number of moral duties can find a place in civil philosophy. So far as subjects are concerned, the moral duty to perform covenants is a sufficient moral ground for every civil duty; and it is only in the case of subjects that civil philosophy can demonstrate a certain rule and measure of right in the sense of a measure of actions which subjects are morally obliged to do or to omit. Other moral grounds are necessary for the civil duty of the sovereign, and here civil philosophy cannot demonstrate any measure, but has to confine itself to principles.

4. *The Benefit of Civil Philosophy*

Hobbes's claim for his moral science was not that it was profound, but that it was the most beneficial to man of all the sciences. Civil philosophy is the science of the commonwealth. Without this science a commonwealth cannot be properly

¹ *O.L.* ii. 109.

³ *E.W.* viii, p. v.

² *O.L.* i, p. xcix.

⁴ *L.* 329 (*E.W.* iii. 602).

constructed except by men of extraordinary genius who know by natural logic truths which they cannot demonstrate. Without the commonwealth there can be no science; but ill-constructed commonwealths give rise to the greatest of remediable calamities, civil war. The greatest of human benefactors were the men who first constructed lasting commonwealths by natural logic; next to these is the man who has discovered the science which gives rules of construction which all may follow.¹

It is true that the fundamental law of nature is engraved upon the heart of man, and that Scripture teaches obedience to the civil law; but more is required for the right construction of a commonwealth. Few men are capable of drawing out all the conclusions which follow from fundamental principles. No man has hitherto drawn out the conclusions as to the right construction of the commonwealth which follow from the fundamental principle of the law of nature and from observable facts regarding human nature. This is the gap in knowledge which moral science fills. Moral science, as civil philosophy, demonstrates for the first time what is necessary for the construction and maintenance of a lasting commonwealth. The achievement of civil philosophy is political rather than moral.

Civil philosophy does more than fill a gap in knowledge. Men have brought upon themselves the calamities which arise from civil war, not through the necessary ignorance of the many, but through the folly of the learned and the ambition of the few. Hobbes could envisage a past golden age, but this was not an age of innocent and peaceful independence. It was an age in which empire was kept entire 'not by arguments, but by punishing the wicked and protecting the good'. In this age men

could not entertain so strange a fancy, as not to desire the preservation of that by which they were preserved. In truth the simplicity of those times was not yet capable of so learned a piece of folly. Wherefore it was peace and a golden age which ended not before that . . . it was taught lawful to take up arms against kings.²

¹ *O.L.* v. 201-2.

² *O.L.* ii. 144 (*E.W.* ii, p. xii).

Hobbes was expressing a real conviction in the inflated language of a dedicatory epistle to a prince when he said that the princely philosophy, concerned with the peace and fortunes of citizens, is the one and only serious philosophy, and that all other sciences are but academic exercises (*nihil...praeter ludum*).¹

5. *Scientific Certainty and Religious Conviction*

Hobbes emphasized the scientific validity of his deductions of and from the laws of nature as necessary articles of peace. Science consists of infallible rules because a rule which is not infallible is not a scientific rule. The question must always be whether what is presented as science is in fact science. Here certainty is impossible. All men are fallible; and the reasoning of no one number of men makes the certainty.² There was for Hobbes an essential difference between the highest degree of probability and certainty. For practical purposes all that men can do is to accept as science what has not been refuted. Acceptance of science thus rests on the opinion that what has not been refuted is irrefutable.

Hobbes was convinced that his civil philosophy was not error but science. But, in his cooler moments at least, he was true to his theory of knowledge. His claim then was that no one had refuted his doctrine and that attempts at refutation had confirmed it.³ Its rejection was due to the dominance of passion over reason. He could, however, entertain the supposition that his principles for the establishment of a lasting commonwealth might not be principles of reason; and the language of the Latin text is here stronger than that of the English.⁴ At the end of the argument from nature his claim is that he has 'sufficiently or probably proved all the theorems of moral doctrine'.⁵ Despite his own conviction he will not go beyond what his theory of knowledge warrants. He could entertain the supposition that his principles might not be principles of reason; 'yet I am sure they are principles from the authority of Scripture'.

¹ *O.L.* iv. 487-8.

² *L.* 19 (*E.W.* iii. 31).

³ *O.L.* i, p. xvii.

⁴ *L.* 179 (*E.W.* iii. 325); *O.L.* iii. 241.

⁵ *L.* 197 (*E.W.* iii. 357).

Seventeen years later (c. 1668), in defending *Leviathan* against Bramhall's attack, Hobbes said that at the end of the discourse on the laws of nature he

thought it fittest, in the last place, once for all, to say, they were the laws of God, then when they were delivered in the word of God; but before, being not known by men for anything but their own natural reason, they were but theorems, tending to peace, and those uncertain, as being conclusions of particular men, and therefore not properly laws.

It is obvious that the word of God in this context is not the rational word, but the prophetic word, revealed in Scripture. Hobbes also pointed out that in *De Cive* he had proved the laws of nature one by one out of Scripture. It was therefore unjust for Bramhall to say that in his discourse of the laws of nature he had not one word that concerned religion; 'and this upon no other ground than that I added not to every article, this law is in the Scriptures'.¹ Revelation gives to believers a certainty unattainable by those in whom the grace of God has not necessitated belief. The Moral Law is set forth plainly in Scripture. Many places of Scripture, easy to be understood, teach both true faith and good morality as fully as is necessary to salvation.² From first to last Hobbes had a settled conviction that the Ten Commandments were Divine and immutable laws. In a private letter of 1636 he expressed his fear that when 'vulgar people' see the fourth commandment

to be *jus humanum* merely (as it must be if the Church can alter it), they will hope also that the other nine may be so too. For every man hitherto did believe that the ten commandments were the moral, that is the eternal law.³

There is not a scrap of evidence that he ever swerved from this position.

There was for Hobbes no conflict between science and religion. Though science is confined to secondary causes, it displays the working of the ordinary Providence of God. In doing this it has to fight against an obscurantist supernaturalism.

¹ *E.W.* iv. 284-5.

² *B.* 51-55 (*E.W.* vi. 228-33).

³ *E.W.* vii. 454.

Finally there is no law of natural reason that can be against the law divine; for God Almighty hath given reason to a man to be a light unto him. And I hope that it is no impiety to think that God Almighty will require a strict account thereof at the day of judgement, as of the instructions which we were to follow in our peregrination here; notwithstanding the opposition and affronts of supernaturalists now-a-days to rational and moral conversation.¹

In Hobbes's system of thought opinion is more fundamental and more important than knowledge; and belief is a form of opinion. Without opinion there could be no knowledge. Men cannot know that the present instant is not the last. The future is a fiction of the mind. Without the opinion that the present instant is not the last, men would not trouble to acquire knowledge or anything else. The world is governed, that is to say the conduct of man is regulated, not by knowledge, but by opinion; 'our wills follow our opinions, as our actions follow our wills.'² No reservation can here be made in favour of philosophers, for philosophy cannot judge particular cases. Only the few who are close enough to the sovereign to hear him pronounce the enacting words can *know* that he has made a law; the rest must act on the belief that he has done so.³

Opinion depends upon our own reason; faith or belief on the good esteem (i.e. opinion) we have of another.⁴ Hobbes often speaks of opinion as proceeding from, and falsified by, passion. But he fully recognized that there were true as well as false opinions. Truth is a mark of knowledge, but knowledge is not the only avenue to truth. Reason can play a part in the formation of opinion. There are sometimes reasons for belief.⁵ Reason can indicate what is credible.⁶ Doubt must have a cause, and in some cases there may be no cause to doubt. Belief is 'in many cases no less free from doubt, than perfect and manifest knowledge'.⁷ There can be a considerable amount of reason in opinion and belief; and there must be a certain amount of opinion and belief in the acceptance of

¹ *E.L.* 77 (*E.W.* iv. 116).

³ *O.L.* ii. 321 (*E.W.* ii. 192).

⁵ *O.L.* ii. 321 (*E.W.* ii. 192).

⁷ *E.L.* 21 (*E.W.* iv. 30).

² *E.L.* 48 (*E.W.* iv. 70).

⁴ *O.L.* ii. 420 (*E.W.* ii. 305).

⁶ *L.* 8 (*E.W.* iii. 10).

anything as science. Despite Hobbes's increasing absorption in science his view of the world, and of man's estate, remained fundamentally a religious one.

His civil philosophy is not independent of his Christian religion. It rests on a construction of the commonwealth for which obligation of conscience is an indispensable principle. Within his civil philosophy obligation of conscience is a fiction of the mind. In his Christian thought this fiction is an abstraction from the Moral Law of God, revealed in Scripture. To validate his science, he should show that it is an abstraction from laws of God, whose existence is knowable on principles of nature. He made no attempt to do this, and on his own principles no such attempt could succeed.

IV

THE DEFINITIVE PRESENTATION OF CIVIL PHILOSOPHY

1. *Introduction*

EACH of Hobbes's three presentations of civil philosophy, if it stood alone, would rank as a classic among English writings on politics. In its brevity, freshness, and pungency, *The Elements of Law* (1640) has a powerful attraction. It is the work of a man fired with an intoxicating design and not yet fully aware of all the difficulties that beset its execution. This brilliant sketch has no serious claim to be considered the definitive exposition of the new science. It was a *livre d'occasion*, privately circulated in the hope that it might influence an important few. The major issue concerns *De Cive* and *Leviathan*; and there is also a minor issue concerning the English and the Latin texts of *Leviathan* itself.

Hobbes never changed his doctrine; but he made important changes in his theory as he gradually saw new difficulties in the way of the conversion into science of the small part of his religious moral thought susceptible of such conversion. These changes are more than consistent amplifications of a theory in which he found no defects. It is not possible to reconcile the theory of *De Cive* completely with that of *Leviathan*; and the English text of *Leviathan* goes farther in the new direction than does the Latin. The present study proceeds upon the basis of a presumption that the English text of *Leviathan* contains the definitive presentation of Hobbes's civil philosophy.

This presumption accords well enough with English practice, but is not based upon that practice. It was long before I came to the conclusion that I could not reconcile *De Cive* with *Leviathan*; and I long fancied that *De Cive* clarified points which *Leviathan* left obscure. I long turned to the Latin text of *Leviathan* as more strictly scientific than the English. The

object of this chapter is to give reasons for my final choice, and in particular to support the position that an interpretation of *Leviathan* is not invalidated by passages in *De Cive* which are inconsistent with it. I do not seek to unfold the whole development of Hobbes's theory from *The Elements of Law*, through *De Cive* and the Latin text of *Leviathan*, to its final form in the English *Leviathan*, but a certain amount of corroborative detail will find a relevant place in later chapters.

The Elements of Law was written in English, but for private circulation. *De Cive* was written in Latin, and was designed to take its place eventually as the final and crowning section of a philosophic trilogy. In 1650 *The Elements of Law* was published as two unconnected volumes, one entitled *Human Nature*, and the other *De Corpore Politico*. This publication was almost certainly unauthorized by Hobbes. Within a year an English translation of *De Cive* appeared. This was certainly authorized by Hobbes; the translation is, indeed, often ascribed to him, but there must still be doubt as to the part he took in the work. Hence, before *Leviathan* appeared in 1651, knowledge of Hobbes's civil philosophy was obtainable by English readers, and Hobbes intended that it should be. The possibility that the unauthorized publication of *The Elements of Law* caused, or precipitated, the publication of the translation of *De Cive* cannot be excluded. It is clear that, in publishing *Leviathan*, Hobbes had no intention of repudiating *De Cive*. The book had already won him reputation on the Continent, where it has continued in favour.

There can, however, be no doubt that Hobbes himself regarded *Leviathan* as his greatest scientific achievement. It is of *Leviathan* that he wrote:

Justitiae mensura, atque ambitionis clenchus,
Regum arx, pax populo, si doceatur, crit.¹

At different times he gave different reasons for the publication of *Leviathan*; but he never suggested that it was a more popular presentation of a theory which had already received

¹ O.L. i, p. xciv.

its final scientific form in *De Cive*. A presumption that he wrote *Leviathan* because he recognized that *De Cive* was defective in its presentation of civil philosophy would not be weakened by his own silence as to defects in *De Cive*. But in 1656 he came near to admitting, though only by implication, that *De Cive* could not stand as his definitive exposition. Late in 1645, or early in 1646, Bramhall had offered some sixty objections to *De Cive*, of which Hobbes was then preparing the second edition. In 1656 Hobbes said that he had never answered these objections because

shortly after, intending to write in English, and publish my thoughts concerning civil doctrine in that book which I entitled *Leviathan*, I thought his objections would, by the clearness of my method, fall off without an answer . . . even they that approve not the doctrine allow the method.¹

This implies that *Leviathan* is superior to *De Cive* in clearness of method. In view of the importance which Hobbes attached to method, this is a significant superiority. There seems here to be as much confirmation as one could expect from Hobbes of the presumption that he intended *Leviathan* to be the definitive presentation of civil philosophy. The method of *Leviathan* is hardly a model of clarity, and the purpose of this study is to grapple with the difficulties which *Leviathan* presents. Yet the method of *Leviathan* is less obscure than that of *De Cive*. Hobbes was not the man to disparage any of his own publications; but he was capable of self-correction. The greatest claim which he ever made for *De Cive* was subsequent to the publication of *Leviathan*; but it was not a claim which placed *De Cive* in competition with *Leviathan*. He simply claimed that civil philosophy was no older than *De Cive*.²

2. *The Problem of De Cive*

The problem of *De Cive* is posed by the scant publicity which Hobbes sought in 1642 for a work which he had been so eager to begin, and by his later desire to date publication from the appearance of the second edition on the plea that there had

¹ *E.W.* v. 26.

² *E.W.* i, p. ix.

been no more than private circulation in 1642.¹ It is desirable to do what Hobbes did not wish readers to do, and to distinguish between what appeared in 1642 and what was added in the second edition. I have not seen the text of the rare first edition; but I doubt whether significant alterations could have been made in it. The Preface and notes which were added in the second edition are sufficient for my purpose. These seem designed to modify, and not merely, as Hobbes claimed, to explain, what had appeared in 1642.

In the Preface he stated that he was bringing together the first elements of every kind of philosophy, and was engaged in the gradual composition of a philosophic trilogy; but that while he was slowly and pensively (*moroseque*) writing, bent, not on disputation, but on scientific computation, discussion of the right of the sovereign and of the duty of citizens reached boiling-point in England some years before the outbreak of the civil war. This was the cause which brought forth the last section of the trilogy, *De Cive*, first in time.² Nothing is here said of the private circulation of *The Elements of Law*; it may be that he interrupted his work on *De Cive* to dash off this remarkable sketch.

Written in Latin, *De Cive* was addressed to a learned international public. By it Hobbes hoped to establish himself as the Galileo of the new science of civil philosophy. The course which the English political situation suggested must have had other powerful attractions for him. His chosen method made the third section of his trilogy independent of its predecessors, and his political thought already had a completeness which his natural philosophy did not yet possess. The third section would be the easiest to write. Yet enthusiasm must have cooled by 1642.

There can be no certain solution of the problem thus posed. All that is possible is probable conjecture, based on differences between the two editions of *De Cive*, and between *De Cive* and *Leviathan*. These suggest a forced, but unobtrusive, retreat

¹ *O.L.* i, p. xv; ii. 153 (*E.W.* ii, pp. xxii-xxiii).

² *O.L.* ii. 150-1 (*E.W.* ii, pp. xix-xx).

from the original method of *De Cive*. Hobbes's later statement that in 1642 he sought merely a private circulation for what he had written may not be wholly baseless. Any doubts which he may have had in 1642 were confirmed by 1646. It is possible that the discussion of free will with Bramhall here played a decisive part by forcing Hobbes to reconsider his concept of liberty, and more particularly of impediments to liberty. *De Cive* had already won reputation for him among the learned; and it was possible to present the work as something different from what he had originally intended it to be. But *De Cive* could not stand as his final presentation of civil philosophy. Therefore shortly after the publication of the second edition of *De Cive* he began work on *Leviathan*. The object of this section is to lend some plausibility to these conjectures.

The essential point is that the argument of *De Cive* is based upon a concept of arbitrary impediment to liberty which Hobbes had abandoned by 1646. The only liberty in *De Cive* is corporal liberty. Civil liberty is the absence of a particular kind of impediment to the bodily motions of the subject. This brings civil liberty within the materialist scientific framework. Liberty¹ is nothing else than absence of impediments to motion. There are arbitrary as well as absolute impediments. Arbitrary impediments 'do not absolutely hinder motion, but by accident, to wit, by our own choice'. A man on a ship is not so impeded that he cannot cast himself into the sea if he chooses to do so. Here the sides of the ship are impediments to corporal motion, not because a man cannot go beyond them if he chooses, but because he fears the consequences of doing so. In relation to arbitrary impediments, as in relation to absolute impediments, the more ways a man can move himself, the greater the liberty he has. At this point the English translation is unfaithful to the Latin original: *movere se potest* is rendered 'may move himself'. And in this consists civil liberty: no subject is so impeded by the punishments appointed by the city that he cannot do all things necessary to protect his life. Here Hobbes seems to imply somewhat inconsistently

¹ O.L. ii. 259-60 (E.W. ii. 120-1).

that the arbitrary impediment to the corporal motions of the subject is not the law itself, but the punishment which is the consequence of transgression of the law. And of course he writes loosely of a man moving himself.

The only relevant point is that the method of *De Cive* rests on this concept of arbitrary impediment. In *De Cive* right can be distinguished as liberty from dictate of reason as obligation, because dictate of reason is, or causes, an arbitrary impediment to corporal motion. Corporal motion is restricted by fear of the consequences of going beyond dictate of reason. In this way independent men can voluntarily subject themselves to a sovereign, and necessarily do so.

The difference between absolute and arbitrary impediment is this. Absolute impediment makes impossible the accomplishment of the willed action which it opposes. Arbitrary impediment restricts movement because the consequences of passing beyond it are undesirable. Arbitrary impediment affects motion by affecting the will. Resistance which is overcome is not impediment.

By 1646 Hobbes realized that he had adopted an untenable position. The discussion of free will with Bramhall, which coincided in time with the preparation of the second edition of *De Cive*, may have brought this realization. What he said in 1646, and in 1656, clearly indicates that change in his position which dictated a change in the method of civil philosophy.

In 1646 he said that it is metaphorical speech to attribute command and subjection to the faculties of the soul as if they made a commonwealth or family within themselves, and could speak to one another. This 'is very improper in searching the truth' of a question.¹ He acknowledged a distinction between free from compulsion and free from necessitation. A man is compelled when fear makes him willing to do an act, e.g. when he submits to his enemy for fear of being killed. Sometimes other passions work as forcibly as fear.² When a man is compelled to subject himself to an enemy, or to die, he has a choice as to which of the two he can better endure.³ In 1646

¹ *E.W.* v. 273.

² *Ibid.* 248.

³ *Ibid.* 272.

all that Hobbes was concerned to maintain was that freedom from compulsion was not freedom from necessitation. In doing so, he made it clear that he did not think that actions done from fear differed in respect to liberty from actions done from any other forcible passion. All that he had here to do in 1656 was to clarify the position he had taken up in 1646. 'I never said, nor doubted, but such actions (*sc.* actions proceeding from fear) were both voluntary and free.'¹ A man is compelled when his will is changed by fear of hurt from God or from man: and his resulting action is voluntary, free and necessary.² There is here no place for arbitrary impediments. All actions which men do from natural passion are free. Hobbes added that it is not a new, but a false, opinion that some actions are partly voluntary, partly involuntary. The opinion certainly was not new; Hobbes himself had held it when he wrote *The Elements of Law*.³ Here, and not only here, in correcting Bramhall, he was correcting his earlier self.

In 1646 Hobbes defined liberty as 'the absence of all the impediments to action, that are not contained in the nature, and in the intrinsical quality of the agent'.⁴ He said little or nothing about impediment, then a delicate topic for him to handle even in a private discussion. After the publication of *Leviathan*, he could afford to be more forthright. In 1656 he made it clear that the definition propounded in 1646 leaves no room for arbitrary impediments. To ask, as Bramhall did, whether extrinsical causes which determine a man not to do an action are not extrinsical impediments proceeds from 'too shallow' consideration of what the word 'impediment' signifies. Impediment is hindrance to endeavour, and has to be distinguished from causes which 'take away' endeavour.⁵ The distinction is between impediments which restrict liberty by making a willed act impossible, and thoughts which cause cessation of the inward beginnings of endeavour towards a particular object of desire, because it appears that attainment of the object will have evil

¹ *Ibid.* 260.² *Ibid.* 287.³ *E.L.* 48 (*E.W.* iv. 69).⁴ *E.W.* v. 367.⁵ *Ibid.* 352.

consequences outweighing the good. Such thoughts 'are not impediments to that action which was not done, but the causes of that which was done'.¹ Fear of drowning does not make the sides of a ship an impediment to moving overboard, but is a cause of motions on board. Fear of hanging is a cause of lawful action, not an impediment to the commission of a capital crime.

In 1642 Hobbes claimed that he had demonstrated the necessity of covenants, and of keeping faith, and hence the elements of moral virtue and of civil duties from two most certain *postulata* of human nature.² In the English translation, *virtutis moralis officiorumque civilium elementa* is rendered 'the rudiments both of moral and of civil prudence'. These two *postulata* are axioms; they ask that something be granted as true, and they serve as principles of demonstration. From axioms of human nature theorems of universal validity are deduced. All men necessarily come together in commonwealths; and all commonwealths are rightly constructed. No reference is made to the savages of America whose retarded development would call for explanation. The argument of *De Cive* corroborates this interpretation of what is said in the Dedicatory Epistle. Hobbes sketched in Chapter I a development necessary for all men, and not merely possible for some men. Civil philosophy, like natural philosophy, displays the working of natural necessity. As the axioms are true of all men, the demonstration covers all men. In *De Cive* the erection of the commonwealth is demonstrated from axioms of human nature; in *Leviathan* Hobbes saw that the erection of the commonwealth was a problem of construction whose solution must precede the demonstration of the theorems of civil philosophy.

A law of nature is a dictate of right reason concerning those things which are to be done or omitted (*agenda vel omittenda*) for preservation. Right reason is *lex quaedam*. The English translation, 'true reason is a certain law', may mislead.³ Right

¹ *E.W.* v. 366-7.

² *O.L.* ii. 139 (*E.W.* ii, p. vii).

³ *O.L.* ii. 169-70 (*E.W.* ii. 16).

reason is a kind of law. From the outset Hobbes was clear that only rightful command was properly law; the laws of nature were for him properly laws only as revealed in Scripture. His use of the term law in *De Cive* was equivocal; all creatures are said to obey the laws of their creation.¹ Right is liberty, not contrary to reason, to use natural faculties for preservation.²

Despite all that is said of the state of nature as a dominion of passion, there is not in Chapter I of *De Cive*, as there is in Chapter XIII of *Leviathan*, an abstraction of passion from reason. The inference is made from the whole nature of man. The men who wage the war of all against all, though dominated by natural cupidity, have sufficient use of reason to assert a right to all things. The right to all things is a consequence of a position of danger, and is one of the two things which make it undeniable that the state of nature was a state of war of all against all. The right to all things plays a larger part in *De Cive* than in *Leviathan*, where it appears only as a consequence of war and as an obstacle to peace.³

The laws of nature, though not properly laws, oblige in conscience.⁴ It is not to be thought that by nature, that is by reason, men are obliged to exercise all the laws of nature in that state of men in which they are not exercised by others. The laws of nature always oblige *in foro interno sive conscientia*. We are obliged to a mind (*ad animum*) to observe them, whenever their observation seems to conduce to the end for which they were ordained. In 1642 reason seems to oblige; but, on the other hand, dictates of reason are ordained for an end. Reason raises up arbitrary impediments to liberty, and Hobbes assimilated arbitrary impediments raised by dictates of reason concerning preservation to obligations. Obligation *in foro interno* is natural obligation, but Hobbes did not try to explain natural obligation in abstraction from God. Possibly he could not yet conceive of obligation without an obliger. In the Kingdom of God by nature there is an obliger, but dictates found out by fallible human ratiocination are not properly laws.

¹ *O.L.* ii. 336 (*E.W.* ii. 209).

² *O.L.* ii. 163 (*E.W.* ii. 8).

³ Ch. VIII (4).

⁴ *O.L.* ii. 195 (*E.W.* ii. 45-46).

The most important point regarding the paragraph on natural obligation in *De Cive*¹ is that Hobbes had to jettison it when he wrote *Leviathan*. His first species of natural obligation, whereby the liberty of all created beings is limited by the laws of their creation, had to disappear, because lack of intrinsic power does not restrict liberty. His second species of natural obligation, whereby the liberty of God's subjects is taken away by fear and hope aroused by His irresistible power, had to disappear, because there could no longer be arbitrary impediments to liberty; fear and hope do not restrict liberty. But it is also worth noting that Hobbes distinguished natural obligation from the obligation which arises out of covenant; these are two distinct types of obligation.²

Philosophy is a study of causal relationships, that is of necessary relationships. In 1642 Hobbes seems to have wished to present certain necessitations as obligations, scientifically conceived; these obligations were for him the naturalist side of religious obligations. What he presented as obligations were in fact liabilities; and liabilities, even when they necessitate, restrict liberty only if there are arbitrary impediments to liberty. Hobbes had set out to make civil philosophy a study of what men ought to do *lege*, and may do *jure*, but he had not provided in 1642 any place for either *lex* or *jus* within civil philosophy.

In 1646 he seems to have taken advantage of the ambiguity of what he had published in 1642. The new Preface and a subsequent note indicate that the erection of a commonwealth is a possibility for some men, not a necessity for all men.³ In a note on the passage regarding the exercise of the laws of nature, 'that which is done out of necessity, out of endeavour for peace, for the preservation of ourselves is done with right'.⁴ Again the English translation may mislead, for Hobbes did not write *jure fit*, but *recte fit*. In 1646 the civil philosophy of *De Cive* seems to be concerned only with what is done *recte*,

¹ O.L. ii. 336-7 (E.W. ii. 209).

² Ch. X (2).

³ O.L. ii. 148-9, 158 n. (E.W. ii, pp. xvii-xviii, 2 n.).

⁴ O.L. ii. 195 n. (E.W. ii. 46 n.).

in accordance with dictate of reason or with the right which is not contrary to reason. In another note¹ the distinction between obligation and liability is recognized. In explaining the difference between covenants and civil laws, Hobbes had said in 1642; by covenant we are obliged; by civil law we, being obliged, are held (*tenemur*). He did not explain this distinction until 1646, and it is not certain that he recognized in 1642 that it was a distinction between obligation and compulsion. A man is obliged by his covenant, that is he ought to perform on account of his promise. A man who is obliged is held by law, that is he is compelled to perform by fear of the punishment appointed by the law. This is a distinction between obligation and liability, and also between morality and law. In 1642 Hobbes had endeavoured to present what is at most natural liability as natural obligation by dictate of reason. The note which he added to the paragraph on natural obligation² in 1646 ignored the real difficulty; but Hobbes had later to defend the passage against Bramhall's attack. This brief defence, written about 1668, is his most important utterance concerning *De Cive*.

But see the subtlety of his disputing. He saw he could not catch *Leviathan* in this place, he looks for him in my book *De Cive*, which is Latin, to try what he could fish out of that: and says I make our obedience to God depend upon our weakness; as if these words signified the *dependence*, and not the *necessity* of our submission, or that *incumbere* and *dependere* were all one.³

It is unfair to look for *Leviathan* in *De Cive*. Hobbes will stand only on the Latin text of *De Cive*. It is impossible not to feel some sympathy with Bramhall. Hobbes himself can write in *Leviathan* of science displaying the 'dependence of one fact upon another';⁴ and he was far from being a model of verbal strictness. In this case, however, he had been careful to choose the word *incumbere*, and the closing words of the paragraph hark back to this word. God is in the saddle and it is useless

¹ O.L. ii. 314-5 n. (E.W. ii. 185 n.).

² O.L. ii. 336 n. (E.W. ii. 209 n.).

³ E.W. iv. 295.

⁴ L. 21 (E.W. iii. 35).

for man to kick against the pricks. The obligation to obey God does not depend in any way upon man; it is simply incumbent upon him; and he has not the power to cast it off. Hobbes now wanted the paragraph to be read only as an explanation of necessitation. The form of Bramhall's attack enabled him to ignore the awkward fact that he had written the paragraph as an explanation of obligation. All that he explained is how men are sometimes necessitated to obey God's laws, so far as external observance is concerned. They are necessitated by fear and hope, and they may be necessitated by fear that they will be hurt if they do not follow the guidance of a dictate of reason, that is by fear of natural consequences. Such necessitation is not obligation; in Hobbes's mature thought it is consistent with liberty.

Hobbes was interested in a naturalistic concept of obligation only in so far as he could find in it a parallel to religious obligation. The first species of natural obligation is introduced only because it is clearly within the materialist framework; hence the second species must be so also. The so-called species are, however, generically different, and the nature of the difference excludes the second from the materialist framework. No creature can violate the laws of its creation. Most of God's subjects are for the most part disobedient subjects.

Hobbes was forced to retreat in 1646 because he recognized that the method which he had followed in the first edition of *De Cive* was defective. He could not remove the radical defect, resulting from an ill-considered concept of arbitrary impediment, without making drastic changes in the text. It was this concept which had led him to think that he could find obligation of a sort within his philosophic framework. He now recognized that the most that philosophy could do was to demonstrate as necessary for peace what religion taught as morally obligatory; and that this coincidence did not warrant any assimilation of necessitation to obligation. Necessitations are in themselves *ligationes*, never *obligationes*. The fact that the fulfilment of obligation is, like everything else, necessitated makes no difference; the fundamental moral difference is

between the man who is necessitated to fulfil obligations, and the man who is necessitated to violate them. *De Cive*, written in terms of necessitations as obligations, could stand only if interpreted as a demonstration of the necessity of certain obligations, if men were to live peaceably together. In 1646 Hobbes attempted to explain the book in this sense.

But it could not stand as the definitive exposition of civil philosophy. Without arbitrary impediments to liberty independent men cannot subject themselves to a sovereign.¹ This led Hobbes to see that the erection of the commonwealth was not demonstrable; and that he must solve a problem of construction before the demonstration of the theorems of civil philosophy could begin. Obligation of conscience is indispensable for the construction of the commonwealth. The laws of nature cannot oblige by necessitating; they must therefore be made obligatory in some other way.

Many doubts must remain as to the interpretation of *De Cive*, but it does not seem possible to accord it equality with *Leviathan* on any interpretation. And everything suggests that Hobbes was content to treat *De Cive* as he did in 1646, because he had resolved to attempt a better exposition of civil philosophy.

The one conclusion essential for the present study is that the method of *De Cive* is so different from that of *Leviathan* that it is illegitimate to fish in *De Cive* to catch *Leviathan*. *De Cive* may be used to aid interpretation of *Leviathan*, but no attempt need be made to reconcile the two works.

Hobbes was content that *De Cive* should retain its place in his trilogy. It was a landmark in the history of philosophy as the first presentation of a new science. As explained in his Preface and notes, the work could stand as a scientific study of what was necessary in morals for preservation from dangers arising from discord. The high hopes which he had entertained when he embarked upon the trilogy had not been realized; and he knew that *Leviathan* was the masterpiece on which his fame must chiefly rest.

¹ Ch. VIII (2).

3. *The English and the Latin Leviathan*

Leviathan was published in 1651 in an English text, and in 1668 in a Latin text. The relationship between these two texts cannot be established with any certainty. Hobbes's most important statement regarding this relationship occurs incidentally in a passage whose chief object was to claim that he had himself corrected an error in the English text independently of Bramhall. 'His Lordship . . . hath catched nothing. It is I that catched myself.' The error lay in asserting in the English text that God had instituted a church in Israel 'in the person of Moses', instead of 'by the ministry of Moses'.

But this error I no sooner saw, than I no less publicly corrected than I had committed it, in my *Leviathan* converted into Latin, which by this time I think is printed beyond the seas with this alteration, and also with the omission of some such passages as strangers are not concerned in. And I had corrected this error sooner, if I had sooner found it. For though I was told by Dr. Cosins (*sic*), now Bishop of Durham, that the place above-cited was not applicable enough to the doctrine of the Trinity, yet I could not in reviewing the same espy the defect, till of late, when being solicited from beyond sea, to translate the book into Latin, and fearing some other man might do it not to my liking, I examined this passage and others of the like sense more narrowly.¹

This suggests that the Latin text is a translation of the English; but the actual statement of what Hobbes did in response to solicitations from abroad is not inconsistent with an examination of an existing Latin draft, an examination moreover restricted to religious topics. Hobbes may well have felt that a scientific corrective to *De Cive* should be written in the language of *De Cive*; and Lubienski² has drawn attention to passages in the Latin text appropriate only to the years 1648–51.³ The possibility that Hobbes began to write in Latin and subsequently decided to publish in English cannot be excluded. It is certain that the conclusion of the Latin text

¹ *E.W.* iv. 317.

² Z. Lubienski, *Die Grundlagen des ethisch-politischen System von Hobbes*. Munich, 1932, pp. 254–73.

³ e.g. *O.L.* iii. 235 'bellum quod nunc geritur in Anglia' of which the English equivalent is 'the late troubles in England'. *L.* 173 (*E.W.* iii. 314.).

(from the beginning of the last paragraph on p. 507 of Volume III of the Molesworth edition of the Latin Works), and the Appendix, were written specially for publication in 1668. But almost everything else must be a matter of uncertain inference from a comparison of the two texts, or even of subjective impression.

For the English-speaking reader the English *Leviathan* is Hobbes's literary masterpiece; and his thought is likely to present least difficulty when read in the language native to author and to reader. On the other hand, a Latin text published in 1668 has *prima facie* superior claims to be held scientifically definitive. The question is whether this presumption can stand against opposing considerations. The English text is fuller than the Latin, and what is omitted from the latter is not confined to 'such passages as strangers are not concerned in'. Hobbes may have felt that additional explanations were needed for less learned readers, but there is no indication that he was conscious of such a need in the cases of *De Cive* and of *De Corpore*. And each successive exposition of his civil philosophy was fuller than its predecessor. The English *Leviathan* is undoubtedly a more passionate work than the Latin, but much that happened in England between 1648 and 1651 must have increased Hobbes's indignation. The decisive consideration must be whether the English text impresses the reader as superior to the Latin as an exposition of Hobbes's civil philosophy. Neither work appears to me impeccable; there is careless writing in both. There are points at which the Latin text strikes me as superior to the English; yet, in the end, I take the English text to be Hobbes's definitive exposition of his civil philosophy. It will later be suggested that the English text is superior to the Latin in its account of the institution of the commonwealth, and of authorization by the subject, that is to say at the very point at which *Leviathan* was intended to improve on *De Cive*. Above all the English text grounds sovereign right upon natural obligation, and not upon natural right as does the Latin. I find it easier to believe that Hobbes was careless in revising an old

than in preparing a new text. He was well satisfied with the English *Leviathan*; and a significant change in the civil philosophy there expounded was not to be expected from him at the age of eighty.

His own words indicate that the points which he examined more narrowly before publishing the Latin text were points concerning Christian religion. It is not impossible that he published an earlier Latin draft of the chapters devoted to civil philosophy with little or no revision. He may have forgotten to remove, not only passages which indicated an early origin of the Latin text, but also passages upon which he had improved in the English text. In the years 1666-8 he was more concerned to avoid a charge of heresy than to refine his civil philosophy. He answered only the first chapter of Bramhall's *Catching of Leviathan*

in justification of my *Leviathan* as to the matter of religion. . . . As for the second chapter, which concerns my civil doctrines, since my errors there, if there be any, will not tend very much to my disgrace, I will not take the pains to answer it.¹

What Hobbes did add was an historical relation concerning the word 'heresy'. And the Appendix which he added to the Latin text was concerned solely with religion.

The Latin text remains an indispensable control upon an interpretation based upon the English, and it is as such that it is used in the present study.

¹ *E.W.* iv. 384.

PART TWO

THE PRINCIPLES OF CIVIL PHILOSOPHY

V

PSYCHOLOGICAL PRINCIPLES OF POLITICS¹

THE art of man imitates nature, the art by which God made and governs the world, in making an artificial man, that great Leviathan called a commonwealth or state. In making and governing the commonwealth, man makes a human artificial justice which is an imitation of Divine natural justice. Civil philosophy is the science of an artificial body. But the body must be made before any theorems regarding it can be demonstrated. In the first part of *Leviathan* Hobbes attained the principles which he required for the construction of the commonwealth. He was concerned in this part with two distinct inquiries, into the nature of man, and into the laws of nature.² The first of these inquiries culminates in the empirical principle required for the construction; the second starts by deducing a double-branched general rule of reason which contains all the rational principles required for the construction. From a psychological inquiry into human nature he derived the actual manners of men; from a rational inquiry into what is necessary for peace he derived good and bad manners, virtues and vices, qualities conducive to peace, and qualities conducive to war.

The title of Part I is to be interpreted in relation to the scope of the work; Hobbes is concerned with man only as the matter and the artificer of the commonwealth. The motions with which he is concerned are motions of the mind in so far as they

¹ *L.* Introduction; Chs. I–XI.

² *O.L.* iii. 559.

are relevant to the study of politics on principles of nature only. So far as human nature is concerned, all that is necessary for his purpose is a partial study of the psychology of man. This partial study of man is a study of man as a natural person inside as well as outside the commonwealth.

His psychology is empirical and descriptive. 'To know the thoughts and passions of mankind, each man must look into himself. The simple basic passions of all men are the same; all desire, fear, hope, &c. And the basic processes of thought are the same; all men opine and reason. The knowledge obtained from experience of the motions of a man's own mind is absolute knowledge of fact incapable of demonstration. Hobbes's claim is that every man who will dispassionately look into himself will discover what he himself has discovered and described. The method yields partial knowledge of every man but complete knowledge of no man. We cannot know even our own nature completely. Hobbes indicates a further, most important, limitation. Men differ in the objects of their passions; and such differences are more important for morals than all resemblances. The characters of men's hearts are legible 'only to Him that searcheth hearts'. We discover men's designs by their actions only sometimes, and then only with difficulty. Hobbes would not claim that his psychology was science, but he went farther than we do in his belief in the constancy of human nature, and he was sure that the basic mental processes lasted as long as life.

In this descriptive psychology nothing is said concerning the psychological effects of law. In a naturalistic study something can be said about fear of man and of invisible spirits, but no place can be found among the natural passions for a sense of obligation.

Hobbes starts with sense, because all knowledge and all action are based upon sensory experience. As animal, living with his five senses, man has like other animals naturally planted in him, sense, imagination, memory, prudence arising from experience, passions, deliberation, and will. One passion, curiosity, is unique in man at least in degree; and this passion is the

natural source both of science and of religion, which distinguish man from beast. Reason is the only acquired wit; at birth reason is only a potentiality; the use of reason has to be acquired by study and industry. It is reason which guides man as the artificer of the commonwealth; reason indicates rational principles of construction. But reason can here come into play, only if men desire a good to which the commonwealth is a necessary means. The discourse of the mind governed by desire of knowledge is subordinate to the discourse of the mind directed to action. Discourse directed to action is concerned with good and evil, and such discourse alone is for Hobbes deliberation.

For man as the matter of the commonwealth passion is more important than reason. Men's passions are commonly more potent than their reason, for there are passions which 'are perpetually incumbent and pressing; whereas reason is not perpetually present to resist them'.¹ The passions are called perturbations of the mind, because they fight against the true, but distant, good approved by reason, and in favour of a present good which is only a seeming good found in its consequences to be evil. For it accords with the alliance of soul and body (*Nam ex foedere animi et corporis est*) that the initiation of any pursuit should be from the appetite, but the plan (*consilium*) should be from reason.² Reason cannot be reckoned an effective restraint upon passion.

Every motion of man's mind is initiated outside himself. Outward objects move him, and his own passions, the ways in which he is moved, are the interior beginnings of his own voluntary motions, of his voluntary actions. The voluntary actions, of which the natural passions are the interior beginnings, are actions determined by a man's own last desire, resulting from his own reckoning of natural good and evil. Every passion is a form of desire or aversion, but Hobbes preferred the term appetite to desire, because appetite suggests motion towards, as aversion suggests motion away from. For Hobbes appetite and aversion are literally attraction and

¹ L. 158 (*E.W.* iii. 285).

² *O.L.* ii. 104.

repulsion by an external object. As these small beginnings of motion are imperceptible as motion by sense, their existence can be neither confirmed nor disproved by experience. In offering a materialist explanation of the simpler cognitive and motive faculties, Hobbes seems to vindicate his materialism rather than to advance his psychology. The psychology which he expounds is not a deduction from metaphysical materialism, but a description derived from experience and chiefly from introspection.

He was not able to exclude streaks of moral valuation from an account of the passions which are relevant to the study of politics. Indignation is a moral passion, benevolence an altruistic passion, magnanimity a generous passion. Pity, despite its egoistic origin, is an altruistic grief for the present calamity of another. Covetousness is in certain cases blameable.

Natural good signifies object of appetite. Natural good and evil are relative and inconstant, because they are no more than objects of appetites and aversions of particular men, which are often transient. When an action is imagined, 'the whole sum of desires and aversions, hopes and fears, continued till the thing be either done or thought impossible' is called deliberation. Deliberation is always concerned with the good or evil consequences of a particular act, and is a succession of emotions. The last appetite is the will. The object of the will is best described as a seeming good, as it is very seldom that men can see to the end of a long chain of consequences.¹ As every appetite is caused by an external object, the last appetite, the will, is necessitated and not itself voluntary.

When a man deliberates 'he does nothing else but consider whether it be better for himself to do it, or not to do it'.² With some variation in terms Hobbes repeatedly says that the object of the voluntary acts of every man is some good to himself. To describe his psychology as 'egoistic' is, however, pointless. A man cannot do any voluntary act unless he himself desires to do it. What causes him so to desire is here irrelevant. As he desires to do it, he is moved to do it by an external object

¹ *E.W.* i. 8.

² *E.W.* v. 357.

which attracts him. The good to himself is the attainment of his object. Whatever his desire may be, its satisfaction gives him pleasure. Appetite is pleasure foreseen. The man who sacrifices himself to promote the good of his friend has pleasure in the attainment of his object. In this case Hobbes is prepared to say that he sought not his own good but the good of his friend.¹ The benevolent man desires the good of others. There was not for Hobbes a particular appetite for pleasure; the satisfaction of any desire is pleasant. The substantial point is the character of the desired object. There was for Hobbes a moral difference between satisfied avarice and satisfied benevolence. The universal psychology attainable by introspection can yield no knowledge of the objects of desire, in which men differ, and is confined to natural objects of desire. Hobbes in fact thought that most men were narrowly selfish, and were determined almost exclusively by natural objects of desire. His psychology applies to all men, so far as they are determined by natural objects of desire.

The point which he is making in this universal psychology is not moral but psychological, not egoist but determinist. He is denying that it is possible for a man to see and approve the better course, and yet follow the worse. This pretty saying of the poet is not true. Though Medea saw many reasons against killing her children, yet 'the last dictate of her judgement was, that the present revenge on her husband outweighed them all, and thereupon the wicked action followed necessarily'.² It is consistent with Hobbes's thought to say that a man may regard an action as evil until the instant before he does it, and may regret it as evil the instant after he has done it, but that, at the instant at which he does it, he necessarily thinks that it is in some sense 'better for himself' to do it than to omit it. At the decisive instant he foresees pleasure from doing it. Every voluntary act is done from pleasure foreseen.

Hobbes's determinism was never other than extrinsic. In *Leviathan*, the emphasis is on the passions of man; but man cannot move himself. His passions are not active powers to

¹ O.L. ii. 109.

