

distinction would come to be made between how sovereignty is *exercised* and how sovereignty is *legitimised*. Mass democracy came to be seen as a way of making the exercise of sovereignty acceptable to citizens whose hands would be very far from the levers of power, and whose representatives in parliamentary assemblies would for ever complain how difficult it was in practice to control the exercise of the supreme powers of law-making and law-enforcement. It could even be argued that mass democracy makes the exercise of a Hobbesian type of sovereignty easier, not more difficult, because if everybody is involved in the process of law-making through the ballot box, then nobody can ever have a legitimate cause for complaint about what laws are made, provided only that those laws are made by the right people and in proper form. As Sam Adams, the erstwhile radical of the American Revolution, was to say after the revolution was over, any man who opposes the laws of a republic ought to suffer death. Hobbes would have liked that.

### SOVEREIGNS AND WAR

Hobbes's argument that sovereigns remain in the State of Nature because they cannot make contracts with their subjects has very definite implications for international relations, and in particular for war. Like Machiavelli, Hobbes knows that most of the sovereignties as they actually exist in the world were acquired through conquest. Hobbesian sovereigns, remaining as they do in the State of Nature, are perfectly entitled to go to war with each other if they feel threatened. This would include the right of attacking first, because a preemptive strike might be one of the ways in which a Sovereign might increase his own sense of security. It might appear that this is a recipe for international anarchy. Would not sovereigns, who are in a State of Nature in relationship with each other, be inclined to fight each other the whole time? The answer is probably no. The idea that sovereigns in the State of Nature with regard to each other would always be fighting is based on a misunderstanding of the original State of Nature as it is described by Hobbes. It is easy to forget that men in the original State of Nature would be inclined to live solitary lives because trials of strength with other men would simply not be worth the risk where all were roughly and naturally equal. The same thought would occur to a prudent Sovereign. The doctrine of the legitimate creation of sovereignty by Acquisition would mean that every time a Sovereign went to war he would risk losing his sovereignty to another Sovereign, and we must never forget that, granted Hobbes's view of men as rational egotists, sovereignty is what all men want above everything else. A Sovereign would therefore be a fool to risk his own sovereignty in the uncertain trial by combat. Prudent sovereigns would certainly prepare for war in a world where nothing is certain, but going blithely into a war would be a different matter. Large and powerful states would probably tend to gobble up small and weak neighbours, but a time would come when a more or less stable international system of more or less equally powerful states emerged, or, if not more or less equally powerful, then states powerful enough in alliance with others to make rival states think twice about attacking them.

But even rationally calculating sovereigns sometimes make mistakes, and a risk-taking Sovereign always remains a possibility, so we should not be surprised if some sovereignties sometimes change hands. Much more likely, though, would be some kind of limited war for limited ends in which sovereigns would find ways of fighting with each other without ever risking their sovereignties. Limited wars followed by minor territorial adjustments would be conflicts in which sovereignties would not be put at risk. Even major wars could happen, as they did throughout the eighteenth century in Europe, because by later standards all eighteenth-century wars were limited wars. (It might even be that the implicit Hobbesian vision of international relations is a recipe for imperialism. *Leviathan* is, after all, an image of sea power.)

Hobbes's *Leviathan* is certainly not the blueprint for universal monarchy that it is sometimes taken to be. Quite the reverse. *Leviathan* contains a very clear explanation of why supra-national organisations like the League of Nations or the UN are bound to fail in their avowed purpose of keeping the international peace, or even in their intention to provide some measure of international co-operation which is different from traditional alliances between states for traditional foreign policy ends. For Hobbes, there is no peace without law, and there can be no law without a Sovereign whose command law is. Hobbes is absolutely insistent that individuals in the State of Nature cannot make law by agreement; all they can do by contract is to choose a Sovereign. What applies to individuals in the State of Nature also applies to sovereigns in their State of Nature in relation to each other. The only way there could be a guarantee of international peace would be if all the sovereigns of the earth, or an overwhelming majority of them, were voluntarily to give up the right of national self-defence to some kind of super-sovereign whose word would be law to all the nations of the earth. This the various nations of the earth have been notoriously reluctant to do. They have tried to make international law by agreement, but that has never stopped war. Hobbes could have told them why: covenants without the sword are but breath, without any power to bind a man at all. No all-powerful international Sovereign, then no international peace.

