

The Commonwealth, Sovereign Power, and the Administration of the State: Part II of *Leviathan*

Chapter XVII begins Part II of *Leviathan* on commonwealth, the political structure created as a result of sovereign authorization. Hobbes defines commonwealth as “One person of whose acts a great multitude, by covenants with another, have made themselves every one the author to the end he may use the strength and means of them all as he shall think expedient for their peace and common defense.” Because following the laws of nature is contrary to our natural passions, it is necessary for those who love “liberty and dominion over others” to restrain themselves. They achieve restraint through fear of punishment for not observing the laws of nature. In short, as Hobbes puts it, covenants “without the sword” are insufficient to secure anyone. Richard Tuck offers an important analysis of the reason people should keep their promises, and specifically why people should keep their promise to give up the right to all things to the sovereign, where relinquishing such right is the action that creates the sovereign. There are conditions (such as in the state of nature) in which it is to the apparent advantage of a person not to keep his previous promise if it turns out to be beneficial in some way not to do so. Tuck notes that in the state of nature, no one could have a reason to keep promises. If one person in the state of nature “keeps his word, then others have no good reason not to keep theirs. They have no good reason, because the only good reasons are those of self-preservation; and someone who has done what he said he would do is not a danger to other people”; there is not much reason for someone to want to be the first to keep a promise in the natural condition because that is the same as exposing oneself to others. But conditions are not the same with respect to the origin of the political state. Tuck continues in claiming that “for most promises it will indeed be true that one is delivering oneself into the hands of an enemy if one performs one’s own side of a bargain before he does: but it is not too clear that this is true of the

promise to regard the sovereign's judgment as one's own. This promise, it must be stressed, is made not to the sovereign but to the other prospective citizens, and one will presumably be no worse off in one's dealings with *them* after keeping one's word, even if the other citizens do not keep theirs, than one would have been in the state of nature."¹

It is not enough, however, simply to authorize the existence of a sovereign and be contented with the notion that this authorization will be sufficient to achieve peace. Hobbes makes it clear that even if there is a sovereign power in place, if the sovereign is not strong enough to guarantee security then everyone returns to the state of war. In addition, while there are people who may believe that they do not need a political sovereign because large families might grow and attempt to weaken and dominate other smaller groups, Hobbes' position is that even this will fail. Hobbes argues that sheer numbers alone won't make a family strong enough to secure itself, and that it is instead the family compared with the power of other individuals or groups against whom they may compete for power. And even with a very large and strong family, these factors are still not enough because the very people who are part of the family may undermine its strength. Each individual determines for himself what to do and how to behave based on individual desires and judgments, in which case the family unit may weaken and cannot be a guarantee of protection against an external enemy—or even sufficient protection against other family members. So it is not enough simply for people in a particular group to say that they will be just and follow the laws of nature. If such proclamations were sufficient to ensure peace, there would be no need for the creation of commonwealth at all.

Perhaps some people believe that if people unite with each other long enough for some specific purpose it will be possible to achieve one's goals or the goals of the group (such as defending themselves against an external invader), but for Hobbes this kind of "unity" is not sufficient for the purpose avoiding the external danger of violence and death. Once the

¹ Richard Tuck, *Hobbes: A Very Short Introduction* (Oxford: Oxford UP, 1989), 78-79.

particular reason for which a temporary group has united has been satisfied, their union no longer exists (since it was for a transient and temporary purpose), and they will again fall into the state of war with each other. The upshot of Hobbes' position is that people are not, as Aristotle would have it, social or political animals.

That we are not naturally social or political animals carries many implications. Hobbes does not claim that human beings start out in some peculiar, asocial condition—he has already indicated in his brief discussion of families that social relationships do exist in the natural condition. Hobbes does argue, however, that there is no natural and shared goal for which each and every human being strives, and this is significantly different from the notion that we are in some simple sense “not social.” We are, instead, not driven toward some overarching goal that swallows up all of us and pulls us along ineluctably to a pre-established end. One interpretation of the Aristotelian notion that human beings are social or political animals is to understand it such that everyone is striving toward the same goal, and this is something against which Hobbes and the other modern individualist contract theorists are reacting. Hobbes is not arguing against a straw-man of his own creation, but against the notion, prevalent and essential to Aristotle's ethics and politics and taken up by the medieval philosophers in moral, political, and religious works, that there is an overriding greatest good toward which all people strive—and more importantly, toward which they *should* strive.

Hobbes' commentary on bees and ants as social animals is probably sufficient to show that the natural condition and the individualism to which he refers is not some peculiar and unrealistic characterization of an imaginary and inapplicable state of affairs. For Hobbes, people do live in naturally occurring communities even if those communities are only as large as a single family, but there are significant differences between human beings, and ants and bees. Bees and ants do not use human language, so they are incapable of deceiving each other with words. They do not compete with each other for honor and dignity because they are, we might

say, pre-programmed with a “job” to do and a way of life that is pre-established for them.² Their common good, whatever that might be, is therefore no different from the private good. And because bees and ants do not have human reason, they are incapable of complaining about their lot in life or the common good. In short, animals enjoy a natural agreement but that of humans is artificial and requires a common power to direct their actions toward a common benefit.

The only way to create a common power is for individuals to transfer power and strength to one man or assembly. For Hobbes, this is to reduce their wills into one. That common power will bear their person and submit all their wills to his will. Here, Hobbes contends that the transfer of power from individuals to the sovereign is more than simple consent and that it is real unity. People give up their right to govern themselves to this power, and their unity in one person (the sovereign) constitutes the commonwealth. The culmination of the transfer of right, consent into unity, and creation of commonwealth creates a condition in which the wills of all people turn toward internal peace and defense from external threats.

The essence of commonwealth is in the artificial person, the sovereign. Anyone who is part of the multitude that authorized the sovereign is a subject. But not all commonwealths are formed by simple agreement. Some are instead formed by force. This distinction is political commonwealth (by institution) and commonwealth by acquisition, respectively.

Even though Hobbes titled Chapter XVIII “Of the Rights of Sovereigns by Institution,” all the rights of sovereigns are exactly the same regardless of the method or means of creation of the sovereign. With respect to commonwealth by institution, there may be a vote of some sort

² This is another deviation from Aristotle and the Scholastic philosophers who held *teleology* (that everything has a final end or purpose towards which it strives) as central to their philosophies. In this way, humans would have a particular nature that was programmed towards this final end or cause. Teleology is largely rejected by the philosophers in the 17th century, though it is revived in the work of Leibniz.

by the people in the natural condition to determine who will be sovereign, and for Hobbes, those who voted against the sovereign who is ultimately chosen are obligated in the same way and to the same extent as those who voted for the sovereign. This is an important point because for anyone to claim that he is not bound by the vote is to put himself into a state of war with all others.

The reason people banded together to engage in the process of sovereign institution was to live in peace with each other and to protect themselves from external invasion. A person who engages in the process implicitly agrees to be bound by the results of the vote even if he does not prefer the person or assembly elected. If the reason for which a person agrees to vote is to be bound by the results of the vote, to claim that one is not bound by a vote that does not go his way is the same as saying that if the vote had gone the way he prefers and not the way some others prefer, he would be willing to allow all those others to renege on their agreement to abide by the vote.³

The consequence of having instituted the sovereign is that the subjects cannot change the form of government instituted since it would be absurd for them to do so. From the stipulations presented in Chapter XVI, they are bound to own and to author all that the sovereign does and judges fit to be done. So a person who dissents breaks covenant with all the others and to violate a covenant is to commit injustice. Injustice is both against all other individuals as well as the sovereign since in deposing him, her, or the sovereign assembly, those who renege on the agreement take from the sovereign what is their own. That is, in following the law of nature to give up the right to all things, that right was transferred to the

³ Another reason to think that Hobbes has used the state of nature to describe a condition in which political society has broken down, and not as a dubious pre-social condition, is the notion that there will be votes in the state of nature to determine who will be sovereign. In a pre-social condition of all-out war, it seems unreasonable to think that people would be able to organize themselves into a cooperative group able to hold an election.

sovereign.⁴ Trying to depose a sovereign means that the person who does so has authored his own punishment since he has authored all the sovereign does. Some people might think that they can form a covenant with God and depose their civil sovereign, but for Hobbes, this is a lie and, Hobbes adds, an indication of a “vile and unmanly disposition.”