² E.W. v. 317.

move himself, but passive powers to be moved by external objects. The passions are not the causes of voluntary motions, but are themselves the interior beginnings of such motions, caused by an external object.

Natural good, even when a true and not merely a seeming good, is always relative to persons. Hobbes dismissed the phrase 'metaphysical good' as an 'idle term'. All that God had created was very good, not absolutely but to Him as He was pleased with His work. But men are not pleased with any being whose actions hurt them. Satan is evil to us because he seeks our destruction, but good to God because he executes His commands.¹ God is good to those who call upon his name but not to those who blaspheme His name.²

Goodness is a form of power, the power to attract. A good thing, or a good person, is desired when absent, loved when present, by those whom it attracts. Hence in Hobbes's thought goodness is part of God's omnipotence, the power through which God causes man to love Him.

Discourse of the mind governed by desire of knowledge is a series of alternating opinions; deliberation is a series of alternating appetites, resulting from different thoughts as to natural good and evil. In Chapter VI of *Leviathan* Hobbes is concerned only with how men deliberate, and not with the right use of deliberation. His psychology of voluntary actions is a psychology of the free man, subject neither to God nor to man.

In *De Homine*³ Hobbes explained the distinction between passions, propensities, and manners, more fully than in *Leviathan*. Passions are desires or aversions. More stable than passions are propensities (*ingenia*) towards certain things. Propensities, when so strengthened by frequent exercise that they give rise to action easily, without any struggle, are called manners (*mores*). Manners, if good, are called virtues, and if bad, vices.

Some, but not many, passions 'are born with men', e.g. desire for food. Most, being appetites for particular things,

¹ *E.W.* v. 192.

² *O.L.* ii. 97.

³ *O.L.* ii. 111-16.

proceed from experience. Men can have no desire for things of which they have no knowledge, but they can desire to make trial of things which they encounter. Experience elicits the same basic passions in all men, and these passions are ineradicable. Men differ in the strength and in the objects of their passions. These differences result partly from differences of constitution, and partly from differences of custom and education. A man who has no great passion for riches, knowledge, or honour, may be good in the sense of inoffensive but can have no great fancy or judgement. 'For the thoughts are to the desires, as scouts, and spies, to range abroad, and find the way to the things desired.'¹ To have no desires is to be dead; and to have weak passions is dullness.

Men differ in their propensities, for propensities arise from temperament, from experience, from custom, from goods of fortune, from the opinion which each man has of himself, and from the opinions and examples of others. A man's propensities, though less variable than his passions, are less stable than his manners, for manners have the stability of qualities. To Hobbes a man's manners are the acquired moral qualities which constitute his character. A passion may be fleeting, a propensity may be changed, but manners are settled dispositions of the mind. Men may on occasions and without any change of character act out of character. *A fortiori* men may have fleeting passions inconsistent with their manners. Politically men's manners are the important thing: they determine habitual conduct. But natural goodness or evil of manners is as relative to persons as any other natural good or evil. Hence there can be no agreement among men regarding virtue and vice in relation to natural good. A man counts fortitude a good (desirable) quality in an ally, but an evil (undesirable) quality in a foe.

The only manners relevant to moral science are 'qualities of mankind that concern their living together in peace and unity'.

Hobbes began his description of manners by giving exciting

¹ L. 35-36 (E.W. iii. 61-62).

form to a platitude. 'So that in the first place I put for a general inclination (*morem*) of all mankind a perpetual and restless desire of power after power, that ceaseth only in death.' As long as life lasts men have desires and seek the means to satisfy them. This universal proposition must be no less true of the dullest clod who ever trod the earth than of the most fiery spirit who ever reduced a commonwealth to anarchy. Yet for Hobbes himself the proposition was probably significant, not in its humdrum generality, but with reference to the ambitious few by whom the ignorant many are seduced. Apart from this general proposition he restricted himself in Chapter XI to politically relevant manners exhibited by some but not by all men.

In fact the inquiry into human nature falls into two parts, though Hobbes fails to make clear that it does so. The first part consists of universal propositions, true of all men. These are the fruit of introspection, verifiable by every man who will examine the working of his own mind. The second part consists of statements regarding 'most' or 'few' men. Here introspection will not suffice. Hobbes still relies upon experience, but experience is now subjected to personal interpretation. The results are not verifiable by every man from his own experience. They can be no more than opinion, true or false.

One universal statement falls into this class, because it relates to an object of passion. All men seek their own preservation. Hobbes did not put this as strongly in *Leviathan* as in *De Cive*, but every man, 'by necessity of nature, is supposed to endeavour all he can, to obtain that which is necessary for his conservation'.¹ If a man commits suicide, 'it is to be presumed that he is not *compos mentis*'.² Preservation is a real natural good, desired as such by all men. This does not mean that preservation in this world was for Hobbes the *summum bonum*; he adhered to the Christian view that life in this world is a peregrination in which no final and enduring felicity is attainable; no natural good, no object of natural appetite, can be the *summum bonum*. He recognized that men were capable

¹ L. 79 (*E.W.* iii. 139).

² *E.W.* vi. 88.

of preferring death to dishonour, of choosing death as the lesser of two evils; and he also recognized that a man might long for death as a release from misery. These exceptional cases do not invalidate the principle that preservation is a natural object of desire to all men; they merely indicate that it is not an unconditional object of desire.

Men differ both intellectually and morally. The intellectual virtues are summed up as good wit. There is no great difference among men in natural wit. Nature seldom makes men exceptionally foolish or exceptionally wise.¹ Education is responsible for most of the intellectual differences observed among men. This means that it is only in acquired wit that men differ greatly. Reason is the only acquired wit. Most men have only a little use of reason; very few have science, and only in few things. Most men are ignorant. The ignorance of the many is an inescapable fact of which civil philosophy must take account. But ignorance is not necessarily folly. Ignorance is compatible with prudence. Prudence depends upon experience, and men do not differ in prudence as much as is often supposed. 'A plain husbandman is more prudent in affairs of his own house, than a privy councillor in the affairs of another man', or than a philosopher in the affairs of another.² Hobbes felt that he had to fight, not against the ignorance of the many, which could be rendered politically harmless, but against the politically dangerous folly of the learned.

Moral differences are of greater importance for politics than intellectual. Hobbes knew that it was unsafe to judge of the intentions of particular men.³ 'I cannot enter into other men's thoughts farther than I am led by the consideration of human nature in general.'⁴ His judgements on the morality of most men cannot be securely inferred from the passions common to all men, nor can they be generalizations from particular men, of whose intentions it is unsafe to judge. Hence these judgements are opinions regarding most men, based upon religious conviction, and fortified by experience of seventeenth-century

¹ *O.L.* v. 350.

² *L.* 35 (*E.W.* iii 60); *O.L.* iii. 58.

³ *B.* 72 (*E.W.* vi. 254).

⁴ *B.* 29 (*E.W.* vi. 200).

Englishmen as representatives of a human nature that was basically constant.

The passions dominant in most men are narrowly and short-sightedly selfish. Most men are apt to over-value themselves and to under-value others. Hobbes's moral judgement on most men is summed up in the words: 'unjust is the name of the far greater part of men.'¹ All men naturally love liberty, and domination over others. They submit to restraint, not from love of justice, but from fear.

Hobbes's moral judgements on most men were too unfavourable to win ready acceptance in the middle of the seventeenth century or thereafter; but there is little in them that could surprise a Calvinist of an earlier generation. He himself indicated their religious source. It may seem hard to say that all men are wicked, but we must accept what 'is so clearly declared by Holy Writ'.² But all men are not equally wicked; and a distinction is possible between good and wicked men. The good are occasionally wicked through infirmity; the wicked are habitually wicked through malice.

Hobbes's psychology of voluntary actions has a deceptive appearance of completeness. In Chapter XXXI of *Leviathan* he drew a distinction between commanded and voluntary worship. Though he never developed this distinction, his psychology of voluntary actions makes no provision for actions which are done because commanded. In controversy with Bramhall he insisted that a man must act on the last dictate of his understanding or judgement. The last dictate of a man's judgement is not necessarily his own last appetite. In a case governed by a law of God the last dictate of the judgement of the righteous man is not the result of deliberation as to natural good; it is that he is obliged by the law, and ought not to deliberate. This case does not fall within the scope of Hobbes's naturalist psychology or civil philosophy. The civil philosopher has to reckon on the basis of the injustice of most men; he cannot invoke a will to obedience. Civil philosophy must confine itself to actions resulting from deliberation, of which

¹ *E.L.* 16 (*E.W.* iv. 24).

² *O.L.* ii. 147 (*E.W.* ii, p. xvi).

a naturalist explanation can be found; and civil philosophy can dispense with the will to obedience, because actions necessary for peace can be necessitated by liability to punishment. The passion on which the civil philosopher reckons is fear of natural evil; love of moral good lies beyond the scope of Hobbes's argument from principles of nature only.

VI

RELIGION¹

RELIGION enters into the argument of Chapter XI of *Leviathan* as a cause of adherence to private men against the sovereign. But the topic has a wider importance in relation to man, both as the matter and as the artificer of the commonwealth. Hence it receives a chapter to itself, to which there is no counterpart in *De Cive*. This chapter is in the main what it should be, a consideration of religion as knowable on the basis of experience. This experience is still in part introspection, but it is also an interpretation of history.

Hobbes regarded man as by nature a religious, or at least as a superstitious, animal. Religion, like science, is peculiar to man among animals. Religion and science have a common natural source in curiosity. The seed of religion is naturally planted in man and is ineradicable. The first seeds or principles of religion 'are only an opinion of a deity, and powers invisible, and supernatural' (*agnitionem divinitatis sive potentiae supernaturalis simpliciter*). These seeds 'can never be so abolished out of human nature but that new religions may again be made to spring out of them'.

Man's curiosity begets anxiety. The more provident a man is, the more anxious he is. Anxiety is the natural cause of religion. Growing wild in man ignorant of secondary causes, the seed produces a crop of superstitious fancies, the source of polytheism. It appears to be Hobbes's meaning that all men fear the power of invisible spirits. The many gods of the Gentiles were at first created by human fear. But fear is not the natural cause of acknowledgement of the true God.

But the acknowledging of one God, eternal, infinite, and omnipotent, may more easily be derived, from the desire men have to know the causes of natural bodies . . . than from the fear of what was to befall them in time to come.

¹ L. Ch. XII.

By reasoning *a posteriori* such men are led to conclude that there must be a prime mover. The opinion that invisible spirits were incorporeal could never enter into the mind of any man by nature. Men who did not know that apparitions, such as ghosts, were nothing else but creatures of the fancy, thought that they were real substances. The term 'incorporeal spirit' is meaningless; men can never have any image of anything answering to words which are contradictory. Spirits are thin aerial bodies. A spirit is bounded by position and shape, that is by its ends and magnitude: and hence is a body, though thin and imperceptible by sense.¹ The 'men that by their own meditation arrive to the acknowledgement of one infinite, eternal and omnipotent God choose rather to confess He is incomprehensible, and above their understanding, than to define His nature (the Latin text here inserts *praeter Scripturae auctoritatem*) by spirit incorporeal, and then confess their definition to be unintelligible'. Such men may indeed call God an incorporeal spirit, but, in doing so, they are not defining His nature, but are piously honouring Him by not attributing to Him any of the grossness of visible bodies. Hobbes thus indicates a natural way in which men may arrive at monotheism. Though he does not say so, this way is not open to men who have had no experience of the commonwealth. A scientific approach is not possible in the case of men who can have no science.

Even within the commonwealth few men have science. For the most part men 'hope for good or evil luck, superstitiously'. Hence Hobbes speaks of four natural seeds of religion: opinion of ghosts, ignorance of second causes, devotion towards what men fear, and taking of things causal for prognostics. Through diversity of fancy these seeds produce different ceremonies. In the English text this is presented as a difference between different men; in the Latin text it is a difference between different commonwealths. What is approved in one commonwealth is held ridiculous in another.

It is only the seed of religion which is naturally planted in

¹ O.L. iii. 87.

man, and the seed must be cultivated if it is to yield its harvest in religion. Religion is neither superstitious fancies nor philosophic speculations as to the nature of God, but law. Therefore it is by the founders of commonwealths that the seeds of religion are cultivated among their followers. The founders of commonwealths cultivated the seeds 'with a purpose to make those men that relied on them, the more apt to obedience, laws, peace, charity and civil society'. In the Latin text the purpose is simply to make men more obedient. Though Hobbes does not say so, the only naturalistic cultivation is by men who cultivate the seed according to their own invention (*secundum suas ipsorum phantasias*), and in founding commonwealths are also founders of religions. In this case religion is a part of human politics, and teaches part of the duty which earthly kings require of their subjects. The religions of the Gentiles were instituted by their legislators according to the Latin text.

At this point Hobbes goes beyond the bounds of natural experience. There is another sort of men by whom the seeds of religion are cultivated. These 'have done it, by God's commandment, and direction', or in the Latin text, to these religion was commanded (*praecepta*) and prescribed by God Himself. In this case religion is Divine politics, or in Latin, politics is part of religion, and 'containeth precepts to those that have yielded themselves subjects in the kingdom of God'. Religion here was instituted by Abraham, Moses, and Jesus Christ, who taught us the laws of the kingdom of heaven.¹

Hobbes suggests that religion and commonwealth not only do, but must, come into existence together. Each implies the other. Religion is essential for every commonwealth.² Historically the origin of the commonwealth has been associated with false or with revealed religion. False religion, if believed to be true, is sufficient for earthly government. The Gentiles, who know not the revealed law of God, can yet attain, despite false religion, knowledge of that law as naturally implanted in them in principle. Their civil laws are, in part at least, interpretations, good or bad, of this law. The revealed law of God

¹ O.L. iii. 89.

² Ibid. 549.

is not derived to every believer by individual revelation immediately from God, but mediately through his earthly sovereign. Christ did not give a new law but a conclusive confirmation of the law thus derived unto us.

The existence of a Kingdom of God has been indicated. Where God Himself by supernatural revelation planted religion, He made to Himself a peculiar kingdom; there the civil law is a part of religion, and the distinction of temporal and spiritual dominion has there no place. God is King of His Chosen People by covenant, but He is also King of all the earth by His power. The existence of the Kingdom of God is clearly stated, but Hobbes will speak of this kingdom 'more largely' at a later point.

He devoted about a third of the chapter to a discussion of the absurd opinions of the Gentiles, and to the design of the authors of their religions. His object was practical. *Leviathan*, though partly a work of science, is wholly a polemic. The controversial note, struck in the first chapter, though its subject is sense, is absent from few chapters. This note, pronounced in the treatment of madness in Chapter VIII, is dominant in Chapter XII. Hobbes was contending above all against any claim to an independent spiritual dominion. His aim at this point was to illustrate the opportunity which the superstition of the many, a product of their ignorance, offered to the ambition of the few.

Another considerable portion of the chapter is devoted to the causes of change in religion. Here Hobbes is dealing with revealed religion, and the Reformation is the change which is uppermost in his mind. All the causes of religious change can be reduced to one cause, displeasing priests.

What is said in *Leviathan* regarding religion can be supplemented from *De Homine*.¹ Religion is defined as the outward worship of men who sincerely honour God. Such men believe that God is the omnipotent and omniscient creator and ruler of all things, and that He distributes prosperity and adversity according to His will. Religion thus consists of two parts; an

¹ O.L. ii. 118-29.

inward faith, and an outward worship. The inward faith, generally called natural piety, is prior to the outward worship to which it necessarily gives rise. Faith beyond natural piety and of things placed beyond the capacity of human nature is opinion. Faith beyond natural piety rests on the authority of the speakers. There is no reason for belief apart from a preceding opinion that the speaker knows in some supernatural way the truth of what he says. We must believe first that the speaker has done something supernatural. If private men are to be believed without miracles, why should we believe one rather than another? If religion, beyond natural piety, does not depend on private men, it is necessary with the cessation of miracles that it should depend upon the laws of the commonwealth. Religion therefore is not philosophy, but is in every commonwealth law. As law, religion is not to be disputed, but implemented. Natural piety cannot, and need not, depend upon civil law. It is indisputable that men should honour God, and that He should be loved, feared, and worshipped. These things are common to all religions. This means of course the natural piety can never be a threat to the peace of the commonwealth. Questions as to the nature of God, the founder of nature, are too curious, and are unnecessary for works of piety.

In creating man rational, God engraved His law upon the heart of man; that no one should do to anyone what he would think inequitable if done by another to himself. In this precept the whole of justice, and of civil obedience, is contained. For anyone, if endowed with sovereign authority, would think it inequitable in a subject to disobey his commands, or to dispute his authority. Is not therefore the civil law a certain rule for the actions of subjects? Obedience to the civil law is a divine command, and therefore a part of religion. In obeying the civil law the righteous man worships God; but he is a righteous man only if his outward act of obedience is the expression of the inward sincerity with which he honours God.

In Chapter XII Hobbes warns his readers that there is an indispensable factor in the construction of the commonwealth

which cannot enter directly into his own construction. Religion should not be mingled with philosophy. All that he can at present do is to indicate that there is a factor of which account must, and will, be taken after the theorems of civil philosophy have been demonstrated. He did this in *Leviathan* but not in *De Cive*, because he now recognized that there could not be a naturalistic counterpart of religious obligation.

VII

THE NATURAL CONDITION OF MANKIND¹

1. *The Methodological Fiction*

THE analysis of man, as knowable from experience, ends with Chapter XII. In Chapter XIII Hobbes takes the first step in his treatment of the construction of the commonwealth. Men do not of their own nature coalesce into commonwealths. In one respect political construction must differ from geometrical. A geometrical figure is made of, but not by, points and lines; a commonwealth is made both of, and by, men. It has first to be shown how men, naturally impatient of restraint, can come to desire the construction of a commonwealth which is necessarily restrictive of individual liberty. The cause of the commonwealth has to be discovered in the nature of man. The first step is to consider 'the natural condition of mankind, as concerning their felicity, and misery'.

Abstraction, a necessary device of science, is always a fiction of the mind. Hobbes never shrank from pushing this device to an extreme. He began his teaching of natural philosophy by feigning the annihilation of the world.² He now feigned the annihilation of the commonwealth. The state of nature, as depicted in Chapter XIII, is the product of a methodological fiction of the philosophic mind. It is a state of absolute liberty in the sense of total absence of subjection, and men are viewed as natural persons who have never had any experience of a commonwealth.

Abstraction does not end here; for Hobbes explicitly states, though only incidentally, that his account of the state of nature is an 'inference made from the passions'. Though passion is commonly dominant, every adult has some use of reason. But

¹ L. Ch. XIII.

² E.W. i. 91.

the inference is not made from the whole nature of man but only from his passions. It is made, however, from basic passions which are ineradicable in men whether outside or inside the commonwealth; and in particular from the fear of death which is common to all men. Hobbes can draw some of his illustrations from men inside the commonwealth, e.g. resentment at a slight upon a man's profession or nation. He can show his readers that some of their actions within the commonwealth proceed from some of the passions upon which his inference is based. He is drawing a timeless inference from ineradicable passions, and, in doing so, he displays what man must suffer so long as these passions are unrestrained. The inference can, and should, be from passion alone, because reason is not by itself an adequate restraint upon passion.

2. *The State of War*

Man's passions make him the most formidable and rapacious of beasts. Man can make weapons more deadly than tooth or claw, and man is the only animal whose desires are insatiable.¹ Hobbes obviously agreed with Pliny that no other animal is more wretched or more proud than man.² Prudence, an animal quality, merely increases anxiety.³ Anxiety as to the future makes desire insatiable. This leads to conflict; and pride makes conflict deadly.⁴

The natural equality of men was for Hobbes not merely formal and juridical but a substantial equality of physical strength and of natural wit. Such differences as here exist are insufficient to warrant any claim to superiority. No man need be held back from the struggle for existence by the thought that he has no chance of success; given a favourable opportunity, the weakest can kill the strongest. Equality of hope leads to competition and aggression. This gives rise to diffidence, or distrust of others. From diffidence proceeds defensive war. Though man's chief natural end is conservation, it is sometimes 'delectation only'. There are men who take 'pleasure

¹ *O.L.* ii. 91.

² *E.W.* v. 186.

³ *L.* 55 (*E.W.* iii. 95).

⁴ *O.L.* ii. 147 (*E.W.* ii. 7).

in contemplating their own power in the acts of conquest'. Hence men who would be glad to be at ease within modest bounds can hope to preserve themselves only if they increase their power; anticipation, that is getting in the first blow, is the best means of defence. Hence despite differences in the strength and objects of passion, every man is involved in war. Some make war for gain; the vainglorious for reputation; the moderate for safety. The state of nature is a war of every man against every man. Hobbes properly made his point in naturalistic terms; but he could make it also in Scriptural terms.

For though the wicked were fewer than the righteous, yet, because we cannot distinguish them, there is a necessity of suspecting, heeding, anticipating, subjugating, self-defending, ever incident to the most honest and fairest conditioned (*etiam bonis et modestis*).¹

The most dangerous of the passions is what from a naturalistic standpoint must be called glory, though from a religious standpoint it is vainglory. Chapter XIII thus yields a principle which is explicit in *Leviathan* itself, but is here given in the words of *De Corpore*:² 'the appetites of men, and the passions of their minds, are such, that, unless they be restrained by some power, they will always be making war upon one another'. This is the empirical principle which Hobbes required for the construction of the commonwealth. It is not a rational but only an empirical truth that the commonwealth is necessary for peace. If men were governed by reason, they could have peace without subjection. But they have ineradicable passions contrary to dictates of reason. As the glory of some makes all insecure, Hobbes called the final presentation of his political doctrine *Leviathan*. Leviathan is king over all the children of pride.³

The state of nature is a state in which every man is perpetually insecure, and one therefore in which actual fighting must perpetually recur. The consequence is that the state of nature, when it is a state, not of commonwealth in relation to commonwealth, but of individual man to all other men, is a brutish state.

¹ O.L. ii. 147 (E.W. ii, p. xvi).

² E.W. i. 74.

³ Job xli. 34.

To this war of every man against every man, this also is consequent; that nothing can be unjust. The notions of right and wrong, justice and injustice, have there no place. Where there is no common power, there is no law; where no law, no injustice.

Justice and injustice 'are qualities, that relate to men in society, not in solitude', or in the Latin text, justice is a quality of man, not as man, but as citizen. It is also consequent to this state of war that there is no property.

Hobbes is here concerned, not with the relationship between man and God, but with the relationship between man and man. The justice which is absent from the state of war is that human justice, which men make by covenants and laws, a justice which consists in observance of covenants, and consequently in respect for the property rights of others. It is implied here, as elsewhere in *Leviathan*, that there can be no covenants between men who are at war with one another prior to the covenants by which they make peace.

The right of nature does not appear until Chapter XIV. The absolute liberty of Chapter XIII is not the right of nature; it is not limited by law or by dictate of reason. Hobbes, in the role of a chorus commenting on jungle war, can say that some conduct is 'generally allowed', some 'ought to be allowed', some 'reasonable'. The language of the Latin text is more cautious. In English, there is no way of security 'so reasonable' as anticipation; in Latin, there is no better way. Nothing is pronounced reasonable in the Latin text; the phrases used are '*concedi solet*' and '*concedi debet*'. It is clear that the aggression of the vainglorious man cannot be called unjust. It is liberty, and not right, which is the mark of this jungle war. There is total absence of subjection, that is total absence of law and right. This absolute liberty or independence of man is, however, no more than a fictitious part of the methodological fiction required for the construction of the commonwealth.

The account of the state of nature is, however, based on a view of human nature, and Hobbes found it necessary to deny that he accused man's nature. Though Scripture clearly declares that all men are wicked, it cannot be granted without

impiety that they are wicked by nature. Hobbes denies that such a conclusion follows from his principle. The passions which arise from our animal nature are not wicked in themselves. The actions which proceed from such passions are guiltless so long as men do not have an adult use of reason. Children, wanting the free use of reason, are exempt from all duty. In *De Cive*, Hobbes sought to assimilate the wicked man to the man of childish disposition, and malice to defect of reason.¹

The corresponding passage in *Leviathan* raises difficulty, because it is written in terms of sin. Sin is a transgression of a law, and in Chapter XIII Hobbes is concerned with the relationship, not between man and God, but between man and man. There is no reason to doubt his sincerity; he did not think that men were wicked by nature. On such a view no man could be virtuous. Man's nature is such that, aided by God's grace, he can be virtuous. The passage is in the nature of a vindictory interpolation rather than a contribution to the main argument of the chapter.

The desires, and other passions of men are, in themselves, no sin. No more are the actions, that proceed from those passions, till they know a law that forbids them; which, till laws be made, they cannot know; nor can any law be made, till they have agreed upon the person that shall make it.

The Latin text continues: why should we try to demonstrate to learned men something of which not even dogs are ignorant? In daylight dogs bark only at approaching strangers, but in the darkness of night they bark at all who approach.

In the state of war men are in the darkness of night, unilluminated by the light either of reason or of Scripture. In 1646 Hobbes had said that men could sin against God in the state of nature;² but in *De Cive* those who wage the war of every man against every man have some knowledge of right and of dictate of reason. In *Leviathan* the fictitious state of nature is a brutish state of animal innocence. Men have as yet no more

¹ O.L. ii. 146-8 (E.W. ii, pp. xiv-xvii).

² O.L. ii. 164 n. (E.W. ii. 9 n.).

than the natural seeds of religion. Reason is acquired wit; and the hot passions of war are perturbations of the mind which fight against reason. The war of every man against every man is an irrational state, which men will seek to end as soon as they acquire an adult use of reason. It is the misery which results from this war which instructs men in the use of reason, and it does so, by first cooling hot warlike passions, and inclining men to peace.

The implication seems to be that it is only through knowledge of a human legislator that men come to acknowledge God as supreme legislator. If the first law which men know is civil law, how can they institute the commonwealth? All that Hobbes can suggest, in a naturalistic treatment, is that they can acquire sufficient use of reason to discover necessary articles of peace, which are not properly laws; or rather that they learn to read the fundamental principle of equity which God has engraved upon their hearts. Until they do so, they wage jungle war in animal innocence.

3. *The Possibility of Peace*

Chapter XIII perplexes the reader as he has to disentangle for himself the two things which Hobbes is doing at once. Hobbes is making a timeless inference from ineradicable passions, an inference which is therefore valid for all human situations; but he is at the same time relating this timeless inference to a particular hypothetical situation. As this situation is one in which these passions are subject to no restraint from fear of some visible power, his procedure has for him the incidental advantage that the evil consequences of these passions can be displayed at their starkest. But the procedure is imposed upon him as the necessary first step towards the construction of the commonwealth.

Construction implies time. The state of nature is always a tract of time, for it is a state of war, and war is a tract of time. But throughout this tract of time the fiction of the mind is constant. The hypothesis is not a hypothesis as to the inclinations of individual men but as to the absence of subjection. While

the hypothesis remains constant, men's inclinations may change. The passions which conduce to war cannot be eradicated, but experience of the misery which results from their unrestrained exercise may incline men to act differently. What is now in question is not, as apparently in *De Cive*, a universal necessity by which all men are led to erect commonwealths, but the emergence of a possibility that some men be necessitated to do so. This need not be more than a possibility; it is historically incredible that something akin to far-sighted economic man should issue from jungle war. In Chapter XIII Hobbes has shown what man must suffer, if passion is not adequately restrained; in the succeeding chapters he is going to show what man can achieve as rational creature.

He had to admit the element of temporal sequence, but was little interested in it, and even less interested when he wrote *Leviathan* than when he wrote *De Cive*. The possibility of peace consists partly in man's passions, partly in his reason. Passion still initiates; it is only to men inclined to peace that reason can suggest convenient articles of peace. Even the brief statement in *Leviathan* indicates that the passions which misery excites are not the hot passions which fight against reason. Even vainglorious men fear death, and may therefore be led to seek peace. Hobbes made clear in *De Cive*¹ that the fear on which he reckoned was not panic fright but a provident fear. The hope which accompanies this fear is not the hot confident hope which leads to aggression but a calm hope that, given security, a man will be able to procure by his own industry what is necessary for commodious living. In such a frame of mind a man is ready to listen to what reason suggests.

Temporal sequence plays a minimal part in civil philosophy, as in geometry as conceived by Hobbes. The temporal relationship of cause and effect has the same place in both sciences: it is necessarily implied in construction. When the commonwealth, or a geometrical figure, has been constructed, a timeless logical deduction from the definition is possible.

¹ *O.L.* ii. 161 n. (*E.W.* ii. 6 n.).

4. *The Historicity of the State of Nature*

Civil philosophy is a logical study which has no need of history. In the Latin text of *Leviathan* Hobbes declared that neither natural nor civil history was any part of his subject.¹ The references to history are no part of the philosophic argument. The scientific legitimacy of his methodological fiction is wholly independent of the historicity of a primitive state of nature. This question had little interest for Hobbes, but he thought:

It is very likely to be true, that since the creation there never was a time in which mankind was totally without society. If a part of it were without laws and governors, some other parts might be commonwealths.²

It is not clear whether the annihilation of the commonwealth in *Leviathan* implies the annihilation of the family; and the point is of no importance. The state of nature is a state of war of every man with every man in respect to whom he is in that state; but parents and children are not in the state of nature in respect to one another. Hobbes regarded the family from two different points of view. It could be regarded as a rational association, a form of dominion explicable in terms of contract. But the family is also a natural association. The concord of the family is based upon natural lust, upon passions which do not dissociate but associate men. Hobbes did not think that solitude was natural in man; men regard solitude as an enemy.³ The argument in Chapter XIII is not affected if every belligerent is regarded as the head of a family.

The state of nature is, however, more than a fiction. There are men who live outside any commonwealth. Hobbes cites the savages of America as a contemporary illustration. They live in the brutish condition of the state of nature, because their associations, based on kinship, give no adequate security against external enemies. It is only as a member of a commonwealth, numerous enough to give adequate security against external enemies, that a man emerges from the state of nature.

¹ O.L. iii. 66.

² E.W. v. 183-4.

³ O.L. ii. 158 n. (E.W. ii. 2 n.).

Even so he may on occasion find himself in the state of nature in respect to some individuals, as when attacked by highwaymen. Moreover reversion to the state of nature is always possible. This was for Hobbes an essential point. No ill-constructed commonwealth can long endure. In such a commonwealth civil war is a constant threat; and with the outbreak of civil war the commonwealth is dissolved; its members return to the state of nature. Hobbes did not mean that civil war dissolves every social bond; the state of nature is not the same as in the case of men who have had no experience of the commonwealth. But he did mean that civil war endangers the life of every former member of the dissolved commonwealth, whether combatant or not. Any man may fall a victim to the lawless deserters¹ from both sides.

Furthermore, commonwealths are always in the state of nature in respect to one another. This, however, is a case by itself, for what is here involved is a relationship, or absence of relationship, not between natural persons but between artificial persons.

¹ *E.W.* v. 184.

VIII

NATURAL LAW AND NATURAL RIGHT¹

1. *Introduction*

HOBBS'S division of his treatment of the laws of nature into two chapters was not arbitrary. Chapter XIV is devoted to the two fundamental laws of nature, dictating peace; and there is a real distinction between these laws, and the laws deduced and explained in Chapter XV. The first law of nature is not called *the* fundamental law of nature in the Latin text, because the second law of nature is also fundamental in a different sense. The first is fundamental in the sense that it states the end to which all the laws of nature which enter into moral science are directed. From this law therefore all the other laws deduced by Hobbes are directly or indirectly derived. In the English text the first law of nature is the fundamental law, because in moral philosophy the final cause is the efficient cause.

The second law of nature, though derived from the first, is fundamental in the sense that, in the form in which it is stated in *Leviathan*, though not in *De Cive*, it contains all the laws of nature which are necessary for peace:

That a man be willing, when others are so too, as far-forth as for peace and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself.

This second law of nature is derived from both branches of the general rule of reason. It is directed to common defence as well as to mutual peace, to a more profitable use of the right of self-defence than is possible when that right is exercised by each individual separately. More important is the addition in *Leviathan* of a second clause to this law, which makes it a summary

¹ Ch. XIV.

of the whole law of equity. Equity, in the special sense in which the term is used in the eleventh law of nature, is the virtue of an arbitrator or judge, and hence of a sovereign, but equity, in the broad sense in which Hobbes more usually uses the term, is the fundamental principle of all the laws of nature necessary for peace.

No virtues are derived from these two laws, because the virtues are more specific than general dispositions to peace and to equity. The man who has such general dispositions will have all the virtues and none of the vices derived in Chapter XV, which is concerned with the laws of nature from which are derived virtues conducive to peace and vices conducive to war. There can be no science of the laws of nature with which Chapter XIV is concerned. The true and only moral philosophy is the science of the virtues and vices deduced in Chapter XV.

At the end of Chapter XIII the reader is prepared for the deduction of the convenient articles of peace, which reason suggests to men inclined to peace by experience of the misery of war. Hobbes, however, now says that these articles are otherwise called the laws of nature. This cannot, and does not, affect the deduction of the articles of peace; but it does affect the treatment of the articles once they have been deduced. The three paragraphs with which Chapter XIV opens are in the nature of an interpolation; but the interpolation is necessary, if the articles of peace are to be principles for the construction of the commonwealth. It is by means of this interpolation that Hobbes introduces that obligation of conscience which he held to be indispensable for the construction of the commonwealth.

Obligation of conscience is introduced through the definition of a law of nature. But this definition is preceded by the definition of the right of nature. Hobbes had started in *De Cive* from the right of nature, but even in *De Cive* the right of nature had not been divorced from the law of nature. In *De Cive* the two are associated, but on equal terms. So long as right and law are presented solely in terms of reason, they are co-ordinate; but right is clearly subordinate to a law by which

a man is forbidden. The theme of Chapter XIV, as its title clearly indicates, is not right but law. The chapter is chiefly concerned with the law which requires the laying down of the right to all things, and with contract, a legal instrument for the transfer of right. The right to all things plays a much less prominent part in *Leviathan* than in *De Cive*; it is introduced as an obstacle to peace, of whose existence, as right, men become aware only when they become aware also of a law which requires them to be willing to lay this right down. Hobbes recognized that his definition of the right of nature could not be explained except in connexion with the definition of a law of nature.

2. *The Definition of a Law of Nature*

In defining a law of nature, Hobbes was defining a term which he held to be an impropriety of speech. He decisively rejected as improper the usage which included counsel under law, in accordance with which dictates of reason concerning the goodness of actions were laws because reasonable. From the first he had emphasized that the laws of nature are 'of nature', as knowable by natural reason, but that they are 'laws', only as the commands of the Author of Nature.¹ But this particular impropriety of speech was too convenient to be denounced and discarded; it had the advantage of suggesting either dictate of reason or law of God as occasion required. Hobbes exposed the impropriety, and sought to make the term respectable, as signifying a fiction of the mind confined to the abstract realm of discourse of the new science of which he was the founder.

In *De Cive* he had so emphasized dictate of reason that he had reduced a law of nature to *lex quaedam*, which was not command. In *Leviathan* he gave to nature all that was necessary for his purpose, but he defined a law of nature decisively as a prohibition. A law of nature is a precept 'by which a man is forbidden'. It is not to be supposed that Hobbes vitiated a basic definition by introducing metaphor into it. He had

¹ *E.L.* 72 (*E.W.* iv. 109).

tried to do without *prohibetur* in *De Cive*; he introduced it in *Leviathan*, because he now recognized that, without a law by which a man is forbidden, men could not construct the commonwealth. The metaphor of binding appears only in the explanation of the definition.

He defined a law of nature, because the law of nature is simply a collective name for a multitude of laws of nature. These laws of nature prohibit many things which are destructive of man's life. But Hobbes did not think that the laws of nature were so comprehensive that they prohibited everything that was destructive of life. Moral science is based on the supposition that every man endeavours all he can to preserve himself, and that he does so 'not only by right, but also by necessity of nature'.¹ Hobbes distinguishes the right of nature from necessity of nature; and the English text seems to correct the Latin '*naturae non modo lege, sed etiam necessitate*'. Such a methodological supposition is not invalidated by the kind of exceptions which Hobbes freely admitted. Man has many obligations connected with preservation but no universal and absolute obligation to do everything he possibly can to preserve himself from the first death.

The definition cannot declare, as the best definitions do, the generation of the thing signified by the term defined. God is the cause of law but here, as elsewhere, science must start from secondary causes. A law of nature, thus defined, brings right in its train. In saying that law binds or obliges Hobbes means that every law binds or obliges. He does not start from natural obligation, which he never attempted to explain in *Leviathan*, but from a multitude of natural obligations. Law is introduced naturalistically in Chapter XIV, and there is a suggestion that law is an external impediment to action. Here, as in the case of his psychology, Hobbes is merely attempting to vindicate his materialism.

Hobbes may have been 'rare for definitions';² readers of *Leviathan* certainly find his definition of a law of nature a rare puzzle. The solution which I propose is derived from a

¹ L. 79 (E.W. iii. 139); O.L. iii. 117.

² A. i. 394.

consideration of what he said about the method which he attributed to Euclid. The abandonment of the concept of arbitrary impediments to liberty made the problem of the construction of the commonwealth peculiarly difficult for Hobbes. He could feign that men outside the commonwealth were absolutely independent, but he was convinced that in reality God was the only independent Being. Without arbitrary impediments to liberty an independent being is incapable of obligation. If men outside the commonwealth are, by fiction, absolutely independent, they cannot construct the commonwealth. They may promise to obey a person, and may obey him, but they can never be subject to him. Each can obey only on his own free reckoning of consequences. Each remains independent, and free to depart, when he chooses, from what is not a commonwealth but a temporal league, into which he has entered from private interest without any obligation of conscience. No man can impose this natural obligation upon himself or upon another. Hence men outside the commonwealth must be subject to a law by which they are forbidden to violate faith, if Hobbes is to solve his problem of construction.

In Hobbes's thought obligation always implies an obliger. He had to exclude from his philosophy the only moral obliger, God, and yet had to ground all civil obligations upon the natural obligation to perform covenants. He did this, by defining a law of nature as a precept by which a man is forbidden. Obligation without an obliger is a consequence of command without a commander. A command without a commander seems an absurdity; but the method of Euclid, as understood by Hobbes, shows that this is an uncandid interpretation.

The method of Euclid suggests that postulates are indispensable in construction; but Hobbes could not here imitate Euclid. Euclid could ask with confidence that it be granted that he could draw a straight line between two points, but Hobbes could not ask that it be granted that he could perform any operation which would result in obligation of conscience. But definitions precede postulates in Euclid's exposition of geometry because some definitions are principles not of

demonstration but of construction. Euclid had to define a point before he could postulate that he could draw a straight line between two points. Hobbes's definition of a law of nature is a principle of construction. The laws of nature are not deduced from the definition of a law of nature but as necessary articles of peace.

The making of definitions is no part of Euclid's geometry, nor of Hobbes's civil philosophy. In his definitions a philosopher teaches, not his science, but his language. All doctrine begins at the understanding of words. All definitions 'proceed from common understanding'.¹

Common understanding suggests common usage. Hobbes's definition of a law of nature does not correspond with the usage of his time, but he is not propounding a private definition. He is founding a new science, and proposing a definition which shall be common to all students of that science. He proposes to make use of a term which he holds to be an impropriety of speech arising from common misunderstanding of the name 'law'. He is discarding the common misuse of the term, and is proposing a new meaning for it as a term of civil philosophy, that is as a term of art.

Hobbes held that Euclid's definition of a point was a 'sound and useful' definition 'respectively to the matter of geometry'.² His own definition of a law of nature is therefore to be interpreted respectively to the matter of civil philosophy. It is easy to make nonsense of such definitions by an uncandid interpretation which ignores their restriction to a particular artificial realm of discourse.

Hobbes framed a fictitious concept which results in obligation of conscience without an obliger so that he could construct the commonwealth without recourse to man's subjection to God. Though obligation is not named in the definition of the commonwealth, covenants are, and performance of covenants is an obligation of conscience imposed by the third law of nature. His definition of a law of nature is not a definition of a law of God, nor of a dictate of reason, but of a fictitious

¹ *E.W.* vii. 225-6.

² *Ibid.*, 200-1.

tertium quid which is more than dictate of reason but less than law of God.

The difference between Hobbes and Euclid is obvious and essential. Hobbes's fiction is not an abstraction from something of which he had sensory perception. He did not explain to his readers that he was feigning obligation, but his reticence is probably to be attributed to a desire to conduct his retreat from the method of *De Cive* as unobtrusively as possible.

It is only by definition that a law of nature relates to preservation. The laws of nature which enter into civil philosophy relate to preservation from dangers arising from discord. Actual manners are moral only in the sense of *mores*, or habits. A natural distinction can be drawn between habits conducive to peace and habits conducive to war. But manners conducive to peace are for Hobbes morally as well as naturally good only because commanded by God. The laws of God, as revealed in Scripture, command actions and dispositions which are in fact conducive to preservation. In Hobbes's civil philosophy preservation by definition marks out the moral sphere; in his Christian thought preservation, the natural good to which God's laws are directed, marks out the moral sphere in fact. On Hobbes's definition of a law of nature respectively to the matter of civil philosophy a man has no duty in connexion with the preservation of others except as a means to his own preservation. From what is said regarding the duty of the sovereign,¹ it can be inferred that any man who is trusted by others has a duty to endeavour to procure the end for which he is trusted. It may be said that he accepts the trust only as a means to his own preservation. Hobbes never had occasion to disclose his whole thought on this subject; all that can be said is that his limited naturalist theory is not incompatible with religious belief that there are offices of trust, e.g. of parents, which are naturally incumbent on men.

It is only by dictates of reason which relate to preservation that a man is forbidden, and it is only 'respectively to the matter' of civil philosophy that a man is forbidden by such

¹ L. 178 (*E.W.* iii. 322).

dictates. If this is rational obligation, rational obligation is for Hobbes a fiction indispensable for civil philosophy, but confined to this abstract realm of discourse. It is as absurd to look for rational obligation in the world of concrete realities as it would be to look for a point without magnitude.

3. *The Definition of the Right of Nature*

Right and law are so closely associated that they are often confused. Hobbes insists that they 'ought' (*debere*) to be distinguished. In distinguishing them as contraries, he affirms their relationship. Right (*jus*) is a meaningful term only in relation to law. Right consists in liberty to do or to forbear; law determines and binds (*obligat*) to one of them; 'so that law and right, differ as much as obligation and liberty, which in one and the same matter are inconsistent'.

The right of nature is not natural power but liberty to use such power for preservation according to a man's own judgement and reason. This is no more than a right of endeavour. There is no right of achievement; and in this sense there is no natural right to life or to anything else. In fleeing from an enemy, a man may fail to jump over a ditch, and must fail to jump over the moon. If he attempts the impossible—and no man will attempt what he knows to be impossible—he errs, but he does not exceed his right of nature. No law of nature in Hobbes sense forbids a man to attempt to jump over the moon. It is needless for law to prohibit an impossible action.

The right of nature is liberty. 'By liberty, is understood, according to the proper signification of the word, the absence of external impediments.' Hobbes does not here suggest that in his definition of the right of nature he uses the word liberty in any sense other than its proper signification. As in *De Cive* there is in *Leviathan* only one proper sense of the word liberty, the absence of external impediments to bodily motions. But in Chapter XXI he distinguishes the liberty of subjects of the commonwealth from corporal liberty; and in the English but not in the Latin text he says that corporal liberty is liberty in the proper sense. The corporal liberty of a man is freedom

from chains and prisons, that is the absence of external physical impediments to external motion of the body. It is difficult to avoid the conclusion that Hobbes knew that there was a difference between the liberty which is right, the liberty with which civil philosophy is concerned, and liberty in what was for him the proper sense of the word; and that he sought to minimize this difference.

