

KING DAVID AND URIAH THE HITTITE IN THE POLITICAL THOUGHT OF THOMAS HOBBS*

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The most neglected aspect of Hobbes's attempt to solve the theological-political problem is his reliance on divine punishment of the iniquitous sovereign. By turning that matter exclusively over to God or — what comes to the same thing — by immunizing such a sovereign against accountability to his subjects, Hobbes radicalizes a Christian motif and fragments what for Aristotle had been an integral political whole. This essay is about that fragmentation, with special attention to the text in which Hobbes makes his intention partially clear — his discussion of King David's murder of Uriah the Hittite.

This is a reading, medium close, of the *Leviathan*, Chapter 21, paragraph seven, prefaced by ruminations on a large theme hazarded there, a theme handled differently in the political teachings of Aristotle and Hobbes. It is also a study of Hobbes's treatment in that paragraph of the history of David, Uriah, and Nathan from II *Samuel* 11 and 12. Therewith it is an inquiry into God's place in the political thought of Thomas Hobbes. In fact, it is the account of how, by radicalizing a Christian motif, Hobbes takes the lead in the modern fragmentation and dismantlement of the Aristotelian city, and of how he might be thought in consequence to anticipate modern majoritarian or democratic teachings.

I. Aristotle and Hobbes On the Connection between Natural Politicality and Holding Tyrants Accountable: Hobbes's Fragmentation of Aristotle's City

Let us first stipulate the familiar point that Hobbes and Aristotle disagree over man's nature¹ — Is it political or a-political? — hence also over the status of political society — Is it by nature, thus in some sense discovered, or by art and convention, thus in a strict sense made?² Less familiar is the connection to be urged here, between the opposed

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stances the two philosophers take toward natural politicality, on the one hand, and their differences concerning subject accusation of sovereigns as tyrants, on the other.

Consider then Hobbes's position on accusation and tyranny: First, he simply denies the subject has a right to criticize or dispute (*Lev.* 230, 234,³ 256⁴), judge or accuse (*Lev.* 124, 139), the sovereign; to be a subject means to be a non-accuser of one's sovereign. But second, given the fact that, if a subject *were* to accuse a sovereign of abusing his position, chances are he would use the word "tyrant," Hobbes precludes such usage by denying that there is such a thing as tyranny to be accused of: tyranny is but monarchy "misliked" (*Lev.* 130; and see 226, 470).⁵

The thesis here is that Hobbes's rule against accusing sovereigns of tyranny amounts to a denial of the idea of man as by nature political. This is the denial, from among Hobbes's many such,⁶ that we shall be looking at. As indicated, it may not be the denial that would first occur to most readers,⁷ neither Aristotle nor Hobbes having explicitly linked questions about tyranny with questions about natural politicality.

My thought⁸ is, though, that this connection is implied by Aristotle in his ascription to the city of "completion," of "self-sufficiency" (*Politics* 1253a1, 1253b29), which ascription is in turn part and parcel with his characterization of the city as by nature, and man as the *zoon politikon* (*Politics* 1253a3; *Nic. Eth.* 1097b10-11). In what sense will a city be complete or self-sufficient⁹ if it is debarred, as it is by Hobbes (*Lev.* 129-30, 226, 470-71), from addressing a massive problem cities always in principle face, the problem of tyranny (Strauss 1963, 21)? If the city cannot confront tyrants and hold them accountable; if it cannot police its seamy side, protecting the soul of the body politic from tyranny, then the city turns out to be laughably incomplete or insufficient.¹⁰ Political society being comprehended as natural because sufficient to all of man's natural needs, and man being characterized as naturally political and as such in need of justice,¹¹ the opposite of tyranny, how paradoxical it would be for the city and man to be denied the right to try meeting the need for justice (and to oppose tyranny), out of their own moral and material resources.

According to Hobbes, however, the so-called tyrant is the sovereign, "the publique Soule" (*Lev.* 230), without which there is no city, hence no city to be tyrant of and no city to hold the tyrant accountable to (*Lev.* 230, 245). In Hobbes's understanding, tyrannicide, if not also the accusation of tyranny, is self-cancelling. Furthermore, Hobbes will say that Aristotle's city can hardly be called self-sufficient, dependent upon or vexed as it is with the idea, "[t]hat every private man is Judge of Good and Evill actions" (*Lev.* 223; italics original). Hobbes cannot understand a claim of public self-sufficiency when, as Aristotle would have it, the public is dependent on something

outside of it, the private. He is confident that the political insufficiency he sees in Aristotle's city is in sharp contrast with his own commonwealth, which has a sovereign Hobbes strives to make into a self-sufficient public oracle of good and evil (*Lev.* 223), a veritable "publique Conscience" (223).

It turns out, though, that the political community as conceived by neither thinker is hermetically sealed, or able to achieve complete moral/political autarky. Hobbes as well as Aristotle makes an outside, extra-political, "foundational" appeal — indeed he makes *two* such appeals, to Aristotle's one. Both Aristotle and Hobbes appeal to an outside, transcendent *standard*, but only Hobbes appeals to an outside *Person* — though not, to be sure, to a *human* person. Aristotle and Hobbes differ, then, over which form of qualified self-dependence is the more eligible — not to say the more noble — a question deserving at least the little additional attention we shall now give it here.

