

# Leviathan

## Part 2. Commonwealth

Thomas Hobbes

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[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 •bullets, and also indenting of passages that are not quotations, are meant as aids to grasping the structure of a sentence or a thought. Every four-point ellipsis . . . . indicates the omission of a brief passage that seems to present more difficulty than it is worth. Longer omissions are reported, between [brackets], in normal-sized type.

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 given here between square brackets.—Biblical references are given at the end.

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## 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, i.e. 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*. •Political systems—otherwise called 'bodies politic' and 'persons in law'—are ones that are made by authority from the sovereign power of the commonwealth. •Private 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 aren't 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 •evil, or (if the number of people is large) •unknown, they are unlawful. [The word 'concourse' occurs 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 sets 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 doesn't 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 [see next paragraph] from the sovereign; the other is the law of the commonwealth.

When a •commonwealth is first established, 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.

[The linking of this paragraph with the next is Hobbes's.] 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 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's a crime the assembly

may be punished so far as it *can* be punished: •by dissolution, or forfeiture of their letters (which is for such artificial and fictitious bodies is tantamount to capital punishment), or •by 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 can't represent any man in things unwarranted by their letters, and consequently ·the innocent minority· are not involved in 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 •the different concerns for which they are constituted (an indescribable variety of them), but also •differences 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 [= 'entrusted'] 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']. When someone transfers the responsibility for some business of his to another person, to manage it for him and under his authority, that responsibility is what is signified by the word 'province'. [That's a meaning that 'province' did have in Hobbes's day.] So when in one commonwealth •there are different regions that have different laws or are geographically far apart, and •the 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 to 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, when they 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, •whatever debt was contracted by that assembly, or •whatever 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, and to 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 case in particular. It doesn't 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 isn't the question of why they enter into joint trading ventures—a question that has a straightforward answer·. 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 •share in the profits in proportion to his risk, or •go it alone and sell what he exports or imports at whatever prices he thinks fit. But this is not a body politic, because there's no common representative to oblige them to any laws other than the ones that also oblige all other subjects; •so it's *not* what I was asking about.

•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 of 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 •it enables them to buy at home at lower rates, and sell abroad at higher rates; and •in the other direction, •there's 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, •set what price they please on the produce and manufactured products of the people; and as the sole importers they can •set 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 •they were bound up into one body in foreign markets •where as a monopoly they could sell dear and buy cheap, and •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. why each of them should be acquainted with how his own possessions are being used; i.e. 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 crimes. That material is omitted here.] These bodies made for governing men or trade are either •perpetual or •set up for a limited time that is set down in writing. But there are some bodies •whose 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 •the corporations of beggars, thieves and gypsies, formed so as to succeed better in their trade of begging and stealing, and •the 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 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 •leagues 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 •leagues 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’s 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’s 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's nothing wrong with that, because he isn't 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 can't 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 the man has the protection of the commonwealth, so he doesn't *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's clear enough that either they have been wrong to do this or else they had no commonwealth.

Not only •factions for kindred, but also •factions for the government of religion (such as Papists, Protestants, etc.) and •factions 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 there 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's 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 the last chapter I have spoken of the **(1)** similar parts of a commonwealth; in this I shall speak of the **(2)** parts organical, which are public ministers. [That sentence is as Hobbes wrote it. He is distinguishing (1) chapter 22's concern with aspects of commonwealth that generalize across all the subjects, not making distinctions among them, from (2) the present chapter's concern with aspects of commonwealth that pick out some subjects from the rest. The language in which he does this echoes animal anatomy, which used to distinguish (1) the 'similar' or supposedly homogeneous parts of an animal body (blood, fat, bile, etc.) from (2) the differentiated parts or organs (heart, liver, etc.). In chapter 24 Hobbes will more explicitly liken commonwealths to animal bodies.]

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, one natural and the other political. A monarch has the person not only of the commonwealth but also of a man, and a sovereign assembly has the person not only of the commonwealth but also of 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. •Of 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. •Of 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, i.e. they are in charge of some special business either at home or abroad. I shall characterize *five* kinds of ministry at home. **(1)** 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.

(2) 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. . . .

(3) 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*. . . .

(4) 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 they have already both agreed on the sovereign as judge; 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.

(5) 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 that they perform 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 •councillor or a •council 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, •neither is a public person. For the advice is addressed only to the sovereign, and *his* person can't 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. •In a monarchy they represent the monarch when they deliver his commands to the public ministers; •in 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 •in 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

The nutrition of a commonwealth consists in the abundance and the distribution of materials that support life, in digesting it (preparing it), and in 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 either 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 acquired 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's 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 •the introduction of property is an effect of ·the· commonwealth, which can do nothing except through the person who represents it, •it is the act of the sovereign alone, and consists in the *laws*, which can't 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* (meaning '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, i.e. 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's 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 •all other subjects from the use of them, and *not* ·a right· to exclude •his sovereign, whether that is an assembly or a monarch. For seeing that the sovereign—i.e. 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 he makes that endangers peace and security is •contrary to the will of every subject who entrusted his peace and safety to the sovereign's discretion and conscience, and so it is to be regarded as •void by the will of every one of the subjects. It's 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 isn't 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's 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's no way of predicting what a commonwealth's needs will be. Commonwealths can't 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's 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. 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's 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 gold and silver, and money. For gold 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 money 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 accompany a man wherever he goes in the town where he lives and elsewhere, and can pass 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, their 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 base money—i.e. coins whose value is greater than that of the metal they are made of—can easily have its value lowered or raised. Secondly, gold 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 coins 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: one that conveys it to the public coffers, the other that sends it out again for public

payments. The first sort include collectors, receivers, and treasurers; the 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. The 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 the 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 almost wholly on the licence or letters patent through which their sovereign authorized them to settle there (the exception 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 •commands but also of someone who •advises and of someone who •exhorts [= '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 •one 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 •another 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. •A 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's 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 can't punish •the adviser for giving• 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 energetically 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, •first, 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• •secondly, 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.