### **HOBBS ON THE ATTRIBUTES OF SOVEREIGNTY**

Sovereignty's attributes are what one would expect from a thinker who believes that the creation of sovereignty is an all-or-nothing act. Either you choose to live under a Sovereign or you don't, and there is no point in quibbling about the Sovereign's powers: either he has them all, or men will find themselves back in the State of Nature almost before they know it. It should again be noticed that Hobbes derives all the attributes of sovereignty from the original case of the making of sovereignty by Institution. The eleven attributes of sovereignty which Hobbes lists would be the attributes of Sovereignty which rational men in the State of Nature would voluntarily give to their Sovereign, and in any case they would be attributes which any absolute Sovereign would take for himself if he were ever in a position to do so. Hobbes describes the attributes of sovereignty by Institution and then goes on to say that, the attributes of sovereignty being what they are, the Sovereign by acquisition would naturally have them too. Hobbes knows that the

attributes of Sovereignty claimed by contemporary kings were capable of arousing furious resentments in their more liberty-loving subjects. Hobbes rubs salt into their wounds by arguing that, if these liberty-loving subjects thought about the matter clearly, they would set up a Sovereign by their own free will whose attributes would be much more absolutist than the claims of even the most absolute of contemporary kings. Of course, Hobbes's argument about the attributes of sovereignty works just as well, or even better, for the case of a Civil Society which has dissolved into chaos and is looking for ways to build itself up again. The gall for the liberty-lovers who would put constraints on the exercise of sovereignty is to be found in Hobbes's argument that either the constrainers would have to change their minds and admit that sovereignty by its very nature was absolute, or they would have to admit that they were being muddle-headed.

1 The first attribute of sovereignty is that the contract which sets it up repudiates all previous contracts. This must obviously be true of the original contract by which men got themselves out of the State of Nature. Contracts made in the State of Nature would have been invalid anyway, because a large part of what made the State of Nature so unbearable was that men would be unlikely to trust each other enough in the absence of a law-enforcing agency to make contracts in the first place. The case of a Civil Society breaking down and looking for ways to reconstitute itself is slightly different because there is always the possibility that men, or groups of men, might think that they had made a prior agreement with God, or they might be inclined to think that they could still make agreements with God after sovereignty had been re-created. Contracts like these could be very troublesome to a Sovereign, because contracts with God Himself would naturally take precedence over contracts men made with their fellows to create earthly sovereignty. Hobbes obviously has in mind here those post-Reformation covenants which peoples made with God by promising to live in good and godly commonwealths in the future. Hobbes is scathing about contracts with God which implicitly or explicitly put limits on the Sovereign's power. Contracts like these are really useless, because they have no force unless there is some power on earth to judge when they have been broken. That judge could only be the Sovereign because, as we have seen, to set up another judge in a Civil Society to judge the Sovereign's actions would be tantamount to setting up another Sovereign. When that happens a Civil Society is already on the way to civil war, the first stage on the slippery slope back down to the State of Nature which nobody in his right mind wants. Besides, any covenants with God, supposing there to be any, would have to be made by the Sovereign himself, not by his subjects. A people only has a will through its representative, and that representative by definition is the Sovereign. In the social contract, the contracting parties agree among themselves to transfer their troublesome Right of Nature to the Sovereign, and it is this which creates the sovereign authority. The contracting people authorise all that the Sovereign does. That would include any contracts made by the Sovereign with God, and the Sovereign would not even be obliged to tell his subjects what the terms of that contract with God actually were. Any mediation with God's person must therefore be through the Sovereign, so what good would that do for the liberty-lovers keen to put restraints on the sovereign power? Besides, there is always the possibility that those who claim to have made covenants

with God are simply lying. We only have their word for it that God agreed to keep his side of the bargain. And how do we know that God even listened?

2 The second attribute of sovereignty is that the Sovereign can never forfeit his right to it.

This follows from the terms of social contract itself, and is therefore true by definition. By transferring their Right of Nature to a Sovereign who is not party to the contract, men make the Sovereign their agent-at-large in the world. They authorise what the Sovereign does. It is the nature of agency that what my agent does, I do. What my agent does, he does in my name. Because he acts with my authority, I and not he am responsible for his actions. Not only can the Sovereign not be said to have forfeited his sovereignty by breaking the terms of an original contract to which he was not party, but also he can never be accused of acting wilfully against my own will because he acts with my authority. *His will is my will*. To challenge him is to challenge myself, a self-accusation which has no more force than if I were to accuse myself of breaking an agreement with myself to keep a New Year's resolution. Judging one's own commands to oneself is a nonsense, or at best a metaphor. One can only punish oneself by agreeing with oneself to be punished. The same would be the case with a Sovereign. Because the Sovereign's will is my will, I would in effect be accusing myself, and because I have transferred that will, in so far as I am able, to the Sovereign, that would require the Sovereign to accuse himself, and of course he would always let himself off lightly. Being a rational egotist, the Sovereign would always judge in his own favour in his own cause. Of course, there is still the possibility of setting up a mechanism for judging the Sovereign, but Hobbes has already hammered home the obvious point that if the right to judgement is disputed 'it returns therefore to the sword again, and every man recovereth the right of Protecting himself by his own strength'. Multiplying judges is the same as multiplying sovereigns. The consequence is civil war and eventually a return to the State of Nature.