In Hobbes's religious thought the right of man is a privilege which God has given man.¹ God, as King, governs mankind by His moral laws. Law, as command, cannot constitute right, but law leaves, and so allows, liberty, by its silence.² Right is allowed liberty. The right which the silence of God's moral laws allows to man is properly moral liberty. In Hobbes's science the right of man can find a place only as the right of nature, as liberty left or allowed by the silence of the laws of nature. If this liberty is to be liberty in the proper sense of the word, it should be absence of external impediment to the inward motions of the mind, which are inward bodily motions. In the English text Hobbes wrote: 'Impediments may oft take away part of a man's power to do what he would, but cannot hinder him from using the power left him, according as his judgement, and reason, shall dictate to him.' He is here concerned with the liberty of a man and presumably with the liberty which is the right of nature. He does not say that impediments always take away part of a man's power to do what he would. The man who is tied lacks, not the power, but the liberty to go; the man who is confined to bed by sickness lacks, not the liberty, but the power to go.³ External physical impediments never take away intrinsic natural power (*potentia*). This suggests that the external impediments which Hobbes here has in mind are impediments to that liberty which is the right of nature, impediments or obligations by laws of nature. Such impediments cannot take away natural power, or corporal liberty to use natural power. But the liberty which is civil right is a civil power made by covenant.⁴ Civil

¹ *E.W.* v. 185.

² *O.L.* ii. 315 (*E.W.* ii. 186).

³ *E.W.* v. 368; *L.* 110 (*E.W.* iii. 196).

⁴ *E.W.* v. 98.

right is not *potentia* but *potestas*. It would therefore seem that in this passage Hobbes treats the liberty which is the right of nature as *potestas*. Laws may restrict man's *potestas* but do not hinder him from using the *potestas* which they leave him. This seems the least unsatisfactory interpretation of this odd passage. Unfortunately it does not occur in the Latin text, where Hobbes would have had to choose between *potentia* and *potestas*. The liberty which is the right of nature differs from liberty in the proper sense of corporal liberty. Hobbes's materialism made it impossible for him to develop this difference, and, indeed, led him to blur the distinction. His moral science may demonstrate what obligations are necessary for mutual peace and common defence, but he cannot explain obligation, and the contrary liberty, in terms of materialism.

The right of nature is limited, not by preservation, but by laws of nature. It is as unreasonable to say that preservation limits right, as that preservation limits law. Preservation, as the end towards which both right and law are means, defines the sphere of morality, a much wider sphere than the sphere of moral science. The right of nature is much more than the right of war, but it is only as the right of war that it can enter into a moral science restricted to preservation from dangers arising from discord. In such a science the right of nature is relative not to all laws of nature, but only to laws dictating peace. Hobbes neither said nor implied that a man has a right to endeavour to do everything which he thinks will save his own skin. A man has such a right in Hobbes's science only against an enemy. An unlimited right of self-defence against an enemy is a right limited to self-defence against an enemy. Hobbes never had occasion to consider the case in which a man endeavoured to save his own skin at the expense of a friend, but much that he did say implies that he would have condemned such endeavour. The definition of the right of nature is no more itself the right of nature than the definition of a law of nature is itself a law of nature. It is at this point that the dependence of the right of nature upon the laws of nature, and the dependence of the definition of the right of

nature upon the definition of a law of nature, both become manifest. The definition of the right of nature does not, and cannot, contain any indication as to how the right of nature can be found out. The right of nature cannot be found out directly, for where there is no law there is no right. The right of nature can be found out only indirectly by discovering the laws of nature applicable to the situation. And it is the definition of a law of nature which indicates how laws of nature are found out directly, and the right of nature indirectly. Hobbes defined *the* right of nature because there is only one right of nature. The right of nature is always liberty to use natural power for preservation according to individual judgement. But this liberty varies in extent according to varying circumstances as different laws of nature apply to different situations.

There is no right of nature beyond the sphere of conduct affecting preservation. Beyond this sphere it is inappropriate to say that a man acts *jure* or *sine jure*; at most he acts *recte*. There is no right of nature where there is no knowledge of law. Here there is simply the innocent irrational liberty of animals, children, and madmen. Only those with an adult use of reason can have the right of nature and be obliged by the laws of nature. The right of nature is absence of obligation, resulting from the silence of known laws of nature. This right is not simply liberty but 'blameless liberty'.¹ God will not blame men for using the liberty which His laws leave them. Though Hobbes does not call right, blameless liberty, in *Leviathan*, he continued to treat it as such.

The right of nature, or the privilege which God has given man, is the only moral right, not only in Hobbes's moral science, but in his moral thought. It is a liberty of endeavour which is blameless because the actions to which it relates are morally indistinguishable actions; here man is at liberty to deliberate, and to act as he judges most advantageous to himself. This is moral right simply as liberty allowed by the Moral Law. As this law is eternal reason as well as the command of God, nothing that is done with right is against reason, though

¹ *E.L.* 55 (*E.W.* iv. 83).

much that is done with right may be imprudent. The good and evil here in question are simply natural, never moral. In Hobbes's moral thought it is not right, but obligation, which is moral. Right is negative, a mere absence of obligation, just as corporal liberty is negative, a mere absence of physical impediment. Hobbes's morality is a morality of law, not of right; it is law, not right, which makes the difference between the moral and the natural goodness.

4. *A General Rule of Reason*

The definitions are followed immediately by a single unbroken deduction of a single precept or general rule of reason. In this deduction right appears before law, but law is not deduced from right; both are deduced as reasonable, and neither has logical precedence over the other as reasonable. In the state of war of every man against every man each man is necessarily governed by his own reason; and there is nothing that may not be a help to some man in preserving his life against his enemies. In the struggle for life it is not reasonable that any hold should be barred; that is to say, in the condition of war the right of nature is the right to all things. The right to all things does not get even a paragraph to itself. It appears only when the transition is being made from war to peace. It then appears because reason suggests to men inclined to peace that the most important obstacle to peace is that in the irrational state of war it is reasonable that a man should have a right to all things. The right to all things is treated in *Leviathan*, not as a cause of war, but as a consequence of war and an obstacle to peace.

So the deduction concludes with a double-branched precept or general rule of reason which comprehends both the first law of nature, and the sum of the right of nature. In this conclusion law is given precedence over right; this is hardly justifiable if the precept is only one of reason; but is wholly justifiable if right is related to a law by which a man is forbidden. Law and right are for Hobbes the twin foundations of moral science, linked as such in a single rule. This is a rule of

Jus, *Recht*, *Droit*, in the inclusive sense which he refused to recognize. Limiting law to command, he gives it priority over right; but he will not call a rule which includes right, a law.

The two branches differ even as parts of a rule of reason. The first branch lays down a specific thing which all men should seek; nothing here is left to individual judgement: the second branch leaves everything to individual judgement. This is analogous to the distinction between law and right, but is not in itself that distinction: for no distinction between obligation and liberty can be grounded on reason alone. The man who acts on his own judgement acts as freely when he follows a general rule as when he makes a decision in accordance with unique circumstances. The distinction of the two branches into law and right is wholly dependent upon the definition of a law of nature as a precept by which a man is forbidden.

The first branch is a precept, found out by reason, concerning what is to be done for preservation. As it thus falls under the definition of a law of nature, observance of it is obligatory on every man who has found it out. Men, inclined by natural appetite to seek peace, find that it is obligatory as well as necessary to seek peace. Two are required to make peace; so this law of nature, in so far as it relates to actions, is a law of reciprocity. But the obligation to seek peace where it can be found is an absolute obligation on the inward man; every man is bound to desire, and to endeavour to secure, peace.

The second branch of the general rule of reason is the right of self-defence. This is the right of war, and offence may be the best form of defence. The right of war is the right to all things. This right is available only in a situation in which a man has no hope of obtaining peace: it is therefore subordinate to the obligation to seek peace. A man has no right to wage war merely to gratify himself by contemplating his own power in his acts of conquest. And there are laws of nature which a man may violate even in his dealings with an enemy. Cruelty never conduces to preservation. Here, however, there is no common known measure. Only a general principle is available. A hurt to an enemy, however severe, is not cruel, if

it has some future good as its object; a hurt to an enemy, however trivial, is cruel, if it has as its object only revenge for past damage. The right to all things is limited by law to what a man honestly thinks necessary for his own preservation. No man ever has any right to do in hot blood to an enemy what he recognizes in a cooler moment as unreasonable. Honour sets further limits to what a man will do in time of war. Some acts are dishonourable as a sign of weakness. The weaker party in a struggle for life will have recourse to devices which the stronger will shun. The weaker has the right to do so, but he will suffer in honour.

It is only in the state of nature that the right of nature is the right to all things. The right of nature possessed by the subject of an earthly sovereign is a very limited right which Hobbes discusses in Chapter XXI. Yet for him the right to all things seems to have a special claim to be considered the right of nature, as that right in its complete unabridged form. He does not even call the retained right of nature of the subject of a commonwealth, the right of nature; he calls it the true liberty of a subject; it is true liberty in the sense of natural right, but it is not the right of man as the subject of the commonwealth but as the subject of God.

5. *The Laying Down of Right*

The second law of nature is concerned with the laying down of right when others (not another) are also willing to do so. The right to all things is to be laid down simultaneously by a number of men and to a specified extent—so far as each thinks necessary for peace and defence of himself. Agreement as to the extent to which right has to be laid down is assured because men who listen to reason are presumed to reach the same right conclusion.

The laws of nature which dictate peace are laws of reciprocity. If others will not lay down their right to all things, there is no reason why any man should divest himself of his. Hobbes's definition of a law of nature enables him to say that no man is 'bound' to 'expose himself to prey'. But he goes

behind his philosophic fiction of command without a commander to the reality from which the fiction was derived, when he says that the second law of nature is the law of the Gospel; whatsoever you require that others should do to you, that do you to them.

Right is laid down either by simple renunciation or by transfer to another. Simple renunciation plays no part in Hobbes's theory. Transfer of right is effected by contract or by gift. The only gift which is of importance in the theory is a gift which is made under covenant—the gift of authority to a sovereign by institution. All that Hobbes has here to show is that the sovereign merits what he receives from the free grace of his subjects.

Not all rights are alienable. Hobbes now views the right to all things as divisible into an alienable and an inalienable part. A man's object in laying down right as in all other voluntary actions is some good to himself. The motive and end of the laying down of right 'is nothing else but the security of a man's person in his life, and in the means of so preserving life, as not to be weary of it (*vitae et mediorum ad vitam conservatio*)'. A man cannot lay down the right to resist those who offer violence to his body. A man also retains the right to resist those who would deprive him of any thing which he would rather die than lose.

6. *Contract, Covenant, and Gift*

Contract cannot be prior to law. Contract is a legal instrument for the transfer of right, that is to say, of liberty allowed by law. Contract must be prior to all human laws, and hence must be an instrument of natural law.

A covenant is always a part of a contract, but is not a necessary part. A cash sale is a contract in which there are no covenants; the things themselves are here delivered simultaneously with the transfer of the right to them. This case is of no importance for the theory. Where one party delivers the thing simultaneously with the transfer of the right, but the other promises to deliver in the future, the first contracts but

does not covenant, while the second covenants. This is the case in sovereignty by acquisition: the sovereign contracts but does not covenant, while the subject covenants. The right, though it is a right of future time, is transferred immediately by covenant. The man who covenants is trusted in the meantime by the other party, who is to get the thing as his due. Finally there is the case of the contract in which each party covenants. It is by covenants of mutual trust that men institute the commonwealth.

The signs of contract need not be express words for there are signs by inference. Whatsoever sufficiently argues the will is a sign by inference of contract. To Hobbes acceptance of protection is a sufficient sign of the will from which to infer a covenant to obey the protector.

In free gift only one of the parties transfers right. The man who makes a gift has always some good to himself as well as to the recipient in view. The good to himself may be 'to deliver his mind from the pain of compassion'. The good which a man has in view in making a gift of authority to a sovereign is his own security. In the case of gift, unlike that of covenant, the right does not pass with words of the future, if these words merely express a present intention to make a future gift. The right does pass, if the words express a present gift, though delivery is delayed. And if there are other signs of the will to transfer the right besides words of the future, e.g. if a man offers a prize to the winner of a race, the right passes, though the gift be free.

The man who performs first in contract is said to merit what he is to receive from the other; it is said that the thing deserved is due by promise.¹ A man may also merit a prize but with a difference. 'In contract, I merit in virtue of my own power, and the contractor's need.' The winner of a prize has the prize as his due, but he merits it only through the benignity of the man who offered the prize. Hobbes here refers to the scholastic distinction between *meritum congrui* and *meritum condigni* to illustrate his point; but 'only this I say; when a gift

¹ L. 49 (E.W. iii. 84).

is given indefinitely, as a prize to be contended for, he that winneth meriteth and may claim the prize as due'. The case which Hobbes here intends to cover is that of the sovereign by institution. Though he does not merit that any man should part with any right, he does merit that when men have covenanted to authorize a sovereign whom they will select, he, the selected person, rather than any other, shall have the sovereignty. The sovereign by institution merits sovereignty in the same way as a prize-winner merits the prize, and he has it as his due.

IX

MORAL VIRTUE¹

1. *Laws of Virtue*

A LAW of nature was for Hobbes a naturalistic representation of a moral law of God. In Chapter XV of *Leviathan* he derived qualities of men from necessary articles of peace which are by definition laws of nature. These qualities are not necessary, but only conducive, to peace. Yet Hobbes treated laws of nature as essentially laws of moral virtue. In the marginal summary the important laws are stated as qualities. When he argued that the science of the laws deduced in Chapter XV is the true and only moral philosophy, he summed up the means of peace as 'Justice, Gratitude, Modesty, Equity, Mercy, and the rest of the laws of nature'. And when he said that as dictates of reason the laws of nature are but theorems, he did not make them theorems concerning what is necessary, but 'concerning what conduceth to the conservation and defence' of men. Finally,

For the laws of nature, which consist in Equity, Justice, Gratitude, and other moral virtues on these depending, in the condition of mere nature (as I have said before in the end of the 15th chapter) are not properly laws, but qualities that dispose men to peace and to obedience.²

Even in their scientific expression as rules of necessary conduct the theorems are for the most part framed in terms of such generality that they are more often indicative of qualities than of specific actions.

The virtues can have a place in Hobbes's moral science only as qualities conducive to peace. In relation to preservation in this world actions necessary for peace are more important than qualities conducive to peace. Had Hobbes not been above all a religious moralist, he could have confined his civil philosophy to actions necessary for peace. Preservation in this world is the

¹ L. Ch. XV.

² L. 141 (*E.W.* iii. 253).

natural good to which morality is the means, and hence the natural end of morality. The moral virtues have to be conceived naturalistically as a means to a natural good. Preservation in this world is not necessarily the moral end of the Moral Law. In relation to salvation virtue is more important than action. There can be no moral absolute in Hobbes's moral science. He never speaks of a moral absolute; but there are clear indications that in his thought God is the Moral Absolute. The commands of God are not only commands but right reason; and these commands are laws of virtue. The virtues are eternal and are morally good. Even as dictates of reason the laws of nature are immutable. To ask whether the laws of nature, as laws of virtue, could be changed is philosophically as inept as to ask whether a true geometrical theorem may be altered.

Hobbes adhered to the traditional view that moral philosophy is the science of virtue and vice. The virtue which is defined and measured by the civil law is the justice of the just man as citizen. Most men may observe the civil law, and yet lack this virtue. Moral philosophy is more concerned with virtue than with conduct. But civil philosophy, as politics, is more concerned with conduct than with virtue.

The crux of the political problem, so far as this world is concerned, is to compel vicious men to do what is necessary for peace. Hobbes's pre-occupation with this problem tends to obscure his concern for the morality of man as citizen; in relation to peace the virtuous constitute no problem. Yet the commonwealth has for Hobbes a moral function, though he cannot include that function in a naturalist definition of the commonwealth since for him a moral function is a religious function. His naturalist theory implies that virtue, at least so far as it relates to peace, is impossible outside the commonwealth. The moderate men who would be glad to be at ease within modest bounds seem men capable of acquiring the virtues. But they cannot acquire the moral virtues while diffidence causes them to wage war; the virtues which correspond to their actions in this state are not moral virtues, but force

and fraud. It is only the security provided by the commonwealth which can enable them to act in accordance with their propensities, and so convert propensities (*ingenia*) into virtues (*mores*). The sovereign cannot compel his subjects to be virtuous, but it is part of his duty to endeavour to make them virtuous by the public instruction which he ought to provide for them.¹

Hobbes associated wisdom with moral virtue. The harvest of philosophy is that certain knowledge which is wisdom. Other things being equal, the wisdom of science gives a man an advantage, even in such a matter as the use of the sword, over an opponent who has to rely merely on prudence arising from practice. Much science is wisdom.² True wisdom is nothing else than knowledge of truth in every subject.³ But at other times Hobbes draws a distinction. A man with knowledge of a speculative science, such as geometry, is not generally called a wise man, 'but only he that understandeth what conduceth to the good and government of the people'.⁴ Knowledge of truth is for Hobbes subservient to action. So in *Behemoth* wisdom is efficiency free from knavery;

wise, as I define it, is he that knows how to bring his business to pass, without the assistance of knavery, and ignoble shifts, by the sole strength of his good contrivance. A fool may win from a better gamester by the advantage of false dice, and packing of cards.⁵

In the English text of *Leviathan* Hobbes appears to confuse his own distinction between prudence and wisdom; craft is the 'crooked wisdom' of the pusillanimous, who add the use of unjust or dishonest means to prudence; but in the Latin text craft is '*prudentia sinistra*'.⁶

Though men could have peace without subjection, if they could observe the laws of nature without compulsion, the laws deduced in Chapter XV foreshadow the erection of the commonwealth. In this chapter Hobbes deduced seventeen laws—the third to the nineteenth—but he did not derive any virtue

¹ Ch. XVI (2).

³ O.L. ii. 136 (E.W. ii, p. iii).

⁵ B. 38 (E.W. vi. 211).

² L. 22 (E.W. iii. 37).

⁴ E.L. 140 (E.W. iv. 211).

⁶ L. 35 (E.W. iii. 60); O.L. iii. 58.

or vice from the last eight. He derived five virtues, justice, gratitude, sociability, mercy, and equity, and four vices, cruelty, contumely, pride, and arrogance.

Justice, in the special sense in which the third law of nature is the law of justice, is a settled disposition of the mind to keep faith with other men. This is the cardinal virtue of the subject of a commonwealth. This is the only virtue of which there can be science, as it is the only one for which there can be a certain rule and measure, the civil law. The subject of the commonwealth may rejoice that his just actions are sometimes also charitable actions, but the only opportunities which he has for exercising any moral virtue independently of justice are in cases not covered by the civil law.

A subject may often have opportunities for displaying gratitude, and a sovereign by institution ought to be grateful to his subjects for their gift of sovereignty. Without gratitude there will be no beginning of benevolence, nor of mutual trust, nor of mutual help, nor of reconciliation of enemies; and therefore men are to remain still in the state of war. Hobbes obviously attached great moral value to gratitude. Yet there is little or no place in his theory for gratitude as a factor influencing political conduct. It can hardly be supposed that men in the mere state of nature, even when inclined to peace, have any experience of gratitude, or even much expectation of gratitude. In the case of subjects the justice which consists in obedience to civil law is sufficient for mutual peace and common defence; gratitude is no more than an additional grace. And the gratitude of the sovereign by institution can be no more than an additional grace, with moral, but without political, significance. The rights of a sovereign by acquisition are the same, and no greater than, those of a sovereign by institution, and each is obliged to exercise his function in the interests of his subjects.

The law of 'compleasance', or of sociability, forbids the retention by any one of things which are superfluous for himself, and necessary to others. The man who is incapable of acting in accordance with this law should be left out, or cast out, of society. This is not a law against economic inequality.

In the war of all against all there is no property. The man who is here in question is the man who claims for himself rights which he will not concede to others. Such a man is ungovernable as a subject. The law that every man strive to accommodate himself to the rest may morally mean more than this, but can hardly mean more politically. Politically this law is the contrary of the law against arrogance. But it is not easy to draw decisive distinctions between a number of laws, all concerned with equality. All subjects ought to be equal, except for distinctions among them arising from civil law, and from the use which they have made of their civil liberty. They should avoid the vice of contumely, which displays itself in signs of hatred or contempt. Above all they should avoid the vice of pride, which springs from a denial of the natural equality of all men.

As a Christian Hobbes repudiated Aristotle's doctrine of the natural inequality of men. But natural equality has meant different things to different Christians. To Hobbes it meant that it was against both reason and experience to base the distinction between master and servant upon differences of natural wit. Nature made men equal; and, even if men had not been by nature equal, it would still be necessary for peace that 'every man acknowledge other for his equal by nature'. Men will not enter into conditions of peace except upon equal terms. The inequalities which now exist among men arise, not from nature, but from civil law, that is to say, are not natural but artificial.

Hobbes's attitude to these artificial inequalities was that of a conservative. There is no indication that only prudence held him back from criticism of distinctions of rank, or of inequality of landed possessions. On the other hand he displayed intense suspicion of the rising class of merchants, monopolists, and moneyed men. In only one case did he evince hostility to economic inequality. It is a disease of the commonwealth 'when the treasure of the commonwealth, flowing out of its due course, is gathered together in too much abundance in one, or a few, private men, by monopolies, or by farms of the

public revenues'.¹ This is evidence of hostility only to moneyed men, to the concentration in the hands of the few, not of wealth in general, but only of the precious metals. Hobbes's only concern regarding economic inequality in general was political rather than economic; the power of the wealthy might be politically dangerous, and might lead them to think that they could transgress the law with impunity. At the other end of the scale the poor, if left to starve, would cause disorder.

The virtue of man as a subject of the commonwealth consists solely in a settled disposition of the mind to obey the civil law. Such obedience is prescribed by the law of nature, and is justice and equity. The virtues of human sovereigns are qualities which tend to the maintenance of peace at home, and to the resistance of foreign enemies. Fortitude, frugality, liberality, are royal virtues.² But these are political virtues of the sovereign rather than moral virtues of the man. The moral virtue of man as sovereign is justice and equity, in the sense of a settled disposition of the mind to act in accordance with the laws of nature applicable to his situation. This includes dispositions to deal equally between men, between whom he is trusted to judge, which is equity in a narrower sense, dispositions to mercy, and to the avoidance of cruelty.

Controversies may arise even 'though men be never so willing to observe the laws of nature'. Men ought to submit such controversies to arbitration, and must do so, if peace is to be preserved. It is another law of nature that no man is his own judge. The sovereign judges his subjects in respect only to words and deeds, and can himself be judged by no man. If he were, he would be no sovereign, but subject to an earthly superior. But all men, subjects and sovereigns, will be judged in the world to come.

There can be no science of the virtues and vices of sovereigns, for the virtues and vices of sovereigns will be defined and measured naturalistically by actions in accordance with the varying appetites of different sovereigns. The only virtue of

¹ *L.* 177 (*E.W.* iii. 320).

² *E.W.* vi. 219-20.

which there can be science is that justice and equity which men themselves make by pacts and civil laws. 'The sum of virtue is to be sociable with them that will be sociable, and formidable to them that will not.' To be sociable, is the law of nature in peace; to be formidable, is the law of nature in war.¹ There could be no place for this memorable saying either in *De Cive* or in *Leviathan*. In war, force and fraud are not contrary to any law of nature dictating peace, and in *Leviathan* force and fraud are in war the two cardinal virtues. But they are not moral virtues. The use of force and fraud is not commanded, but in certain circumstances allowed by the laws of nature; in employing force and fraud in such circumstances, man exercises his right of nature. In *Leviathan* all the laws of nature from which moral virtues are derived are contained in the second law of nature, which is equivalent to the Golden Rule of the Gospel. In *De Cive* the law of equity, which is there a law prescribing that each shall allow to others the same rights which he desires be allowed to himself, is the sum of the Moral Law; and Hobbes appears to equate equity in this sense with charity. To love one's neighbour as oneself is nothing else than to allow him everything which one claims should be allowed to oneself.² Hobbes seems to have recognized that naturalism had led him to do less than justice to the Christian virtue of charity. In *Leviathan* charity, as a natural passion, is equated with goodwill, or benevolence, as desire of good to another;³ and the sum of the moral law is mutual charity.

Hobbes's last philosophic treatment of the moral virtues is found in *De Homine*.⁴ Justice and equity, a single virtue, is the only moral virtue which we are able to measure by civil laws. Charity is the only moral virtue which we measure by laws that are purely natural. Every moral virtue is contained in these two. Propensities (*ingenia*) which are suitable for the beginning of civil society are good; settled dispositions of the mind (*mores*) by which civil society can best be preserved are

¹ *E.L.* 73 (*E.W.* iv. 110-1).

³ *L.* 26 (*E.W.* iii. 43).

² *O.L.* ii. 204 (*E.W.* ii. 57).

⁴ *O.L.* ii. 117-18.

good, and are moral virtues. As all the virtues are contained in justice and charity, all the vices are contained in injustice and in a stupid mind to harm others, a lack of charity.

Hobbes would not include fortitude, prudence, and temperance among the moral virtues. There is sometimes a coincidence between just and prudent actions. It is prudence as well as justice and equity in a subject to obey the civil law;¹ but justice is a moral virtue, and prudence is not. Fortitude, prudence, and temperance, are virtues not of men as citizens, but of men as men. In a naturalist treatment the virtues can appear only as profitable qualities of men; the moral virtues are profitable qualities, but there are profitable qualities which are not moral virtues. Fortitude, prudence, and temperance are profitable, not so much to the commonwealth as to their individual possessors. It should not be demanded (*Neque . . . postulari debet*) that the fortitude and prudence of private men, if profitable only to themselves, should be praised, that is counted virtues, by commonwealths or by other men, to whom they are not profitable. Hobbes has another reason why fortitude and prudence are not moral virtues, whether profitable to others or not. Both fortitude and prudence are strength of mind (*vis animi*) rather than goodness of dispositions (*bonitas morum*). There was for him an essential moral difference between the man possessed of the strength of mind to see and to pursue the whole way to his private natural good, preservation, and the man of good disposition who was moved by the justice of an imagined action. Temperance is not so much a moral virtue as the absence of those vices springing from propensities to greed, by which men, not commonwealths, are harmed.

Justice and equity were for Hobbes two names, signifying two aspects of the same virtue, a settled disposition of the mind to obey the laws to which we are subject. This virtue is called justice, because, in obeying the laws of a sovereign, Divine or human, we give him his due, his own, his right. But the same virtue is also called equity, because every man desires that others should give him his due, own, or right.

¹ *E.W.* vi. 219.

No substantial distinction can be drawn between justice and equity; but Hobbes sought to draw a terminological distinction for purposes of exposition. The broad effect, and hence presumably the object, of this distinction is to make justice the virtue of a subject of the commonwealth, as a settled disposition of the mind to fulfil his natural obligations to obey the civil law, and equity the virtue of a human sovereign, as a settled disposition of the mind to obey the laws of nature, the laws of God, which apply to his situation. The distinction is purely terminological; it hardly fits all the facts; and Hobbes did not adhere rigidly to it. The distinction enables him to say that a human sovereign cannot act unjustly, but may act iniquitously. But iniquity is injustice to God; and Hobbes did not scruple to say that the killing of Uriah by David was an injury, that is an act of injustice, to God.¹

2. *Justice not Contrary to Reason*

Hobbes maintained that it is never against reason, that is against a man's benefit, to perform his covenants, when he has security that others also will perform covenants made with him. The argument hardly deserves serious consideration as a vindication of the deduction of the laws of nature on the basis of private natural good. Elsewhere Hobbes emphasized the distinction between public and private natural good. He is not here concerned with the vindication of his method. Even in the Latin text his treatment is passionate, for he is asserting his religious conviction of the reality of justice against the fool who says that there is no such thing as justice and no God; and he is mainly concerned with issues of contemporary political practice, with usurpation, and with assassination or rebellion on pretext of religion. A naturalist argument is invested with religious passion.

As a moralist, Hobbes wholly rejected success as a criterion of action. In the Latin text he here, somewhat inconsistently, made the issue one, not of reason, but of prudence. Though breach of covenant may result in benefit, the action was in inception imprudent because the result could not be foreseen.

¹ L. 112 (E.W. iii. 200).

In the English text he here took refuge in equivocation; the fortunate outcome does not make the deed 'reasonably or wisely done'. The argument, for what it is worth, is that it is unwise to run the risk inherent in breach of covenant, however great the promise of success in the venture. It is unwise to trust to the uncertain guidance of prudence in a case which falls under the certain dictate of reason that men should in their own interest perform their covenants made.

The man who thinks it reasonable to violate his covenants can be admitted to, or retained in, the commonwealth only through ignorance (*per inscitiam*). It is against reason for a man to rely for his preservation upon the ignorance of others. In the English text Hobbes sought to strengthen this argument. No man can hope to preserve himself from destruction except by the help of confederates. He who declares he thinks it reason to deceive those who help him, can in reason expect no help from others. The man who breaks his covenant, and 'consequently declareth that he thinks he may with reason do so', can be received into, or retained in, a commonwealth only through the errors of others, and it is against reason for him to rely on such error for his preservation. This is not Hobbes's usual position. No man who does not acknowledge obligation of conscience, including the obligation to perform covenants, can be a member of his commonwealth; but every commonwealth includes an unjust majority. Every breach of civil law is a breach of covenant, but Hobbes's commonwealth provides punishments for such breaches other than extrusion.

Hobbes also dealt with the position of those who do not deny the reality, or the reasonableness, of justice, but who think that it may be on occasion a work of merit to kill, or depose, or rebel against the sovereign. In such a case breach of covenant is just and reasonable. Such men regard the laws of nature, not as rules conducing to preservation in this world, but as rules conducing to the attainment of eternal felicity after death. Hobbes's own position is that observance of rules conducing to preservation in this world is required of those who seek eternal felicity after death. But in the English text he was

content with a purely naturalist answer. The laws of nature are, as of nature, dictates of reason. There can be no natural knowledge of man's estate after death; this is a matter, not of natural knowledge, but of supernatural faith. Therefore breach of covenant cannot be called a precept of reason, or nature. In the Latin text at the end of his naturalist rejoinder, Hobbes recognized more realistically that his opponents were concerned with supernatural law. But we have no supernatural law beyond Holy Scripture; and it everywhere prescribes obedience to kings and observance of covenants.

On principles of nature only, Hobbes is unable to refute the reasoning which he calls specious, but false: as all the voluntary actions of men tend to the benefit of themselves, those actions are most reasonable that conduce most to their ends. In neither text did he deal clearly or satisfactorily with the real issue; whether breach of covenant is not sometimes the best means to secure a man's own private natural good. He himself indicates that breach of covenant may conduce to the contentment of a man's life; it is not prudence, but scorn of such means, which is the mark of the just man. The wicked may be irrational, but they prosper in this world.

3. *Justice of Men and Justice of Actions*

Justice, the main theme of moral science, is treated much more fully than any other virtue. This virtue is derived from the third law of nature, *That men perform their covenants made*. In this law 'consisteth the fountain and original of justice' (*in hac lege consistit natura justitiae*). The justice of men is natural justice, the moral virtue derived from this law of nature. The justice of actions is not moral virtue, and is man-made. In Chapter XV, as in Chapter XIV, Hobbes anticipates his argument in Chapter XVII by saying that there can be no actual injustice until the commonwealth has been constructed. Covenants of mutual trust are invalid where there is fear of not performing on either part. The cause of such fear cannot be taken away while men are in the state of war. Therefore before there can be actual injustice there must be a coercive

power to compel men to perform their covenants; and there is no such power before the erection of a commonwealth. Between men who continue to be enemies there can be no actual injustice, because there can be no valid covenants. The validity of covenants of mutual trust, human justice, and property, all depend on the erection of the commonwealth. This of course applies to individual men in the state of nature, not to sovereigns in relation to one another.

Naturalistically viewed, the justice of men is the conformity of manners, or manner of life, with reason. The just man does just actions; but he is not a just man because he does just actions; he does just actions because he is a just man. The just man takes all the care he can that his actions may be all just. In what is said of the unjust man, it is implied that the will of the just man is framed by the justice, not by the apparent benefit, of what he is to do. He has a constant will to give each what is his right. He may do a few unjust acts from sudden passion or from error. In the Latin text he is just in that he loves justice; he himself condemns his unjust actions, though done secretly, wishes them undone, and makes restitution as far as is in his power. The just man is distinguished by a rare nobleness or gallantry of courage; he 'scorns to be beholding for the contentment of his life, to fraud, or breach of promise'. In the Latin text he has a certain generosity of mind which makes him reject as unworthy anything that is owed to fraud or perfidy. The just man scorns fraud as unworthy, not as unprofitable.

The unjust man may do just actions. The Latin text says that a man may be unjust, though from fear or other crooked (*sinistra*) cause he may never have done injury to anyone. He neglects justice; his will is framed by the apparent benefit of what he is to do. It is significant that Hobbes does not say that the unjust man repudiates justice but only that he neglects it.

The difference between the just and the unjust man is a difference of manners. Hobbes does not say, and did not think, that just manners were just because they were in conformity with reason. All that can be said naturalistically of the

just man is that the term signifies one whose manners are in conformity with reason.

Hobbes has here done his best to give a naturalistic version of the Scriptural distinction between the righteous and the unrighteous man, including a naturalistic version of repentance. He indicated the Scriptural background when he said that just and unjust men 'are more often in our language styled by the names of righteous and unrighteous'. It was, however, always difficult for him to remain within the bounds of naturalism where fundamental issues were in question. The man who loves justice does not love it because it appears to be profitable to himself as means to a desired natural good. Hobbes of course does not attempt to explain why the just man loves justice. A passion for righteousness is not a natural appetite. Hobbes could not be satisfied with the only naturalistic distinction which he could properly draw between the just and the unjust man; the first sees and pursues the whole way to his preservation in this world; the second is deflected from that way by his pursuit of apparent good, which is in its consequences evil. The just man is guided by reason, the unjust man by passion. Hobbes in fact thought that the just man occasionally sinned through infirmity, while the unjust man habitually sinned through malice.

The justice of men is justice in relation to natural law. Justice, as a natural obligation, is an obligation on man as a natural person. This obligation is prior to civil law, and cannot be enforced by civil law, for it is obligation of conscience. The third law of nature merely states *That men perform their covenants made*. The performance of covenants is always an act, and this seems a reasonably specific law of action. Yet it also is for Hobbes essentially a law of virtue, obliging in conscience. The man who performs his covenants through fear of punishment is unjust: he transgresses the law of nature, because he does not act in conformity with reason, but from passion; he has acted, not under obligation, but freely in accordance with his own natural aversion, and his own reckoning of natural good and evil.

It is essential for the construction of the commonwealth that men should be capable of obligation; that they should recognize that they are bound by natural law. The unjust man, though he is neglectful of obligation, does not deny the existence of obligation; he could not be admitted to Hobbes's commonwealth if he did. All that is necessary for peace and common defence is that men should do from whatever motive what they covenant to do. Hobbes will not count as just the man who obeys the civil law from fear of punishment, the man who acts on the passion on which the civil philosopher reckons. But he reckons on this passion because he holds that most men are unjust.

In this treatment of the just man the essentially positive character of Hobbes's moral thought is evident. He presents the just man, not as hating injustice, but as loving justice.

Naturalistically viewed, the justice of actions is the conformity of particular actions with reason. In the context Hobbes's statement is clear enough, but it is loosely framed. He is concerned here only with the third law of nature. Performance of covenants is reasonable, but is not the only type of action that is in accordance with reason. The injustice of action is injury to the party with whom the covenant was made, but the damage may redound to a third party. 'But the justice of actions denominates men, not just, guiltless' (*hominem, non justum, sed insontem*). Human justice cannot pronounce a man just, but merely guiltless; there is a distinction between the just man and the law-abiding citizen. The unjust man who performs his covenant through fear of consequences is, humanly speaking, guiltless. He has done all that human justice requires.

X

OBLIGATIONS

1. *Introduction*

THE substance of Hobbes's moral thought could be expressed in the Scriptural terms of debt (*debitum*), service (*officium*), and accountability. But the metaphor of obligation passed easily from Roman Law into Christian thought. This old metaphor may have been specially congenial to Hobbes because it suggests an analogy between the moral and the physical. To him obligation implied an obliger, an obliged, and a bond, an instrument by or with which the binder binds the bound. Every law is a bond. God binds men by His moral laws.

Every obligation is a binding of a man. But sense, memory, understanding, reason, and opinion, do not fall under obligation. These 'are not in our power to change'; they 'are not the effects of our will, but our will of them'.¹ Obligation cannot be a factor in necessitating sense, memory, understanding, reason, and opinion; all these display merely the passive power of a man. Man's actions display his active power. Man has not active power to change his will, as last appetite for natural good. Will in this sense cannot fall under obligation. But man does not necessarily act always on will in this sense. The just man has will in this sense for the contentment of his life, but he scorns to be beholden for such contentment to fraud or breach of promise. Man always acts on the last dictate of his judgement, or understanding, but he does not always act on his own last appetite for natural good. The last dictate of the understanding may be that it is better to obey God than act on last appetite for forbidden fruit. Action on the will to obedience is possible, and in cases governed by God's laws is obligatory. In Hobbes's thought man is obliged, as a subject

¹ L. 199-200 (*E.W.* iii. 360).

of God, to have such a will. The justice which God requires is a constant will to give Him His due; and the man who has such a will has all the moral virtues and none of the moral vices. The virtues are obligatory. But the introduction of a will which is of grace leaves obligation by God's laws an inexplicable mystery.

2. *Two Types of Obligation*

Moral obligation was for Hobbes one type of obligation. In his thought this was a supernatural obligation of man by God, an obligation which does not arise out of any voluntary act of man, but is incumbent upon him. Hobbes forced this supernatural obligation into his naturalist theory as a fictitious natural obligation without an obliger.

Obligation of a different type arises out of covenant. This is obligation of man by man, and such obligation can arise only out of man's voluntary act in covenanting. Obligations of this type are essentially obligations of subjects by civil laws; ultimately they are obligations of a man by his words in covenant by those with whom he has covenanted. The obligation to perform covenants is moral, or natural, obligation by the law of natural justice in the special sense. There can be no actual injustice under this law until men have entered into valid covenants. The moral obligation to perform covenants is obligation by an eternal law; the obligation to perform every valid covenant cannot arise out of particular covenants. The obligation to perform covenants is antecedent to the making of any covenant. The obligation which arises out of covenant is subsequent to the particular covenant out of which it arises. Strictly it is *obligatio ex pacto*, not *obligatio ab pacto*. In making a covenant, a man makes a bond; the bond is the words which he has used, the promise which he has made. No man can bind himself, for he who binds can release. Only the other party to the covenant can bind a man by the words he has used in covenant. The obligation which arises out of covenant is not an eternal obligation; it has a beginning, and can have an end.

All obligations of man by man are obligations of promise;¹ all obligations of man by God are obligations of debt, though for Jew and Christian they are also obligations of promise under the Old or the New Covenant.

No man can impose any obligation upon himself. No man can impose any moral obligation upon any other man. Man can alter the situation of himself or of another; and different moral obligations attach to different situations.

Hobbes's exposition would have been clearer had he written in terms of moral and civil obligations, or of natural and artificial obligations. Covenants are artificial bonds. Natural obligation is real obligation; artificial obligation is an imitation of the real. All that is artificial must be grounded on what is natural. There is natural obligation to fulfil every artificial obligation; but an artificial obligation can be fulfilled by an unjust man neglectful of the natural obligation to fulfil it.² Natural obligation is above all obligation *in foro interno*, to which obligation *in foro externo* is consequent, except when a man has no security that others also will act in accordance with the laws of nature. Artificial obligation is obligation only *in foro externo*. Civil philosophy is the science of artificial obligations, of the obligations which are a certain rule and measure of the natural obligation to perform covenants, a measure of what the just man ought to do for the sake of conscience, and of what all men must do for the sake of peace, whether from conscience or under compulsion.

Artificial obligation is obligation only in virtue of the natural obligation to perform covenants.³ The justice of which this law is the fountain is human justice, a system of artificial rights and obligations, of legal as distinct from moral rights and obligations.

3. *Right and Artificial Obligation*

Hobbes dealt with the laying down of natural right, and with the artificial obligation which arises out of covenant, in Chapter XIV before he dealt with the natural obligation to

¹ *E.W.* v. 187.

² Ch. X (6).

³ *L.* 179 (*E.W.* iii. 324).

perform covenants in Chapter XV. Even in *Leviathan* he did not make clear the implications of what he misleadingly called the transfer of right. When a man lays down part of his natural right, he is artificially obliged, not to hinder those in whose favour he has laid down right from the benefit of their own natural right. It is both his natural and his artificial duty not to make void this voluntary act. Such hindrance is injustice and injury, as being *sine jure*. The conduct of the man who lays down right, and acts as if he had not done so, is akin to absurdity, but it is unjust only because he acts without right.

Hobbes is here concerned with the artificial justice of actions which men make by pacts and laws. Under the second law of nature a natural obligation to make this artificial justice, when others also are willing to join in making it, is incumbent on every man. At the end of Chapter XIV Hobbes introduces the natural obligation to perform covenants before he has deduced the third law of nature. A covenant, if lawful, obliges *per vim legis naturae*, or 'in the sight of God'.

Covenant is an instrument for the transfer of right; but there cannot be any transfer of natural right. What Hobbes calls a transfer of right is a laying down of a part of his natural right by one party, and the consequent making of an artificial right for the other party. No man has by nature anything as his due. His due or own is his artificial right. Hobbes wrote of the right passing in contract, without stopping to explain, possibly without even considering, what is implied in his position. He recognized that the laying down of natural right by the transferor cannot increase the natural right of the transferee. The transferor is now obliged not to hinder the transferee. The transferor has a natural obligation to perform his covenant; but he has not effected any change in the natural right of the transferee. There is no relationship between the natural right and the natural obligations of one man and the natural right and natural obligations of any other man. In respect to these no man is accountable to any other man. In Hobbes's religious thought moral right and moral obligations attach to each man solely as a subject of God. They concern

only the account which he must give to God of his relations with other men. But the transferor has also made an artificial bond and an artificial right¹ for the transferee to bind him with this bond. The artificial right of one man is a right to impose an artificial obligation upon the man who has made this right for him; all artificial rights are matched by artificial obligations on others. The artificial rights of one man are also grounded on natural obligation of other men. The moral ground of a man's artificial right is not the artificial obligation of the other, or his own natural right, but the natural obligation of the other to perform his covenant.

The natural end of an artificial obligation is the completion of the promised action or actions. Forgiveness is the artificial end of the artificial obligation. Forgiveness is 'the restitution of liberty; as being a re-transferring of that right, in which the obligation consisted'. The artificial obligation of the transferor consisted in the artificial right of the transferee to bind him with the bond of his words. This artificial obligation is ended by the transferee laying down the artificial right in favour of the obliged, whereby the latter recovers the natural right which he had previously laid down in favour of the transferee. In forgiveness, a man lays down no natural right, but only artificial right. The natural obligation consisted in the loss of natural right by the transferor, the artificial obligation in the acquisition of artificial right by the transferee. Man cannot release man from natural obligation to fulfil artificial obligation, but man can unmake, as well as make, artificial rights which are matched by artificial obligations. The forgiven, having been released by his human obliger from an artificial obligation, is no longer in the situation to which the third law of nature is applicable.

