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Square [brackets] enclose editorial explanations. Small ·dots· enclose material that has been added, but can be read as though it were part of the original text. Occasional Ÿbullets, and also indenting of passages that are not quotations, are meant as aids to grasping the structure of a sentence or a thought. Each occurrence of . . . . four ellipses indicates the omission of a few words or lines of text that seem to give more trouble than they are worth.

Hobbes wrote *Leviathan* in Latin and in English; it is not always clear which parts were done first in English and which in Latin. The present text is based on the English version, but sometimes the Latin seems better and is followed instead. Edwin Curley's fine edition of the English work (Hackett, 1994) has provided all the information used here regarding the Latin version, the main lines of the translations from it, and other information included here between square brackets. Curley has also been generous in his personal help with difficult passages in the English version.

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LEVIATHAN

by Thomas Hobbes

THE SECOND PART.--OF COMMONWEALTH.

PART II

Chapter 17. The causes, creation, and definition of a commonwealth

Men naturally love liberty, and dominion over others; so what is the final cause or end or design they have in mind when they introduce the *restraint upon themselves* under which we see them live in commonwealths? It is the prospect of their own preservation, and through that of a more contented life; that is to say, of getting themselves out of the miserable condition of war which (as I have shown) necessarily flows from the natural passions of men when there is no visible power to keep them in awe and tie them by fear of punishment to keep their covenants and to obey the laws of nature set down in my chapters 14 and 15.

For the laws of nature - enjoining justice, fairness, modesty, mercy, and (in short) treating others as we want them to treat us - are in themselves contrary to our natural passions, unless some power frightens us into observing them. In the absence of such a power, our natural passions carry us to partiality, pride, revenge, and the like. And covenants without the sword are merely words, with no strength to secure a man at all. Every man has obeyed the laws of nature when he has wanted to, which is when he could do it safely; but if there is no power set up, or none that is strong enough for our security, ·no-one can safely abide by the laws; and in that case· every man will and *lawfully may* rely on his own strength and skill to protect himself against all other men. In all places where men have lived in small families ·with no larger organized groupings·, the trade of *robber* was so far from being regarded as against the law of nature that ·it was outright honoured; and· the greater spoils someone gained by robbery, the greater was his honour. The only constraints on robbery came from the laws of honour; enjoining them to abstain from cruelty, letting their victims keep their lives and farm implements.

These days cities and kingdoms (which are only greater families) do what small families used to do back then: for their own security they enlarge their dominions, on the basis of claims that they are in danger and in fear of invasion, or that assistance might be given to invaders ·by the country they are attacking·. They try as hard as they can to subdue or weaken their neighbours, by open force and secret manoeuvres; and if they have no other means for their own security, they do this *justly*, and are honoured for it in later years.

Nor can the joining together of a small number of men give them this security ·that everyone seeks·; because when the numbers are small, a small addition on the one side or the other makes the advantage of strength so great that it suffices to carry the victory, and so it gives encouragement for an invasion. How many must we be, to be secure? That depends not on any particular number, but on comparison with the enemy we fear. We have enough if the enemy doesn't outnumber us by so much that that would settle the outcome of a war between us, which would encourage him to start one.

And however great the number, if their actions are directed according to their individual wants and beliefs, they can't expect their actions to defend or protect them against a common enemy or against injuries from one another. For being drawn in different directions by their ·differing· opinions concerning how best to use their strength, they don't help but hinder one another, and by quarrelling among themselves reduce their

strength to nothing. When that happens they are easily subdued by a very few men who agree together; and when there is no common enemy they make war on each other for their particular interests. For if we could suppose a great multitude of men to agree 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 then there would not be - and would not *need* to be - any civil government or commonwealth at all, because there would be peace without subjection.

For the security that men desire to last throughout their lifetimes, it is not enough that they be governed and directed by one judgment for a limited time - e.g. for one battle, or one war. For ·in that case·, even if they obtain a victory through their unanimous efforts against a foreign enemy, yet afterwards - when they have no common enemy, or when some of them regard as an enemy someone whom the others regard as a friend - the difference of their interests makes it certain that they will fall apart and once more come to be at war amongst themselves.

It is true that certain living creatures, such as bees and ants, live sociably with one another (which is why Aristotle counts them among the 'political' creatures [*politike* = 'social']), although Ÿeach of them is steered only by its particular judgments and appetites, and Ÿthey don't have speech through which one of them might signify to another what it thinks expedient for the common benefit. You may want to know why mankind can't do the same. My answer to that ·has six parts·.

First, men continually compete with one another for honour and dignity, which ants and bees do not; and that leads among men, but not among those other animals, to envy and hatred and finally war.

Secondly, among those ·lower· creatures, the *common* good ·of all· is the same as the *private* ·good of each·; and being naturally inclined to their private ·benefit·, in procuring that they also procure the common benefit. But to a man, nothing is so pleasant in his own goods as that they are greater than those of others.

Thirdly, bees and ants etc. don't have the use of reason (as man does), and so they don't see - or *think* they see - any fault in how their common business is organized; whereas very many men think themselves wiser than the rest, and better equipped to govern the public. These men struggle to reform and innovate, one in this way and another in that, thereby bringing the commonwealth into distraction and civil war.

Fourthly, these creatures, though they have some use of voice in making known to one another their desires and other affections, don't have that skill with words through which some men Ÿrepresent good things to others in the guise of evil, and evil in the guise of good, and Ÿmisrepresent how great various goods and evils are. These activities enable their practitioners to make men discontented, and to disturb their peace, whenever they feel like doing so.

Fifthly, creatures that lack reason don't have the notion of being *insulted or wronged* as distinct from being *physically damaged*; so as long as they are at ease ·physically· they are not offended with their fellows; whereas man is most troublesome when he is most at ease, for that is when he loves to show his wisdom and to control the actions of those who govern the commonwealth.

Lastly, the agreement of these creatures is *natural*, whereas men's agreement is by covenant only, which is *artificial*; so it is no wonder if something besides the covenant is

needed to make their agreement constant and lasting, namely a common power, to keep them in awe and direct their actions to the common benefit.

The Ÿonly way to establish a common power that can defend them from the invasion of foreigners and the injuries of one another, and thereby make them secure enough to be able to nourish themselves and live contentedly through their own labours and the fruits of the earth, is Ÿto confer all their power and strength on one man, or one assembly of men, so as to turn all their wills by a majority vote into a single will. That is to say: Ÿto appoint one man or assembly of men to *bear their person*; and everyone Ÿto *own* and *acknowledge himself to be the author of* every act that he who bears their person performs or causes to be performed in matters concerning the common peace and safety, and all of them Ÿto submit their wills to his will, and their judgments to his judgment. This is more than ·mere· agreement or harmony; it is a real *unity* of them all. They are unified in that they constitute *one* single person, created through a covenant of every man with every ·other· man, as though each man were to say to each of the others:

> I authorize and give up my right of governing myself to this man, or to this assembly of men, on condition that you surrender to him your right of governing yourself, and authorize all his actions in the same way.

[Rather than 'you' and 'your', Hobbes here uses 'thou' and 'thy' - the second-person *singular*, rare in *Leviathan* - emphasizing the one-on-one nature of the covenant.] When this is done, the multitude so united in one person is called a COMMONWEALTH, in Latin CIVITAS. This is the method of creation of that great LEVIATHAN, or rather (to speak more reverently) of that *mortal god* to which we owe, under the immortal God, our peace and defence. For by this authority that has been given to him by every individual man in the commonwealth, he has conferred on him the use of so much power and strength that people's fear of it enables him to harmonize and control the wills of them all, to the end of peace at home and mutual aid against their enemies abroad. He is the essence of the commonwealth, which can be defined thus:

> A commonwealth is one person of whose acts a great multitude of people have made themselves the authors (*each* of them an author), doing this by mutual covenants with one another, so that he may use the strength and means of them all, as he shall think appropriate, for their peace and common defence.

He who carries this person is called SOVEREIGN, and said to have 'sovereign power', and all the others are his SUBJECTS.

Sovereign power can be attained in two ways. One is by natural force, as when a man Ÿmakes his children submit themselves and *their* children to his government, by being able to destroy them if they refuse, or Ÿsubdues his enemies to his will by war, sparing their lives on condition that they submit their wills to his government. The other is when men agree amongst themselves to submit to some one man or assembly of men, doing this voluntarily in the confidence that he will protect them against all others. This latter, may be called a political commonwealth, or commonwealth by *institution*, and the former a commonwealth by *acquisition*. I shall speak first of a commonwealth by institution, ·turning to commonwealth by acquisition in chapter 20·.

Chapter 18. The rights of sovereigns by institution

A commonwealth is said to be 'instituted' when a multitude of men agree and covenant - each one with each other - that

> When some man or assembly of men is chosen by majority vote to present the person of them all (that is, to be their representative), each of them will authorize all the actions and judgments of that man or assembly of men as though they were his own, doing this to the end of living peaceably among themselves and being protected against other men. This binds those who did not vote for this representative, as well as those who did. For unless the votes are all understood to be included in the majority of votes, they have come together in vain, and contrary to the end that each proposed for himself, namely the peace and protection of them all.

From the form of the institution are derived all the power and all the rights of the one having supreme power, as well as the duties of all the citizens. ·I shall discuss these rights, powers, and duties under *twelve* headings·.

First, because the people make a covenant, it is to be understood they aren't obliged by any previous covenant to do anything conflicting with this new one. Consequently those who have already instituted a commonwealth, being thereby bound by a covenant to own the actions and judgments of one sovereign, cannot lawfully get together to make a new covenant to be obedient to someone else, in anything whatever, without their sovereign's permission. So those who are subjects to a monarch can't without his leave Ÿthrow off monarchy and return to the confusion of a disunited multitude, or Ÿtransfer their person from him who now bears it to some other man or other assembly of men; for Ÿthey are bound, each of them to each of the others, to own and be the proclaimed author of everything that their existing sovereign does and judges fit to be done; so that any one man dissenting, all the rest should break their covenant made to that man, which is injustice [those 21 words are Hobbes's]. And Ÿthey have also - every man of them - given the sovereignty to him who bears their person; so if they depose him they take from him something that is his, and so again it is injustice. Furthermore, if he who attempts to depose his sovereign is killed or punished for this by the sovereign, he is an author of his own punishment, because the covenant makes him an author of everything his sovereign does; and since it is injustice for a man to do anything for which he may be punished by his own authority, his attempt to depose his sovereign is unjust for that reason also.

Some men have claimed to base their disobedience to their sovereign on a *new* covenant that they have made not with men but with God; and this also is unjust, for there is no covenant with God except through the mediation of somebody who represents God's person, and the only one who does that is God's lieutenant, who has the sovereignty under God. But this claim of a covenant with God is so obviously a lie, even in the claimant's own consciences, that it is the act of a disposition that is not only unjust but also vile and unmanly.

Secondly, what gives the sovereign a right to bear the person of all his subjects is Ÿa covenant that they make with one another, and not Ÿa covenant between him and any of them; there can't be a breach of covenant on *his* part; and consequently none of his subjects can be freed from subjection by a claim that the sovereign has forfeited ·his right to govern by breaking his covenant with his subject(s)·. It is obvious that the sovereign

makes no covenant with his subjects on the way to becoming sovereign, for suppose the contrary. Then he must either Ÿmake a covenant with the whole multitude as the other party, or Ÿmake a separate covenant with each man. But it can't be Ÿwith the whole as one party, because at this point they are not one person; and if he Ÿmakes as many separate covenants as there are men, those covenants become void after he becomes sovereign, because any act ·of the sovereign's· that one of them can claim to be a breach ·of *his* covenant with the sovereign· is an act both of himself and of all the others, because it was done ·by the sovereign, and thus was done· in the person, and by the right, of every individual one of them. Besides, if one or more of the subjects claims a breach of the covenant made by the sovereign in his becoming sovereign, and one or more other subjects contend that there was no such breach (or indeed if only the sovereign himself contends this), there is no judge to decide the controversy, so it returns to the sword again, and every man regains the right of protecting himself by his own strength, contrary to the design they had in the institution ·of the commonwealth·. . . .

The opinion that any monarch receives his power by covenant - that is to say, on some *condition* - comes from a failure to grasp this easy truth:

> Because covenants are merely words and breath, they have no force to oblige, contain, constrain, or protect any man, except whatever force comes from the public sword - that is, from the untied hands of that man or assembly of men that has the sovereignty, whose actions all the subjects take responsibility for, and are performed by the strength of them all, united in their sovereign.

When *an assembly of* men is made sovereign, nobody imagines this to have happened through any such covenant; for no man is so stupid as to say, for example, that the people of Rome made a covenant with the Romans to hold the sovereignty on such and such conditions, the non-performance of which would entitle the Romans to depose the Roman people! Why don't men see that the basic principles of a monarchy are the same as those of a popular government? ·They are led away from seeing this by· the ambition of people who are kinder to the Ÿgovernment of an assembly than to Ÿthat of a monarchy, because they Ÿcan hope to participate in the former, but Ÿdespair of enjoying the latter.

Thirdly, because the majority have by consenting voices declared a sovereign, someone who dissented must now go along with the others, that is, be contented to accept all the actions the sovereign shall do; and if he doesn't he may justly be destroyed by the others. For if he voluntarily entered into the congregation of those who came together ·to consider instituting a sovereign·, he thereby sufficiently declared his willingness to accept what the majority should decide on (and therefore tacitly covenanted to do so); so if he then refuses to accept it, or protests against any of their decrees, he is acting contrary to his covenant, and therefore unjustly. Furthermore: whether or not he enters into the congregation, and whether or not his consent is asked, he must either Ÿsubmit to the majority's decrees or Ÿbe left in the condition of war he was in before, in which he can without injustice be destroyed by any man at all.

Fourthly, because every subject is by this institution ·of the commonwealth· the author of all the actions and judgments of the sovereign, it follows that nothing the sovereign does can *wrong* any of his subjects, nor ought any of them to accuse him of injustice. For someone who acts by the authority of someone else can't in acting wrong the person by whose authority he acts; but according to this institution of a

commonwealth, every individual man is an author of everything the sovereign does; so someone who complains of being wronged by *his sovereign* complains about something of which *he himself* is an author; so he oughtn't to accuse anyone but himself - and indeed he oughtn't even to accuse himself of wronging himself, because to wrong one's self is impossible. [Throughout this paragraph up to this point, 'wrong' replaces Hobbes's 'injury'.] It is true that those who have sovereign power may commit iniquity [= 'do wicked things'], but not injustice or injury in the proper meaning of that term.

Fifthly, following from the preceding point: no man who has sovereign power can justly be put to death or punished in any other way by his subjects. For seeing that every subject is an author of the actions of his sovereign, ·if he punishes the sovereign· he punishes someone else for actions committed by himself.

And because the goal of this institution is the peace and defence of them all, and whoever has a right to the goal has a right to the means to it, the man or assembly that has the sovereignty has the *right* to be judge both of the means to peace and defence, and also of the hindrances and disturbances of peace and defence; and to do whatever he thinks is needed, both beforehand Ÿfor preserving of peace and security by prevention of discord at home and hostility from abroad, and Ÿfor the recovery of peace and security after they have been lost. And therefore,

Sixthly, it is for the sovereignty [= 'the man or assembly of men to whom the sovereignty has been given'] to be the judge Ÿof what opinions and doctrines are threats to peace and what ones tend to support it; and consequently Ÿof what men are to be trusted to speak to multitudes of people, on what occasions, and how far they should be allowed to go; and Ÿof who shall examine the doctrines of all books before they are published. For the actions of men come from their opinions, and the way to govern men's actions in the interests of peace and harmony is to govern their opinions. When we are considering doctrines, nothing ought to be taken account of but *truth*; but this doesn't conflict with regulating doctrines on grounds having to do with *peace*. For a doctrine that is harmful to peace can't be true, any more than peace and harmony can be against the law of nature. It is true that in a commonwealth where the negligence or incompetence of governors and teachers has allowed false doctrines to become generally believed, the contrary *truths* may be generally found to be offensive. But even the most sudden and rough bustling in of a new truth never *breaks the peace*, but only sometimes *awakens the war*. ·I said 'awakens' the war, not 'starts' it·. For men who are so slackly governed that they dare take up arms to defend or introduce an opinion are at war already; their state is not one of peace, but only a cessation of arms for fear of one another, and they live continually on the fringe of a battlefield, so to speak. So it is for him who has the sovereign power to be the judge - or to establish others as judges - of opinions and doctrines, this being necessary for peace and the avoidance of discord and civil war.

Seventhly, the sovereignty has the whole power of prescribing the rules that let every man know what goods he may enjoy, and what actions he may perform, without being troubled by any of his fellow-subjects; and this is what men call 'property' [Hobbes writes 'propriety']. Before the establishment of sovereign power (as I have already shown), all men had a right to all things, a state of affairs which necessarily causes war; and therefore this ·system of· *property*, being necessary for peace and dependent on sovereign power, is one of the things done by sovereign power in the interests of public peace. These rules of

property (or *meum* and *tuum* [Latin for 'mine' and 'yours']) and of good, evil, lawful, and unlawful in the actions of subjects, are the *civil laws*, that is to say, the laws of each individual commonwealth . . . .

Eighthly, the sovereignty alone has the right of judging, that is to say, of hearing and deciding any controversies that may arise concerning law (civil or natural) or concerning fact. For if controversies are not decided, Ÿone subject has no protection against being wronged by another, Ÿthe laws concerning *meum* and *tuum* have no effect, and Ÿevery man retains - because of the natural and inevitable desire for his own preservation - the right to protect himself by his own private strength, which is the condition of war, and is contrary to the purpose for which every commonwealth is instituted.

Ninthly, the sovereignty alone has the right to make war and peace with other nations, and commonwealths, that is to say, the right Ÿto judge when war is for the public good, Ÿto decide how great ·military· forces are to be assembled for that purpose and armed and paid for, and Ÿto tax the subjects to get money to defray the expenses of those forces. For the power by which the people are to be defended consists in their armies, and the strength of an army consists in the union of the soldiers' strengths under one command; and it is the instituted sovereign who *has* that command. Indeed, having command of the military is enough to make someone sovereign, without his being instituted as such in any other way. So whoever is appointed as *general* of an army, it is always the sovereign power who is its *supreme commander*.

Tenthly, it is for the sovereignty to choose all counsellors, ministers, magistrates, and officers, in both peace and war. For seeing that the sovereign is charged with ·achieving· the goal of the common peace and defence, he is understood to have the power to use whatever means he thinks most fit for this purpose.

Eleventhly, to the sovereign is committed the power of rewarding with riches or honour, and of punishing with corporal punishment or fines or public disgrace, every subject Ÿaccording to the law the sovereign has already made; or if no ·relevant· law has been made, Ÿaccording to his (the sovereign's) judgment about what will conduce most to encouraging men to serve the commonwealth, or to deterring them from doing disservice to it.

Lastly, because of how highly men are naturally apt to value themselves, what respect they want from others, and how little they value other men - all of which continually gives rise to resentful envy, quarrels, side-taking, and eventually war, in which they destroy one another and lessen their strength against a common enemy - it is necessary Ÿto have *laws of honour*, and a public rate [= 'price-list'] stating the values of men who have deserved well of the commonwealth or may yet do so, and Ÿto put into *someone's* hands the power to put those laws in execution. But I have already shown that not only the whole military power of the commonwealth, but also the judging of all controversies, is assigned to the sovereignty. So it is *the sovereign* whose role it is to give titles of honour, and to appoint what order of place and dignity each man shall hold, and what signs of respect they shall give to one another in public or private meetings.

These are the rights that make the essence of sovereignty, and are the marks by which one can tell what man or assembly of men has the sovereign power. For these ·rights and powers· cannot be shared and cannot be separated from one another. The sovereign may transfer to someone else the power to coin money, to dispose of the estate and persons of

infant heirs, to have certain advantages in markets, or any other prerogative that is governed by particular laws, while still retaining the power to protect his subjects. But Ÿif he transfers the military it is no use his retaining the power of judging, because he will have no way of enforcing the laws; or Ÿif he gives away the power of raising money, the military is useless; Ÿor if he gives away the control of doctrines, men will be frightened into rebellion by the fear of spirits. So if we consider any *one* of the rights I have discussed, we shall immediately see that ·it is necessary, because· the holding of *all the others* ·without that one· will have no effect on the conservation of peace and justice, the purpose for which all commonwealths are instituted. This division ·of powers that ought not to be divided· was the topic when it was said that *a kingdom divided in itself cannot stand* (*Mark* 3:24); for a division into opposite armies can never happen unless this division ·of powers· happens first. If a majority of people in England hadn't come to think that these powers were divided between the king, the Lords, and the House of Commons, the people would never have been divided and fallen into this civil war - first over disagreements in politics, and then over disagreements about freedom of religion - a war that has so instructed men in this matter of sovereign rights that most people in England do now see that these rights are inseparable. This will be generally acknowledged when peace next returns, and it will continue to be acknowledged for as long as people remember their miseries ·in the war· (though it won't continue beyond that unless the common people come to be better taught than they have been until now!).

And because these rights are essential and inseparable, it necessarily follows that in whatever words any of them *seem* to be granted to someone other than the sovereign, *the grant is void* unless the sovereign power itself is explicitly renounced ·at the same time·, and the title 'sovereign' is no longer given by the grantees to him who grants the rights in question; for when he has granted as much as he can, if we grant back ·or he retains· the sovereignty ·itself·, all the rights he has supposedly granted to someone else are restored to him, because they are inseparably attached to the sovereignty.

This great authority being indivisible, and inseparably assigned to the sovereignty, there is little basis for the opinion of those who say of sovereign kings that though they have Ÿgreater power than *every one of their subjects*, they have Ÿless power than *all their subjects together*. For if by 'all together' they don't mean the collective body as one person, then 'all together' and 'every one' mean the same, and what these people say is absurd. But if by 'all together' they understand them as one person (which person the sovereign bears), then the power of 'all together' is the same as the sovereign's power, and so again what they say is absurd. They could see its absurdity well enough when the sovereign is an assembly of ·all· the people, but they don't see it when the sovereign is a monarch; and yet *the power of sovereignty* is the same, whoever has it.

Just as the Ÿpower of the sovereign ought to be greater than that of any or all the subjects, so should the sovereign's Ÿhonour. For the sovereignty is the fountain of honour. The dignities of lord, earl, duke, and prince are created by him. Just as servants in the presence of their master are equal, and without any honour at all, so are subjects in the presence of their sovereign. When they are out of his sight some may shine more than others, but in his presence they shine no more than do the stars in the presence of the sun.

But someone may object here that subjects are in a miserable situation because they are at the mercy of the lusts and other irregular passions of him who has (or of them who

have) such unlimited power. Commonly those who live under a monarch think their troubles are the fault of monarchy, and those who live under the government of democracy or some other kind of sovereign assembly attribute all the inconvenience to *that* form of commonwealth (when really the sovereign power is the same in every form of commonwealth, as long as it is complete enough to protect the subjects). These complainers don't bear in mind Ÿthat the human condition can never be without some inconvenience or other, or Ÿthat the greatest trouble that can possibly come to the populace in any form of government is almost nothing when compared with the miseries and horrible calamities that accompany a civil war, or with the dissolute condition of ungoverned men who are not subject to laws and to a coercive power to hold them back from robbery and revenge. Nor do they bear in mind Ÿthat the greatest burdens laid on subjects by sovereign governors does *not* come from Ÿany pleasure or profit they can expect from damaging or weakening their subjects (in whose vigour consists *their own* strength and glory), but from Ÿthe stubbornness of the subjects themselves, who are unwilling to contribute to their own defence, and so make it necessary for their governors to get what they can from them ·in taxes· in time of peace, so that they may have the means to resist their enemies, or to get an advantage over them, if an occasion for this should suddenly present itself. For all men are provided by nature with notable Ÿmicroscopes (that is their passions and self-love) through which every little payment appears as a great grievance, but don't have the Ÿtelescopes (namely moral and political science) that would enable them to see far off the miseries that hang over them, which can't be avoided without such payments.

Chapter 19. The different kinds of commonwealth by institution, and succession to the sovereign power

Differences amongst commonwealths come from differences in the sovereign, or the person who represents every one of the multitude. The sovereignty resides either in Ÿone man, or in Ÿan assembly of more than one; and ·when it is an assembly· either Ÿevery man has right to enter the assembly or Ÿnot everyone but only certain men distinguished from the rest. So, clearly, there can be only three kinds of commonwealth. For the representative must be one man or more than one; and if more than one, then it is either the assembly of all ·the multitude· or an assembling containing only some of them. When Ÿthe representative is one man, the commonwealth is a MONARCHY; when it Ÿis an assembly of only some of the multitude then it is called an ARISTOCRACY; when Ÿit is an assembly of all that are willing come together, it is a DEMOCRACY or popular commonwealth. There can't be any other kind of commonwealth, because the sovereign power (which I have shown to be indivisible) must be possessed Ÿby one, Ÿby more than one ·but less than all·, or Ÿby all.

Books of history and political theory contain other names for governments, such as 'tyranny' and 'oligarchy'. But they are not the names of other forms of government; they are names of the same forms, given by people who dislike them. For those who are discontented under monarchy call it 'tyranny', and those who are displeased with aristocracy call it 'oligarchy'; so also those who find themselves aggrieved under a democracy call it 'anarchy', which means lack of any government, but I don't think anyone believes that lack of government is any new kind of government! Nor (to continue

the line of thought) ought they to believe that the government is of one kind when they like it and of another when they dislike it or are oppressed by the governors.

Obviously, men who are in absolute liberty may if they please give authority to one man to represent them all, or give such authority to any assembly of men whatever; so they are free to subject themselves to a monarch as absolutely as to any other representative, if they think fit to do so. Therefore, where a sovereign power has already been established, there can be no other representative of the same people (except for certain particular purposes that are circumscribed by the sovereign). ·If there were two unrestricted representatives·, that would be to establish two sovereigns, and every man would have his person represented by two actors; if these opposed one another, that would divide the power that has to be *in*divisible if men are to live in peace, and would thereby pull the multitude down into the condition of war, contrary to the purpose for which all sovereignty is instituted.

And therefore it would absurd for a monarch, having invited the people of his dominion to send him their deputies with power to make known to him their advice or desires, to think that these deputies, rather than himself, were the absolute representative of the people. (The absurdity is even more obvious if this idea is applied not to a monarch but to a sovereign *assembly*.) I don't know how this obvious truth came to be so disregarded ·in England· in recent years. In this country we had a monarchy in which he who had the sovereignty - in a line of descent 600 years long - was alone called 'sovereign', had the title 'Majesty' from every one of his subjects, and was unquestionably accepted by them as their king. Yet he was never considered as their *representative*, that name being given - with no ·sense that this was a· contradiction - to the men who at his command were sent to him by the people to bring their petitions and give him (if he permitted it) their advice. This may serve as a warning for those who are the true and absolute representatives of a people, that if they want to fulfil the trust that has been committed to them they had better Ÿinstruct men in the nature of the office ·of sovereign·, and Ÿbe careful how they permit any other general representation on any occasion whatsoever.

The differences among these three kinds of commonwealth don't consist in differences ·in the amount of· power, but in differences in how serviceable they are, how apt to produce the peace and security of the people - the purpose for which they were instituted. ·I now want· to compare monarchy with the other two, ·making six points about this comparison·.

First, we may observe that anyone who bears the person of the people or belongs to the assembly that bears it, also bears his own *natural* person [= 'bears himself considered just as one human being']. And though he is careful in his *official* person to procure the common interest, he is at least as careful to procure the private good of himself, his family, relatives, and friends; and when the public interest happens to conflict with the private, he usually prefers the private, because men's passions are commonly more powerful than their reason. It follows from this that the public interest is most advanced when it coincides with the private interest ·of the sovereign·. Now in monarchy the private interest is the same as the public. The riches, power, and honour of a monarch arise purely from the riches, strength and reputation of his subjects; for no king can be rich or glorious or secure if his subjects are poor or wretched, or so much weakened by want or dissension

that they can't maintain a war against their enemies. In a democracy or an aristocracy, on the other hand, public prosperity often does less for the private fortune of someone who is corrupt or ambitious than does lying advice, treacherous action, or civil war.

Secondly, a monarch decides who will advise him, and when and where; so he can hear the opinions of men who are knowledgeable about the matter in question - men of any rank or status - and as long in advance of the action and with as much secrecy as he likes. But when a sovereign assembly needs advice, it can have no counsellors from outside its own body, because outsiders are mostly unskilled in civic matters; the rest - ·that is, the members of the sovereign assembly· - are orators, who give their opinions in speeches that are full either of pretence or of inept learning, and either disrupt the commonwealth or do it no good. For the flame of the passions *dazzles* the understanding, but never *enlightens* it. Nor is there any place or time at which an assembly can receive advice in secret; there are too many of them for that.

Thirdly, the resolutions of a monarch are not subject to any inconstancy except that of human nature; but in assemblies, besides the inconstancy of *nature* there is an inconstancy of *numbers*. Something that the assembly decided yesterday may be undone today because a few members who wanted it reversed showed up, while those who would have wanted yesterday's resolution to hold firm have stayed away because they were too confident, or negligent, or for personal reasons.

Fourthly, a monarch cannot disagree with himself out of envy or self-interest, but an assembly can, and the disagreement may be so strenuous as to lead to a civil war.

Fifthly, in monarchy there is this disadvantage: any subject may be deprived of all he possesses by the power of one man (·the sovereign·), so as to enrich a favourite or flatterer. [The Latin version adds: 'Nevertheless, we do not read that this has ever been done.'] I admit that this is a great and inevitable disadvantage. But the same thing can just as well happen where the sovereign power is in an assembly; for their power is the same, and they are as likely to be seduced into accepting bad advice from orators as a monarch is from flatterers; and they can become one another's flatterers, taking turns in serving one another's greed and ambition. Also, a monarch has only a few favourites, and the only others they may want to advance are their own relatives; whereas the favourites of an assembly are many, and the relatives of the members of an assembly are much more numerous than those of any monarch. Besides, any favourite of a monarch can help his friends as well as hurt his enemies; but orators - that is to say, favourites of sovereign assemblies - have great power to hurt but little to help. For, such is man's nature, accusing requires less eloquence than does excusing; also, condemning *looks* more like justice than pardoning does.

Sixthly, in a monarchy the sovereignty may descend to an infant, or to one who can't tell good from evil; which has the ·alleged· drawback that then Ÿthe use of the sovereign's power must be in the hands of another man, or of some assembly of men, who are to govern by his right and in his name, as guardians and protectors of his person and his authority. But to say there is a drawback in Ÿputting the use of the sovereign power into the hands of a man or an assembly of men is to say that Ÿall government is less satisfactory than confusion and civil war - ·which is absurd·. So the only danger that can be claimed to arise ·from a situation where the monarchy has been inherited by someone who is not yet fit to exercise its powers· has to do with the struggles among those who become competitors for an office bringing so much honour and profit.