Second, the sovereign power cannot be forfeited. The sovereign becomes sovereign by agreement of the people, not agreement of the sovereign *with* the people.⁵ No one can be freed from subjection, there is no breach of covenant possible on the part of the sovereign, and all this because it is impossible for the sovereign to make agreements with individuals.

Third, no one may justly protest against the majority decision to institute the sovereign. Hobbes pulls no punches here and simply asserts that the person who dissents must either accept all the actions of the sovereign or the dissenter is subject to being “destroyed.” Here again is another indication of the reasons that many people object to Hobbes' political thought, preferring instead political theories that are more amenable to dissent. But caution is justified on the part of those who would reject Hobbes' claim out of hand and be ready to accept another, like that of Locke, for example, without question. Those who prefer Locke's view of dissent against the sovereign's institution in *The Second Treatise of Government*, for example, might

⁴ There is a curious point in the fact that violating one's agreement in the state of nature to follow the second law of nature amounts to injustice. Alan Ryan has noted that the subjects remain in the state of nature with the sovereign in that the sovereign's legal relations to subjects is “horizontal,” holding between subject and subject, but not between subject and sovereign. See Alan Ryan, “Hobbes' individualism,” in Tom Sorell, ed., *The Cambridge Companion to Hobbes* (Cambridge: Cambridge UP, 1996), 239.

⁵ The claim that the sovereign does not contract with the people is very important in Hobbes' system of thought and is contrary to many other contract theories in claiming that a sovereign person or assembly is constrained by contract with the people. It is the provision that a sovereign person or assembly is part of the contract with the people that allows deposing the sovereign not to be an injustice by definition even though it may in such cases be an injustice in fact.

wish to think again since Locke puts the matter clearly in arguing that those who consent to community or government “make *one body politic*, wherein the *majority* have a right to act and conclude the rest.”⁶ The specific condition that at the institution of government all are bound by the agreement of the majority does not mean that revolution is impossible (it is certainly the case that revolutions occur) or that dissent is not, at least for Locke, sometimes justified. But at the very beginning of a political society’s creation, the sovereign and form of government on which the majority has agreed must be the starting point of all other political activity, otherwise such activity would never be able to begin at all. The dissenter, instead, returns himself to the state of war against all those who abide by the agreement.

Hobbes' fourth point with respect to the rights of sovereigns is that they are completely immune to accusations of any kind by their subjects. While this “right” of a sovereign (which is a negative right in being a right against others) may seem odd to contemporary readers with respect to actual practice or principle in Western democratic societies, Hobbes' point is that in authorizing the sovereign (as specified in Chapter XVI), the subjects “own” the actions of the sovereign. It is, for Hobbes, like giving someone else “power of attorney” to act as you and on your behalf in some legal proceeding or transaction.

If you hire an attorney to perform and conclude some business for you, such as, for example, selling your property, the right and power you give to the attorney is to make agreements and act *for* and *as* you. In a case in which you have done this, the action of the attorney becomes your action when the attorney acts within the bounds of the right you gave. With respect to the Hobbesian political sovereign, however, there are no bounds (except retaining the right of self-defense on the part of the subjects) to the right given to the sovereign, and it is then by definition that the subjects are the authors of everything the sovereign does. So

⁶ John Locke, *Second Treatise of Government*, ed. C.B. Macpherson (Indianapolis: Hackett, 1980), Chapter VIII, 52.

there is nothing the sovereign can do that can be an injury (injustice) to the subjects even though, Hobbes notes, it is possible for a sovereign to commit iniquity.⁷

Following from the fourth right of the sovereign is the fifth, which is that the sovereign is unpunishable. To punish the sovereign would be to punish someone else for your own actions. If the sovereign's actions are the subjects' actions, then whatever the sovereign does is, by definition, the action of the subjects. For them to punish the sovereign would not only be impermissible, it would be impermissible because it is absurd.⁸

⁷ The claim that a sovereign might commit iniquity is an early hint at the notion that the Hobbesian sovereign, while not answerable to the subjects with respect to formal requirements of law, is not free from moral obligations to God with respect to morality.

⁸ It is important to clarify Hobbes' position regarding the impossibility of punishment of the sovereign. Bernard Gert reminds us that injustice is the only moral vice that is subject to punishment at all, and that the sovereign, because the sovereign cannot commit injustice (according to Hobbes, by definition), there is nothing for which to punish the sovereign. That does not mean, however, that the sovereign is an immoral or amoral being. The sovereign simply has not transferred or renounced (and will not do so) the right of nature. See Bernard Gert, *Hobbes: Prince of Peace* (Malden, MA: Polity Pr, 2010), 116. One may justifiably wonder how it is possible, on Hobbes' reasoning, for the sovereign to have an obligation to the subjects in any way at all. Johann Sommerville asks how anyone (including the sovereign) can have an obligation to a being (God) for whom we are unable to demonstrate existence. (See Johann P. Sommerville, *Thomas Hobbes: Political Ideas in Historical Context* (NY: St. Martin's, 1992), 139.) This is a very good question both with respect to the obligations of individuals and those of the sovereign. If individuals have only their own individual beliefs that may differ dramatically from those of others in the state of nature, and if part of that might include belief in a god or gods different from those of others, then there would be no God to whom to have an obligation. From Hobbes' description of the natural condition and the need of the institution of a sovereign, it is not an insurmountable problem. But with respect to a sovereign, things are perhaps different. Hobbes insists on the notion that individuals can be reasonably expected to obey the commands of the sovereign because of the threat of punishment for not doing so.

Hobbes goes on to list other rights of the sovereign such as the right to handle matters of peace and defense. Such matters, it is reasonable to suppose, include everything from creating an army to levying taxes, and from making agreements with other sovereigns to securing borders. But Hobbes does not stop at the point at which protection from imminent physical harm is a concern. He makes it the sixth right of the sovereign to judge which opinions and doctrines are consistent with or inconsistent with peace and to determine who may be a public spokesman or censor. Hobbes argued, in other words, that securing peace includes “well-governing of opinions” because opinions lead to actions.⁹ For Hobbes, people who are governed insufficiently and defend opinions that are contrary to peace are still in a condition of war with each other.

Recognizing that there are different commonwealths in the world but that each one is to be governed by the same principles Hobbes presents in *Leviathan*, he notes carefully that the sovereign also prescribes rules, but that “these rules of propriety and of good and evil, lawful and unlawful actions of subjects are the civil laws. They are the laws of each commonwealth in

But what of the sovereign? If there is no afterlife (which Hobbes will in later chapters argue), and if we cannot demonstrate the existence of God, then what will motivate the sovereign to act on “obligations” to the subjects? The answer may be as simple as that the sovereign recognizes the laws of nature as rational requirements, and the sovereign would recognize one of those laws in particular, the one requiring gratitude, and thereby exercise care with respect to self-imposed obligations to political subjects. Hobbes was nothing if not realistic about human behavior and human organization, and it seems straightforward enough to hold that the Hobbesian sovereign is, like individuals, motivated by self-interest. It would not be in the interest of the sovereign to experience the displeasure of subjects expressed in their non-compliance with sovereign rule. In other words, the sovereign may fear being deposed by the subjects more than any fear of God.

⁹ Remember from Part I “Of Man” that Hobbes plainly indicated that actions proceed from “imagination” and the contents of imagination include the ideas people have received from “books.”

particular.” Particular, specific laws concerning property might vary between commonwealths, but that does not mean that the rule of the sovereign in each individual commonwealth is any less than absolute.