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Despite Hobbes's positivistic aspiration to make the *fiat* of his sovereign self-sufficient — indeed to make the sovereign a *monopolist* of morality — he admits, or insists, that there is at least one standard or foundation, one moral line, independent of the sovereign *ipse dixit*. His sovereign is as powerless as Aristotle's citizen to bend or move the boundary between righteousness and iniquity. Hobbes himself draws this line, in the *Leviathan*, for various subjects of various sovereigns to see.¹² He exhibits the difference between righteousness and iniquity not only in the paragraph that is our concern here (the seventh of Chapter 21 [148]), but also, e.g., in Chapter 28, on criminal justice;¹³ in Chapter 26, on conduct of and in all the courts, civil as well as criminal;¹⁴ and in Chapter 24 (*Lev.* 172), on property.¹⁵

To be sure — and here is a massive difference between Hobbes and Aristotle — Hobbes's subjects having had the line pointed out to them, and, let us suppose, having judged their own sovereign's administration of justice to be over that line, hence iniquitous, they must nevertheless keep their mouths shut and their bodies inert, neither accusing nor resisting. Hobbesian subjects are a species of sub-vocal semi-Aristotelians (*Lev.* 234, 256).

Real, full-voiced Aristotelians, on the other hand, confirming in speech and deed that man is the political animal, can be candidly and thematically what Hobbesians can be only disingenuously and glancingly, i.e., politically engaged in the struggle for righteousness. Aristotle's contention, disputed but not confuted by Hobbes, indeed reinforced by him, is that all men have, just because they are human beings (cf. *Lev.* 109-10), an awareness, however inarticulate and muddled by art and convention, of a standard naturally transcending the city,

i.e., of natural justice or law. In light of this Aristotelian contention, tacitly and grudgingly acquiesced in by Hobbes, the kind of oracular and non-referential self-sufficiency that the Hobbesian sovereign claims for his edicts is vindicated by nothing other than Hobbes's gag order, and is specious. Hobbes's sovereign does not achieve positivistic self-sufficiency but only self-serving non-accountability.

Consider, on the other hand, Hobbes's swipe at Aristotle — his saying that, according to Aristotle, "every private man is Judge of Good and Evill actions" (*Lev.* 223). He may be insinuating that, in licensing judgment by private men, Aristotle is approving judgments by *outsiders* on matters of which only the *insider*, the sovereign, rightly takes cognizance. A city — so Hobbes may be understood to contend — that will tolerate an outsider's judgment has not achieved, has not even sought, true, oracular self-sufficiency.

Although this — Hobbes's "private judgment" allegation¹⁶ — is a canard,¹⁷ it does refer in a garbled way to something real in Aristotle's teaching: his view that human beings are stuck with having to exercise their reasoning faculty. The compulsion and responsibility to judge,¹⁸ indeed as is now disparagingly said, to be "judgmental," exists whether an individual is a public official or a "private man." To put the matter another way, man is such a being as can never be a "private man" in Hobbes's cloistered sense. The Aristotelian human being is by her nature (Levy 1991) always implicated in public affairs. Inside or outside the city, inside or outside the government, we cannot recuse ourselves from making moral and political judgments. Aristotle denies that a rational being can turn her judging function entirely over to another, or that there can be such a thing as a sovereign, if a sovereign is a monopolist of judgment.¹⁹

In any case, the appeal to "every private man...[as] Judge of Good and Evill actions" is dwarfed in Hobbes's own system by an appeal that goes way beyond and above the city — upstairs, to God Almighty.²⁰ Though God may be partially domesticated by Hobbes's theology and his sovereignty doctrine (*Lev.* 268-69, 314-15, 321-22, 402-15; and see section IV, 10, below), even Hobbes does not maintain that God is within or a part of the commonwealth the way the reasoning, city-dwelling human being, the court of appeal in Aristotle, is such a part. In Aristotle, the active agent or person *qua* corrective is within the city, amongst the human beings who, explicitly or not, as citizens or not and as rulers or not, are striving, because they cannot *not* strive, to bring the city into the right shape according to nature. Their explicit or implicit resort is to an external *standard*, natural justice — but not to an external *Person*, God. In Hobbes, by contrast, the corrective appealed to *is* that Person, Who altogether transcends the city, and maybe the world (but see Strauss 1959, 184), though His standard of judgment seems to be a (preservationist) version of natural law.²¹

As *zoon politikon*, Aristotle's human being just naturally takes ultimate responsibility for the level of justice sought and achieved by his city — in a way no human being does in Hobbes's commonwealth. Not even the Hobbesian sovereign is ultimate in the manner of the Aristotelian citizen, for that sovereign is backed up and held responsible by God, the Ultimate Outsider, with ultimate oversight.²² Hobbes's commonwealth achieves its semblance of self-sufficiency and unity only by ignoring what Aristotle regards as part of the political association's essential business. In Hobbes's commonwealth, the problem of iniquity is solved by looking the other way, ignoring it, sweeping it under a prayer rug. Though determined to preclude the kind of citizen-centered moral autarky Aristotle had commended, and to achieve in its place the real thing, a sovereign-centered autarky, Hobbes finds he cannot affect total oblivion of the problem of sovereign iniquity or tyranny. He finds, in addition, that he can deal with that problem only by appealing to God, hence losing self-sufficiency, hence fragmenting what had been for Aristotle a recognizable — if externally referring, "foundationalist," natural justice-based — political whole.²³ It would seem, then, that Rousseau overstates the case for Hobbes as the great political re-unifier (1973, 302; Orwin 1975, 26-40).