This disadvantage does *not* come from the form of government we call 'monarchy'. To see this, consider Ÿthe case where the previous monarch has appointed those who are to have the care of his infant successor - doing this either by an explicit statement or ·implicitly· by not interfering with the customarily accepted procedure for such appointments. In that case, if the 'competition' disadvantage arises it should be attributed not to the monarchy but to the ambition and injustice of the subjects; and those ·vices· are the same in all kinds of government where the people are not well instructed in their duty and in the rights of sovereignty. For Ÿthe case where the previous monarch has made no provision at all for such care ·of his infant successor·, the law of nature has provided this sufficient rule, that the infant sovereign shall be cared for by the man who has by nature Ÿthe most to gain from the preservation of the infant's authority and Ÿthe least to gain from the child's dying or being diminished. For since every man by nature seeks his own benefit and promotion, to put an infant under the control of people who can promote themselves through his destruction or damage is not guardianship but treachery. So once sufficient provision has been made against any *proper* dispute about the government under a child, if any contest does start up and disturb the public peace, it should be attributed not to the form of monarchy but to the subjects' ambition and ignorance of their duty. On the other side, every great commonwealth whose sovereignty is in a great assembly is, so far as concerns consultations about peace and war and the making of laws, in the same condition as if the ·power of· government were ·theoretically· in a child. For just as Ÿa child lacks the judgment to disagree with advice that is given him, and so has to accept the advice of them (or him) to whose care he is committed, so also Ÿan assembly lacks the freedom to disagree with the advice of the majority, whether it is good or bad. And just as Ÿa child needs a guardian or protector to preserve his person and his authority, so also Ÿin great commonwealths the sovereign assembly, in all ·times of· great danger and trouble, need *custodes libertatis* [Latin, 'guardians of liberty']. That is, they need dictators or protectors of their authority, who amount to being temporary monarchs, to whom they can *for a time* commit the exercise of all their power; and it has more often happened that at the end of that time Ÿthe assembly were ·permanently· deprived of their power ·by the dictator· than it has happened that Ÿinfant kings were deprived of their power by their protectors, regents, or any other guardians.

I have shown that there are only three kinds of sovereignty:

Ÿmonarchy, where one man has the sovereignty,

Ÿdemocracy, where the general assembly of ·all the· subjects has it, and

Ÿaristocracy, where it is in an assembly of certain persons picked out in some way from the rest.

Still, someone who surveys the particular commonwealths that did or do exist in the world will perhaps find it hard to get them into three groups, and this may incline him to think there are other forms, arising from mixtures of these three. For example, Ÿelective kingdoms, where kings have the sovereign power put into their hands *for a time*, or Ÿkingdoms in which the king has *limited* power, though most writers apply the label 'monarchy' to these governments. Likewise Ÿif a democratic (or aristocratic) commonwealth subdues an enemy's country and governs it through an appointed governor, executive officer, or other legal authority, this may perhaps seem at first sight to be a democratic (or aristocratic) government. But this is all wrong. ŸFor elective kings are

not sovereigns but ministers of the sovereign; Ÿlimited kings are not sovereigns but ministers of those who have the sovereign power; and Ÿprovinces that are in subjection to a democracy (or aristocracy) of another commonwealth are themselves governed not democratically (or aristocratically) but monarchically. ·I shall discuss these three cases at more length, giving them a paragraph each·.

First, concerning an elective king whose power is limited Ÿto his life as it is in many places of Christendom at this day, or Ÿto certain years or months like the dictator's power among the Romans: if he has the right to appoint his successor, he is no longer an elective king but an hereditary one. But if he has no power to designate his successor, then either Ÿsome other known man or assembly can designate a successor after his death or Ÿthe commonwealth dies and dissolves with him, and returns to the condition of war. ŸIf it is known what people have the power to award the sovereignty after his death, it is also known that *the sovereignty was in them while he was alive*; for nobody has the right to *give* something that he doesn't have the right to *possess* and to keep to himself if he sees fit. But Ÿif there is no-one who can give the sovereignty after the decease of him who was first elected, then that king has the power - indeed, he is *obliged by the law of nature* - to establish his own successor, so as to keep those who had trusted him with the government from relapsing into the miserable condition of civil war. So he was, as soon as he was elected, an absolute sovereign.

Secondly, the king whose power is limited is not superior to whoever has the power to limit it, and he who is not *superior* is not *supreme*, which is to say that he is not *sovereign*. So the sovereignty always was in the assembly that had the right to limit him, which implies that the government is not monarchy but either democracy or aristocracy; as in ancient Sparta, where the kings had the privilege of leading their armies but the sovereignty was possessed by the Ephori [= 'magistrates with authority over the king's conduct'].

Thirdly, although *the Roman people* governed the land of Judea (for example) through a governor, that didn't make Judea Ÿa democracy, because they weren't governed by any assembly into which each of them had a right to enter; nor was it Ÿan aristocracy, because they weren't governed by any assembly that a man could be *selected* to belong to. Rather, ·it was Ÿa monarchy·. They were governed by *one person*: in relation to the people of Rome this 'one person' was an assembly of ·all· the people, i.e. a democracy, but in relation to the people of Judea, who had no right at to participate in the government, it was a monarch. Where the people are governed by an assembly chosen by themselves out of their own number, the government is called a democracy or an aristocracy; but when they are governed by an assembly that is not of their own choosing it is a monarchy - not of one man over another man, but of one people over another people.

The *matter* of all these *forms* of government consists in monarchs and assemblies; these die, so the matter is mortal. It is therefore necessary for the preservation of peace of men that steps should be taken not only for ·the creation of· an artificial man but also for ·that 'man' to have· an artificial eternity of life. Without that, Ÿmen who are governed by an assembly would return into the condition of war in every generation, and Ÿthose who are governed by one man would return to it as soon as their governor dies. This artificial eternity is what men call 'the right of succession'.

In any perfect form of government it is the present sovereign who has the right to decide how the succession will go. For if the right were possessed by ŸÿŸany other particular man or non-sovereign assembly, it would be in a *subject* person; so the sovereign could take it to himself at his pleasure, which means that the right belonged to him all along. And if this right belonged to ŸÿŸno particular man, and was left to a new choice ·after the death of the present sovereign·, then the commonwealth would be dissolved, and the right ·to decide the succession· would belong to whoever could get it, which is contrary to the intention of those who instituted the commonwealth ·in the first place, which they did· for their *perpetual* and not just their *temporary* security.

In a democracy, the whole assembly cannot die unless the multitude that are to be governed die. So in that form of government questions about the right of ·deciding the· succession don't arise.

In an aristocracy, when any member of the assembly dies the choice of someone else to take his place is for the assembly to make, because it is the sovereign to whom belongs the ·right of· choosing of *all* counsellors and officers. For what the representative does as actor is done by every one of the subjects as author. The sovereign assembly may give power to others to choose new members to make up their numbers, but it is still by *their* authority that the choice is made, and by their authority that the choice may be cancelled if the public good requires it.

The greatest difficulty about the right of succession occurs in monarchy. The difficulty arises from the fact that it is not immediately obvious ŸÿŸwho is to appoint the successor ·to a king who has died·, and ·when it clear that it is for the king to do this·, it is often not obvious ŸÿŸwhom he has appointed. For both these cases require thinking that is more precise than men in general are accustomed to. As to the question of ŸÿŸwho shall appoint the successor of a monarch, the central point is this: either he who now possesses the sovereign power has the right to decide the succession or else that right reverts to the dissolved multitude ·which is thereby threatened with sliding into war·. (I am saying this about a monarch who *possesses* sovereign authority, so that the right of succession is the right of inheritance; not about for *elective* kings and princes, who don't *own* the sovereign power but merely *have the use of* it). For the death of him who possesses the sovereign power leaves the multitude without any sovereign at all, that is, without any representative in whom they can be united and be capable of acting; and so they are incapable of ·acting in any way at all, which implies that they are incapable of· electing any new monarch. ·In this state of affairs·, every man has an equal right to submit himself to whomever he thinks best able to protect him, or (if he can) to protect himself by his own sword; which is a return to confusion and to the condition of a war of every man against every man, contrary to the purpose for which monarchy was first instituted. Therefore it is manifest that the institution of monarchy always leaves the choice of the successor to the judgment and will of the present possessor of sovereignty.

Sometimes a question arises about ŸÿŸwho it is that the monarch has designated to the succession and inheritance of his power; it is to be answered on the basis of his explicit words and testament, or by other sufficient wordless signs.

By explicit words or testament when it is declared by him in his lifetime, orally or in writing, as the first emperors of Rome declared who were to be their *heirs*. (·That is an appropriate word·, for 'heir' is not restricted to the children or nearest relatives of a man;

it applies to anyone at all whom he says - somehow - he wants to succeed him in his estate.) So if a monarch explicitly declares that such-and-such a man is to be his heir, doing this either orally or in writing, then that man acquires the right of being monarch immediately after the decease of his predecessor.

But in the absence of testament and explicit words, other natural signs of the sovereign's wishes should be followed. One of these is *custom*. Where it is customary for the monarch to be succeeded by Ÿhis next of kin, with no conditions on that, the next of kin *does* have the right to the succession, for if the previous monarch had wanted something different he could easily have declared this in his life time. Likewise, where the custom is that the succession goes to Ÿthe male who is next of the kin, the right of succession in that case does go to the male next of kin, for the same reason. Similarly if the custom were to advance Ÿthe female ·next of kin·. For if a man could by a word modify an existing custom, ·yet doesn't do so·, that is a natural sign that he wants the custom to stand unchanged.

What if neither custom nor the monarch's testament has been provided? Then it should be understood Ÿfirst that the monarch wanted the government to remain monarchical, because he approved that government in himself. ŸSecondly that ·he wanted· a child of his own - male or female - to be preferred before any other; because men are presumed to be naturally more inclined to advance their own children than those of other men (and of their own, a male rather than a female, because men, are naturally fitter than women for actions of labour and danger). ŸThirdly, if he has no descendants, ·that he wanted to be succeeded by· a brother rather than a stranger - and, generalizing from that - to have a successor close to him in blood rather than one who is more remote; because it is always presumed that closeness of kinship goes with closeness of affection, and it is evident that the greatness of a man's *nearest* kindred reflect the *most* honour on him.

But if it is lawful for a monarch to settle the succession on someone by words of contract or testament, men may perhaps object that there is a great disadvantage in this: for he may sell or give his right of governing to a foreigner; and this may lead to the oppression of his subjects, because people who are foreigners to one another (that is, men who don't customarily live under the same government or speak the same language) commonly undervalue one another. This is indeed a great disadvantage; but ·if there is oppression in such a case· it may come not from the mere fact that the government is foreign but rather from the unskilfulness of the governors, their ignorance of the true rules of politics. That is why the Romans, when they had subdued many nations and wanted to make their government of them digestible, usually removed that grievance (·of oppression entirely by foreigners·) as much as they thought it necessary to do so, by giving sometimes to whole nations and sometimes to principal men of conquered nations not only the privileges of Romans but also the title 'Roman', and admitted many of them to the senate and to official positions, even in the Roman city. That is what our most wise King James aimed at in trying to unite his two realms of England and Scotland. Had he succeeded in this, it would probably have prevented the civil wars that make both those kingdoms miserable now. So it is not an offence against the people for a monarch to make a foreigner his successor, though disadvantages sometimes come from that, through the fault either of the rulers or of their citizens. Here is a further argument for *lawfulness* of his so doing: whatever bad results can come from *giving a kingdom to* a foreigner could

also come from a monarch's *marrying* a foreigner, as the right of succession might then be passed to the foreigner; yet everyone regards this as lawful.

Chapter 20. Paternal dominion and despotic dominion

A *commonwealth by acquisition* is one where the sovereign power is acquired by force; and it is *acquired by force* when men (either singly or jointly by majority of voices) are led by their fear of death or imprisonment to authorize all the actions of the man or assembly that has their lives and liberty in his power.

This kind of dominion or sovereignty differs from sovereignty by institution only in this: men who choose their sovereign do it for fear of Ÿone another, not fear of the man whom they institute; but in this case ·of dominion by acquisition· they are afraid of Ÿthe very person whom they institute ·as sovereign·. In both cases they act out of fear - a fact that should be noted by those who hold that any covenant is void if it comes from fear of death or violence. If they were right, no man in any kind of commonwealth could be obliged to obedience! It is true that when a commonwealth has been instituted or acquired, promises coming from fear of death or violence are not covenants, and don't oblige, if the thing promised is contrary to the laws; but that is not because the promise is made out of fear, but because he who promises has no right to do the thing he has promised to do·. . . .

But the rights and consequences of sovereignty are the same in both ·instituted and acquired sovereignty·:

> The monarch's power cannot without his consent be transferred to someone else; he cannot forfeit it; he cannot be accused by any of his subjects of having wronged them; he cannot be punished by them; he is the judge of what is necessary for peace, and the judge of ·what· doctrines ·maybe published·; he is the sole legislator, supreme arbitrator of controversies, and supreme judge of the times and occasions for war and peace; it is for him to choose magistrates, counsellors, commanders, and all other officers and ministers, and to determine all rewards and punishments, honours, and rankings.

The reasons for this ·in sovereignty by acquisition· are the ones I adduced in chapter 18 for the same rights and consequences of sovereignty by institution.

Dominion is acquired two ways, by *generation* and by *conquest*. [Hobbes has previously used 'generation' to mean 'bringing into being'; and this text has replaced this by 'creation' - e.g. in 'creation of a commonwealth'. In the present context 'generation' means, more narrowly, 'animal reproduction' - begetting and giving birth to.] The right of dominion by generation is what the parent has over his children, and is called PATERNAL. It doesn't come from Ÿthe ·mere fact of· generation, as though the parent had dominion over his child simply because he begot him. Rather, it comes from Ÿthe child's consent, either explicitly stated or indicated by other sufficient signs. As for ·the idea that· generation alone is enough for dominion·: God has given to man a ·woman, as· helper, and there are always two who are equally parents; so the dominion over the child, ·if it came from generation alone·, would belong equally to both ·parents·, and the child would subject to both equally, which is impossible, for no man can obey two masters. And whereas some - ·such as Aristotle and Aquinas· - have ascribed the dominion to the man only, because the male sex is the more excellent one, they have miscalculated. For there is not always enough difference of strength or prudence between men and women for the

right to be determined without war. In commonwealths this controversy is decided by the civil law; and usually though not always the judgment goes in favour of the father, because most commonwealths have been set up by the fathers of families, not the mothers. But the present question concerns the state of mere nature, where we can't assume laws of matrimony or laws for the upbringing of children, but only the law of nature and the natural fondness of the sexes for one another and for their children. In this raw condition of nature, either the parents settle the dominion over the child jointly, by contract, or they don't settle it at all. If they do, the right goes where the contract says it goes. We find in history that the Amazons contracted with the men of the neighbouring countries - to whom they went to have children - that the male children should be sent back ·to their fathers·, but the female ones would remain with themselves; so that ·in their case· the dominion of the females was in the mother.

If there is no contract, the mother has dominion. For in the condition of mere nature where there are no matrimonial laws it can't be known who *is* the father, unless the mother tells; so the right of dominion over the child depends on her will - ·that is, on her choice not to say who the father is· - and consequently it is hers. Also, the infant is at first in the power of the mother, so that she can either nourish it or expose it [= leave it out in the open, to die unless rescued by strangers]. If she nourishes it, it owes its life to the mother and is therefore obliged to obey her rather than anyone else, and consequently the dominion over it is hers. But if she exposes the child and someone else finds and nourishes it, the dominion is in that person. For the child *ought* to obey the man who has preserved it, because preservation of life is the purpose for which one human becomes subject to another, so that every man is supposed to promise obedience to him who has it is in his power to save him or destroy him.

If the mother is a *subject* of the father, the child is in the father's power; and if the father is a subject of the mother (as when a sovereign queen marries one of her subjects), the child is subject to the mother, because the father also is her subject. [Curley points out that Hobbes lived under three Stuart kings descended from the marriage of Mary Queen of Scots to one of her subjects.]

If a man and a woman who are monarchs of two different kingdoms have a child, and make a contract concerning who shall have dominion of him, the right of dominion goes where the contract ordains. If they don't make a contract, the dominion follows the dominion of the place of the child's residence. For the sovereign of each country has dominion over all that live in it.

He who has dominion over a child has dominion also over the child's children and over their children's children. For he that has dominion over the person of a man has dominion over all that is his; without that, dominion would be just a title with no effect.

The right of succession to paternal dominion, proceeds in the same way as the right of succession to monarchy, about which I have already said enough in chapter 19.

Dominion acquired by conquest, or victory in war, is what some writers call DESPOTIC - from *despotes* [Greek], meaning 'lord' or 'master' - and is the dominion of a master over his servant. This dominion is acquired by the victor when the vanquished, seeking to avoid being killed on the spot, covenants either in explicit words or by other sufficient signs of his will that as long as Ÿhis life and Ÿthe liberty of his body are allowed to him, the victor will have the use of Ÿthem at his pleasure. *After* such a covenant is

made, the vanquished person is a SERVANT - not *before*. The word 'servant' . . . . does not mean 'captive', ·a status that has nothing covenantal about it·. A *captive* is someone who is kept in prison or in fetters until the owner of the man who captured him, or who bought him from someone who captured him, has decided what to do with him. Such men (commonly called 'slaves') have no obligation at all, but may justly break their bonds or smash the prison, and kill their master or carry him away as a captive. ·A servant's situation is nothing like this. A servant is· someone who, having been captured, has bodily liberty allowed to him and is trusted by his master, on the strength of his promise not to run away or do violence to his master.

So it is not the victory that gives the victor a right of dominion over the vanquished, but the covenant ·between them·. What puts the vanquished man under an obligation is not Ÿhis being conquered - that is, defeated and either captured or put to flight - but Ÿhis coming in and submitting to the victor ·and making with him the covenant I have described·. And the mere fact that the vanquished man surrenders (without being promised his life) does not oblige the victor to spare him: when the vanquished man yields himself to the victor's *discretion*, that obliges the victor for only as long as he in his own *discretion* thinks fit! [In this context, 'discretion' = 'freedom to act or decide as one thinks fit'.]

What men do in asking for *quarter* (as it is now called; the Greeks called it *zogria* = 'taking alive'] is to evade the present fury of the victor by submission, and to offer ransom or service in exchange for their life. So someone who receives quarter hasn't been given his life; ·the status of his life· is merely deferred until further deliberation ·by the victor·; for in asking for quarter he wasn't Ÿyielding on condition of ·being allowed his· life, but merely Ÿyielding to ·the victor's· discretion. When the victor has entrusted him with his bodily liberty, *then* his life is secure his service is owed; then, but not before. For slaves who work in prisons or in chains ·don't *owe* their service·; they serve not out of duty but to avoid the cruelty of their task-masters.

The master of the servant is master also of everything the servant has, and may demand the use of it - that it, the use of the servant's goods, of his labour, of *his* servants, and of his children - as often as he thinks fit. For what enables the servant to stay alive rather than being killed by his master is the covenant of obedience through which he owns and authorizes everything the master does. [Hobbes expresses this by saying of the servant that 'he holdeth his life of his master, by the covenant of obedience . . .'.] And if he refuses to serve, and his master kills or imprisons him or otherwise punishes him for his disobedience, the servant is himself the author of this action, and cannot accuse his master of wronging him.

Summing up: the rights and consequences of both paternal and despotic dominion are the very same as those of a sovereign by institution, and for the same reasons - which I have set out in chapter 18. Suppose then that a man is monarch of two nations, having sovereignty Ÿin one by institution of the assembled people, and Ÿin the other by conquest - that is, by the submission of each individual person, to avoid death or imprisonment. To demand more from the conquered nation than from the one with a commonwealth by institution, simply because the former was conquered, is an act of ignorance of the rights of sovereignty. For the sovereign is absolute over both nations alike; or else there is no sovereignty at all, and so every man may lawfully protect himself, if he can, with his own sword - which is the condition of war.

From this it appears that a great family, if it isn't part of some commonwealth, is in itself a little monarchy in which there are rights of sovereignty, the sovereign being the master or father. This holds, whether the family consist of a man and his children, of a man and his servants, or of a man and his children and servants together. [In Hobbes's time, 'family' could mean something broader, like 'household'.] But a family is not properly a commonwealth unless it has enough power - through its numbers or situation - to avoid being subdued without the risk of starting a war. For when a number of men are plainly too weak to mount a united defence of themselves, each of them may use his own reason in time of danger, to save his own life either by flight or by submission to the enemy, as he shall think best; just as a squad of soldiers, when a whole army takes them by surprise, may throw down their arms and ask for quarter or run away rather than be put to the sword.

That brings me to the end of what I have to say about sovereign rights, on the basis of theorizing and deduction concerning the nature, needs, and designs of men when they establish commonwealths and put themselves under monarchs or assemblies which they entrust with enough power for their protection.

Let us now consider what the Scripture teaches in the same point. [What follows is about two pages of argument aiming to show that Hobbes's view of sovereignty is supported by the Bible. The present text omits that material.]

So that it appears plainly to my understanding, both from reason and Scripture, that the sovereign power is as great as men can possibly be imagined to make it - whether it is placed in one man (as in monarchy) or in one assembly of men (as in democratic and aristocratic commonwealths). And though men may fancy many evil consequences from such unlimited power, the consequences of *not* having it - namely, perpetual war of every man against his neighbour - are much worse. The condition of men in this life will never be without disadvantages, but the only great disadvantages that occur in any commonwealth come from the subject's disobedience and breaking of the covenants from which the commonwealth gets its existence. Anyway, someone who thinks that sovereign power is too great and seeks to lessen it will have to subject himself to a power that can limit it - that is, to a still greater power!

The greatest objection is an argument from practice [= 'people's actual behaviour']. It is asked: where and when have subjects actually acknowledged such power? But I ask in turn: where and when has there been a commonwealth free of sedition and civil war, where the power was not absolute? In nations whose commonwealths have been long-lived, and not destroyed except by foreign war, the subjects never did dispute over the sovereign power. But anyway an argument from the practice of men who Ÿhaven't sifted to the bottom and with exact reason weighed the causes and nature of commonwealths, and who Ÿsuffer daily the miseries that come from ignorance of these matters, is invalid. Even if throughout the world men laid the foundations of their houses on sand, it wouldn't follow that that's what they ought to do. The making and maintaining of commonwealths is not a mere matter of practice [= 'practical know-how'], like tennis; it is a science, with definite and infallible rules, like arithmetic and geometry; poor men don't have the leisure to discover these rules, and men who *have* had the leisure have up until now not had the curiosity ·to search for them· or the method to discover them.

Chapter 21. The liberty of subjects

The ·equivalent· terms LIBERTY and FREEDOM, properly understood, signify *the absence of opposition*, that is, absence of external impediments to motion. These terms may be applied to unthinking and inanimate creatures just as much as to thinking ones. For whatever is tied down or hemmed in so that it can move only within a certain space, this space being determined by the opposition of some external body, we say it doesn't have 'liberty' to go further. So when Ÿany living creature is imprisoned or restrained by walls or chains, or when Ÿwater that would otherwise spread itself into a larger space is held back by banks or containers, we are accustomed to say that it is 'not at liberty' to move in the way that it would without those external impediments. But when the impediment to motion lies in the constitution of the thing itself - as when a stone lies still, or a man is held to his bed by sickness - what we say it lacks is not the 'liberty' to move but rather the 'power' to move.

And according to this proper and generally accepted meaning of the word ·'free'·, a FREEMAN is someone who is not hindered from doing anything he wants to do that he has the strength and wit for. But when the words 'free' and 'liberty' are applied to anything other than bodies they are misused; for if something is not the sort of thing that can *move*, it is not the sort of thing that can be *impeded*. ·I shall give four examples of such misuses·. ŸWhen it is said that 'the path is free', liberty is attributed not to the path but to those who walk along it. ŸWhen we say 'the gift is free', we don't mean to attribute liberty to *the gift*; we are attributing it to *the giver*, who was not bound by any law or covenant to give it. ŸWhen we ·say that people· 'speak freely', we are attributing liberty not to the voice or pronunciation but to the man, who was not obliged by any law to speak otherwise than he did. ŸThe use of the phrase 'free will' attributes liberty not to a man's will, desire, or inclination, but to the man himself, whose liberty consists in his encountering no obstacle to his doing what he has the will, desire, or inclination to do.

ŸLiberty is consistent with Ÿfear: when a man throws his goods into the sea for fear the ship should sink, he does it very willingly, and can refuse to do it if he so desires; so it is the action of someone who is free. Sometimes a man pays a debt only out of fear of imprisonment; but because nobody *prevented* him from keeping the money, paying it was the action of a man at liberty. Quite generally, all the things that men do in commonwealths out of fear of the law are actions which the doers were free to omit ·and so they were actions freely performed·.

ŸLiberty is consistent with Ÿnecessity: water has not only the liberty but the necessity of flowing down the channel. The same holds for the actions that men voluntarily do: because they come from their will they come from liberty, and yet they also come from necessity, because

> every act of man's will and every desire and inclination comes from some cause, which comes from another cause, ·and so on backwards· in a continual chain whose first link is in the hand of God, the first of all causes.

So that to someone who could see the connection of ·all· those causes, the necessity of all men's voluntary actions would seem obvious. And therefore God, who sees and arranges everything, sees that a man's liberty in doing what *he* wills is accompanied by the necessity of doing ·exactly· what *God* wills - no more and no less. For though men may do many things contrary to the divine laws, i.e. many things of which God is not the author,

nevertheless they have no passion, will, or appetite whose first and full cause is not from God's will. If God's will did not assure the necessity of man's will and (therefore) of everything that depends on man's will, the liberty of men would conflict with and impede the omnipotence and liberty of God.

And that is enough for present purposes about natural liberty, which is the only liberty properly so-called.

But just as men have pursued peace and their own survival by making an Ÿartificial man, which we call a commonwealth, so also they have made Ÿartificial chains, called civil laws, which they have by mutual covenants fastened at one end to the lips of the man or assembly to whom they have given the sovereign power, and at the other end to their own ears. These bonds are in themselves weak, but they can be made to hold not by the *difficulty* but by the *danger* of breaking them.

The liberty of subjects - my next topic - is to be understood purely in relation to these bonds. In no commonwealth in the world are there stated rules that regulate *all* the actions and words of men; it is indeed impossible for there to be such rules. From this it follows necessarily that in all kinds of actions on which the laws are silent men have the liberty of doing what their own reasons suggest as most profitable to themselves. For Ÿif we take 'liberty' in its proper sense of 'bodily liberty' - that is to say, freedom from chains and prison - it would be very absurd for men to clamour, as they do, for the liberty that they so obviously enjoy. And Ÿif we take 'liberty' to be exemption from ·all· laws, it is no less absurd for a man to demand liberty, as some do, when *that* liberty would ·involve the absence of all laws, and would thus· enable all other men to be masters of his life. Yet this absurdity is what some people demand, not realizing that the laws have no power to protect them unless a sword in the hands of some man or ·assembly of· men causes the laws to be obeyed. So the liberty of a subject lies only in the things that the sovereign passes over in regulating their conduct: such as the liberty Ÿto buy and sell and otherwise contract with one another, Ÿto choose their own home and diet and trade, Ÿto educate their children as they think fit, and the like.

Nevertheless we are not to infer that the subjects' having such liberty abolishes or limits the sovereign power over life and death. For I have already shown ·in chapter 18· that he who has the supreme power, i.e. the commonwealth, cannot wrong his citizens, even though he can by his wickedness do wrong to God.

So it can and often *does* happen in commonwealths that a subject is put to death by the command of the sovereign power, without either of them having wronged the other, as when Jephtha caused his daughter to be sacrificed. [As a way of thanking God for his victory over the Ammonites, Jephtha vowed that 'whoever cometh forth of the doors of my house to greet me . . . I will offer up for a burnt offering. . . And behold his daughter came out to greet him . . . Her father did with her according to his vow.' *Judges* 31, 34, 39.] In cases like this, the person who dies was free to perform the action for which he ·or she· is nevertheless put to death - without being wronged. And the same holds true when a sovereign prince puts to death an innocent subject as David did to Uriah. For although the action is against the law of nature, as being contrary to equity, it was not a wronging of Uriah but of God. Not Ÿof Uriah, because Uriah himself had ·in covenanting to be a subject· given David the right to do what he pleased; but Ÿof God, because David was God's subject, and was prohibited from all wickedness by the law of nature. David himself

evidently confirmed this distinction, when he repented of his action and said to God 'To thee only have I sinned' [2 *Samuel* 11, *Psalm* 51:4].

Similarly, when the Athenian people sent a citizen into exile by ostracism, it did not accuse him of a crime, but exiled whomever a majority of citizens wished to exile - not because he had violated the laws but because he seemed so powerful that he *could* violate them and get away with it. Therefore, they banished from the commonwealth Aristedes, to whom they had previously given the name 'the Just'. They likewise banished Hyperbolus, a scurrilous jester whom nobody feared, because they wanted to; perhaps they did it as a joke, but this wasn't unjust, because they banished him by the right of the commonwealth.

The liberty that is so frequently mentioned and honoured in the histories and philosophy of the ancient Greeks and Romans, and in the writings and discourse of those who have taken from that source all they know about politics, is the liberty not of particular men but of the commonwealth. If each individual man had *that* liberty, there would be no civil laws and no commonwealth at all; and the effects would be the same. ŸAmong masterless men there is perpetual war of every man against his neighbour:

> no inheritance to transmit to the son or to expect from the father,
> no ownership of goods or lands,
> no security,

- just a full and absolute liberty for every individual man. Similarly Ÿwith states and commonwealths that don't depend on one another: every commonwealth (not every man) has an absolute liberty to do what it judges to be most conducive to its benefit (that is, what is so judged by the man or assembly that represents it). But along with their freedom they live in a condition of a perpetual war, and at the edges of battlegrounds, with their frontiers armed and cannons planted against their surrounding neighbours. The Athenians and Romans were free, that is, they were *free commonwealths*. It wasn't that individual men had the liberty to resist their own representative, but that their representative had the liberty to resist or invade other people. The word LIBERTAS is written in large letters on the turrets of the city of Lucca at this day, but this doesn't imply that individual men there have more liberty, or more immunity from service to the commonwealth, than men do in Constantinople. Whether a commonwealth is monarchic or democratic, the freedom is still the same.