3 Hobbes thinks that it is sufficient that a majority should agree to the transfer of the Right of Nature to the Sovereign for the social contract to be valid. His reasons for thinking this are simple (and surprisingly Lockian). Hobbes has in mind the possibility that when the original contract was made by Institution to get out of the State of Nature, some men might have found its terms too hard to swallow and so they dissented. Hobbes thinks that that would not matter provided only that a majority agreed. He argues that by coming together to consider making a social contract, potential dissenters tacitly consented to be bound by the majority. But suppose they refused to recognise that. The dissenters, not being party to the contract, would remain in the State of Nature. The chosen Sovereign, who is also not party to the contract, remains in the State of Nature too. He may therefore exercise his Right of Nature on the dissenters, and we already know that the Right of Nature is unlimited. The Sovereign could therefore compel the dissenters to come into Civil Society by agreeing among themselves to recognise him as Sovereign and authorise all he does, or he could kill them if they made him feel insecure. It is worth noting here that the condition of the State of Nature is not always the same. In the original State of Nature, men only had their roughly equal fellow men to contend with, but those who choose to remain in the State of Nature while others choose to enter Civil Society with a Sovereign find

themselves in an even more perilous position than the original State of Nature where no sovereigns existed. A Sovereign with the sword in his hand would be a much more dangerous adversary than one of those roughly equal men likely to be encountered in the original State of Nature. A single individual in the State of Nature would have no chance at all of winning a trial of strength with a Sovereign. That individual would have to lie very low, living furtively and fearfully to such a degree that it would always make sense for him to come into Civil Society, and this would apply to everyone else who was in the same position. Straightforward prudence is a more than sufficient motive for original non-joiners to come into Civil Society on the same all-or-nothing terms which the other joiners originally agreed to.

4 Hobbes knows very well that, human nature being what he thinks it is, it is a certainty that men will be dissatisfied from time to time with the government which their Sovereign provides. Being the rational egotists that Hobbes thinks they are, men will be especially prone to complain about government as it affects them as individuals. Having a certain *amour propre*, men will be inclined to believe that they suffer injuries at the Sovereign's hands. These injuries could be real or imagined, but injuries they would certainly appear to be. Hobbes argues that the Sovereign, despite appearances, is incapable of injuring anybody. How can this be? Hobbes makes a crucial distinction between what he calls Iniquity and what he calls Injury. Iniquity is ordinary human wickedness and it is the same in Civil Society as it is in the State of Nature. Hobbes says that the State of Nature has a Law of Nature to govern it, and that Law of Nature is also God's command. Coming into Civil Society cannot abrogate God's commands, which never alter, so the Sovereign, being in himself a man like any other, can certainly act wickedly towards at least some of his subjects on the ages-old principle *ira principis mors est* (the prince's wrath is death). (There would in fact be strict self-limitations on the wicked acts of a rational prince.) Hobbes insists that to call acts of sovereign wickedness 'injuries' is to make a conceptual mistake. Injuries are literally actions which are not lawful. The Latin root of the word tells us that. Injuries are therefore defined by the positive law of a Civil Society, and are punished through the ordinary machinery of justice which is a Civil Society's distinguishing characteristic. But who can judge the Sovereign? The law is his command, so how can he be self-commanded? Of course, he has the Law of Nature to guide him in his actions, and of course a prudent and pious Sovereign would be foolish not to listen to God, but earthly judgement is another matter. The idea of justice and injustice can have its place only in a Civil Society where the Sovereign is both law-giver and law-enforcer. To say that the Sovereign can do injustice is open to all the objections against judging a Sovereign which have been discussed. Besides, the social contract authorises everything that the Sovereign does, so that the Sovereign's actions are each man's actions, the Sovereign being his agent. It therefore follows that when it appears to me that the Sovereign has done me an injury, the supposed injury is something which I have done to myself, and nobody else can be responsible for a self-inflicted wound. The Sovereign may have acted wickedly towards me, but it is logical nonsense to say that he has done me an injury.

5 It follows from this that a Sovereign may never justly be put to death by his subjects

because they would be punishing the Sovereign for their own act, and no principle of jurisprudence could ever conceivably justify punishing another for what one did oneself.