Other rights of the sovereign follow naturally and include deciding controversies regarding law or fact (civil suits, for example). Not to have this eighth provision of the right of sovereigns would be to return to the state of war where every person was the sole determinant and possessor of his own rights. Power over an army; populating government with counselors, officers, magistrates; providing for a system of rewards and punishments; and making laws of honor regarding the public rate of the worth of individuals round out the ninth through the twelfth rights of sovereigns. Some of these rights of sovereigns are discussed specifically in later chapters.

For now, Hobbes' contention is that without these rights of the sovereign the commonwealth becomes divided, thus leading back to the state of war. Of course, there are people who think the power of government is too great and that it is worse than having no government at all. Hobbes dismisses this objection, asserting that there are always problems between and among human beings and also that “the greatest in any form of government can possibly happen to the people in general is hardly sensible in respect of the horrible calamities accompanying civil war or the dissolute condition of masterless men.” Hobbes is not unreasonable in making this claim given the description he has provided of the state of nature. The question, however, is whether conditions in a natural state (especially if it is a natural state in which a previous social order and government system have broken down) would be as bad as Hobbes has described it.

With respect to the specific type of commonwealth instituted, Hobbes had a decided preference for monarchy but argues in Chapter XIX that the power of the sovereign is the same whether it is an individual, a small group, or many in a democracy. He notes that there are people (such as Aristotle) who have said that the name of a commonwealth changes based on

whether people like or dislike it (e.g., monarchy is “liked” but tyranny is “disliked,” and the same is true for aristocracy and oligarchy and for democracy and anarchy). The fact that people are not pleased for whatever reason with a form of government leads them to call the same form by different names when like turns to dislike, or the reverse.

There are people, Hobbes notes, who think that they might send a minor representative to the sovereign of the commonwealth to argue in favor of a petition and that the person who carries their petition is therefore their representative or sovereign. This clearly is not the case since it would amount to there being more than one sovereign—which would lead back to conditions in the state of nature and the state of war. This is not to say that Hobbes does not allow petitions to be carried to the sovereign and that someone may not ask for a hearing on some issue. In fact, Hobbes takes this into account later in Part II with respect to ministers of the commonwealth and those who are acceptable in delivering petitions.

But overall, Hobbes was concerned to see the alignment of public interests and every person’s own private interests. Hobbes claims specifically that monarchy is superior in this sense since the power, the wealth, the strength, and even the reputation of the subjects is what constitutes the power of the sovereign. There are other benefits in monarchy that do not accrue to other forms of government, including issues regarding counsel to the sovereign. For example, Hobbes notes that a sovereign monarch may accept counsel from anyone she pleases, but that an assembly tends toward allowing counsel and opinions of the wealthy (rather than the wise or knowledgeable) to be part of the political process. Further, and this is a rather strange position, Hobbes notes that the monarch cannot disagree with herself and that disagreement among members of an assembly can cause problems in decision-making.

There are clearly problems with monarchy as well, and Hobbes freely and clearly indicates what some of them are while at the same time arguing that they are not as bad as they might seem at first. Some might point out that an absolute sovereign might take everything an individual possesses in order to give it over to someone else, but Hobbes notes that this can

happen in any sort of sovereign assembly. And further, a potentially serious problem with monarchy is that the sovereignty might be transferred to an infant or to someone who is not intellectually capable of ruling. In such cases, however, Hobbes finds little about which to complain since a monarch can set up in advance who will be her successor and in cases of infant sovereigns and of sovereigns who are for whatever reason not truly capable of rule, other people or another person can stand in for the incapable sovereign. In any case, Hobbes defers to custom in saying that succession naturally goes to the first-born of a monarch, and the preference is for males over females “because men are naturally fitter than women for actions of labor and danger.” Whether he is right about that is another matter entirely, especially given that it has rarely been the case either during or after Hobbes' time that sovereigns of any kind engaged in active military service, fighting along with their soldiers. As for “labor,” Hobbes has perhaps contradicted himself since in Chapter XX he explains that women can be heads of families, and that heads of families are like and serve a function much like that of political sovereigns.

Hobbes' admission that monarchy is not the only acceptable form of sovereignty and his careful explanation of the benefits and liabilities of monarchy indicate, as Alan Ryan has noted, that “experience tells us it is highly probable that monarchy is the best form of government, but Hobbes did not think he had demonstrated this conclusion, and he may well have doubted that it could be demonstrated. Demonstration handles large structural features of political life and leaves experience to deal with particularities. The science of politics tells us that anything we can properly regard as a state must have a certain constitution; to learn what a prudent empirical implementation of that constitution is, we must turn to experience.”¹⁰

¹⁰ Alan Ryan, “Hobbes' individualism” in Tom Sorell, ed., *The Cambridge Companion to Hobbes* (Cambridge: Cambridge UP, 1996), 215.

Chapter XX makes an interesting distinction between despotic and paternal power. Earlier in *Leviathan*, Hobbes indicates that the manner in which sovereignty is instituted has no effect on the rights and powers of sovereigns, but what he does not explain early on—or at least it is not explained as completely—are some of the finer distinctions between ways in which one person’s dominion over others is acquired. This part of *Leviathan* is one that has been particularly interesting to feminist theorists and commentators on Hobbes, and for good reason. It is in this chapter that Hobbes points out that with respect to dominion by generation, mothers are first and foremost sovereigns over their children. He adds that even the Bible provides that the “two [mother and father] are equally parents.” But with respect to dominion over the mother, Hobbes notes that men are not the more excellent sex and therefore it is not by nature that fathers should have dominion over the mothers. (Hobbes says nothing about single or childless women, and the fact that he is silent with respect to such people indicates not that they are subordinated to men in general, but instead that they are simply among the individuals occupying a natural condition or political society.) In the natural condition, mothers and fathers of children will determine who is to have dominion by contract with each other. In any case, in the natural condition men cannot know who the father of a child is unless the mother identifies him, so if she takes care of it, it is hers. But if she does not, any person who “preserves it” has dominion over it and the child is now bound to that person (whomever it may be) by tacit consent in gratitude for the preservation of its life. With respect to anyone in family relationships, the dominion over others is like that which servants owe to their masters, not as slaves, but those who have the liberty of their persons. In short, the rights of paternal and despotic dominion are the same as the rights of sovereigns.

It is important to note that Hobbes says in Chapter XX that whenever someone has dominion over another person it is the right of the individual who has no corporal liberty (that is, of the person is a slave to another) to do whatever is necessary to break the bonds of dominion. Because this is the case, it is important in Hobbes' system of thought to explain carefully the

liberty of subjects and how their liberty is necessary to the preservation of the commonwealth. Hobbes was intent on creating a system of demonstrative arguments to create the system of thought leading to the institution of commonwealth, but he was also well aware that the contingencies of human life (which are certainly not amenable to demonstrative reasoning because they are in the domain of nature and human passions) may lead to conditions in which subjects in a commonwealth may revolt even when they do not, by consequence of Hobbesian argumentation, have a right to do so.

Here, Hobbes again turns to a definition and explanation of the concept of liberty, which is nothing more than being free of external impediments to action. There is also in this explanation a distinction between power and liberty. One may be hindered externally in not being able, for example, to hold his breath for twenty minutes and expect to remain alive, but that does not mean the person is not free to try. What the person lacks is the power to succeed. So when the impediment to motion is in the constitution of a thing or being, it is that the thing or being lacks power, not that it lacks freedom. So it is no fault of the commonwealth when a person is unable to perform some action he wishes to perform but cannot do so because of his internal constitution or some contingent feature of himself that renders him incapable. So Hobbes' concern is with hindrances (and lack of hindrances) to motion (to doing what one wishes to do) coming from other individuals and from the political state.