In Chapter XIV Hobbes is preparing the way for the construction of the commonwealth. It was of no importance to him to distinguish the artificial obligation which arose out of covenant from obligations by the artificial chains of civil law. But logically every subject of the commonwealth by institution

¹ Ch. XII (5).

is artificially bound by every other subject to authorize every act of the sovereign; he is bound by the words which he has used in covenanting with each. Hobbes was often too intent upon his object to complete his theory.

4. *Artificial Obligation and Liability*

Liability is, like obligation, a binding. Modern jurists insist that the one should be sharply distinguished from the other. 'Obligation relates to what a person ought to do because there is a duty laid upon him: liability to what he must do because he has failed to do what he ought.'¹ Though Hale could still write in 1676 of 'the obligation unto punishment',² Hobbes saw, and used, a distinction. In his hands liability strengthened artificial obligation. He relied, not upon natural obligation, but upon artificial obligation, strengthened by liability, to produce the obedience necessary for mutual peace and common defence. Liability may hold men to obligation by words. Liability, though a binding, is, unlike obligation, compatible with liberty; for liability is necessitation by fear of consequences.

Already in Chapter XIV it is to liability that Hobbes looks, in explaining the obligation which arises from covenant. These artificial bonds, being words, are in their own nature too weak to hold men. Hobbes is not here concerned with the holding of natural obligation. He is concerned with the bond of words in its own nature; and what is necessary in the case of most men is the strengthening of the artificial bond. The force of words can be strengthened by fear or glory. The argument is naturalistic; the force of words can be strengthened by two things in man's nature. Glory, or pride, in appearing not to need to break one's word is 'a generosity too rarely found to be presumed on'. This glory of the proud man is different from the nobleness, or gallantness of courage, of the just man. The just man is moved by love of justice, not by aversion from an act which may be taken as a sign of lack of natural power.

¹ G. W. Paton, *A Textbook of Jurisprudence*, Oxford, 1946, p. 115.

² *O.E.D.*

'The passion to be reckoned upon is fear.' Fear of invisible spirits is admissible in a naturalistic argument, as it is a fact observable by any man who will look into himself. Religion, in the sense of fear of invisible spirits, has a place in the nature of man before civil society. The bonds of words have their strength 'from fear of some evil consequence upon the rupture'. But in the state of war of every man against every man, neither fear of invisible spirits, nor fear of other men, is sufficient to keep men to their promises. Hobbes thus foreshadows his solution of the political problem. Fear may necessitate the doing of just actions by unjust men; within the commonwealth fear of the punishments appointed by civil laws may necessitate the obedience that is required for mutual peace and common defence.¹

Fear is also the passion on which Hobbes reckons for the erection of the commonwealth. It is therefore essential that covenants entered into in the state of nature from fear should oblige. Covenants of mutual trust are void upon any reasonable suspicion that the other party will not perform, and each man is necessarily sole judge on earth as to the reasonableness of his own suspicions. But if there is a common power set over them both, with right and force sufficient to compel performance, covenants of mutual trust are not voidable upon suspicion. Hobbes insists that the common power must have right as well as force to compel. The fear which makes covenants of mutual trust invalid where there is no common power must always be caused by something which arises after the making of the covenant. Covenants entered into from fear in the state of nature are obligatory; a man may lawfully covenant through fear to do anything which he may lawfully do without obligation. All this is intended to safeguard covenants made in the state of nature for the erection of the commonwealth.

5. *Obligation and Impediment*

Obligation is a binding which is incompatible with physical binding. In the state of nature at least the man who is

¹ Ch. XIV (4).

physically bound violates no law of nature, if he breaks his bonds and kills his binder. The metaphor of binding suggested to Hobbes an analogy between obligation and physical binding, an external impediment to motion. The analogy was congenial to one who sought to bring moral science within a materialist framework. But he never allowed his thought to be constricted by the analogy with physical impediment, or even by the metaphor of binding. He prudently made no attempt to develop the analogy. A physical bond can only restrain motion; but 'Right consisteth in liberty to do, or to forbear; whereas law determineth and bindeth to one of them.'¹ This suggests that law can bind to do. We speak in this way, but Hobbes should have dismissed such speech as absurd. If law commands that an act be done, subjects must have liberty to do that act; they are not bound to do it, but are bound not to omit it. A prohibition binds a subject not to do the forbidden act. Binding can restrain; but can never in any proper sense impel. Though Hobbes can write of an obligation holding or being broken, he often writes of neglect of obligation. The unjust do not so much break obligations of conscience as habitually neglect them. It is unrealistic to style anything that is negligible, a bond. Matters are made worse if obligation is conceived as analogous to impediment in Hobbes's sense. Resistance to action which a man has intrinsic power to overcome without any contrivance is no impediment; and when a man by contrivance overcomes what has been an impediment to him, e.g. a prison wall, it ceases to be an impediment. To break a physical bond is a physical triumph, to break an obligation a moral defeat. Man does not dispose of an obligation by breaking it; he remains accountable for the breach.

It would seem, however, that it is not obligation but liability which is analogous to impediment. It is the punishment appointed by the law, not the law itself, which Hobbes made an arbitrary impediment to liberty in *De Cive*. With the disappearance of arbitrary impediment the analogy between either obligation or liability and impediment ceased to have

¹ L. 66 (E.W. iii. 117).

any point. Halts are not impediments of unlawful actions but causes of lawful actions.

6. *The Fulfilment of Moral Obligation*

The conclusion which I here seek to establish is that it is improper to attribute to Hobbes any coherent doctrine of the psychology of the fulfilment of natural obligation. He never attempted to provide an entire doctrine of moral duty. The commonwealth must be based upon obligation of conscience, but a compelled fulfilment of artificial obligations is sufficient for mutual peace and common defence. Artificial obligations can be fulfilled by unjust men, unmindful of natural obligation. Natural justice is a constant will to give everyone his due. Man fulfils an artificial obligation when he gives another his due. The man who gives another his due because he fears that the consequence of breaking his promise will be hurtful to himself acts on his will, his last appetite, for natural good; he has not the will to give the other his due. His action is just, but he is an unjust man. The compelled fulfilment of artificial obligations is wholly prudential. In the case of compulsion, 'a man electeth the less evil under the notion of good'.¹

To show that there could be within the commonwealth sufficient prudential fulfilment of artificial obligations for mutual peace and common defence was a necessary part of Hobbes's design. Whenever obligation, natural or artificial, is fulfilled, fulfilment is extrinsically necessitated. The sovereign can necessitate sufficient fulfilment of artificial obligations by his subjects by compulsion; and Hobbes can explain such fulfilment in terms of his naturalist psychology. The fulfilment of natural obligation cannot be explained in terms of a naturalist psychology for it is God who necessitates such fulfilment. There is no good inclination that is not of the operation of God;² and this operation is not always natural. Subjects have a duty to do, not what their sovereigns do, but what they say; 'yet will that duty never be performed, till it please God to give men an extraordinary, and supernatural grace to follow

¹ *E.W.* v. 291.

² *L.* 231 (*E.W.* iii. 421).

that precept'.¹ The fulfilment of natural obligation is not of nature, but of grace operating either naturally, or supernaturally. It was impossible for Hobbes to provide a psychology of the fulfilment of natural obligation on principles of nature only; and for the accomplishment of his design he had no need to provide any psychology of the fulfilment of natural obligation.

He did, however, disclose certain thoughts on the matter particularly in his Scriptural confirmation of the laws of nature in *De Cive*.² Though a man should make all his actions such as the law of God, revealed in Scripture, commands, so far as outward observance is concerned, but not on account of the law itself, but on account of the punishment annexed to the law, or for the sake of glory, he is, nevertheless, an unrighteous man. God does not accept the lip-service of those who have removed their hearts far from him. This means that the Moral Law is fulfilled only when it is itself the cause of the act which is in conformity with it. This implies the will to obedience, the psychology of which Hobbes never attempted to explore apart from one controversial utterance. He confined himself to the psychology of the unrighteous man, the man whose outward observance of the law is necessitated by his natural will, his last appetite for some natural good to himself.

This is a professedly religious moral statement. There is no evidence that Hobbes ever abandoned the position; and it is inherently improbable that he abandoned what was a moral conviction rather than an intellectual conclusion. There is no similar passage in *Leviathan*, but what is said regarding obligation *in foro interno* confirms *De Cive*, so far as it goes. The laws of nature oblige 'to a desire and endeavour, I mean an unfeigned and constant endeavour' (*ad velle . . . velle, inquam constanter et sincere*).³ This means that men are obliged to have a will to obedience to laws which are contrary to their natural passions. This is not part of Hobbes's argument from principles of nature, but part of his explanation of what is implied in

¹ L. 162 (E.W. iii. 293).

² O.L. ii. 207-8 (E.W. ii. 60-61).

³ L. 82 (E.W. iii. 145); O.L. iii. 121.

a definition of a law of nature, which is not a definition of something which exists in nature.

In *De Homine*,¹ Hobbes associated love of God with fear of God. We are commanded to love and to fear God; and our love and fear of God are contained in works of piety, that is of faith. These works of piety consist in endeavour to obey God's laws, in thanksgiving, and in supplication. Hobbes explains how man's love of God is wholly different from his love of man. To love God is to do joyfully what He commands. Hobbes is more reticent about fear. All that he says is that to fear God is to take care lest we fall into sin, in the same way that we are wont to fear laws. This may mean that to fear God is to forbear reverently from doing what God prohibits. Hobbes cannot mean that we are commanded to fear hurt or punishment from God. An action done from fear of force, punishment, or other hurt from God or man is a compelled, voluntary, free, and necessary action.²

The fear of God which is associated with the love of God cannot be a natural passion. It is obligatory, and, as a natural passion, fear is consistent with liberty. Natural punishments are consequent to the breach of natural laws; rebellion is the natural punishment for the negligent government of princes.³ Hobbes never suggested that men were held to natural obligations by liability to punishment. All actions which men do in commonwealths for fear of the law are actions which the doers had liberty to omit.⁴ The doers fulfil their artificial obligations. They have neither moral nor civil liberty to omit the actions. They act as dutiful subjects of their sovereign, but not as dutiful subjects of God: in relation to God they act as free men, not as subjects. The little that Hobbes says concerning the conduct of the righteous man seems to leave no room for his necessitation by fear of punishment. His fear of laws is not a natural passion; it can be derived from his love of justice. On the other hand Hobbes thought that fear of punishment had a part to play in the acquisition of virtue. Good inclinations

¹ *O.L.* ii. 118-19.

² *E.W.* v. 287.

³ *L.* 196-7 (*E.W.* iii. 356-7).

⁴ *L.* 111 (*E.W.* iii. 197).

(*ingenia*) can be produced in a minority in youth by a combination of rod and example.¹

In *Leviathan*,² the obedience necessary to salvation is a serious endeavour to obey, the will to obedience. This obedience is sometimes called charity and love, sometimes righteousness, sometimes repentance. The obedience necessary to salvation is thus more than obedient actions. It includes the only two moral virtues which Hobbes finally recognized as such, charity and justice. He does not say that obedience is sometimes called fear. Hobbes's position seems to be that man is obliged to have a will to obedience rather than that the will to obedience is necessary to enable man to fulfil moral obligation. Even in his argument from Scripture he said little of the will to obedience;³ and he made no attempt to go behind it. This suggests that he held that the necessitation by God of the fulfilment of moral obligation by man was a mystery of religion, concerning which it was neither necessary nor profitable to chop logic, and that no attempt should be made to go behind the will to obedience to its causation.

Here, as elsewhere, Bramhall lured Hobbes farther than he ordinarily cared to go. Bramhall said that Moses and St. Paul were not of Hobbes's mind that 'of all voluntary acts, the object is to every man his own good'. Hobbes replied that this was false. Moses and St. Paul 'did what they did for a good to themselves, which was eternal life'. The man who believes 'there is an eternal happiness to come' will direct 'all his actions' towards its attainment.⁴ This brief statement is equivocal. To answer Bramhall, Hobbes should mean that Moses and St. Paul did each individual act as the result of a deliberation whose conclusion was that it was better for themselves to do it than to risk the loss of eternal life by omitting it. This, however, would be inconsistent with Hobbes's position both in *De Cive* and in *Leviathan*. If 'all' is interpreted, not as each individually, but as a whole (*omnes ut universi*), there is no inconsistency, but Hobbes did not meet

¹ O.L. ii. 113, 115.

³ L. 199, 327 (E.IV. iii. 360, 600).

² L. 320 (E.W. iii. 586).

⁴ E.W. iv. 377-8.

Bramhall's point. His psychology of deliberation is a psychology of particular actions. The best interpretation seems to be that Hobbes had been lured into the controversial indiscretion of seeking to go behind the will to obedience to its causation. The will to obedience is caused by belief, or faith, which is a gift of God, and for his controversial purpose Hobbes here relied upon belief in eternal life. The obedience necessary to salvation includes the virtues. The virtues give rise to virtuous actions easily and without struggle (*nec reluctante ratione*).¹ It is more credible that Hobbes had been somewhat disingenuous in controversy than that he had abandoned positions, stated in cooler moments in *De Cive* and in *Leviathan*, which were moral convictions. His normal abstention from any attempt to go behind the will to obedience is a better indication of his position than this controversial indiscretion. What he then said leaves unimpaired the two statements to which he had confined himself. Obligation by the Moral Law is fulfilled only when the Law is itself the cause of the action in conformity with it. The Moral Law is not fulfilled by actions necessitated by natural passions, such as fear of punishment, or glory. These two statements lead to the will to obedience, but do not go behind that will. Moral obligation is a mystery, of which Hobbes wrote in *Leviathan* only in terms of theistic belief, or of philosophic fiction.

¹ *O.L.* ii. 116.

PART THREE

THE NATURE OF THE
COMMONWEALTH AND
THE RIGHT OF THE
SOVEREIGN¹

XI

THE INSTITUTION OF THE
COMMONWEALTH²

1. *Introduction*

CHAPTER XVII of *Leviathan* is entitled, *Of the Causes, Generation and Definition of a Commonwealth*. The object of the construction of the commonwealth is to obtain a definition from which the *a priori* science of civil philosophy can start. As everything that can be demonstrated concerning the commonwealth is deduced from this definition, the definition must cover every property of the commonwealth, which can be treated naturalistically. The definition at which Hobbes arrived in Chapter XVII is fully applicable only to the commonwealth by institution. This Hobbes calls in the English text a political commonwealth, as distinct from the commonwealth by acquisition. He devoted a chapter to the commonwealth by acquisition; but civil philosophy is a study of the commonwealth by institution. This is the most rational of all commonwealths, and hence the fittest subject for study by the civil philosopher. The construction of a commonwealth by institution is put forward only as a possible construction. Whether any commonwealth has ever been constructed by

¹ *O.L.* iii. 559.

² *L.* Ch. XVII.

institution is an historical issue, and, as such, is philosophically irrelevant. The presumption, however, is that there has been no such construction to serve the philosopher as a model.

In Chapter XVII Hobbes gave only a summary account of the generation of the commonwealth, sufficient for the framing of the definition. The present chapter is confined to the consideration of this summary.

2. *The Cause of the Commonwealth*

The cause of the commonwealth is men's 'foresight of their own preservation, and of a more contented life thereby'. This is a final cause, but a final cause is for Hobbes an efficient cause. Final cause has no place but in such things as have sense and will; it has place only in moral philosophy.¹ The best definitions contain a declaration of the cause of the thing signified by the term defined, and the cause of the commonwealth as expressed in the definition is that the sovereign may use the strength and means of his subjects as he shall think expedient for their peace and common defence. It is to this end, rather than to the words of submission, that Hobbes recurs in his deductions. The commonwealth must be such that it can fulfil the intention of its makers. Fear of a violent death may incline men to peace, but a commonwealth cannot be a product of passion; it is a rational construction, a device suggested by reason and prudence to men inclined to peace. The end of each individual is his own preservation; each, as rational and prudent, recognizes that the commonwealth is a necessary means to that end, though it cannot be expected to secure in all circumstances the preservation of every subject from violent death. The end of the commonwealth is mutual peace and common defence, the necessary means of individual preservation from dangers arising from discord. Conflict between the end of the individual and the end of the commonwealth can arise only through irrational conduct on the part of subject or of sovereign.

¹ *E.W.* i. 131-2; *E.W.* vii. 82.

3. *Covenants without the Sword*

Hobbes has introduced obligation by laws of nature, and has given special attention to the obligation to perform covenants. Covenant, carrying with it obligation of conscience, is for him the indispensable foundation of a commonwealth. If we could suppose a great multitude of men to consent in the observation of justice and other laws of nature, without a common power to keep them all in awe, we might as well suppose all mankind to do the same, and there would be peace without subjection. There is no difficulty in supposing promises by a great multitude of men to observe the laws of nature; but 'consent in the observation' of these laws meant for Hobbes such a natural agreement of appetite among men that there was sufficient identity of private and public good for them to refer such differences as arose to judges, or arbitrators, and to accept their decisions unquestioningly. There is a complete natural *consensio* among bees and other social animals, but a natural *consensio* among men is accidental and fleeting. Men's passions do not unite, but dissociate them, and are contrary to the laws of nature, including justice, the performance of covenants.

All that is possible is that the misery of war may give rise to peaceful inclinations in a multitude of men, sufficiently numerous to ensure adequate common defence against external enemies. On Hobbes's view of human nature only a minority of such men will be pacific in disposition; the majority can have no more than a temporary inclination to peace, as impermanent as the fading memory of the misery which produced it. Such temporary inclinations cannot give rise to a lasting *consensio* of natural appetites. Agreement between men 'is by covenant only, which is artificial' (*consensio . . . hominum a pactis est, et artificiale*). Something else besides covenant is required to make such an agreement constant and lasting.

Covenant, and hence obligation of conscience, is indispensable, but covenants of peace without the sword are insufficient

for the attainment of the end in view. The point which Hobbes wishes to make is that there is one, but only one, kind of covenant which can give men the security at which they aim. A man is always obliged in conscience to perform a valid covenant. In saying that covenants are but words, Hobbes did not go beyond what is literally true; but he distinguished between 'words' and 'empty words'. Words in covenant are bonds; and behind the artificial bond of words, there is the natural bond of law. He did not say that covenants without the sword are of no strength to hold a man at all. A valid covenant without the sword has strength to hold a just man. What he said was that covenants without the sword are 'of no strength to secure a man at all'. ('Verba enim sunt, dumque verba tantum sunt, non timentur, ideoque ad securitatem hominum per se sine armis inutilia sunt.') Covenants without the sword have not strength to secure just or unjust men from destruction by unjust men. Covenants without the sword cannot restrain the warlike passions of unjust men, and hence cannot remove the diffidence felt by just men which is also a cause of war. The sword cannot oblige. The sword cannot make any man, or any action, just. The sword cannot be a substitute for obligation of conscience. The function of the sword is no more than to tie or hold men to artificial obligations; the sword can compel unjust men to do just actions, and this is both necessary and sufficient for mutual peace and common defence. Therefore the only covenants which will give men security against other men are covenants armed with swords by their makers.

Valid covenants can be made in the state of nature. Covenants without the sword if originally valid, would soon be invalidated by the emergence of new grounds of distrust; hence such covenants are useless. Hobbes, however, seems to go further than this and to suggest that no covenant without the sword, made by men who are in the bare state of nature, can be valid. As the state of nature is necessarily a state of war of all against all, each man must retain the right to all things so long as he remains outside a commonwealth. As any covenant

must diminish the right to all things, no covenant can be valid except covenants which end the state of nature by providing for the erection of a commonwealth. The first valid covenants are the foundations of the commonwealth. He had already said in Chapter XV¹ that mutual promises 'where there is no security of performance on either side, as when there is no civil power erected over the parties promising . . . are no covenants'. In the bare state of nature it would *a fortiori* be imprudent for any man to perform, trusting to the other to perform later, unless he thought that he had sufficient natural power to compel the other to perform.

The laws of nature contain everything that is necessary for peace. They do not directly require the erection of a coercive power, but they require the laying down of the right to all things when others are willing to lay it down also. The passions of men make it imprudent for them to lay down the right to all things without erecting a coercive power. No man is obliged to observe the laws of nature *in foro externo* where he has no security that others will observe them likewise; and the passions of men are such that there can be no such security in the absence of a visible coercive power. The first law of nature obliges men to be willing to do all that is necessary for peace. It therefore obliges men who know the consequences of their own passions to erect a coercive power as the only effective restraint upon these passions. Hobbes did not have a law of nature which obliges men to construct the commonwealth because the law of nature consists of precepts found out by reason. It is the law of nature in conjunction with self-knowledge which obliges men to construct the commonwealth. 'I ground the civil right of sovereigns, and both the duty and liberty of subjects, upon the known natural inclinations of mankind, and upon the articles of the Law of Nature.'²

The natural inclinations of mankind can be known only from experience, and experience is insufficient ground for any universal proposition. Hobbes's inference from the passions rests on the assumption that observed passions are ineradicable.

¹ L. 75 (E.W. iii. 133).

² L. 390 (E.W. iii. 710).

On his theory of knowledge this can be no more than highly probable. The principle that the passions of men are contrary to the laws of nature is not a rational principle; it is an empirical principle; and action on such a principle is prudential. The laws of nature are rational principles, but it is the empirical principle which suggests the institution of a coercive power.

4. *Covenants with the Sword*

Hobbes seems to have reduced the problem of the construction of the commonwealth to the problem of the construction of a visible coercive power; but this is only appearance. He does not construct such a coercive power as men exercise over beasts. Covenant, and consequent obligation of conscience, has to be the foundation on which the coercive power is erected. But the only covenants which will serve the purpose of men inclined to peace are covenants of authorization. Every man must covenant with every man 'in such manner, as if every man should say to every man, *I authorize and give up my right of governing myself to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner*'. By such covenants will is submitted to will, and judgement to judgement. The result is a commonwealth and from knowledge of its construction a definition is framed. A commonwealth is:

One person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient (*arbitrio suo*), for their peace and common defence.

In Chapter XVII there is a difference between the Latin and the English texts, of little importance in itself, which has a bearing upon the relationship of the two texts. In the Latin text the only way in which man can attain the peace at which they aim is *ut potentiam et vim suam omnem in hominem vel hominum coetum unum unusquisque transferat, unde voluntates omnium ad unicam reducantur*. The corresponding passage

in the English text reads: 'is, to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, into one will'. The least probable explanation of this difference is that Hobbes made, or slipped into, this alteration in translating from English into Latin. The most probable explanation is that when he wrote in English he recognized and corrected a slip which he had made in an earlier Latin draft which he published at the age of eighty without adequate revision. The Latin passage harks back to *De Cive*.

5. *The Real Unity of the Commonwealth*

When Hobbes wrote *De Cive* he seems to have regarded the commonwealth as a psychical unity; and even moral science could not reach beyond this naturalistic unity. The conception of the psychical unity of the commonwealth could not survive, once the concept of arbitrary impediment to liberty had been discarded. The man who acts from terror acts upon his own changed will; he is not united psychically with the sovereign who has caused the change in his will through fear of hurt, or with the fellow-subjects towards whom he has been compelled to act peaceably. There can never be a lasting natural *consensio* or concord among men; all that is psychically possible is an enforced concurrence of many wills to the same action; and concurrence differs from union.

Some psychical concurrence is necessary for the institution and maintenance of the commonwealth. A commonwealth is a visible coercive power, but it cannot rest on force alone. 'For if men know not their duty, what is there that can force them to obey the Laws? An army, you will say. But what shall force the army?'¹ Nor can the commonwealth rest on the right of the sovereign alone. 'It is not the right of the sovereign, though granted to him by every man's express consent, that can enable him to do his office; it is the obedience of the subjects that must do that.'² The 'power of the mighty hath no foundation but in the opinion and belief of the people.'³

¹ B. 59 (*E.W.* vi. 237). ² B. 144 (*E.W.* vi. 343). ³ B. 16 (*E.W.* vi. 184).

The psychical basis for the institution of the commonwealth is not a psychical unity among the multitude; each seeks his own preservation; there is here a concurrence of natural wills in erecting a commonwealth as the necessary means for the attainment of each man's private interest. Hobbes's chief practical object in writing *Leviathan* was to show how a psychical basis for the maintenance of the commonwealth could be secured by proper public instruction of the ignorant many. Most of the ignorant many were in his view unjust men. But their natural dispositions did not lead them into sedition or rebellion; they fell into these sins only when seduced by the ambitious few. The many could, and should, be taught, not only that sedition and rebellion were contrary to their duty, but that they were opposed to their interest as they inevitably brought general misery. In this way the many could be brought to love obedience. Here, again, Hobbes could not look for more than a concurrence of private interest in obedience in matters in which the many had little interest. The many are interested, not in public affairs, but in their own private concerns. Their love of obedience cannot, except in the rare cases of the just, be a preference of duty to seeming interest. Where, as in their private concerns, they see immediate benefit in disobedience they are likely to disobey unless held back by fear of punishment. But the many can be confirmed by proper public instruction in their natural disposition to accept the authority of the sovereign as unquestionable.

The prevention or punishment of crime is a manageable problem for a sovereign whose authority is undisputed; and the authority of the sovereign will be undisputed if the many cannot be seduced into sedition and rebellion. Subjects are moved to assist the sovereign by private interest, by hope of reward and by fear of damage. As unjust acts arise from passions which dissociate men, a self-interested concurrence of natural wills in repressing, or in punishing, such actions is easily attainable. The hands of most citizens are against the ordinary criminal. This is not unity but a concurrence which is made possible by the undisputed authority of the wielder

of coercive power. Hobbes relied to a great extent on a concurrence of natural wills, moved by private interest. No more than this can be expected as the psychical result of an association of men, most of whom are unjust.

The commonwealth is not a psychical unity but a device to secure men from the consequences of a psychical disunity which it cannot abolish; men are dissociated by natural passions which the commonwealth can restrain but cannot eradicate. Almost immediately after Hobbes wrote in Chapter XVII of real unity, he had to show how the commonwealth could by terror solve the problem of the psychical disunity of its subjects.

The commonwealth is psychically an enforced artificial *consensio*. From a psychical point of view a commonwealth is a lower form of organization than the natural *consensio* of a hive. But in reality the commonwealth is a higher form of organization than a hive, for it is a union; and it is a real, and not merely an artificial, union.

Hobbes does not say that there is real unity of them all among themselves, but only that there is a real unity of them all in one and the same person, and this person is an artificial person. Even in his Scriptural political doctrine he regarded the Church exclusively as a corporate body, though he recognized that it was also a mystical body.¹ He never suggested that the commonwealth was a mystical body. He was a nationalist before the days of a national *mystique*. Apart from their sovereign the people of England are a number of individual men distinguished by their place of habitation.² In *The Elements of Law*³ union is the inclusion of many wills in the will 'of one or more consenting'. Union is made by covenants to subject the will to the commands of another whereby the other acquires the use of sufficient natural power to frame the wills of subjects by terror 'to unity and concord among themselves'. In *De Cive*⁴ union is the submission of the wills of all to the will of one man or one council. This submission is made

¹ O.L. ii. 397 (E.W. ii. 279).

² E.L. 97 (E.W. iv. 145-6).

³ E.L. 49, 80-81 (E.W. iv. 70, 122).

⁴ O.L. ii. 213-1 (E.W. ii. 68-69).

in the same way as in *The Elements of Law*, and the submitted wills are again formed by terror to unity and concord. But nothing is said of the inclusion of will in will; the result is one will of all. The will of one man, or of one council, is to be held as the will of all (*ut pro voluntate omnium et singulorum habendum sit*). There is now one will of a civil person which is to be held to be the will of all, and the holding of the will of an artificial person for the will of all is clearly a fiction. In *Leviathan* Hobbes preserves discreet silence as to the inclusion of will in will; but the position clearly is that the artificial will of the sovereign is the only will of the artificial body, and the source of this artificial will is the natural will of the sovereign. Hobbes no longer thought that the natural wills of subjects could be formed to unity by terror.

A real unity must be a unity of the natural persons of whom the commonwealth is composed, but it cannot be unity among themselves, but only in one and the same artificial person. Such a unity cannot be found within the framework of Hobbes's science; it is not a scientific but a religious conception, presented in *Leviathan* as a consequence of the fiction of a natural law by which a man is forbidden. The commonwealth is a real unity because no member is free to depart from it at pleasure. A commonwealth may be erected or maintained by self-interested men, but a commonwealth cannot be erected or maintained on a basis of private interest. Every man who participates in the erection of a commonwealth, or accepts the protection which a commonwealth affords, covenants, and is bound by the third law of nature. Each member of the commonwealth is united to the artificial soul of the artificial body by a real obligation of conscience. The unity of them all in one and the same person is a moral-religious unity; that is why it is for Hobbes a real unity.

Hobbes's conception of the commonwealth was religious before he tried to make it also in part scientific. He never doubted that the appearances, of which alone there could be natural knowledge, were the appearances of real things, self-subsistent in nature, but imperceptible by sense, of which

there could be no science. In his civil philosophy there was always a point at which he had to supplement scientific deduction with religious conviction. The artificial not only imitates the natural, but must rest upon the natural; and the natural law is the law of God. The statement that the commonwealth is a real unity is the statement of a religious conviction.

The commonwealth is nevertheless an artificial body, and the unity of an artificial body is an artificial unity. Hobbes's religious conviction is that this artificial unity is, and must be, grounded on a real unity. The artificial unity of the commonwealth consists in the artificial unity of its artificial person, the sovereign. But behind the artificiality of the personality of a sovereign who has no artificial obligations, there is the reality of a natural person, or persons, with real obligations by natural law. Scientifically considered, the commonwealth is the artificial unity of an artificial body, but, considered religiously, the commonwealth is the moral unity of natural persons bound together by God by His natural laws. Man can submit his will only to the will of God; and he can do so only when aided by the grace of God. The submission of a man's will to the will of another is a religious concept of which there can be no natural knowledge. The will falls least of all under deliberation and covenants. Man can submit his will to the will of another man, only in the sense that he can transfer to that other the right of his strength and faculties.¹ This means that man cannot promise to will what another man wills, but only to do what the other commands.

¹ *O.L.* ii. 214 (*E.W.* ii. 69).

XII

AUTHORITY¹

1. *The Divine Authority of the Sovereign*

THIS chapter is concerned with the authority of the sovereign, with authority in the sense of 'the right of doing any action', including the right of command. The Divine authority of the sovereign was a part of Hobbes's Scriptural political doctrine which could not properly be introduced into civil philosophy. Civil philosophy must, however, be compatible with a truth which lies beyond its ken. In his civil philosophy Hobbes shows how a multitude of men can make for a sovereign an illimitable artificial authority; this is the authority of the sovereign of which civil philosophy treats, and hence the main theme of the present chapter. For civil philosophy, sovereignty is *summa potestas*, supreme artificial power or right. But civil philosophy indicates that the authority of the sovereign, though illimitable by his subjects, is limited by the Law of Nature. This means that behind the illimitable artificial authority of the sovereign, there is a limited natural, true, or real, moral authority. Outside the abstract realm of civil philosophy this natural authority is the Divine authority of the sovereign. God, and only God, has absolute authority. This authority is real, in the sense of natural or supernatural, as distinct from the artificial authority which man can make for man. God, and only God, has an absolute right to do anything that He pleases. All real authority is derived immediately or mediately from God. Scripture is 'all the warrant we have from God for any action whatsoever'.² The real authority of every lawful sovereign is derived immediately from God.

Hobbes never stated explicitly how the sovereign derives authority from God. In the English, but not in the Latin, text

¹ L. Ch. XVI.

² E.W. v. 215.

of *Leviathan* he indicated two different ways in which authority may be derived; 'done by authority' is 'done by commission, or licence from him whose right it is'. He put commission before licence; but civil philosophy can know nothing of Divine commission. In the Scriptural argument Divine commission is at most implied; as Hobbes is offering a Scriptural confirmation of the theorems of civil philosophy, he uses as far as possible the terminology of civil philosophy. The right of nature is a naturalist representation of Divine licence; but Hobbes has no naturalist representation of Divine commission. There are passages which suggest that he may have had some inclination towards the view that the right of nature, retained by the sovereign in its entirety, was a naturalist representation of his Divine Right.

In its entirety, as the right to all things, the right of nature includes the right to reign (*jus regni*) over all the rest of mankind. No man has sufficient natural power to 'obtain' this right by his own efforts. The right can be obtained only through pact,¹ an artificial agreement of men. In the Latin text of *Leviathan* the grounds (*fundamenta*) of the artificial rights of the sovereign (*summa potestas*) '*juris naturalis sunt, non civilis*.'²

The thesis of this section is that Hobbes's continued reliance upon the sovereign's retained right of nature was wholly unnecessary. It is argued in the last section of this chapter that he was betrayed into unnecessary inconsistency in grounding the sovereign's right to punish on his retained right of nature. In the present section the argument is simply that it is both unnecessary and inappropriate to ground any act of sovereignty on the sovereign's right of nature.

Nothing is said of the natural *jus regni* in the construction of the commonwealth. It is introduced only in a misconceived attempt to explain the right of nature whereby God governs all mankind, an argument which is a relic of *De Cive*.³ In the very chapter in which the *jus regni* makes its only appearance

¹ *L.* 191 (*E.W.* iii. 346); *O.L.* iii. 256.

² *O.L.* iii. 241.

³ Ch. XVII.

in *Leviathan* Hobbes affirms that he only is properly, as distinct from metaphorically, said to reign, that governs his subjects by his words. The *jus regni* which is included in the right to all things is not *jus imperandi*, the right to make law; law is command addressed to one formerly obliged to obey. The *jus regni* is no more than a right to endeavour to obtain, and to retain, sovereignty. And the passage in the Latin text in which *summa potestas* is grounded on natural right is explained, in the sixth section of the present chapter, as a mistake, which Hobbes corrected in the English text in which *summa potestas* is grounded on the natural obligation of each subject.

In relation to man the sovereign is an artificial person; and an artificial person neither can, nor need, have natural right. The right of nature is the right of a natural person to endeavour to preserve himself. Within the commonwealth this right is necessary, and hence available, only when the better means of self-preservation, protection by the force of the commonwealth, is unavailable. As the sovereign is more closely protected by this force than any subject, he has, as a natural person, less need of the right of nature than any of his subjects, though he necessarily retains it in its entirety. The right of nature is always limited by laws of nature; and, as a right limited by laws of nature, it is retained in its entirety so long as a man is uncovenanted. Covenant gives rise to artificial obligation. The sovereign cannot perform his function if he is artificially bound by any of his subjects by his words in covenant. The unlimited authorization of the acts of the sovereign by each of his subjects makes it impossible for the sovereign to covenant with any subject. No man can covenant with himself; and every act of the sovereign is the act of each subject. The logical consequence that the natural person who is sovereign retains his right of nature in its entirety need not, and should not, play any part in Hobbes's theory. The right of nature is never more than the right of a natural person to endeavour to preserve himself.

The only questions which can properly arise as to the right of nature retained by the sovereign as a natural person are

mere theoretical niceties of no practical importance and hence of no interest to Hobbes. Can there be a conflict between the natural right of a monarch, as a natural person, to preserve himself, and his natural obligation to procure the safety of his people? Another nicety which Hobbes ignored is the retention of the right of nature by a sovereign assembly. It would seem that the members of the assembly retain the right in its entirety only when they act as an assembly, and yet that they then have it as natural persons.

A man may see in sovereignty, and in the preservation of his subjects, the best means of preserving himself. Natural appetite may move him to become sovereign. But in becoming sovereign, he incurs obligation by the Law of Nature to procure the safety of the people.¹ Natural obligation, like natural right, is a property of man as a natural person. Though the sovereign owes no duty to any subject, his natural obligation to procure the safety of the people is his civil duty, his duty to God in respect of his subjects.

Authority is 'the right of doing any action'. Right consists in liberty to do or to forbear; law binds to one of them. The authority (*summa potestas*) with which subjects entrust the sovereign is clearly a permissive authority, a right to do or to forbear, but they entrust him with this permissive authority for an end. This end, the procuration of the safety of the people, is the office, the duty, of the sovereign. The sovereign is obliged by the Law of Nature to endeavour to procure the safety of the people. This duty was, for Hobbes, so clearly a religious duty, that he added that the sovereign is obliged 'to render an account thereof to God, the Author of that law, and to none but Him'.² The end is mandatory. Liberty is absence of impediment, and the obligation imposed by law is no impediment to the doing of what law commands; the obligation is impediment only to the omission of the action. Whereas subjects give the sovereign permissive authority to do all that he judges necessary for their safety, the Law of Nature obliges the sovereign to do all that he judges necessary for their safety.

¹ L. 178 (*E.W.* iii. 322).

² *Ibid.*

As Hobbes insists that right is not constituted, but only allowed, by law, and makes authority the right of doing any action, he cannot avail himself of authority conferred by law. In fact the Law of Nature authorizes every action which the sovereign judges necessary for the safety of the people. Hobbes should have seen that, on his terms, there should be a mandatory, lawful authority, as well as a permissive, rightful authority. The sovereign has two distinct types of authority; illimitable, permissive, artificial authority from his subjects, and limited, mandatory, natural authority under the Law of Nature. The latter should have been for Hobbes a naturalist representation of the Divine moral authority of the sovereign.

Even within the limits of civil philosophy two consequences, neither of which was explicitly drawn by Hobbes, follow from the position that the sovereign is obliged by the Law of Nature to procure the safety of the people. The first is that the sovereign is at liberty to do any act which he judges necessary for the safety of the people. He does every such act, not as a matter of natural right, but as a matter of natural obligation. Neither in relation to his subjects nor in relation to foreigners has he any need to rely on his right of nature; right is out of place, where duty exists, as the sovereign has no liberty to omit the act. The second consequence is that this obligation extends to prudential actions determined by last appetite for natural good. Such actions ought always to be determined by the public appetite of the commonwealth, never by the private appetite of the man, or men, who exercise lawful sovereignty.

In treating of the moral authority of the sovereign within civil philosophy, Hobbes could avail himself only of the right of nature and the Law of Nature. The artificial is here irrelevant; man cannot make either natural right or natural obligation, and it is only these which are for Hobbes moral right and moral duty. His partial reliance on the natural right of the sovereign is a fault in presentation. The best that he could have done within the limits of his civil philosophy was to ground the moral authority of the sovereign on his obligation by the Law of Nature to procure the safety of his people. He

did not specify any particular law of nature; and the law of gratitude will not avail as the obligation is equally incumbent upon the sovereign by acquisition. The obligation can only be one of equity in the broad sense.

Within civil philosophy the sovereign has an artificial right to bear the person of each subject, but he cannot bear the person of God. I cannot recall any passage in the English *Leviathan* in which Hobbes explicitly states that the sovereign bears the person of God. The sovereign's authority is derived immediately from God; and *de Jure Divino* is 'in the right of God';¹ and 'he which heareth his sovereign, being a Christian, heareth Christ'.² In *De Homine* all kings, and the supreme rulers of any kind of commonwealth, if they acknowledge the Lord God, bear the person of God.³ In the Appendix to the Latin *Leviathan* all Christian Kings bear the person of God.⁴ Hobbes never suggested that every man bore the person of God in virtue of the right of nature even in its entirety. There is no law of nature under which any man bears the person of God. All subjects of the commonwealth are authorized by civil law to do certain actions, but in doing these actions they do not bear the person of the sovereign. Within the commonwealth the right to bear the person of the sovereign may be conveyed to specified persons by special legislation, but is ordinarily conveyed by commission; and in Hobbes's religious political thought sovereignty is a Divinely ordained office, and an office is a duty.

It is possible to infer a good deal regarding Hobbes's thought on Divine authority from what he says. Civil laws are God's laws, 'as they that make them are by God appointed to make them'.⁵ This cannot mean that God has selected particular men to make civil laws. It means that God has willed that there shall be sovereigns who shall make civil laws, as His vicegerents on earth. The commonwealth exists by God's appointment. But God has left man free to choose his associates in any particular commonwealth, to select any one of the

¹ L. 309 (E.W. iii. 567).

³ O.L. ii. 131.

⁴ O.L. iii. 563.

² L. 307 (E.W. iii. 564).

⁵ B. 58 (E.W. vi. 236).

three possible forms of government, and to designate the person, or persons, who shall exercise lawful sovereignty. God has appointed the commonwealth as a remedy for sin. The origin of particular commonwealths is generally marked by sin, and the origin of democratic commonwealths is necessarily sinful.¹ But the sin which accompanies the acquisition of sovereignty does not prevent the sovereignty from being lawful. God can work through the malice of men. What legitimates a particular sovereignty is not the righteousness of its origin, but the offer and acceptance of protection.

Commission differs from licence. A commission from a sovereign is a mandatory trust, which may convey a delegated right of command. Such is God's commission of sovereignty. An office necessarily carries with it all the authority that is required for its proper discharge. No act necessary for the proper discharge of a lawful office can be an unlawful act. The Divine commission of sovereignty cannot increase the right of nature, and the right of nature does not give man any authority over others. The right of nature does not include *jus imperandi*. The Divine commission of sovereignty includes a delegation of the Divine Right of command. The man, or men, who obtain sovereignty, by institution or by acquisition, find themselves in a Divinely commissioned office. In relation to God, every action necessary for the proper discharge of the office is a duty which God has commanded the sovereign to do. The rights over others, which God has delegated to him, are all subordinate to the performance of the duty of the office. In relation to God, they are not rights at all, but powers necessary for the performance of the duty. In relation to God, the sovereign has not a right, but a duty to command his subjects in such a way that he may procure their safety. In Hobbes's civil philosophy the sovereign has only an artificial right of command, grounded on the natural obligation of the subject. In his religious thought, the sovereign has, in relation to his subjects, a moral right of command. This moral right is the Divine Right of God exercised by His commissioned vicegerent.

¹ Ch. XV (5).

Authority is related to accountability. Hobbes's conception of accountability was legal, and involved accusation and judgement. In this world the sovereign, acting through his officers, both accuses and judges. If men are to be preserved, the sovereign must not be accountable to his subjects. The sovereign must have an authority which his subjects cannot limit. This can only be an artificial authority made by them. In the world to come God is both accuser and judge. The authority which God has delegated to the sovereign is a limited authority, and the sovereign is no sovereign before God, but a natural person, a subject to whom God has entrusted the most important of all earthly offices. The authority conveyed in God's commission is limited by the eternal Divine laws. The sovereign sins if he exceeds his limited Divine authority. It is the duty of the sovereign to submit his natural will, the source of his artificial will, to the will of God; it is his duty to have a will to obedience that is stronger than his natural will, or last appetite. He ought always to act as sovereign from a will to discharge his office as God would have him do. God requires of men, including those who exercise His delegated right of sovereignty, more than outward obedience. He will reject the deeds of the man who has performed the office of sovereign adequately, not from a will to obedience, but from fear of incurring the natural punishment of misgovernment, rebellion. In relation to God, the sovereign is distinguished from other men solely by the special obligations incumbent upon him.

The right of nature has properly nothing to do either with the limited moral authority delegated by God to the sovereign, or with the illimitable artificial authority that subjects make for the sovereign. If, in writing *Leviathan*, Hobbes thought that it had, he either failed to reconstruct his theory adequately, or he thought that he had to find some place for Divine licence as he could not introduce Divine commission. In his civil philosophy he necessarily emphasized the rights of the sovereign, for civil philosophy is a naturalistic study of relations between sovereign and subject, a study of what is man-made. In such a study sovereignty has a place only as *summa potestas*.

2. *Summa Potestas*

The artificial authority of the sovereign is the authority of the commonwealth as an artificial person.