But it is easy for men to be deceived by the glittering word 'liberty' and (lacking skill in making distinctions) to think they have as a private inheritance and birthright something that is really the right only of the public, ·the commonwealth·. And when the same mistake is supported by the authority of men who are renowned for their writings on this subject, it is no wonder that it leads to sedition and change of government. In these western parts of the world we are made to receive our opinions about the institution and rights of commonwealths from Aristotle, Cicero, and other Greeks and Romans. These writers didn't derive the rights of commonwealths from the principles of nature; instead, they wrote them into their books out of the practice of their own commonwealths, which were democratic, as grammarians describe the rules of language out of the practice of the time, or the rules of poetry out of the poems of Homer and Virgil. And because the Athenians were taught (to keep them from wanting to change their government) that they were freemen, and that all who lived under a monarchy were slaves; so that's what Aristotle says in his *Politics* (6:2): 'In a democracy, liberty is to be supposed; for it is commonly

held that no man is free in any other ·form of· government.' Similarly, Cicero, and other writers have based their theory of civil government on the opinions of the Romans, who were taught to hate monarchy - first Ÿby those who, having deposed their sovereign, shared amongst them the sovereignty of Rome, and afterwards Ÿby their successors. And from reading these Greek and Latin authors, men from their childhood have acquired a habit (under the false slogan lf 'liberty') Ÿof favouring uproars, of lawlessly controlling the actions of their sovereigns, and then controlling those controllers; with so much blood being spilt that I think I can truly say that the price these western lands have paid for learning the Greek and Latin tongues is the highest that anyone has ever paid for everything.

We come now to details concerning the true liberty of a subject, that is to say, what the things are that a subject may without injustice refuse to do when commanded to do them by the sovereign. To grasp the answer to this, we must consider Ÿwhat rights we relinquish when we make a commonwealth, or (the same thing) Ÿwhat liberty we deny ourselves by owning all the actions - all without exception - of the man or assembly we make our sovereign. For our Ÿ*obligation* ·to obey· and our Ÿ*liberty* ·not to obey· both reside in our act of ***submission***; so the extent of Ÿeach must be inferred from the act of submission, because no man has any obligation that doesn't arise from some act of his own, for all men are by nature free. Such inferences must rely either on Ÿthe explicit words 'I authorize all his actions' or on Ÿhis intention in submitting himself to the sovereign's power (which intention is to be understood from the purpose for which he submits). So the obligation and the liberty of the subject are to be derived either from Ÿthose words or others equivalent to them, or else from Ÿthe purpose of the institution of sovereignty, which is the peace of the subjects among themselves and their defence against a common enemy.

First therefore, seeing that sovereignty by institution is by covenant of everyone to everyone, and sovereignty by acquisition by covenants of the vanquished to the victor, or of the child to the parent, it is obvious that every subject has liberty in respect of anything the right to which ***cannot*** be transferred by covenant. I showed in chapter 14 that covenants not to defend one's own body are void. Therefore,

If the sovereign commands a man to kill, wound, or maim himself, or not to resist those who assault him, or to abstain from the use of food, air, medicine, or anything else that he needs in order to live, that man has the liberty to disobey, even if he has been justly condemned ·to death·.

If a man is interrogated by the sovereign, or by someone acting on his behalf, concerning a crime the man has committed, he is not bound (unless promised a pardon) to confess it, because as I showed in chapter 14 no man can be obliged by covenant to accuse himself.

Again, the subject's consent to sovereign power is contained in the words 'I authorize or take upon me all his actions', and these contain no restriction at all of his own former natural liberty. For by allowing him to kill me I am not bound to kill myself when he orders me to do so. It is one thing to say 'Kill me, or my fellow, if you please' and another thing to say 'I will kill myself, or my fellow'. So it follows that

No man is bound Ÿby the words themselves to kill either himself or any other man; so the obligation that a man may sometimes have to do something dangerous or

dishonourable when ordered to by the sovereign, depends not on Ÿthe words of our submission but on Ÿthe intention ·with which we submit·, and that is to be inferred from the purpose of the submission. Therefore: when our refusal to obey frustrates the purpose for which the sovereignty was ordained, then there is no liberty to refuse; otherwise there is.

Upon this ground, a man who is commanded as a soldier to fight against the enemy - even if his sovereign has the right to punish his refusal with death - may in many cases refuse without injustice. An example is when he substitutes a sufficient soldier in his place; for in this case he doesn't desert the service of the commonwealth. And allowance should be made for natural timidity not only of women (from whom no such dangerous duty is expected) but also of men of feminine courage. When armies fight, there is a running away on one side or on both; but when they run not out of treachery but out of fear, they are thought to act dishonourably but not unjustly. By the same reasoning, avoiding battle is cowardice but not injustice. But someone who enrols himself as a soldier, or accepts an advance on his pay, can no longer plead the excuse of a timorous nature; he is obliged not only to go into battle but also not to run from it without his captain's permission. And when the defence of the commonwealth requires the simultaneous help of all citizens, each person who can either bear arms or contribute something, however little, to victory, is obliged to undertake military service; because otherwise it was pointless for them to institute commonwealth - one that they haven't the purpose or courage to preserve.

No man has liberty to resist the sword of the commonwealth in defence of another man, whether he is guilty or innocent, because such a liberty would detract from the sovereign's the means for protecting us, and would therefore be destructive of the very essence of government. But if a great many men have all together already unjustly resisted the sovereign power or committed some capital crime for which each expects death, do they have the liberty to join together and assist and defend one another? Certainly they have; for they are only defending their lives, which the guilty man is as entitled to do as the innocent. There was indeed injustice in their first breach of duty; ·but· their bearing of arms subsequent to it, although it is to maintain what they have ·unjustly· done, is not a *further* unjust act. And if it is only to defend their own persons it is not unjust at all. But an offer of pardon takes the plea of self-defence away from those to whom it is made, and renders unlawful their perseverance in assisting or defending one another.

All other liberties depend on the silence of the law. For actions regarding which the sovereign has prescribed no rule, the subject has the liberty to do or not-do as he pleases, This kind of liberty, therefore, is greater at some places or times than at others, depending on what the sovereign ·at each time and place· thinks most appropriate. For example, there was a time when in England a man might *by force* go onto his own land and dispossess anyone who had wrongfully taken it over; but in later years that liberty of forcible entry was taken away by a law made (by the king) in parliament. Another example: in some places in the world men are free to have many wives; in other places they have no such liberty.

If a subject has a controversy with his sovereign concerning

debt, or

right of possession of lands or goods, or

any service required from the subject, or

any penalty, whether corporal or monetary,

on the basis of an already existing law, he has the same liberty to sue ·the sovereign· for his right that he would to sue another subject, doing this before judges who are appointed by the sovereign. For the sovereign bases his demands on the force of an existing law and not on his power ·as sovereign·, and so he ·implicitly· declares that he is demanding ŸonlyŸ what that law says to be required ·from the subject·. So the suit is not contrary to the will of the sovereign, and consequently the subject is free to demand that his case be heard and judgment given according to that law. But if the sovereign demands or takes anything ŸonŸ the basis of his claim to power, there is no basis for legal action; for in such a case what the sovereign does by virtue of his power is done by the authority of every subject; so someone who brought a legal action against the sovereign would be bringing it against himself.

If a monarch or sovereign assembly grants a liberty to some or all of his subjects, where the result of this would be that he is no longer able to provide for their safety, the grant is *void* unless he explicitly renounces the sovereignty or transfers it to someone else. ·An *explicit* renunciation or transfer is required, because· if he wanted to renounce or transfer he could easily have done so in plain language; so if he did not, it is to be understood that that is not what he wanted, and that the grant ·of liberty· came from ·his· ignorance of the conflict between such a liberty and the sovereign power. In such a case, therefore, ·the grant of liberty is void, and· the sovereignty is still retained, and consequently so are all the powers that are necessary for the exercise of sovereignty - the power of war and peace, of judicature, of appointing officers and councillors, of raising money, and all the rest listed in chapter 18.

The obligation of subjects to the sovereign is understood to last as long as he has the power to protect them, and no longer. For the right that men have by nature to protect themselves when no-one else can protect them can't be relinquished by any covenant. The sovereignty is the soul of the commonwealth, and once it has departed from the body the limbs no longer receive their motion from it. The purpose of *obedience* is *protection*; and wherever a man sees ·the prospect of· protection, whether in his own sword or someone else's, nature directs his obedience to it and his endeavour to maintain it. In the intention of those who make it, sovereignty is immortal; but in its own nature it is not only Ÿsubject to violent death by foreign war, but also Ÿcontains within it from the moment of its birth many seeds of a natural mortality, through internal discord arising from the ignorance and passions of men.

If a subject is taken prisoner in war, or his person or his means of life come under the control of the enemy, and if he has his life and bodily liberty given to him on condition that he becomes a subject of the victor, he has liberty to accept this condition; and then he is the subject of the victor, because he had no other way to preserve himself. . . . But if a man is held in prison or chains, or is ·somehow· not trusted with the liberty of his body, he can't be understood to be bound by covenant to submit; and so he may escape by any means whatsoever, if he can.

If a monarch relinquishes the sovereignty, both for himself and for his heirs, his subjects return to the unconditional liberty of nature. That is because, although *nature* declares who are his sons and who are his next of kin, it is (as I said in chapter 19) for *him* to decide who shall be his heir. So if he decides not to have an heir, there is no sovereignty

and no subjection. The case is the same if he dies without known relatives and without declaring who is to be his heir. For in that case no heir can be known, and so no subjection is due.

If the sovereign banishes a subject, he is *not* a subject during the banishment. Someone who is sent on a message or given leave to travel *is* still a subject, but what makes him so is a contract between sovereigns, not his covenant of subjection. For whoever enters into someone else's dominion is subject to all its laws, unless he has a privilege ·of exemption from them· through friendly agreements between the sovereigns, or by special licence.

If a monarch who is subdued by war makes himself subject to the victor, *his* subjects are released from their former obligation ·to him· and become obliged ·instead· to the victor. But if he is held prisoner, or ·in some other way· doesn't have the liberty of his own body, he is not understood to have given away the right of sovereignty, and therefore his subjects are obliged to obey the magistrates whom he previously appointed, governing not in *their* name but in *his*. For since his right remains, the question is only about his administration, that is to say, about ·which· magistrates and officers ·are to act for him in his absence·; and if he doesn't have a way of naming them he is assumed to approve the ones he himself had previously appointed.

Chapter 22. Systems - subject, political, and private

Having spoken of the creation, form, and power of a commonwealth, I now reach the topic of a commonwealth's parts. I start with systems, which resemble the homogeneous parts of a natural body, its muscles. By 'SYSTEM' I mean any number of men joined in one interest or one business. Some systems are regular, some irregular. The *regular* ones are those where one man or assembly of men is constituted as representative of the whole number. All the others are *irregular*.

Some regular systems are *absolute and independent*, subject to nobody but their own representative; they are all *commonwealths*, which I have already dealt with in chapters 17-21. All the other regular systems are *dependent* ·or subordinate·, that is to say, subordinate to some sovereign power to which every one is subject as is also their representative.

Of systems that are subordinate ·or dependent· some are *political* and some *private*. ŸPolitical systems - otherwise called 'bodies politic' and 'persons in law' - are ones that are made by authority from the sovereign power of the commonwealth. ŸPrivate systems are ones that are constituted by subjects amongst themselves (or by authority from a foreigner; for an authority derived from power within one commonwealth is, within the dominion of another commonwealth, not public but private).

Some private systems are lawful, some unlawful. Lawful systems are those that are allowed by the commonwealth; all other are unlawful. Irregular systems - those that consist only in the concourse of people, with no representative - are lawful if they are not forbidden by the commonwealth or made with an evil purpose. (Examples would be the gathering of people at markets or shows, or for any other harmless purpose.) But when the intention is Ÿevil, or (if the number of people is large) Ÿunknown, they are unlawful. [The word 'concourse' is used several times in this chapter. A 'concourse of people' can

be just a crowd, a coming together of many people; but Hobbes here uses it to mean 'many people acting in the same way or towards the same end'.]

In bodies politic the power of the representative is always limited, and what prescribes its limits is the sovereign power. For unlimited power is absolute sovereignty. And in every commonwealth the sovereign is the absolute representative of all the subjects, so no-one else can represent any part of them except within whatever limits the sovereign sets. ·He had better set *some* limits!· To permit a body politic of subjects to have an absolute - ·i.e. unlimited· - representative would be, to all intents and purposes, to abandon the government of that part of the commonwealth and to divide the dominion; and this would be contrary to their peace and defence. The sovereign can't be understood to do that by any grant he makes that does not plainly and explicitly free them from their subjection. ·It must be done *explicitly* to be effective·; for *consequences* of his words are not signs of his will when other consequences are signs of the contrary. Rather they are signs of error and miscalculation, to which all mankind is too prone.

How the power that is given to the representative of a body politic is limited can be learned from two things. One is their writ or letters from the sovereign; the other is the law of the commonwealth.

In the institution or acquisition of a commonwealth, which is independent, nothing needs to be written down, because in that case the power of the representative has no bounds except what are laid down by the unwritten law of nature. But in subordinate bodies so many different limitations are needed - concerning their businesses, times, and places - that they can't be remembered unless they are written down, and can't be observed unless their written versions are *letters patent* [= 'an open document issued by a monarch or government to authorize an action or confer a right'] that can be read to the people, and that are attested to by carrying the seal of the sovereign or some other permanent sign of his authority.

Such limitations are not always easy to describe in writing, perhaps sometimes not even possible, so the ordinary laws of the commonwealth as a whole must settle what the representative may lawfully do in all cases where the official letters are silent. And therefore

In a body politic whose representative is one man, if he does something in his official capacity that isn't warranted in his letters ·patent· or by the laws, it is his own act and not the act of the body or of any member of it except himself; because outside the limits set by his letters or the laws he represents no man's person except his own. But what he does in accordance with his letters patent and the laws is the act of everyone; for everyone is an author of the sovereign's act, because he is unrestrictedly their representative, and the act of someone who conforms to the letters of the sovereign is itself an act of the sovereign, and therefore every member of the body is an author of it.

But if the representative is an assembly, anything that the assembly does that isn't warranted by their letters patent or by the laws is an act of the assembly, or of the body politic ·which it represents·; and it is the act of everyone by whose vote the decree was made, but not the act of any man who voted against it or of any man who was absent (unless he voted for it by proxy). It is an act of the assembly because it was voted for by a majority, and if it is a crime the assembly may be punished so far as it *can* be punished: Ÿby dissolution, or forfeiture of their letters (which is for such artificial and fictitious bodies is

tantamount to capital punishment), or Ÿby a monetary fine (if the assembly has property in which none of the innocent members has shares). For nature has exempted all bodies politic from bodily penalties (·you can't flog or imprison a body politic·). But those who didn't give their vote are innocent because the assembly cannot represent any man in things unwarranted by their letters, and consequently ·the innocent minority· are not involved in their [the majority's] votes.

[There follows a page discussing rights and entitlements when a one-man representative of a body politic borrows money, or is fined. That material is omitted from the present text.]

The variety of bodies politic is almost infinite; for they are distinguished not only by Ÿthe different concerns for which they are constituted (an inexpressible diversity of them), but also Ÿdifferences in their scope, coming from differences in times, places, and numbers of members. As to their concerns: some are ordained for government. First on the list ,·as involving the largest political entity smaller than a commonwealth·, is the government of a *province*, which may be committed to an assembly of men, with all its resolutions being decided by majority vote; and then this assembly is a body politic, and their power is limited by commission [= 'by the terms in which their governing role was committed to them']. The word 'province' signifies a state of affairs in which someone who has some responsibility, some business, puts it in the charge of someone else to manage it for him and under his authority. So when in one commonwealth Ÿthere are different regions that have different laws or are far distant in place, and Ÿthe administration of the government ·of those regions· is committed to different people, the regions in question - where the sovereign is not resident but governs by commission - are called 'provinces'.

But there are few examples of a province being governed by an assembly residing in the province itself. The Romans had the sovereignty of many provinces, but governed them always through presidents and magistrates, and not as they governed the city of Rome and adjacent territories, namely through assemblies. Similarly, when people were sent from England to establish colonies in Virginia and Sommer-islands, though the government of them *here* was committed to assemblies in London, those assemblies never committed the government of them *there* to any assembly ·of people living· there, but rather sent one governor each colony. For although every man naturally wants to take part in government if he can be present ·where the procedures of government are going on·, when men *can't* be present they are inclined, also naturally, to commit the government of their common interest to a monarchic rather than a democratic form of government. We see this in the behaviour of men with private estates who, are unwilling to take the trouble of administering their own affairs, choose to trust one servant rather than an assembly either of their friends or of their servants.

But whatever happens *in fact,* we can entertain the *idea* of the government of a province or colony being committed to an assembly. The point I want to make is that if this did happen, Ÿwhatever debt was contracted by that assembly, or Ÿwhatever unlawful act was decreed, it would be the act only of those who assented, and not of any that dissented or were absent for the reasons described above. And another point: An assembly residing outside the colony that it governs can't exercise any power over the persons or the possessions of any member of the colony, or seize on them for debt or other duty, in any place outside the colony itself, because it has no jurisdiction or authority anywhere but

in the colony. . . . And though the assembly have a right to impose a fine on any of their members who break laws that they make, they have no right to enforce such fines outside the colony. And what I have said here about the rights of an assembly for the government of a province or a colony applies also to an assembly for the government of a town, a university, a college, a church, or for any other government over the persons of men.

If any particular member of a body politic thinks he has been wronged by the body itself, the right of dealing with his case belongs to the sovereign and to those whom the sovereign has appointed to be judges in such cases or has appointed for this one in particular. It does not belong to the body itself; for in this situation the whole body is his fellow subject; it would not be like that in a sovereign assembly, where there can be no judge at all if it is not sovereign, even if that involves his being judge in his own cause.

In a body politic whose function is to control foreign trade, the most appropriate representative is an assembly of all the members, so that anyone who has risked his money ·on a trading venture· can if he wishes be present at all the body's deliberations and resolutions. To see the case for this, consider *why* men who are merchants, and can buy and sell, export and import, their merchandise according to their own discretions, nevertheless bind themselves together to form one corporation. ·This is not the question of why they enter into joint trading ventures·. Few merchants are in a position to buy enough at home to fill a ship for export, or to buy enough abroad to ·fill a ship and· bring it home; so ·merchants generally· need to join together in one society, where every man can either Ÿshare in the profits in proportion to his risk, or Ÿgo it alone and sell what he exports or imports at whatever prices he thinks fit. But this is not a body politic, because there is no common representative to oblige them to any laws other than the ones that also oblige all other subjects. ·When merchants form a *corporation*, i.e. a body politic of the kind I have been writing about·, their purpose in incorporating is to increase their profits in either or two ways: by sole buying at home, and by sole selling abroad. So that to allow a number of merchants to be a corporation or body politic is to give them a double monopoly, as sole buyers, and as sole sellers. For when a company is incorporated for any particular foreign country, they alone export the commodities that can be sold in that country, which means that they are sole buyers at home and sole sellers abroad. . . . This is profitable to the merchants because Ÿit enables them to at home at lower rates, and sell abroad at higher rates; and ·in the other direction·, Ÿthere is only one buyer of foreign goods and only one seller of them at home, both which are again profitable to the merchants.

One part of this double monopoly is disadvantageous to the people at home, the other to foreigners. For at home they can, as the only exporters, Ÿset what price they please on the produce and manufactured products of the people; and as the sole importers they can Ÿset what price they please on all foreign goods that the people have need of, and both of these are bad from the people's point of view. In the reverse direction, as the sole sellers of the home-land's goods abroad, and sole buyers of foreign goods over there, they raise the price of the former and lower the price of the latter, ·both· to the disadvantage of the foreigner . . . . Such corporations are therefore nothing but monopolies, though they would be very profitable for a commonwealth if ·they were cut in half, so to speak; that is, if· Ÿthey were bound up into one body in foreign markets ·where as a monopoly they could sell dear and buy cheap·, and Ÿ·did not exist as a monopoly at home, where· every man was at liberty to buy and sell at what price he could.

The purpose of such a ·monopolistic body politic is *not* to bring profit to the body as a whole; indeed, the body as such has no wealth except what is deducted from the individual trading ventures to pay for building, buying, equipping and manning the ships. Rather, the purpose is the profit of each individual trader. And that is why each of them should be acquainted with how his own possessions are being used; that is, that each should belong to the assembly that has the power to order such uses, and should be acquainted with their accounts. So the representative of such a body must be an assembly, where every member of the body can if he wishes be present at the consultations.

[There follows a half-page concerning rights and obligations when a 'body politic of merchants' is somehow involved in debts, fines, or criminal action. That material is omitted here.]

These bodies made for governing men or trade are either Ÿperpetual or Ÿset up for a limited time that is set down in writing. But there are some bodies Ÿwhose times are limited ·not by any written rules, but· by the nature of their business. Here would be an example of that. A sovereign monarch (or sovereign assembly) commands the towns and other parts of his territory to send to him their deputies, to inform him about the condition and needs of his subjects, or to advise him regarding the making of good laws, or for any other purpose. These deputies have a place and time of meeting assigned to them; they come together as ordered, and are at that time a body politic representing every subject of that dominion . . . . But ·this body politic exists· only for such matters as are put to them by the man or assembly by whose sovereign authority they were sent for; and when it is declared that there are no more matters for them to consider or debate, the body is dissolved. . . .

Regular and lawful *private* bodies are ones that are constituted without letters ·patent· or any other written authority apart from the laws that are common to all other subjects. And because they are united in one representative person, they are classified as 'regular'. They include all households in which the father or master orders the whole household, for he creates obligations for his children and his servants, as far as the law permits. That far but no further, because none of them are bound to obey him by performing actions that the law has forbidden. In all other actions, during the time they are under domestic government, they are subject to their fathers and masters who are their immediate sovereigns, as it were. Before the institution of commonwealth, the father and master is absolute sovereign in his own household; the only authority he loses through the institution is what is taken from him by the law of the commonwealth.

Regular but *unlawful* private bodies are those that unite themselves into one representative person without any public authority at all. Examples are Ÿthe corporations of beggars, thieves and gypsies, ·formed so as· to succeed better in their trade of begging and stealing, and Ÿthe corporations of men who unite themselves for the easier propagation of doctrines, and for making a party against the power of the commonwealth, doing this by authority from some foreign person.

Irregular systems, which are in their nature merely *leagues*, become lawful or unlawful according to the lawfulness or unlawfulness of each particular man's purpose in belonging to the league; and his purpose is to be understood from ·the intersection of his private interests with· what the business of the league is. Sometimes an irregular system is ·not even a league, but· merely a concourse of people whose working together to a

common end is based not on any obligation they have to one another but only on their having similar wants and inclinations.

A commonwealth is just a league of all the subjects together. Leagues of subjects *within* a commonwealth are commonly made for mutual defence, so they are for the most part unnecessary, and savour of unlawful design; and for that reason they are unlawful, and are commonly labelled as 'factions' or 'conspiracies'. ·Leagues of commonwealths· are different. A league is a connection of men by covenants; if (as in the raw condition of nature) no power is given to any one man or assembly to compel the members to keep their covenant, the league is valid only as long as there arises no good reason for distrust; and therefore Ÿleagues between commonwealths, over which there is no human power established to keep them all in awe, are not only lawful but also profitable for as long as they last. But Ÿleagues between the subjects of a single commonwealth, where everyone *could* obtain his right by means of the sovereign power, are unnecessary for the maintenance of peace and justice; and if their purpose is evil, or unknown to the commonwealth, they are also unlawful. For it is wrong for private men to unite their strength for an evil purpose; and if a league's purpose is unknown, this concealment is wrong and the league is dangerous to the public.

If the sovereign power belongs to a large assembly, and *some* members of the assembly come together without authority to discuss things on their own and to try to guide the other members, this is a faction or unlawful conspiracy, because it is a fraudulent seducing of the assembly for the faction's particular purposes. But if someone (·not belonging to the assembly·) whose private interest is to be debated and judged in the assembly makes as many friends as he can ·among the members of the assembly·, there is nothing wrong with that, because he is not part of the assembly. Even if he hires such friends with money, that is all right unless some law explicitly forbids it; for, given how men behave, justice sometimes cannot be had without money, and everyone is entitled to think his own cause to be just, until it has been heard and judged.

In all commonwealths, if a private man maintains more servants than are needed for managing his estate and any other lawful employment he has for them, this is *faction* and is unlawful. For having the protection of the commonwealth he does not need the defence of private force. In some nations that are not thoroughly civilized, many families have lived in continual hostility, and have invaded one another with private force; but it is clear enough that either they have been wrong to do this or else they had no commonwealth.

Not only Ÿfactions for kindred, but also Ÿfactions for the government of religion (such as Papists, Protestants, etc.) and Ÿfactions of state (such as patricians and plebeians in ancient Rome, and aristocrats and democrats in ancient Greece), are wrong, because they are contrary to the peace and safety of the people, and because they take the sword out of the hand of the sovereign.

A concourse of people is an irregular system whose lawfulness or unlawfulness depends on its purpose, and on how many people it contains. If the purpose is lawful, and obvious, the concourse is lawful - e.g. an ordinary meeting of men at church or at a public show. But only if they are there in usual numbers; for if their number is extraordinarily great, their purpose in coming together is not evident, and consequently someone who can't give a detailed and good account of why he is amongst them should be judged to be aware that they have an unlawful and tumultuous purpose [= 'a seditious purpose' or 'a

purpose tending to lead to tumult or uproar']. It may be lawful for a thousand men to join in a petition to be delivered to a judge or magistrate, but if a thousand men come to present it, it is a tumultuous assembly, because only one or two are needed for that purpose. But in such cases as these, there is no set number such that the assembly is unlawful if its membership reaches that number; what makes it unlawful is its having too many members for the available officers to be able to suppress it and bring it to justice.

When an unusually large number of men assemble against a man whom they accuse, the assembly is an unlawful tumult because their accusation could have been delivered to the magistrate by a few men, or by just one. Such was the case of St. Paul at Ephesus . . . . [Hobbes develops this example in detail, following *Acts* 19:38-40.]

That completes what I shall say concerning systems, and assemblies of people. They can, as I have already said, be compared to the homogeneous parts of man's body: the lawful being comparable to the muscles; the unlawful ones to warts, boils, and abscesses, caused by the unnatural flowing together of bad bodily fluids.

Chapter 23. The public ministers of sovereign power

In chapter 22 I have spoken of the parts of a commonwealth that are homogeneous, ·in that what they consist of - their *stuff*, their 'matter' - is *men* all through·. In this chapter I shall speak of parts that are organic, ·in that they have special roles in the workings of the commonwealth·. These are public ministers.

A PUBLIC MINISTER is someone whom the sovereign (whether a monarch or an assembly) employs in any affairs, with authority to represent in that employment the person of the commonwealth. ·This is different from a personal servant of the sovereign, as I now explain·. Every sovereign (whether man or assembly) represents two persons, or (in more ordinary parlance) has two capacities, Ÿone natural and Ÿthe other political. A monarch has the person not only of Ÿthe commonwealth but also of Ÿa man, and a sovereign assembly has the person not only of Ÿthe commonwealth but also of Ÿ·the individual members of· the assembly. Those who serve them in their natural capacity are not *public ministers*, a label reserved for those who serve them in the administration of public business. So public ministers do not include (in an aristocracy or democracy) the ushers, sergeants, and other officers that serve the assembly purely for the convenience of the assembled men, or (in a monarchy) the stewards, chamberlains, treasurers, or other officers of the royal household.

Some public ministers have committed to them the charge of a general administration, either of the whole dominion or of a part of it. ŸOf the whole: the predecessor of an infant king may commit the whole administration of his kingdom to someone to serve as a protector or regent until the new king comes to be of age. In such a case, every subject is obliged to obey the regent's ordinances and commands so long as he gives these in the king's name and they are not inconsistent with his sovereign power. ŸOf a part or province: a monarch or sovereign assembly may put a province under the general charge of a governor, lieutenant, prefect or viceroy. And here again everyone in that province is bound by everything the governor does in the name of the sovereign that is not incompatible with the sovereign's right. For such protectors, viceroys, and governors have no other right but what depends on the sovereign's will, and no commission they are given should be interpreted as a declaration of the ·sovereign's· will to *transfer* the sovereignty

unless it contains clear explicit words to that effect. This kind of public minister resembles the **nerves and tendons** that move the various limbs of a natural body.

Other public ministers have *special* administration, that is to say, they are in charge of some special business either at home or abroad. ·I shall characterize *five* kinds of ministry at home·. ŸFirst, for the economy of a commonwealth there can be public ministers who have authority concerning the commonwealth's treasury, dealing with tributes, impositions, rents, fines, or any other public revenue - collecting, receiving, issuing, keeping accounts. These people are *ministers*, because they serve the representative person and can do nothing against his command or without his authority; and their ministry is *public* because they serve him in his political capacity.

ŸSecondly, there can be public ministers who have authority concerning the armed forces of the commonwealth: to have the custody of arms, forts, and ports; to recruit, pay, or transport soldiers; or to provide for anything needed for the conduct of war, by land or by sea. . . .

Ÿ·Thirdly·, there can be public ministers who have authority to teach or (enable others to teach) the people their duty to the sovereign power, and to instruct them in the knowledge of what is just and unjust, thereby making them more apt to live in godliness and in peace among themselves, and to resist the public enemy. These are *ministers* because they do this not by their own authority but by someone else's, and their ministry is *public* because they do it (or should do it) only by the authority of the sovereign. Only the monarch or the sovereign assembly has immediate authority from God to teach and instruct the people; and no-one other than the sovereign receives his power *Dei gratia* simply, i.e. from the favour of God and him alone. All others receive their authority to teach from the favour and providence of God and their sovereigns. . . .

Ÿ·Fourthly·, those to whom judicial authority is given are public ministers. For in their seats of justice they represent the person of the sovereign, and their sentence is his sentence. This is because (as I said in chapter 18) all judicature is essentially tied to the sovereignty, and therefore all judges other than the sovereign are merely his (or their) ministers. And as controversies are of two sorts (of fact and of law), so also judgments are of two sorts (of fact and of law), and in a single legal case, therefore, there can be two judges, one of fact and the other of law.

A disagreement - either of fact or of law - might arise between the party judged and the judge; and because they are both subjects to the sovereign, such a disagreement ought in fairness to be judged by men agreed on by both, for no man can be judge in his own cause. But the sovereign is already agreed on for judge by them both, so he should either hear the disagreement and settle it himself, or appoint to judge it someone whom they both agree on. [Hobbes goes on to describe three ways in which a defendant can indicate his agreement about who is to judge the disagreement. That is followed by a long paragraph - an admitted aside - in which Hobbes describes and praises the English jury system. The paragraph ends thus:] These public persons who have authority from the sovereign power either to instruct or to judge the people are members of the commonwealth who can appropriately be compared to the **vocal organs** in a natural body.

Ÿ·Fifthly·, public ministers are also all those who have authority from the sovereign to see to it that judgments that are given are carried out: to make the sovereign's commands public, to suppress tumults, to arrest and imprison criminals, and to do other things

tending to the conservation of the peace. Every act they do by such authority is the act of the commonwealth; and their service is comparable with that of the **hands** in a natural body.