As Hobbes explains in previous chapters, “free will” simply means the liberty a person has to do what he or she has a will, desire, or inclination to do. There is no “thing” inside human beings called “the will” that is part of human anatomy. It is, instead, the last act in deliberation. So again, a human being is free when he is not hindered from doing what he has decided to do. As discussed previously, this is a problematic claim for a number of reasons. But they are not reasons about which Hobbes had information or about which he would have been concerned at this point in *Leviathan*. His position is that liberty and necessity are consistent especially since every act of will, every desire and inclination proceeds from a cause that is part of a chain of

causes leading back to the first cause (God), and all of that must proceed from necessity. What a person does, therefore, is part of the will of God, or of doing God's will. It may not be the same as what God commands, but all things that occur, all actions that are performed, are part of God's will. So in the long run, no one is free in that all things are part of the will of God.

When liberty has to do with personal life organization, Hobbes leaves it open to the individual that she or he has the liberty to do whatever is thought most profitable or beneficial to themselves—except in cases in which the law has forbidden it. Hobbes gives examples of selling, buying, contracting, choosing where to live, what to eat, how to rear children, and so on. But not long after the publication of *Leviathan*, Hobbes' contemporaries were at the ready to pounce on the apparent insincerity or at least the weakness of this claim. Edward Hyde, First Earl of Clarendon, found Hobbes' position on the property of subjects to be absurd. Hyde asks, how:

can any man believe that he hath liberty to buy and sell, when the Sovereign power can presently take away what he hath sold, from him who hath bought it, and consequently no man can sell or buy to any purpose? Who can say that he can chuse his own abode; or his own trade of life, or anything, when as soon as he hath chosen either, he shall be requir'd to go to a place where he hath no mind to go, and to do somewhat he would not chuse to do? For his person is no more at his own disposal then his goods are; so that he may as graciously retain to himself all that he hath granted.¹¹

On the other hand, there are reasons to believe that since subjects who are weak, poor, or unhappy are detrimental to the stability of the state, it is not likely, except in unusual circumstances, that a sovereign would take away the goods and corporal liberty of subjects. John Stuart Mill made note of the possibility that it is the tyranny of the majority, and not the tyranny of government, that is most pernicious. Mill explains that "Society can and does execute its own mandates; and if it issues ... any mandates at all in things with which it ought not to

¹¹ Edward Hyde, "A Brief View and Survey of the Dangerous and Pernicious Errors to Church and State" in *Leviathan*," in Richard E. Flathman and David Johnston, eds., *Leviathan* (New York: W.W. Norton & Co., 1997), 292.

meddle, it practices a social tyranny more formidable than many kinds of political oppression” because it leaves “fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself.”¹² Alan Ryan makes a similar claim in referring to democratic forms of government in which “a despot who largely leaves us alone leaves us more liberty than a democracy in which the majority is constantly passing new laws.”¹³ It is certainly no secret in American society that many states, as a result of popular vote, pass laws that infringe on individual liberties, and that the sheer force of social pressure among one’s peers and neighbors is enough to make life miserable.

Subjects, in short, have liberty in things that are not transferred to the sovereign. Those rights are rights to self-defense such that among the particular manifestations of it are included the right to life’s necessities, the right not to confess to a crime, the right not to kill oneself or anyone else. But even these are not absolute rights of the subjects because, as Hobbes puts it, liberty to refuse a command of the sovereign is denied when “refusal to obey frustrates the end for which sovereignty was ordained.” Even with this proviso, however, Hobbes persists in a peculiar claim that soldiers may refuse to fight¹⁴ (because it is dangerous to their lives) and that

¹² See John Stuart Mill, *On Liberty* (Indianapolis: Hackett, 1978), 4.

¹³ Alan Ryan, “Hobbes’ individualism,” in Tom Sorell, ed., *The Cambridge Companion to Hobbes* (Cambridge: Cambridge UP, 1996), 236.

¹⁴ Hobbes’ contemporary, Robert Filmer, held this to be a very peculiar claim since if it is true that no one is ever required to kill himself or any other person, “then a sovereign may be denied the benefit of war, and be rendered unable to defend his people—and so the end of government frustrated.” See “Observations Concerning the Originall of Government, Upon Mr. Hobs Leviathan” in Richard E. Flathman and David Johnston, eds., *Leviathan* (New York: W.W. Norton & Co., 1997), 271-277; 276. Further, Bishop Bramhall noted a similar problem in Hobbes’ claim that a person who is naturally cowardly or fearful may be excused from serving the commonwealth. Bramhall contends that it is not so much that Hobbes excuses such persons, but that doing so would be contrary to the Hobbesian claim that justice

cowardly people and women are not to be expected to perform dangerous duties. It is decidedly odd to claim that those whose service is necessary to maintain the commonwealth have the right to refuse to defend it, but Hobbes notes, in a way that we see even now, that there are people who volunteer in service to the commonwealth and when they do so, they are rightly expected to risk their lives for the commonwealth. With respect to the liberty of subjects Hobbes goes so far as to say that if there are people who cooperate with each other in committing a crime, they are at liberty to assist and defend each other in cases in which they are pursued or when some of them are captured! On the other hand, if one or more of them is offered pardon, it would be unjust to defend the others.

It is abundantly clear that Hobbes' position regarding the liberty of any subject who has not previously volunteered in service of the commonwealth may refuse to serve it. Edwin Curley notes that the problem may be at least somewhat softened by determining whether “the enforcement cadre is willing to see that the laws are obeyed, and whether people in general are willing at least not to forcibly resist the enforcement cadre,” but it is also the case that “everyone, we may also suppose, would prefer to enjoy the benefits of there being an enforcement cadre without paying its costs. If the number willing to join the cadre does not reach a critical mass, the whole system is threatened.”¹⁵ In essence, as Curley notes, what occurs in cases in which people are at liberty not to defend the commonwealth (or to engage in behaviors that threaten it in some ways) is a “free rider” problem (cowards, for example) such as

and injustice depend on the command of the sovereign. The problem is exacerbated by Hobbes' additional contention that determination of good and evil no longer belongs to individual subjects after the institution of the commonwealth, and yet the cowardly and fearful are excused from service. See Bishop John Bramhall, “The Catching of *Leviathan*,” also in Flathman and Johnston, 279.

¹⁵ Edwin Curley, “Introduction to Hobbes' *Leviathan*,” in *Leviathan*, ed. Edwin Curley (Indianapolis: Hackett, 1994), xxxv-xxxvi.

occurs in “public transportation where the critical mass [of free riders] is fairly high.” So just so long as there are enough people willing to defend the commonwealth, for whatever reasons they are willing to do so, the problem is not insoluble.

Charles Griswold also comments on the peculiar aspect of Hobbes' position regarding self-defense and refusal to defend the commonwealth. He notes that there seems to be no explanation or justification for the claim that anyone would be willing to risk his life to defend a commonwealth when the individual's life is threatened. It would be more rational for the individual simply to switch loyalties than to risk his life for a commonwealth. Ryan, however, notes that there are people who might be willing to risk their lives for things like the accolades it will bring or the excitement of it. On the other hand, Griswold notes that it is not at all clear that the Hobbesian person is concerned primarily with self-preservation because there are ample indications of the willingness of people to “overcome the fear of death” for reasons such as religious belief and the promise of eternal life.¹⁶ Other liberties that Hobbesian subjects possess depend on the silence of the law.