In *The Elements of Law* Hobbes claimed that he was the first writer on politics to notice that the body politic was 'one person in law'.¹ By this he must mean that earlier writers had failed to do justice to the unity of the commonwealth, by misconceiving the sovereign as one person and the people as a different person. The commonwealth was for him the only independent corporation. In *The Elements of Law*, and still more in *De Cive*, there is much that can apply to the commonwealth only as an artificial person. But Hobbes made no attempt to give a systematic account of the commonwealth as an artificial body until he wrote *Leviathan*. In this respect *Leviathan* makes a great advance upon *De Cive*; yet even in *Leviathan* the distinction between the natural and the artificial is not made sufficiently clear.

The artificial authority of the sovereign is an unlimited *summa potestas*. Artificial right is *jus* because it is grounded on the natural obligation of others, but it is more revealingly styled power. It is not natural power (*potentia*) but artificial power (*potestas*). It is an artificial power, or right, to use the natural power of others; but it is more than this. A subject's 'right to do with his own what he pleased . . . is not a real and natural power, but a civil power made by covenant'.² *Potestas* is the right to do with one's own what one pleases without hindrance from others; it implies the right to assistance in overcoming such hindrance. The *summa potestas* of the sovereign is the source of the subject's 'own' and hence of his *potestas*, and his 'own' is limited by civil law. But *summa potestas* cannot itself be limited by the civil law which issues from it. And *summa potestas* cannot be limited in any way, if the commonwealth is to secure the end for which men institute it. The sovereign has an unlimited artificial right as an artificial person. This means no more than that *summa potestas* cannot

¹ *E.L.* 138 (*E.W.* iv. 207).

² *E.W.* v. 98.

be limited by those who make it, and in relation to whom alone, it is right. God is no respecter of artificial persons. In *De Cive* Hobbes was satisfied with the laying down by subjects of the right to resist the will of the sovereign; in *Leviathan* he made explicit provision for authorization; but it was only in the English text that he brought out the implication of the unlimited authorization of the sovereign by his subjects. In the furthest development which his civil philosophy attained, *summa potestas* is the sovereign's artificial authority to do what he pleases in the name, and by the right, of every one of his subjects. *Summa potestas* cannot be a liberty allowed and protected by civil law; but it is the right of an artificial, that is a civil person. Hence *summa potestas* is supreme civil power.

3. *Artificial Persons*

Civil philosophy is the science of an artificial body, an artificial man with an artificial right. This right is exercised in accordance with the appetites of the artificial soul, the sovereign. It is only through the sovereign that the commonwealth can act as one person. The artificial unity of the commonwealth consists in the unity of the artificial will in accordance with which an indivisible *summa potestas* is exercised.

Even in *Leviathan* Hobbes did not write in terms of the artificial rights and artificial obligations in which the artificial justice which men make by pacts and laws consists. He was still concerned to show, above all, that artificial justice is not merely an imitation of natural justice, but is itself firmly grounded on natural justice. But, for the first time, he gave an account of the making of the sovereign as an artificial person. His account of artificial persons appears in its appropriate place in Chapter XVI, the concluding chapter of Part I; and *De Homine* ended with a corresponding chapter *De Homine Fictitio*. The last act of men as purely natural persons is the making of the artificial man, the commonwealth.

An artificial person is one 'whose words or actions are considered . . . as representing the words or actions of another man, or of any other thing to whom they are attributed either

truly or by fiction'. The first recognized artificial persons were *dramatis personae*. The words and actions of actors on the stage are not owned by those whom they impersonate, but by the author of the play. It is only when the words and actions of the actor are owned by those whom he represents that the actor acts with authority. For Hobbes the essence of an artificial person is the impersonation of others, whether with or without authority. An artificial person is not necessarily a 'person in law' but is necessarily a unit. The artificial person who acts with authority is the actor, 'and he that owneth his words and actions, is the author'. As an artificial person, the sovereign is the actor, and his subjects the authors of his actions.

A sovereign is an artificial person who can be made only by authorization by his subjects.

A multitude of men are made one person when they are by one man, or one person represented; so that it be done with the consent of every one of that multitude in particular. For it is the unity of the representer, not the unity of the represented, that maketh the person one. And it is the representer that beareth the person, and but one person. And unity cannot otherwise be understood in multitude.

Each of the multitude must individually consent that a definite man or assembly shall act as his representative. When we speak of unity in multitude, all that we can properly mean is that each of the multitude is individually represented by one and the same artificial person, of whose acts he is individually the author. The multitude remain the many authors of the acts of a single artificial person. On this point there is no substantial difference between the English and the Latin texts.

'If the representative consists of many men, the voice of the greater number, must be considered as the voice of them all.' The only voice which such a representative has is the excess of uncontradicted voices. The artificiality of the person necessarily involves the majority principle; but the majority principle does not necessarily involve impersonation, and it is impersonation which makes an artificial person.

Hobbes had always recognized that the representative had both a natural will or wills, and a single artificial will. The

passions of natural persons are the source of the artificial will of the commonwealth. What is said in *Leviathan* as to the relationship between the natural and the artificial in the sovereign is usefully supplemented by a passage from *A Dialogue of the Common Law* (c. 1668) in which Hobbes distinguished the political from the natural capacity of the King of England. Like the English lawyers of his time, he did not find it possible to apply this distinction to the possession of lands by the King of England, though it was a necessary distinction in the case of a sovereign assembly. But the distinction applies to the acts and commands of the King.

Whatsoever a monarch does command or do, by consent of the people of his kingdom, may properly be said to be done in his politic capacity; and whatsoever he commands by word of mouth only, or by letters signed with his hand, or sealed with any of his private seals, is done in his natural capacity. Nevertheless, his public commands, though they be made in his politic capacity, have their original from his natural capacity. For in the making of laws . . . his assent is natural. Also those acts which are done by the King previously to the passing of them under the Great Seal of England . . . are done in his natural capacity; but when they have passed the Seal of England, they are to be taken as done in his politic capacity.¹

A natural will becomes an artificial will when its expressions are in accordance with known rules of procedure which authenticate them as expressions of the will of the artificial person who has been authorized. It is implicit in this that obedience is due by subjects to the sovereign only as an artificial person. An artificial person, made by authorization, is a natural person, or an assembly of natural persons, acting in the name of others, in accordance with rules of procedure.

4. *Covenants of Authorization*

The covenants which are the foundations of the commonwealth were long regarded by Hobbes as covenants of obedience, whereby men confer the use of their natural power upon the sovereign. In *De Cive* the covenants were covenants

¹ *E.W.* vi. 152.

of non-resistance to the will of the sovereign; in *Leviathan* they became covenants of authorization. But I fancy that Hobbes would have been prepared to contend that covenants of non-resistance to the will of another are implicitly covenants to authorize all his actions; and that *Leviathan* here only made explicit what was implicit in *De Cive*. Authorization does not necessarily imply obedience; in authorizing subjects, e.g. petty constables, to bear his person, a sovereign does not oblige himself to obey his representatives. But obedience implies authorization; a servant's covenant to obey his master is a covenant of authorization.¹ Covenants of unlimited authorization are not, however, covenants of unlimited obedience.

Covenant and authorization are concepts of civil law; but there must be covenants of authorization before there can be any civil law. Civil philosophy is substantially the philosophy of law. The philosophy of law is an achievement of natural reason and is independent of the technicalities of any historical legal system. The study of natural law is a philosophic study; here the English common lawyers are beholden to the philosopher; 'the more general and noble science and law of all the world is true philosophy, of which the common law of England is a very little part'.² The opinions of lawyers are not necessarily good philosophy; even the decisions of judges in cases under the common law, though indisputable civil law to the parties to the suit, are not necessarily true interpretations of natural law. Even sovereigns are in as much need of instruction in civil philosophy as in mathematics, and civil philosophy is the more important study.

Hobbes therefore regarded covenant and authorization as instruments suggested by natural reason, unfettered by any rules of civil law. Yet despite his bold professions, his treatment of covenant, and still more of authorization, was ambiguous, when he ventured, as he had to do, beyond the range of civil law. He had to attempt to deal with a unique case. The only covenants which men can make in the mere state of nature are the covenants by which the commonwealth is

¹ *L.* 107 (*E.W.* iii. 190).

² *E.W.* vi. 8.

erected; and as no man will authorize an enemy, the only instance of authorization in the mere state of nature is the authorization of the sovereign. Authorization was a late importation into Hobbes's theory, but it was associated with covenant which remained the fundamental concept.

The subjects are bound by one another by the words of their mutual covenants. As their authorization of the sovereign is unlimited, the sovereign is authorized to enforce observance of these artificial obligations. He cannot do this by any civil law but only by the natural power at his disposal. All that the sovereign receives from each subject in fulfilment of the subject's covenants with his fellows is the gift of an unlimited authorization of his actions.

The words of the covenant, as given in Chapter XVII ('I authorize, and give up my right of governing myself'), suggest that the subject does two different things. But authorization stands by itself in the definition of the commonwealth. In the description of the act of institution at the opening of Chapter XVIII the covenants are, in the Latin text, covenants of obedience, and the obligation is one of obedience and of authorization. But, in the English text, the covenants are simply covenants of authorization. Fortunately there is no difference between the two texts in the decisive passage in Chapter XXI.¹ The question here is

what rights we pass away when we make a commonwealth; or (which is all one) what liberty we deny ourselves, by owning all the actions (without exception) of the man, or assembly, we make our sovereign. For in the act of our submission, consisteth both our obligation, and our liberty . . . there being no obligation on any man, which ariseth not from some act of his own; for all men equally, are by nature free. (*Nulla enim tenetur obligatione quisquam quae a sui ipsius actione non procedat.*)

Hobbes is here concerned with the artificial obligations imposed by sovereign on subject; but his concern is with the natural obligation which is the ground of these artificial obligations. The extent of the natural obligation of subjects, and consequently the extent of the natural right of which the sovereign

¹ L. 114-15 (E.W. iii. 203-5); O.L. iii. 164-5.

cannot deprive them, are to be inferred by arguments taken from the act of submission. But Hobbes insists that in making this inference we must distinguish between the words and the intention of the submission; and the intention is to be understood by the end for which a man submits. The express words of submission are 'I authorize all his actions', 'or others equivalent'. In such words 'there is no restriction at all of his own former natural liberty'. The particular case is obedience to a command to kill oneself; but the inference seems clear that the words of any authorization do not in themselves involve any obligation upon an author to obey his representative. The obligation to obey can be inferred only from the intention of the author. There can be authorization without any end, whose attainment requires that the author should obey his representative. But the intention of the man who submits to a sovereign is to secure himself from dangers arising from discord by making adequate provision along with a multitude of men for mutual peace and common defence. Therefore in authorizing all the actions of the sovereign, he incurs natural obligation to obey the sovereign so far, but only so far, as is necessary for the attainment of this end. He lays down natural right so far as is required for the attainment of the end of the commonwealth. The consequence is that he authorizes some commands which he is free to disobey, and some actions which he is free to resist. The subject cannot covenant to obey every command of the sovereign; there is a part of his natural right which is inalienable. He need not promise unlimited obedience, for he cannot frustrate the end of the commonwealth by exercising his limited right to disobey, or to resist, the sovereign. All other subjects are obliged to assist the sovereign in dealing with the situation.

On the other hand, unlimited authorization is necessary, if the intention of the man who submits is to be realized, and is therefore possible. Only unlimited authorization can give the sovereign the necessary immunity from accusation by his subjects. If the end of the commonwealth is to be realized, the subject must authorize, though he may resist, the act by which

the sovereign defeats his intention by killing him. A man derives benefit from authorizing the sovereign to kill him, for without such authorization he cannot be admitted to the commonwealth. If a man will not authorize the sovereign to kill him, he clearly shows that he seeks a protection against his fellows which he is not prepared to allow them against himself; he shows that, even in seeking peace, he harbours warlike designs against some of his fellows. Alternatively, he shows that he is not prepared to trust the sovereign with care for his protection, in which case he should not authorize him at all. On the other hand, no man can ever derive benefit from laying down the right to defend himself when he is attacked, and when protection from the sovereign is unavailable. Hobbes's argument is not that there is never benefit from such non-resistance, but simply that there is never benefit from laying down the right to resist.¹

It seems irrational that a man should have a right to resist what is his own act because authorized by him. Hobbes is, however, endeavouring to make what he considered rational provision for an irrational situation. A subject creates an irrational situation when he commits a crime punishable by death, for he thereby converts his protector into his executioner. A sovereign creates an irrational situation when he seeks to slay an innocent subject, whom he is obliged in conscience to protect.

Authorization effects two things; a limited laying down of natural right by the subject, and the acquisition of an unlimited artificial right by the sovereign; and the two should be distinguished more clearly than they are by Hobbes. Even in *Leviathan* he was more concerned to explain the laying down of natural right by the subject than the origin of the artificial right of the sovereign. But the unlimited artificial right of the sovereign is clearly the result of the unlimited authorization by the subject.² Hobbes confused the issue by writing in terms of the transfer of right by covenant, or gift, in the mere state of nature. There can be no transfer of natural

¹ *O.L.* iii. 105.

² *L.* 112 (*E.W.* iii. 199-200).

right by one man to another. As men do not start with any right other than natural right, there can be no transfer of right at all in the mere state of nature. But in the mere state of nature men can, and must, make artificial right. Even in *Leviathan* Hobbes failed to make this clear, but it can be inferred from what he wrote, more clearly in the English *Leviathan* than anywhere else. Covenant is essentially a concept of civil law: moral rights cannot be transferred by covenant but only civil, that is artificial rights. The problem of the construction of the commonwealth is essentially a problem of the origin of artificial right. If contract is no more than an instrument for the transfer of right, there can be no contracts in the mere state of nature; but if the meaning of the term covenant can be extended to cover mutual promises to make and give artificial right to another, the kind of covenants which Hobbes requires is conceivable. There is a distinct suggestion that the subject's natural obligation to obey the sovereign is to be found, not in his covenants to authorize, but in his intention in authorizing. The subject incurs natural obligation, a diminution of natural right, not only in consequence of his covenants with his fellows, but also in consequence of his gift of artificial right to the sovereign. But Hobbes continued to emphasize the natural obligation to perform covenants as if, in covenanting to authorize, a man covenanted to do everything necessary for the fulfilment of his intention in authorizing.

5. *The Origin of Artificial Right*

Natural right is liberty allowed by natural law; artificial right is, for the most part, liberty allowed by civil law. Natural right is liberty allowed by God; *summa potestas* is artificial power or liberty allowed to man by man. In authorizing every act of the sovereign, the subject gives him an unlimited *summa potestas*. Hobbes says that each subject gives the sovereign the right to bear his person to an unlimited extent, makes the sovereign his absolute representative. The right to bear the person of another is an artificial right of an artificial person. The subject cannot be said to transfer this right to the

sovereign. It would be as incongruous to say that a man has a natural right to bear his own person as to say that he has a natural right to bear his own head. He has the natural right and the natural power to make *summa potestas* and he does so by authorizing every action of the sovereign without exception.

It is only in the English text of *Leviathan* that Hobbes brings out the full meaning of *summa potestas*. In the Latin text the man who became sovereign would be immediately freed from any covenants he had previously made in order to obtain sovereignty; for any subject who accused the sovereign of maladministration would accuse himself as the author of the act which he accused. In the English text 'what act so ever can be pretended by any one of them for breach thereof (*sc.* of covenant), is the act both of himself and of all the rest, because done in the person, and by the right of every one of them in particular'.¹ Again, in the Latin text David did no injury, no act of injustice, to Uriah because Uriah himself was the author of the deed; but in the English text David did Uriah no injury 'because the right to do what he pleased was given him by Uriah himself'.² Hobbes did not rely simply on the position that the sovereign cannot be guilty of injustice, because he is uncovenanted. What is sufficient to justify an act done to an enemy is insufficient to justify the same act done to a subject. The sovereign's actions towards his subjects must be artificially just as well as naturally not unjust. The principle upon which Hobbes relied is that a man can do no injustice to himself. If Uriah had killed himself, he would have acted unjustly (iniquitously) towards God, but he would not have acted unjustly towards himself. So David acted iniquitously towards God, but justly towards Uriah. Hobbes can say that David did injury to God whose subject he was. Uriah could not give David any moral right to kill him, but he gave David an artificial right to do so if he pleased.

It is misleading to say that the sovereign acts by the right of the subject, or that what the sovereign does by authority of

¹ O.L. iii. 133; L. 91 (E.W. iii. 161).

² O.L. iii. 162; L. 112 (E.W. iii. 200).

the subject is 'done by commission or licence of him whose right it is'. What the sovereign does is done by an artificial right which no subject ever possessed, but which each subject makes for the sovereign.

6. *The Ground of Summa Potestas*

It is not possible to interpret in any satisfactory manner the statement in the Latin text that the grounds of the rights of the sovereign *juris naturalis sunt, non civilis*.¹ It is hardly to be supposed that Hobbes used *jus* in the inclusive sense which confounded right with law. The retained natural right of the sovereign, even as *jus regni*, can provide no ground for *summa potestas*, which is here in question; this would make *summa potestas* a natural right, artificially 'obtained'. The best explanation is that Hobbes made a mistake; he may have had in mind the natural right which each subject laid down. In the English text he corrected the slip, and grounded *summa potestas* on the natural obligation incumbent on each subject to perform his covenants. A civil law 'is not (as a civil law) any obligation, but by virtue only of the law of nature, that forbiddeth the violation of faith; which natural obligation, if men know not, they cannot know the right of any law the sovereign maketh'.²

Natural obligation by the third law of nature, is the moral ground of the essential rights of sovereignty, that is of *summa potestas*. The difficulty remains that natural obligation by the third law of nature is limited, while the artificial right of the sovereign is unlimited, and this was a difficulty which Hobbes never succeeded in overcoming. Even in his final presentation of civil philosophy there is inconsistency in his treatment of the right to punish; but the inconsistency is unnecessary.

7. *The Right to Punish*

In *De Cive* the right to punish is understood to be given to someone when each of a multitude of men covenants that he will not help the man who is to be punished. For the security

¹ *O.L.* iii. 241.

² *L.* 179 (*E.W.* iii. 323).

of each, it is necessary that the right to use the sword of punishment be transferred to some man or council; and this man or council is necessarily understood to have supreme command (*summum imperium*) in the commonwealth. He who with right punishes as he pleases (*suo arbitrio*), by right compels all to all that he himself desires (*vult*); than which no greater command can be conceived.¹ In *De Cive* the right to punish is the fundamental part of sovereign right from which all other parts can be deduced.

Hobbes was over-confident. So long as he relied upon covenants of obedience, without making the point that covenants of obedience are covenants of authorization, there was a gap in his argument; an illimitable right cannot be grounded on a limited obligation to obey. This gap was closed in *Leviathan*. There the right to punish was presented as a minor, though still essential part of sovereign right. In the English text of Chapter XVIII it appears only in the eleventh of the twelve points which Hobbes makes regarding sovereignty; it appears along with the right to reward, and is dismissed briefly. In Chapter XXX the sovereign's right to punish is grounded on the natural obligation of the subject. It is men who know not this obligation who take punishment 'but for an act of hostility; which when they think they have strength enough, they will endeavour, by acts of hostility, to avoid'.² Uriah gave David a right not only to punish, but to hurt him though he had not transgressed the civil law. The whole of the illimitable artificial right of the sovereign is grounded on the natural obligation of the subject to perform his covenants of authorization.

The subject, however, retains the natural right to resist violence to his person. His natural obligation, as author of his own punishment, is limited to an obligation to refrain from accusing the sovereign of injustice in punishing him. He has a natural right to resist the infliction of punishment, but he has no natural right to dispute the sovereign's artificial right to punish him, or the sovereign's action in condemning him to punishment.

¹ *O.L.* ii. 220 (*E.W.* ii. 75).

² *L.* 179 (*E.W.* iii. 323).

Hobbes was not content to leave the matter thus. The subject could oppose his natural right of resistance to the sovereign's artificial right to punish him. The subject has a natural right to resist what is only artificially his own act. The right to punish was for Hobbes an artificial right. 'There is no right to punish in the state of nature, but only a right to hurt. The right to punish is an artificial right, made by man in erecting the commonwealth. At the opening of Chapter XXVIII Hobbes sought a better natural ground for this artificial right than the limited natural obligation of the subject. His language is confusing, and his thought was possibly confused. The statement 'no man is supposed bound by covenant, not to resist violence; and, consequently, it cannot be intended that he gave any right to another to lay violent hands upon his person', is inconsistent with positions which Hobbes clearly adopted elsewhere. Uriah gave David an artificial right which David did not exceed in killing him; and no man can give any other man any natural right. Hobbes now rejected the position he had adopted in *De Cive*: 'to covenant to assist the sovereign in doing hurt to another, unless he that so covenanteth have a right to do it himself, is not to give him a right to punish'. This must mean unless he who covenants has a right to punish, as all men in the state of nature have a right to hurt others if they think such hurt necessary for their own preservation. 'It is manifest, therefore, that the right which the commonwealth . . . hath to punish is not grounded on any concession, or gift, of the subjects.' Hobbes therefore grounds the right to punish on the sovereign's retained right of nature, a right 'not given but left to him, and to him only; and (excepting the limit set him by natural law) as entire as in the condition of mere nature'.

Hobbes thus provides two different natural grounds for the artificial right to punish. The sovereign has an artificial right to do what he pleases, which includes the right to punish, grounded upon the natural obligation incumbent upon each subject to authorize all his actions. The sovereign's right to punish is also grounded upon the sovereign's right of nature

as limited by natural law. This limited ground is sufficient as strictly hurt inflicted upon an innocent subject is not punishment. A right grounded upon a man's own limited natural right is in fact a natural right; and as such it has a moral quality which an artificial right grounded upon unlimited authorization by other men does not possess.

The position is far from satisfactory. The public right of the sovereign to punish is grounded upon the private right of a natural person to hurt others when he judges such hurt necessary for the preservation of his own life. There is further the suggestion that a man can make for himself an artificial right out of his own natural right. I fancy that Hobbes wanted to oppose to the natural right of the subject to resist violence to his person, a right of the sovereign which was natural as well as artificial. The natural right of the subject to resist violence is in Hobbes's thought a God-giving right, and he wished to find for the sovereign a naturalist representation of a God-given right to punish. As has been already indicated, it appears that he could have derived a natural obligation and liberty to punish from the Law of Nature; on the other hand if sovereignty is treated purely as artificial *summa potestas*, there is no need to look for any ground other than authorization by subjects.

XIII

SOVEREIGNTY

1. *The Selection of the Sovereign*¹

MUCH of Hobbes's comparison of the body politic with the body natural was conventional in type and unenlightening; but his presentation of the sovereign, not as the head, but as the soul of the artificial body is important. The sovereign is not strictly a member of the body. The soul can be described only as the principle of life in the body as a whole and in each of its members, the something whose departure involves the dissolution of the body. Until a sovereign has been chosen a multitude of men cannot become an artificial body.

The act of instituting a commonwealth is described at the opening of Chapter XVIII as a single act. This act is the making of mutual covenants by a multitude of men. These covenants provide, among other things, for the choosing of a sovereign.

It is this intermediate act which raises difficulty for the reader, as it did for the author. It is described as a gift by the major part of the multitude to one man or assembly of the right to present the person of them all. This must be looseness of expression for it implies that the major part possesses the right of which it makes a gift, and this is not Hobbes's intention. He does not invoke in Chapter XVIII the offer and the winning of a prize, but it is difficult to see any reason for his treatment of this topic in Chapter XIV other than foresight of the case of the choosing of a sovereign. The analogy, of course, is imperfect. The offerers of the prize are themselves involved in the contest. The power in which the winner excels his competitors is his power to attract the votes of the offerers of the prize. But there is some point in the analogy. Each of the multitude, by his covenants, makes a gift of authority to an as

¹ *L. Ch. XVIII.*

yet indeterminate person, and a prize is a gift given indefinitely. As in the case of the offer of a prize, the right to the thing passes immediately, but it passes indefinitely, and not to the major part of the multitude, a number of natural persons. The nature of the contest is determined by the covenants. The multitude vote as a multitude of natural persons. The recipient of the gift is designated by the majority of the votes. The successful candidate has the gift of each of the multitude as his due; he merits it by his own power of attraction and by the benignity of the individual givers.

There can be no question of the major part acting as a whole in giving the right; and it was clearly Hobbes's intention in both texts of *Leviathan* to institute the commonwealth in such a way that the multitude was no more than a multitude of natural persons until the sovereign entered upon his office. Apart from the sovereign, the multitude cannot be one person.

This was Hobbes's position from the first; but when he wrote *The Elements of Law*, he thought that a commonwealth by institution necessarily started as a democracy. Monarchy and aristocracy require the nomination of persons agreed upon, 'which agreement in a great multitude of men must consist in the consent of the major part; and where the votes of the major part involve the votes of the rest, there is actually a democracy'.¹ This was not a position for which he could have any liking. He presented his theoretical primitive democracy as in effect a short-lived aristocracy of orators.

Hobbes had already modified this position when he wrote *De Cive*. Those who meet for the purpose of erecting a commonwealth are now only 'almost' (*pene*) in the very act of meeting, a democracy; there must also be an agreement upon the majority principle.² And this so-called democracy need do no more than decide that a coercive power is necessary, and choose a man or assembly to wield that power.³

The issue in *Leviathan* is not strictly one as to the primitive form of government, but whether a multitude of men, who in

¹ *E.L.* 92 (*E.W.* iv. 139).

² *O.L.* ii. 239 (*E.W.* ii. 96).

³ *O.L.* ii. 218-20 (*E.W.* ii. 73-75).

fact act as a constituent assembly to the extent of designating persons, and thereby determining the form of government, can do this without becoming in the process a single artificial person. Can they by an agreement as to procedure do what is necessary as a multitude of natural persons? Hobbes thought that he had shown that they could, but in neither text is his account impeccable.

It was manifest to him when he wrote *Leviathan*, 'that men who are in absolute liberty (*multitudo, antequam in unam civitatem coaluerint*) may, if they please, . . . subject themselves . . . to a monarch, as absolutely as to any other representative'.¹ But the Latin text of *Leviathan* still seems to hark back to the earlier position. In the Latin text each is obliged to obey, and is to be held the author of all the actions of, the man or assembly chosen by the major part *Nam nisi in parte suffragiorum majore intelligantur comprehensa suffragia omnium, frustra conventum est, et contra finem ab unoquoque sibi propositum. . . .* In *The Elements of Law* recourse to the majority principle necessarily makes a multitude a democracy. But this is not Hobbes's position in *Leviathan*. In *Leviathan* it is not the majority principle which makes an artificial person, but impersonation of others. So even in the Latin text Hobbes is not compromising a hardly won position. But the passage does not appear in the English text, and its omission seems to be a second thought.

Again, in the Latin text no dissentient may lawfully demand that his dissent be recorded, because such a demand would be the deed of one wishing to change, renouncing the peace which has been made, and returning to the state of nature. Though Hobbes does not say so, the destruction of such a dissentient, though not an unjust act, would appear to be no more than an act of hostility against a declared enemy.

The English text makes what Hobbes must have held to be an advance upon this position. The man who voted for an unsuccessful candidate must now consent along with the majority, or be justly destroyed by the rest. If he voluntarily

¹ L. 97 (*E.W.* iii. 172); *O.L.* iii. 141.

entered into the congregation 'he sufficiently thereby declared his will (and therefore tacitly covenanted) to stand by what the major part should ordain'. Dissent would be an act of injustice to every one of the others, a breach of covenants. All who do not submit to the 'decrees' of the congregation, whether they were of it or not, are left in the condition of war, and may without injustice be destroyed by any man. The good point that the dissentient is guilty of injustice in breaking his covenants is blurred by what follows. But the essential point is made that the dissenting voters ought now to consent individually. The individual votes of a majority of natural persons designate a man or assembly. Each man, whether he voted with the majority or not, ought now to agree as an individual with other individuals that this man or assembly has the right to bear his person.

The position at its strongest seems to be that there is initial unanimity as to what has to be done and as to how it shall be done, a moment of disagreement, and then final unanimity. This may seem a not implausible account of the functioning of a corporate assembly. But Hobbes's contention that the adoption of the majority principle does not turn a multitude into one person is not to be dismissed lightly. It is unrealistic to say that acceptance of a two-to-one decision in a single case makes three men even for a moment one artificial person. The multitude who select the sovereign cannot act as a whole, in the sense of one person; but there is for Hobbes a sense in which such a multitude is a whole; it is a multitude of natural persons bound together by mutual covenants to accept a majority decision on a particular issue; and, as such, it is the whole in relation to each individual.¹

Hobbes says nothing of any part played by the natural person selected to be sovereign in the institution of the commonwealth before he accepts the gift of sovereignty. Nothing need be said, for he cannot be bound in any way as an artificial person. This is the one point which Hobbes makes at this stage regarding the obligations of the sovereign. The obligations of

¹ Ch. XVIII, pp. 237, 238.

the sovereign as a natural person have been increased by his acceptance of the office, and in due course account is taken of this. But the sovereign has no natural obligation in respect of his subjects under the third law of nature and hence he cannot be artificially bound by them by his own words.

The claim that the monarch had broken a covenant with his subjects was commonly advanced in justification of rebellion; and Hobbes was determined to exclude its possibility. Here, as at many other points, the English text displays far more passion than the Latin. In writing of covenant in Chapter XVIII, Hobbes could not restrain the fury which the Scottish Covenanters aroused in him. The Latin text may have been written before, and the English after the execution of the King.

It is impossible for the sovereign to make a covenant with the whole multitude as one party, because apart from him the multitude is not one artificial person but many natural persons. It is possible, but both useless and mischievous, for the sovereign to make precedent covenants with each of the multitude individually. Once he has sovereignty, such covenants are void. In accusing the sovereign of breach of covenant, a subject would accuse himself, for he is the author of the act alleged to be in breach of covenant. Where subjects are divided as to whether the sovereign has acted in breach of covenant, there is no judge on earth to decide the controversy, and the multitude returns to the state of war.

The opinion that any monarch receiveth his power by covenant, that is to say on condition, proceedeth from want of understanding this easy truth, that covenants being but words, and breath, have no force to oblige, contain, constrain, or protect any man, but what it (*sic*) has from the public sword; that is, from the untied hands of that man or assembly that hath the sovereignty . . .

In the Latin text those who are of opinion that the sovereign is obliged by covenants seem to be deceived because they do not distinguish between *obligationes*, which are made by words, and *ligationes*, which are made by halts; nor do they reflect that words in themselves are weak. The natural obligation to perform covenants is not here in question; man cannot be held

by man to any natural obligation. The question is, whether the sovereign could be held to an artificial obligation by compulsion. Men can be held to artificial obligations only by halters or swords. Subjects can be compelled to fulfil their artificial obligations by the wielder of the sword, but the sovereign cannot himself be compelled by the sword which he wields. It is necessary that the hands of the sovereign be untied in order that subjects be tied to their artificial obligations. Breach of covenant by the sovereign is a stupid pretext for rebellion. Hobbes also made the shrewd point that it is only in the case of a monarch that subjects allege breach of covenant. No one is so stupid as to say that the people of Rome, that is the sovereign representative, made a covenant with his subjects, the Romans, to hold sovereignty on condition.

2. *Indivisible Sovereign Right*

In Chapter XVIII Hobbes derived the rights and faculties of the sovereign from the institution of a commonwealth. Sovereignty is an artificial capacity, consisting of artificial faculties which the sovereign has an artificial right to use. Hobbes made twelve points regarding sovereignty, and suggested that these are the essential rights of the sovereign. But these essential rights are no more than distinguishable parts of an indivisible whole, and the title of the chapter in the Latin text is '*De Jure Habentium Potestatem Summam in Civitate per Institutionem*'. Sovereign right is such an indivisible whole that the grant of any one of these essential rights, howsoever made, is void if unaccompanied by an express renunciation of sovereignty itself. The distinguishable rights are thus no more than constituent parts of a single right, *summa potestas*. It was a matter of indifference to Hobbes whether he wrote of sovereign power, sovereign right, or the rights of the sovereign.

The doctrine that the sovereign power (*potestas*) may be divided is 'plainly, and directly against the essence of a commonwealth'. To divide the power of a commonwealth is to

dissolve it; powers divided mutually destroy one another. The division of power between the temporal and the spiritual authorities was subjected to so sustained an attack by Hobbes that it constitutes one of the main themes of *Leviathan*. But he also attacked any division of power within the civil government itself. A mixed government is not a form of government but a disease of the body politic. A commonwealth with a mixed government is like a man with more than one soul. Hobbes here clearly had in mind a contemporary theory of the English constitution according to which the power of levying money depended on the House of Commons, executive power on the King, and legislative power on 'the accidental consent', or agreement, of King, Lords, and Commons. Such a government is no government but the division of the commonwealth into three independent factions. There is here not one representative person but three.¹

Before analysing this indivisible right into its constituent parts, Hobbes made certain general points. Subjects cannot change the form of government; sovereign power cannot be forfeited; the sovereign's actions cannot be justly accused by the subject; and whatsoever the sovereign does is unpunishable by the subject. He marked the transition to analysis by giving a clear statement of the whole content of sovereign right. The sovereign is judge of what is necessary for the peace and defence of his subjects. *Summa potestas* is the right to judge of good and evil actions for a multitude of men in relation to their mutual peace and common defence. The knowledge of good and evil in particular cases is *cognitio causarum*, and cannot be *scientia*; it is a work of judicature² in the broadest sense of the term. Such judgement is for Hobbes measurement. In the state of nature each man measures his private good and evil by his own appetite. Within the commonwealth, public good and evil are measured by the public appetite of the commonwealth, by the appetite of its artificial soul, the sovereign. The appetite of the sovereign may not be directed by reason, and can at best be directed only by a

¹ L. 173, 176 (*E.W.* iii. 313, 318).

² *E.W.* v. 269.

fallible reason. Nevertheless it is necessary for man's preservation from dangers arising from discord that the appetite of the sovereign be set up and accepted by his subjects as an artificial standard of right reason. Men cannot make, but can only measure good and evil, whether natural or moral. All that man can make is an artificial measure of part of the morality of actions; and man does this by instituting the commonwealth.

Summa potestas is for Hobbes the right of judicature in the broad sense of the term. Every act of the sovereign is an act of judgement. In this Hobbes is representative of Christian political tradition. It is significant that in his analysis of this right of judicature, he gave primacy to the right of the sovereign to be judge of what opinions and doctrines are averse and what conducing to peace.

For the actions of men proceed from their opinions; and in the well governing of opinions consists the well governing of men's actions in order to their peace and concord. . . . Doctrine repugnant to peace can no more be true, than peace and concord can be against the Law of Nature.

Next in importance is the power (the Latin text has *summae potestatis jus*) 'of prescribing the rules, whereby every man may know, what goods he may enjoy, and what actions he may do, without being molested by any of his fellow-subjects'. These are rules of property. Property is an artificial right made by civil law. The rules are rules of 'good, evil, lawful and unlawful in the actions of subjects'. Civil laws limit the right of subjects, but protect subjects in the exercise of the right which they allow by their silence. The making of such rules is a work of judicature. Every civil law is to be presumed to be a judgement of equity. Most of these rules were in Hobbes's time rules of the common law, which was for him artificial equity. Statutes held a minor place in English law. Statutes themselves are judgements of equity; the intention of the legislator is always supposed to be equity. In making a statute the sovereign prescribes a rule which is a judgement of what is equitable, as a determination of natural law appropriate to time and place.

The right of judicature in the narrow sense is the right to decide all controversies 'concerning law, either civil or natural, or concerning fact'. The natural law, in so far as it concerns mutual peace and common defence, is now the unwritten part of the civil law.

The sovereign has the right of making war and peace with other nations. Here Hobbes uses the terms 'war' and 'peace' in the ordinary sense. This, again, is a right of judging. Contemporary conditions led Hobbes to associate the right to levy money with the right to command the militia. In relation to his subjects, all the sovereign's judgements are judgements as to what is just and equitable; in relation to foreigners, all his judgements are judgements as to what is profitable in the sense of necessary for defence.

The sovereign has the right to judge who can best assist him in the performance of his office by counsel or otherwise, to judge of rewards and punishments, and of honour and rank among his subjects.

In all that the sovereign does, he is judging of good and evil for a multitude of men. In the Latin text Hobbes added that what he had demonstrated at length regarding the right of the sovereign could be more briefly demonstrated by a single argument. No one will deny that the commonwealth has all these rights; but the commonwealth can neither speak nor act except through its person, the sovereign.

He was not concerned to deny that there are inconveniences in entrusting any man or assembly with this illimitable artificial right. As most men are unjust, most sovereigns are likely to be iniquitous. But he maintained that if subjects do not submit to the inconveniences which arise from the iniquities of sovereigns, they must suffer the greatest of avoidable calamities, the calamities which arise from war among themselves. He denied that subjects could have any right of redress against an iniquitous sovereign, as the existence of such a right must frustrate the end for which they institute the commonwealth. Earthly life can never be free from inconvenience, and men should choose the lesser evil. But the commonwealth was

more than a lesser evil; it was a positive good. It brought in its train those things, the absence of which made life in the mere state of nature, nasty, brutish, and short.

3. *Kinds of Sovereignty*¹

Different kinds of government are different kinds of commonwealth. There are only three kinds of sovereignty: monarchy, the sovereignty of one; aristocracy, the sovereignty of more than one and less than all; and democracy, the sovereignty of all. Tyranny, oligarchy, and anarchy are not scientific but pejorative terms, signifying monarchy, aristocracy, and democracy, 'misliked'. Elective kings are not monarchs but ministers of the sovereign; they have sovereign power 'not in propriety but in use only'. Kings with limited power are not sovereigns but ministers of the sovereign who limits their power. A conquered province governed by a democracy through a President is governed, not democratically, but monarchically. Here there is a monarchy of one people over another people. The people of Rome, as one person, governed the inhabitants of Judaea monarchically through a President who was a minister of the Roman people.

The different kinds of sovereignty differ, not in power (*potestas*), but in efficiency as means to the end of the commonwealth. Which is the best,

is not to be disputed, where any one of them is already established; but the present ought always to be preferred, maintained, and accounted best; because it is against both the Law of Nature, and the Divine positive Law, to do anything tending to the subversion thereof.²

The civil philosopher does not concern himself with the question whether a particular form of government should be adopted in any historical commonwealth. Yet in Chapter XIX Hobbes is an advocate of monarchy rather than a civil philosopher. The superiority of monarchy is not demonstrated as a theorem, though Hobbes did not repeat in *Leviathan* his admission in *De Cive* that this was the one thing which he had

¹ L. Ch. XIX.

² L. 299 (E.IV. ii. 548).

not demonstrated but had laid down only as a probability (*probabiliter positam*).¹

A monarch is as absolute a representative of his subjects as an assembly. No one is insane enough to think that a sovereign assembly in convoking deputies of its subjects for a particular purpose is sharing its sovereignty with them, or that such deputies are more fully representative of the subjects than is the sovereign assembly. It is equally absurd to think so in the case of a monarchy in which there is a Parliament with an elected House. Where monarchy has once been instituted, another representative of the multitude cannot rightly be chosen except at the command of the sovereign and for certain business specified by him. There cannot be two absolute representatives of the same people; this would mean two sovereigns. The argument is a *reductio ad absurdum*; there would be in fact no sovereign but a return to the state of war. Hobbes is here striking at the English practice of regarding the House of Commons as more representative of the people than is the monarch.

The chief arguments in favour of monarchy arise from the more intimate connexion between the natural and the artificial person of the sovereign in monarchy than in a sovereign assembly. Thus in monarchy alone is there a natural harmony between the private interest of the natural person and the public interest of the artificial person. Where public and private good conflict, preference is for the most part given to private good. The riches, power, and honour of a monarch arise only from the riches, strength, and reputation of his subjects. There is no such natural harmony between the private interests of the members of a sovereign assembly and the public interest. Corrupt and ambitious members of such an assembly will often seek to advance their private fortunes at the expense of public prosperity. Passion is commonly more potent than reason, and Hobbes contends that the passions of monarchs do less injury to the public good than the passions of the members of a sovereign assembly. He does not deny

¹ O.L. ii. 152-3 (E.W. ii, p. xxii).

that there are inconveniences in monarchy; his contention is that these are not peculiar to monarchy, and are greater in other forms of government.

Another part, or right, of sovereignty now emerges, for 'there is no perfect form of government, where the disposing of the succession is not in the present sovereign'. The artificial eternity of the commonwealth is called the right of succession. Customary rules of succession are valid as expressions of the will of the existing sovereign, who could alter them if he chose. The sovereign can set such rules aside by express word during his life or by his testament. A monarch has the right to nominate whom he chooses as his successor. In doing so, he may act iniquitously, but he does not exceed the right necessarily allowed him by his subjects, and his act is unquestionable by them.

4. *Paternal and Despotic Dominion*¹

The three kinds of commonwealth distinguished by different kinds of sovereignty are sub-species of the commonwealth by institution. There is, however, a species of commonwealth, the commonwealth by acquisition, which is to be distinguished from the commonwealth by institution. The initiative in erecting a commonwealth by institution comes from the subjects, whose fear of one another leads them to submit to a sovereign of their choice. The initiative in founding a commonwealth by acquisition comes from the sovereign, who chooses subjects who submit to him from fear of his power. In both cases fear is the motive which causes men to submit.

The origin of the commonwealth by acquisition is natural, because it arises from natural power. Hobbes regarded this species of commonwealth as natural in a sense in which the commonwealth by institution is not. The commonwealth by institution originates *a consilio et constitutione*, from a provident fear which moves men to take rational measures to remove its cause. It is a rational philosophic construction of the commonwealth, the pure scientific instance, politic in the sense of

¹ L. Ch. XX; O.L. ii. 215, 249 (E.W. ii. 70-71, 108).

a calculated contrivance. The commonwealth by acquisition originates in a passionate aversion from instant death with no calculation of distant good; and this is the form which the commonwealth assumes in history. Nevertheless, in studying the commonwealth by acquisition, Hobbes is not supplementing philosophy by history; he is not studying what is historical, but what is moral. He is continuing his 'deduction of sovereign rights from the nature, need and designs of men in erecting of commonwealths'.

As the nature, need, and designs of men are the same in both cases, the rights of the sovereign are the same in a commonwealth by acquisition as in a commonwealth by institution; and in both cases these rights are derived from covenants of authorization. The point which Hobbes here wishes to make is that the right of the sovereign by acquisition can be no greater than the right of the sovereign by institution; it does not seem to have occurred to him that anyone could imagine that it could be less. The man who is monarch of one nation by institution, and of another by conquest, acts either iniquitously, or in ignorance of natural law, if on pretext of conquest he conducts himself with greater severity to the second than to the first.

Cities and kingdoms are but greater families.¹ A great family, if not part of a commonwealth, is of itself, as to the rights of sovereignty, a little commonwealth. Though the right is the same, such a family is not properly a commonwealth, unless it is so powerful that it cannot be subdued without the hazard of war. Where a number of men are manifestly too weak to defend themselves by united action, 'every one may use his own reason in time of danger, to save his life, either by flight, or by submission to the enemy, as he shall think best'.

As Hobbes is concerned at this point only with the right of sovereignty, his study of the commonwealth by acquisition can be restricted to a study of the family. A family can consist of a man and his children, or of a man and his servants, or of a man and his children and his servants together. Hence what

¹ L. 87 (*E.W.* iii. 154).

has to be considered is the right of a father over his children, and the right of a master over his servants. Though dominion may be said to be acquired either by generation or by conquest, the right of dominion is derived neither from generation nor from victory but solely from covenant.