Public ministers *abroad* are those who represent the person of their own sovereign to foreign states. Such are ambassadors, messengers, agents, and heralds, sent by public authority on public business.

Ones who are sent only by the authority of some private party of a troubled state, even if they are received ·at a foreign court·, are neither public nor private ministers of the commonwealth, because none of their actions have the commonwealth for author. An ambassador sent from a prince to congratulate, condole, or to be present at a ceremony, is a private person ·and not a minister·. Although his authority is public, the business is private, and belongs to him in his capacity as a natural man. Also if a man is sent into another country to explore their plans and their strength *secretly*, although both his authority and his business are public, he is only a private minister, because ·as he goes about his secret work· no-one sees him as bearing any person except his own. Yet he is a minister of the commonwealth, and can be compared to an **eye** in the natural body. Those who are appointed to receive the petitions or other information from the people, and are as it were the public **ear**, are public ministers and represent their sovereign in doing that work.

If we think of a Ÿcouncillor or a Ÿcouncil of state as having no authority to judge or command, and having only the role of giving advice to the sovereign when he asks for it or of offering it to him when he doesn't ask, Ÿneither is a public person. For the advice is addressed only to the sovereign, and *his* person cannot in his own presence be represented to him by someone else! But a body of councillors are ·in fact· never without some other authority of judicature or of immediate administration. ŸIn a monarchy they represent the monarch when they deliver his commands to the public ministers; Ÿin a democracy the council or senate is *only* a council when it announces to the people the result of its deliberations; but when it appoints judges, or hears legal cases, or gives audience to ambassadors, it does so in its role as a minister of the people; and Ÿin an aristocracy the council of state is the sovereign assembly itself, and gives advice only to itself.

Chapter 24. The nutrition and procreation of a commonwealth

[In the title and themes of this chapter, Hobbes continues to liken commonwealths to natural animal bodies.]

The **nutrition** of a commonwealth consists in the abundance and the distribution of materials that conduce to life; in **digesting** it (preparing it), and then conveying it along suitable channels to the public use.

The abundance of matter is limited by nature to what comes from the land and the sea (the two **breasts** of our common mother). Usually God just gives us these goods, or makes us work for them.

This food for the commonwealth is made up of animals, vegetables, and minerals; and God has freely laid these before us, on or near to the face of the earth, so that the only work we need to put in is in taking them - ·killing and butchering them, cultivating and harvesting them, digging them up·. So having plenty of this 'food' depends firstly on God's favour and secondly on nothing but the labour and industry of men.

This matter or 'food' (commonly called 'commodities') is partly domestic and partly foreign. Domestic, what can be found within the territory of the commonwealth; foreign, what is imported from other countries. No territory under the dominion of one commonwealth (except a very vast one) produces everything needed to keep the whole body ·of the commonwealth· alive and functioning; and there are few that don't produce more than they need of something. So the superfluous commodities to be had within ·a dominion· stop being superfluous, and serve to meet home needs through the importation of commodities that can be got from other countries - either by exchange, or by just war, or by labour. For a man's labour is also a commodity that can be exchanged for some benefit, just as any other thing can. Indeed, there have been commonwealths that had no more territory than they needed to live on, but nevertheless maintained and even increased their power, partly by the labour of trading from one place to another, and partly by selling manufactured goods the raw materials for which were brought in from other places.

The distribution of the materials that nourish the commonwealth is ·managed through· the system of *mine* and *thine* and *his* - in a word, *property* - and in all kinds of commonwealth this is in the hands of the sovereign power. For where there is no commonwealth, there is (I repeat) a perpetual war of every man against his neighbour, and therefore everyone *has* what he *gets and keeps by force*; and that is neither property nor community, but uncertainty! This is so obvious that even Cicero, a passionate defender of liberty, in a public pleading attributes all ownership to the civil law: 'If the civil law is abandoned, or retained but negligently guarded, there is nothing that any man can be sure to receive from his parent or leave to his children.' And again: 'Take away the civil law and no man knows what is his own, and what another man's.' Because Ÿthe introduction of property is an effect of commonwealth, which can do nothing except through the person who represents it, Ÿit is the act of the sovereign alone, and consists in the *laws*, which cannot be made by anyone who doesn't have the sovereign power. They knew this well in ancient times: their word for what we call 'law' was ·the Greek word· *nomos* (which means 'distribution'), and they defined *justice* as *distributing to every man his own*.

In this distribution, the first law concerns the division of the land itself. This is done by the sovereign, who assigns to each man a portion ·of land·, according to what is judged to be fair and conducive to the common good - judged by the sovereign, that is, not by any subject or any number of subjects. [There follows an illustration of this, drawn from the old testament.] And though a people coming into possession of a land by war don't always exterminate the previous inhabitants (as the Jews did), but allow many or most or all of them to retain their estates, it is obvious that from then onwards they hold their estates as assigned to them by the victors, as the people of England held all theirs as assigned by William the Conqueror.

From this we can infer that a subject's *ownership* of his lands consists in a right to exclude Ÿall other subjects from the use of them, and *not* ·a right· to exclude Ÿhis sovereign, whether that is an assembly or a monarch. For seeing that the sovereign - that is to say, the commonwealth whose person he represents - is understood always to act only for common peace and security, this distribution of lands is to be understood as done for the same purpose; and consequently, any distribution that he makes that endangers peace and security is Ÿcontrary to the will of every subject who committed his peace and safety

to the sovereign's discretion and conscience, and so it to be regarded as Ÿvoid by the will of every one of the subjects. It is true that a sovereign monarch, or a majority of a sovereign assembly, may order things to be done in pursuit of their passions and contrary to their own consciences; that would be a breach of trust and of the law of nature, but this fact is not enough to authorize any subject ·to oppose his sovereign· - to make war on him, to accuse him of injustice, or in any way to speak evil of him - because the subjects have authorized ***all*** his actions, and in giving him the sovereign power they have made his actions their own. I shall discuss later the question of when the commands of sovereigns are contrary to fairness and to the law of nature.

Here is a conceivable state of affairs:

> In the distribution of land the commonwealth itself takes a portion, which it owns and improves through its representative; and this portion is made sufficient to sustain the whole expense of what is required for the common peace and defence.

This could very well happen, if there could be any representative who was free from human passions and infirmities. But given what human nature is like, it is pointless to set aside public land, or any certain revenue, for the commonwealth. Doing this tends to the dissolution of government, and to the condition of mere nature and war, as soon as the sovereign power falls into the hands of a monarch or of an assembly that are either too careless about money or too risk-taking in committing the public wealth to a long or costly war. ·And in any case, there is no way of predicting what a commonwealth's needs will be·. Commonwealths cannot go on a diet! Their expenses are not limited by their own appetite, but by external events and the appetites of their neighbours; so what demands there will be on the public riches depends on casual and unexpected events. [There follows a passage about what William the Conqueror was up to in his distribution of lands. Omitted from the Latin version, perhaps because not interesting to foreigners.] It is therefore pointless to assign a portion to the commonwealth, which can sell it or give it away - and ***does*** sell it or give it away when this is done by the commonwealth's representative.

It is for the sovereign not only to distribute lands at home, but also to determine what commodities the subjects can trade to what foreign countries. If private persons could use their own discretion to make decisions about this, some of them would ·do bad things, for profit·; they would provide the enemy with means to hurt the commonwealth, and they would hurt it themselves by importing things that please men's appetites but are nevertheless harmful to them or at least do them no good. . . .

For the upkeep of a commonwealth it is not enough for every man to own a portion of land or some few commodities, or to have natural 'ownership' of some useful practical skill art. Every such skill is (·or has products that are·) necessary for the survival or for the well-being of almost every individual man; so it necessary that men distribute what they can spare, and transfer their ownerships by exchange and mutual contract. It is for the commonwealth (i.e. the sovereign) to settle how all kinds of contract between subjects are to be made, and what words and signs are to be taken as validating them. This applies to buying, selling, exchanging, borrowing, lending, renting, hiring, and so on.

As regards the ***matter*** with which the commonwealth is nourished, and how it is distributed to the commonwealth's various limbs and organs, what I have said is sufficient, given the plan for this book as a whole.

By ‘digestion’ I mean the process of taking all commodities that have not been consumed and are being kept for nourishment at some future time, and turning them into something that is of equal value and is also *portable*; this is to make it possible for men to move from place to place, and to have in any particular place such nourishment as it can offer. This ·portable equivalent to commodities· is simply Ÿgold and silver, and Ÿmoney. For Ÿgold and silver happen to be highly valued in almost all countries of the world, which makes them a convenient measure of the value of everything else *between nations*. And Ÿmoney is a sufficient measure of the value of everything else *between the subjects* of the commonwealth whose sovereign coined the money (it doesn’t matter what the coins are made of). By the means of these measures - ·gold and silver and money· - all commodities, even ones that are ·physically· immovable, can Ÿaccompany a man wherever he goes in the town where he lives and elsewhere, and can Ÿpass from man to man within the commonwealth. Thus money *circulates*, nourishing every part of the commonwealth as it passes; so that this process of *digestion* (·as I have called it·) can be said to *put* ***blood*** *into* the commonwealth; for natural blood is similarly made of the fruits of the earth, and when it circulates it nourishes every part of the human body that it passes through.

Silver and gold have their value from the stuff itself, ·rather than having a value assigned by a sovereign·. That gives them two privileges. First, Ÿtheir value can’t be altered by the power of one or just a few commonwealths, because they are a common measure of the commodities of *all* places. But Ÿbase money - ·that is, coins whose value is greater than that of the metal they are made of· - can easily have it value lowered or raised. Secondly, Ÿgold and silver have the privilege of making commonwealths **move and stretch out their arms** into foreign countries, and to supply provisions not only for private subjects who travel but also for whole armies. Not so with Ÿcoins whose value comes not from the value of the matter they are composed of but from the stamp of the place [i.e. from their being officially approved money in their own commonwealth]. *They* ·don’t travel well, because they· can’t stand a change of air! They have their effect at home only, where they are vulnerable to changes in the law, and thus liable to have their value diminished, often to the detriment of people who have them.

The channels and paths along which money is conveyed to public use are of two sorts: Ÿone that conveys it to the public coffers, Ÿthe other that sends it out again for public payments. ŸThe first sort include collectors, receivers, and treasurers; Ÿthe second include treasurers (again) and officers appointed for payment of various public or private ministers. Here again the artificial man (·the commonwealth·) maintains his resemblance to the natural man. In the natural man the veins receive the blood from various parts of the body, and carry it to **the heart** where it is made vital; and the heart then sends it out again along the arteries, to enliven the man and enable the parts of his body to move.

The offspring or **children** of a commonwealth are what we call ‘colonies’, which are numbers of men sent out from the commonwealth, under a leader or governor, to inhabit a foreign country - either one that has no inhabitants, or one that is emptied of its inhabitants by war when the colony is established. And when a colony is settled, ·one of two things happens·. ŸThe colony becomes a commonwealth on its own, with the colonists being cleared of their subjection to the sovereign who sent them (as has been done by many commonwealths in ancient times), in which case the commonwealth from which they went is called their ‘metropolis’ [from Greek words meaning ‘mother’ and ‘city’] or their

'mother', and it requires of them no more than fathers require of children whom they emancipate and free from their domestic government - namely, honour and friendship. Or Ÿthe colonists remain united to their metropolis, as were ·members of· the colonies of the people of Rome; so that the colony is not itself a commonwealth but a province - a part of the commonwealth that sent the colonists out there. So that what is right or wrong for colonies depends Ÿalmost wholly on the licence or letters patent through which their sovereign authorized them to settle there (the Ÿexception being their duty to honour and remain in league with their metropolis, ·a duty that they have whether or not it was explicitly specified·).

Chapter 25. Advice

How fallacious it is to judge of the nature of things by the ordinary unstable use of words appears in nothing more than in the confusion between *advice* and *commands*. [In this text, 'advice' sometimes replaces Hobbes's word 'counsel'.] The confusion arises from the fact that the imperative mood is used in expressing both, and for many other purposes as well. For the words 'Do this' are the words not only of someone who Ÿcommands but also of someone who Ÿadvises and of someone who Ÿexhorts [= 'earnestly tries to persuade']; yet nearly everyone sees that these are very different things, and can distinguish between them when he sees who is speaking, to whom he is speaking, and what the circumstances are. But finding those phrases in men's writings, and being unable or unwilling to think about the circumstances, people sometimes mistake the injunctions of advisers for the injunctions of those who command, and sometimes ·on· the contrary ·take commands to be advice·, depending on what fits best with the conclusions they are trying to draw or the actions they approve. To avoid such mistakes and give to those terms 'command', 'advise', and 'exhort' their proper and distinct meanings, I define them thus.

COMMAND is where a man says 'Do this' or 'Do not do this', relying on nothing but his own will. From this it follows obviously that someone who commands is claiming to benefit from the command, because the reason for his command is simply his own will, and the proper object of every man's will is some good to himself.

ADVICE is where a man says 'Do this' or 'Do not do this' and bases his reasons for this on benefit that will come to the person to whom he says it. This makes it obvious that someone who gives advice is claiming (whatever he actually *intends*) to bring good to the person to whom he gives it.

So Ÿone big difference between advice and command is that command is directed to one's own benefit, and advice to the benefit of someone else. From this arises Ÿanother difference: a man may be obliged to do what he is commanded, for example when he has covenanted to obey; but he can't be obliged to follow *advice*, because the hurt of not following it will be his own. What if he has covenanted to follow it? Then it is no longer advice, and comes to have the nature of a command. ŸA third difference between them is that no man can claim to have a right to be another man's adviser, because he mustn't claim that *he* will benefit by the advice he gives. If you demand a right to advise someone, that is evidence that you want to know his designs, or to gain some other good to yourself - which (I repeat) is the exclusive object of every man's will.

Another feature of advice is that no-one can fairly be accused or punished for the advice he gives, whatever it may be. For to ask for someone's advice is to permit him to

give what advice he thinks best, and consequently he who gives advice to his sovereign (whether a monarch or an assembly) when asked for it cannot fairly be punished for it. This holds whether or not the advice fits with the opinion of the majority, as long as it is relevant to the proposition under debate. For if the sense of the assembly can make itself felt before the debate is ended, they shouldn't seek or take any further advice, for the sense of the assembly is the resolution of the debate and end of all deliberation. And generally he who asks for advice is an author of it, and therefore cannot punish it; and what the sovereign can't do no-one else can do. But if one subject advises another to do something contrary to the laws, that advice is punishable by the commonwealth, whether it came from an evil intention or merely from ignorance; because ignorance of the law is not a good excuse, where every man is bound to take notice of the laws to which he is subject.

EXHORTATION is *advice accompanied by signs in the person that gives it of his passionate desire to have it followed*, or to say it more briefly, *advice that is forcibly pressed*. Someone who exhorts doesn't spell out the consequences of the action he is advising the person to perform, so he doesn't tie himself to the rigour of true reasoning; he merely *encourages* the advisee to act in a certain way. So those who exhort, in giving their reasons, have an eye on the common passions and opinions of men; and they make use of comparisons, metaphors, examples, and other tools of oratory to persuade their hearers of the utility, honour, or justice of following their advice.

From this it can be inferred, Ÿfirst, that exhortation is directed to the good of the person who gives the advice, not of the person who asks for it; which is contrary to the duty of an adviser, who (by the definition of 'advice') ought to be guided not by his own benefit but by the benefit of the person whom he is advising. That the exhorter *does* direct his advice to his own benefit is clear enough from his long and passionate urging, or from his elaborately artful way of giving his advice; because this was not required of him, so it reflects *his* purposes and consequently is directed principally to his own benefit - tending to the good of the advisee only accidentally, if at all.

·We can infer· Ÿsecondly, that exhortation is effective only where a man speaks to a multitude; because when the speech is addressed to one person, he can interrupt the speaker and examine his reasons more rigorously than can be done in a crowd, which is too numerous to enter into dispute and dialogue with someone who is speaking to all of them equally.

ŸThirdly, ·it follows· that those who *exhort* where they have been required to *advise* are corrupt advisers, having been bribed (so to speak) by their own interests. However good the advice that is given ·in an exhortation·, he who gives it is no more a good adviser than someone who gives a just sentence in return for a bribe is a just judge. Where a man can lawfully *command*, as a father in his family or a leader in an army, his exhortations are not only lawful but also necessary and praiseworthy; but then they are no longer advice but commands. When a command is given for the carrying out of nasty work, it should be sweetened in the delivery by encouragement, and in the tone and phrasing of *advice* rather than in the harsher language of *command*. Sometimes necessity requires this, and humanity always does.

Examples of the difference between command and advice can be found in the forms of speech that express them in Holy Scripture.

Have no other Gods but me

Make for yourself no graven image
Take not God's name in vain
Sanctify the sabbath
Honour your parents
Do not kill
Do not steal,

and so on are Ÿcommands, because the reason for which we are to obey them comes from the will of God, our king whom we are obliged to obey. But these words: 'Sell everything you have, give it to the poor, and follow me' are Ÿadvice, because the reason for our doing so is drawn from our own benefit, namely that ·if we comply· we shall have treasure in Heaven. These words: 'Go into the village over there, and you will find a tethered ass and her colt; untie her and bring her to me' are a command; because the reason for complying with it is drawn from the will of their master; but these words: 'Repent and be baptized in the name of Jesus' are advice, because the reason why we should so do tends not to any benefit for God Almighty, who will still be king however we rebel, but to benefit for ourselves, who have no other means of avoiding the punishment hanging over us for our sins.

I have derived the difference between advice and command from the nature of advice, which consists in a laying out of the benefit or harm that may or must come to the advisee if he acts as he is advised to do. The differences between apt and inept advisers can be derived from the same source. Experience is just the memory of the consequences of similar actions formerly observed, and advice is just speech through which that experience is made known to someone else; so the virtues and defects of advice are the same as the virtues and defects of intellect; and for the person of a commonwealth, advisers serve in place of **memory** and thinking things through. But along with this resemblance of the commonwealth to a natural man there is one very important dissimilarity. A natural man receives his experience from the natural objects of sense, which work on him without passion or interest of their own, whereas those who advise the representative person of a commonwealth may have (and often do have) their individual purposes and passions, which make their advice always suspect and often treacherous. So we can set down as the Ÿfirst requirement for a good adviser, that his purposes and interests must not be inconsistent with those of the person he is advising.

When an action is being deliberated, the role of an adviser is to make its consequences plain, so that the advisee is truly and clearly informed. So, Ÿsecondly, an adviser ought to present his advice in such a way as to make the truth appear most clearly, that is to say, to present it with reasoning that is as firm, in language that is as meaningful and proper, and as briefly, as the evidence will permit. The role of adviser, therefore, does not permit

rash and unevident inferences

(such as are fetched only from examples or from books taken as authoritative - none of which are evidence as to what is good or evil, but only witnesses of fact or of opinion),

obscure, confused, and ambiguous expressions, or
metaphorical speeches, tending to the stirring up of passions.

That is because such reasoning and such expressions serve only to deceive the advisee, or to lead him towards other ends than his own.

The ability to advise well comes from experience and long study, and no man is presumed to have experience in *all* the things that have to be known for the administration of a great commonwealth. Therefore, ŸthirdIy, no man is presumed to be a good adviser except on matters which he has not only had great experience of but also thought about long and hard. ·This, properly understood, is a very demanding requirement·. For seeing that the business of a commonwealth is to preserve the people in peace at home and to defend them against foreign invasion, we shall find that it requires knowledge that cannot be had without study:

> great knowledge of human nature, of the rights of government, and of the nature of equity, law, justice, and honour.

And that it requires knowledge that cannot be had without much experience:

> knowledge of the military strength, the economy, and the geography both of our own country and of our neighbours, and also of the inclinations and designs of all the nations that might in any way give us trouble.

Knowledge of these things cannot be had without the observations of many men together. Finally, even when all these things are known, they are useless unless right reasoning is employed. For nothing is useful to someone who doesn't know how to use it properly.

ŸFourthly, for someone to advise the commonwealth in matters of the greatest importance, he must have seen the archives of the commonwealth, the records of treaties with neighbouring commonwealths, and the letters of ministers sent to neighbouring commonwealths to explore their plans. No-one is permitted to see these things except those whom the sovereign wants to be permitted. So someone who is not customarily called on for advice cannot give satisfactory advice, even if he is wise.

ŸFifthly, when a man has several advisers, he will get better advice by hearing them one at a time than that by listening to them in an assembly. There are many reasons for this, ·of which I shall present four·. ŸFirst, in hearing them singly you get the advice of every man, but in an assembly many of them give their 'advice' only with 'Aye!' or 'No!', or with their hands or feet, not moved by their own thoughts but by the eloquence of others, or by fear of displeasing some who have spoken (or displeasing the whole assembly) by contradicting them, or for fear of appearing duller in uptake than those who have applauded the contrary opinion. ŸSecondly, most of them set their own advantage ahead of the public good. If they give their opinions separately, in private, this is less harmful. For the passions of individual men are more moderate taken separately than in an assembly, where they sometimes inflame one another by the hot air of their rhetoric till they set the commonwealth afire (as lighted brands when separated give off less heat than when they are joined together). ŸThirdly, in hearing each man separately one can when necessary examine the truth or probability of his reasons for the advice he gives, doing this by frequent interruptions and objections. That cannot be done in an assembly, where (in every difficult question) a man is dazed and dazzled by the variety of things that are said, rather than informed about what he ought to do. Besides, when a large assembly is called together to give advice, there are bound to be some who have an ambition to be thought eloquent and also to be knowledgeable about policy; and they will give their advice with a care not for the business under consideration but rather for the applause ·they can get· for their motley orations, made of the variously coloured threads or scraps of authors. ['Motley' can mean merely 'a cloth of mixed colours', but Hobbes may intend its stronger

meaning, ‘the multicoloured costume of a professional fool or jester’.] This is at best an irrelevance, which takes away time from serious consultation, and it is easily avoided by taking advice in private. ŸFourthly, in deliberations that ought to be kept secret (and there are many of those in public business), it is dangerous to take advice from many people, especially in assemblies; and therefore large assemblies are forced to put such affairs into the hands of a smaller number, choosing the people who are the most experienced and in whose trustworthiness they have most confidence.

Summing up: who would so greatly approve the taking of advice from a large assembly that he would wish for such help when there is a question of getting his children married, disposing of his lands, governing his household, or managing his private estate? Especially, who would want or accept this if some people in the assembly didn’t wish him to prosper? A man who does his business with the help of many prudent advisers, consulting with each of them separately, in private, does it *best*; like someone who in playing tennis uses able seconds, placed in their proper stations. [This refers to ‘real tennis’ - a precursor of today’s game - in some early forms of which a player could have assistants or ‘seconds’.] He who uses only his own judgment does *next best*, like someone who plays tennis with no seconds at all. The one who does *worst of all* is the person who is carried up and down to his business in a Ÿframed advice [= ‘advice viewed as a constructed vehicle’] that can move only by majority vote, which is often not forthcoming because of people who dissent out of envy or self-interest. He is like someone who, though he has good players as seconds, is carried ·by them· to the ball in a wheel-barrow or other Ÿframe [= ‘structure’] which is heavy in itself and also held back by the disagreeing judgments and endeavours of those who are pushing it; and the similarity is greater in proportion to how many people set their hands to the wheel-barrow, and it is greatest when one or more of them wants him to lose!

And though it is true that many eyes see more than one, but this doesn’t imply an advantage in having many advisers, except when their advice is finally brought together by one man. ·In every other case the ‘many eyes’ are a drawback; here is why·. Many eyes see the same thing from different angles, and are apt to look obliquely towards their own private benefit; so those who don’t want to miss their mark, though they Ÿlook about with two eyes, always Ÿaim only with one; ·which means that they come to focus directly on their own purposes, with *one* eye on *them* and *no* eye on *the public good*·. That is why no large democratic commonwealth has ever been kept up by the open consultations of the assembly. The maintenance of such commonwealths has always come from Ÿa foreign enemy that united them, or Ÿthe reputation of some one eminent man among them, or Ÿthe secret planning of a few, or Ÿtheir fear of splitting up into equal ·and thus uncontrollable· factions. As for very small commonwealths, whether democratic or monarchical: once their strong neighbours become envious of them, no human wisdom can save them!

Chapter 26. Civil laws

By CIVIL LAWS I understand the laws that men are bound to observe because they are members of some commonwealth, not because they belong to this or that commonwealth in particular. Just as the laws of nature are those we are bound to obey because we are men, so civil laws are those we are bound to obey because we are citizens. The knowledge of particular laws ·of particular commonwealths· belongs to those who profess the study

of the laws of their various countries, but the knowledge of civil law in general belongs to any man. The ancient law of Rome was called their civil law, from the word *civitas*, which signifies a commonwealth; and countries that came under the Roman empire and were governed by that law still retain as much of it as they think fit, and call *that* 'the civil law', to distinguish it from the rest of their own civil laws. But that is not that I want to talk about here. My purpose is not to show *what is law in this country and in that*, but *what is law*. That is what Plato, Aristotle, Cicero, and various others have done, without taking up the profession of the study of the law.

The first point is that, obviously, law in general is not *advice* but *command*. It is not the case that any command by one man to another is a law; to count as law a command must be addressed to someone who is already obliged to obey the commander. And as for '*civil* law', that phrase adds only the name of the person commanding, who is *persona civitatis*, the person of the commonwealth.

With that in mind, I define 'civil law' as follows. CIVIL LAW is to every subject the rules that the commonwealth has commanded him (by word, writing, or other sufficient sign of its will) to use to distinguish right from wrong, this being equivalent to distinguishing what is in accordance with the rules from what is contrary to them.

Every part of this definition is evident at first sight. ·Regarding the implication that something is a law *to* or *for* some person or group·: anyone can see that some laws are addressed to all the subjects in general, some to particular provinces, some to particular vocations, and some to particular men, so that they are laws *to* everyone to whom the command is directed, and not *to* anyone else. ·It is also obvious· that laws are the rules determining what is just or unjust (right or wrong), for nothing is counted as unjust unless it is contrary to some law. Likewise, that only the commonwealth can make laws, because it is the only thing we are subject to; and that commands must be signified by sufficient signs, because otherwise a man doesn't know how to obey them. So anything that can be rigorously deduced from this definition ought to be acknowledged as true. Here are the ·eight· things that I deduce from it.

1. The only legislator in any commonwealth is the sovereign, whether that is one man (in a monarchy) or one assembly of men (in a democracy or aristocracy). For Ÿthe legislator is he who makes the law. And Ÿonly the commonwealth prescribes and commands that the rules we call 'law' be obeyed. Therefore Ÿthe commonwealth is the legislator. But the commonwealth is not a person, and can't do anything except through its representative - the sovereign - and therefore Ÿthe sovereign is the only legislator. For the same reason, only the sovereign can repeal a law that has been made, because the only way to repeal a law is to make a second law forbidding the enforcement of the first.

2. The sovereign of a commonwealth, whether an assembly or one man, is not subject to the civil laws. ·Suppose that he *were* subject to them·. Having the power to make and repeal laws, he could free himself from subjection to them whenever he pleased, by repealing the laws that troubled him and making new ones. So he was free from subjection to them all along; for someone who can be free whenever he likes *is* free. No person can be bound to himself; because he who can bind can also release, and therefore someone who is bound only to himself is not bound at all.

3. When long use comes to have the authority of a law, what makes the authority is not the length of time but the will of the sovereign as signified by his silence (for silence is

sometimes evidence of consent); and as soon as the sovereign speaks up ·against it·, it is no longer law. And therefore if the sovereign is involved in a legal issue based not on his present will but upon the laws that have already been made, the length of time ·that some legal state of affairs has been allowed to stand· should not affect the outcome, which should be reached on the basis of equity - ·defined in chapter 15, third and eleventh laws of nature, as distributing to each man what is rightly his·. For many unjust actions and unjust ·judicial· sentences go uncorrected for longer than any man can remember. And our lawyers count as laws only such of our customs as are reasonable, and ·maintain· that evil customs should be abolished; but the judgment of what is reasonable and of what ought to be abolished belongs to him who makes the law, namely the sovereign assembly or the monarch.

4. The *law of nature* and the *civil law* contain each other, and are of equal extent. For the laws of nature, which consist in equity, justice, gratitude, and other moral virtues depending on these, are in the raw condition of nature not properly laws but rather qualities that dispose men to peace and to obedience. (I made this point at the end of chapter 15.) They become *laws* when a commonwealth is established, and not before; and then the commonwealth commands them, and so they become civil laws, for it is the sovereign power that obliges men to obey them. For when private men have disagreements, the ordinances of sovereign power are needed to lay down what is equitable, what is just, and what is morally virtuous, and to make the ordinances binding; and to ordain punishments for those who break them, those ordinances therefore also being part of the civil law. So the law of nature is a part of the civil law in all commonwealths of the world.

Conversely, the civil law is a part of the dictates of nature. For justice - that is to say, performing covenants and giving to every man his own - is a dictate of the law of nature. But every subject in a commonwealth has Ÿcovenanted to obey the civil law, and therefore obedience to the civil law is part also of the law of nature. (The Ÿcovenant in question is either one they make with one another, as when they assemble to make a common representative, or Ÿa covenant that each makes separately with the representative when, subdued by the sword, they promise obedience in return for staying alive.)

Civil law and natural law are not different *kinds* of law but different *parts* of law: the written part is called ‘civil’, the unwritten part ‘natural’. But the civil law can abridge and restrain the right of nature, that is, the natural liberty of man; indeed, the whole purpose of making ·civil· laws is to create such restraints, without which there can’t possibly be any peace. And law was brought into the world solely in order to limit the natural liberty of particular men, in such a way that they don’t *hurt* but rather *assist* one another and join together against a common enemy.

5. If the sovereign of one commonwealth subdues a people who have lived under other written laws, and afterwards governs them by the same laws as they were governed by before, those laws then become the civil laws of the victor and not of the vanquished commonwealth. For the legislator is not the person by whose authority the laws Ÿwere first made, but the one by whose authority they Ÿnow continue to be laws. So where the dominion of a commonwealth includes different provinces with different laws, commonly called the ‘customs’ of each province, we should not think that such ‘customs’ have their force ·as laws· purely from the length of time they have been in existence. The right way to

view them is this: They are laws that were written or otherwise made known long ago, under the decrees and statutes of their Ÿsovereigns ·at that time·, and they are now laws not because they have been validated by time but rather by virtue of the decrees of Ÿtheir present sovereign. But if an unwritten law is generally observed throughout all the provinces of a dominion, and there appears to be nothing bad in this, that law has to be a law of nature, and equally binding on all mankind.