II. The Teaching of Leviathan, Chapter 21, Paragraph Seven

Chapter 21 is about the "LIBERTY of Subjects," one kind of which is what the "Sovereign hath praetermitted"²⁴ (*Lev.* 148). Our paragraph, seven, tells us

we are not to understand, that by such [praetermitted] Liberty, the Sovereign Power of life, and death,²⁵ is either abolished, or limited. For...nothing the Sovereign Representative can doe to a Subject, on what pretence soever, can properly be called Injustice, or Injury [*Lev.* 148; cf. 124, 202].

No question is to be raised by subjects about any sovereign treatment of them, "on what pretence soever." This is the thesis of our paragraph. No matter what the sovereign does, he commits no injustice or injury and there is thus no ground for subject accusation,

because every Subject is Author of every act the Sovereign doth;²⁶ so that he [the sovereign] never wanteth Right to any thing, otherwise, than as he himself is the Subject of God, and bound thereby to observe the laws of Nature [*Lev.* 148; and see 124, 231, 237].

The Aristotelian whole — a collective²⁷ striving for justice — is here fragmented into separate domains of subject obedience to the civil law and sovereign obedience to the natural law. The issue of what we shall hear Hobbes call sovereign iniquity — what we, not Hobbes, would call an unjust or a tyrannical act — is removed from the civil to the divine venue. Hobbes denies to the city its Aristotelian jurisdiction over the tyrant. This is Hobbes's fragmenting of the political whole; this is his denial that it is naturally right for human beings and citizens to take care of all the political business of their city.

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We now move from the first part of the paragraph, which, as we have seen, articulates the teaching of sovereign non-accountability in general terms, to the remainder of it, which, as we shall now see, illustrates that teaching with three cases — Jephtha and his daughter, David and Uriah, and the Athenian *demos*. Although the case of David/Uriah is the most important, the others are not unimportant. For, on the one hand, Hobbes uses his treatment of the matter of Jephtha to teach us the spirit in which we are to read biblical narratives, preparing us for his use of the David/Uriah story. On the other, he uses his treatment of the Athenian custom of banishment to teach us how post-Christian commonwealths might solve the political-theological problem left over from his treatment of David/Uriah.

III. Jephtha and His Daughter

Here is how Hobbes would have us think about this saddest of all father and daughter stories:

[I]t may, and doth often happen in Common-wealths, that a Subject may be put to death, by the command of the Sovereign Power; and yet neither doe the other wrong: As when Jephtha caused his daughter to be sacrificed: In which, and the like cases, he that so dieth, had Liberty to doe the action, for which he is neverthesse, without Injury put to death [*Lev.* 148].

Hobbes expects us, his students, to pick up on his manner of reading the Bible by juxtaposing his statement of the case with the biblical account of the same:

And Jephtha vowed a vow unto the Lord, and said, If thou shalt...deliver the children of Ammon into mine hands, then it shall be, that whatsoever cometh forth out of the doors of my house to meet me, when I return in peace...shall surely be the

Lord's, and I will offer it up for a burnt offering. So Jephtha passed over unto the children of Ammon, to fight against them; and the Lord delivered them into his hands....And Jephtha came to Mizpeh unto his house, and, behold, his daughter came out to meet him with timbrels and with dances; and she was his only child: beside her he had neither son nor daughter....[W]hen he saw her...he rent his clothes and said, Alas, my daughter!...

And she said unto him, My father, if thou hast opened thy mouth unto the Lord, do to me according to that which hath proceeded out of thy mouth....And she said unto her father, let this thing be done for me: let me alone two months, that I may go up and down upon the mountains, and bewail my virginity, I and my fellows....And it came to pass, at the end of two months, that she returned unto her father, who did with her according to his vow [*Judges* 11:30-39; KJ].

Hobbes does not merely abstract from the original, he mocks it. The moral Hobbes draws could not be more alien to the minds of Jephtha, his daughter, and the author of *Judges*. Observe the difference in tone and concern, with Hobbes treating Jephtha's heartbreak in a coldly legalistic, adversarial, exculpatory mode:

[A] Subject may be put to death, by command of the Sovereign Power; and yet...[not do her] wrong;...[s]he is...without Injury put to death [*Lev.* 148].

This is how Hobbes abstracts from the wrenching pathos of *Judges* 11:30-39. Is there a more poignant story in the Bible? In all literature, sacred or secular? Yet Hobbes treats it as if our reaction to it can be merely technical — after all, Jephtha did not inflict moral/legal injury on his daughter.²⁸ Hobbes wants us to see the differences between his emphasis and that of the Bible. He expects us to learn as much about his intention from the unacknowledged discrepancies and tensions between his discussion and the biblical passage as from what he explicitly says about the biblical episode.

IV. David²⁹ and Uriah³⁰

Returning to Hobbes's paragraph, we pick up some old and go on to some new language, moving thereby from the case of Jephtha's daughter to that of Uriah. Recall Hobbes telling us that "nothing the Sovereign Representative can doe to a Subject, on what pretence soever,³¹ can properly be called Injustice, or Injury" (*Lev.* 148). "And therefore it may, and doth often happen in Common-wealths," he had continued,

that a Subject may be put to death, by command of the Sovereign Power;...as when Jephtha caused his daughter to be sacrificed: In which [case]...he that so dieth, had liberty to doe the action,³² for which he is neverthelesse, without Injury put to death [148].