Paternal dominion cannot be derived from generation; generation would give father and mother an equal right to dominion over the child; and it is impossible that a child should be equally subject to two persons. In a summary statement Hobbes could say that 'the father of the family, by the law of nature, was absolute lord of his wife and children'.¹ The fuller, though earlier, statement in *Leviathan* is to be preferred. It is erroneous to attribute dominion over the child to the father only, as being of the more excellent sex; some women excel some men in strength and prudence. Civil law gives the right to the father because commonwealths for the most part have been erected by the fathers, not by the mothers of families. The question, however, is at present not one of civil but of natural law. In the state of nature there are no laws of matrimony except the mutual love of the sexes and instinctive care of the offspring.² Hobbes's conception of natural law does not wholly exclude instincts conducive to preservation, though instincts cannot be laws in the sense of commands. The right of dominion over the child is naturally in the mother. Only she can know who is the father. But the right is hers because she nourishes and protects the infant. If she exposes the child, the right passes to anyone who sees to his preservation. Hobbes's cardinal point is that the protected is always obliged to obey his protector; acceptance of protection implies covenant of obedience, that is of authorization. The mother can transfer the right of dominion over the child to the father by covenant, but the right itself is derived from the child's implied covenant. Such covenants are valid covenants. They are covenants which, being made outside the commonwealth, are in that sense made in the state of nature. But they are not covenants between enemies, and they relate to dominion.

¹ *E.W.* vi. 147.

² *O.L.* iii. 152.

Dominion over the child includes dominion over the child's children. Nevertheless, in most other contexts Hobbes declared that children were incapable of covenanting. Possibly all that he here meant was that such a covenant is reasonable.

Dominion acquired by conquest is the dominion of a master or lord over his servants. Hobbes called this dominion despotical in accordance with the first Greek meaning of the term. The vanquished 'to avoid the present stroke of death' covenants 'that so long as his life, and the liberty of his body is allowed him (*pro vita et libertate corporis concessa*), the victor shall have the use thereof at his pleasure'. 'It is not, therefore, the victory that giveth the right of dominion over the vanquished, but his own covenant.' The servant holds his life of his master, 'by the covenant of obedience; that is, of owning, and authorizing whatsoever the master shall do'. The master contracts with his servant, but he does not covenant with him for he performs immediately by desisting from the present stroke of death. The victor merits dominion in virtue of his own power, and the need of the vanquished. Dominion does not come to him as a gift from the vanquished, and he has no obligation under the law of gratitude in respect of it. Yet he has made peace with the vanquished, and is thereafter obliged to treat him equitably. Hence the obligation of conscience of the sovereign by acquisition is politically the same as that of the sovereign by institution.

The vanquished is obliged because the victor trusts him to keep his covenant by granting him corporal liberty. Where there is no such trust, there is no obligation. The vanquished who is kept in prison or in fetters is a slave without any obligation in respect to the victor; they are still in the state of war.

There is a right of conquest only if conquest is understood as implying the submission of one who is overcome in war. This right does not depend on the goodness of the cause of the conqueror.¹ War cannot justify. What makes the sovereignty of a conqueror legitimate is his offer of protection and the acceptance of that offer by submission.

¹ L. 387 (*E.W.* iii. 706).

There are no subspecies of the commonwealth by acquisition; as conceived by Hobbes it is always a monarchy, though it may be a monarchy of one people over another.

5. *Scriptural Confirmation*

When Hobbes completed his deduction of sovereign right in Chapter XX, he at once sought confirmation. It is characteristic of the man, and of a generation that was beginning to pass away, that what he sought was not historical verification, but Scriptural proof. Though the plan of *Leviathan* is an argument from reason, followed by an argument from Scripture, Scripture held too dominant a place in Hobbes's mind to be excluded altogether from work that was professedly philosophic. The most interesting point in this Scriptural interpolation is the interpretation of the Fall which leads to the conclusion that it is clearly, though allegorically, signified in Genesis that the commands of sovereigns are not to be censured or disputed by their subjects. The judicature of good and evil was forbidden, as a trial of Adam's obedience. The Devil told Eve that, by tasting of the forbidden fruit, they should be as gods, knowing good and evil. When Adam and Eve had both eaten, they took upon them God's office, 'which is judicature of good and evil; but acquired no new ability to distinguish between them aright'. Man's first judgement of good and evil betrayed his inability to judge aright. Adam and Eve had always seen their own skins. When it is said that they now saw that they were naked, 'the meaning is plain, that it was then they first judged their nakedness (wherein it was God's will to create them) to be uncomely; and by being ashamed did tacitly censure God Himself'.

Natural good and evil are relative to persons, but the distinction between moral good and evil has existed from all eternity in God's Moral Law. Man's first duty of simple obedience to God is easily understood, but is ill performed. Man's mistaken confidence in his own ability to judge between good and evil is that original sin of pride, in which all men participate. In disobeying his sovereign, the subject repeats

the sin of Adam, for he disobeys God. Men have little ability to judge aright, and therefore for the most part judge differently.

6. *The Historical Commonwealth*

Scriptural confirmation was all-important for Hobbes; historical verification was of practical rather than of theoretical interest to him. In 1646 he was confident that historical verification was complete.¹ Dominion (*imperium*) greater than which cannot be transferred by men to man is called absolute. No one doubts that a democracy has such dominion. A monarchy is no less a commonwealth than a democracy, though in this case the absolute power of the sovereign is not so evident to most men. All monarchies, and all other commonwealths, have absolute sovereignty. Sovereigns do not do all that they wish to do, and that they judge profitable for the commonwealth; but the cause of this is not defect of right, but consideration for citizens who sometimes cannot without danger to the commonwealth be compelled to do their duty. Therefore princes sometimes abstain from the exercise of their right, and prudently remit something of the act (*de re*), but nothing of the right.

In *Leviathan* the position is different. The conclusion, deduced by reason and confirmed by Scripture, is presented unequivocally in the margin: sovereign power ought in all commonwealths to be absolute. Practice makes its appearance as the greatest objection to the theory: where and when has such power by subjects been acknowledged? Hobbes's answer to this objection is threefold. Firstly, he counter-attacks with the question: 'When, or where, has there been a kingdom (the *civitas* of the Latin text is better) long free from sedition and civil war?' This suggests that history provides at least some negative verification. Secondly, in those nations whose commonwealths have been long-lived, and not been destroyed but by foreign war, the subjects never did dispute of the sovereign power. Here is some positive verification. To the end Hobbes

¹ *O.L.* ii. 224-5 n. (*E.W.* ii. 80-81 n.).

adhered to the position that some historical commonwealths had been rightly constructed by exceptional men through natural logic but without science. Thirdly, an argument from the practice of ignorant men is invalid. The science of constructing and preserving commonwealths has rules no less certain and infallible than arithmetic and geometry: and does not depend only on practice.¹ These rules are now demonstrated for the first time. Practice is irrelevant where scientific truth is in question. So far as the validity of his science is concerned, Hobbes felt able to dispense with historical verification. His doctrine differed greatly from the practice of the greatest part of the world. Its understanding required a depth of moral philosophy rarely found in sovereigns. Yet he still hoped that his labour might not be as useless as the commonwealth of Plato.² He never thought that his civil philosophy was Utopian; he merely feared that it might be useless because men did not understand it.

Men do not have the use of reason to which they pretend.³ If they had, their commonwealths might be secured from perishing from internal diseases. When commonwealths are dissolved by intestine disorders, the fault is in men, not as the matter, but as the makers and orderers of the commonwealth. Without the help 'of a very able architect' men can construct only commonwealths which are crazy buildings, which will hardly outlast their own time. *Leviathan* expounds the new science of political architecture, so that men may no longer build their commonwealths on sand.

Leviathan is concerned with right. The historical commonwealth is here irrelevant. The references to historical commonwealths in *Leviathan* are incidental and illustrative but they can be supplemented from Hobbes's other works, and especially from *A Dialogue of the Common Law*⁴ (c. 1668).

The beginning of all dominion among men was in families.⁵ The father was absolute lord. The family acquired property in

¹ *O.L.* iii. 159.

³ *L.* 170-1 (*E.W.* iii. 308).

⁵ *Ibid.* 147-8, 154.

² *L.* 179, 197 (*E.W.* iii. 324, 357-8).

⁴ *E.W.* vi. 1-160.

land by the law of first possession or by conquest. There are two sorts of property. 'One is where a man holds his land from the gift of God only, which lands civilians call allodial.' The other sort is where man holds land of another man in return for service. The first kind of property is absolute, the other in a manner conditional. The first excludes the right of all others; the second the right of all other subjects, but not the right of the sovereign. This means that there is a natural right to property in land based on first possession. This is the right of a sovereign to the territory occupied by his subjects. It is an absolute right only in respect to his subjects. The absolute right is dependent on covenant, but the moral right is not. What one sovereign holds from God may be taken from him by another sovereign; and in such dispossession there can be no injustice as no covenant is thereby broken. Of this sort of property there can be no science, for the questions which arise are not questions of human justice but of Divine equity. Conquest cannot be unjust, but may be iniquitous. Conquest is justified by the intention. Necessity and security are the principal justifications before God of beginning war.

The family increased its territory by conquest, and made servants, that is subjects, of the conquered. Others joined it for protection. All this is consonant, not only to the Law of Nature, but also to the practice of mankind set forth in history, sacred and profane.

Great monarchies have proceeded from small families by war.¹ The other forms of the commonwealth have arisen from the family in other ways. A voluntary conjunction of many lords of families produced an aristocracy, e.g. the Venetian. From rebellion came anarchy, and then any form of government to which the calamities resulting from anarchy prompted men. Thus monarchy may grow by war justified in the sight of God, and aristocracy may arise from voluntary agreement, but democracy seems to issue historically only from the sin of rebellion. This was not a point of any real importance, for Hobbes held that 'there is scarce a

¹ *E.W.* vi. 150-1.

commonwealth in the world, whose beginnings can in conscience be justified'.¹

7. *The English Commonwealth*

England was the only historical commonwealth that was of substantial importance to Hobbes. The English monarchy arose from war. Hobbes's thought goes deeper than his theory; according to his theory there have been a succession of commonwealths in England; in his thought the English commonwealth has had a continuous history from Saxon times. The right of sovereignty in the English monarchy passed to William I by submission following conquest; and William's right is all descended to the present King.² The right of the Kings of England, however, does not depend 'on the goodness of the cause of William the Conqueror and upon their lineal, and directest descent from him'.³ Hobbes's doctrine of Divine Right was not a doctrine of Divine Hereditary Right: a sovereign has the right to dispose of the succession as he chooses. But William did not have the right of sovereignty entire: he is an instance of a man who, 'to obtain a kingdom, is sometimes content with less power than to the peace and defence of the commonwealth is necessarily required'. He took an oath not to infringe the liberty of the Church; and Becket, when he held Henry II to this promise, was supported by the Pope, the sovereign of a foreign commonwealth. In the end, however, 'the power of the Pope was totally dissolved' by Queen Elizabeth I.⁴ Hence the right of sovereignty is now entire in the King of England. Hobbes appealed to Bracton, with the qualification that all the power spiritual which Bracton allowed to the Pope has now been restored to the King. The triumphant conclusion emerges: 'that this doctrine concerning the rights of sovereignty, so much cried down by the Long Parliament, is the ancient common law, and that the only bridle of the Kings of England, ought to be the fear of God'.⁵

¹ L. 388 (*E.W.* iii. 706).

² *E.W.* vi. 21, 24, 74.

³ L. 387 (*E.W.* iii. 706).

⁴ L. 171, 380 (*E.W.* iii. 309, 696).

⁵ *E.W.* vi. 31-32.

Hobbes was thus prepared to maintain that the English commonwealth, as it existed in his day, was a rightly constructed commonwealth; natural logic had led men to perceive and to remedy what had been defective in it. There could be no division of sovereignty between King and Parliament. The King is the only absolute representative of the English people.¹ The idea that sovereignty could reside in King, Lords, and Commons is absurd; each of the three could negative what the other two affirmed; hence the sovereign would often be mute in cases of the greatest consequence.² Each of the two Houses of Parliament is a subordinate 'system'; and the existence of each is terminated when Parliament is dissolved by the sovereign. Hobbes seems to have had a certain inclination towards an older view of Parliament, of which traces survived in the sixteenth century, e.g. in the language of Elizabeth I when she spoke not of *the* but of *a* Parliament. According to this view Parliament was not an established organ of government with a continuous tradition but merely an intermittent assembly. There was not an English Parliament which met from time to time but a series of English Parliaments. Parliament was a device of government of which the monarchy made recurrent use, just as use is made recurrently today of royal commissions of inquiry. Parliament was used for more important business than any royal commission, but it was no more than an instrument of monarchic government used at the discretion of the King.

This is the side of Hobbes's thought on Parliament which is uppermost when, as in *Leviathan*, he is concerned to vindicate the absolute authority of the sovereign. *A Dialogue of the Common Law* reveals the other side of his thought. His legal absolutism is not incompatible with what may be called a moral constitutionalism.

And yet not all kings and states make laws by assent of the Lords and Commons; but our king here is so far bound to their assents, as he shall judge conducive to the good and safety of his people . . . the king is sole legislator, but with this restriction, that if he will not consult with the

¹ L. 123 (*E.W.* iii. 221).

² L. 86 (*E.W.* iii. 152).

Lords of Parliament, and hear the complaints and informations of the Commons, that are best acquainted with their own wants, he sinneth against God, though he cannot be compelled to anything by his subjects by arms and force.¹

A temporary disuse of Parliaments might be an unfortunate necessity, but Hobbes was too good an Englishman to hanker after such an absolutism as was emerging in France. On the basis of contemporary historical scholarship, he conjectured that there was already a perfect English Parliament in Saxon times. His absolutism was traditional and English before it became rational and universal. Though Parliament was an English, and not a universal, institution, he thought that there was no case in which a king of ripe years and sound mind made any law otherwise than by the advice of the wisest and discreetest men in his realm, as it was in his interest to do so.²

It is notoriously dangerous to frame a theory of the English constitution. Hobbes does not escape the kind of absurdity which Burke attributed to those who make a theory on the constitution, and then complain that the constitution in practice is not the constitution of their theory. Hobbes developed with doctrinaire vigour the absolutist side of English constitutional tradition. Like his contemporaries he regarded the constitution as static; and he took a simpler view of it than did most practising politicians. But he had constitutional insights which escaped most of his contemporaries. He saw that English history provided a basis for a doctrine of a legally supreme sovereign authority. He saw that English history provided no basis for the doctrine of fundamental civil laws. He saw that the only restrictions on a legally supreme sovereign authority must be self-imposed by moral restraint or by enlightened self interest; and these are the only restrictions today on the sovereignty of the King in Parliament.

In the sixteenth century the imperfection in the English commonwealth was removed; yet in the seventeenth century this rightly constituted commonwealth was convulsed by civil

¹ *E.W.* vi. 22-23.

² *Ibid.* 157.

war. Indeed, it seems on Hobbes's terms that the commonwealth into which he had been born had been dissolved before *Leviathan* appeared. A soundly constituted commonwealth is no more immune from disease than is a man with a sound natural constitution; in particular neither is immune from poison, and both can be led astray by following the example of others. The account which Hobbes gives in Chapter XXIX of *Leviathan* of the diseases to which a soundly constituted commonwealth may be subject was not the product of deductive reasoning, but was his diagnosis of the troubles of seventeenth-century England. What is said in this chapter accords substantially with what he wrote later in *Behemoth*, which was professedly an account of the causes of the civil wars of England. In both works primacy is accorded to the poison of seditious doctrines; and in both, divines have been the most zealous propagators of the most pernicious doctrines. The prime cause of the rebellion was the seduction of the ignorant many by the ambitious few through the propagation of the false moral doctrine which necessarily issues from all claims, whether of Pope, Bishop, or presbyter, to authority independent of the civil sovereign.¹ Other causes were subsidiary. The gentry had been infected by the lawyers with false legalistic doctrines repugnant to civil society. The reading of the classics had seduced some of them from their allegiance to the monarch. The Royalists themselves were seduced by the idea of a mixed monarchy, and looked to an accommodation with Parliament rather than to complete victory in the war. Hobbes is here glancing particularly at Clarendon. London merchants, inspired by Dutch example, thought that a change in the form of government would increase their prosperity. London 'has a great belly, but no palate or taste of right and wrong'. Avarice, for Hobbes the deadliest of vices, was almost an occupational disease of merchants, but if the merchants had understood their own interests they would never have taken the side of the Long Parliament.²

¹ B. 16, 59, 144 (*E.W.* vi. 184, 237, 343).

² B. 3, 4, 104, 125-6, 142, 193 (*E.W.* vi. 168, 292, 318, 320-1, 340, 465).

8. *Sovereignty De Jure and De Facto*

After the Restoration Hobbes maintained that Charles II had 'the title, right and reverence of a King'¹ in the years 1649 to 1660, and that during that period there was a 'circular motion of the sovereign power, through two usurpers, from the late King to this, his son'.² It was not to be expected that he should disclose his opinion that the Commonwealth was a usurpation in a work which he intended to publish in London in 1651 as a prelude to going home. He maintained that in going home he did not desert his lawful sovereign. In 1662 he said that he came home, 'because he would not trust his safety with the French clergy'. Later, in his verse autobiography, he said that Charles II, in exile in Paris, had the *jus regni*; a rebellious multitude had seized the power of the kingdom (*vim regni*), and ruled without law. Hobbes feared assassination by Royalists whom *Leviathan* had angered, and came home without any guarantee of safety in England, because he could not be safer in any other place.³ It is not strange that a man, bent on going home, should find many different reasons for doing so; but it was a fixed point with Hobbes that neither he himself, nor his friends who compounded with the Commonwealth for their estates, had deserted their lawful king.

It is not easy to find a legitimate place within Hobbes's naturalist theory for any distinction between sovereignty *de jure* and sovereignty *de facto*. The obligation of subjects to the sovereign lasts no longer than the power (*potentia*) lasts by which he is able to protect them. 'The end of obedience is protection.'⁴ When enemies obtain a final victory in foreign or in civil war, and the forces of the commonwealth keep the field no longer, so that there is no further protection of subjects in their loyalty, the commonwealth is dissolved. Every man is then at liberty to adopt what he judges to be the best course for his own protection. The right of a sovereign monarch cannot be extinguished by the act of another—a bold assertion in the England of 1651; but the obligation of the

¹ *E.W.* iv. 415.

² *E.W.* vi. 418.

³ *O.L.* i, pp. xcii-xciii.

⁴ *L.* 116 (*E.W.* iii. 208); *O.L.* iii. 168.

members may be extinguished by the act of another. He that wants protection may seek it anywhere: 'and when he hath it, is obliged (without fraudulent pretence of having submitted himself out of fear) to protect his protection (*sic*) as long as he is able'. When the power of an assembly is once suppressed, the right perishes utterly; the assembly is extinct; consequently there is no possibility for the sovereignty to re-enter.¹ Hobbes clearly indicated that the commonwealth of which Charles I had been sovereign had been dissolved. This conclusion is a necessary part of his civil philosophy. Indeed, he was prepared to go farther, and to say that civil war itself dissolves the commonwealth. In England a new commonwealth had been acquired by conquest and submission. Its origin was sinful but its right depended, not on the justice of the war,² but on victory and submission. On the other hand, Hobbes indicated equally clearly that the right of Charles I to sovereignty in England had not been extinguished. It could be inferred that the right had passed to his eldest son; and that there was a possibility of the re-entrance of the rightful sovereign.

Summa potestas cannot survive the disappearance of the natural obligation on which it is grounded. But there is a *jus summae potestatis*. In the time of the Judges there was no sovereign power (*summa potestas*) in Israel: 'But if we consider, not the exercise, but the right of governing (*summae potestatis . . . jus*,) the sovereign power (*summa potestas*) was still in the High Priest.'³

Hobbes's position seems to be that Charles II had a moral right to sovereignty in England during the Commonwealth; but that Royalists who accepted the protection of the Commonwealth had a moral duty to resist any attempt by Charles II to 'obtain' that right by force. A moral right is no more than a right of endeavour, and is unmatched by natural obligation on others to respect it. Even those Royalists who accompanied

¹ L. 177-8 (*E.W.* iii. 321-2); *O.L.* iii. 239.

² L. 387 (*E.W.* iii. 706).

³ L. 257-9 (*E.W.* iii. 469-73); *O.L.* iii. 344-7.

Charles II into exile had no natural obligation to adhere to him, since he lacked the power to protect them. All that Hobbes could accord to Charles II in those years, even in his verse autobiography, was *jus regni*. Verse is not a suitable vehicle for precise doctrine; but Charles II was never in the mere state of nature. Hobbes did not mean that Charles had the right to all things, including the right to reign over all the rest of mankind. He meant that Charles had the right of a King of England, the *jus summae potestatis* over Englishmen. Those who had usurped the government certainly had *vim regni*, and on Hobbes's theory they had also *summa potestas*. There was a gap, not only between Scriptural doctrine and theory, but between thought and theory. England was country as well as commonwealth, and, as country, England was not dissolved. Country was more to Hobbes than sovereign. But he could be precise only about the superficial, and he aimed at precision in morals and politics. In his thought there was a distinction between sovereignty *de jure* and sovereignty *de facto*; there was no place for such a distinction in his theory; and, if he had any doctrine on the matter, he never disclosed it.

XIV

THE LIBERTY OF SUBJECTS¹

1. *Liberty*

'A FREE-MAN is he, that in those things, which by his strength and wit he is able to do, is not hindered to do what he has a will to.' A free subject is a contradiction in terms.² The free man always has absolute natural liberty in the sense of independence, an unvarying liberty to do what he wills and can. The free man, subject neither to God nor to man, was for Hobbes a philosophic fiction. But all men are by nature equally free in respect to one another. The actions of the free man are governed solely by his own reckoning of natural good and evil.

The liberty of subjects of the commonwealth is liberty from covenants. The distinction between the natural and the artificial in morals appears more clearly in Chapter XXI than elsewhere in *Leviathan*. In this chapter Hobbes wrote both of 'the true liberty of a subject' and of 'artificial chains, called civil laws'; and the marginal summary at this point is 'Artificial Bonds, or Covenants'. The absolute liberty of the state of nature consists in the absence of the artificial obligation of man by man. Natural obligation does not here come under consideration. Absolute liberty is praised, not as the calamitous liberty of particular men, but as the salutary liberty of the commonwealth. Within the commonwealth only the sovereign has absolute liberty from covenants.

The liberty of subjects, as distinct from the liberty of a free man, is liberty only by allowance of the sovereign. This liberty 'lieth . . . only in those things, which in regulating their actions, the sovereign hath praetermitted'. This applies to the subject of God, as well as to the subject of an earthly sovereign.

¹ *L. Ch. XXI.*

² *L. 20 (E.W. iii. 32).*

2. *The True Liberty of a Subject*

The true liberty of a subject is not his by allowance of his earthly sovereign. It is his natural as distinct from his artificial liberty. Therefore it does not fall under the definition until we reach Chapter XXXI and are beyond the bounds of Hobbes's civil philosophy. It is then seen to be the liberty of man as subject of God. This true liberty is natural right in relation to all fellow-subjects of God, including earthly sovereigns. Natural liberty is true liberty; civil liberty is artificial liberty. In relation to his earthly sovereign a man is only partially subject; he retains his inner freedom and responsibility as a natural person, and he also retains a residual freedom of action. In relation to God men have no right, but only a liberty allowed by God.

From the standpoint of civil philosophy the true liberty of a subject is liberty of action, consisting in 'the things, which though commanded by the sovereign, he may nevertheless, without injustice, refuse to do'. A subject has no right to refuse obedience where refusal would frustrate the end of the commonwealth. The interesting point is that he has a right to refuse to execute a dangerous or dishonourable office, where refusal to obey does not frustrate 'the end for which the sovereignty was ordained'. Hobbes does not indicate who is to judge whether disobedience would, or would not, frustrate the end. It is probable that he thought that both the sovereign and the subject concerned had a moral right to judge, and a moral duty to judge honestly. It is possible that he thought that when both judged honestly, they were unlikely to disagree. But whether the sovereign judges honestly or not, a prudent subject will accept his decision, except in cases in which he prefers death to obedience. Hobbes had always thought that there were commands which a man would rather die than obey,¹ and that these were cases in which disobedience did not frustrate the end of the commonwealth.

He applied his general principle to the particular case of

¹ O.L. ii. 226 (E.W. ii. 82).

military service. When the defence of the commonwealth 'requireth at once the help of all that are able to bear arms, every one is obliged'. In other cases a man may often, without injustice, refuse to serve as a soldier. Hobbes's first instance is where a man, commanded to serve, supplies a sufficient substitute. Secondly, allowance should be made for the timorousness of men of feminine courage. He means that allowance should be made for the cowardice of such men; where their refusal does not frustrate the end of the commonwealth, such refusal 'is not injustice, but cowardice'. They act dishonourably, but not unjustly. It is by no means certain that Hobbes had a personal interest in this plea. He had never been commanded to serve as a soldier, and, as he was fifty-four when the civil war broke out, he had no apparent reason to reproach himself with a dishonourable cowardice. On his own principles he would have acted unjustly, had he been able to bear arms and had refused to obey the King's command to do so. And he vaunted his justice, if not his courage.

Men who have already resisted the sovereign, or have committed some capital crime, do not add to their injustice by assisting and defending one another, but the offer of pardon takes away the plea of self-defence. Apparently such men do not add to their injustice if they procure safety by usurping sovereignty. Injustice is the only form of immorality of which men can properly judge, but Hobbes undoubtedly thought that the regicides had added iniquity to the original injustice of the rebellion.

A subject cannot hope to derive much earthly benefit from his true liberty. It is a moral right in competition with the right of the sovereign, to whom superior natural power is available. Its significance seems to be almost exclusively moral, that is to say religious; but it obviously had significance for Hobbes.

The liberty of the subject, whether true or artificial, does not limit in any way the right (*potestas*) of the sovereign. A sovereign 'never wanteth right to anything, otherwise than he himself is the subject of God, and bound thereby to observe the laws of nature'. Religion here breaks into philosophy.

In Chapter XXI Hobbes to some extent associates the true liberty of the subject with that part of the right of nature which no man can lay down. But he puts forward a different measure of the true liberty of the subject in the end of the commonwealth. He never dealt with the question whether these two measures coincide. The end of the laying down of right, and hence the intention of the authorization of the sovereign, 'is nothing else but the security of a man's person, in his life, and in the means of so preserving life, as not to be weary of it'.¹ If a man is weary of the only kind of life that he can have under his particular sovereign, has he a right to refuse obedience, though his refusal frustrates the end of the commonwealth? The question had no interest for Hobbes as the case was of no practical importance.

3. *Artificial Liberty and Artificial Chains*

If natural laws impose natural obligations, civil laws impose civil obligations.

The liberty of the subject of the commonwealth is relative to artificial bonds.

For if we take liberty in the proper sense, for corporal liberty; that is to say, freedom from chains and prisons, it were very absurd for men to clamour as they do (*flagitarent hodie rebelles nostri*), for the liberty they so manifestly enjoy.

The Latin text here betrays its early origin. It is no less absurd for men to demand, as they do, liberty in the sense of exemption from law, a 'liberty by which all other men may be masters of their lives'. Men make this absurd demand, 'not knowing that the laws are of no power to protect them, without a sword in the hands of a man, or men, to cause those laws to be put in execution'. The laws of nature cannot protect men unless they are backed by a sword in the hands of a man who interprets them in statutes and particular judgements; and it is from these artificial chains that men seek exemption.

Civil laws are artificial chains which men themselves, 'by

¹ L. 68 (*E.W.* iii. 120).

mutual covenants, have fastened at one end to the lips of that man or assembly, to whom they have given the sovereign power; and at the other end to their own ears'. The chains which men thus fasten are chains of communication. Hobbes could emphasize the directive as well as the obligatory function of law. It is because these chains of communication are made in performance of covenants that they are artificial bonds. Men who submit to a sovereign promise to obey, before they know what are the commands which the sovereign will issue. This is an artificial obligation of promise as distinct from a natural obligation of debt.¹ But this is an indefinite obligation, and Hobbes is concerned only with definite artificial obligations, with obligations by particular civil laws. As the sovereign imposes these artificial obligations upon his subjects, he might be styled an artificial obliger.

The artificial liberty of the subject consists in the absence of artificial obligation, of obligation by civil laws. In no commonwealth is it possible to regulate all the words and actions of subjects by laws. Hence in all kinds of actions, 'men have the liberty of doing what their own reason shall suggest for the most profitable to themselves'. Hobbes's illustrations can hardly fail to impress the subject of the modern state:

such as is the liberty to buy and sell, and otherwise contract with one another; to choose their own abode, their own diet, their own trade of life, and institute their children as they themselves think fit; and the like.

This artificial liberty varies in extent from time to time, and from commonwealth to commonwealth.

The artificial liberty of a subject is thus an allowed and protected liberty to act as a natural person. Artificial liberty is, like natural liberty, liberty to endeavour; and in relation to the sovereign it is no more than this. Preservation is here conceived broadly; it includes commodious living. The artificial liberty of a subject is a restricted liberty to endeavour to obtain what he judges profitable. Though this liberty is in substance a remnant of his former natural liberty, it is artificial

¹ *E.W.* v. 187.

because it is retained only by allowance of the sovereign, a liberty allowed to man by man as well as by God. The man who acts contrary to a law of nature which is not part of the law of the commonwealth is guilty of moral, but not of civil, wrong. The subject thus has to some extent civil liberty to act immorally. The sovereign ignores laws of nature other than those which dictate peace; the silence of the civil law does not authorize immoral conduct, because both artificial obligation and artificial liberty relate only to laws of nature which dictate peace. The sphere of morality is wider than the sphere of legality.

4. *Obligationes and Ligationes*

In the state of nature the fear of evil consequences upon the rupture is not sufficient to hold men to artificial obligations.¹ But it is on liability, and not on natural obligation, that Hobbes relies for the fulfilment of artificial obligations within the commonwealth. Of themselves the artificial chains of civil laws can be of no avail to secure a man from injury by others. Civil laws are words, and the bond of words is easily broken. Civil laws are *obligationes*, artificial obligations. Halters are *ligationes*, which hold or tie men to *obligationes*.² The obligations of which Hobbes here wrote are *obligationes quae fiunt per verba*. Men may be tied by fear of punishment to do what they ought to do for the sake of conscience. Such acts are done under compulsion; and a compelled act is for Hobbes a necessary, free, and voluntary act, done on the agent's own reckoning of naturally good and evil consequences. The man who keeps within the civil law, whatever his motive for doing so, fulfils all his civil obligations; he gives his sovereign all that is due, obedience in word and in deed.

Artificial bonds, even when strengthened by liability to punishment, do not always hold men. All that Hobbes can say is that civil laws 'may . . . be made to hold by the danger, though not by the difficulty of breaking them'. The

¹ Ch. X (4).

² O.L. iii. 134.

commonwealth assumes that crimes will be committed, and makes provision for the punishment of criminals. Science, as conceived by Hobbes, is not concerned with the 'may' of probability. That *ligationes* may hold men to *obligationes* can be no more than an empirical truth.

5. *Civil Rights and Property*

Civil philosophy is concerned with relations between subjects only in so far as these affect relations between subject and sovereign. What Hobbes thought of civil liberty, as right in relation to fellow-subjects, has to be glimpsed from a few scattered references. Civil right is a right of property, but property is used in so broad a sense that the distinction between rights of property and personal rights is abolished. A subject has property in his life and limbs, in the things that concern conjugal affection, in riches and means of living.¹ He may have 'natural' property in some useful art,² that is in his own skill. But all the property of subjects, including such 'natural' property, is of civil institution. The state of nature is a state 'which is neither propriety, nor community, but uncertainty', or in Latin, strife (*concertatio*).³ Civil laws are rules *circa rerum proprietatem*.⁴ In the civil law the sovereign prescribes rules by which every subject may know what goods he may enjoy, and what actions he may do, without molestation by fellow-subjects. This may be called distributive justice, but is properly called equity.⁵ No subject holds his property from the gift of God simply, but from the gift of God and of his sovereign. Sovereigns hold property from the gift of God simply in all that belongs to the commonwealth or to any subject. 'Mankind is God's nation in propriety.'⁶

The sovereign distributes conquered lands. Those of the vanquished who retain their lands now owe them as much to the grace of the conqueror as do the followers to whom lands are given. Civil right, as a right of property, is a right or

¹ L. 182 (*E.W.* iii. 329-30).

³ L. 130 (*E.W.* iii. 233); *O.L.* iii. 186.

⁵ L. 78 (*E.W.* iii. 138).

² L. 132 (*E.W.* iii. 237).

⁴ *O.L.* iii. 136.

⁶ L. 223 (*E.W.* iii. 404).

artificial power, to exclude all other subjects from the use of the thing, but is not a right to exclude the sovereign. Hobbes was combating the traditional English doctrine that the king 'should live of his own'. A commonwealth cannot be dieted as its needs depend, not on its own appetite, but on the extent of external dangers.¹ The doctrine that every private man has an absolute property in his goods, such as excludes the right of the sovereign, is a doctrine, propagated by lawyers, which tends to the dissolution of the commonwealth. A subject has his right of property only from the sovereign power (*potestas*), without whose protection every other man would have equal right to the same. If the right of the subject to his property excluded the right of the sovereign, the sovereign could not perform his office of defending his subjects from foreign enemies and from injuries by fellow-subjects.² From this opinion arises the difficulty of raising money for the necessary uses of the commonwealth.

In *De Cive* Hobbes had called civil right, 'proper' as distinct from common right. In *Leviathan* he avoided a term which might suggest that artificial right was right properly so-called, and that the true right of nature was improperly called right. The difference between the right of nature and artificial right is that the sovereign protects the liberty which he allows from invasion by warlike acts of force or fraud by fellow-subjects by penal laws, which impose upon subjects artificial obligations to respect the artificial rights of fellow-subjects. The artificial right of the sovereign himself is wedded to natural obligations to respect it; the artificial rights of subjects are wedded to artificial obligations to respect them. But the sovereign has no artificial obligations. Any obligations on him to respect the rights of his subjects are equitable obligations of which he is sole judge on earth. The sovereign has sovereignty as his due, and as his property.

Civil laws govern the transfer of property from subject to subject. It is only in a commonwealth that men can acquire property, here distinguished from sovereignty, by contract.

¹ L. 131-2 (*E.W.* iii. 233-6).

² L. 173 (*E.W.* iii. 313).

A coercive power is necessary to make good any right of property. Within a commonwealth men acquire property in a limited number of things in recompense for the universal right which they abandon.¹

6. *Freedom of Association*

The commonwealth was for Hobbes the only independent society; but it could not be an association of otherwise unconnected individuals. Such an association would be as impossible as a natural man without muscles. Hobbes said nothing about freedom of association when he wrote of the liberty of subjects, but he devoted a separate chapter to 'systems'.² Systems are 'any numbers of men joined in one interest or one business'. The term embraces every multitude from the commonwealth to a casual concourse. Freedom of association was for Hobbes a limited artificial liberty. Within the commonwealth even the family is a civil, artificial, association. Marriage is a civil institution governed by civil law, though a Christian sovereign may sin in the laws which he makes concerning marriage. Within the commonwealth the only lawful associations are associations allowed by the civil law, or by charter given to particular subjects. Only such special grant by the sovereign can make an association a person in law, a corporation. All lawful associations are made by allowance of the sovereign; but this does not mean that they are made by the sovereign. A private association may be formed in which one man or assembly is constituted representative of the whole number. The only example of such a lawful, regular, private body which Hobbes gives is the family. Yet on his principles a private association is conceivable in which an assembly is the authorized representative of each member for a lawful purpose, though the civil courts will not recognize the association as a person in law.

Associations are indispensable, but their multiplication or power may be dangerous. Unlawful systems are wens, biles, apostemes. Where there are a great number of corporations,

¹ L. 74 (*E.W.* iii. 131).

² L. Ch. XXII.

there are 'as it were, many lesser commonwealths in the bowels of a greater, like worms in the entrails of a natural man'.¹ The immoderate greatness of a town is an infirmity in a commonwealth; the reference is obviously to the part played by London in the civil war.

¹ *L.* 177 (*E.W.* iii. 321).

XV

CIVIL LAWS¹

1. *Introduction*

IN the English edition of *Leviathan* civil law is a species of law in general. In the Latin edition Hobbes drew a distinction between the laws of nature, the laws which we are bound (*tenemur*) to obey as men, and civil laws, the laws which we are bound to obey as citizens. Fundamentally this is a distinction between Divine and human laws; with exclusive reference to this world it is a distinction between morality and legality. Law in general is 'a command of him whose command is addressed to one formerly obliged to obey him'. A law of nature, as defined by Hobbes in Chapter XIV, is not properly law; law implies not only obligation, but a known sovereign as obliger.

Civil law is to every subject those rules (in Latin the singular, *regula*) which the commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of, for the distinction of right and wrong, (*boni et mali*), that is to say of what is contrary, and what is not contrary to the rule.

Civil laws are for those subject to them measuring rods for the measurement of right and wrong. As always, Hobbes's language implies that right and wrong exist independently of man's measurement of them. A civil law may be addressed to all, to some, or to a single subject. Laws are the rules of just and unjust, 'nothing being reputed unjust, that is not contrary to some law'. Breach of covenant is therefore unjust only because it is contrary to some law; breach of a law of nature as defined by Hobbes is certainly unreasonable, but strictly is not unjust. Civil philosophy is the science of just and unjust only if laws of nature are Divine laws.

¹ *L.* Ch. XXVI.

Explanation is followed by deductions from the definition.

The sovereign is the only legislator in any commonwealth. The sovereign is not subject to civil laws. It is not possible for any person to be bound to himself; because he that can bind can release. The opinion that the sovereign is subject to civil laws is a poisonous and seditious doctrine repugnant to the nature of a commonwealth, propagated by lawyers.¹ All sovereigns are subject to the laws of nature, because such laws are Divine laws which cannot be abrogated by any man or commonwealth. But a sovereign cannot be subject to the laws which he himself makes. This error, in setting the laws above the sovereign, sets also a judge above him, and a power to punish him; and this can lead only to the confusion and dissolution of the commonwealth.

It is of the essence of law that it be known to those who are subject to it. Law can be addressed only to those who have sufficient use of reason to understand commands. Children, and adults of unsound mind, are not subject to civil laws. They cannot know what is just, and what unjust, for they can understand neither covenants nor laws. The legislator must be known, and his laws made manifest and verified as his commands. It must be possible for any man, if he will, to discover whether a proposed action is, or is not, contrary to law; and he is obliged to inquire. What has to be known is not simply the letter of the law but its meaning. All laws require interpretation. The interpretation of the civil law must belong to the sovereign and to those whom he appoints for this purpose. The essence of a law consists solely in its true interpretation.

2. *The Law of Nature and the Civil Law*²

Hobbes's fourth deduction from his definition of civil law is little more than a recapitulation of positions attained or implied in previous chapters; but the paragraph requires detailed consideration as its language raises difficulties. In stating that the Law of Nature and the civil law 'contain each

¹ L. 173 (*E.W.* iii. 312-13).

² L. 141-2 (*E.W.* iii. 253-4).

other', Hobbes sacrificed clarity to paradox, and achieved paradox by equivocation; the Law of Nature and the civil law cannot 'contain each other' in the same sense of the word 'contain'. In interpreting the whole paragraph it has to be borne in mind that Hobbes is concerned with the Law of Nature only in so far as is necessary for the entire doctrine of civil duty. He therefore explains first that the civil law contains the Law of Nature in the sense that the Law of Nature is a part of the civil law in all commonwealths of the world. The Law of Nature contains the civil law in the sense that performance of covenants is a dictate of the Law of Nature, and subjects have covenanted to obey the civil law.

The argument is not circular, but the reader has to see for himself that Hobbes is here relying upon his two different types of obligation. His position is then seen to be a traditional one. Within the commonwealth there is civil, artificial, obligation, arising out of covenant, to obey the Law of Nature. This is not wholly accurate, but Hobbes here followed the usage of the English common lawyers according to whom the common law was the law of reason, the law of natural justice. Strictly the sovereign's interpretations of the Law of Nature are civil laws to the parties to the suit. It was of course also a commonplace that there is moral obligation to obey the civil law. In Hobbes's terms the obligation in this case is the natural obligation to perform covenants. This is the one case in which valid covenants can be made in the mere state of nature, for the covenants are covenants of peace armed with swords. But the obligation must remain purely natural, purely moral; civil law cannot oblige men to obey civil law. There is natural obligation to obey civil law; there is artificial obligation to obey the Law of Nature in the sense that the subject ought to make his words and deeds conform to the sovereign's interpretations of the Law of Nature. But there is an essential difference. All artificial obligations by civil laws, including the sovereign's interpretations of the laws of nature, must be grounded on the natural obligation to perform covenants; on the other hand no natural obligation can be grounded on any artificial obligation.

The commonwealth can only provide the security without which the laws of nature are not obligatory *in foro externo*.

It is also said in the English, but not in the Latin, edition, that the Law of Nature and the civil law 'are of equal extent'. The English text of the paragraph is to be preferred to the Latin; it is fuller, and is as free from passion. If the limited scope of *Leviathan* is borne in mind, the position is little more than a truism. *Leviathan* is concerned only with laws of nature, dictating peace, and the civil law contains all that is necessary for peace. But Hobbes seems to have had more than this in mind. His argument at this stage is strictly philosophic, though he will later seek confirmation of its conclusions in Scripture. The only laws known to civil philosophy are civil laws, as the only sovereigns known to civil philosophy are earthly sovereigns. Civil philosophy knows the laws of nature only as necessary articles of peace, or as qualities of men derived from such articles. A law of nature, as defined in Chapter XIV, is not properly law. Hobbes here referred the reader to what he had said before in the end of Chapter XV. A law of nature is, for civil philosophy, a dictate of reason, a conclusion or theorem. It is obligatory, by definition, but owing to insecurity it is not obligatory *in foro externo* in the mere state of nature. In the mere state of nature, that is in the absence of a human sovereign, men differ in their interpretations of the Law of Nature; they differ in judging what actions are equitable, just, or morally virtuous; and no man can make his interpretations binding on himself, or on any other man. Before the laws of nature can be laws, there is need of the ordinances of sovereign power, and punishments to be ordained for such as shall break 'them'. Hobbes may have meant by 'them', the laws of nature, but strictly man can be punished by man only for breaking the ordinances of sovereign power.

'For it is the sovereign power that obliges men to obey them.' This statement requires amplification as the equivocation of words may mislead. The power which obliges is not *potentia* but *summa potestas*, though unfortunately the statement does not occur in the Latin text. The obligation imposed

by sovereign power can be only civil, artificial obligation; but it is obligation *in foro externo*, obligation to do or to omit in word or in deed. Hobbes does not make sufficiently clear that at this point he is concerned exclusively with civil, artificial, obligation, that is to say, with legal as distinct from moral obligation. The obligations which the sovereign imposes can be fulfilled by unjust men who do not fulfil the natural obligation to perform their covenants. As unjust men can be held to artificial obligations by fear of punishment, the commonwealth provides security, and hence natural obligation to observe the laws of nature *in foro externo* is incumbent on all men within the commonwealth. This, however, was not for Hobbes a relevant consideration at this point.

It was for Hobbes of the essence of law that men who are subject to it are accountable to the sovereign whose law it is. In this world man can be accountable only to man, and only for what he owes to man. Therefore there can be no law in this world but civil law. Moreover, as most men are unjust, laws in this world 'of themselves are but a dead letter. . . . It is not . . . the word of the law, but the power of a man that has the strength of a nation that make (*sic*) the laws effectual'.¹ Obedience to law is for the most part the compelled obedience of unjust men; but this is all that is necessary for peace, and also for the security which permits the acquisition of the moral virtues.