The freedom of subjects is one thing, their obligations are another, and their obligation to the sovereign lasts only so long as the sovereign is able to protect them. Hobbes is careful to note that the purpose (self-preservation) for instituting the sovereign is closely related to the immortality of sovereignty, which is intended by those who create it. But practically speaking, the sovereign and the commonwealth itself are subject to violent death by foreign war or from the ignorance and passions of the subjects. Perhaps Hobbes' point is that there is a careful balancing act between the liberty of subjects and their obligations. Alan Ryan points to a “moment of truth” in Hobbes' system of thought. “Hobbes is eager to say things [that] may not be entirely compatible. The first is that as long as the sovereign preserves my life and

¹⁶ Charles L. Griswold, Jr., “War, Competition, and Religion: Hobbes and the American Founding,” in *The Causes of Quarrel*, ed. Peter Caws (Boston: Beacon Pr., 1989), 37.

possessions, I must assist him to retain his power. ... The second is that I am in the last resort entitled to do whatever seems best to me to save my life.” A third, however, is that I may secure myself more efficiently by not assisting the sovereign or by actively working against sovereign power.¹⁷

Finally in this chapter, Hobbes notes that the commonwealth itself has all the same liberties that every person would have if there were no civil wars and no commonwealth; the commonwealth has the liberty to do anything it sees as most productive of its benefit. In this, commonwealths, like individuals in the state of nature, are in a condition of perpetual war. And since the commonwealth is in perpetual war, a monarch who is vanquished and subjects himself to the victor now creates a condition in which the subjects are obliged to the new sovereign in the same way that a subject who is taken prisoner of war may secure his own life justly by changing allegiance from his original sovereign to the sovereign or state that has imprisoned him.

Chapter XXII contains some curious contents regarding subsidiary “bodies politic” such as conquered foreign lands, as well as corporations whose purpose is making a profit, and families who have natural relationships with each other. The contents of this chapter are necessary to a complete understanding of sovereign power and of some particular things that are dangerous to it. Even though Hobbes reserves a specific chapter for things that tend to dissolve commonwealths, he refers in Chapter XXII to things that may lead to dissolution or weakening of the commonwealth, while many of these are also things that are part of the well-

¹⁷ Alan Ryan, “Hobbes' political philosophy” in Tom Sorell, ed., *The Cambridge Companion to Hobbes* (Cambridge: Cambridge UP, 1996), p. 240. Here, Ryan is referring specifically to a case in which a subject may be tempted to band with others to resist the sovereign. While it is true that Hobbes does deny subjects the right to do this, Ryan’s argument on the whole applies equally well to a case in which a subject refuses to assist the sovereign or behaves in ways that resist and perhaps overthrow sovereign power.

functioning of a commonwealth if their functions are properly ordered and they do not usurp the power of the sovereign. Among these are “regular” and “irregular” systems or associations such as businesses, families, corporations, and other subsidiary human associations. There is, however, one type of “irregular system” in a commonwealth that is of particular concern to Hobbes, and that is factions. Hobbes notes that leagues of subjects that are normally made for mutual defense are generally unnecessary since the commonwealth itself provides for protection. And, in fact, Hobbes says that such “leagues” are to be suspected of unlawful purposes. They are factions or conspiracies, “secret cabals,” and even households that have more servants than are necessary to an estate.

Hobbes' position with respect to factions, cabals, and exceptionally large households makes sense with respect to the power they may amass and their potential to pose a danger to the commonwealth. But Hobbes failed to see that it is also possible that factions can be beneficial to a commonwealth. Hobbes would not recognize the arguments concerning factions appearing in Federalist 51 (one of many essays appearing in the Federalist Papers, an important collection of early American political writings).¹⁸ The author of Federalist 51 argues that factions are good for political life even though they are often associated with actual or possible mischief among citizens. Hobbes focuses attention on mischief. The author of Federalist 51, however, focuses on the more severe mischief that comes from trying to control or to eliminate them. In Federalist 51, the two possible solutions to factions are to deny citizens the liberty to become parts of factions or ensure that every citizen has “the same opinions, the same passions, and the same interests” (the author of Federalist 51 contends that the second solution is impossible). Hobbes was apparently in favor of both solutions that Federalist 51 denies even though Hobbes has argued that the passions and interests of human beings are

¹⁸ See the Federalist Papers at The United States Library of Congress
(http://thomas.loc.gov/home/histdox/fed_51.html)

different from each other and even different for the same person at different times. Hobbes' solution to the problem of factions is to suppress them and to ensure that the right of the sovereign to control doctrines that are taught is provided without stint. The author of Federalist 51, however, is convinced that factions in a large territory with a large population will have diminished capacity to deprive other citizens of their rights. The difference between Hobbes and the author of Federalist 51 is strikingly clear: Federalist 51 concerns interference in or deprivation of rights of other citizens while Hobbes' concern is with interference or diminution of the power of the sovereign. Hobbes would not and could not be concerned with individual rights since all rights except those related to self-preservation and plan of life are turned over to the sovereign. Bernard Gert, referring to Hobbes' preference for monarchy but whose argument applies equally well to factions, explains that perhaps Hobbes favored monarchy because he failed to see that his account of human nature applied to sovereigns as well. So he should have, according to Gert, preferred democracy in which conflicting emotions (and reasons for individuals binding together for various reasons) can lead to compromise.¹⁹

Given his propensity to preference for monarchy and stringent control of the behaviors of citizens when they might tend toward dangerous doctrines or actions, perhaps Hobbes could not see that factions are good for societies. They can be good for societies in bringing ideas and concerns to the attention of government for the benefit of the commonwealth in realms as diverse as education and ways in which government may provide services and policies. For Hobbes, however, such issues are left to the sovereign's public ministers and counselors rather than to the public. That may be to the detriment of the sovereign, the commonwealth, and the individuals living in it. Those with a propensity toward individual freedom and limited power of government may see much more clearly than Hobbes the benefits of factions—the ideas and innovations they may produce—and how they might be enjoyed by the commonwealth.

¹⁹ Bernard Gert, *Hobbes: Prince of Peace* (Malden, MA: Polity Pr., 2010), 152.

Hobbes proceeds in Chapter XXIII to discuss the functions of public ministers of the sovereign. Public ministers are those who do the business of the sovereign in his name and are not themselves sovereigns. They perform functions such as collecting revenue and imposing fines, and beyond this, military commanders and teachers are public ministers because they perform functions that serve the sovereign as a political being. Sovereigns of commonwealths both large and small need public ministers for the proper administration of the commonwealth for the simple reason that no sovereign as a human being would be capable of performing all functions.

With respect to functions of the commonwealth, some of those functions are provided by the labor of the people and not by public ministers. The “nutrition and procreation of a commonwealth” are the subjects of Chapter XXIV. Nature has provided every commonwealth with some resources that make the commonwealth able to produce more than is needed. Sometimes, a commonwealth has less than it needs overall, but in any case, Hobbes claims, all commonwealths can produce something more than they need and when this happens, it is possible to trade the excess with others. It is clear enough that the sovereign is not a farmer or fisherman or carpenter as an artificial person, and such work will be done by individual subjects. When people are part of a commonwealth, according to Hobbes, whatever they own is owned by virtue of the sovereign. Keeping in mind that the transfer of right provided for in the second law of nature means the transfer of everything except what is necessary for self-preservation to the sovereign, it is by definition the case that all “real” property or products are actually the property of the sovereign. So a citizen is able to deny other citizens access or use to specific lands to which they have title, but it is not possible to deny the sovereign such use or access. Just as Hobbes has already provided that any inequality between people in the commonwealth is the result of civil law, so the distribution of land is the result of the decision of the sovereign for the purpose of peace and security. And beyond this, the sovereign also controls business and commerce in general, and especially trade or business involving foreign commerce. It was

true in Hobbes' time just as it is in ours that there are individuals or businesses that might import or export things that are dangerous to the commonwealth and, in fact, the sovereign determines such details as those regarding business decisions such as employment laws and the exchange of money in the form of loans.

Hobbes proceeds in this chapter to note how important money is to a commonwealth in that it and its circulation “nourishes” the commonwealth in the same way that blood nourishes the human body. It is therefore necessary for the sovereign also to be the sovereign of economics. There is, therefore, nothing and no part of public or private life over which the sovereign does not ultimately have control.