"And the same holdeth also in a Sovereign Prince," Hobbes now says,

that putteth to death an Innocent Subject. For though the action be against the law of Nature, as being contrary to Equitie, (as was the killing of *Uriah*, by *David*;) yet it was not an Injurie to *Uriah*; but to *God*. Not to *Uriah*, because the right to doe what he pleased, was given him by *Uriah* himself:³³ And yet to *God*, because *David* was *Gods* Subject; and prohibited all Iniquitie by the law of Nature [*Lev.* 148; italics original].

Here we have Uriah forcibly participating in Hobbes's social contract authorization scenario, which, as part and parcel with his fragmentary theological-political arrangement, defeats Uriah's kin or partisans, when they come to hold David accountable.³⁴

1. Hobbes and the Books of Samuel on David and Uriah: an Initial Contrast

We will search I and II *Samuel* in vain for evidence that David, "the Lord's Anointed" (II *Samuel* 12:7; cf. I *Samuel* 24:1-10; 26:9-11, 23; II *Samuel* 1:14-16), is Uriah's "Sovereign Representative" — to say nothing of his being so because his "Subject [Uriah] is Author of every act [David] the Sovereign doth."³⁵ There being no social contract between the biblical Uriah and his fellow subjects (Forrester 1963, 299; cf. II *Samuel* 5:3), the terms of no such contract are available with which to measure either what the biblical David can do to Uriah "without Injury," or — this being another Hobbesian issue — what Uriah can do to David without injury (cf. *Lev.* 150). On this latter point, as we shall see, the contrast is this: whereas *Hobbes's* Uriah may not accuse the Hobbesian David of iniquity, yet may, under certain circumstances, kill that David, the *Bible's* Uriah may not kill or even touch but arguably may accuse the biblical King David. To appreciate this contrast it is necessary to follow the path Hobbes sanctions for Uriah, imagined as a Hobbesian subject, juxtaposing it with a biblical path for Uriah.

2. Uriah's Options According to Hobbes and Samuel

When Uriah is ordered into the forlorn hope, Hobbes would say he has a "true Liberty of a Subject" to go AWOL (*Lev.* 151-52),³⁶ whereupon David would "have Right enough to punish his refusall with death" (*Lev.* 151; see 243),³⁷ and Uriah the right to defend himself against that punishment (*Lev.* 91, 98, 150-51)³⁸ — collectively (*Lev.* 71-72, 152), and to the point of killing David the King (*Lev.* 71-72, 87-88, 91, 152; and compare *Lev.* 200 with 484). But what Uriah may not do is *accuse* or attempt to *punish* David for anything he has done (*Lev.* 124, 234; cf. 98, 202).

Those being Uriah's options, according to Hobbes, what may he do as *per* the books of *Samuel*? Take first the question of avoiding military duty. In the narrative of II *Samuel* there is no indication that, when ordered to participate in the siege of Rabbah, Uriah believed he had a Hobbesian true liberty to omit reporting for duty (II *Samuel* 11:16) (his solidarity with his comrades may have been one reason he would not have considered going AWOL [II *Samuel* 11:11]). Consider next flight or resistance. One biblical place where Uriah might have looked for guidance on conducting himself in these regards *vis-a-vis* King David in the *second* book is the *first* book's account of David's conduct *vis-a-vis* King Saul. Had Uriah been tipped off to David's deadly plan for him, and had he modeled himself on the young David *vis-a-vis* the murderous Saul, he would then have considered himself at liberty to have "fled and escaped" (I *Samuel* 19:10-18).

Suppose Uriah had fled, with David's men on his heels. What might he have been morally free to do then, according to the books of *Samuel*? Surely to have continued his flight, because he was innocent. Recall that Saul set the iniquitous precedent of trying to eliminate an inconvenient subject by sending him into battle (I *Samuel* 18:25), where the consequence was not as Saul hoped. David survived and became a still more renowned warrior, thus setting Saul's teeth ever more on edge, who then, as it were, put out a contract on David. It is made totally clear in *Samuel* (a) that David was innocent (I *Samuel* 19:5), and (b) that his innocence was the necessary and sufficient justification for his flight. Here is a sharp difference between the books of *Samuel* and Hobbes: there is no such thing in I *Samuel* as an option to run (to say nothing of resisting), understood Hobbes-wise as something "which the *Guilty* man may as well do [has as much of a right to do], as the *Innocent*" (*Lev.* 152; emphasis supplied; Arkes 1986, 208-09).

Nor did God give either biblical character, David or Uriah, innocent though each was, the freedom to organize a defense of himself against his sovereign (cf. *Lev.* 152). Being the Lord's anointed, neither Saul nor David was to have a subject's hand raised against him (see, e.g., I *Samuel* 24:1-10; 26:9-11, 23; II *Samuel* 1:14-16; II *Samuel* 12:7). It

is of course preposterous to think of the *Samuel* books legitimating a violent overthrow and regicide of the sort Hobbes justifies in *Leviathan*, Chapter 21, paragraph 17 (cf. Cumberland 1727, 377;³⁹ Bramhall 1844, 555; Hampton 1987, 199; Arkes 1986, 206-14; Schrock 1991, 855-56, 882-84 and notes 54-55). But what about David accusing Saul, or Uriah David, of iniquity?