•Thirdly, •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 •commands, 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 •advice, 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 does what 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 •first 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, •secondly, an adviser ought to present his advice in such a way as to make the truth

appear most clearly, i.e. to present it with reasoning that is as firm, in language that is as meaningful and proper, and as briefly stated, 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 bad, but only witnesses of fact or of opinion); nor does it permit

- 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 ends other 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, •thirdly, 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 can't 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 can't 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 requires 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.

•Fourthly, 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 can't give satisfactory advice, even if he is wise.

•Fifthly, 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. **(1)** 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. **(2)** 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 burning brands when separated give off less heat than when they are joined together). **(3)** 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 can't 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's easily avoided by taking advice in private. **(4)** In deliberations that ought to be kept secret (and there are many of those in public business), it's 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's 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 •framed 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 •frame [= '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's greatest when one or more of them wants him to lose!

And though it is true that many eyes see more than one, 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 •look about with two eyes, always •aim 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 •a foreign enemy that united them, or •the reputation of some one eminent man among them, or •the secret planning of a few, or •their 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 isn't what 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's contrary to some law. Likewise, that only the commonwealth can make laws, because it's 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 the legislator is he who makes the law. And only the commonwealth prescribes and commands that the rules we call 'law' be obeyed. Therefore the commonwealth is the legislator. But the commonwealth isn't a person, and can't do anything except through its representative—the sovereign—and therefore the 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 usage comes to have the authority of a law, what makes the authority isn't 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 on 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 they maintain that bad 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's 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—i.e. performing covenants and giving to every man his own—is a dictate of the law of nature. But every subject in a commonwealth has covenanted to obey the civil law, and therefore obedience to the civil law is part also of the law of nature. (The covenant in question is either one they make with one another, as when they assemble to make a common representative, or a 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, i.e. 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 isn't

the person by whose authority the laws were first made, but the one by whose authority they now 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 sovereigns at that time, and they are now laws not because they have been validated by time but rather by virtue of the decrees of their 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—i.e. 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 that 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 *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 that 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 'the letter of the law' (i.e. with every construction that can be put upon it), but with what accords with the intention of the legislator. This is true; but there's a question about *whose* reason it is that shall be accepted as law. [That rather abrupt switch from 'intention' to 'reason' is Hobbes's.] 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; 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 the 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, that 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's 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 •those 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 •someone 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 *isn't* a law. So we must consider now what evidence and signs are sufficient for knowing what the law is, i.e. knowing what is the will of the monarch or sovereign assembly.

•First, 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 anyone to do to you.*

•Secondly, 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 isn't written or somehow published by the legislator can only be known by the reason of him who is to obey it, and so it's 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 times, 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 isn't 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's supposed to be obvious who the author (the legislator) is, because he is the sovereign, who is supposed to be sufficiently *known by* everyone because 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 whose 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 who it is.

Furthermore, it's 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 bad 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 the 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's 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 a 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 that he *could* look up for himself or have someone look up 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's 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 pun, 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 doesn't 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's 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—i.e. in a judgment about the law 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 (·i.e. •civil 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's 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's 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's 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'! •If the law takes his flight to be a basis for a presumption of the fact—·i.e. a presumption that he was guilty of the act of which he was accused·, which was a capital offence—the sentence ought to have been ·not mere forfeiture of goods but· death. And •if 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's 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 •the party pleading, it is not law to •any 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 isn’t 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 •the letter of the law from the •sentence [here = ‘intended meaning’] of the law; and when ‘the letter’ means ‘whatever can be learned from the bare words’ it’s 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 fuller authority. For example, a written law ordains that someone who is •thrust out of his house by force shall be restored by force; it happens that a man by negligence leaves his house empty, and on returning to it is •kept out by force—a situation that isn’t 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’s 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 •follow the letter of the law and condemn an innocent man, or to •flout 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—i.e. in a good judge—are not the same as those of a lawyer, namely book-learning about the laws. A judge ought to 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 •learned about from law books, but as •formally presented to him by parties to the court case or •declared 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. •First, a right understanding of that principal law of nature called *equity*. Such an under-

standing 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. •Secondly, a disregard for unnecessary riches and ranks. •Thirdly, the ability when judging to set aside all fear, anger, hatred, love, and compassion. •Fourthly 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*. •Natural 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.

•Positive 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 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's 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 there's no *natural* way for us to see that the authority comes from God. So two questions arise:

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

The answer to the first question is that he *can't*: for •one man to be rightly sure that another man had had a revelation, •he would have to have learned this from a revelation of his own! We may be induced to *believe* that someone had such a revelation, from •the miracles we see him do, or from seeing •the extraordinary sanctity of his life, or from seeing the extraordinary wisdom or •extraordinary fortunateness

of his actions, all of which are marks of God's extraordinary favour. But they are not assured evidences [= 'proof positive'] of special revelation. •Miracles are marvellous works, but what is marvellous to one person may not be marvellous to another; •sanctity can be feigned; and •the visible good things 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 the second question—how can he be bound to obey them?—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 *unbelief* 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 isn't contrary to the moral law (i.e. 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 isn't against the law of nature can be made law in the name of those who have the sovereign power, and there's 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 isn't 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 fundamental 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. Not 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.]