But sovereigns again cannot know everything, and in the administration of public affairs it is necessary for the sovereign not only to have public ministers for the administration of the state (Chapter XXIII) but also to have counselors. In Chapter XXV, counselors are identified as people who give counsel or advice to others both for their own benefit and for the benefit of the person to whom they give advice. Because counsel to the sovereign is so important, Hobbes contends that a person who provides counsel on the basis of having been asked to do so cannot be punished for it. On the other hand, it is not only sovereigns who may ask for counsel from others. It is also individual citizens who may do so. While the sovereign asking for counsel from someone keeps the counselor from being subject to punishment, it is not the same for a citizen who might take the counsel of another person and in doing so perform some action that is contrary to the laws. In such a case, the fact that someone else counseled a citizen to do something does not excuse that citizen. Ignorance of what is required by law, and of law itself, is not an excuse for wrongdoing. It is therefore necessary for citizens to take great care in the selection of counselors. Sovereigns ought to be careful in such cases as well, but since a sovereign can do nothing that is against the law because the sovereign is the creator of law, the sovereign cannot be blamed by the subjects for the contents or results of counsel, further, because the subjects are by definition the authors of everything the sovereign does. Both

sovereigns and their subjects, in seeking and retaining counselors, should be careful that the counselor's interests are consistent with the interests of the person (whether natural or artificial, *i.e.*, whether a citizen or the sovereign) being counseled.

A sovereign takes counsel on any variety of issues affecting the commonwealth. The sovereign gives laws to the subjects, and the laws given to his subjects are not to be considered as counsel since counsel may be disregarded. Laws may not. Laws are commands of the sovereign in the form of rules prescribed by the commonwealth. The commonwealth can command observation of the rules of law, but not in the sense that the commonwealth is a person, but in the sense that the commonwealth acts by authorization of the sovereign. Because the sovereign is the author of the laws, the sovereign is not subject to the laws.²⁰ But there is an interesting twist in the case of law since the law of nature and the civil law contain each other. That is, any civil law made by the sovereign is part of natural law. And the sovereign is subject to natural law only insofar as natural law is the law of God.

Hobbes is surprisingly liberal in his interpretation of those who are bound by civil laws. Only those able to consent are bound by civil laws, and only those who may be reasonably expected to be informed of the laws can be expected to follow them. It is therefore part of the

²⁰ There is a potential inconsistency in Hobbes' thought regarding the claim that the sovereign is not subject to the laws. If the subjects of the commonwealth are the authors of the existence of the sovereign, they are subject to the laws of the sovereign—which are their own laws, by definition, since they own all that the sovereign does or says in the sovereign's capacity as a political representative. But the same is not true of the sovereign's laws. Hobbes contends that the sovereign is the author of law, but that the sovereign is not subject to the law. The reason that the sovereign is not subject to law must not be a case parallel to the subjects being subject to the sovereign because laws are not persons. So there is no inconsistency in this case. A person can be subject only to another person, not to a thing, rule, or procedure.

duty of the sovereign to be sure that people know what the laws are and to make them clear. But with respect to the law of nature, it is certainly not necessary to publish it since it is summed up by the “copper rule,” as David Gauthier called it, not to do to another person what you think it would be unreasonable for another person to do to you.

But the sovereign’s specific laws, the civil laws, need to be both clear in themselves and clear with respect to their source. There are people who might, for whatever reason, misinform other citizens about a law. So sufficient care must be taken that the laws are clear, that they come from the sovereign, and that the people know the identity of the sovereign. For Hobbes, this means that there is another law of nature. It is that a person should not weaken the power of the protection he has demanded or wittingly received against others.

Further, laws often require interpretation and interpretation depends on what the legislator intends. Care must therefore be taken in interpretation of laws so that they are clear. Laws can be unclear as a result of the placement or use of a word. Lengthy laws are complicated. And what is more, there are people who might for reasons of their own confound the meaning of the laws, so it is even more important to ensure proper interpretation of the law, accurate identification of the origin of the law, and sufficient clarity of law.

A particular danger regarding the laws is that there are cases in which a person may accept what he thinks are God’s commandments on the basis of their own dreams and imaginations. Such cases and supposed excuses for violating civil and natural laws must be reduced or eliminated by making it clear that the only source of law is the sovereign and the only legitimate laws are those that are declared by the commonwealth to be laws.

The pivotal point in knowledge of the laws is that the source of every crime is a lack of understanding, an error in reasoning, or the result of sudden passions. There are therefore reasons that people may be excused for breaking laws. There are equally reasons that there are no excuses, and sometimes there are extenuating circumstances that mitigate responsibility for a crime. Hence the title of Chapter XXVII, “Of Crimes, Excuses, and Extenuations.” Hobbes

contends that it is impossible for a rational person to be ignorant of the laws of nature, so for breaking them there is no excuse. But with respect to civil laws, a person who lacks means to know them is completely excused for breaking them. However, when a person has the capacity and resources to know the law, not knowing the law does not excuse that person. There are extenuating circumstances that may excuse a person for breaking a law, such as fear of present death, or when a person is starving and theft is the only means of self-preservation. In short, Hobbes' view of crimes is that some are understandably committed, some cases of commission of crimes are unjustified, and other cases of crime may need to be measured by the severity of the cause, the possibility that others will be tempted to commit the same crime, and considerations such as when a crime was committed, who committed it, and where it was committed. In no case, however, may a person be held responsible for committing a crime for which a law forbidding the action did not at that time exist. In other words, no one can know a law until it has been made, and made public.

Hobbes' conception and explanation of laws is that violating a law is a crime and a sin in committing what the law forbids or in not doing what it requires. Notice that crime as sin occurs only in outward actions or words, not in intentions. So Hobbes distinguishes between a sin and a crime in that every crime is a sin but not every sin is a crime such that, for example, to intend to steal is a sin, but it is only crime when acted upon. Chapter XXVII's most striking feature is that Hobbes will not allow that what a person intends, or that about which he thinks, may be considered a crime. He explicitly states that "there is no place for accusation regarding intentions, which never appear by any outward act." Another way to put the case is that no one can be accused and punished by the state for his thoughts or intentions or even for his beliefs (or lack of them), but only for his actions.

For those who commit crimes and who are responsible for them, the content of Chapter XXVIII contains specifications and clarifications concerning punishment. This chapter also concerns rewards provided to a person for meritorious action. Because the sovereign's right

includes the right to punish transgressors of law, and because a law of nature specifically prohibits the infliction of punishment for any reason but the correction of the offender or the instruction of the public, the function of punishment must be consistent with that law. But punishment belongs only to the sovereign. If the sovereign punishes anyone without the intent to act in accordance with the provisions of the law of nature regarding punishment, it rises to the level of hostility.

While hostility may seem to be reserved properly for punishment of an enemy, Hobbes contends that harming an enemy is not punishment because an enemy, by definition, is not subject to the law, and anyone who is not subject to it cannot transgress it. On the other hand, subjects who rebel against the sovereign are a different kind of enemy and are subject to punishment. Punishment of the innocent is not justified for any reason because it is a violation of the law of nature forbidding ingratitude as well as the law of nature commanding equity. But it is permissible to punish enemies, including subjects who rebel against the sovereign. Rewards—Hobbes notes that they exist and says little more about them—are simply provided by gift or by contract.

The political state, as Hobbes has indicated, requires the provision of details regarding reward and punishment; clarification of the nature, extent, and application of civil laws; and careful explanation of the role of magistrates and counselors for the proper operation of the state to satisfy the goal of peace for which it was instituted. But no matter how carefully the laws are promulgated and enforced, no matter that the majority of subjects have consented to the laws of the sovereign, and no matter the honesty and knowledge of counselors to the sovereign in trying to ensure the smooth running of the commonwealth, there are still problems that loom in the political state that require attention. These are the subject-matter of Chapter XXIX, regarding things that tend to weaken or dissolve the commonwealth.