6. Given that all laws, written and unwritten, have their authority and force from the will of the commonwealth - that is to say, from the will of the representative (the monarch or the sovereign assembly) - you may well wonder what the source is of opinions that are found in books by eminent lawyers in several commonwealths, which say outright or imply that the legislative power depends on private men or subordinate judges. ·I shall give two examples of such opinions. Some have written· Ÿthat the only controller of the common law is the parliament, which is true only where a parliament has the sovereign power and can't be assembled or dissolved except by their own discretion. (For if anyone else has a right to dissolve them, he also has a right to control them, and consequently to control their controllings.) And if there is no such right ·for them to dissolve themselves·, then the controller of laws is not *parliamentum* but *rex in parliamento* [= 'not parliament, but the king in parliament']. And where a parliament is sovereign, ·it can't give legislative power to some other assembly·. Even if for some purpose it brings together from the countries subject to it ever so many men who are ever so wise, nobody will believe that such an assembly has thereby acquired a legislative power. ·My second example: some have written· Ÿthat the two arms of a commonwealth are *force* and *justice*, the former belonging to the king and the latter placed in the hands of the parliament. As if a commonwealth could hold together when its *force* was in hands which *justice* didn't have the authority to command and govern!

7. Our legal writers agree that law can never be against reason, and that *the law* should be identified not with Ÿ'the letter of the law' (that is, with every construction ·that can be put upon it·), but with Ÿwhat accords with the intention of the legislator. This is true; but there is a question about *whose* reason it is that shall be accepted as law. They don't mean that any private person's reason ·generates law·, for then there would be as much contradiction in the laws as there is in the schools! Sir Edward Coke ties law to an acquired perfection of reason, achieved (as his was) by long study, observation, and experience. But this is wrong too; for long study might increase and confirm erroneous judgments; and when men build on false grounds, the more they build the greater is the ruin. Also, even when men have studied and observed for equal amounts of time, and with equal diligence, they are certain to end up with reasons and resolutions that conflict. What makes the law, therefore, is not that *juris prudentia* or wisdom of subordinate judges, but rather Ÿthe reason and command of this artificial man of ours, the commonwealth; and because the commonwealth is just one person, the representative, there can't easily arise any contradiction in the laws; and when one does occur, Ÿthat same reason can remove it by interpretation or alteration. In all courts of justice, the sovereign - which is the person of the commonwealth - is the one who judges; any subordinate judge ought to have regard to the reason that moved his sovereign to make such a law, so that his judgment can be according to that reason. If it *is*, then it is his sovereign's judgment; and if it *isn't*, then the judgment is his own, and is unjust.

8. The command of the commonwealth is *law* only to those who are equipped to take it in. That is because the law is a command, and a command is a declaration, or expression of the commander's will, by voice, writing, or some other sufficient evidence of his will. There is no law over mentally deficient people, children, or madmen, any more than there is over brute beasts. None of those can deserve the label 'just' or 'unjust', because they have never had power to make any covenant, or to understand the consequences of one, and consequently they have never undertaken to authorize the actions of any sovereign - which is what must be done by those who make a commonwealth for themselves. Just as Ÿthose who have been deprived by nature or accident of the ability to take in any laws are excused for not obeying the laws, so also Ÿsomeone who has been deprived by some accident that was not his fault of the means to take in some particular law is excused for not obeying it. Strictly speaking, to him it is *not* a law. So we must consider now what evidence and signs are sufficient for knowing what the law is, that is to say, knowing what is the will of the monarch or sovereign assembly.

ŸFirst, if it is a law that binds all the subjects without exception, and is not written or otherwise published in places where they can see it, it is a law of nature. For something that men are to recognize as a law, not on the strength of other men's words but each on the basis of his own reason, must be agreeable to the reason of all men; and the only law that can be *that* is the law of nature. So the laws of nature needn't be published or proclaimed, because they are all contained in this one sentence that is approved by all the world: *Do not do to anyone else something that you think it would be unreasonable for someone to do to you.*

ŸSecondly, if it is a law that binds only some *kind* of men, or only one particular man, and is not written or published in verbal form, then it too is a law of nature; and the evidence and signs that make it known are the very ones that mark out, among men in general, the person or kind of person whom this law binds. For any law that is not written or somehow published by the legislator can only be known by the reason of him who is to obey it, and so it is a natural law as well as a civil one. For example, if the sovereign employs a public minister without instructing him in writing what to do, the minister is obliged to take the dictates of reason as instructions; if the sovereign makes someone a judge, the judge should realize that his judgments ought to be according to the reason of his sovereign, and since that is always understood to be equity, he is bound to it by the law of nature; or if the sovereign appoints an ambassador, the ambassador is (in everything not covered by his written instructions) to regard as *instruction* anything that reason tells him is the most conducing to his sovereign's interests; and similarly with all other ministers of the sovereignty, public and private. All these instructions of natural reason can be brought under one name 'fidelity', which is a branch of natural justice.

It belongs to the essence of all laws (except the law of nature) to be made known to everyone who will be obliged to obey them, by speech or writing or some other act that is known to come from the sovereign authority. For the will of someone else can't be understood except through his own word or act, or by conjectures based on ·what one knows about· his scope and purpose; and when it's the person of the commonwealth, the purpose should be supposed always to conform to equity and reason. In ancient time, before writing was in common use, the laws were often put into verse so that uneducated people, taking pleasure in singing or reciting them, might the more easily remember them. [The paragraph concludes with two examples of this, drawn from the old testament.]

It is not enough that the law be written and published; there must also be clear signs that it comes from the will of the sovereign. For private men, when they have (or think they have) enough force to secure their unjust plans and carry them safely through to their ambitious goals, may without legislative authority publish as 'laws' anything they like. So there needs to be not only a declaration of the law but also sufficient signs of who the author is and of his authority. In every commonwealth it is supposed to be obvious who the author (the legislator) is, because he is the sovereign, who is supposed to be sufficiently known by everyone as he was made to be sovereign by the consent of everyone. No excuse ·for law-breaking· can be based on ignorance of where the sovereignty is placed. It is true that most men, when their memory of the first constitution of their commonwealth has faded away, are sufficiently ignorant and complacent not to give a thought to the question of Ÿwhose power defends them against their enemies, and protects the fruits of their labour, and sets things to rights when they have been wronged; still, anyone who *does* give it a thought must realize Ÿwho it is.

Furthermore, it is a dictate of natural reason, and consequently an evident law of nature, that no man ought to weaken the power whose protection against others he has himself demanded or knowingly accepted. Therefore, whatever evil men may suggest ·to the contrary·, no man can be in any doubt about who is sovereign - or if he is, it is by his own fault. Any such doubt concerns the evidence of the authority derived from the sovereign, and that can be removed by knowledge of the public registers, public counsels, public ministers, and public seals, by which all laws are sufficiently verified. I say *verified*, not *authorized*; for the things I have listed are merely the testimony and record of the law, not its authority, which consists purely in the command of the sovereign.

So if a man has a question about whether a certain action wrongs someone, where this depends on Ÿthe law of nature, i.e. on common equity, the judgment of the judge who has been given authority to hear such cases is a sufficient verification of the law of nature in that individual case. For though the advice of a legal scholar may be useful for avoiding contention, it is still only *advice*; it is for the judge to hear the controversy and *tell* men what the law is.

But when the question is about whether a certain action would under Ÿa written law wrong someone or constitute a crime, every man *can* if he wants to, before committing the proposed action, consult the law-books or have someone consult them for him in order to learn whether the action would be a crime or a wronging. Indeed he *ought* to do so; for when a man is unsure whether the act he is planning is just or unjust, and can inform himself if he wants to, the action is unlawful ·if he goes ahead and performs it without further enquiry·. For every man is obliged to do his best to inform himself of all written laws that may concern his own future actions.

Similarly with someone who thinks he has been wronged in a case that falls under the written law which he *could* look up for himself or have someone do it for him: if he complains before consulting the law, he acts unjustly and reveals a disposition to make trouble for others rather than to demand his own right.

If there is a question about obedience to a public officer, his authority is sufficiently verified by seeing his commission (with the public seal) and hearing it read, or by having the means to be informed of it if you want to.

With the legislator known, and the laws sufficiently published either in writing or by the light of nature, there is one further very important requirement for them to be obligatory. For the nature of the law consists not in the letter of the law but in the meaning, the authentic interpretation of the law, which is the sense of the legislator. So the interpretation of all laws depends on the sovereign authority, and interpreters must be appointed by the sovereign, to whom alone the subject owes obedience. Otherwise, an ingenious interpreter could make the law bear a sense contrary to that of the sovereign, by which means the interpreter would become the legislator.

All laws, written, and unwritten, need interpretation. The unwritten law of nature is easy to understand for those who impartially and coolly make use of their natural reason; so violators of it have no excuse. And yet, because most if not all people are sometimes blinded by self-love or some other passion, the law of nature has become the most obscure of all laws, and has consequently the greatest need for able interpreters.

Short written laws are easily misinterpreted because of the different meanings of a word or two; *long* ones are ·even· more obscure because of the different meanings of many words. So that no written law, whether expressed in few words or in many, can be well understood without a perfect understanding of the ends [= 'purposes'] for which the law was made, and the knowledge of those ends lies with the legislator. [In the next sentence, Hobbes uses the word 'ends' in a punish, referring to the ends of a cord.] For him, therefore, any knot in the law can be dealt with: either by finding out the ends ·of the cord· and untying it, or by using his legislative power to make new ends of his own choice, as Alexander did with his sword when he sliced through the Gordian knot.

The interpretation of the laws of nature in a commonwealth does not depend on books of moral philosophy. If a writer doesn't have the authority of the commonwealth, whatever authority he does have is not enough to make his opinions *law*, however true they may be. What I have written in this book concerning the moral virtues and how they are needed for procuring and maintaining peace is clearly true; but its truth makes it *law* only because in all commonwealths in the world it is part of the civil law. For although it is naturally reasonable, it is the sovereign power that makes it law. Otherwise - ·that is, if the natural law were to be definitively found in books· - it would be a great error to call the laws of nature 'unwritten law', when we see so many volumes ·about it· published, and in them so many contradictions of one another and of themselves.

The interpretation of the law of nature is the judgment of the judge who has been assigned by the sovereign authority to hear and determine any controversies that depend on the law of nature; and it consists in the application of the law to the present case. For in the act of judging all the judge does is to consider whether the demand of the party is consistent with natural reason and equity, so his judgment is the interpretation of the law of nature. This interpretation is authentic not because it is his private judgment but because he gives it by authority of the sovereign, which turns it into the sovereign's judgment, which for that time is the law. . . .

But any judge, whether subordinate or sovereign, can err in a judgment of equity - ·that is, a judgment about the Ÿlaw of nature·. If ·a judge does err, and then· in a similar later case he finds it more consistent with equity to give a contrary judgment, he is obliged to do that. No man's error becomes his own law, nor obliges him to persist in it. Nor (for the same reason) does an error ·concerning the law of nature· become a law to other

judges, even if they are sworn to follow it. If a wrong judgment is given by authority of the sovereign in connection with mutable law (·that is, Ÿcivil law·), and if the sovereign knows about this and allows it, this creates *a new law* covering all cases where every little circumstance is the same ·as in the case where the error occurred·; but ·errors in connection· with immutable laws such as the laws of nature are not laws - to the judge who made the error or to other judges - in similar cases for ever after. Princes succeed one another, one judge goes and another comes, indeed heaven and earth may pass away, but not the least fragment of the law of nature shall pass, for it is the eternal law of God. Therefore all the judgments that previous judges have ever made cannot unite to make a law that is contrary to natural equity; nor can any examples of former judges warrant an unreasonable sentence, or spare the present judge the trouble of studying what is equitable (in the case before him) from the principles of his own natural reason.

For example, it is against the law of nature to punish the innocent, and an innocent person is one who stands trial and is acknowledged as innocent by the judge. Now consider this case:

> A man is accused of a capital crime; and, seeing the power and malice of some enemy and the frequent corruption and partiality of judges, he runs away because he is afraid of the outcome. Eventually he is arrested and brought to a legal trial, where he makes it clear enough that he was not guilty of the crime ·of which he had been accused·. Although he is acquitted of that, he is nevertheless condemned to lose his goods.

This is plainly a case of condemning the innocent. I say therefore that this can't be an interpretation of a law of nature anywhere in the world, and can't be made a law by the judgments of previous judges who had done the same. Whoever judged it first judged unjustly; and no injustice can serve as a pattern of judgment for succeeding judges. A written law may forbid innocent men to flee, and they may be punished for fleeing; but that fleeing because one is afraid of being wronged should be taken as a 'presumption' of guilt after a man has been judicially cleared of the crime is contrary to the nature of a presumption. Once judgment has been given, there is no further room for *presumptions*.

Yet this is said by a great lawyer for the common law of England [Sir Edward Coke, *Institutes of Law*; Coke was a high court judge under Elizabeth and James I.] . He writes:

> Suppose an innocent man is accused of felony, and runs away out of fear of the consequences of the accusation, and eventually is judicially acquitted of the felony. If it is found that he fled because of the ·accusation of· felony; he shall, despite his innocence, forfeit all his goods, chattels, debts, and duties. For the law will not allow any evidence opposing the forfeiture to outweigh the presumption in law based on his flight. ['Evidence' here and below replaces 'proof' in the originals.]

Here you see an innocent man being condemned, *after having been judicially acquitted*, to lose all the goods he has. No written law forbade him to flee, but the forfeiture of his goods is based on 'a presumption in law'! ŸIf the law takes his flight to be a basis for a presumption of the fact - ·that is, a presumption that he was guilty of the act which was charged·, which was a capital offence - the sentence ought to have been ·not mere forfeiture of goods but· death. And Ÿif it wasn't a presumption of the fact, why ought he to lose his goods? So this is no law of England; and the basis for the condemnation is not a presumption of law but a presumption of the judges! Furthermore, it is against law to say

that no evidence shall be admitted against a presumption of law. For all judges, sovereign and subordinate, if they refuse to *hear evidence* refuse to *do justice*; for even if the final judgment is just, judges that condemn without hearing the evidence that is offered are unjust judges; and their 'presumption' is mere prejudice. No man should bring *that* with him to the seat of justice, whatever previous judgments or examples he claims to be following.

There are other things like this, where men's judgments have been perverted by trusting to precedents; but this one is enough to show that although the judgment of the judge is a law to Ÿthe party pleading, it is not law to Ÿany judge that follows him in that office.

Similarly, when there is a question about the meaning of written laws, the man who writes a commentary on them is not their *interpreter*. For commentaries are often open to even more questions and difficulties than the text is; so they need commentaries in their turn, and there will be no end of such 'interpretations'. And therefore, unless the sovereign authorizes an interpreter whose interpretations the subordinate judges are to accept, the interpreter will have to be the ordinary judges (just as they are for cases of the unwritten law). . . .

In written laws men distinguish Ÿthe letter of the law from the Ÿsentence [here = 'intended meaning'] of the law; and when 'the letter' means 'whatever can be learned from the bare words' it is a good distinction. For most words are either ambiguous in themselves or have metaphorical as well as literal uses; . . . . but the law has only one sense. But if 'the letter' means 'the literal sense', then the letter of the law is identical with the sentence (or intention) of the law. For the literal sense is what the legislator intended should be meant by the letter of the law. Now the intention of the legislator is always supposed to be equity: for a judge to think otherwise of the sovereign would be a great insult. Therefore, if the word of the law doesn't fully authorize a reasonable judgment, the judge ought to fill the gap with the law of nature, or in a difficult case to postpone judgment until he gets more ample authority. For example, a written law ordains that someone who is Ÿthrust out of his house by force shall be restored by force; it happens that a man by negligence leaves his house empty, and upon returning to it is Ÿkept out by force - a situation that is not addressed by any special law. It is evident that this case falls under the same law, ·so that force can be used to give him occupancy of his house again·; for otherwise there is no ·legal· remedy for him at all, which we can suppose is against the intention of the legislator.

Another example: the word of the law commands the judge to judge according to the evidence; now, suppose a man is falsely accused of an act which the judge himself saw done by someone else, and not by the man who is accused; ·and suppose also that there are witnesses whose testimony constitutes *some* evidence that the accused man is guilty·. In this case it would not be right for the judge to Ÿfollow the letter of the law and condemn an innocent man, or to Ÿflout the letter of the law by delivering an acquittal against the evidence of the witnesses. What he should do, rather, is to arrange for the sovereign to appoint someone else as judge ·in this case·, and present himself as a witness. So that a disadvantage created by the bare words of a written law may lead him to a better interpretation of what the law means; but no disadvantage can warrant a judgment ·that goes· *against* the law, for a judge of right and wrong is not judge of what is advantageous or disadvantageous to the commonwealth.

The abilities required in a good interpreter of the law - that is, in a good judge - are not the same as those of a lawyer, namely book-learning about the laws. A judge ought to take base his views about the *facts* purely on what the witnesses say, and to base his views about the *law* purely on the statutes and constitutions of the sovereign - ·not as Ÿlearned about from law books, but· as Ÿformally presented to him by parties to the court case or Ÿdeclared to him by people ·who are available to him during the court case, and· who have authority from the sovereign power to declare them. He need not be concerned in advance about what he shall judge; for he will learn from witnesses what he is to say about the facts, and what he is to say regarding the law he will learn from those who present points of law in their pleadings, and from those who by authority interpret the law for him on the spot (·not in advance·). The Lords of Parliament in England were judges, and most difficult cases have been heard and settled by them; yet few of them had done much study of the laws, and fewer still were lawyers by profession; and though they consulted with lawyers who were appointed to be in attendance for that purpose, they - the Lords - alone had authority to pass judgment.

Similarly, in ordinary trials of legal matters twelve men of the common people are the judges, and pass judgments not only on the facts but also on the law, simply giving a verdict *for the complainant* or *for the defendant*. And in criminal cases these twelve men determine not only whether or not the alleged act was done, but also whether it is *murder*, *homicide*, *felony*, *assault*, and the like, which are judgments of law. Because they are not supposed to know the law of themselves, there is someone who has authority to inform them about it as it applies to the particular case that is before them. But if they don't judge according to what he tells them, that does not make them liable to any penalty, unless it is shown that they did it against their consciences or had been corrupted by bribes.

The things that make a good judge, or good interpreter of the laws, are the following. ŸFirst, a right understanding of that principal law of nature called *equity*. Such an understanding comes not from reading other men's writings but from the goodness of a man's own natural reason and meditation; so it is presumed to be greatest in those who have had most leisure in which to think about equity, and the most inclination to do so. ŸSecondly, a disregard for unnecessary riches and ranks. ŸThirdly, the ability when judging to set aside all fear, anger, hatred, love, and compassion. ŸFourthly and lastly, patience in listening, diligent attention to what one hears, and memory to retain, digest and apply what one has heard.

Laws have been distinguished and classified in various different ways. ·There is nothing wrong with that·, for the classification of laws depends not on nature but on the purpose of the writer. [Hobbes now lists the 'seven sorts of civil laws' distinguished by Justinian; not included in the present text.]

Another division of laws is into *natural* and *positive*. ŸNatural laws are the ones that have been laws from all eternity. As well as 'natural', they are also called 'moral'; they underlie the moral virtues such as justice and equity and all habits of the mind that are conducive to peace and charity, of which I have spoken in chapters 14 and 15.

ŸPositive laws are the ones that have not held from eternity, but have been made laws by the will of those who had sovereign power over others. They are either written or made known to men by some other evidence of the will of their legislator.

Positive laws divide into *human* and *divine*, and human positive laws can be further divided into *distributive* and *penal*. Distributive laws are the ones that determine the rights of the subjects, telling every man what it is that enables him to acquire and keep ownership of land or goods, and gives him a right or liberty of action; and these laws speak to all the subjects. Penal laws are the ones that declare what penalty is to be inflicted on those who violate the law; they speak to the ministers and officers appointed to enforce penalties. Everyone ought to be informed about the punishments that have been set in advance for his transgression, but ·the law is a *command*, and· the command is addressed not to the delinquent (who can't be expected to dutifully punish himself!) but to public ministers appointed to see that the penalty is enforced. . . .

Natural laws are eternal and universal, so they are all divine; ·and the distinction between *human* and *divine* applies only to positive laws·. Divine positive laws are commandments of God - not from all eternity and not addressed not to all men but only to a certain people or to certain individuals - which are declared to be such by those whom God has authorized to declare them. How can we know that a given man has authority to declare what are these positive laws of God? God can command a man in a supernatural way to pass on laws to other men. But it is of the essence of law that someone who is to be bound by a law shall be assured of the authority of the person who declares it, and we have no *natural* way of seeing that the authority comes from God. So

> Ÿhow can a man without supernatural revelation be assured that what the declarer of the law has received *was* a revelation? and
>
> Ÿhow can he be bound to obey them [= these supposed divine positive laws]?

As to the first question, how a man can *be assured* that someone else had a revelation other than through a revelation of his own, it is obvious that he cannot. We may be induced to *believe* ·that someone had· such a revelation, from Ÿthe miracles we see him do, or from seeing Ÿthe extraordinary sanctity of his life, or from seeing the extraordinary wisdom or Ÿextraordinary felicity of his actions, all of which are marks of God's extraordinary favour. But they are not assured evidences [= 'proof positive'] of special revelation. ŸMiracles are marvellous works, but what is marvellous to one person may not be marvellous to another; Ÿsanctity can be feigned; and Ÿthe visible felicities of this world are usually produced by God through natural and ordinary causes ·rather than through supernatural revelation·. So no man can *infallibly know* through natural reason that another man has had a supernatural revelation of God's will. All we can have is a *belief*, more or less strong depending on the strength of the evidence.

But for the second question - how can he be bound to obey them? - it is not so hard. It is obvious why we ought to obey those who proclaim things as divine and supernatural - why we ought to obey, that is, sometimes and in some places, namely where the commonwealth has commanded that the things those people proclaim be regarded as laws. For by natural law, which is also divine, we are to *obey* the commonwealth in everything it commands, though we are not ·commanded· by natural law to *believe*. ·No-one can be bound or obliged to believe anything·, for men's beliefs and inner thoughts are not subject to commands, but only to the operation of God, whether ordinary or extraordinary. When we have faith that something is a supernatural law, we are not *obeying* that law but only *assenting to* it; and this assent is not a duty that we perform for God but a gift which he freely makes to whomever he pleases, just as *un*belief is not a breach of any of his laws, but rather a rejection all of them except the natural laws.

What I am saying here will be made clearer by the examples and testimonies concerning this point in holy Scripture. The covenant that God made with Abraham (in a supernatural manner) was this: ‘This is the covenant which thou shalt observe between me and thee and thy descendants after thee’ (*Genesis* 17:10). Abraham’s descendants didn’t have this revelation; indeed, they didn’t yet exist; yet they are a party to the covenant and are bound to obey what Abraham would declare to them as God’s law; and this couldn’t be so except in virtue of the obedience they owed to their parents. . . . [A similar second example, from *Genesis* 18:18-19, is omitted from the present text.]

At Mount Sinai, Moses went alone up to God, the people having been threatened with death if they came near; yet they were bound to obey everything that Moses declared to them as God’s law. The only basis there can be for this is their own act of submission: ‘Speak thou to us, and we will hear thee; but let not God speak to us, lest we die’ [*Exodus* 20:19].

These two examples show clearly enough that in a commonwealth a subject who has not received *for himself in particular* a certain and assured revelation concerning the will of God should obey the commands of the commonwealth as though *they* were based on such a revelation. ·And he should not regard anything else as a divine revelation·. For if men were at liberty to take their own dreams and fancies to be God’s commandments, or the dreams and fancies of other private men, there would hardly be any two men who agreed on what *is* God’s commandment, and yet because of these views of theirs they would all despise the commandments of the commonwealth.

I conclude, therefore, that in everything that is not contrary to the moral law (that is to say, contrary to the law of nature) all subjects are bound to obey as divine law whatever the laws of the commonwealth say is divine law. You can see that this is obviously right by thinking about it: whatever is not against the law of nature can be made law in the name of those who have the sovereign power, and there is no reason why men should be *less* obliged by it when it is presented in the name of God! Besides, in no country in the world are men permitted to claim as commandments of God anything that hasn’t been declared as such by the commonwealth. Christian states punish those who revolt from Christian religion, and all other states punish those who that set up any religion the state has forbidden. ·Why would a state *forbid* a particular religion?· Because ·the alternative would be unacceptable religious freedom·: in whatever is not regulated by the commonwealth every man can equally enjoy his liberty - that is a matter of equity, which is the law of nature, and therefore an eternal law of God.

Laws are also divided into *fundamental* and *not fundamental*, though I have never found in any author ·a coherent account of· what ‘fundamental law’ means. Still, we can very reasonably distinguish laws in that manner - ·or, more accurately, under that terminology·.

For in any commonwealth a fundamental law is one the removal of which would lead to that commonwealth’s failing, being utterly demolished like a building whose foundation is destroyed. Thus, a Ÿfundamental law is one which binds subjects to uphold every power that is given to the sovereign (whether a monarch or a sovereign assembly) and is needed for the commonwealth to survive - such as the power of ·making· war and peace, of judicature, of election of officers, and of doing whatever the sovereign thinks necessary for the public good. ŸNot fundamental is any law which could be repealed without that

leading to the collapse of the commonwealth - such as the laws concerning controversies between subject and subject. That completes what I have to say about the classification of laws.

[The chapter ends with two paragraphs in which Hobbes complains of widespread sloppiness in the use of some legal terms: people don't distinguish 'civil right' from 'civil law', he says, or 'law' from 'charter'. This material is not included here,]

Chapter 27. Crimes, excuses, and extenuations

Not only is every breach of a law a *sin*, but so also is any contempt of the legislator [= 'any disregard for the legislator, treating him as negligible']. For such contempt is a breach of all his laws at once. So it may consist not only in doing or saying something that the laws forbid, or not doing what the law commands, but also in intending or having the purpose to break a law. For intending to break the law is some degree of contempt of the person whose role it is to ensure that the law is obeyed. The law that says *Thou shalt not covet* is not broken when you take delight in *imagining* being possessed of another man's goods, servants, or wife, without intending to take them from him by force or fraud. Again, suppose there is someone from whose life you expect nothing but damage and displeasure: for you to take pleasure in *imagining or dreaming* of his death is not a sin, but it would be sinful for you to decide to *do* something that would be likely to bring about his death. Enjoying the mere thought of something which you would enjoy if it were real - that is a passion so bound up with the nature of man and of every other living creature that if *it* were a sin then *being a man* would be a sin! This line of thought has led me to think that some moralists have been too severe, both to themselves and others, in maintaining that the first motions of the mind (though restrained by the fear of God) can be sins. But I admit it is safer to err in that way than in the opposite direction.

A CRIME is a sin that consists in doing or saying something that the law forbids, or not doing something that the law has commanded. Thus, every crime is a sin, but not every sin is a crime. To intend to steal or kill is a sin, even if it never shows up in words or deeds; for God, who sees the thoughts of a man, can charge him with having such an intention, but until it appears in something done or said, which provides evidence of intention that could be put before a human judge, it is not called a crime. . . .

From this relation of sin to the law, and of crime to the civil law, ·three things· can be inferred. First, that Ÿwhere law ceases, sin ceases. But the law of nature ·*cannot* cease, because it· is eternal; so violation of covenants, ingratitude, arrogance, and all acts contrary to any moral virtue can never cease to be sin. Secondly, that Ÿwhere civil law ceases, crimes cease. This is because ·in the absence of civil law· the only law remaining is the law of nature, so there is no place for accusation, every man being his own judge, accused only by his own conscience, and cleared ·only· by the uprightness of his own intention. When his intention is right, his act ·in having it· is no sin; if otherwise, his act is sin but not crime. Thirdly, Ÿwhen the sovereign power ceases crime also ceases; for where there is no such power there is no protection to be had from the law, and therefore everyone may protect himself by his own power . . . . But this is to be understood only of those who haven't themselves contributed to the taking away of the ·sovereign· power that protected them; for that was a crime from the beginning.

The source of every crime is some Ÿdefect of the understanding, or some Ÿerror in reasoning, or some Ÿsudden force of the passions. ·I shall discuss these in turn·.

ŸDefect in the understanding is ignorance, which is of three sorts: of the law, of the sovereign, and of the penalty. Ignorance of the law of nature excuses no man, because every man that has arrived at the use of reason is supposed to know that he ought not to do to anyone else something that he would not be willing to have done to himself. Therefore, wherever a man comes from, if he does anything contrary to *that* law it is a crime. If a man comes here from India and persuades men here to accept a new religion, or teaches them anything that is likely to get them to disobey the laws of this country, however sure he is of the truth of what he teaches he commits a crime and can justly be punished for it; not only because his doctrine is false, but also because he is doing something that he would not agree to in someone else - someone, that is, who came from *here* to his country and tried to alter the religion *there*. But ignorance of the civil law excuses a man in a foreign country until the law has been declared to him, because no civil law is binding until it has been declared.

Similarly, if the civil law of a man's own country has not been declared well enough for him to be able to know it if he wants to, ignorance ·of the civil law· is a good excuse for an action which breaks that law but not the law of nature; otherwise ignorance of the civil law is not an effective excuse.

Ignorance of the sovereign power in the country where a man ordinarily lives is not an excuse, because he ought to be aware of the power by which he has been protected there.

When the law has been declared, ignorance of the penalty excuses no man; ·here is why·. If a law were not accompanied by fear of a penalty for breaking it, it wouldn't *be* a law, but mere pointless words. ·So when a man breaks the law·, he accepts the penalty, even though he doesn't know what it is; because anyone who voluntarily performs an action accepts all the known consequences of it, and in every commonwealth punishment is a known consequence of the violation of the laws. If the punishment is already determined by the law, the law-breaker is subject to that; if it is not, then is he subject to arbitrary punishment [= 'punishment that is *chosen in this case*' by the relevant authority]. For it is reasonable that someone who does wrong with no other curb than whatever is set by *his own will* should suffer punishment with no other curb that whatever is set by *the will of ·the sovereign*, that is·, him whose law he has violated.

But when a penalty has been assigned to the crime in the law itself, or has usually been inflicted in similar cases, then the delinquent is excused from a greater penalty. For if the foreknown punishment wasn't severe enough to *deter men from* the action, it was *an encouragement to perform* it; because when men compare the benefit ·to them· of their injustice with the harm ·to them· of their punishment, they choose what appears best for themselves - making this choice by the necessity of nature. So when they are punished more than the law had formerly determined, or more than others had been punished for the same crime, it is the law that tempted them and - ·it now turns out· deceived them.

No law that was made after an action was performed can make it a crime; because a *positive law* can't be attended to before it is made, and so it can't be obligatory before it is made. (If the action was a breach of the *law of nature*, the law *was* in force before the action a performed!) But when someone breaks a law that has already been declared, he is liable to the penalty that is ordained *later*, as long as no lesser penalty has been made

known earlier, by writing or by example. The reason for this is the same as for what I said in the preceding paragraph.