3. Accusation of Sovereigns

Hobbes writes the paragraph under discussion (Chapter 21, paragraph seven [*Lev.* 148]) to deny that accusation of the sovereign is a possible, to say nothing of a right, thing to do (and see, *Lev.* 124, 139, 230, 234). Hobbes's reason for that denial is either that the sovereign "for want of having obligations to his subjects, remains in the state of nature with regard to them" (Orwin 1975, 34, and Warrender 1957, 197; but see Cropsey 1977, 305), in which state "there is no place for Accusation" (*Lev.* 98, 202; Orwin 1975, 34), or that there is in any case nothing that Uriah (or his kin) can accuse David of, Uriah by the terms of the covenant having given prior indemnification to David for everything he might conceivably do in general to others (cf. Arkes 1986, 215-16) or specifically to Uriah (*volenti non fit iniuria* [DC, III, 7; and see *Lev.* 104-05]).

That being Hobbes's position, what stance does *Samuel* take on accusation?⁴⁰ Although there is no covenant immunizing the biblical David from accusation, is he not immunized against accusation simply by being "God's anointed"? Well, David *does* accuse Saul in I *Samuel*, e.g., at 24:11, when he says "thou huntest my soul to take it"; in 24:12, when he says "the Lord [will] avenge me of thee"; and again in 24:13, when he says "Wickedness proceedeth from the wicked" (KJ). And David the King, himself, is he accused by any other than Nathan?⁴¹ Yes, by Yoav, out of impatience with David's grieving over Absalom: "Thou hast shamed this day the faces of all thy servants" (II *Samuel* 19:5; KJ).⁴²

4. Where is Nathan?

Three participants in the biblical David/Uriah narrative do not appear — are not allowed to appear — on the Hobbesian stage: Nathan, Yoav, and Bathsheba (four, if we count God, arguably speaking through His prophet, Nathan, and half on stage as the addressee of David's "thee"). Consider Nathan first. Why is he not heard from in Hobbes's account? Because of what he does. What does Nathan do? He accuses David: "Nathan said to David, *Thou art the man*" (II

Samuel 12:7; italics original; KJ). Hobbes conspicuously, ostentatiously ignores David's accuser, editing out one of Scripture's most famous denunciations. So prominent in II *Samuel*, Nathan is absent from *Leviathan*, Chapter 21. Or rather, since Hobbes knows his readers will be thinking of Nathan, he is a muted presence, just off the Hobbesian stage, to be made an example of. Hobbes teaches his alert sovereign readers by the way he treats Nathan. He does not condemn, he merely ignores, hence silences Nathan. If Machiavelli's slogan is "Kill the sons of Brutus," Hobbes's is "Silence Nathan the Prophet."

But, was Nathan's "Thou Art the Man" a case of a *subject* accusing his sovereign? Indeed, is Nathan a subject? The simple biblical answer to this latter question is affirmative, as witness Nathan's bowing to David in I *Kings* 1:23. Yet, also according to the Bible, Nathan was hardly one of David's *ordinary* subjects. He was, after all, Nathan the Prophet, voicing God's accusation of David.⁴³ It is hard to know what to make of that fact. Does the account of David and Nathan in II *Samuel* license ordinary subjects facing tyranny to take God's prophet as their model?⁴⁴

Having wondered about Nathan's status *vis-a-vis* David in the Bible, we turn now to Hobbes, in whose eyes Nathan can only be an ordinary subject, there being according to *Leviathan*, Chapter 36, no certifiable prophets.⁴⁵ Hobbes must read II *Samuel* 12:7 as a case of biblically justified accusation of a sovereign for tyrannical conduct by a mere subject.⁴⁶ What Hobbes is saying to his sovereign readers, potential and actual, by his exclusion of Nathan from the narrative, is that

you must correct this great biblical blunder. In your capacity as 'Sovereign Prophet' (*Lev.* 299), 'Pastor' (*Lev.* 372), and Exegete (*Lev.* 190-91), you must censor from your Authorized Version all subject accusations of sovereigns.

Supposing, as Hobbes from time to time concedes, or insists, there is a truth and a right reason independent of the raw *ipse dixit* of power,⁴⁷ his position seems nevertheless to be that subjects must not be exposed to literature depicting subjects speaking that truth, as accusation, to power.

5. Inculpation, Exculpation: Psalm 51 and II Samuel 12:13

Hobbes is determined to cancel sovereign accountability to subjects, hence to preclude subject accusation of sovereigns. Indeed, he tries to enlist David himself in support of his non-accountability position, saying that the distinction between David being accountable to Uriah for

injury/injustice and his being accountable only to God for iniquity is one David himself insists upon:

Which distinction, *David* himself, when he repented the fact, evidently confirmed, saying, *To thee only have I sinned* [italics original].

Some clarification is required about the confession Hobbes quotes here from *Psalms* 51, and the one he might have quoted from II *Samuel* 12:13. The “only” of *Psalms* 51 works beautifully for the purpose to which Hobbes and others⁴⁸ have put it. There is little, however, in the clause Hobbes quotes when it is read within its sentence context, to say nothing of its being part of a whole *Psalms*, to suggest that David has Hobbes’s point or anything like it remotely in mind. If David had been concerned to buttress the non-accountability point, he would have written *Psalms* 51:4 something like this: “To thee only have I sinned, and done this evil in thy sight; that my readers will understand I am not accountable for it to my subjects — not, for example, to Uriah’s kin.” But what he actually wrote was this: “To thee only have I sinned, and done this evil in thy sight; that thou mightest be justified when thou speakest, and be clear when thou judgest” (KJ). It is difficult to find in this passage (or in the *Psalms* as a whole) a claim by David of immunization from accountability to his subjects. It is even more difficult to find such a claim in a passage not quoted by Hobbes, i.e., David’s utterance as quoted in II *Samuel* 12:13: “And David said unto Nathan, I have sinned against the Lord” (KJ). The Jewish Publication Society translation reads, “I stand guilty before the Lord,” a phrasing even more open to the possibility of David having sinned against Uriah than the King James’s, “I have sinned against the Lord.” An unforced reading of the JPS translation is that David sinned against Uriah and is now pleading guilty of that sin before his Lord.