Apart from the civil law the laws of nature are in this world moral precepts which each man interprets for himself without being accountable to any other man. Morality can be law in this world only as part of the civil law; but there is a moral duty to obey the civil law which cannot itself be converted into civil law. In this exceptional case the natural obligation to perform covenants made in the mere state of nature is an obligation *in foro externo* because there is security that others also will perform covenants of peace armed with swords. It is misleading to say that the laws of nature are actually laws as the commands of the commonwealth; the laws of nature are

¹ *E.W.* vi. 10.

right reason, and right reason does not exist *in rerum natura*; the commands of the sovereign are at best fallible interpretations of the laws of nature; and Hobbes of course emphasized this.

The Law of Nature is a part of the civil law in all commonwealths. Scripture is a part of the civil law in all Christian commonwealths.¹ Elsewhere Scripture is not law, but counsel which a man rejects without injustice but at the hazard of his soul. The Law of Nature and Scripture are law in this world only as interpreted by the sovereign in relation to words and deeds necessary for peace. Law implies the relationship of subject and sovereign. In this world God governs men only through His lieutenants, civil sovereigns. Morality apart from civil law is not law in this world, and apart from civil law man cannot be accountable to man. Hobbes is making a case against any moral, as distinct from legal, jurisdiction in this world. The jurisdiction of man over man is restricted to words and deeds necessary for mutual peace and common defence.

Apart from civil law man is accountable only to God. Outside the abstract realm of civil philosophy it was only in relation to Divine laws that there was for Hobbes anything that could be called natural justice, in the broad sense of conformity with natural law, or in the narrower sense of conformity with the particular natural law against violation of faith. There is 'no count of natural justice, but in the conscience only; where not man, but God reigneth'.² Even in this philosophic chapter Hobbes displayed the religious foundation of his conception of obligation. No civil law can be a fundamental law, unalterable by the sovereign; this would make the sovereign subject to a law which he himself had made, a position which is absurd. The only law which Hobbes was prepared to call fundamental is that citizens obey the sovereign. This cannot be a civil law; and as it must be law, it cannot be a law of nature as defined in Chapter XIV. The Law of Nature is Divine and fundamental law, unalterable by man; but it is the law by which man is judged, not as the subject of an earthly

¹ Ch. XVIII (3).

² L. 189 (*E.W.* iii. 342).

sovereign in this world, but as the subject of God in the world to come.

Civil law cannot abrogate natural law even as dictate of reason. Civil law cannot make the reasonable, unreasonable, or the unreasonable, reasonable. The virtues can never be unlawful, nor the vices lawful.

But the right of nature, that is the natural liberty of man, may by the civil law be abridged and restrained; nay, the end of making laws is no other than such restraint; without the which there cannot possibly be any peace. And law was brought into the world for nothing else, but to limit the natural liberty of particular men, in such manner, as they might not hurt, but assist one another, and join together against a common enemy.

The natural liberty of man in *Leviathan* is not corporal liberty, liberty in the only proper sense, but a right allowed by the Law of Nature. The Law of Nature was not brought into the world but is eternal; the law which is made to restrict the liberty allowed by natural law is civil law.

The sovereign cannot increase, diminish, or enforce natural obligation. The sovereign cannot increase natural right. The statement that 'the right of nature . . . may by the civil law be abridged and restrained' is not an exact representation of the position depicted by Hobbes. Natural right can be limited only by natural law, not by man. As Hobbes shows clearly in Chapter XXI, each subject, in participating in the institution of the commonwealth, places himself in a situation in which the only liberty which he has against his sovereign is his 'true' liberty. In consequence of his intention in authorizing the sovereign, he lays down all his natural right other than his true and inalienable liberty as a subject. The liberty which is his by allowance of the sovereign, though formerly his natural right, is now his artificial right, right in relation to his fellow-subjects, but not right in relation to the sovereign who can at any time deprive him of it. Natural right can be abridged and restrained only by natural obligation; only artificial right can be abridged and restrained by the artificial obligations of civil laws. Civil laws are brought into the world, not to

abridge and restrain the natural right of natural persons, but to abridge and restrain the artificial liberty of the parts of an artificial body. It is in making this artificial body that men suffer a loss of natural right. Men must lay down natural right, but they can lay down natural right only because it is possible for them to place themselves in a situation in which they are obliged by a law of nature, the law requiring performance of covenants. The natural obligation to perform covenants is constant. The natural obligation incumbent upon a subject to perform the covenants into which he entered in instituting the commonwealth can never be increased or diminished. In fulfilment of this constant natural obligation he is obliged to fulfil varying artificial obligations imposed upon him by the sovereign. As these artificial obligations cannot increase his natural obligation, they cannot decrease his natural right. The constant natural obligation is an obligation to be bound by varying artificial obligations, except where liberty would not frustrate the intention of the authorization.

3. *The Two Parts of Civil Law*

‘Civil and Natural Law are not different kinds but different parts of Law; whereof one part being written, is called Civil, the other unwritten, Natural.’ In the case of civil law, as in the cases of civil philosophy and justice, Hobbes could use the same name for a whole and for a part of that whole. The only law for man as citizen is civil law but that law consists of two parts. The written law consists of statutes; the unwritten law, the Law of Nature, is law for the citizen only in the form of particular decisions by civil courts.

‘For all laws are general judgements, or sentences of the legislator; as also every particular judgement, is a law to him, whose case is judged.’

The particular judgements that are laws were for Hobbes a much more important part of the law of the commonwealth than the laws which were general judgements. In seventeenth-century England case-law was more important than statute. The common law was case-law, dependent on reported cases

and governed by precedent. By the seventeenth century the less ancient Equity was hardening into a body of settled rules; and Equity also was relying more and more on reported cases and precedent. This case-law was held to be the law of reason, that is of nature; and it could also be regarded as the socially necessary minimum of Christian morality.

Hobbes agreed with the lawyers in regarding judgements in particular cases, not covered by statute, as applications of the law of reason. Though he appreciated the work of the Court of Chancery, 'the highest ordinary court in England',¹ the distinction between the common law and Equity was for him an accident of English history, and as such philosophically irrelevant. The study of the law of reason belongs to philosophy. Lawyers are with reason beholden to the philosopher. The common law, unlike statutes, is philosophy.² Hence in campaigning against the English common lawyers, Hobbes felt that he was fighting, not on their ground, but on his own. Coke is *clarissimus ille juris consultus*³ when he agrees with Hobbes, but when Coke differs from Hobbes, e.g. as to the law of heresy, 'it is manifest he understood not his books of common law'.⁴ Knowledge of the law of reason is the fruit of philosophic meditation, not of technical knowledge of the legal practice of a single country. Hobbes campaigned against lawyers for substantially the same reason as he campaigned against sacerdotalists; they sought to usurp essential rights of sovereignty.

The law of reason is an unwritten law. Law can never be against reason. This cannot mean that law can never be against any private reason, for, if this were the meaning, 'there would be as much contradiction in the laws, as there is in the schools'. Nor does it mean that law cannot be against 'an artificial perfection of reason gotten by long study', as Coke claimed. There can be no artificial perfection of reason. Within the commonwealth the judgement of what is reasonable belongs to the sovereign. Law can never be against the reason of the sovereign, but that reason may be erroneous through defect

¹ *E.W.* vi. 55.

² *Ibid.*, 24.

³ *O.L.* iii. 556.

⁴ *E.W.* vi. 129.

of understanding or through the perturbations of passion. Hobbes, as a dutiful subject, would not contest the reason of his sovereign, but he was prepared to contest what other subjects thought to be the reason of the sovereign.

For Hobbes English law was not case-law governed by reported precedents. It was the statutes, or the unwritten law of reason applied to particular cases. The unwritten law of reason is equity. The equity and laws of the commonwealth are artificial reason and will.¹

The laws of nature need no promulgation. Every adult of sound mind knows the rule which contains them all; do not that to another which thou thinkest unreasonable to be done by another to thyself. The Law of Nature, like all laws, needs to be interpreted and applied to particular cases. It is easily understood by those who judge the cases of others; but it is difficult for those who judge their own cases. Hence it has become possibly the most difficult of all laws, and the one most in need of interpretation. Self-love makes the just man occasionally, and the unjust man habitually, blind to his duty to his neighbour. The Law of Nature is eternal, divine, and inscribed only in the heart. Few men, however, know how to look into their hearts, and to read what is written there. They therefore learn what is to be done, and what is to be shunned, from written laws. They do or forbear as seems profitable or hurtful to themselves in view of punishments.² Only the virtuous few read the law written in their hearts; the unjust majority act on their calculation of private natural good and evil. Every man is supposed to know the law which is inscribed in his heart; ignorance here is no excuse, for ignorance proceeds from his own inward injustice, from dispositions of the mind contrary to the laws of nature, which make him negligent of obligation.

The interpretation of the laws of nature in a commonwealth does not depend upon books of moral philosophy. In the Latin edition Hobbes said that authority, not truth, makes law.³ He was more careful in the English edition: 'The authority of writers, without the authority of the commonwealth, maketh

¹ *L.* Introduction.

² *O.L.* iii. 548.

³ *Ibid.* 202.

not their opinions law, be they never so true.' The authority of a teacher is not the authority of a sovereign; but it was for Hobbes the highest kind of authority that man could accord to man.¹ The moral philosophy contained in *Leviathan*, 'though it be evident truth, is not therefore presently law; but because in all commonwealths of the world it is part of the civil law'. Hobbes was still prepared to assert on occasion that his doctrine is confirmed by civil law in every commonwealth, that is as a matter of right, though subjects may not acknowledge it. Possibly all that he meant was that, as no civil law authorizes disobedience, civil law everywhere rests upon the presumption that civil law ought always to be obeyed, a presumption whose truth, Hobbes held, was scientifically demonstrated in *Leviathan*.

It is the sovereign who judges in all courts of justice, and subordinate judges ought to have regard to his reason. The interpretation of the Law of Nature 'is the sentence (judgement) of the judge constituted by the sovereign authority . . . and consisteth in the application of the law to the present case'. The interpretation is authentic, not as his private judgement, but as the judgement of the sovereign. The judgement is a civil law, verified as such by the authority given to the judge by the sovereign.

Such a judgement is, however, law only 'for that time, to the parties pleading'. It is a judgement of what is consonant with natural reason and equity. As such it cannot be governed by precedent. Hobbes decisively rejected one of the fundamental principles of English law. Precedents do not bind; 'precedents prove only what was done, and not what was well done'.² There is no judge, sovereign, or subordinate, but may err in a judgement of equity; no man's error becomes his own law, nor a law to other judges, though sworn to follow it. In laws immutable, such as are the laws of nature, erroneous decisions are no laws in like cases for ever after.

Princes succeed one another; and one judge passeth, another cometh; nay, heaven and earth shall pass; but not one tittle of the Law of Nature shall pass; for it is the eternal law of God. Therefore all the sentences

¹ Ch. XVIII (2).

² *E.W.* vi. 106.

of precedent judges that have ever been, cannot, all together, make a law contrary to natural equity.

An inequitable judgement, though law to the parties to the suit, is not law to be followed, but error to be corrected; and statutes also may be inequitable judgements which the sovereign ought to correct. The greater part of the law of the commonwealth consists of human applications of immutable natural law. These applications are civil laws to the parties concerned, but as civil laws they may be changed, and ought to be changed when erroneous. There is thus a sense in which civil law, though law to the subjects concerned, may be no law, but either error or iniquity.

Hobbes was here expressing his passionate conviction that natural justice was a higher thing than human justice, and that human equity must imitate the natural as closely as possible. He illustrated his position by a particular doctrine 'set down by a great lawyer for the common law of England'. A man who flees through fear, when accused of a felony, forfeits his goods, even if he later surrenders, and is acquitted on the charge of felony: as to the forfeiture, the law will admit no proof against the presumption in law grounded upon his flight. This offended Hobbes's sense of justice, and he did not hesitate to say that it was no law of England. This must mean that he regarded it, not as an expression of the reason of the sovereign, but as an error of the lawyers. It is against equity to punish the innocent. A judge, whether sovereign or subordinate, who refuses to hear proof, refuses to do justice: though the judgement be just, he is an unjust judge.

Hobbes saw the evil of contradiction in the laws. He urged the correction of error as a matter of principle; the avoidance of contradiction thereby was a matter of administration. He rejected the claim that the common law has no controller but Parliament: the controller of the common law is the King in Parliament. The King is supreme judge; as such he 'is not bound to any other law but that of equity' and 'it belongeth to him alone to give remedy to them that by the ignorance or corruption of a judge, shall suffer

damage'.¹ It is for the sovereign to see that error is corrected and, in doing so, to avoid contradiction in the laws.

'For every judge of right, and wrong, is not judge of what is commodious or incommodious to the commonwealth.' Hobbes made this point only incidentally. The sovereign is judge of what is commodious or incommodious to the commonwealth. Hobbes had no conception of a judiciary dominated in its judgements of right and wrong by reason of state. Judges are concerned, not with policy, but with law.

Comparatively little is said of statute law. Statutes must be made known, and it must be manifest that they proceed from the sovereign. Every man ought to have recourse to the public registers of the statutes, if he doubts whether a proposed action is, or is not, contrary to statute law. Hobbes seems to have wished that there were as many copies of the statutes in the hands of the public as there were of the Bible.² Written laws cannot be well understood 'without a perfect understanding of the final causes, for which the law was made, the knowledge of which final causes is in the legislator'. Commentaries have no authority as interpretations of the statutes. The statutes, like the Law of Nature, have to be interpreted by the judges; and here again precedents do not bind.

The passage in the English text on the abilities required in a good judge was inspired by the opinion that the so-called judges of the common law of England were, not judges but *juris consulti*, 'of whom the judges, who are either the Lords, or twelve men of the country, are, in point of law, to ask advice'. In the English text jurors give judgement not only of the fact but of the right. In *A Dialogue of the Common Law* (c. 1668) jurors merely confirm the judgement of the witnesses as to matter of fact.³ It is not said in the Latin text, as it is in the English, that a good judge need not be a student of statute law. It is improbable that this is due to revision; the English text is here much fuller than the Latin, and in both texts the qualities of a good judge are moral and intellectual qualities, and do not include professional qualifications.

¹ *E.W.* vi. 26.

² *Ibid.*, 28.

³ *Ibid.*, 26.

XVI

THE OFFICE OF THE SOVEREIGN¹

1. *Introduction*

“THE office of the sovereign . . . consisteth in the end, for which he was trusted with the sovereign power, namely the procuration of the safety of the people.’ By safety is here meant, not bare preservation, but whatever contentments of life any subject shall acquire for himself by lawful industry without danger or hurt to the commonwealth. *Salus populi* is for sovereigns *suprema lex*; this saying comprehends the whole office of the sovereign.²

An office is a service. Scientifically the office of the sovereign is the function of the sovereign as an artificial person deducible from the end for which the commonwealth was instituted. This artificial office is, like *summa potestas*, an indivisible whole whose constituent parts can be distinguished as particular offices or functions. But Hobbes’s civil philosophy is not a scientific study of functions, but a moral study of duties. He used the term office in the moral sense which it had acquired as the Latin *officium*; an office is that which one ought to do in the way of service. Hobbes deduces functions, but treats them as duties in virtue of his definition of a law of nature. The functions are the functions of an artificial person; but the sovereign has no artificial duties; the duties of the sovereign are the moral duties of a natural person or persons.

It is a natural person who accepts the station of sovereign; it is a natural person whom men trust in making the gift of sovereignty. Sovereignty is not for Hobbes a trust in the sense in which the term is used in English law; it is not a trust which can be enforced by subjects, either as trustors or as beneficiaries; but it is a moral trust under the Law of Nature. The sovereign is entrusted by his subjects with *summa potestas*;

¹ L. Ch. XXX.

² O.L. ii. 298 (E.W. ii. 166).

and he is also entrusted by God with a Divine commission. Hobbes writes of the office of the sovereign, because his theme is the relation of the sovereign to his subjects. The sovereign performs an office, renders a service to his subjects; but it is only in relation to God that the office of the sovereign is a duty, in the sense of *debitum*, incurred by a natural person.

The offices of the sovereign can be deduced from the end of the commonwealth. But the deduction cannot lead in the case of the sovereign, as it does in the case of the subject, to the demonstration of a certain rule and measure of right. Such a measure can be provided for subjects, only because it is part of the office of the sovereign to determine what actions subjects ought to do, and thereby to determine what actions subjects may do without breach of covenant. The measure is an artificial standard of right reason, determining artificial obligations grounded on natural obligation. There can be no such artificial standard, and no artificial obligations, in the case of the sovereign. The sovereign can have no earthly master; he remains in the situation of the masterless man in that he is sole earthly judge of the actions which he ought to do. The sovereign, as an artificial person, is accountable to no man.

But the sovereign 'is obliged by the Law of Nature' to endeavour to procure the safety of his people, 'and to render an account thereof to God, the Author of that Law'. This statement applies to the sovereign, not as an artificial, but as a natural person; and in making it, Hobbes steps outside his civil philosophy; a law of nature is no longer a fiction respectively to the matter of civil philosophy, but is the law of the Author of Nature. As a natural person the sovereign has, as the only measure of his actions, his own judgement or conscience. He cannot be certain that his actions will be the actions which conform to the laws of nature, but he can be certain that he acts morally if he acts conscientiously, and that God will accept the will for the deed. The sovereign has no obligation of promise to any of his subjects, but he has a natural obligation of debt to God to perform his office conscientiously. The

sovereign has laid down no natural right; but he violates natural law if he treats subjects as enemies; it is not necessary for preservation that he should use force or fraud against law-abiding subjects. As a natural person, the sovereign, like every other man, is obliged to submit his will to the will of God.

The sovereign performs his office, not by care applied to individuals, 'but by a general providence, contained in public instruction, both of doctrine, and example; and in the making and executing of good laws to which individual persons may apply their own cases'. Hobbes makes one exception; the sovereign ought to care for individual subjects by protecting them from injuries when they complain. It is not clear why this cannot be brought under the execution of good laws.

A bad man may be a law-abiding citizen; a bad man, as sovereign, may through fear of consequences refrain from iniquities calculated to provoke subjects into rebellion, but it seems to be Hobbes's conviction that only a good man can be a good sovereign; the sovereign ought to instruct his subjects by his example. The sovereign cannot perform his office unless he maintains *summa potestas* in its integrity. The absence of any of the essential rights of sovereignty involves the dissolution of the commonwealth; it is therefore against the office of the sovereign to relinquish any of these constituent parts of his integral right. It is the duty of the sovereign to exercise every part of his sovereign right to procure the safety of his people; but Hobbes attached special importance to public instruction, and to good laws.

2. *Public Instruction*

It is against the duty of the sovereign 'to let the people be ignorant, or mis-informed of the grounds, and reasons, of those his essential rights'. Public instruction was for Hobbes the most important function of the sovereign. He had no vision of an educated people; the many could never be other than ignorant. The public instruction of the many was necessarily public propaganda, but it ought to be indoctrination in

truth. The prime cause of the rebellion had been the seduction of the ignorant many by the ambitious few. In this seduction a prime part had been played by the propagation of false moral doctrines by ambitious preachers. A rightly constructed commonwealth may be poisoned by seditious doctrines.

In Chapter XXIX, on the things that weaken or tend to the dissolution of a commonwealth, Hobbes dealt with three opinions,¹ 'pernicious to peace and government', proceeding chiefly 'from the tongues and pens of unlearned Divines'.

The doctrine that every private man is judge of good and evil actions is true in the state of nature, and within the commonwealth in such cases as are not determined by the civil law. Otherwise the sovereign, as legislator, is judge of good and evil actions for his subjects, as he is the representative of the commonwealth. This false doctrine disposes men to dispute the commands of the commonwealth.

From this first false doctrine arises a second, repugnant to civil society: that whatsoever a man does against his conscience is sin. A man's conscience is his judgement, and his judgement may be erroneous. The law is the public conscience by which every subject has undertaken to be guided. Otherwise diversity of private consciences, that is of private opinions, would distract the commonwealth. Hobbes is here primarily concerned with the health of an artificial body, not with the salvation of a natural soul; but the health of the artificial body must be compatible with the salvation of natural souls. A commanded action which a subject judges sinful is not necessarily so, and yet it is sin to act against conscience. In defending this passage against Bramhall Hobbes wrote: 'It is plain that to do what a man thinks in his own conscience to be sin, is sin . . . and from thence ignorant men, out of an erroneous conscience, disobey the law, which is pernicious to all government'.² The marginal summary in *Leviathan* indicates that Hobbes is concerned with erroneous conscience, and at this point only the political consequences of erroneous conscience are relevant.

¹ L. 172-3 (E.W. iii. 310-12).

² E.W. iv. 376; cf. O.L. ii. 286 (E.W. ii. 152); E.L. 124 (E.W. iv. 186).

But a man is often misunderstood by those whose sense of relevance is not equal to his own. There is no room for legitimate doubt that Hobbes accepted the ordinary Christian view that whenever a man acts against his conscience he sins, whether the action is, or is not, in itself sin. Error in itself is no sin: God takes the will for the deed. But it seems to be Hobbes's view that obedience to civil law is so clear an obligation of conscience that it can be denied only by a conscience which is not merely erroneous but perverted.

A third poisonous doctrine is that faith and sanctity are not to be attained by study and reason, but by supernatural inspiration or infusion. This leads again 'to the fault of taking upon us to judge of good and evil; or to make other private men, who pretend to inspiration, judges of good and evil, to the dissolution of all civil government'.

Thus the three opinions are all connected with private judgement of good and evil, with which original sin is also connected. What is in question is judgement of good and evil actions. It is only this which belongs to the sovereign. The subject is free to dissent inwardly from the act which he is obliged to do outwardly. Every subject ought to judge inwardly of good and evil actions, and ought to dissent inwardly from any action which in his judgement is evil. But in the case of a subject the inward ought not to trespass upon the outward domain of civil law. A subject is obliged in conscience to do what is in itself against his conscience, when the act is commanded by the sovereign.

The propagation of these false moral doctrines was in Hobbes's view the chief cause of the rebellion. The only sure remedy was the propagation of true moral doctrines. In Hobbes's treatment there is an implied criticism of the English monarchy. The monarchy had failed in the performance of its primary function; the people had not been taught, as they ought to be taught, 'the grounds of their duty, and the reasons why calamities ever follow disobedience to their lawful sovereign'. Men may thus 'be brought to a love of obedience'.¹

¹ B. 59, 144 (*E.W.* vi. 237, 343).

As the world is governed by opinion, the force of ideas had a larger place in the mind of Hobbes than the idea of force.

There is special need to teach the people the grounds of the essential rights of sovereignty, because the ground is the natural obligation to keep faith. The argument of Chapter XXX is part of Hobbes's demonstration of the theorems of civil philosophy. He is demonstrating what the sovereign must do if he is to perform his office and procure the safety of his people. The argument therefore should be no more than that the sovereign must ensure by public instruction that his subjects are sufficiently enlightened to understand that self-interest dictates absolute obedience to their sovereign. But Hobbes did not find it possible to restrict himself to what is necessary for peace.

He first sought to dispose of the objection that there are no principles of reason to sustain those essential rights which make sovereignty absolute. If there were, they would have been found out in some place; 'whereas we see, there has not hitherto been any commonwealth, where those rights have been acknowledged, or challenged'. Hobbes did not here dispute the assertion that absolute sovereignty had never been acknowledged or claimed. Whether he accepted it or not, he was prepared to deal with the objection on the basis proposed. It would be as reasonable for ignorant savages to maintain that there could be no rational rules of architecture, because they themselves had never seen a well-constructed house.

Time, and industry, produce every day new knowledge. . . . So, long time after men have begun to constitute commonwealths, imperfect, and apt to relapse into disorder, there may, principles of reason be found out, by industrious mediation, to make their constitution (excepting by external violence) everlasting. And such are those which I have in this discourse set forth.

Though Hobbes could entertain the supposition that he had erred in his reasoning,¹ he proceeded on the conviction that he had not. In *Behemoth* he gave free rein to his confidence. There is a science of duty, the science of just and unjust,

¹ Ch. III (5).

which men may be taught 'from true principles and evident demonstration'. There is a science of justice, or civil philosophy, 'built upon sure and clear principles, and to be learned by deep and careful study, or from masters that have deeply studied it'.¹

This, however, must suggest a second objection, for the ignorant many cannot understand elaborate scientific demonstrations. Hobbes never thought that the common people could understand his civil philosophy as science; but this did not mean that they could not accept its conclusions as doctrine. The difficulty of civil doctrine does not arise so much from the obscurity of the subject as from the passions (*cupiditatibus*). Difficulty as to acceptance of his doctrine arises from the powerful and the learned, who have an interest in opposing a teaching which would diminish the power of the first and the reputation of the second. The minds of the common people, unless tainted with dependence on the powerful, 'or scribbled over with the opinions of their doctors, are like clean paper, fit to receive whatsoever by public authority shall be imprinted in them'. The instruction of the many can never be more than indoctrination. Nations have acquiesced in the great mysteries of Christian religion, which are above reason; millions believe doctrines which are against reason. *A fortiori* public instruction can secure acceptance of a doctrine, 'so consonant to reason that any unprejudicated man, needs no more to learn it, than to hear it'. Men may be taught their duty much more easily than they were taught rebellion and treason.

The public instruction to be given to the subjects of the rationally constructed commonwealth is based upon the Ten Commandments, because it is necessarily religious instruction. Rational politics are a part of true religion. It is demonstrable that the sovereign must provide public instruction in the grounds of the rights of sovereignty, but the content of such instruction is not wholly demonstrable. Men have to be taught those duties to one another which are necessary for their own conservation, but duty is more than interest; men have to be

¹ B. 39, 159 (*E.W.* vi. 212, 362).

taught that what is here to their interest is obligatory upon them. In this teaching obligation must have its place, not as a fiction, but as a belief warranted by reason, and as a fact acknowledged by every rational man. The instruction is instruction in moral doctrine, and moral doctrine, as distinct from moral science, is a part of religious doctrine, though this religious doctrine still remains, not revealed, but natural.

The law of sovereignty comes first. Subjects are to be taught that they shall have no other mortal god than their own Leviathan. They are not to believe that prosperity can come from following after other mortal gods. They are not to give to any man, or to any assembly (e.g. the House of Commons) other than a sovereign assembly, any obedience or honour appropriate only to the sovereign. Leviathan is a jealous god. They are not to speak evil of their sovereign, that is to say they are not to dispute his power. Special days are to be set apart for the instruction of the people. First, there is to be praise and prayer to God, the sovereign of sovereigns. The members of the rationally constructed commonwealth, including the sovereign, must acknowledge subjection to God. Then they shall be taught their duties to their earthly sovereign, and the positive laws of the commonwealth that are of general concern shall be read and expounded. The law was expounded on the Jewish Sabbath. God was sovereign over the Jews by pact, and hence the first table of the Ten Commandments can enlighten all sovereigns by pact with regard to the doctrine of sovereignty to be taught to their subjects. In *Behemoth* Hobbes made clear that he did not think that the ordinary man, if uninstructed, could know his duty to the public. The people never meditate on anything but their particular interest. The only way in which they can learn their duty is from the pulpit and on holidays.¹

The naturalistic explanation of the command to honour parents is that there is no reason why a parent should nourish and instruct his children, if he were afterwards to have no other benefit from them than from other men. Hence the days

¹ B. 39-40 (*E.W.* vi. 213).

of children from whom honour was not to be expected would not be long in the land. Commandments six to nine in the Decalogue are part of that justice which consists in taking from no man what is his. Subjects are to be taught not to despoil their neighbours, that is their fellow-subjects, by violence or by fraud of anything which is theirs by authority of the sovereign, that is by civil law. For the avoidance of such injuries it is necessary that subjects be taught the evil consequence of false judgements by corruption either of judges or of witnesses. Finally subjects are to be taught that the designs and intentions to do unjust acts are injustice. Injustice consists 'in the pravity of the will', as well as in the irregularity of the act. Subjects are to be taught to do just acts sincerely from the heart. The moral instruction provided by the commonwealth goes beyond that outward observance of the civil law which would suffice for peace on earth, and extends to a moral virtue conducive to peace and to salvation. This suggests that the commonwealth has a function in relation to salvation. The rationally constructed commonwealth, being composed of God's subjects, is a church as well as a commonwealth.

The world is governed by opinion, and opinion is governed by the teaching in the universities. Therefore the teaching in the universities must be governed by the sovereign. The argument as to 'the means and conduits by which the people may receive this instruction' is not only empirical, but is based upon the experience of the Christian commonwealth. What is briefly expounded in *Leviathan* as true for every rationally constructed commonwealth was argued more fully in *Behemoth* as a lesson to be learned from the English civil war. The greatest part of mankind receive the notions of their duty chiefly from divines in the pulpit and partly from neighbours who seem wiser in cases of law and conscience than themselves. It is from such teachers that the people imbibe those false opinions contrary to peace noted in Chapter XXIX. But the teachers themselves derive their knowledge from the universities and from the schools of law. 'It is therefore manifest that

the instruction of the people, dependeth wholly on the right teaching of youth in the Universities.' The universities were originally papal institutions; they 'have been all erected and regulated by the Pope's authority'.¹ The universities of England have not known how to plant true doctrines because 'they yet retain a relish of that subtle liquor wherewith they were first seasoned, against the civil authority'.

The reform of university teaching was the chief practical recommendation contained in *Leviathan*. The attack upon the universities was opened in the first chapter, and is one of the recurrent themes throughout the whole work. The universities are by origin part of the Kingdom of Darkness.² The principal schools were ordained for 'the three professions, that is to say, of the Roman religion, of the Roman Law, and of the art of medicine'. 'And for the study of philosophy, it hath no otherwise place, than as a handmaid to the Roman religion.' 'Hath' is an obvious slip for 'had'.³ But the following sentence is not limited to the past; what is studied is not properly philosophy but Aristotelity, a study dependent on an author. Until lately geometry, which is subservient to nothing but rigid truth, had no place among university studies; a geometrician was commonly thought a magician, and his art diabolical. In writing of the English universities, Hobbes was harking back to the Oxford of his youth, and making insufficient allowance for the changes effected in nearly half a century of rapid advance. He thereby incurred the inveterate enmity of John Wallis, Savilian Professor of Geometry, with whom he fought a series of unequal mathematical duels for nearly the rest of his life. His attack upon the English universities was political in inspiration: their alleged neglect of science was a political offence as they thereby failed to dissipate superstitious beliefs hostile to civil authority.

In *Behemoth* Hobbes wrote that the universities have hitherto been to the English as the wooden horse to the Trojans. Out of them came all the preachers that taught rebellion; the

¹ L. 379 (*E.W.* iii. 693).

² L. 366-7 (*E.W.* iii. 670-1).

³ *E.W.* vii. 347.

universities were 'the core of the rebellion'. The universities are not to be abolished but amended, for only from them can come teachers of true doctrine. There will be no lasting peace in the English commonwealth until the universities direct their studies to the inculcation of absolute obedience to the laws of the King. Such teaching would be more salutary than any victory over rebels in the field.

Seeing the Universities have heretofore from time to time maintained the authority of the Pope, contrary to all laws, divine, civil, and natural, against the right of our Kings, why can they not as well, when they have all manner of laws and equity on their side, maintain the rights of him that is both sovereign of the kingdom, and head of the Church?

Since the Reformation the universities have not done this, because they have been controlled by the clergy; and the greater part of the clergy think that 'the pulling down of the Pope was the setting up of them (as to England) in his place'.¹

In comparison with the false teaching of the divines the influence of the classics was minor. The classics were Hobbes's latest, as well as his earliest, love; but if he began by translating Thucydides, he ended by translating Homer. What is prejudicial to monarchy is the public reading of Greek and Latin works on history and politics 'without presently applying such correctives of discreet masters, as are fit to take away their venom'.²

Hobbes laid himself open to the charge that he wished *Leviathan* to be imposed upon the universities by sovereign authority as a prescribed and authoritative text.³ To this charge he replied that he desired the prescription, not of his own book, but of a doctrine which he believed to be true; 'wiser men may so digest the same doctrine to fit it better for a public teaching'. To recommend the imposition of the doctrine upon the universities was 'a necessary part of the business I took in hand'. The doctrine is:

That all men that live in a commonwealth, and receive protection of their lives and fortunes from the supreme governor thereof, are

¹ B. 56 (*E.W.* vi. 233-4).

² L. 174 (*E.W.* iii. 315).

³ L. 197, 391 (*E.W.* iii. 358, 713).

reciprocally bound, as far as they are able, and shall be required, to protect that governor.¹

Hobbes was not attacking an unborn academic freedom, but was assailing what he held to be an abuse by the clergy of their control over university education. He told his opponents that he might well have gone farther than he did in *Leviathan*; he might have recommended 'the erecting of a new and lay University, wherein laymen should have the reading of physics, mathematics, moral philosophy, and politics, as the clergy have now the sole teaching of divinity'. This would have been both profitable and inexpensive.² The political problem of the public instruction of the people could however be solved only by amending the education of the clergy. Hobbes was content to leave university education in clerical hands but subject to the authority of the King. An abuse was to be removed by better regulation by the sovereign of the use of an authority which could be derived only from him. Hobbes saw in the universities strongholds of an English sacerdotalism which had survived the Reformation but must be eliminated in so far as it was prejudicial to absolute sovereignty. Authority in England was one and indivisible.

The sovereign is judge of what opinions and doctrines are averse, and what conducive to peace. In a note in *De Cive*³ Hobbes recognized that there is scarce any doctrine concerning either the worship of God, or the science of man, which may not be a cause of dissension from which war may arise. Such strife arises from the passions of men irrespective of the truth or falsity of the doctrine. Though it is impossible to prevent the rise of such dissensions, they can be repressed by the exercise of sovereign power so that they do not disturb the public peace. In making the sovereign judge of opinions, Hobbes had not opinions of this sort in mind. He was concerned only with doctrines which encourage subjects to believe that they may disobey the sovereign, doctrines which ascribe an independent authority to Pope or bishop, or to private

¹ *E.W.* vii. 335-6, 344-5.

² *Ibid.* 345.

³ *O.L.* ii. 223 n. (*E.W.* ii. 78-79 n.).

judgement. The judgement of the sovereign cannot be infallible in particular cases, but Hobbes considered that there were doctrines, such as those discussed in Chapter XXIX, which were demonstrably repugnant to peace; and he also held that no doctrine repugnant to peace could be true.

In public instruction Hobbes saw the solution of the practical problem of government posed by the injustice of most men. Iniquitous sovereigns provoke unjust subjects into rebellion only because most unjust subjects are too ignorant to see for themselves that rebellion must bring calamities upon them. The ambitious few will be powerless to seduce the ignorant many into rebellion, if the sovereign performs his function of public instruction as he should and ought to do. Hobbes accepted the injustice of most men as an unalterable fact, and placed no reliance upon the uncertain virtue of sovereigns. But men, including sovereigns, could be taught that it was to their interest to do their duty in so far as preservation from dangers arising from discord was concerned. The sovereign could learn this from the civil philosopher, and his subjects from the public instruction authorized by the sovereign. In this way the worst earthly consequences of the injustice of man to man could be avoided. This was the practical end to which *Leviathan* was the necessary means. Hobbes was here preparing the way for the position that the Christian sovereign is the supreme Christian teacher of his subjects.

Nothing which mortals make can be immortal. Yet, if men had the use of reason to which they lay claim, their commonwealths might at least be secured from perishing by internal diseases. When commonwealths come to be dissolved by intestine disorder, 'the fault is not in men, as they are the matter, but as they are the makers and orderers of them' (*culpa est instituentium*). In instituting the commonwealth men need the help of a very able architect.¹ Hobbes here seems to make an untenable claim for civil philosophy. A right institution of the commonwealth cannot possibly ensure that there will not, in time, arise a sovereign who will neglect both his duty and his

¹ L. 170 (*E.W.* iii. 308); *O.L.* iii. 230-1.

interest in providing proper public instruction for his subjects. The claim would, moreover, be incompatible with Hobbes's interpretation of English history. But he does not make this untenable claim, unequivocally, even in the Latin text, for he wishes to include in the institution of the commonwealth the establishment of laws conducive to the end for which the commonwealth was instituted. In the English text he went further by writing of men as 'the makers and orderers' of commonwealths. The ordering of a commonwealth is a continuing function of the sovereign. Good laws may be made, once and for all, but it is equally necessary that these laws be well executed. The meaning therefore is that if a commonwealth is rightly instituted, and if the sovereign does what it is both his duty and his interest to do, the commonwealth can be dissolved only by its external enemies. The principles which civil philosophy establishes include the principles which should guide every sovereign in his ordering of the commonwealth.

3. *Good Laws*

Without even a new marginal heading to mark the transition, Hobbes turned from the use of universities to the equal administration of justice. This is in fact a transition from public instruction to the making and execution of good laws, but as Hobbes begins with execution the explanation of the goodness of laws is deferred. It is necessary for the attainment of the end of the commonwealth that justice be administered equally to all degrees of people. Equity requires this. A sovereign who does not administer justice equally to all is the cause of war. But Hobbes goes beyond necessity to religious obligation when he says that a sovereign 'is as much subject' to the natural law of equity as the meanest of his subjects. In a court of justice subjects are equal, just as kings and their subjects are equal in the presence of the King of Kings. The sovereign must not allow the powerful to commit crimes with impunity; he must not pardon offences against a subject without the consent of the injured party or equitable compensation to him. In the Latin text it is added that the sovereign should see

(*curare*) that the great do not wound their inferiors by insults. Men of low estate are the strength of the commonwealth.¹ Hobbes knew and valued the virtues of some of the English aristocracy, but most aristocrats, being men, are unjust, and power is a temptation to unjust men. Hence the powerful, whatever the source of their power, were to be restrained from abusing it to the danger of the commonwealth.

To equal justice appertains also the equal imposition of taxes. Here Hobbes passes from the administration of justice in the narrower sense to the making of equitable laws for the taxation of subjects. Equal taxation is taxation in proportion to consumption. Logically this suggests a tax on assessed expenditure beyond the competence of seventeenth-century administration. All that it suggested to Hobbes was indirect taxation of the things men consume.

The sovereign must be charitable as well as equitable, and his charity is to find expression in the making and execution of good laws for the relief of the impotent poor. It is lack of charity in any man to neglect the impotent; but it is also lack of charity in the sovereign to expose the impotent to the hazards of private charity. Public charity is profitable as well as obligatory, for in its absence starving men will disturb the peace.² The impotent poor are to be provided with necessities by the laws of the commonwealth. The able-bodied poor are to be forced to work. In order that employment may be available, laws should be made for the encouragement of the arts. If full employment cannot be provided at home for an expanding population, subjects are to be transplanted into countries insufficiently inhabited. The natives of such countries are not to be exterminated, but are to be compelled to give up some of the territory over which they range. When the whole world is over-populated, the last remedy is war, 'which provideth for every man by victory or death'.

Hobbes's interest in economics was subordinate to his interest in politics; and his views on economic policy were Elizabethan, or at most Jacobean. *Laissez-faire* and a planned

¹ O.L. iii. 247.

² Ibid. 248.

economy lay equally beyond his ken. Policy, including economic policy, lies beyond the scope of civil philosophy. Hobbes is concerned with the duty of the sovereign to treat his subjects equitably and charitably in the economic as in other spheres. It is clear that he thought that economic prosperity depended upon the industry of individuals rather than upon the policy of the sovereign; and that he thought that the sovereign ought to encourage private enterprise by good laws. It is probable that he thought that economic policy, like policy in general, must vary with circumstances, but that he had a leaning towards liberty.

Hobbes based his position that no law can be unjust on the authorization of the sovereign by the subject. No subject can say that any act of the sovereign is unjust as all that is done by sovereign power 'is warranted and owned by every one of the people'. Every law is made with the consent of every subject. 'It is in the laws of a commonwealth, as in the laws of gaming; whatsoever the gamesters all agree on, is injustice to none of them.' 'The justice of a civil law is justice relative only to those who consent to its making. The morality of a subject's actions consists in their conformity with rules of the game to which he has agreed; but both subjects and sovereign are accountable to God for their inward attitude to the rules of the game. No law can be unjust, but a just law is not necessarily a good law; 'a good law is that, which is needful for the good (*salutem*) of the people, and withal perspicuous'.

From the standpoint of civil philosophy, civil laws are rules authorized by the players of the game. Rules which are not necessary for the realization of the end of the game are not good rules, because they are not grounded on reason. The rules of the game are guides which the players must follow if their end in playing the game is to be realized. The man who tries to cheat risks being barred from the game. Viewed scientifically, civil laws are no more than necessary directions, signposts on the way to a proposed destination. It is only as part of God's law that civil laws restrict liberty, and then they restrict liberty in order that they may be more effective as

directions. They are like hedges which keep men from motions hurtful to themselves or to others; they facilitate the motions of subjects by preventing their colliding with one another. Unnecessary laws cannot be for the good of the sovereign, for subject and sovereign are one body, and their good is the same, the good of the body. Unnecessary laws are traps for money; and, as such, are either superfluous or insufficient.

Hobbes dealt with good laws scientifically, and did not distinguish between an unnecessary law made in passion by an iniquitous sovereign, and an unnecessary law made in error by an equitable sovereign. In neither case is the law grounded on right reason. All iniquitous laws are unnecessary, but not all unnecessary laws are iniquitous. It is only the law of God which makes the difference between the moral and the natural goodness of a civil law.

To be perspicuous, a law must declare the cause and motives for which it was made. This done, the shorter the law itself is, the more easily it is understood. All words are subject to ambiguity; multiplication of words is multiplication of ambiguity. The multiplication of words, moreover, implies that whoever keeps within the letter of the law observes it. Hobbes desired to avoid a struggle between legal draftsmen and pleaders in which the odds were in favour of the pleaders. His prescription seems to reverse the principle of English law that the preamble to a statute is not mandatory, and to make the enacting clauses subordinate to the preamble. But he may mean no more than Coke said; the preamble is a key to the understanding of the statute.

XVII

THE KINGDOM OF GOD BY NATURE

THE Kingdom of God by nature was of minor interest to Hobbes, as to most Christians. It plays no part in the argument of *The Elements of Law*; but in *Leviathan* it occupies what might have been an important position, as the conclusion of the argument from reason. Viewed as such, Chapter XXXI is one of the weakest chapters in the book. Hobbes never gave to this part of his argument the deep and recurrent thought which he devoted to other parts. In *Leviathan* he was content to reproduce what he had written in *De Cive* with some condensation and alteration. He had to omit the unfortunate paragraph on natural obligation, and he made a number of verbal changes. But notice will be taken of the retention of a passage which should have been omitted or altered; and this is evidence of inattention, arising from lack of interest. Despite the place which he accorded to the chapter, the subject was of less importance to him when he wrote *Leviathan* than when he wrote *De Cive*, because he recognized that he could not make of it what he had originally hoped.