Ÿ Error in reasoning is erroneous opinion. This makes men prone to violate the laws in three ways. **First**, by presumption of false principles. For example, men observe:

> how in all countries and at all times, unjust actions have been authorized by the force and the victories of those who have committed them; that powerful men have broken through the cobweb laws of their country; and that the only ones regarded as criminals have been men of the weaker sort and ones who have failed in their enterprises,

and are led by these observations to accept as principles, and as premises for their reasoning, that:

> justice is only an empty word;
> whatever a man can get by his own labour and risk-taking is his own;
> something that all nations do cannot be unjust;
> examples from earlier times are good arguments for doing the same again;

and many more of that kind. If these are accepted, no act can be a crime in itself; for an act to be a crime it would have to be *made* to be one, not by the law but by the outcome of it for those who commit it; and the same act would be virtuous or vicious as fortune pleases, so that what Marius makes a crime Sylla will make meritorious and Caesar will turn back into a crime again, with the law remaining unchanged throughout all this; which would lead to perpetual disturbance of the peace of the commonwealth.

Secondly, by false teachers who either misinterpret the law of nature in a way that makes it conflict with the civil law, or present doctrines of their own or traditions of earlier times that are inconsistent with the duty of a subject, and teach them as *laws*.

Thirdly, by erroneous inferences from true principles. This commonly happens to men who are hasty and precipitate in reaching conclusions and decisions about what to do, such as people who have a high opinion of their own understanding, and believe that things of this nature - ·practical decisions in concrete situations· - don't demand time and study, but only common experience and a good natural intelligence, which everyone thinks he has. (In contrast with that, the ·theoretical· knowledge of right and wrong is no more difficult ·than practical knowledge of what to do in concrete situations·, yet no man will claim to have it without great and long study!) None of those defects in reasoning can *excuse* (though some may *extenuate*) a crime by any man who claims to be managing his own affairs, much less by one who undertakes a public charge; because ·in claiming to *manage* something· they claim to have reason, and cannot base an excuse on their ·supposed· lack of it.

[The Latin version, in place of the foregoing paragraph, has the following very different one:

Thirdly, crimes are born from bad reason (though from true principles) when those who think rightly about the doctrines of the faith use violence against those who think differently, on the pretext that they - the latter - are in error, calling their own violence 'zeal for God'. I would like to challenge one of these men as follows:

> 'They err, granted. But what is that to you?'
> 'They corrupt the people.'
> 'What is that to you? The well-being of the people is committed not to you but to the king.'

‘But it concerns me as a subject of the king.’

‘Teach, then.’

‘I do teach, but with no result.’

‘Then you have done your duty; stop teaching and make an accusation, for whatever further violence you do is a crime.’

The English version now resumes.]

ŸOne of the passions that most frequently cause crime is vainglory, a foolish overrating of one’s own worth; as though *worth* were an effect of intelligence or wealth or lineage or some other natural quality not depending on the will of those who have the sovereign authority! From vainglory comes a presumption that the punishments set by the laws and extended generally to all subjects ought not to be inflicted on them - ·the vainglorious ones· - as rigorously as they are on poor, obscure, and simple men.

And so it comes about, often, that people who value themselves on the basis of how wealthy they are embark on crimes, hoping to escape punishment by corrupting public justice or obtaining pardon by money or other rewards.

And those who have many powerful relatives, and popular men who have gained a reputation amongst the multitude, are encouraged to violate the laws by their hope of overcoming, by sheer weight of numbers, the power whose job it is to enforce them.

And those who have a great (and false!) opinion of their own wisdom take it upon themselves to criticize actions and question the authority of those who govern; they make speeches which unsettle the laws to the point where nothing is to count as a crime unless *their* purposes require it to be so. These same men are apt to commit any crime that involves skill and the deception of their neighbours, because they think their schemes are too subtle to be perceived. These (I repeat) are effects of a false presumption of one’s own wisdom. But of those who *start* the disturbance of commonwealth (which can never happen without a civil war) very few are left alive long enough to see their new plans established; so that the ‘benefit’ of their crimes comes to posterity, and to those who would least have wanted it; which shows that they - ·the instigators of the disturbance· - were not as wise as they thought they were. As for those who ·try to· deceive others in the hope of not being observed: they often deceive ·only· themselves (the darkness in which they believe they lie hidden being nothing but their own blindness), and are no wiser than children who think they can hide everything by closing their own eyes.

Vainglorious men (unless they are also timid) are all subject to anger, because they are more likely than other people are to interpret ordinary conversational freedom as disrespect; and there are few crimes that can’t be produced by anger.

As for the passions of Ÿhate, Ÿlust, Ÿambition and covetousness, what crimes they are apt to produce is so obvious to every man’s experience and understanding that I needn’t say anything about them, except this: Those passions are infirmities that are so firmly tied to the nature of man and of all other living creatures that their ·criminal· effects can’t be hindered except by an extraordinary use of reason or constant severity in punishing them. For in the things that men Ÿhate, they find a continual and unavoidable annoyance, so that a man’s only alternative to everlasting patience is the removal of the power of whatever it is that annoys him. The former is difficult, and the latter is often impossible without violating some law. ŸAmbition and covetousness are passions that are also perpetually present and pressing, whereas reason is not perpetually present to resist them; so they

have their effects ·in possibly criminal behaviour· as soon as there is some hope of getting away with it. As for Ÿlust: what it lacks in durability it makes up for in violent strength, which suffices to outweigh any fear of punishment, when the punishment is mild or it is not certain to come.

The passion that *least* inclines men to break the laws is *fear*. Indeed, fear is the only thing that *deters* men from breaking the laws when it seems that there is profit or pleasure to be got from breaking them. Some men are exceptions to this - ones with noble natures.

·Although fear often deters from crime·, in many cases it can lead to crime. ·That would not be so if fear were always a justifying excuse, so that an action committed out of fear never counted as a crime; but that is not how things stand·. For not every fear justifies the action it produces. The only kind that does is what we call 'bodily fear' - fear of bodily hurt from which a man cannot see how to escape except by the action ·whose criminal status is in question·. A man is assaulted, fears immediate death, and can't see how to escape except by wounding the man who is assaulting him; if he wounds him fatally, this is no crime, because no man is supposed (at the making of a commonwealth) to have abandoned the defence of his life or limbs in situations where the law can't arrive in time to help him. But to kill a man because from his actions or his threatenings I have evidence that he will kill me when he can *is* a crime, because in this case I have time and means to ask for protection from the sovereign power.

One citizen hears from another words full of insult, which nevertheless are not punishable by any law; and, fearing that unless he avenges himself by arms he will be considered timid, he provokes his enemy to combat and kills him. This is a crime, and is not excused by fear of this kind. Why? Because the commonwealth wills that public words, i.e. laws, count for more with citizens than the words of a private citizen, to whose words it has therefore made no effort to attach a penalty. It holds that those who cannot even tolerate *words* are the most cowardly of all men.

A man may who is afraid of spirits, either through his own superstition or through giving too much credit to other men who tell him of ·their· strange dreams and visions, may be made to believe that spirits will hurt him for doing or omitting various things that the laws says are not to be done or omitted; and such an action or omission is a crime, and is not to be excused by his fear of spirits. For (as I showed in chapter 2) dreams are naturally just the fancies that remain in sleep from the impressions that our senses had taken in when we were awake. ·And some 'visions' are really only dreams·: a man may for some reason not be sure that he has been asleep, so he has had what seem ·to him· to be real visions. So someone who presumes to break the law on the strength of his own or someone else's dream or purported vision, or of any idea of the power of invisible spirits other than ideas permitted by the commonwealth, departs from the law of nature, which is certainly an offence; and he follows the imagery of his own or some other private man's brain, of which he can never know whether it signifies something or nothing, nor whether the other person who reported his own dream was telling the truth or not. If every private man were permitted to do that (as they must be, by the law of nature, if any one is permitted to), no law could be made to hold, and so the commonwealth would be completely dissolved.

From these different sources of crimes it is already clear that the ancient Stoics were wrong in saying that all crimes are of the same allay [= 'are fundamentally the same']. As

well as EXCUSES, by which what seemed to be a crime is proved not to be one after all, there is EXTENUATION, by which what seemed to be a great crime is made to be a lesser one. All crimes equally deserve the name of 'injustice', just as all deviation from a straight line is equally crookedness, as the Stoics rightly observed; but it doesn't follow that all crimes are ***equally*** unjust, any more than that all crooked lines are equally crooked! The Stoics, not seeing this, held it to be as great a crime to kill a hen against the law as to kill one's father.

What totally excuses an action and takes away from it the nature of a crime has to be something which at the same time takes away the obligation of the law. For an act that is performed against the law, if the agent is obliged by the law, just ***is*** a crime.

The lack of means to know the law totally excuses, for a law which a man has no way of learning about is not binding on him. But lack of diligence in enquiring ·into Ÿthe civil law· does not count as a lack of means. ·As for Ÿthe laws of nature·: no man who claims to have reason enough to manage his own affairs can be supposed to lack means to know the laws of nature, because they are known by the reason he claims to have; only children and madmen are excused from offences against the natural law.

Where a man through no fault of is own is a captive of an enemy (or when his means of living is in the power of the enemy), the ·civil· law no longer binds him. He must obey his enemy, or die; and consequently such obedience is not a crime, for no man is forbidden (when the protection of the law fails) to protect himself as best he can.

If the terror of immediate death forces a man to do something against the law, he is totally excused, because no law can oblige a man to abandon his own preservation. Even if such a law were binding, the man could reason thus: 'If I don't do it I shall die right now; if I do it, I shall die later ·through being put to death for this crime·; so by doing it I gain some lengthening of my life'; and nature therefore insists that he act.

When a man lacks food or some other necessity of life, and can't preserve himself in any way except by some illegal act - for example, in a great famine he takes by force or stealth the food which he cannot buy and no-one will give him, or in defence of his life he snatches away another man's sword - he is totally excused, for the reason given in the preceding paragraph.

[One paragraph omitted, concerning acts performed by authority of the sovereign, and ones performed by authority of someone who does not have sovereign power.]

Suppose that the man or assembly that has the sovereign power disclaims some right that is essential to the sovereignty, thereby giving to the subject some liberty inconsistent with the sovereign power, that is to say, inconsistent with the very being of a commonwealth. If the subject exercises such a liberty he Ÿsins, and acts contrary to the duty of a subject. For all subjects ought to know what is and what is not consistent with the right of the commonwealth (because the commonwealth was instituted by the individual subjects, for their own well-being and by the consent of each one); and he ought also to know that this ·newly given· liberty, insofar as it is inconsistent with the sovereignty, was granted only because the one who gave it was ignorant, and didn't see what dangers it posed to the commonwealth. But if the subject, as he proceeds to use that liberty, resists a public minister, that is ·not just a sin but· a Ÿcrime. . . .

Degrees of criminality are measured on different scales: Ÿfirst by the wickedness of ·the frame of mind that was· the source or cause of the act; Ÿsecondly by the how likely it

is to set a bad example; Ÿthirdly by how bad its consequences were; and Ÿfourthly by various facts about times, places, and persons that are somehow involved in the crime.

Ÿ·First·: The same illegal act is a greater crime if it comes from the criminal's thinking his strength, riches, or friends are strong enough to resist the officers of the law than if it comes from a ·mere· hope of not being discovered or of escaping by flight. For the presumption of *impunity through force* is a root from which grows - at all times and with all temptations - a disregard for all laws, whereas in the latter case the apprehension of danger that makes a man flee also makes him more obedient in the future.

An action which the person knows to be a crime is a greater crime than the same act coming from a false conviction that it is lawful; for he who commits it against his own conscience is relying on his force, or some other power, which encourages him to commit the same crime again; but he who commits it in error will, once the error has been shown to him, be obedient to the law.

Someone whose error comes from the authority of a publicly authorized teacher or interpreter of the law is not as much at fault as someone whose error comes from an obstinate pursuit of *his own* principles and reasoning. For ·on one hand· anything that is taught by a publicly authorized teacher is ·really· taught by the commonwealth itself, and is something like a law until the same authority finds fault with it; and any crime that doesn't contain within it a denial of the sovereign power, and isn't against an evident law, is totally excused by coming from such a source. Whereas ·on the other hand· someone who bases his actions on his own private judgment ought to stand or fall according to whether the actions are right or wrong.

An act of a kind that has been constantly punished in other men is a greater crime than it would be if many previous offenders had escaped punishment. For those examples are hopes of impunity that the sovereign himself has given; and because he who encourages a man to offend by giving him a hope and a presumption of mercy has a part in the offence himself, so he cannot reasonably charge the offender with the whole of it.

A crime arising from a sudden passion is not so great as when it arises from long meditation; for in the former case the common infirmity of human nature provides a basis for extenuation; whereas he who acts with premeditation has used circumspection, and looked at the law, the punishment, and the consequences for human society of his crime, and in going ahead with it he has belittled all this and made it secondary to his own appetite. Still, no suddenness of passion suffices for a total excuse; for all the time between the man's first learning the law and his commission of the crime should be regarded as time for deliberation, because he ought to be continually engaged in correcting the lawlessness of his passions through meditation on the law

Where the law is publicly and assiduously read and interpreted to all the people, an act that breaks it is a greater crime than it would be if men were left without such instruction and had to take time out from their ordinary lives to *investigate* the law, putting in hard work with uncertain results, and getting their information about the law from people with no official standing; for in this latter case part of the fault can be attributed to ordinary human limits, but in the former case there is evident negligence, which involves a disrespectful attitude to the sovereign power.

Acts that Ÿthe law explicitly condemns but the lawmaker tacitly approves (as shown by other clear signs of his will) are lesser crimes than those same acts would be if they

were Ÿcondemned by both the law and lawmaker. For the will of the law-maker is itself a law, so in this case two contradictory laws have shown up; and that would *totally* excuse the act if men were obliged to attend to the sovereign's approvals as shown by evidence other than his explicit commands. ·All they are ***obliged*** to attend to, however, are the explicit commands, so they are not totally excusable if they flout a command and instead follow the sovereign's will as shown in some other way·. But because punishments can flow not only from breaking this sovereign's law but also - ·as I shall show in a moment· - from observing it, ***he*** is a partial cause of the crime and therefore cannot reasonably blame the whole crime on the criminal. For example, Ÿthe law condemns duels, and makes duelling an offence punishable by death; on the other hand, Ÿsomeone who refuses a duel ·to which he has been challenged· is exposed to contempt and scorn for which he has no ·legal· remedy, and in some cases will be thought by the sovereign himself to be unworthy to have any command or promotion in war. Now, all men lawfully try to obtain the good opinion of those who have the sovereign power; so if someone accepts the challenge to a duel, it is not reasonable that he should be rigorously punished, seeing that part of the fault can be laid at the door of the punisher. I say this not Ÿbecause I support liberty of private revenges or any other kind of disobedience, Ÿin order to urge governors not to allow in an indirect way anything that they directly forbid. The examples that princes set, for those who see them, do and always did have more power to govern people's actions than the laws themselves. And although it is our duty to Ÿ*do what they say, not what they do*, that duty won't ever be performed until it pleases God to enable men to follow Ÿthat precept through extraordinary and supernatural grace.

·ŸThe third of the four bases I mentioned for measuring the severity of a crime involved· comparing crimes by the amount of harm they cause. A criminal act that does damage to many people is a worse crime than it would have been if it had hurt only a few. ·And one aspect of this brings in Ÿthe second of the four bases, because one way of doing harm is by setting a bad example. Thus·, if an action does harm not only in the present but also (by the example it sets) in the future, it is a greater crime than it would have been if it had done harm only in the present. That is because the former, is a ***fertile*** crime, and multiplies to bring hurt to many, whereas the latter is ***barren***.

To maintain doctrines contrary to the religion established in the commonwealth is a greater fault in an authorized preacher than it is in a private person; and the same applies to living profanely or licentiously, or performing any irreligious act. Likewise, maintaining an opinion or performing an act that tends to weaken of the sovereign power is a greater crime in a professional lawyer than in another man. Also, an act against the law is a greater crime in Ÿa man who has such a reputation for wisdom that his advice is taken or his actions imitated by many people than it would be in Ÿanyone else. For the former not only commits crime but teaches it as law to everyone else. And generally all crimes are made greater by the scandal they give, that is to say, by becoming stumbling-blocks to weaker people who attend less to the path they are walking along than to the light that other men carry before them.

Also acts of hostility against the present state of the commonwealth are greater crimes than the same acts performed against private men, because ·in the former case· the damage extends itself to all. Examples would be betraying the strengths or revealing of the secrets of the commonwealth to an enemy, also all attempts [here = 'attacks'] on the

representative of the commonwealth (whether it be a monarch or an assembly), and all attempts by word or deed to lessen the authority of the sovereign (whether the present sovereign or his successors). . . .

Similarly, crimes that subvert legal judgments are greater crimes than wrongs done to one or a few persons. (For example, taking a bribe in return for giving a false judgment or ·false· testimony is a greater crime than getting that much money (or even more) from someone through ·ordinary· deception.) This is because the bribe-taker not only wrongs the person against whom the ·corrupt· judgment is given, but also ·potentially· makes all judgments useless and opens the door to coercion and private revenges.

Also robbery and embezzlement of the public treasure or revenues is a greater crime than robbing or defrauding a private citizen, because to rob the public is to rob many people at once.

Impersonating a public official or counterfeiting public seals or public coins is a worse crime than impersonating a private individual or counterfeiting his seal, because ·in the former case· the fraud reaches out and does damage to many people.

Of acts against the law done to private men, the crime is greater when the damage it does is greater according to the common opinion of men. And therefore:

> To kill against the law is a greater crime than any other injury in which life not taken.
>
> To kill while inflicting pain is greater than simply to kill.
>
> Mutilation of a limb is greater than robbing a man of his goods.
>
> Robbing a man of his goods by terror of death or wounds is greater than by clandestine theft.
>
> Clandestine theft is greater than theft through consent that was fraudulently obtained.
>
> The violation of chastity by force is greater than violation by flattery.
>
> Violation of a married woman is greater than that of a woman not married.

For all these things are commonly valued in that way. Men will vary in the strength of their feelings about any given offence; but the law attends to the general inclination of mankind and ignores individual variations.

That is why the laws of the Greeks and Romans, and other ancient and modern commonwealths, have paid no attention to the offence that men take from being insulted (in words or gestures), when they do no harm beyond the present grief [= ‘anger’, ‘unhappiness’ or the like] of the person who is insulted. It has been supposed that the true cause of such grief consists not in Ÿthe insult (which gets no grip on men who are conscious of their own virtue) but in Ÿthe small-mindedness of the person who is offended by it.

Ÿ·Fourthly·, a crime against a private man can be made much worse by the person, time, and place. To kill one’s parent is a greater crime than to kill someone else; for the parent ought to have the honour of a sovereign (though he has surrendered his power to the civil law), because he originally had sovereign power by nature. And to rob a poor man is a greater crime than to rob a rich one, because the poor man suffers more from the loss.

And a crime committed at a time or in a place set aside for devotion is greater than if committed at another time or place; for it proceeds from a greater disregard for the law and for divine worship.

Many other bases for aggravation and extenuation could be added, but the ones I have set down suffice to make it obvious to everyone ·how· to estimate the depth of any other proposed crime.

A final point: in most crimes, some private men are wronged and so also is the commonwealth. A single crime may be called 'a public crime' when the accusation is in the name of the commonwealth, and 'a private crime' when the accusation is in the name of a private man. . . .

Chapter 28. Punishments and rewards

A PUNISHMENT is an evil inflicted by public authority on someone who has done something that the public authority judges to be a breach of the law, inflicted for the purpose of making the will of men more disposed to obedience.

Before I infer anything from this definition, a very important question has to be answered: Through what door did the right or authority to *punish* come in? From what I have said, no man is supposed to be bound by covenant not to resist violence; so no-one can be taken to have given anyone else the right to lay violent hands on his person. In the making of a commonwealth, every man gives away the right to defend *others* but not the right to defend *himself*. Also each man obliges himself to help the sovereign to punish others but not to punish himself. But Ÿto covenant to help the sovereign to hurt someone else is not Ÿto *give him a right* to punish, unless the person who makes the covenants has, himself, a right to hurt others. So it is plain that the right that the commonwealth has to punish is not grounded on any concession or gift of the subjects.

But I showed in chapter 14 that before the commonwealth is established every man has a right to everything, and to do whatever he thinks necessary for his own preservation - subduing, hurting, or killing any man for that purpose. And *this* is the foundation of that right of punishing which is exercised in every commonwealth. For the subjects did not Ÿgive the sovereign that right; all they did in laying down their right to hurt others was to Ÿstrengthen the sovereign to use his own ·right - the right that he had *already*· - in ways that he thinks fit for the preservation of them all. So the right to punish was not *given* to him; he (and he alone) was *left* with it. And, except for the limits set by natural law, he has retained it in its entirety, just as he had it in the raw condition of nature and of war of everyone against his neighbour. ·That completes my answer to the important preliminary question·.

From the definition of *punishment* I infer **first** that neither private revenges nor harms done by private men can properly be called 'punishment', because they don't come from public authority.

Secondly, that being neglected and given no kind of preference by the public authorities is not a punishment, because it merely leaves a man in the state he was in before - it doesn't inflict any new evil upon him.

Thirdly, that if the public authority inflicts an evil on a man without a prior public condemnation, that is not to be called 'punishment'. It is merely a *hostile act*, because the action for which a man is *punished* ought first to be judged by the public authority to be a breach of the law.

Fourthly, that when evil is inflicted on someone by usurped power and by judges who have no authority from the sovereign, that is not punishment, but an act of hostility;

because the acts of usurped power do not have the condemned person as an author, so they are not acts of the public authority.

Fifthly, that evil inflicted on someone without an intention or a possibility of making him or (through this example) other men more inclined to obey the laws is not punishment but an act of hostility; because the term 'punishment' applies only to hurt done with that purpose.

Sixthly, some ·bad· actions are naturally followed by various consequences that are hurtful to the person himself, as when a man is killed or wounded in the course of assaulting someone else, or when he falls ill through the performance of some unlawful act. These hurts can be said to be divine punishment, because they are inflicted by God, the author of nature; but they don't fall under the scope of 'punishment', understood as a human procedure, because it is not inflicted by the authority of man.

Seventhly, if the harm inflicted is less than the benefit or contentment that naturally follows ·for the criminal· from the crime committed, that harm does not fall within the definition ·of 'punishment·, and is rather the price or the *fee* for committing the crime. That is because it is of the nature of punishment to have the purpose of disposing of men to obey the law; and if the 'punishment' is outweighed by the benefit of the crime, that purpose is not achieved - quite the contrary, indeed.

Eighthly, if a punishment is settled and prescribed in the law itself, and after a crime is committed a greater punishment is inflicted, the extra part is not punishment but an act of hostility. For seeing that the purpose of punishment is not revenge but ·deterrent· terror, and the terror of a great unknown punishment is taken away by the declaration of a lesser one, the unexpected extra is not part of the punishment. But when no punishment at all has been settled by the law, whatever is inflicted does have the nature of punishment. For someone who sets out to break a law for which no penalty has been set expects ·that if he is caught he will receive· an indeterminate punishment, that is to say, a punishment devised for his particular case.

Ninthly, harm inflicted for an act performed before there was a law forbidding it is not punishment but an act of hostility; for punishment presupposes an act that is judged to have been a breach of the law, and there cannot be a breach of a law that doesn't yet exist.

Tenthly, hurt inflicted on the representative of the commonwealth is not punishment but an act of hostility; because it is of the nature of punishment to be inflicted by public authority, which is the authority of the representative itself.

Finally, harm inflicted on declared enemies ·of the commonwealth· is not describable as 'punishment'. Either Ÿthey were never subject to the law, and therefore cannot break it, or Ÿthey have been subject to it but claim to be so no more, and therefore deny that they can break it; so all the harms that can be done to them must be taken as acts of hostility. But when hostility has been declared, all infliction of evil is lawful. So if a subject by actions or words knowingly and deliberately denies the authority of the representative of the commonwealth he may lawfully be made to suffer whatever the representative chooses to inflict, whatever penalty has been officially set for treason. For in denying that he is a subject he ·implicitly· denies ·that he is liable for· the punishment ordained by the law, and therefore he suffers as an enemy of the commonwealth, that is, he suffers whatever the representative chooses that he suffer. For the punishments set down in the law are for *subjects*, not for *enemies* such as those who, having become subjects by their own act, then deliberately revolted and denied the sovereign power.

The first and most general division of punishments is into *divine* and *human*. It will be more convenient to discuss the former later on [in chapter 31 and two later chapters that are not included in the present text].

Human punishments are those that are inflicted at the command of man, and are either *corporal*, or *pecuniary*, or *disgrace*, or *imprisonment*, or *exile*, or a mixture of these.

Corporal punishment is the kind ·of harm· that is, and is intended to be, inflicted on the body directly - for example stripes ·left by a lash·, or wounds, or deprivation of such pleasures of the body as had previously been lawfully enjoyed.

Some corporal punishments are capital, some less than capital. *Capital* punishment is the infliction of death - either done simply or accompanied by pain. *Less than capital* punishment includes stripes, wounds, chains, and any other corporal pain that is not in its own nature fatal. ·I say 'not *in its own nature* fatal' because· if a punishment causes the man's death but this was not intended by the inflictor, the punishment doesn't count as 'capital'; though the harm turned out to be fatal, but that was by an unforeseen accident. In such a case, death is not *inflicted* but *hastened*.

Pecuniary punishment may consist in depriving a man of Ÿa sum of money, but the deprivation may instead be of Ÿland or any other goods that are usually bought and sold for money. If the law ordaining such a punishment was established *in order to* get money from those who break that law, it is not really a punishment, but rather the price of privilege and exemption from the law. For the law doesn't absolutely forbid the act, but forbids it only to those who aren't able to pay the money. . . . Similarly, if the law requires that a sum of money be paid to someone who has been wronged, this is merely a satisfaction for the wrong that has been done to him; it extinguishes his complaint, but not the offender's crime.

Disgrace is the infliction of some evil that is made dishonourable by the commonwealth, or the deprivation of some good that is made honourable by it. Some things are Ÿhonourable by nature, such as the effects of courage, magnanimity, strength, wisdom, and other abilities of body and mind; others are Ÿmade honourable by the commonwealth, such as badges, titles, offices, or any other special mark of the sovereign's favour. Although Ÿthe former may fail by nature or by accident, they cannot be taken away by a law, so the loss of them is not punishment. But Ÿthe latter can be taken away by the public authority that *made* them honourable, and ·losses of them· are properly punishments; for example, stripping convicted men of their badges, titles, and offices, or declaring them ineligible for such honours in the future.

Imprisonment is when a man is deprived of liberty by the public authority, and it may happen for either of two different purposes: one is Ÿto keep an accused man in custody, the other is Ÿthe infliction of pain on a condemned man. ŸThe former is not punishment, because no man is supposed to be punished before being judicially heard and declared guilty. So any hurt that a man is made to suffer by bonds or restraint before his trial, over and above what is necessary to assure that he remains in custody, is against the law of nature. But Ÿthe latter *is* punishment, because it is an evil inflicted by the public authority for something that that same authority has judged to be a breach of the law. Under this word 'imprisonment' I bring all *restraint of motion caused by an external obstacle*. The obstacle might be a building (which is called by the general name 'prison'), or an island (to which men are said to be 'confined'), or a place where men are set to work (quarries in ancient times, galleys these days), or a chain, or any other such impediment.

Exile (banishment) is when a man, because of a crime he has committed, is condemned to leave the territory of the commonwealth, or to keep out of a certain part of it, and - for a fixed time or for ever - not to return to it. Considered just in itself, this seems not to be a punishment but rather an escape or a public command to avoid punishment by flight! Cicero says that such a punishment was never ordained in the city of Rome, and he calls it ·not a punishment but· a refuge for men in danger. For if a banished man is permitted still to enjoy his goods and the income from his lands, the mere change of air is no punishment! Nor does it tend to the benefit of the commonwealth for which all punishments are ordained, namely, shaping men's wills to obedience to the law; indeed it often tends to *damage* the commonwealth ·by adding to the number of its enemies·. For a banished man is a lawful enemy [Hobbes's phrase] of the commonwealth that banished him, being no longer a member of it. If along with banishment he is deprived of his lands or goods, ·that is a real punishment, but· then the punishment lies not in the exile but ·in the loss of material, and· should be counted as a pecuniary punishment.

All punishments of innocent subjects, great or small, are against the law of nature. For punishment is only for breaking the law, so there can be no punishment of the innocent. It is therefore a violation ·of three laws of nature, all presented in chapter 15·. ŸFirst, the law of nature forbidding men, in their revenges, to look at anything but some future good; for no good can come to the commonwealth from punishing the innocent. ŸSecondly, the law forbidding ingratitude; for . . . . the punishment of the innocent is repaying good with evil. ŸThirdly, the law that commands equity, that is to say, an equal distribution of justice, which in punishing the innocent is not observed.

But the infliction of any evil whatsoever on an innocent man who is not a subject, if it is for the benefit of the commonwealth and doesn't violate any former covenant, is no breach of the law of nature. For all men who are not subjects either are enemies or else they have stopped being enemies through previous covenants. And against *enemies* who the commonwealth thinks could do harm to it, it is lawful by the basic right of nature to make war; and in war the sword makes no judgments, and the winner does not distinguish the guilty from the innocent (as regards the past) or consider mercy on any basis except what conduces to the good of his own people (·in the future·).

This is why vengeance is lawfully extended not only to subjects who deliberately deny the authority of the established commonwealth but also to their fathers and to their descendants to the third and fourth generation, even though these don't yet exist and are consequently innocent of the ·rebellious· act for which they are afflicted. It is because rebellion consists in the renouncing of the role of subject, which is a relapse into the condition of war; and those who offend in that way suffer not as subjects but as enemies. For rebellion is simply renewed war.

Rewards are ·of two kinds·: either of gift or by contract. Reward by contract is called 'salary' and 'wages', which is benefit due for services performed or promised. Reward of gift is benefit that comes from the grace of those who give it, to encourage or enable men to do them service. For although all subjects are obliged to quit their private business to serve the commonwealth, even without wages, if there is need, this is not ·an obligation imposed· by the law of nature or by the institution of the commonwealth, unless the commonwealth cannot be otherwise defended. For it is supposed that the sovereign can fairly use the resources of all subjects, and that from these resources those who defend the

commonwealth, having set aside their own affairs, ought to be compensated, so that the lowest of soldiers can demand the wages of his service as a thing owed by right.

If a sovereign bestows benefits on a subject out of fear of his harming the commonwealth, these are not properly *rewards*; for they are not Ÿsalaries, because in this case no contract is involved, every man being obliged already not to harm the commonwealth; nor are they Ÿgraces, ·i.e. rewards of gift·, because they are extorted by fear; . . . rather they are Ÿsacrifices, which the sovereign (considered in his natural person, and not in the person of the commonwealth) makes to appease the discontent of someone he thinks to be more powerful than himself. Such sacrifices don't encourage subjects to be obedient; on the contrary, they encourage the continuance and increasing of extortion.