- 6 The Sovereign obviously determines all measures for internal peace. One of the great disturbers of the peace is diversity of opinion, particularly political and religious opinions. Therefore the Sovereign has the right to censor both. In political terms, this boils down to a sovereign right to decide the meaning of words, especially the words 'just' and 'unjust' about which so much controversy is possible. The Sovereign cannot decide the meaning of 'right' and 'wrong' because God has already decided that, but justice being the product of the Sovereign's own law, it is obviously up to him to decide what it means.
- 7 One of the Sovereign's main jobs would be to censor religious opinions and decide on forms of worship. A religious settlement rigorously enforced is an obvious necessity at a time when men took where they were going to spend eternity very seriously and were prepared to kill each other if they disagreed about the right path to heaven. Religious controversy had been tearing Europe apart for over a century when Hobbes wrote *Leviathan*. Hobbes probably knew that you could not change men's inner convictions by force, but the Sovereign could certainly decide what the public forms of worship should be. Beyond that, what men thought in their heart of hearts probably did not matter very much. (In his own heart of hearts Hobbes himself was probably an atheist.)
- 8 Decisions in the ordinary courts of the realm must be the Sovereign's. All courts will be his courts, just as all law will be his law. Different kinds of courts which might make different kinds of judgements would lead to confusion. Uncertainty about how the law actually worked would lead to a sense of insecurity, and it was for some measure of security that men quitted the State of Nature for Civil Society in the first place. The State of Nature was insecure because it was lawless. There was no machinery of justice in the State of Nature so it would be foolish to incorporate uncertainty and therefore insecurity into the machinery of justice in Civil Society.
- 9 The sword of Justice is also the sword of war. When the contracting parties to the social contract put the sword into the Sovereign's hand, they meant the Sovereign to protect them from each other and also from external enemies. Most sovereignties are acquired through conquest, and war is a nasty business whether it is the war of all against all in the State of Nature or foreign invasion. Disagreement over the question of war or peace would plainly be divisive. A state is most a state when it goes to war. War-making is the ultimate act of sovereignty (*ultima ratio regis*—the king's final argument), so to deny the right of the Sovereign to decide matters of war and peace would be to deny him the very heart of sovereignty.
- 10 A Sovereign cannot do all the work of government by himself. All government will be government in the Sovereign's name (open in the name of the King!), but in fact the Sovereign will be obliged to work through agents. Sovereigns will naturally seek advice. They might even seek advice from parliamentary assemblies, or they might confine their advice-seeking to a few cronies, or even to a single royal favourite, but no matter where that advice comes from it is advice in the ordinary sense of the term, which the Sovereign may take or leave as he sees fit. Nobody could conceivably have a

*right* to give the Sovereign advice, and that the Sovereign could ever be *obliged* to take advice from anybody is unthinkable. The choice of royal servants is therefore the Sovereign's alone and he may appoint and dismiss them at will.

11 Sovereigns will want to reward their servants from time to time. The Sovereign therefore has the right, and the sole right, to grant titles of nobility. He may even have the right of demotion, and he is certainly not accountable to anyone else for the way in which he exercises the ennobling power. Aristocracy is to be the Sovereign's creation in so far as that is possible in societies where aristocracies are used to thinking of themselves as hereditary.

Hobbes's account of sovereignty is sovereignty on the grand scale. It is worth repeating that Hobbes infers all the attributes of sovereignty from the original case of voluntary contract by Institution, and only then does he say that conquest sovereignty by Acquisition would enjoy the same rights. In *Leviathan*, the argument is carried on at a fairly abstract level, and it may not be obvious at first sight that *Leviathan* can be read as a philosophical commentary on recent European and English history, but this is in fact the case. What follows is an attempt to historicise Hobbes by showing how each of the attributes of sovereignty can be related to matters of contemporary political dispute. In itself, this should come as no surprise, because Hobbes is above all concerned with laying the ideological groundwork for an undisputable and therefore stable commonwealth.

### **THE ATTRIBUTES OF SOVEREIGNTY AS CONTEMPORARY POLITICAL COMMENTARY**

Nothing could be easier for the modern reader than to read Hobbes's *Leviathan* and miss the implicit references to seventeenth-century politics. What is required is not a detailed knowledge of political developments in the seventeenth century, but rather an awareness of certain typical political themes out of which Hobbes was quick to draw important theoretical lessons. The predominant theme in Hobbes's political theory is fear for one's life and possessions. (Fear gave rise to the picturesque legend that Hobbes's mother went into premature labour on hearing the guns of the Spanish Armada in 1588; being at Malmesbury at the time, she must have had remarkable hearing.) Hobbes and terror were born twins, and the theory of the awful State of Nature might have been the result, though we have to balance against this the fact that Hobbes himself seems to have been a notably cheerful man.

What, exactly, was it that Hobbes is supposed to have been fearful of? The simple answer is that Hobbes thought that England during her Civil War was returning to the State of Nature which Hobbes dreaded, but historians of the English Civil War have been pointing out ever since the Civil War was over that England during that war was nothing like a State of Nature as described by Hobbes. On the whole, the fabric of English society was strong enough to remain substantially intact, so Hobbes cannot be right about the State of Nature, or at best he exaggerates. This is to ignore the continental influences on Hobbes (he was in exile in France for the ten years after 1641). Hobbes scholars have