The chapter is not designed to validate Hobbes's civil philosophy by an argument from natural reason that the articles deduced as necessary articles of peace are laws of God. Its purpose is not to validate, but to complete, the doctrine of civil duty already advanced. Hobbes now says that he has already sufficiently proved that subjects 'owe (*debere*) to sovereigns simple obedience, in all things wherein their obedience is not repugnant to the laws of God'. For his completion of the doctrine of civil duty it is necessary to know what are the laws Divine. The purpose of Chapter XXXI is not to show that there is a Kingdom of God by nature, but to explain what that Kingdom is, and by what laws God governs it. Hobbes had treated what is necessary for peace as obligatory in virtue of

his definition of a law of nature; but he made no attempt to show by natural reason that there are any laws, prior to civil laws, by which a man is forbidden. Chapter XXXI is beyond science, and the methodology of science. Its object is to complete civil philosophy by doing what civil philosophy cannot itself do. Yet at its opening Hobbes showed once more that he was well aware that dictates of reason could in themselves do no more than guide. One of the things which he has already sufficiently proved is that the precepts by which men are guided (*praecepta, quae . . . docent*) to avoid the anarchy of the state of nature, are the laws of nature. They are laws of nature in virtue of his definition; they are laws of God only as revealed in Scripture. In the Kingdom of God by nature they are treated as if they were laws of God, discovered by reason, but there is no argument from reason to show that there are any laws of God at all. It is merely as an introduction to the main theme of the chapter that Hobbes proposes 'to say something . . . of the Kingdom of God'. His reason is that 'knowledge of all law, dependeth on knowledge of the sovereign power'. In fact there is no natural knowledge of the sovereign power of God, and without such knowledge Hobbes's civil philosophy is useless ratiocination. The main object of the chapter is to show what are the natural laws of worship.

The preliminary consideration of the Kingdom of God is restricted to five paragraphs of no great length. The existence of the Kingdom is assumed; and the opening quotation from Scripture shows that Hobbes was unable to view the Kingdom of God by nature wholly naturalistically. The first question to which he offers an answer is: who are subjects in the Kingdom whose existence is assumed? And the answer to this first question shows that the existence of the Kingdom is for man not a matter of natural knowledge but of belief in the supernatural. 'They . . . that believe there is a God that governeth the world, and hath given precepts, and propounded rewards, and punishments, to mankind, are God's subjects; all the rest are to be understood as enemies.' In the Latin text the subjects of God are they who believe that God exists and has a care for

mankind, and acknowledge (*agnoscunt*) the precepts of God. The distinction between God's subjects and His enemies is one between believers and unbelievers. The believer, in acknowledging that there are Divine precepts, necessarily recognizes that he is bound by these precepts, that is that he is God's subject. *Agnosco* signifies inward recognition. The principles of mathematics are primary truths which we are not taught, but acknowledge (*agnoscimus*) by the light of nature as soon as they are propounded.¹ Hobbes seems to make man's recognition that there are Divine precepts to which he is subject a primary truth known by the light of nature, that is by the light of natural reason. He frequently asserted that every man knows by the light of nature that he ought to treat others as he would like them to treat him. Man believes that this is a law which God, His Creator, has engraved upon his heart. Hence the necessary articles of peace are laws of God. It is the general principle of equity which is fundamental in Hobbes's thought; in his theory, equity is deduced as a necessary article of peace; but the principle of equity itself obliges men to seek peace. Man's subjection to God is a matter, not of natural knowledge but of belief; but where Hobbes's primary truths were concerned, the line between belief and knowledge, and particularly between belief and knowledge of the supernatural, was so indistinct that he frequently crossed it.

But he did not in fact treat the existence of laws of God as a primary truth known by the light of nature. Had he done so, he could have started from laws of God knowable by reason, instead of from laws of nature obligatory only by definition. This particular primary truth, if rational, is also religious; and he preferred to base his construction of the commonwealth on fictitious obligation rather than contaminate his philosophy by mingling religion with it, even though religion is essential for every commonwealth. He could safely admit that the laws of nature, as deduced by him, are properly laws only as revealed in Scripture. All that is here in question is the content of laws, whose existence as laws is assumed; and Scripture, in confirm-

¹ *O.L.* v. 155.

ing his deductions, gives to their content the certainty which is essential to laws properly so-called. But the crucial point for the validity of Hobbes's civil philosophy is whether it can be known on principles of nature that there are any laws of God at all, and this is an issue which he never faced.

His Christian faith made him certain that there were laws of God; and those whom he sought to convince would not question the view that there is a law knowable by reason which is the law of God. This was a belief which was not peculiar to Christians, and which could be treated as an accepted philosophic truth. Hobbes seems to have failed to recognize that on his own principles the existence of a law of God, known to be law, could not be a philosophic truth, but must remain a personal belief held by many particular men. Hobbes maintained that denial of the sovereignty of God was irrational; but in dubbing the atheist a fool, he relied upon Scripture. On Hobbes's own principles of nature the atheist was entitled to dub the theist a fool. The rationality of another man can be no more than a matter of personal opinion.

The modern student might be content to say that Hobbes's moral philosophy starts from the assumption that there is moral obligation. This is not a position which would have satisfied Hobbes. He was not a pioneer of a secularist view of the laws of nature, of a morality divorced from religion. His ratiocinations concerning civil duty would have seemed to him useless, if there were not laws of God, discoverable by reason; and useless ratiocinations are not philosophy. As he did not, and could not, show on principles of nature that there are any laws of God, he did not legitimate his definition of a law of nature, as a philosophic abstraction from a reality of which natural knowledge is possible. His construction of the commonwealth is illegitimate because it involves an obligation of conscience which has been introduced illegitimately. His theorems of civil philosophy in the narrow sense are illegitimate, because they are deduced from a definition arising from an illegitimate construction. Therefore Hobbes did not succeed in converting any part of his Christian moral thought into

science. His civil philosophy is a demonstration that certain moral obligations are necessary for the preservation of men from dangers arising from discord. Man cannot do what is held necessary unless moral obligation by God is incumbent upon him. Hobbes demonstrated as naturally good qualities and actions which were to him as a Christian morally good, because commanded by God.

The argument in *De Cive* as to the right of nature whereby God reigns over all mankind was unhappily reproduced in *Leviathan* without substantial modification. God's right is not derived from pact, from any act of man. It is for this reason that Hobbes calls it His right of nature. It is misleading to suggest, as the argument does, that God has a right of nature in the sense that man has. God's right is derived by Hobbes from His omnipotence, and is not comparable with the liberty allowed by the law of a superior. The belief which necessitates subjection to God is not belief as to God's right to reign; and God's subjects, in proclaiming His right to reign, can hardly do more than honour Him in worship. The only point of any value in the paragraph is the negative one that God's right cannot be derived from gratitude for our creation. Hobbes gives no reason, but the reason is obvious; gratitude itself is one of God's laws, and His right cannot be derived from His law.

In controversy with Bramhall¹ Hobbes gave a further statement of his position, without employing the concept of God's right of nature.

That which He does, is made just by His doing; just, I say, in Him, not always just in us by the example. . . . Power irresistible justifieth all actions really and properly, in whomsoever it be found. Less power does not. And because such power is in God only, He must needs be just in all His actions. And we, that not comprehending His counsels, call Him to the bar, commit injustice in it.

Man is incapable of forming a reasoned judgement as to the justice or injustice of God, and sins if he attempts to do so. The only naturalistic argument which Hobbes can advance is

¹ *E.W.* v. 114-17, 146.

both formal and irrelevant to the real issue as to the justice of God, as Hobbes understood it. God is not subject to another's laws. Irresistible power cannot be subject to a superior. This was the way in which Hobbes dealt with irresistible power in 1646.

In 1656 he complained with reason that Bramhall had misrepresented his position: 'He would make men believe, I hold all things to be just that are done by them who have power enough to avoid the punishment.' This was a clear misunderstanding. The only power that justifies is power Divine; and Hobbes had based the position that the power of God justifies all His actions on the ground that God is not subject to the law of another. Human power can never justify any action, for all men are subject to the Moral Law of God, and their actions are just only if they are in conformity with that law.

Hobbes moreover indicated in 1646 that the proper issue as to the justice of God was a different one. The justice of God is not the justice which men make by pacts.¹ This means, as Hobbes explained in 1656, that the justice of God is not of His manners, but of His nature.² This again means that the justice of God is incomprehensible by man. Justice in God is nothing else 'but the power He hath and exerciseth in distributing blessings and afflictions. Justice is not in God, as in man, the observance of laws made by his superiors.'³

In proclaiming the justice of God, Hobbes, as a dutiful subject, is honouring God in worship. Bramhall accused him of declaiming against those who dare dispute of the nature of God, that is who dare set forth His justice and His goodness. Hobbes protested that to dispute of the nature of God is not all one with setting forth His justice and His goodness: pious men attribute to God for honour's sake whatsoever they see is honourable in the world.⁴ The affirmation of God's justice is for Hobbes an act of piety. He should have seen that his argument as to God's right to reign could serve no useful purpose. In *De Cive* it had been part of an antithesis. God's right

¹ Ibid. 115.

² Ibid. 195.

³ Ibid. 217.

⁴ Ibid. 443.

proceeds from his power; obligation is incumbent on man on account of his weakness.

Conclusive evidence of carelessness is provided in the treatment of private worship. Private worship

is, in secret, free, but in the sight of the multitude, it is never without some restraint (*sine metu aliqua*), either from the laws, or from the opinion of men, which is contrary to the nature of liberty (*quorum utrumque libertatem aliquatenus diminuit*).

Hobbes here followed *De Cive* without allowing for his abandonment of the concept of arbitrary impediment to liberty. It is, however, interesting that in his rationally constructed commonwealth there is room for a tolerated diversity of private worship in the sight of the multitude, that is for what we would call diversity of public worship.

PART FOUR
THE ARGUMENT FROM SCRIPTURE

XVIII
CHRISTIAN POLITICS

1. *Introduction*

THE argument from Scripture was the most important part of *Leviathan* for Hobbes's contemporaries; and to Hobbes himself civil philosophy was the handmaid to Christian politics. Christian politics are not theory, but doctrine regarding political conduct. The political problem for which *Leviathan* was intended to provide a solution was a problem of Christian politics. In 1641 Hobbes assured the Earl of Devonshire that his opinion that ministers of religion ought to minister rather than to govern was not a mere fancy of philosophy; he was sure that experience teaches that the dispute between the spiritual and the civil power 'has of late, more than any other thing in the world, been the cause of civil wars in all parts of Christendom'.¹ In the Appendix to the Latin edition he said that the many things which *Leviathan* contained against the authority of the Roman Pontiffs over other princes made it clear that the author held that the sole cause of the civil war in England was theological discord, first between the Roman Church and the Anglican Church, and afterwards between Episcopalian and Presbyterian pastors within the Anglican Church.

Hobbes never expounded his civil philosophy without at least an 'appendage' on religion; and such an appendage would be out of place in an exposition of geometry. In each presentation religion was accorded a more important place than in its immediate predecessor. He called the final presentation

¹ *E.W.* i, Facsimile.

Leviathan, or the Matter, Form, and Power of a Commonwealth Ecclesiastical and Civil. Religion occupied fully half the work, and the lengthy Appendix to the Latin edition was concerned wholly with religion. There is some ground for considering the Latin text definitive so far as religion is concerned; on the other hand, Hobbes may have been less ready to disclose his thought in 1668 than in 1651; differences may be due to prudent omissions as well as to corrections.

The principles of Christian politics are to be derived from Scripture; and the light of Scripture is brighter than the light of fallible human reasonings. Yet Christianity has presented peculiar danger to the peace of the commonwealth. Properly interpreted, Scripture requires simple obedience to the sovereign, where obedience is necessary for the discharge of his office. But Scripture has been misinterpreted by ecclesiastics avid for power. The clamour of his adversaries cannot make Hobbes 'think himself a worse Christian than the best of them'.¹

He saw no difficulty in combining materialism and Christianity. On the contrary, Bramhall, though no atheist, in asserting that God is an incorporeal spirit, had accepted a piece of School Divinity incompatible with the existence of God. There is no Scriptural authority for this; Scripture does not contain the word 'incorporeal' or 'immaterial'. Reason dictates that nothing can have self-subsistent being which does not possess magnitude. God is a most pure corporeal spirit of infinite magnitude, self-subsistent not only in Himself but from Himself. The nature of God is incomprehensible, but to say that God exists is to say that He has magnitude, though we cannot comprehend what magnitude He has. Spirits are invisible bodies. Metaphysical materialism was one of Hobbes's weapons in his campaign against Rome. His materialism does not abolish distinctions between natural and supernatural, between science and faith, between transient and eternal, between carnal and spiritual, between bodies terrestrial and bodies celestial.²

¹ *E.W.* iv. 433.

² *O.L.* iii. 280-5; *L.* 210-14 (*E.W.* iii. 381-8).

Hobbes claimed that he was no heretic. The Nicene Creed was drawn up to condemn heresies; anthropomorphism was condemned, but not the corporeality of God. Tertullian, who said, what is not body is nothing, was not condemned.¹ Hobbes also defended himself against Bramhall's charge that he showed a temporizing spirit and indifference in religion. He would abstain from saying whatsoever the Church of England should forbid him to say in matters of religion 'excepting this point, that Jesus Christ, the Son of God, died for my sins'.² He excepted the one article of Christian faith which he held to be necessary to salvation; and this one article contains by implication the whole of the Apostles' Creed.³ All Christians believe that Jesus is the Christ; they differ only in the consequences they draw from this one necessary article of Christian faith. One of Hobbes's favourite texts was 1 Cor. iii. 11-15, which he interpreted as meaning that men will be saved, though the false consequences which they have drawn from the fundamental article of faith will be consumed in the fire. *Leviathan* shows that Hobbes himself was not averse to speculations more curious than profitable, but he was opposed to the multiplication of articles of faith. He thought that there was much that was doubtful in the doctrine of every Christian Church, and in the personal beliefs of every Christian man. He thought that the consciences of many Christians were troubled by an unnecessary elaboration of compulsory doctrine. But he also thought that such consciences were erroneous. The subject is morally obliged to profess doctrines in which he may not believe. Such profession with the tongue does not signify inward belief but merely obedience to our earthly sovereign. Subjects are morally obliged to accept the decision of the sovereign as controversies over doctrine lead to war. But the fundamental article of Christian faith raises a different issue. Hobbes implies in his answer to Bramhall that if the Church of England ceased to be Christian, he would profess the faith outwardly, though forbidden to do so.

¹ O.L. iii. 561-2.

² E.W. iv. 367.

³ O.L. ii. 422 n. (E.W. ii. 307 n.).

The principles of Christian politics are to be derived from Scripture 'by wise and learned interpretation, and careful ratiocination . . . without enthusiasm or supernatural inspiration'.¹ Many things in Scripture are above reason; nothing in Scripture is contrary to reason. We are not to attempt to sift out a philosophic truth by logic of mysteries that are not comprehensible; here philosophy is not merely irrelevant but mischievous. Hobbes claimed that in 1651 he was at liberty to expound his own interpretation of Scripture as there was then no lawful Church in England that any man had to obey. He professed willingness to submit to the lawful authority of the Church of England when re-established. He had not advanced any position of his own; he had only shown consequences deducible from the Scriptures. He clearly showed that he had no sense of commitment to his conjectural interpretations of obscure texts; here he was prepared to engage in a combat of wits with his opponents. But he held that all that is required in faith and morals for man's salvation is set down in Scripture as plainly as can be. He claimed that his doctrine of civil duty was grounded on texts which were neither of obscure nor controverted interpretation. But he condemned reliance upon isolated texts; Scripture is to be interpreted in the light of its entire scope.² The design of Scripture, to which all the writers contributed, is to set forth the rights of the Kingdom of God. Christ came to restore the Kingdom of God by pact over his Chosen People, which had been cast off by the Israelites. Baptism is the new covenant, the pledge of admission to the Kingdom of God of the Elect, whom Christ has redeemed. But the Kingdom whose restoration Christ proclaimed is not of this world; it will not begin until the second coming of Christ, the general resurrection, and the Last Judgement.

The Church Militant is not the Kingdom of God. The true and only most Catholic Church is the number of God's Elect, dispersed throughout the world, whose Head in Heaven is Christ. With this invisible spiritual fellowship *Leviathan* is

¹ L. 202 (E.W. iii. 365).

² L. 329 (E.W. iii. 602).

not concerned. Every visible Church, every congregation of Christians, is, however, catholic, or the whole (*catholica, sive tota, sive universalis*) in relation to each individual member.¹ This is so, even though the congregation cannot speak or act as one person.

2. *Authority in the Church*

The authority with which *Leviathan* is concerned is the right to govern. This was for Hobbes the right of command (*jus imperandi*), a right which included the right to enforce obedience by coercion. Such authority may be grounded on Divine commission, or on the authorization of each subject. There is no coercive authority in the Church, so long as the Church is unassisted by the civil power. Christ did not give any right of this kind to His Apostles and their successors. Hobbes is concerned with the authority which Christ left to his Apostles only so far as it affects relations between men. This authority was authority to preach the Gospel in His name, and to do certain acts, e.g. to baptize, consequent upon acceptance of their teaching. This authority does not make the Apostles and their successors our rulers but our schoolmasters. The Apostles and their successors could not derive any authority to govern their converts from the converts themselves. These converts, being subjects, had already an absolute representative in their civil sovereign, and could have no other representative except by his allowance. The Church, when unassisted by the civil power, could not be a subordinate corporation. No Christian was the authorized representative of any other Christian. Hobbes avoided the delicate issue whether the early Christian congregations were lawful or unlawful concourses of individuals.

Until canons are civil laws, they are not laws but counsel. The Councils which were held without the command of the sovereign were voluntary assemblies of bishops and pastors, none of whom was the authorized representative of any other Christian. Decisions reached at such assemblies were binding

¹ *O.L.* iii. 542-3.

only on those who by attendance tacitly covenanted to accept majority decisions.

The authority which Hobbes accorded to the Apostles and their successors in relation to their converts was authority of a different and, indeed, of a higher kind than coercive authority to govern the words and deeds of men. A pupil freely accords authority over his mind to a teacher whom he trusts. The pupil is not obliged to obey his teacher, but Hobbes recognized obedience grounded on veneration, as well as obedience grounded on obligation or on compulsion. There is no place for reverence of this kind in the psychology of Part I of *Leviathan*. There is reason for suggesting that this was for Hobbes the highest kind of authority that man can accord to man. As authority over the inward man, it is spiritual authority. But there can be no spiritual authority of man over man in the sense either of coercive authority, or of any other authority grounded upon obligation. There can be no spiritual commonwealth, and no authority of man over man which is grounded on obligation can extend beyond words and deeds, as man can judge only of words and deeds.

Hobbes's account of authority in the primitive Church served his controversial purpose. But if men were what they ought to be, there would be no need of coercive authority. The only authority of man in relation to man would be the authority over his mind which one man freely accorded to another man whom he trusted. But Christians are not what they ought to be; and they could not live peaceably together without subjection. They quarrel even over their religion. The New Testament shows that dissension soon arose, and the case of Diotrephes (3 John 9, 10) shows how 'early it was, that vainglory and ambition had found entrance into the Church of Christ'.¹ Experience shows that Christians must be governed in their words and deeds even in matters of religion; and there can be no government in any Christian Church other than one derived from the authority of the civil sovereign. The government of men in this world necessarily implies coercive authority.

¹ L. 277 (*E.W.* iii. 506).

Hobbes assumed that only a Christian sovereign would make provision for the government of the Christian Church. When the sovereign is Christian, the commonwealth is a Christian commonwealth. Within the Christian commonwealth Christians can speak and act as one person, for the sovereign is the authorized representative of each. The Church can be one person only as a lawful congregation of professed Christians.

But the Church, if it be one person, is the same thing with a commonwealth of Christians; called a commonwealth, because it consisteth of men united in one person, their sovereign; and a Church, because it consisteth in Christian men, united in one Christian sovereign.¹

Hence 'Temporal and spiritual government are but two words brought into the world, to make men see double, and mistake their lawful sovereign.'² There are as many visible Catholic Churches as there are Christian commonwealths. Hobbes is not concerned with the Church as a spiritual fellowship of like-minded natural persons, but with the Church as one artificial person, a corporation. It was a commonplace of his youth that a commonwealth of professed Christians was a single society, at once Church and State. In this single society sovereignty ought to be one and indivisible. Apart from the authority of the sovereign there is no authority in the Church in the sense in which *Leviathan* is concerned with authority, authority to govern men.

3. *The Office of the Christian Sovereign in the Church*³

Hobbes's doctrine of the office of the Christian sovereign in the Church is a doctrinaire elaboration of positions adopted in the Acts of Appeals and of Supremacy. This yields a doctrine of a Royal Priesthood in the sense of a priesthood of kings. A Christian commonwealth is a Church as well as a State, and can have but one head. Yet even for Hobbes there is an implied difference. The sovereign is the soul of the commonwealth, but Hobbes never called the sovereign the soul of the Church. The sovereign is the soul of an artificial body which is

¹ L. 209 (E.W. iii. 379). ² L. 252 (E.W. iii. 460). ³ L. Ch. XLII.

both State and Church; but the commonwealth is no more than an artificial body, and the Church is. The dissolution of a Christian commonwealth involves the dissolution of the Church as one artificial person, but it does not involve the dissolution of the Church as a multitude of the faithful, as a spiritual fellowship of like-minded men.

The right of judging what doctrines are fit for peace, and therefore to be taught to his subjects, is inseparably annexed to the civil sovereign. Heathen kings were pastors of the people, because no subject could lawfully teach the people but by their authority. Conversion to Christianity could not deprive a sovereign of this right. Christ never ordained that kings who believed in Him ought to be deprived of the power necessary for the peace and defence of their subjects. Therefore Christian kings are still the supreme pastors of their people. As such, they have power to ordain what pastors they please to teach the Church, that is to teach the people committed to their charge. The teachers chosen by the Head of the Church are chosen by the Church. When an assembly of Christians choose their pastor in a Christian commonwealth, it is the sovereign who chooses him, because it is by his authority that the assembly chooses. Every act is the act of him without whose consent it is invalid. The right to choose pastors is for Hobbes the right to ordain who shall be a pastor, that is to ordain pastors.

These subordinate pastors derive their authority to perform the pastoral offices within the commonwealth from the supreme pastor; they are his ministers in the same manner as are the magistrates of towns. The reason is that those whom they are to teach are the sovereign's subjects. The pastor himself need not be the sovereign's subject; a Roman Catholic sovereign authorizes the Pope to act as pastor in his dominions; but he does not make the Pope his own pastor, or supreme pastor over his subjects, unless he wishes to despoil himself of sovereign power. When a foreigner, e.g. the Pope, constitutes pastors in any commonwealth, he does it, not by his own right, but by the right of the sovereign. Kings are fathers of families,

and may receive schoolmasters for their subjects from the recommendation but not from the command of a foreigner; they cannot be obliged to retain them longer than they think it is for the public good. All pastors, other than the sovereign, exercise their charges within the commonwealth *jure civili*. The king executes his office of supreme pastor by immediate authority from God, in God's right, *jure divino*.

The Christian clergy are prophets of perpetual calling,¹ who speak from God to man; but in each Christian commonwealth they are subordinate to the supreme prophet of perpetual calling, the Christian sovereign. God speaks to prophets of perpetual calling not supernaturally but naturally, inclining them to piety, faith, righteousness and other virtues, as He does all other Christian men. There is no good inclination that is not of the operation of God. When a prophet of perpetual calling speaks by the spirit of God, he speaks according to God's will, declared by the supreme prophet. A man is made a prophet of perpetual calling, not by his own morals (*mores*) but by lawful authority. If Christian subjects do not take their Christian sovereign for God's prophet, they must either take their own dreams as their guides, or be led by some foreign prince, or by some fellow-subject 'and by this means, destroying all laws, both Divine and human, reduce all order, government and society to the first chaos of violence and civil war'.²

Christian sovereigns have authority to exercise every pastoral function, including the administration of the sacraments and the consecration of other pastors. This is one of Hobbes's paradoxes, and he examines the reasons why most men deny it. The first reason is that sovereigns 'use not to do it'. There are many offices which a sovereign has authority to exercise but which he does not exercise personally, because he is otherwise occupied. The greater charge of the government of the Church is a dispensation from the less. There is no evidence to suggest that Hobbes thought that the sovereign should ever exercise these functions personally, any more than he should personally

¹ L. Ch. XXXVI.

² L. 234-5 (*E.W.* iii. 427).

teach in a university. Hobbes's contention is that the sovereign has authority to do these things; that he derives this authority immediately from God; and that those who actually perform these functions derive their authority to do so immediately from the sovereign, and only mediately from God. The second reason why men deny this paradox is because imposition of hands requires succession from the Apostles. The imposition of hands is a pre-Christian practice used to designate persons or things to the eye, a more certain mode of designation than to the ear by the name. The Apostles and their successors were endued with the Holy Spirit that they might the better exercise the ecclesiastical power left to them by Christ. According to this ancient rite the Apostles and Presbyters, and the Presbytery itself, laid hands on those whom they ordained pastors, and prayed that they might receive the Holy Ghost. The end was still a punctual and religious designation of the person. Hands were not laid upon the seven deacons (Acts vi. 6) to give them the Holy Ghost, for they were full of the Holy Ghost before they were chosen. This does not mean that they were full of the Third Person of the Trinity, but of the gifts necessary for the office. A sovereign possessed the right to teach before his conversion; baptism gave him no new power, but only caused him to preach true doctrine, that is to use aright the power which he already had. Baptism is sufficient for this, and the imposition of hands is unnecessary in such a case—presumably because it is unnecessary to designate a known sovereign.

But Hobbes had to deal with the case of a woman sovereign.¹ A woman may determine those who may speak in the Church, though Scripture forbids her to speak herself in the Church. Authority is neither masculine nor feminine. Women are not capable of exercising in their natural persons all the functions of a sovereign, but are, nevertheless, able to constitute those who exercise them. Many at first refused to take the oath of supremacy in the reign of Elizabeth I, only because it seemed to them an acknowledgement that the Queen could administer

¹ *O.L.* iii. 402.

the sacraments and exercise the other pastoral functions in person. They took the oath when the Queen gave a written promise that she would not do so. This shows that they thought that the authority to exercise pastoral functions was joined with the ecclesiastical supremacy, but that the exercise of this authority belonged only to men.

Only the sovereign can make Scripture law; and the interpretation of Scripture as law belongs to the sovereign. The Scriptures are canonical to every Christian as the rules of Christian faith, but in themselves they are counsel. Individual Christians may be said to make Scripture law to themselves; but no man can be bound by a law which he makes to himself. Hobbes here writes loosely; strictly no man can make any rule a law to himself. The Scriptures are counsel which a man rejects at his peril, but so long as Scripture is not civil law, he does not act unjustly if he rejects this counsel. Faith cannot be obligatory. Therefore the Scriptures are canonical, in the sense of rules by which men are obliged to regulate their words and deeds, only when they are part of the law of the commonwealth.

In the early seventeenth century the legal doctrine that Christianity was part of the law of England was still intact. Scripture ought to be the rule of Christian life; and by this Hobbes meant that Scripture ought to be law. Faith cannot be obligatory, but profession of faith can. Scripture cannot be law to the sovereign, but the sovereign of the Christian commonwealth makes Scripture a rule to himself. The rule cannot be obligatory, but if he rejects it, he ceases to be a Christian, and the commonwealth is no longer a Christian commonwealth. It is not determined in Scripture what laws every Christian King shall constitute in his own dominions, but it is determined what laws he shall not constitute.¹ In every Christian commonwealth Scripture is civil law; and it is only in the Christian commonwealth that Scripture is law in the proper sense of the term.

Hobbes made a further point in answering Bramhall's

¹ *L.* 202-3 (*E.W.* iii. 366).

attack upon *Leviathan*. Though his language is equivocal, if not confused, there seems little doubt of his meaning.¹ It is upon the authority of the sovereign as teacher that the subject of the Christian commonwealth believes that Scripture is the Word of God. Obedience has to be distinguished from belief. Belief is not obligatory, and cannot be produced by coercion. The sovereign can command and enforce only profession of belief. Belief that Scripture is the Word of God is a gift of God, given ordinarily by natural means; faith comes by hearing. In the Christian commonwealth faith comes by hearing teachers authorized by the sovereign, the supreme teacher. When subjects believe that Scripture is the Word of God, they do so because they trust their teachers, their pastors; and this means that they trust the supreme pastor, the sovereign. The subject believes on the authority which he freely accords to the sovereign as the supreme teacher responsible for his instruction. In the Christian commonwealth God speaks in Scripture through the mediation of the Church, and the Church can speak only through its Head. A Christian sovereign can both command the profession of faith, and can cause inward faith. Religion is law in every commonwealth but 'the law of God receives no evidence from the laws of men'.²

Political and ecclesiastical right is consolidated in a single sovereign right. In summarizing the authority of the sovereign, Hobbes harked back to the language of the Act of Supremacy: 'In sum, he hath the supreme power in all causes, as well ecclesiastical as civil, as far as concerneth actions and words.'

The sovereign of the rationally constructed commonwealth has a religious duty to endeavour to inculcate virtue in his subjects; the sovereign of the Christian commonwealth has, in addition, a religious duty to endeavour to inculcate Christian faith in his subjects. The functions of the Christian commonwealth are to endeavour to preserve its subjects in this world, and to prepare them for the world to come. There can be no conflict between these two complementary functions; the possibility of a conflict of obligations is excluded.

¹ *E.W.* iv. 339-41.

² *B.* 46 (*E.W.* vi. 221).

Hobbes never considered the possibility of a conflict of moral obligations, presumably because it would be impious to do so.

The essential point in his argument regarding authority is that the subject of the Christian commonwealth has a moral obligation to obey the sovereign, and has no moral obligation to obey any teacher unauthorized by the sovereign. The subject is obliged to act on the sovereign's interpretation of the laws of nature, and any covenant by the subject inconsistent with his authorization of the sovereign is invalid. The right of the Christian sovereign cannot imperil the salvation of the subject. The subject does not imperil his salvation by fulfilling his moral obligation to obey the sovereign; on the contrary, he imperils his salvation by violating this obligation, by outwardly disputing the judgement of his sovereign. In obedience to his Christian sovereign he may have to profess beliefs which he inwardly rejects. But he can never be commanded by a Christian sovereign to deny the one article of faith necessary to salvation, that Jesus is the Christ.

As Christ did not leave any coercive authority to his Apostles, there is no Divinely appointed form of Church government. In conducting their affairs, the early Christians made use on a voluntary basis of devices to which they were accustomed in their civil government, but no one had any right of command over his fellow-Christians. As the Christian commonwealth can be a monarchy, an aristocracy, or a democracy, the Church can be governed in any of these three ways; but the terms are appropriate only to a coercive authority. Hobbes's doctrine is a doctrine of coercive authority; and he is concerned with the *right* to govern. Questions as to the mode in which this right is exercised are no part of the design of *Leviathan*. Coercive authority is necessarily absolute, and so far as subjects are concerned, this authority can be exercised in any way the sovereign pleases. Hobbes's doctrine is rigid in respect to authority, but permits the greatest flexibility in the exercise of authority. No one has any coercive authority in the Church which is not derived from the sovereign; but with this proviso, the sovereign may make use of

Pope, bishops, or presbyters in his government of the Church. There is only one general principle with regard to the exercise of authority. The sovereign ought to act conscientiously; in his government of the Church he ought to consult those best fitted to counsel him; he sins if he does not do so. No subject can accuse his sovereign of sin in his political capacity; but an English sovereign sins if he does not consult the bishops and convocations, as well as the laity in Parliament, in his government of the Church. Hobbes's legal absolution has its complement in a moral constitutionalism in Church as well as in State. Moreover, accusation has to be interpreted strictly, for any minister may tell his sovereign that he has transgressed the commandment of God, 'so he do it with sincerity and discretion'.¹

Hobbes's own preference was for Episcopacy, but only on the basis on which he thought that the episcopal government of the Church had been established in the reign of Elizabeth I. The opinion that the office of a pastor comes to him by successive imposition of hands from the time of the Apostles, 'in those gentle terms passeth well enough'; but to say that pastors derive their authority from such Apostolic succession, and not through the authority of the civil sovereign, 'is too rude to be endured in a state that would live in peace'.² The authority here in question is a coercive right to command matched by an obligation to obey. The authority of the English bishops in the Church is a Divine authority, but as it is theirs only through the mediation of the sovereign, they have this Divine authority only *jure civili*.

There are two sides to Hobbes's attitude to the English bishops. On the one hand, he attributed the 'uncharitable censure' which some of the bishops had passed on him to 'a relic still remaining of the venom of popish ambition, lurking in that seditious distinction and division between the power spiritual and civil'. Some of the bishops would like to have a power to hurt those who compete with them in learning, as the Roman clergy had to hurt Galileo. Hobbes has not

¹ *E.W.* iv. 332.

² *E.W.* vii. 396.

deserved that any of the English bishops should be displeased with him, but despite their displeasure he will adhere to his own opinions. The safety of the Church does not depend upon the safety of the clergy, but upon the safety of the King. The King is no part of the flock of any minister or bishop; he is the shepherd, and is himself of the flock of Christ only. All the clergy, as well as the people, are the King's flock.¹ This was written in angry answer to Wallis's attack upon Hobbes's personal integrity. On the other hand, when not distracted by personal considerations, Hobbes wrote² that the bishops are commonly the most able and rational men, and obliged by their profession to study equity, because it is the law of God. They are the men who teach the people what is sin; they are the doctors in cases of conscience. Hobbes was here writing of the common law, and he saw no reason why bishops should not hold the office of Lord Chancellor as they had done formerly, and more recently in the reign of James I.³ This is consonant with the general tenor of his thought. All law has a religious basis, and obedience to civil law is necessary to salvation. Peace and justice are part of Christian duty; and Hobbes thought it fitting that bishops should play a part in the administration of justice. He denied that there could be any clash between Divine and human laws, where the King is a Christian, and makes the laws concerning Christian faith or Divine worship only with the counsel of his bishops whom he trusts in that behalf, and if the bishops counsel him aright. If the civil law be against God's laws, no doubt the King will mend it by himself, or by the advice of his Parliament, for else he is no professor of Christian doctrine, and so the clashing is at an end.³ Hobbes was anti-sacerdotal, not anti-clerical.

The England to which he hoped to return raised for him a problem of peculiar difficulty. Despite his theory he held that a government which issued from civil war was usurpation, an illegitimate power. On his theory the government of England in 1651 was a rickety structure which could not long endure. The Church in England had been 'reduced to the

¹ *E.W.* iv. 432-3 (1662).

² *E.W.* vi. 66 (c. 1668).

³ *E.W.* iv. 364.

independency of the primitive Christians . . . which, if it be without contention, and without measuring the doctrine of Christ by our affection to the person of His minister . . . is perhaps the best'.

Hobbes could not be expected to disclose in 1651 his whole thought concerning English affairs. The question is whether he wrote what he did not believe to be true in a passage¹ in which he began by making sincerity one of the first elements of power. The first elements of power are those which cause pupils to accord teachers authority over their minds, the authority to which Hobbes himself aspired. The power of the Apostles, whom converts obeyed out of reverence not by obligation, consisted in their virtues, particularly in their wisdom, humility, and sincerity. Hobbes certainly thought sincerity indispensable in one who aspired to teach others. And what he here wrote concerning Independency is not inconsistent with his moral convictions, with his civil philosophy, or with his preference for Episcopacy.

His approval of Independency was qualified. In the first place, it must be free from contention. Peace, without subjection, is better than peace with subjection. But there was subjection in England in 1651, and Hobbes believed that the human infirmities which made subjection necessary in the State, made it necessary also in the Church. He must therefore have held that his first condition was unattainable. Had he been indifferent on matters of religion, he could have been satisfied with this one condition, but he added a purely religious proviso. Diversity was allowed and limited by the sovereign; and hence was not inconsistent with his theory. In 1651 Independency must have seemed to Hobbes the only immediately possible alternative to what he called in unscientific language Presbyterian tyranny. Though he disliked 'enthusiasm', and thought that leading Independents had committed heinous crimes, he never displayed towards Independency as such the bitter hostility to which he gave free rein in the case of Presbyterianism. The Presbyterianism of

¹ L. 380-1 (*E.W.* iii. 695-7).

Geneva, a product of pride and ambition, belonged to the Kingdom of Darkness; but Independency was the primitive state of the Church.

4. *The Duty of the Christian Subject of an Infidel Sovereign*

This issue was of no practical importance to Hobbes. He never dealt with it systematically, but he made incidental references to it in three different passages in *Leviathan*.¹ He did not believe that Christian faith was necessarily accompanied by fortitude, or that fortitude was required of all Christians. Lack of fortitude is dishonourable, but is not a breach of any of God's laws. The ordinary Christian is not obliged to die for his faith; he has liberty to bow the head in the house of Rimmon, if commanded by his sovereign to do so.

Whatsoever a subject . . . is compelled to in obedience to the sovereign, and doth it not in order to his own mind, but in order to the laws of his country (*in ordine ad obedientiam legibus patriis*), that action is not his, but his sovereign's; nor is it he that, in this case, denieth Christ before men, but his governor, and the law of his country.

The subject is compelled to act in accordance with the laws of his country contrary to his own belief. The subject is under no moral obligation to obey the sovereign; Hobbes certainly did not mean that the Christian martyrs violated any moral obligation in disobeying their infidel sovereign. The case is clearly one of compulsion. A commanded action is morally the act of the commander; it is also the act of the commanded only when he inwardly assents to it.

On the other hand, the man who is commissioned to preach Christ to the infidels is obliged to die for the faith rather than deny Christ with the tongue. Moreover, if a pastor, or any other man of whose knowledge of Christian doctrine there is a great opinion (such a man as Hobbes aspired to be), does external honour to an idol for fear, and does not make his fear and unwillingness as evident as his worship, he sins. Here there is obligation to run an obvious risk of martyrdom. If an

¹ L. 270-2, 328-9, 358-9 (*E.W.* iii. 493-6, 601-2, 655-6).

unlearned man in the power of an infidel sovereign is commanded on pain of death to worship before an idol, he does well if he detests the idol in his heart; but he would do better if he had the fortitude to suffer death rather than worship it. The unlearned Christian is not obliged to die for the faith, but it is honourable in any Christian to do so.

Those who are to die for the faith ought not to complain of their lawful sovereign. They have a moral right to disobey his command to deny Christ, but they have no moral right to blame him for issuing the command, because they have authorized every one of his acts without exception. In the sight of God the command is the command of a natural person accountable to Him; but in the sight of man the command is the command of an artificial person, and hence of the subject who refuses to obey it. Still less has the subject any right to make war upon the infidel sovereign; his right of resistance is limited to the immediate defence of his own body by force or by flight.

An infidel sovereign acts unreasonably if he persecutes his Christian subjects, for their religion obliges them to obey him in any case in which disobedience would frustrate the end of the commonwealth. The ordinary Christian is under no obligation to put himself into danger for his faith; and only irrational action by the sovereign can put any Christian into danger for his faith.

5. *The Kingdom of Darkness*

Hobbes dismissed Episcopalian and Presbyterian claims to independent authority as inherently absurd, since they involved division of indivisible sovereign right. He could not dismiss the claim of Rome in this summary fashion. He held that this claim, properly understood, was a claim to sovereignty over Christendom: there is only one Christian commonwealth, in which Christian monarchs and states are subject to one universal sovereign, the Vicar of Christ.¹ Hobbes devoted the whole of Chapter XLII of *Leviathan*,

¹ L. 209-10 (E.W. iii. 379-80).

incomparably the longest chapter in the book, to the refutation of this claim. An early reference to Bellarmine¹ indicates the design of the chapter. The consolidation of political and ecclesiastical right in Christian sovereigns, for which Hobbes contended in the first two-thirds of the chapter, means that the Pope is either sovereign of Christendom, or that he has no ecclesiastical authority outside the Papal States, over which he undoubtedly possesses sovereignty. In the last third of the chapter Hobbes contended that there is no Scriptural basis for the papal claim to authority over all Christians. He did this by submitting the arguments of Bellarmine to detailed scrutiny. Bellarmine was one of the ablest, and most courteous, controversialists of the Reformation period. Hobbes's own controversial manners were later to degenerate under the strain of the personal abuse to which he himself was subjected; but when he wrote the English *Leviathan*, he still abstained from personal attacks upon living individuals. He did not abuse Bellarmine, though he regarded him, not as a private man, but as an accredited champion of Rome. The most that he said in the way of personal attack occurs only in the later Latin edition; though Bellarmine should have known Latin well enough, he either did not understand a particular passage or knowingly abused its meaning to support pontifical claims.² Hobbes's controversial manners were above the standard of his age, until the personal abuse to which he was subjected made him an angry old man; but if he spared living individuals, he was from the first bitter in his references to classes, such as Schoolmen and Covenanters. And he was above all bitter in his attack upon what he took to be priest-craft, a subject which had for him a deep, and almost morbid, interest.

The fourth part of *Leviathan* is devoted to a fierce offensive against the Popes and the Roman clergy as the authors of the Kingdom of Darkness.³ The Kingdom of Darkness, as set forth in Scripture, is a confederacy of deceivers, who seek to obtain dominion over men in this world by extinguishing the

¹ L. 268 (E.W. iii. 489). ² O.L. iii. 414-15. ³ L. 379 (E.W. iii. 693).

light both of nature and of the Gospel by dark and erroneous doctrines.¹ The tares of spiritual errors are sown by abusing, and putting out, the light of the Scriptures, by the introduction of the demonology of the heathen poets into Christian religion, by mixing with the Scripture divers relics of the religion, and much of the vain and erroneous philosophy of the Greeks especially of Aristotle, and by adding to this mixture false or uncertain tradition, and feigned or uncertain history.²

The greatest of all spiritual errors is that the present Church on earth is the Kingdom of God. This is the greatest of all abuses of Scripture, to which the rest are either consequent or subservient. The great ecclesiastical dominion of the Papacy is no more than an idol of the brain, for the Papacy, in relation to this dominion, is no more than a ghost, 'the ghost of the deceased Roman Empire, sitting crowned upon the grave thereof'.³

The cardinal error that the Church now on earth is the Kingdom of God is shared by the Presbyterians; hence they also are authors of the Kingdom of Darkness. The danger is not so much that the spirit of Rome may return, but that 'an assembly of spirits, worse than he, enter and inhabit this clean-swept house, and make the end thereof worse than the beginning'.⁴

High Episcopalians escape more lightly. They only seem to usurp an independency on the civil power, for they acknowledge a right in the King to deprive them of the exercise of their functions at his pleasure.⁵

The details of Hobbes's argument from Scripture are of interest to few today. Despite his idiosyncrasies he gave eloquent and not unlearned expression to many opinions long held by many Englishmen, and the passion which lay behind his words was also shared by many. He still concentrated attention upon the old enemy, Rome, though he saw a nearer

¹ L. 331 (*E.W.* iii. 604).

² L. 332 (*E.W.* iii. 605).

³ L. 381 (*E.W.* iii. 697-8).

⁴ L. 383 (*E.W.* iii. 700).

⁵ L. 377 (*E.W.* iii. 690).

enemy in the Presbyterians. His Erastianism, if such it may be loosely called, was congenial to many of the English laity of his own and later times, though few might share his conception of the King as supreme pastor. It is to me historically more credible that he believed what he wrote than that he wrote with his tongue in his cheek. *Leviathan* represents an attempt to support by a new method a traditional doctrine of Divine politics adapted to serve the purpose of a national sovereignty. Hobbes's construction of the commonwealth, and hence the theorems of his civil philosophy, depend upon the existence of obligation of conscience. For him obligation of conscience could exist only as obligation by Divine moral laws. These laws are dictates of reason, but as found out by reason, they are not properly laws. Only laws oblige in conscience; and these dictates of reason are laws of God only as revealed in Scripture.

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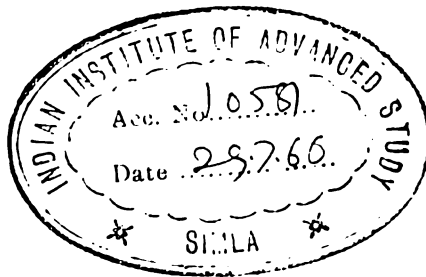
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