[A paragraph about two different kinds of salary for public service is omitted from this text, except for its final sentence.] And that is all I need to say about the nature of punishment and reward, which are, as it were, the nerves and tendons that move the limbs and joints of a commonwealth.

Up to here I have set forth the nature of man, whose pride and other passions have compelled him to submit himself to government, together with the great power of his governor, whom I compared to *Leviathan*. I take that comparison from *Job* 41:33-4 where God, having described the great power of Leviathan, calls him King of the Proud. He says: 'There is nothing on earth to be compared with him. He is made so as not to be afraid. He sees every high thing below him, and is king of all the children of pride.' But because he is Ÿmortal and subject to decay as all other earthly creatures are, and because Ÿthere is in heaven (though not on earth) someone he should stand in fear of and whose laws he ought to obey, I shall now speak of ŸLeviathan's diseases and the causes of his mortality (chapter 29), and of Ÿwhat laws of nature he is bound to obey (chapter 30).

Chapter 29. Things that weaken or tend to the dissolution of a commonwealth

Nothing made by mortals can be immortal. Still, if men had the use of reason that they claim to have, their commonwealths could at least be safe from perishing by internal diseases. For by the nature of how they are established they are *designed* to live as long as mankind, or as long as the laws of nature or as justice itself - which is what gives them life. So when they come to be dissolved, not by external violence but from internal disorder, the fault lies with men - not men as what the commonwealth is *made of* but rather men as *makers* of the commonwealth. ·What brings a commonwealth into existence is the state of affairs in which· men at last become tired of unregulated pushing and shoving for priority, and of hacking at one another, and want with all their hearts to fit themselves together into one firm and lasting edifice. But they don't have the skill to make suitable laws by which to square their actions (·as a carpenter has an implement enabling him to square off the end of a board·), nor do they have the humility and patience to allow the rough and protuberant knobs of their present thickness to be removed; so that unless they have the help of a *very* able architect they can't build themselves into anything but a ramshackle building that will hardly last through their lifetimes and will assuredly collapse on the heads of their posterity.

Among the infirmities of a commonwealth, therefore, I count in the first place Ÿthose that arise from imperfect construction at the outset, resembling the **congenital diseases** of a natural body.

Here is one. Sometimes a man wanting to obtain a kingdom settles for less power than is necessarily required for the peace and defence of the commonwealth. From this it comes about that when in the interests of public safety the sovereign takes up the exercise of the power that he previously forwent, this has the appearance of an unjust act, which disposes many men to rebel if they see an opportunity to do so . . . . When kings deny themselves some such necessary power, it is sometimes out of ignorance of what is necessary for the office they undertake. In other cases, though, the king is not ignorant about what he needs, but merely hopes to recover that power whenever he wants to. In this they are not thinking well, because those who will hold them to their promises - ·including promises about how much power they will hold and exercise· - will be supported against them by foreign commonwealths, which for the good of *their* subjects take every opportunity to weaken the condition of their neighbours.

[Hobbes devotes half a page to historical examples: Thomas Becket against King Henry II of England; various rebellions against the democracy of ancient Rome, ending with Julius Caesar's rebellion that finally killed the republic; and an obscure example from ancient Athens. This passage, omitted from the present text, ends thus:] These are kinds of damage that commonwealths can suffer, and of stratagems they can be forced to use, if their power has been limited by even a tiny amount.

In the second place, I observe Ÿthe diseases of a commonwealth that come from the poison of seditious doctrines. One of them is this: *Every private man is a judge of good and evil actions*. This is true in the raw condition of nature where there are no civil laws, and also under civil government in cases that are not covered by the law. But apart from those exceptions it is obvious that the measure of good and evil actions is the civil law, and that the judge ·who applies that measure is· the legislator, who always represents the commonwealth. This false doctrine inclines men to call in question the commands of the commonwealth, trying to decide which of them to obey, and then to proceed either to obey or to disobey on the basis of what in their private judgments they think fit. This distracts and weakens the commonwealth.

A second doctrine that is hostile to civil society says that *Whatever a man does against his conscience is a sin*. This depends on the assumption that the man is to be the judge of good and evil. For a man's conscience *is* his judgment; so just as the judgment can be erroneous so also can the conscience. Therefore, although someone who is not subject to any civil law sins in everything he does against his conscience, because he has no other rule to follow but his own reason, it is not so with someone who lives in a commonwealth because ·for him· the law is the public conscience, and he has already undertaken to be guided by it. . . .

·Thirdly·, it has also been commonly taught that *Faith and holiness are not to be attained by study and reason, but by supernatural inspiration or infusion*. If this were granted, I don't see Ÿwhy anyone should give a *reason* for his faith, or Ÿwhat is to stop every Christian from being a prophet, or Ÿwhy any man should govern his actions by the law of his country rather than his own inspiration. And thus we fall again into the fault of risking the dissolution of all civil government by taking it on ourselves to judge good and evil, or having them judged by private men who claim to be supernaturally inspired. Faith comes through hearing, and hearing comes through those accidents [here = 'events'] that guide us into the presence of those speak to us. These accidents are all contrived by God

Almighty, but they are not supernatural. It's just that they are unobservable, because so many of them co-operate in producing each effect. Faith and holiness are indeed not very common, but they are not Ÿmiracles; they come about through education, discipline, correction, and other Ÿnatural ways by which God produces them in those he has chosen, at such times as he thinks fit.

And these three opinions, threats to peace and government, have in this part of the world come mainly from the tongues and pens of *un*learned religious writers. They join passages from Holy Scripture together in unreasonable ways, trying to convince men that holiness and natural reason cannot stand together.

A fourth opinion that is hostile to the nature of a commonwealth is this: *He who has the sovereign power is subject to the civil laws.* It is true that sovereigns are all subject to the laws of nature, because those laws are divine and cannot be repealed by any man or any commonwealth. But the sovereign is not subject to laws that the commonwealth makes - that is, that *he* makes. For him to be subject to ·civil· laws is for him to be subject to the commonwealth, that is to the sovereign representative, that is to himself; and being 'subject' to himself is not subjection to the laws but freedom from them! Because this error sets the laws above the sovereign, it also sets a judge above him, and a power to punish him; and that is to make a new sovereign, and again for the same reason a third, to punish the second, and so on continually without end, to the confusion and dissolution of the commonwealth.

A fifth doctrine that tends to the dissolution of a commonwealth is that *Every private man has absolute ownership of his goods, excluding the right of the sovereign*. Every man has indeed ownership that excludes the right of every other *subject*; and he gets it from the sovereign power, without the protection of which every other man would have an equal right to those goods. But if the right of the sovereign is also excluded, he can't perform the task they have given him - to defend them from foreign enemies and from one another - and consequently there is no longer a commonwealth. . . .

A sixth doctrine that is plainly and directly contrary to the essence of a commonwealth is this: *The sovereign power may be divided*. Dividing the power of a commonwealth is dissolving it, for divided powers mutually destroy each other.

These ·last three· doctrines come chiefly from some of the professional writers on the law, who try to make the laws depend on their learning rather than on the legislative power.

Men become disposed to alter the settled form ·of government that they have·, not only through false doctrine but also, often, by the example of a different ·form of· government in a neighbouring nation. [Examples are given from the Old Testament and ancient Greece.] And I don't doubt that many men have been contented to see the recent troubles in England, taking what happened in the Netherlands as a reason for thinking that to grow rich all that is needed is to set aside the king, as the Dutch have done; for they attribute to the Dutch change of government the wealth that they really owe to their hard work. For it is in man's nature to want novelty; so when men are provoked to novelty by the nearness of others who ·seem to· have been enriched by it, it is almost impossible for them not to Ÿgive a good hearing to those who urge them to change, and to Ÿlove the first beginnings ·of the change·, though they are grieved by the continuance of disorder, like hot bloods [Hobbes's phrase] who scratch their itches until they can't bear the pain any more.

As for rebellion against monarchy in particular, one of the most frequent causes of it is the reading of the books on government and histories of the ancient Greeks and Romans by young men, and others who like them are not provided with the antidote of solid reason. These readers get a strong and delightful impression of the great exploits of war achieved by the generals of the Greek and Roman armies; and along with that they receive a pleasing idea of everything else that the ancients did, and imagine that their great prosperity came from the virtue of their democratic form of government (whereas really it came from the competitive energies of particular men). In this they overlook the frequent seditions and civil wars produced by the imperfection of the political system ·of Athens and republican Rome, which they admire so much·. From reading such books men have undertaken to kill their kings, because the Greek and Latin writers in their books and discourses on government make it lawful and praiseworthy for any man to do so - provided that before he does it he calls the king a 'tyrant'! For they don't say that regicide (killing a king) is lawful, but that tyrannicide (killing a tyrant) is lawful. From the same books, those who live under a monarch get the idea that the subjects in a democratic commonwealth enjoy liberty, while in a monarchy they are all slaves. I say this about people living under a monarchy; those who live under a democratic government have no such opinion!

In brief, I can't imagine how anything can be more prejudicial to a monarchy than officially allowing such books to be read, without having discreet masters who immediately apply correctives that can take away the books' venom. I don't hesitate to compare that venom with the biting of a mad dog, which is a disease the physicians call *hydrophobia*, or *fear of water*. Someone who has been bitten by a mad dog is constantly tormented by thirst, and yet hates water, and is in such a state that one might think the poison was trying to turn him into a dog; and similarly when a monarchy is bitten down into the flesh by those democratic writers who continually snarl at monarchy, all that is needed is a strong monarch; but when they have one they hate him, out of a certain *tyrannophobia* or *fear of being strongly governed*.

Some learned men have held that there are three souls in a man; and some hold that a commonwealth also has more than one soul, that is, more that one sovereign. They oppose

a supreme power against the sovereignty,
canons ·of the church· against ·civil· laws, and
a ghostly authority against the civil ·authority·.

[Hobbes uses 'ghostly' as a sarcastic way of saying 'spiritual'.] In so doing, they work on men's minds with words and distinctions that don't in themselves mean anything, but by their obscurity convey the idea that another kingdom which some think is invisible - a kingdom of fairies, so to speak - stalks through the darkness.

Now, it is obvious that the civil power is the same thing as the power of the commonwealth; and that supremacy, and the power of making canons and granting faculties, implies a commonwealth; so it follows that

where one is sovereign, another supreme,
where one can make laws, and another make canons,

there must be two commonwealths of a single group of subjects, which is a kingdom divided in itself, and cannot stand. The distinction between *temporal* and *ghostly* is ·almost· meaningless, but they are nevertheless two kingdoms, bringing every subject

under two masters. The ghostly power, in claiming the right to declare what is *sin*, implicitly claims ·the right to· declare what is *law* (sin being nothing but the breaking of the law); but the civil power also claims ·the right· to declare what is law; so every subject must obey two masters, both wanting their commands to be observed as law, which is impossible. . . .

So when these two powers oppose one another, the commonwealth is bound to be in great danger of civil war and dissolution. For Ÿthe civil authority, being more visible ·than its rival· and standing in the clearer light of natural reason, is sure always to draw to its side a very considerable part of the people; and Ÿthe spiritual ·'authority'·, though it stands in the darkness of school distinctions and hard words, will have enough adherents to trouble a commonwealth and sometimes to destroy it, because the fear of darkness and ghosts is greater than other fears. This is a Ÿdisease ·of the commonwealth· that can appropriately be compared to a **Ÿdisease** of the natural body, namely epilepsy, or falling sickness, which the Jews took to be one kind of possession by spirits. ·Let us compare them·. In Ÿepilepsy there is an unnatural spirit or wind in the head that obstructs the roots of the nerves, and by moving them violently takes away the motion they would naturally have from the power of the soul in the brain, and thereby causes violent and irregular motions ('convulsions') in the rest of the body, so that the victim of the disease falls down sometimes into water and sometimes into fire, like a man deprived of his senses. With Ÿthe disease of the body politic, when the spiritual power moves the members of a commonwealth by the fear of punishments and hope of rewards (which are the nerves of it) otherwise than ·they would be moved· by the civil power (which is the soul of the commonwealth), and by strange and hard words suffocates their understanding, it is certain to distract the people and either drown the commonwealth in oppression or cast it into the fire of a civil war.

Sometimes there is more than one soul within the purely civil government, as when the power of taxation (which is the nutritive faculty) has depended Ÿon a general assembly, the power of conduct and command (which is the faculty of movement) Ÿon one man, and the power of making laws (which is the rational faculty) Ÿon the consent - when it can be obtained - not only of those two ·authorities· but also of a third. This endangers the commonwealth, sometimes through lack of consent to good laws but most often through lack of enough nourishment to sustain life and motion. For although few people see that such 'government' is not *government* but rather a division of the commonwealth into three factions . . . . the truth is that it is not one independent commonwealth but three independent factions, and not one representative person but three. In the kingdom of *God* there can be three independent persons without breach of unity in *God* who reigns, but where *men* reign - men with all their diversity of opinions - it cannot be so. If the king bears the person of the people, and the general assembly also bears the person of the people, and another assembly bears the person of a part of the people, they are not one person and one sovereign, but three persons and three sovereigns.

I don't know what disease of the natural body of man is comparable with this disorder in a commonwealth. But I have seen a man that had another man growing out of his side, with his own head, arms, chest, and stomach; if he had another man growing out of his other side, the comparison might then have been exact.

So far I have discussed the diseases of a commonwealth that constitute the greatest and most immediate danger. There are others that are not so great but are still worth noticing. ·I shall describe five of them and then briefly list five more·.

ŸFirst, there is difficulty in raising money for the necessary uses of the commonwealth, especially when war is approaching. This difficulty arises from the belief that each subject *owns* his lands and goods in a way that excludes the sovereign's having any right to the use of them. This leads to situations of the following kind:

> The sovereign power foresees the necessities and dangers of the commonwealth, but finds that the flow of money into the public treasury is blocked by the tenacity of the people; so instead of *extending* itself so as to meet and prevent such dangers in their beginnings, it *contracts* itself for as long as it can. When it can no longer do this, it struggles with the people to get small sums from them by stratagems of law; these sums are not sufficient, so the sovereign power is forced to use violence to open the channels for the supply of money; and being often forced to such extreme measures it eventually brings the people into the state of mind you would expect, ·given such treatment·. If not - ·that is, without the resort to violence· - the commonwealth must perish.

We can aptly compare this disease ·of the commonwealth· to an *ague* [= 'fever'], the course of which runs as follows:

> The fleshy parts of the body become congealed, or obstructed by poisonous matter, so that the veins - which naturally empty themselves into the heart - are not re-filled from the arteries as they ought to be. This is followed by a cold *contraction* and trembling of the limbs; and the heart provides small re-invigorations of things that can be cooled down for a time. After that it makes a hot and strong attempt to force a passage for the blood; until at last it breaks down the resistance of the obstructed parts, and dissipates the poison into sweat. That is what happens if the body's nature is strong enough; if it is not, the patient dies.

Ÿ·Secondly·, a commonwealth sometimes contracts a disease resembling pleurisy. That is when the treasure of the commonwealth flows out of its proper channels and is accumulated in too much abundance in the hands of one or more private men, through monopolies, or through tax-gathering contracts with the sovereign. In the same way in pleurisy, blood gets into the membrane of the chest and creates an inflammation there, accompanied by fever and stabbing pains.

Ÿ·Thirdly·, the popularity of a powerful subject is - unless the commonwealth is well assured of his loyalty - a dangerous disease, because the people, who ought to steer by the authority of the sovereign, are drawn away from their obedience to the laws by the flattery and by the reputation of an ambitious man, following him without knowing anything about his character or his plans. This is commonly a bigger danger in a democratic government than in a monarchy, because *an army* is so powerful and so numerous that it is easy to pretend that they are *the people*. So it was with Julius Caesar: having won for himself the affections of his army, he had himself set up by the people against the senate, thus making himself master of both. This proceeding of popular and ambitious men is plain rebellion, and can be compared to the effects of witchcraft.

A Ÿ·fourth· infirmity of a commonwealth is containing a town that is so immoderately great that it can from its own resources provide the men and the money for a great army;

also containing great number of incorporated towns - ·ones that exist as legally separate entities· - which are as it were lesser commonwealths in the bowels of a greater one, like worms in the entrails of a natural man.

To which may be added, Ÿfifthly·, the freedom to argue back against absolute power, by people who claim to have political insights. They mostly come from the dregs of society, but, driven by false doctrines, they perpetually trouble the commonwealth by meddling with its fundamental laws, like the little ·intestinal· worms that physicians call *ascarides*.

We may further add a commonwealth's *bulimia* or insatiable appetite for enlarging its domain, with the incurable *wounds* that this often leads to its receiving from the enemy; and the *warts* of scattered conquests, which are often a burden, bringing more new dangers than they remove old ones; also the *lethargy* of ·immoderate· ease; and the *wasting disease* of riot and vain expense.

A final point: when in a war the enemies (foreign or internal) get a final victory, so that the forces of the commonwealth leave the field and its subjects can no longer get protection from their loyalty, the commonwealth is DISSOLVED, and every man is free to protect himself by any means that his own discretion suggests to him. For the sovereign is the public soul, giving life and motion to the commonwealth, and when it dies the limbs and organs ·of the commonwealth· are no more governed by it than the carcass of a man is governed by his departed (though immortal) soul. For although *the right of a sovereign monarch* can't be extinguished by the act of someone else, *the obligation of the members* can. Someone in need of protection may seek it anywhere, and when he has it he is obliged to *protect his protection* for as long as he is able, without fraudulently claiming ·that he is free to desert it, because· he submitted himself to it out of fear. But once the power of an assembly has been suppressed, its right perishes utterly, because the assembly itself is dead and so there is no possibility for sovereignty to re-enter.

Chapter 30. The office of the sovereign representative

The office of the sovereign, whether a monarch or an assembly, consists in the purpose for which he was entrusted with the sovereign power, namely to procure *the safety of the people*. He is obliged to do this by the law of nature, and to render an account ·of his exercise of sovereignty· to God, the author of that law, and to no-one else. By 'safety' here I don't mean mere preservation, but also all the contentments of life that each man acquires for himself by lawful work and without danger or damage to the commonwealth.

And it is to be understood that this should be done by a *general* oversight, contained in public instruction through teaching and example, and in the making and applying of good laws, which individual persons can apply to their own situations. cases. The sovereign is not obliged to care for *individuals* except when they formally request protection from harm.

If the essential rights of sovereignty (specified in chapter 18) are taken away, the commonwealth is thereby dissolved and every man returns to the calamitous condition of a war with every other man, which is the greatest evil that can happen in this life. Therefore, it is the office of the sovereign to keep those rights intact; so it is against his duty Ÿto transfer to someone else, or to lay aside, any of them. For if a sovereign agrees to subject himself to the civil laws, and renounces any of these powers:

supreme judicature,
making war or peace by his own authority,
judging what the commonwealth needs,
levying taxes and conscripting soldiers when and as much as in his own conscience he judges necessary,
making officers and ministers both of war and peace,
appointing teachers, and examining what doctrines are and what are not consistent with the defence, peace, and good of the people,

he deserts the means ·to procuring the safety of the people·, and he who deserts the means deserts the ends.

It is also against his duty Ÿto let the people be ignorant or misinformed concerning the grounds and reasons for his having those essential rights, because it is easy for ignorant or misinformed men to be seduced and drawn to resist him at times when the commonwealth requires service from them.

What makes it especially important to teach the grounds of these rights is their being a matter of natural right, not civil right, and a breach of them is not to be Ÿpunished as a violation of civil laws but Ÿavenged as a hostile act. For ·such breaches· involve rebellion, i.e. breaking (or rather repudiating) all the civil laws at once, and for that reason it would be pointless for the civil law to prohibit them.

·In chapter 27· I reported and refuted Ÿan opinion that I have heard expressed, namely that justice is merely a word, without substance, and that whatever a man can acquire for himself by force or skill (not only in the condition of war, but also in a commonwealth) is his own. Here is Ÿanother opinion that some people have:

> That there are no grounds and no principles of reason to sustain the essential rights which make sovereignty absolute. If there were, they would have been discovered *somewhere*, whereas in fact we find that there has never yet been any commonwealth where those rights have been acknowledged or proclaimed.

This is as bad an argument as the savage people of America would be employing if they denied that there are any grounds or principles of reason for building a house that would last as long as the materials of which it is made, because they never yet saw a house as well built as that. Time and hard work produce new knowledge every day. The art of building well is derived from Ÿprinciples of reason established by industrious men who had long studied the nature of materials, and the various effects of figure and proportion, long after mankind's first poor attempts at building. Similarly, long after men began to construct commonwealths - imperfect ones, liable to collapse into disorder - there may be Ÿprinciples of reason waiting to be discovered by hard thought, principles that will make commonwealths everlasting (unless destroyed by external violence). Such principles are what I have presented in this book. Whether or not they will be seen by people who have the power to make use of them, and whether or not they will be neglected by such people ·if they *do* see them·, is not something I care about much at the present time. But even if these ones of mine are not such principles of reason, I am sure they are backed by the authority of Scripture, as I shall show when I shall come to speak of the kingdom of God (administered by Moses) over the Jews, God's special people by covenant [chapter 40, not included here].

But opponents reply that even if the principles are right, common people aren't intelligent enough to be able to understand them. I would be glad if the rich and powerful subjects of a kingdom, or the ones regarded as the most learned, were as intelligent as the common people! But everyone knows that the obstacles to ·learning· this kind of doctrine have less to do with the difficulty of the material than with the wants and needs of the learner. ŸPowerful men can digest hardly anything that threatens to curb their desires, and Ÿlearned men anything that reveals their errors and thus lessens their authority; whereas the common people's minds, unless they are Ÿtainted by dependence on the powerful, or Ÿscribbled over with the opinions of their learned teachers, are like clean paper - fit to receive whatever is imprinted on them by public authority. Whole nations have been brought to accept the great mysteries of Christian religion, which are *above* reason; and millions of men have been made believe that one body can be in countless places at the same time, which is *against* reason; so can it really be the case that men can't, through legally protected teaching and preaching, get the populace to accept something that is so *agreeable to* reason that any unprejudiced man will learn it as soon as he hears it? I conclude therefore that the instruction of the people concerning the essential rights . . . . of sovereignty need not involve any difficulty as long as a sovereign keeps his power intact. If difficulties do arise, that will be the sovereign's fault, or the fault of those whom he trusts in the administration of the commonwealth. So he has a duty to cause the people to be instructed about this; and as well as being his duty it is also for his benefit, giving him security against the danger to himself - in his natural person - from rebellion.

Coming now to details: the people are to be taught, Ÿfirst, that they ought not to be in love with any form of government they see in their neighbour nations more than with their own, or to want to change, whatever present prosperity they see in nations that are governed differently from how theirs is. For the prosperity of a people ruled by an aristocratic or democratic assembly comes not from aristocracy or democracy, but from the obedience and harmony of the subjects; and when the people flourish in a monarchy, it is not because one man has the right to rule them but because they obey him. In any kind of state, if you take away the obedience (and consequently the harmony) of the people, not only will they not flourish but in a short time ·their commonwealth will· be dissolved. Those who disobey the commonwealth in an attempt merely to reform it will find that they are destroying it. . . . This desire for change is like the breach of the first of God's commandments [*Exodus* 20:3], where God says . . . . 'Thou shalt not have the Gods of other nations', and in another place says of kings that they are Gods. [Curley reports that 'in Hobbes's day it was common to assume that God was speaking to kings when he said "Ye are gods" [Psalm 82:6]'.]

ŸSecondly, they are to be taught that they ought not to be led by their admiration for the virtue of any of their fellow subjects, however high he stands and however conspicuously he shines in the commonwealth, nor to be thus led by any assembly except the sovereign assembly. The 'being led' I am talking about involves offering obedience or honour that is appropriate to the sovereign alone, or being influenced in any way that doesn't come from the sovereign authority *through* these people or assemblies . For any conceivable sovereign who loves his people as he ought to will be jealous regarding them, and won't allow them to be seduced from their loyalty ·to him· by the flattery of popular men. They often *have* been ·thus seduced·, not only secretly but openly, proclaiming

marriage with them in the presence of the Church, by preachers and by announcing their allegiance in the open streets - which can fitly be compared to the violation of the second of the ten commandments ['Thou shalt not make thee any graven image . . .' (*Deuteronomy* 5:8)].

ŸThirdly, in consequence of this, the people ought to be told how great a fault it is to speak ill of the sovereign representative (whether one man or an assembly), to challenge or dispute his power, or in any way to use his name irreverently. Any behaviour of these kinds can lead to the sovereign's being disregarded by his people, and to a slackening of their obedience, which is essential to the safety of the commonwealth. This doctrine resembles the third commandment ['Thou shalt not take the name of the Lord thy God in vain . . .' (5:11)].

ŸFourthly, times must be set apart from people's ordinary work for them to listen to those who have been appointed to instruct them in all this. Without such special teaching sessions, people cannot be taught this, nor when it is taught can they remember it, and indeed the next generation won't even know who has the sovereign power. So it is necessary that some such times be fixed, in which the people can come together and (after prayers and praises have been given to God, the sovereign of sovereigns) hear their duties told to them, and hear read and expounded the positive laws that generally concern them all, and be put in mind of the authority that makes them laws. For this purpose the Jews set aside every seventh day as a sabbath, in which the law was read and expounded, and in the solemnity of which they were reminded that their king was God . . . . So that the first tablet of the commandments is entirely spent on setting down the sum of God's absolute power, not only as God but also as king through a special pact with the Jews; and can therefore give light to those who have sovereign power conferred on them by the consent of men, helping them to see what doctrines they ought to teach their subjects.

·ŸFifthly·, because the first instruction of children depends on the care of their parents, it is necessary that they should be obedient to their parents while they are under their tuition, and that afterwards (as gratitude requires) they should acknowledge the benefit of their upbringing by external signs of honour. To this end they are to be taught that each man's father was originally also his sovereign lord, with power of life and death over him; and that when the fathers of families instituted a commonwealth and thereby resigned that absolute power, they never meant to lose the honour due to them for their bringing up of their children. The institution of sovereign power didn't require them to relinquish this right; and there would be no reason why any man should want to have children, or take the care to nourish and instruct them, if he was afterwards to have no more benefit from them than from other men. And this accords with the fifth commandment ['Honour thy father and thy mother . . .' (5:16)].

Ÿ·Sixthly·, every sovereign ought to cause *justice* to be taught, ... that is, to cause men to be taught not to deprive their neighbours through violence or fraud of anything which by the sovereign authority is theirs. Of the things that a man owns, those that are dearest to him are his own life and limbs, and next (in most men) things that concern conjugal affection, and after them riches and means of living. So the people are to be taught to abstain from violence to one another's person by private revenges, from violation of conjugal honour, and from forcible robbery and fraudulent underhanded theft of one another's goods. For this purpose they must also be shown the evil consequences

of false judgment ·in the courts of law· through corruption of judges or witnesses; for this takes away the distinction between *owned* and *not owned*, and justice becomes of no effect. All of these things are intimated in the sixth, seventh, eighth, and ninth commandments [‘Thou shalt not kill, . . . commit adultery, . . . steal, . . . bear false witness against thy neighbour’ (5:17-20)].

Ÿ·Seventhly and· lastly, the people are to be taught that not only unjust *acts* but also *plans and intentions to perform such acts* are unjust, even if for some reason the plans don’t succeed; for injustice consists in the wickedness of the will as well as in the lawlessness of the act. This is the meaning of the tenth commandment [‘Neither shalt thou desire thy neighbour’s wife . . .’ (5:21)]. It rounds out the second tablet, which comes down to this one commandment of mutual charity: *Thou shalt love thy neighbour as thyself*, as the content of the first tablet comes down to *the love of God*, whom the Jews had recently accepted as their king.

As for the means and channels through which the people may receive this instruction: we should look into *how* so many opinions that are contrary to the peace of mankind, and ·based· on weak and false principles, have nevertheless sunk their roots so deeply into the people. I mean the opinions that I specified in chapter 29, such as that men shall judge concerning what is lawful or unlawful not by the law itself but by their own consciences (that is to say, by their own private judgments); that a subject sins if he obeys the commands of the commonwealth without first judging them to be lawful; that own their wealth in such a way that the commonwealth has no claim on it; that it is lawful for subjects to kill people that they call ‘tyrants’; that the sovereign power can be divided; and the like. These come to be instilled into the people by means that I now describe. The greatest part of mankind fall into two groups, each of which is side-tracked from the deep meditation that is needed for learning the truth, not only in matters of natural justice but also of all other sciences. They are Ÿpeople who are kept constantly at work by necessity or greed, and Ÿones who are devoted to sensual pleasures by their excessive wealth or by their laziness. Members of these groups, ·since they don’t think for themselves about these matters·, get their notions of their duty chiefly from preachers in the pulpit, and partly from such of their neighbours or acquaintances as are smooth talkers and seem wiser and better educated in cases of law and conscience than they themselves are. And these preachers and others who make show of learning derive their knowledge from the universities and schools of law, or from published books written by men eminent in those schools and universities. So it is clear that the instruction of the people depends wholly on the correct teaching of youth in the universities.

But (you may say) Ÿaren’t the universities of England learned enough already to do that? Ÿor do you take it upon yourself to teach the universities? Hard questions! ŸYet as to the first, I don’t hesitate to answer ·that they are *not*; and· that till near the end of Henry VIII’s reign, the power of the Pope was always upheld against the power of the commonwealth, principally *by the universities*; and that the doctrines ·in favour of the Pope’s power and· against the sovereign power of the king, maintained by so many preachers and so many lawyers and others who had been educated *in the universities*, is evidence enough that the universities, though not authors of those false doctrines, didn’t know how to plant true ones ·in their place·. For in such a contradiction of opinions it is most certain that they haven’t been sufficiently instructed, and it is no wonder if they still

have a tang of that subtle sauce with which they were first seasoned against the civil authority. ŸAs for the second question, it is not appropriate for me to answer Yes or No; and I don't *need* to answer, for anyone who sees what I am doing can easily see what I think!

It is moreover the duty of the sovereign to provide that punishments which the laws establish for all citizens who have broken them shall be applied equally to all. Crimes against the sovereign, of course, can be pardoned by him without unfairness; for pardoning is a matter for him who has been wronged. But a wrong against a citizen cannot be pardoned by anyone else without that citizen's consent or fair compensation. If someone offers impunity to the murderer of my father or my son, won't he be called in some way a murderer also?

It is the duty of the sovereign also to see that ordinary citizens are not oppressed by the great, and even more that he himself doesn't oppress them on the advice of the great. . . . For the common people are the strongest element of the commonwealth. It is also the sovereign's duty to take care that the great don't by insults provoke those of modest means to hostile action. The sovereign can, of course, rightly reproach a citizen for his baseness, but to reproach someone for having a humble station is unfair and also dangerous to the commonwealth. If the great demand to be honoured for being great and powerful, why aren't the common people to be honoured for being numerous and much more powerful? . . . .