Although Hobbes indeed refers to David’s repentance — “when he repented” — he is almost entirely preoccupied with exculpating David of injury to Uriah. David, on the other hand, is entirely immersed in inculcating himself. *He repents*. Is there a more familiar, noteworthy, paradigmatically profound repentance in all of Scripture? The biblical David is not in a mood to fend off accountability; he is rather distraught with guilt — inculcating himself, confessing himself of an abomination for which he indeed repents himself, in the most heartfelt possible way. He says, in effect:

Of course I have sinned against Uriah, Oh Lord; that goes without saying,⁴⁹ and I will not try Your divine patience by denying it. But, what Nathan has me seeing is that in sinning against Uriah I

have sinned against Thee, and that "the sin against God was greater beyond compare than [that] against Uriah" [Milton 1932, Vol. 5, 13.].

6. Orwin Questions Warrender's Analysis

According to Howard Warrender, in an observation with a bearing on the case of David and Uriah,

the conduct of the [Hobbesian] sovereign cannot be a moral affront of which the citizen may take note...[because] authorization...indemnifies the sovereign from accountability to the citizen on such grounds [1957, 110].

Clifford Orwin, by contrast, denies that Hobbes's authorization doctrine is meant "to indemnify...[the sovereign] against accusations of iniquity from among his subjects" (Orwin 1975, 33). Orwin observes that Warrender's thesis "depends on the unstated premise that were it not for authorization the sovereign would be accountable to his subjects for his iniquities." The problem with that premise, Orwin observes, is that

[t]he sovereign, for want of having obligations to his subjects, remains in the state of nature with regard to them, and in that state no man is accountable to another in any respect whatsoever [1975, 34].⁵⁰

The sovereign does not need an authorization, Orwin is saying, to render him what he already is, by nature — non-accountable.

That is Orwin's *first* argument against Warrender, an argument which seems cogent, even irrefutable — if its state of nature premise is correct.⁵¹ Yet, Hobbes does not consistently rely on it to convey to subjects the non-accountability of sovereigns. This brings us to Orwin's *second* argument against Warrender, which is that "Hobbes never actually makes use of authorization in the manner which Warrender commends to him" (1975, 34), i.e., to indemnify the sovereign against accusation by his subjects. Yet, in defense of Warrender, it might be pointed out that Hobbes appears to be using the authorization doctrine as *per* Warrender's contention in the very paragraph that we are reading:

[T]hough the action be against the law of Nature, as being contrary to Equitie, (as was the killing of *Uriah*, by *David*;) yet it was not an Injurie to *Uriah*; but to *God*. Not to *Uriah*, because the right to doe what he pleased, was given him by *Uriah* himself: And yet to *God*, because *David* was *Gods* Subject [*Lev.* 148].

Uriah is said in effect to “indemnify...[David] from accountability [to himself]” (Warrender 1957, 110) — is he not? Nor does it seem far-fetched that such indemnification might be one function of the authorization mechanism as per Hobbes’s intention. It is not implausible that Hobbes was determined to hammer home the sovereign’s non-accountability more forcefully than could be done by merely invoking the rather distantly theoretical contention that entities in a state of nature with each other cannot be accountable to each other. This latter, pallid argument is not likely to persuade outraged people that they cannot accuse an iniquitous sovereign. Hobbes can be understood to have calculated that, if any argument is going to silence such persons (a shaky hope, to be sure), it will be the one saying that, in accusing the sovereign, they are accusing themselves — that they are the accountable parties. But, accountable to whom and for what purposes? It is in this connection that the great virtues of Orwin’s analysis of Hobbes’s authorization doctrine begin to assert themselves.

7. Hobbes’s Truncated Authorization Teaching

The paragraph under examination here (the seventh of *Leviathan*, Chapter 21) is written to deny that the sovereign malefactor is accountable to the subject (or to affirm that he is accountable only to God). Hobbes insists that the sovereign cannot be accountable to the subject because, by the terms of the covenant, “every Subject is Author of every act the Sovereign doth” (*Lev.* 148), i.e., “every man [is bound] to every man to Own...all, that...their Sovereign, shall do, and judge fit to be done” (*Lev.* 122). Yet, it may be doubted that achieving this form of non-accountability is the only purpose of Hobbes’s authorization doctrine in its entirety. We ought not allow the focus of this one paragraph make us think so exclusively about *sovereign*, to neglect of *subject*, accountability. Nor is subject accountability to the sovereign (and God) for disobedience to sovereign commands the only, or the main, subject accountability requiring study. In particular, the following question compels attention: Might not the subject be accountable to God for *obedience* as well as for *disobedience* — if, say, a sovereign command he obeys is in violation of the law of nature, hence iniquitous? This is the question Orwin raises about the “most striking incongruity” in Hobbes’s authorization doctrine:

[W]hile the subject has authorized all of the actions of the sovereign, and is therefore responsible for them “as if they were his own,” he is responsible to God neither for any action which the sovereign undertakes nor which he undertakes at the sovereign’s behest. This seems a considerable qualification [Orwin observes] to

the assertion that the subject owns...the actions of his sovereign [1975, 33].