In writing *Leviathan* for the instruction of subjects and sovereigns in the creation of a well-functioning political state Hobbes' intent was, in principle, to create a "mortal god" to ensure

peace and protection from the danger of early, violent death at the hands of others. But for all this, Hobbes was aware of the contingencies of human action and of the world of experience and reminds us that nothing created by mankind will last forever. Nonetheless, he has tried to provide instruction such that if people will use their reason properly, commonwealths will be protected against “internal diseases.” Such “infirmities of commonwealth” are, Hobbes states, the imperfect institution of commonwealth (that is, not founding government on proper principles—such as those Hobbes has provided); the existence of seditious doctrines that lead people to dispute and act against sovereign commands; and the problem of subjects believing that their consciences trump the commands of the sovereign, in which case subjects become judges of good and evil (just as they had been in the natural condition). A subject who believes that his or her conscience and faith, attained by inspiration and infusion from God, should supplant the rule of the sovereign is a dangerous subject. If such a person’s demand were accepted, it would mean that any individual could claim to be a prophet and anyone could decide to ignore or violate the laws of his commonwealth. Great care in the administration of the commonwealth must be taken because there are those who believe they are inspired in some supernatural way, and such belief can lead to the dissolution of the commonwealth.

Further, subjects may believe that the sovereign is subject to civil laws. This, however, is impossible. If it were true that the sovereign is bound by the civil laws, it would put the laws above the sovereign, thereby making it possible for subjects to punish the sovereign for supposed transgressions and even to insist on instituting a new sovereign and government. To do so would be to dissolve the commonwealth.

There are other problematic beliefs that lead to the destruction of the commonwealth, including the belief that subjects have absolute right to property that they hold and the belief that sovereign power can be divided among different sovereign bodies (which is impossible since mutually divided powers would destroy each other). Among notions that threaten the commonwealth, Hobbes notes that there is even a belief in allowing doctrines from the Greeks

and Romans to be read²¹ because that causes people to think that it is “glorious” to fight in wars against the sovereign.

Another primary danger to the commonwealth is thinking that during a war when an enemy wins a final victory, the right of the monarch has been lost. This is not the case because the right of the monarch, once given to him, is his absolutely. However, the fact that the sovereign has such absolute right to rule does not mean that the obligation of the subjects remains since they may seek protection from any source whatsoever when their protector fails to protect them. But, Hobbes adds, the ability for subjects to find new protection does not nullify the subjects' obligation to protect their protectors (See Chapter XLVII).

It seems at this point that Hobbes wishes to have things both ways. He claims that the sovereign's right to rule cannot be lost, and at the same time he admits that subjects have a

²¹ Hobbes apparently considered himself to be one of the discrete masters who is fit to take away the venom of books of the Greeks and Romans. Because Hobbes has added that “allowing such books to be publicly read without applying such correctives,” it is clear that Hobbes did not argue for absolute censorship. In his chapter on the rights of sovereigns, then, it is not so much that doctrines should be suppressed as it is that those doctrines are to be part of the proper and careful education of citizens. Hobbes' position here is much like that of John Stuart Mill in *On Liberty* (see *On Liberty*, ed. Elizabeth Rapaport, Indianapolis: Hackett, 1978) who argued that “the peculiar evil of silencing the expression of an opinion is that it is robbing the human race, posterity as well as the existing generation—those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error” (16). While many commentators on Hobbes' view of the free exchange of doctrines and ideas contend that Hobbes was in favor of absolute censorship, this clearly cannot be the case—or at least it would amount to a clear contradiction—since Hobbes *uses* the same works he is criticizing (such as those of Aristotle, Aquinas, and others) to show why *his position* is the more reasonable one.

right (because they never give up the right to self-protection) to seek protection from another source while also having an obligation to protect their protector(s). So to which protector does the subject have an obligation? The answer is not clear from what Hobbes has explained up to this point. But what is clear is that the right of the subjects to seek protection is at least sometimes, and especially in cases in which the sovereign has been rendered incapable of reliably protecting subjects, in conflict with the right of the sovereign to rule.

It may be, however, that Hobbes' explanation of the character of the office of the sovereign representative of the people in Chapter XXX will help to dissolve at least some of the ambiguity in Chapter XXIX. It is in this chapter that Hobbes reintroduces the notion that the sovereign's function is to provide for the safety of the people and is obligated to do so by the laws of nature. Again, the laws of nature are moral requirements that apply just as much to the sovereign as they do to the subjects because the laws are, for Hobbes, the laws of God that are not subject to the limitations of application to which civil laws are subject. The laws of nature are the laws to which the sovereign is obligated due to the sovereign's obligations to God.

The sovereign's obligation to obey the moral requirements of the laws of nature and of God, as well as his subjecthood before God and God alone, are a further indication and reinforcement of the Hobbesian requirement that the sovereign is not a part of the contract. The sovereign, as separate from the contract, provides protection to the subjects as an obligation to God. And Hobbes adds that the sovereign's responsibility for the protection and preservation of life does not mean simple, bare preservation but also "other contentment of life," a kind of thriving that people might obtain for themselves. That is—and this is important—Hobbes does not argue for mere survival in conditions of squalor and misery in the creation of the commonwealth, so his detractors who claim that he has provided a miserable existence for humanity in his guide for government in *Leviathan* have clearly got it wrong.

Providing the kind of life that is fit for and desirable to the subjects is attended with other conditions or requirements of sovereignty. For example, the sovereign cannot simply renounce

sovereignty. Sovereignty is intended by Hobbesian subjects to be given to the sovereign by the right of nature without stint. To renounce sovereignty would be, it seems reasonable to conclude, an act of ingratitude toward the subjects.

But further, the sovereign must make duties clear to subjects. While some would claim that the laws and principles of the commonwealth are too difficult for common people to comprehend, and that the part of the office of the sovereign that includes the clear presentation of laws is bound to fail, these claims cannot be true. First, Hobbes has already provided earlier in *Leviathan* that the subjects are to be properly educated about the laws, and sometimes this can be done simply through recitation in song or poetry, through public readings, or in schools. So the claim that the subjects are incapable of understanding and so cannot be expected not to revolt against the government due to lack of information is false. For Hobbes, the problems are, instead, caused by the fault of the sovereign in not teaching carefully and in the shortcomings of those he trusts to administer the commonwealth. So the subjects have an obligation to the sovereign to contribute to the strength of the commonwealth. This requires that the subjects know and follow simple rules of conduct that follow very closely the Ten Commandments.

First, Hobbes says that the subjects must know that they are never to be “in love” with any form of government but their own. To prefer another form of government is like breaking the commandment not to have other gods before the one true God. Second, no subject can have so much admiration for another subject that they might be tempted to wish to be led by that person rather than by the sovereign. To wish for a “replacement sovereign” would be to violate the second commandment.

Third, the people must know that it is wrong to speak evil of the sovereign. To do so is to act in a way that is like a violation of the third commandment not to take the Lord’s name in vain. Fourth, there ought to be a time set aside at regular intervals to teach people the laws of the commonwealth. This, Hobbes notes, is like following the fourth commandment, to keep the Sabbath Holy. In making this statement, Hobbes notes that a common practice on the Sabbath

day is to recite laws. Further, the fifth commandment requiring that children honor their parents is to be applied to the honor appropriate to the sovereign. Hobbes contends that no one would bother to have children if they were to receive no more benefit from them than they would receive from a stranger.

Sixth, the subjects must be taught justice so that they know not to violate the property rights or rights of action of others, such as not to take the spouses of others, or do violence to each other in private revenge, all of which, Hobbes insists, are in keeping with the sixth through the ninth commandments. These commandments include prohibitions against murder, adultery, theft, and bearing false witness. Seventh, it is not only unjust acts but also the intention to do unjust acts that constitute injustice. The seventh rule, Hobbes says, corresponds to the tenth commandment—to love one's neighbor as oneself and not covet his wife or property.

While these rules may be taught at times and places designated for the proper instruction of the subjects, it is also the job of the universities to teach young people what is right. He asks whether the professors are learned enough to do that, and answers the question himself by saying that it is clear that they are. The problem, however, is that up until the time of Henry VIII the power of the commonwealth was pitted against that of the Pope and many preachers in England held to doctrines contrary to the strength and preservation of the commonwealth. So while the professors were not necessarily themselves the authors of false doctrines, it is not clear that they knew how to teach true doctrines. Therefore, with respect to the question of who should undertake the job of teaching in the universities, Hobbes answers coyly that "it is not fit or needful for me to say anything, for any man who sees what I am doing may easily perceive what I think." It is clear that Hobbes thinks he himself should be the one to teach in the universities and that, as he mentions at the very end of *Leviathan*, it is his work (*Leviathan* in particular) that ought to be taught in them.