Equal justice includes the equal imposition of taxes. The equality of taxes doesn't depend on equality of wealth, but on the equality of the debt that every man owes to the commonwealth for his defence. It is not enough for a man to work for the maintenance of his life; he must also fight (if need be) to make his ·ability to· work secure. He can do this either as the Jews did in rebuilding the temple after their return from captivity, Ÿbuilding with one hand and holding the sword in the other, or by Ÿhiring others to fight for him. For the taxes that are imposed on the people by the sovereign power are nothing but the wages that are due to those who hold the public sword to defend private men in their exercise of various trades and professions. So the benefit that everyone receives from taxes is the enjoyment of life, which is equally valuable to poor and rich; so the debt that a poor man owes those who defend his life is the same as what a rich man owes for the defence of *his* life; except that a rich man who has poor men in his service may be a debtor for them as well as for himself. In the light of this, we can see that the equality of imposition consists in the equality of what is consumed rather than of the riches of the persons who do the consuming. ·Rich people may often be more heavily taxed that poor ones for the reason I have just given, namely that they have the poor in their service and must stand in for them when taxes are calculated. Nobody should pay more taxes *just* because he is rich·. Compare Ÿsomeone who is rich because he works hard and lives frugally with Ÿsomeone who hasn't much money because he lives idly, earns little, and spends whatever he earns: why should Ÿthe former be charged with more taxes than Ÿthe latter, when he gets no more protection from the commonwealth than the other does? But when taxes are laid upon things that men consume, every man pays equally for what he uses, and the commonwealth is not defrauded by the luxurious waste of private men.

[The next paragraph is given in both the English and Latin versions, the latter adapted from Curley's translation. The contrast is too interesting to pass up.]

English	From the Latin
And whereas many men through unavoidable bad luck become unable to maintain themselves by their labour, they ought not to be left to the charity of private persons, but should be provided for (as far as the necessities of nature require) by the laws of the commonwealth. For just as it is uncharitable for any *man* to neglect the helpless, so it is also for *the sovereign of a commonwealth* to expose them to the chances of such uncertain charity.	And since there are some who through no fault of their own but because of events they couldn't have foreseen fall into misfortunes so that they can't by their own labour provide for their own maintenance, it is the sovereign's duty to see that they don't lack the necessities of life. For since the right of nature permits those who are in extreme necessity to steal the goods of others, or even to take them by force, they ought to be maintained by the commonwealth and not left to the uncertain charity of private citizens lest they be troublesome to the commonwealth.

But for those who have strong bodies, the case is otherwise. They should be forced to work; and to avoid ·their having· the excuse of not finding employment, there ought to be laws encouraging all kinds of trades - such as navigation, agriculture, and fishing - and all kinds of manufacturing that requires labour. If the number of people who are poor but strong continues to grow, they should be transplanted into countries that are not sufficiently inhabited. But they are not to exterminate the people they find there. Rather, they should force them to live closer together, ·thus making room for them (the colonists)·; and they should each work to get enough food in the appropriate season, by skillfully tending a small plot of ground - not ranging far and wide and snatching what food they can find. And when the whole world is overpopulated the last remedy of all is war - which provides for every man, giving him victory or death.

The making of good laws is in the care of the sovereign. But what is a good law? By a 'good law' I don't mean a just law, for no law can be unjust. The law is made by the sovereign power, and everything done by such power is authorized and owned by every one of the people, and no-one can call *unjust* something that every man wants. The laws of a commonwealth are like the laws of gambling in that whatever the gamblers agree on is not unjust to any of them. ·So much for what I *don't* mean by good law'·. A good law is one that is needed for the good of the people, and is also clear.

For the use of laws (which are simply authorized rules) is not to hold people back from all voluntary actions, but to steer them and keep them moving in such a way as not to hurt themselves by their own impetuous desires, rashness, or indiscretion. (Similarly, hedges are planted ·along country roads· not to stop travellers but to keep them on the road.) So a law that isn't needed is not good because it doesn't have the right purpose for a law. One might think that a law might be good if it was for the benefit of the sovereign, even if it wasn't necessary for the people; but that is not so. For the good of the sovereign can't be separated from that of the people. It is a weak

sovereign that has weak subjects, and it is a weak people whose sovereign lacks the power to rule them at his will. Unnecessary laws are not good laws, but traps for money which is superfluous (when the right of sovereign power is acknowledged) or inadequate to defend the people (when it is not acknowledged).

A law's clarity consists not so much in the words of the law itself as in a declaration of the reasons and motives for which it was made. That is what shows us what the legislator intends, and when that intention is known the law is more easily understood by a few words than by many. For all words are liable to ambiguity, so to multiply words in the body of the law is to multiply ambiguities; besides, a long-winded law seems to imply (by the care with which it picks its words) that whoever can evade the *words* can escape the *law*. This is a cause of many unnecessary ·legal· proceedings. For when I consider how short the laws were in ancient times, and how they have gradually grown longer, I think I see a struggle between the penners and the pleaders of the law - ·that is, between legislators and practising lawyers· - with the legislators trying to hem the lawyers in, and the lawyers trying not to be hemmed in; and ·I think I also see· that the lawyers have won. So it is part of the office of a legislator . . . . to make clear the reason why the law was made, and to make the body of the law itself as short, but also as properly worded, as it can be.

It belongs also to the office of the sovereign to make apply punishments and rewards properly. Since the purpose of punishment is not revenge or the expression of anger, but rather correction - either of the offender or of others by his example - the severest punishments should be inflicted for the crimes that are of most danger to the public. Examples are Ÿthose that proceed from malice towards the established government, Ÿthose that spring from disregard for justice, Ÿthose that provoke indignation in the masses, and Ÿthose which if they went unpunished would seem to be authorized, for example ones committed by sons, servants, or favourites of men in authority. For indignation carries men not only against those who *act* unjustly but also against all power that is likely to *protect* them - as in the case of Tarquin, who was driven out of Rome because of an insolent act by one of his sons, and the monarchy itself dissolved.

But crimes of infirmity - such as ones that stem from great provocation, great fear, great need, or ignorance - are often fit subjects for leniency, without prejudice to the commonwealth, whether or not the act is a great crime. And when there is a place for leniency, it is required by the law of nature. When a riotous insurrection occurs, the commonwealth can profit from the example of the punishment of its leaders and teachers, but not of the punishment of the poor seduced people. To be severe to the people is to punish their ignorance, which may be largely laid at the door of the sovereign, whose fault it is that they hadn't been better instructed.

Similarly, it is part of the office and duty of the sovereign always to apply his rewards in such a way as to benefit the commonwealth. That is what they are for; and it is achieved when those who have served the commonwealth well are recompensed with Ÿas little expense as possible from the common treasury, but Ÿwell enough for others to be encouraged to serve the commonwealth as faithfully as they can, and to get the skills that will enable them to serve even better.

To give money or promotion to buy off a popular ambitious subject, getting him to be quiet and to desist from giving the people bad impressions ·of the sovereign·, is not at all a *reward*, for rewards are given for past service, not for ·threats of future· disservice. Nor is it a sign of *gratitude*, but only of fear; and it is likely not to benefit but rather to harm the public. It is a struggle with ambition, like that of Hercules with the monster Hydra, which grew three new heads for every one that Hercules chopped off. For when the stubbornness of one popular man is overcome with a 'reward', that sets an example which leads to many more people setting about the same sort of mischief in the hope of a similar benefit; for malice, like everything else made by men, increases when there is a market for it. And though sometimes a civil war may be delayed in that way, the danger grows ·during the period of the delay·, and the public ruin becomes more assured. So it is against the duty of the sovereign, to whom the public safety has been committed, to reward people who aspire to greatness by disturbing the peace of their country; the sovereign should run a small risk in opposing such men from the outset rather than running a larger risk in confronting them later on.

[In the next paragraph, for the only time in this text, Hobbes's 'counsel' and its cognates are allowed to stand; earlier they have been replaced by 'advise' and its cognates. Two other points: The Latin word *considium* means 'together in session'; and Hobbes is in fact wrong in thinking that *consilium*, the Latin word for 'counsel', comes from *considium*.]

Another business of the sovereign is to choose good counsellors, I mean ones whose advice he is to take in governing the commonwealth. For this word 'counsel', *consilium*, corrupted from *considium*, has a broad meaning, and covers all assemblies of men that sit together not only to deliberate what is to be done in the *future* but also to judge concerning facts about the *past* and laws for the *present*. I take it here only in the first, ·or future-pointing·, sense; and in this sense there is no question of a democracy or an aristocracy choosing counsellors, because ·if they did· the persons counselling would be members of the person counselled. The choosing of counsellors therefore is proper ·only· to monarchy. And if the sovereign performs his duties as he ought to do, he will try to choose those who are the most suitable. They are the ones who have Ÿthe least hope of benefiting from giving bad advice, and Ÿthe most knowledge of the things that conduce to the peace and defence of the commonwealth.

It is hard to know Ÿwho expects benefit from public troubles; but a ·good· sign that can easily be observed by anyone to whom it matters occurs when men whose incomes are not sufficient to cover their accustomed expenses support the people in unreasonable or irremediable grievances.

It is still harder to know Ÿwho has most knowledge of the public affairs; and someone who knows who those people are has so much the less need for them. For *knowing who knows the rules* of almost of any skill is largely a matter of *knowing ·the rules of· that skill* oneself; because no man can be sure of the truth of someone else's rules without first being taught to understand them himself. But the best way of judging someone's knowledge of a skill is by having long conversations with him about it, and observing the effects of ·his advice concerning· it. Good advice doesn't come through chance or through inheritance, and so there is no more reason to expect the rich or

noble to give good advice in matters of state than to expect it from them in planning the dimensions of a fortress. Unless we think that state policy, unlike the geometry ·needed in planning a fortress·, does not need methodical study, and can be mastered simply by watching what happens. But that is not so. For politics is harder than geometry. . . .

However suitable the advisers in some matter are, the benefit of their counsel is greater when each of them gives his advice and the reasons for it in private than when he does this in an assembly, by way of orations. It is also better when he has thought the matter out in advance than when he speaks spontaneously - because Ÿhe has more time, to survey the consequences of ·the· action ·he is recommending·, and because Ÿhe will be less subject to being swept along into contradiction, by envy, emulation, or other passions arising from the difference of opinion.

The best advice in matters that don't concern other nations, but only the ease and benefit the subjects may enjoy through laws that look only inward, comes from the general reports and complaints of the people of each province. They know their own wants best, and therefore ought to be carefully listened to when their demands don't threaten the essential rights of sovereignty. . . .

If a commander-in-chief of an army is not popular, he won't be loved or feared by his army as he ought to be, and so he won't be able to command with good success. So a commander needs to be hard-working, brave, amiable, generous, and lucky, so that he may get a reputation for competence and for loving his soldiers. This is *popularity*: it breeds in the soldiers both a desire to recommend themselves to their general's favour and the courage to do so; and it enables the general to be severe, when he needs to be, in punishing mutinous or negligent soldiers. But unless the commander's fidelity is watched carefully, this love of soldiers is a danger to sovereign power, especially when that is in the hands of an assembly that is not democratic. For the safety of the people, therefore, the sovereign should commit his armies to commanders who are not only good leaders but also faithful subjects.

But when the sovereign himself is popular - that is, revered and beloved by his people - the popularity of a subject poses no threat. For soldiers are never so generally wrong-minded as to side with the commander whom they love against their sovereign, when they love not only the sovereign personally but also his cause. That explains why those who have violently suppressed the power of their lawful sovereign have always, before they could settle themselves into his place, had to devise *entitlements* for themselves, so that the people won't be ashamed of accepting them ·as sovereigns·. To have a 'known' *right* to sovereign power is such a popular quality that someone who has it needs only two more things to turn the hearts of his ·potential· subjects to him: on his side, that the people see that he is able absolutely to govern his own family; on his enemies' side, that their armies disband. For the majority of the most active people have never been well contented with the present.

Concerning the duties of one sovereign to another, which are covered by the so-called 'law of nations', I needn't say anything here, because the law of *nations* and the law of *nature* are the same thing. Every sovereign has the same right in procuring the safety of his people as any individual man can have in procuring the safety of his own body. And the same law that Ÿdictates to *men who have no civil government* what they

ought to do and what to avoid in regard of one another Ÿdictates the same to *commonwealths*. That is, dictates it to the consciences of sovereign princes and sovereign assemblies; for there is no court of natural justice except the conscience, where not man but God reigns . . . .

Chapter 31. The kingdom of God by nature

I have sufficiently proved in what I have already written Ÿthat the raw condition of nature - that is to say, of the absolute liberty that people have who are neither sovereigns nor subjects - is *anarchy* and *the condition of war*; Ÿthat the precepts by which men are guided to avoid that condition are the laws of nature; Ÿthat a commonwealth without sovereign power cannot survive, and is a 'commonwealth' only in name; Ÿthat subjects owe to sovereigns simple obedience except when that would conflict with the laws of God. For a complete knowledge of civil duty all that remains is to know what those laws of God are. For without that, a man who is commanded by the civil power to do something doesn't know whether it would be contrary to the law of God or not; and so either by too much civil obedience he offends the Divine Majesty, or through fear of offending God he disobeys commandments of the commonwealth ·that he ought to obey·. To avoid both these rocks, he needs to know what the divine laws are. And seeing that any knowledge of law depends on knowledge about the sovereign power, I shall say something in this chapter about the KINGDOM OF GOD.

'God is king, let the earth rejoice', says the psalmist [*Psalms* 97:1]. And again, 'God is king though the nations be angry; and he sits between the cherubims, though the earth be moved' [*Psalms* 99:1]. Whether men want it or not, they must be subject always to the divine power. (By denying the existence or providence of God, men don't shake off their yoke; if they shake anything off, it is their ease!) But it is a merely metaphorical use of the word 'kingdom' to apply it to this power of God, which extends itself not only to man, but also to beasts, and plants, and inanimate bodies. For someone is not properly said to *reign* unless he governs his subjects by his word, promising rewards to those who obey it and threatening with punishment those who do not. So inanimate bodies and unthinking creatures are not subjects in the kingdom of God, because they don't understand anything as a precept of his; nor are atheists, or those who don't believe that God has any care for the actions of mankind, because they don't acknowledge any message as his, and have neither hope of his rewards nor fear from his threats. So God's Ÿsubjects are those who believe there is a God who governs the world and has given precepts and propounded rewards and punishments to mankind; all the rest are to be understood as ·his· Ÿenemies.

To rule by words requires that those words be made plainly known, for otherwise they are not laws; because it is of the nature of laws that they are adequately and clearly promulgated, so as to take away the excuse of ignorance. In the case of the laws of men there is only one kind of promulgation, namely *proclamation*, or promulgation by the voice of man. But God declares his laws in three ways: by Ÿthe dictates of natural reason, by Ÿrevelation, and by Ÿthe voice of some man whom God makes credible to the rest by the operation of miracles. And so there is a Ÿtriple word of God -

rational, sensible, and prophetic
- corresponding to Ÿa triple 'hearing' -
right reason, supernatural sensing, and faith.

As for supernatural sensing, which consists in revelation or inspiration, no universal laws have been given in this way, because God speaks in that manner ·not to all mankind· but to individual persons, and says different things to different men.

The difference between the other two kinds of God's word - rational and prophetic - is the basis for attributing to God a twofold kingdom - natural and prophetic. In his Ÿnatural kingdom God governs as many of mankind as acknowledge his providence, doing this by the natural dictates of right reason; and in his Ÿprophetic kingdom, having chosen one special nation (the Jews) as his subjects, he governs them and them alone not only by natural reason but also by positive laws which he gave to them through the mouths of his holy prophets. I intend to speak in this chapter of the Ÿnatural kingdom of God.

The right of nature whereby God reigns over men and punishes those who break his laws does not come from Ÿhis creating them, as though he required them to be obedient in gratitude for his benefit ·in creating them·, but from Ÿhis irresistible power. I showed earlier how the sovereign right arises from a pact; to show how the same right can arise from nature, all I need is to show what is needed for it to be sempiternal - ·that is, never extinguished·. Seeing that all men had by nature a right to all things, each of them had a right to reign over all the rest. But because this right couldn't be implemented by force, the safety of everyone required setting aside that right and by common consent setting up men with sovereign authority to rule and defend them. If one man had irresistible power, however, there would have been no reason why he should not by that power have ruled and defended both himself and everyone else, as he saw fit. Anyone whose power is irresistible, therefore, *naturally* has dominion over all men just because of his excelling in power. So it is because of that power that God's kingdom over men, and his right of afflicting men as he wishes, belongs naturally to him - not as gracious creator, but as *omnipotent*. And though *punishment* is always on account of sin, because 'punishment' means 'affliction for sin', the right of *afflicting* ·men· does not come from men's sin, but from God's power.

The question 'Why do evil men often prosper and good men suffer adversity?' was much disputed by the ancients, and is the same as the question we ask now, 'On what basis does God decide how to distribute prosperities and adversities in this life?'. This is so hard to answer that it has shaken the faith not only of the common people but of philosophers and even of the Saints, concerning divine providence. 'How good' says David 'is the God of Israel to those who are upright in heart, and yet my feet were almost gone, my steps had well-nigh slipped for I was grieved at the wicked when I saw the ungodly in such prosperity' (*Psalms* 73:1-3). And remember how earnestly *Job* expostulates with God for the many afflictions he suffered despite his righteousness.

In the case of Job, God himself answers the question, basing what he has done not on Job's sin but on his own power. Job's friends explained his afflictions by his sins, and he defended himself through his awareness of his innocence. But God himself takes up the matter, and justifies the affliction ·of Job· by arguments drawn from his power,

such as: *Where were you when I laid the foundations of the earth?* (*Job* 38:4) and the like; and goes on to approve Job's innocence and criticise the erroneous doctrine of his friends. This doctrine fits with something our Saviour said regarding the man who was born blind: 'Neither this man nor his parents have sinned; but ·he is blind so· that the works of God might be made manifest in him' (*John* 9:3). And though it is said ·in the Bible· that 'Death entered into the world by sin' (*Romans* 5:12) - which means that if Adam had never sinned he would never have died, that is, never had his soul separated from his body - it doesn't follow that God could not justly have afflicted Adam even if he not sinned, as he afflicts other living creatures that cannot sin.

Having spoken of God's right to sovereignty as grounded only on nature, the next topic is: the content of the divine laws or dictates of natural reason, laws concerning either Ÿthe natural duties of one man to another or Ÿthe honour naturally due ·from us· to our divine Sovereign. ŸThe first are the laws of nature of which I have spoken in chapters 14 and 15 - namely, equity, justice, mercy, humility, and the rest of the moral virtues. So it remains for us only to consider Ÿwhat precepts are dictated to men by their natural reason only, without any other word of God, concerning the honour and worship of the divine majesty.

Honour consists in the inward thought and opinion of the power and goodness of someone else; and therefore to honour God is to think as highly as is possible of his power and goodness. The external signs of that opinion, in words and actions, are called *worship*, which is one part of something that the Latins understand by the word *cultus*. For *cultus* [= 'cultivation'] properly signifies the labour that a man bestows on something with the purpose of getting benefit from it. Now, the things from which we get benefit are either Ÿsubject to us, and the profit they yield is a natural effect of the labour we bestow on them, or they are Ÿnot subject to us and repay our labour ·or not· according to their own wills. In Ÿthe former sense, the labour bestowed on the earth is called ·agri·culture, and the education of children is the culture of their minds. In Ÿthe second sense, where men's wills are to be brought around to our purposes not by ·our· force but by ·their· willingness to please, *cultus* means about the same as 'courting', that is, winning the favour of someone whom we hope for some benefit, by praising him, acknowledging his power, and doing whatever is pleasing to him. That is what *worship* is, properly understood. . . .

From internal honour, consisting in the belief that someone is powerful and good, there arise three passions:

> Ÿlove, which relates to goodness, and Ÿhope and Ÿfear, which relate to power;

and three parts of external worship:

> Ÿpraising the object's goodness, and Ÿmagnifying and Ÿblessing the object's power and the happiness it gives him.

Praise and magnifying can be expressed by words or by actions: by words when we say that a man is good, or great; by actions when we thank him for his generosity and obey his power. The opinion that someone else is happy can be expressed only by words.

Some attributes and some actions are Ÿnaturally signs of honour: *attributes* such as goodness, justice, generosity, and the like; and *actions* such as prayers, thanks, and obedience. Others signs of honour are so Ÿby convention, or custom of men: a single

kind of action can express honour at some times and places, dishonour at others, and neither honour nor dishonour at others again. Examples are the gestures of greeting, prayer, and thanksgiving, which are differently used at different times and places. The former of these is Ÿnatural worship, while the latter is Ÿarbitrary [here = 'conventional'] worship.

Arbitrary worship can be divided into two, in two different ways. ŸFirst, there is *commanded* worship and *voluntary* ·or free· worship: commanded when it is required by him who is worshipped; ·voluntary or· free when it is such as the worshipper thinks fit. When it is commanded, what constitutes the worship is not the words or gesture, but the obedience. But when it is free, the worship consists in the opinion of the spectators; for if the words or actions by which we intend honour seem *to them* to be ridiculous disrespectful, they are not worship because are not signs of honour. Why not? Because a sign is not a sign to him *who gives it* but to him *to whom it is given*, that is, to the spectator.

Ÿ·Secondly·, there is *public* worship and *private* worship. Public is the worship that a commonwealth performs, as one person. . . .

The end [here = 'aim, purpose' or the like] of worship amongst men is *power*. For when a man sees another man worshipped, he takes him to be powerful and is the readier to obey him, which makes his power greater ·still·. But God has no ends; the worship we do him comes from our duty and is conducted, according to our abilities, by the same rules that reason dictates for the honouring by weak men of more powerful ones, in the Ÿhope of benefit, out of Ÿfear of damage, or in Ÿthankfulness for good already received from them.

So that we can know what worship the light of nature teaches us concerning of God, I will begin with his attributes. ŸFirst, it is obvious that we ought to attribute existence to him. For no man can be willing to honour something that he thinks doesn't exist.

ŸSecondly, the philosophers who said the world or the soul of the world is God spoke unworthily of him and denied his existence. For by 'God' is understood 'the cause of the world', and to say the world is God is to say there is no cause of it, i.e. no God.

ŸThirdly, to say the world was not created but eternal is to deny there is a God, because something that is eternal has no cause .

ŸFourthly, those who deny that God cares for mankind (thinking that this attributes greater *ease* to him) take his honour from him, for they take away men's love and fear of him, which is the root of honour.

ŸFifthly, to say that God is *finite* in any respect that signifies greatness and power is not to honour him; for it is not a sign of the wish to honour God to attribute to him less than we can, and finite is less than we can, because to *finite* we can easily add *more*. Therefore to attribute shape to him is not honour, for all shape is finite. Nor to say that we conceive, imagine, or have an idea of him in our mind; for whatever we conceive is finite. Nor to attribute to him parts, or totality, which are the attributes only of finite things. Nor to say that he is in this or that place; for whatever has a place is bounded and finite. Nor that he moves or remains still, for both these attributes ascribe

place to him. Nor that there are more Gods than one, because that implies them all to be finite, for there cannot be more than one infinite.

Nor ·does it honour God· to ascribe to him passions that involve grief (repentance, anger, mercy) or want (appetite, hope, desire), or any passive faculty; for passion is power limited by something else. (It is all right to speak of God *metaphorically* in such ways, attributing to him not the passion but ·some state that would be· the effect ·of that passion in men·.)

So when we ascribe to God a 'will', that is to be understood as referring not to a Ÿrational appetite like the will of man, but rather to the Ÿpower by which God brings about everything.

The same holds for attributions to him of *sight* and other acts of the senses, or of *knowledge* and *understanding*; for these, in us, are nothing but a tumult created in the mind by external things pressing on the organs of a man's body; and there is no such thing in God, to whom nothing can be attributed that depends on natural causes.

If we want to attribute to God nothing but what is warranted by natural reason, we must use either such Ÿnegative attributes as 'infinite', 'eternal' and 'incomprehensible', or Ÿsuperlatives such as 'most high' and 'most great', or Ÿindefinite ·characterizations· such as 'good', 'just', 'holy' and 'creator', meaning these not as statements about *what he is* (for that would be to confine him within the limits of our fancy) but ·as expressions of· how much we admire him and how ready we would be to obey him, which is a sign of humility and of a will to honour him as much as we can. For there is only one name to signify our conception of his nature, and that is 'I AM'; and only one name of his relation to us, and that is 'God', in which is contained Father, King, and Lord.

Concerning the actions of divine worship, it is a most general command of reason that they be signs of the intention to honour God. ŸFirst among these are *prayers*. For when people were thought to *make gods out of images*, it was not the carvers of the images but the people who prayed to them of whom this was thought.

ŸSecondly, *thanksgiving*, which differs from prayer in divine worship only in that prayers precede the benefit and thanks follow it; each having the same purpose, which is to acknowledge God as author of all benefits, past as well as future.

ŸThirdly, *gifts* - that is to say, sacrifices and offerings - are signs of honour if they are of the best ·quality·, for they are thanksgivings.

ŸFourthly, not to swear by anyone but God is naturally a sign of honour; for it is an admission that only God knows the heart, and that no *man's* intelligence or strength can protect a man against God's vengeance on the perjured.

ŸFifthly, it is a part of rational worship to be thoughtfully careful in how you speak of God, for that is evidence of a fear of him, and fear is an acknowledgment of his power. From this it follows that the name of God is not to be used rashly and to no purpose; and it *is* used to no purpose - or 'in vain' - when it is used ·in oaths· other than as ordered by the commonwealth to make judgments certain, or between commonwealths to avoid war.

It also follows that *arguing* about God's nature is contrary to his honour, for that presupposes that in this natural kingdom of God's the only way to know anything is

through natural reason - that is, the principles of natural science, which are so far from teaching us anything of God's nature that they can't even teach us *our own* nature, or that of the smallest living creature. So when men bring the principles of natural reason into a dispute about the attributes of God, they merely dishonour him; for when we make attributions to God, what we should have in mind is not expressing philosophical truth but rather expressing our pious intention to do him the greatest honour we are capable of. It is because men have lost sight of *that* that we have had volumes of disputation about the nature of God - volumes that tend to honour not God but the brilliance and learning of the writers, and are nothing but thoughtless and vain abuses of his sacred name.

ŸSixthly, in prayers, thanksgivings, offerings and sacrifices, it is a dictate of natural reason that each of these should be the best and most honouring of its kind. For example, prayers and thanksgiving should be made in words and phrases that are not impromptu or casual or common, but beautiful and well composed. For otherwise we don't do God as much honour as we can. And therefore the heathens, although it was absurd of them to worship images as gods, were reasonable to do it in verse, and with vocal and instrumental music. Also, it was according to reason, because it came from an intention to honour the god in question, that the beasts they offered in sacrifice, and the gifts they offered, and their actions in worshipping, were all full of submission and commemorative of benefits received.

ŸSeventhly, reason directs us to worship God not only in secret but also (and especially) in public and in the sight of ·other· men; for without that we lose ·any chance of· getting others to honour him - which is the most acceptable part of our own honouring of him.

ŸLastly, the greatest worship of all is obedience to his laws, that is, to the laws of nature. For just as obedience is more acceptable to God than sacrifice, so also to disregard his commandments is the greatest of all insults. That completes my account of the laws of divine worship that natural reason dictates to private men.

But seeing that a commonwealth is just one person, it ought also to exhibit to God just one worship, which it does when it commands worship to be exhibited publicly by private men. That is *public worship*, which by definition has to be uniform; for actions that are performed differently by different men can't be said to be 'public worship'. Therefore, where many sorts of worship are allowed, coming from the different religions of private men, it can't be said that there is any public worship or that the commonwealth has any religion at all.

Because words have their meanings by agreement and convention among men (and that includes ·words that stand for· the attributes of God) the attributions to God that honour him are the ones that men intend to do so; and whatever can be done by the wills of particular men where there is no law but reason can be done by the will of the commonwealth through civil laws; ·so the commonwealth can intend that certain attributions to God shall honour him·. But a commonwealth has no will and makes no laws except by the will of the man or assembly that has the sovereign power; from which it follows that the attributes that the sovereign ordains to be signs of honour in the worship of God ought to be understood and used as such by private men in their public worship.

Not all actions are signs by convention; some are *naturally* signs of honour, others of dishonour; and these latter - the actions that men are ashamed to perform in the sight of someone for whom they have respect - cannot be made by human power a part of divine worship; and the former - such as decent, modest, humble behaviour - cannot by human power be separated from it. But countless actions and gestures are ·naturally· neither honouring or dishonouring; and such of *them* as the commonwealth ordains to be publicly and universally in use as signs of honour and part of God's worship are to be understood and used for such by the subjects. . . .

Having thus briefly spoken of the natural *kingdom* of God and of his natural *laws*, I will add to this chapter only a short account of his natural *punishments*. Every action of a man in this life starts a chain of consequences that is too long for any human foresight to have a high enough viewpoint to see clear down to the end. And in this chain pleasing events are linked together with unpleasing ones in such a way that anyone who does something for his pleasure must be prepared to put up with all the pains that come with it; and these pains are the natural punishments of actions that set in train more harm than good. That is how it comes about that intemperance is naturally punished with diseases, rashness with mischances, injustice with the violence of enemies, pride with ruin, cowardice with oppression and - ·a specially important pair· - negligent government by princes with rebellion, and rebellion with slaughter. For seeing that punishments result from breaking laws, *natural* punishments must result *naturally* from breaking the laws of *nature*, and so they follow such breaches as their natural effects, not ones that someone has *chosen* as punishments.

Concerning the constitution of the commonwealth, the right of the sovereign, and the duties of the citizens, which were to be deduced from the principles of natural reason, I have said all the things I had to say. It is solid and clear, and I think it will please those whose minds are free.

But when I consider Ÿhow different my doctrine is from the practice of most of the world, especially of our western parts that have received their moral learning from Rome and Athens, and Ÿhow much depth of moral philosophy is required in those who administer the sovereign power, I come near to thinking that this work of mine is as useless as the commonwealth of Plato. For he also holds that it is impossible for the disorders of state and change of governments by civil war ever to be taken away until sovereigns become philosophers.

But when I consider again Ÿthat the science of natural justice is the only science necessary for sovereigns and their principal ministers; Ÿthat they needn't be burdened (as they are by Plato) with the mathematical sciences except for establishing good laws to encourage men to study them; and Ÿthat neither Plato nor any other philosopher until now has put into order, and sufficiently or probably proved, all the theorems of moral doctrine from which men can learn how to govern and how to obey; I recover some hope that some day this writing of mine may fall into the hands of a sovereign who will think about it himself (for it is short, and I think clear) without the help of any prejudiced or envious interpreter, and employ his intact sovereignty in protecting the public teaching of it, thus converting this theoretical truth into something practically useful.