Orwin's puzzlement is fed by the fact that two consequences are ordinarily expected from an agency or authority agreement: one is *indemnification* of the agent against complaints by the principal about acts performed within the terms of the authorization; the other is *identification* of the responsible party — the principal — for purposes of third parties (cf. *Lev.* 208-09), such as here, God. In Hobbes's doctrine, Orwin is saying, only the first consequence of the agreement and not the second is as we would expect. The Hobbes agency relationship seems one-legged. The subject principal or author owns the sovereign agent's acts for one purpose (sovereign-agent non-accountability to the subject-principal) but not for another (subject-principal accountability to the third party, God).

If Hobbes's doctrine were going where its own agency/ authorization logic points, it would not assert that the sovereign-agent is accountable to God; rather, it would go behind the sovereign-agent to the subject-principal, i.e., to the person authorizing and owning his sovereign-agent's every act. Hobbes "might have argued," Orwin says, "that the subject is responsible to God for the actions of the sovereign no less than for his disobedience to him" (1975, 35). Though Hobbes's authorization doctrine, thus reconstructed according to what one wants to call the normal rules of agency, would indeed continue to prevent the subject-principal from accusing the sovereign-agent, it would not forestall the third party, God, from looking to the subject as the author of the iniquitous things the sovereign has done, or ordered.⁵² Why doesn't Hobbes teach normal agency doctrine rather than this eccentrically foreshortened conception? Orwin says Hobbes adopts his peculiar teaching so as to insulate the subject from God's wrath, or to redirect that wrath. Leaving open the question whether Hobbes wants the subject to fear God's anger for noncompliance, Orwin identifies Hobbes's deeper intention as that of wanting the subject *not* to fear God's anger for compliance.⁵³ That is why "he fails to carry authorization to its logical conclusion" (Orwin 1975, 37).

If iniquitous actions of the sovereign, or enjoined upon the subject by the sovereign, were to be attributed to the subject, he would...be blamelessly unwilling, even under pain of death, to submit to commands or to tolerate actions which seemed to condemn him to eternal flames [1975, 37].

So, Orwin concludes, "Hobbes in the *Leviathan* contrives...to...reliev[e] the subject of responsibility for every such action" (37) — his contrivance short-circuiting the normal logic of authorization.

* * *

Suppose, however, someone complains that little of the preceding exposition can have a bearing on the David/Uriah story nor hence on Hobbes's use of that story in our paragraph. Not even the normal, logically extended, non-Hobbesian authorization doctrine would hold Uriah responsible to God for an iniquity of which he is the *victim*. To this objection, one can respond that, though indeed God will presumably not hold subject victims accountable, there are subjects other than victims to whom accountability before God might be extended without absurdity. Although God will presumably hesitate to hold Uriah accountable for the iniquity David perpetrated on him, He might very well hold non-victim fellow subjects, *qua* co-principals, responsible. Furthermore, there is a second non-absurd way, under the logically extended authorization doctrine, of being a responsible subject: Orwin mentions not only subject authorization and ownership of "any action which the sovereign undertakes," but also "any action which...he [a subject] undertakes at the sovereign's behest" (1975, 33). Hobbes may be deploying a foreshortened authorization doctrine to shield the sovereign's subject-*henchman* from God's wrath. This is indeed Orwin's understanding of one of Hobbes's desiderata — that he truncates the authorization mechanism so as to obviate the scruples of the henchman-subject, thus liberating him from the fear of God so that he might register fear of the sovereign and thus obey any and all sovereign commands without scruple and with dispatch.

Which brings us to the case of an infamous lieutenant, one who did a heinous thing at the sovereign's behest in the episode we are studying.

8. The Problem of Yoav ⁵⁴

Though Yoav is off stage, he is, if Orwin is correct, of major concern to Hobbes. As the person who is to carry out David's order — "set ye Uriah in the forefront of the hottest battle, and retire ye from him, that he may be smitten, and die" (II *Samuel* 11:15; KJ) — he will want to know his "accountabilities," hence his "liabilities." Yoav stands for the problem of achieving subject compliance with iniquitous sovereign commands, the problem Orwin believes the peculiarly truncated authorization thesis of the *Leviathan* is meant by Hobbes to solve.

But before turning to Orwin's account of Hobbes's solution of Yoav's problem, we need to see how that problem was viewed, or compounded, by various Christian teachers. Asked about David's order, all Christian teachers would reply that Yoav must not obey it.

[E]very Christian writer...[has taken] for granted the duty of refusing to obey any command of a ruler which was directly contrary to the word of God [Jaszi and Lewis 1957, 13; Orwin 1975, 39].⁵⁵

There is, to be sure, one apparent exception to Lewis's generalization: those divine right teachers who agreed with Bates, in Shakespeare's *Henry V* (IV.1.125ff), according to whom, "We know enough, if we know we are the King's subjects: if his cause be wrong, our obedience to the King wipes the crime of it out of us." Even Bates, though, and the divine right theorists for whom he speaks, may want to rely on their thesis only when the case is uncertain.⁵⁶ They presumably close ranks with their restive radical Protestant critics when the sovereign orders are known, as Yoav presumably knew his to be, in John Lewis's words, "directly contrary to the word of God." The virtually universal Christian answer to Yoav's kind of situation is given by that other Shakespearean theological authority of note, the Second Murderer in *Richard III* (I.iv.112-14):

1. *Mur.*: What! art thou afraid?
2. *Mur.*: Not to kill him, having a warrant,⁵⁷ but to be damn'd for killing him, from the which no warrant can defend me.⁵⁸

The second murderer's position is the same as that of James I, who says,

[The King is to be] iuged onely by God, whom to onely hee must giue count of his iudgement; [subjects]...following and obeying his lawfull commands, *eschewing and flying his fury in his unlawfull*, without resistance, but by sobbes and teares to God [1918, 61; emphasis supplied].