Further, the sovereign must see to it that people be treated equally by the sovereign, whether they are rich or poor. Not to do so is a violation of the law of nature requiring equity. In

addition, because people in the state of nature are all naturally equal, and because they enter into conditions of subjection on equal terms, to treat the subjects unequally, for no good reason, would be unfair to them. This is not to say—and Hobbes clearly did not say—that there could be no distinctions between subjects, and in fact earlier in *Leviathan* Hobbes provided for the notion that any inequality that exists between the subjects comes from the civil law. So this provision must mean, in Hobbes' political theory, that the subjects as subjects are to be treated by the sovereign in the same way, subject to the same taxes, laws, punishments, and duties. It is not that they must be equal in every conceivable way. It is not only equal treatment of the subjects in these ways that makes a difference, equity is also accounted for in equal taxation based on the debt that every subject owes to the commonwealth for defense. For Hobbes, taxation should not be based on wealth because there is no good reason that a person who works hard and yet consumes little should be charged more tax than someone who is lazy, gets little, and spends it all. So taxes should be based on consumption, not on earnings. There is no person who has more protection from the commonwealth than any other, so the only justifiable difference in taxation must be based on what is consumed so that everyone pays for what he uses.

And further—and this is very important—Hobbes maintains that when people are by some accident unable to maintain themselves, they should not be left to the charity of other individuals but instead are to be provided for by the commonwealth for the necessities of life. The simple fact, for Hobbes, is that the charity of individuals is uncertain, and it would be uncharitable of the commonwealth to leave people vulnerable to the charity of others.

Here, again, is another indication that Hobbes' position does not justify the claim of so many commentators that his view of human nature is colored by or indicative of psychological egoism. Hobbes does not contend that people never give charity to others; it is simply that what people might give to and do for others is unpredictable, so the commonwealth needs to provide necessities so that there is no injustice to the poor, the infirm, and the weak. Richard Tuck refers to Hobbes' commentators, some of whom argued that his position supports capitalism

and others that it did not, and notes that “Hobbes' requirement on the sovereign to ensure the survival of the poorest in society, if necessary by taking away the property of the wealthier, runs counter to the most obviously ‘bourgeois’ enthusiasm, for inviolable private property.”²² And, as we have seen, Hobbes did not argue for inviolable private property.

Hobbes also provides that the story is much different for the poor who are capable of working, who are healthy and strong. They are, Hobbes says, to be forced to work and that laws must be in place to encourage people to take up trades. And when the population grows to more than the geographical region can accommodate, the poor and yet strong are to be moved to uninhabited place where they can engage in productive work. Idleness is clearly not permissible in the Hobbesian commonwealth.

It is apparent from the discussion of the office of the sovereign that the sovereign is expected to make good laws. It is not enough for the sovereign to be the beneficiary of the consequences of laws, but that the good of the people be the consequence. For Hobbes, the good of the people and the good of the sovereign are the same, and the weakness of the subjects is the cause of weakness in the sovereign.

Again to those who might claim that the laws are too complicated for common people to understand, Hobbes provides that they are not to be written in confusing or ambiguous ways and that they are to employ the fewest words possible to avoid frivolous lawsuits and wasted time arguing over the meaning of the laws. When laws are violated, the severity of punishment must match the severity of the transgression, and in cases in which the law is not clear, leniency toward the transgressor is justified because it is the fault of the sovereign that a subject is ignorant of the law when it is written unclearly or not properly publicized.

A danger in government is popular generals whose popularity exceeds that of the sovereign. The sovereign ought, therefore, to ensure that the subjects know that his popularity

²² Richard Tuck, *Hobbes: A Very Short Introduction*. (Oxford: Oxford UP, 1989), 116-117.

is not only in being sovereign and having been chosen to be so, but also to “turn the hearts of his subjects to him” when they see that he can govern his own family well.

But between sovereigns, the rights of the sovereign are the same as the rights of individuals in keeping themselves safe. Hobbes insists that there is no court of natural justice between states except in conscience, and this is the place at which God reigns.

The end of Part II of *Leviathan* contains Hobbes' commentary on the kingdom of God by nature in Chapter XXXI. Here he makes it completely plain that up to this point in the work, he has “sufficiently proved ... that subjects owe to sovereigns simple obedience in all things wherein their obedience is not repugnant to the laws of God.” This is both an interesting and an important claim since Hobbes will argue in Part III that the sovereign is the ultimate prophet of and speaker for God. It is equally interesting that inanimate things and atheists are not subjects in the kingdom of God, and instead that they are enemies. This does not, however, mean that atheists are enemies of the state. To be a subject, and to be a loyal subject, is to follow in outward actions the laws and what they require; other than this, each person has liberty to believe (or not believe) whatever she or he desires so long as it is private. As you may see, the term “atheist” in Hobbes' time had a much broader meaning than it now does, and one may be called an “atheist” simply for not believing in the doctrines promulgated by some particular religious interpretation of Scripture or for believing in a doctrine contrary to the religion of the state.

With respect to the religion of the state, Hobbes notes that there are many ways to honor God: to recognize God as the first cause, to deny that the world is eternal (since if it was, there would be no God), to aver that God is infinite, to deny that God is in some particular place, and to affirm that there is only one God. But this is not all. There are different means of worship, such as praying, which, while not unimportant, are not as important and clear as the greatest form of worship, which is obedience to God's laws.

Since the commonwealth is one person, the commonwealth can have only one worship exhibited toward God. It follows, then, that there can be only one religion. Hobbes asserts that “where many sorts of worship are allowed, proceeding from different religions of private men, it cannot be said there is any public worship, nor that the commonwealth is of any religion at all.” So for Hobbes, freedom of religion is not to be tolerated, even though he has previously stated that there is no means by which to see into the private thoughts of people. So here, that religion is not “free” does not mean that people may not conceive of God differently or even pray to a different god from the one accepted by the commonwealth. What it must mean, since only outward actions are subject to punishment or public judgment, is that liberty of conscience and belief remain in a condition in which outward worship must be consistent with public acceptance. Freedom of religion is distinct from individual belief: a person can believe whatever he wants (at his own personal risk) so long as externally he worships and confesses as prescribed by the sovereign. This claim regarding religious belief, and attending it Hobbes’ argument that the greatest manner in which to honor God is to follow the laws (which will turn out to be the laws of the sovereign, along with the laws of nature), leads naturally into Part III of *Leviathan* on religious belief, ecclesiastical authority, and the power of the sovereign.

Before turning to those topics, however, Hobbes announces his fervent hope that his labors in writing *Leviathan* have not been for nothing. He fears that people will continue following Aristotelian doctrines and their manifestations in the Church and that good commonwealth will never come about until philosophers are kings (as Plato argued). But Hobbes remains positive: he says, “I recover some hope that one time or other this writing of mine shall fall into the hands of a sovereign who will consider it himself ... without the help of any interested or envious interpreter and by the exercise of the entire sovereignty in protecting the public teaching of it convert this truth of speculation into the utility of practice.”

The practical application of *Leviathan* is not simply in creating governments and establishing the rights of sovereigns and the duties of subjects. It is also to set down a true

science of politics containing a true moral system that will ensure peace and stability. As Gert has argued, Hobbes' political theory is an attempt to provide a guide for creating government to protect citizens from people with false morals and those who do not care about morality. Since religion is a source of false moral beliefs, Hobbes spends much time and effort on interpreting Christianity.²³ And it is to this, in Part III of *Leviathan*, which Hobbes now turns.

²³ Bernard Gert. *Hobbes: Prince of Peace* (Malden, MA: Polity Press, 2010), 110.