James I, the Second Murderer, and, as John Lewis informs us (1957, 13), every other Christian teacher, will tell Yoav he has no choice but to disobey. Hobbes, on the other hand, is determined to make it safe for Yoav to obey, and we may wonder how, if divine right has been unable to do it, he believes he can.⁵⁹

His first step, and ours, must be to understand precisely where divine right theorists failed — assuming, contrary to fact, that they aspired to make Yoav free to obey David in his iniquity. A "shortcoming" of their position is signalled by the wording on their banner: As the "Anointed of God," David the King "By Divine Right," is in place to rule in accord with God's word, not to make orders "directly contrary" to it. "Where absolutist theory is essentially religious, it is inevitable that men should consider the cases where disobedience to law is a religious duty" (Figges 1965, 208, as quoted in Orwin 1975, 39). In the divine right understanding, David commands and Yoav obeys within God's word, a fact that might on occasion cause a wedge between David's orders and Yoav's conscience (*Lev.* 223).⁶⁰

David gives orders by a right deriving from the very External Source that divine right theorists believe generates Yoav's duty to obey those orders. If David departs from God's word,⁶¹ divine right teachers deny that Yoav is at liberty to stray along with him.

The possibility of such a deadlock is the reason Hobbes declines to follow the top down scheme of divine right, preferring to go from the ground up:

Hobbes succeeds where his predecessors had failed by grounding his despotism upon an earthly rather than a heavenly foundation. The standing of his ruler before the Lord is not the basis but merely the consequence of his standing with his subjects [Orwin, 1975, 39-40].

The Hobbesian sovereign's "standing with his subjects" and hence with the Lord is the result of Hobbes's two revolutionary claims: (a) that any obligation the subject has, of any kind, derives only from the subject's consent and not from God's commands, and (b) that distribution between the subject and sovereign of accountability to God for wrongdoing is a matter to be decided by them and not by God.

The first matter — the question about the ground or source of obligation — is settled when Hobbes makes stick his contention that "there [is] no Obligation on any man, which ariseth not from some Act of his own" (*Lev.* 150). Hobbes's implied preemption of God in this declaration cashes out as follows:

Our prior direct obligation to the sovereign discharges us of any direct obligation to God, of any obligation to God which is not discharged by obedience to the sovereign or which is incompatible with obedience [Orwin 1975, 38].⁶²

"[W]hat therefore man hath joined together," as Orwin phrases it, "let not God put asunder" (1975, 38). Assuming God truly believed in divine right, His error was to let Hobbes get away with asserting the priority of human right.

When Hobbes asserts that all obligation flows from "some Act of [our] own," thus implying that "in the act of our *Submission*, consisteth both our *Obligation*, and our *Liberty*" (*Lev.* 150; italics original), he seems to leave to us (and Yoav) the choice of what limitations if any we shall place on our obligation to obey the sovereign. Actually, however, Hobbes does not believe in *laissez faire* on such an important matter, and so he tutors us, stipulating in fact the submission we and Yoav must choose to make, hence what our obligation is: we undertake the obligation of obeying all sovereign orders, obedience to which does not involve bodily endangerment (*Lev.* 93, 113, 150-52). Hobbes will allow us to utter no other caveats, in particular none requiring that the sovereign's orders must be compatible with the word of God (*Lev.* 113,

343-44, 414; EW IV, 319-22, 360-65; VI, 225-26). That is why Yoav is not at liberty to disobey even orders "directly contrary to the word of God."⁶³

Obligation explains why Yoav may not disobey David's murderous order. It may also square Yoav with God. Then again, it may not. We will have to see. One of Hobbes's favorite responses to the kind of challenge Yoav's jeopardy poses is simply to repeat the obligation scenario we have just recited, and then to take the offensive, by asking, "What is there for God to accuse Yoav of?" Yoav did no wrong, did not violate the law of nature, Hobbes in this mode wants to say, because, following David's orders as he was obligated to do and did, responsibility was shifted to, and was entirely David's. The following is an expression of this line of analysis, based, it will be seen, on what would seem to be a counterfactual premise — the idea of David as the author or principal, Yoav as actor or agent:

When the Actor doth any thing against the Law of Nature by command of the Author, if he be obliged by former Covenant to obey him, not he but the Author breaketh the Law of Nature: for though the Action be against the Law of Nature; yet it is not his: but contrarily; to refuse to do it, is against the Law of Nature, that forbiddeth breach of Covenant [*Lev.* 113].

This would be an airtight defense for Yoav against God's accusation, but for two considerations: Hobbes is not always clear either (a) that, supposing David is Yoav's author or principal, his order will in fact indemnify Yoav against accountability to God for iniquity, or (b) that David is indeed Yoav's author or principal. In the passage next to be considered, although it would appear that the sovereign can indeed fill the role of author, that fact seems to cut little ice for the subject with third parties. The italicized language is indeed quite unequivocally negative on our first, the indemnification, issue:

Facts done against the Law, by the authority of another [say, Yoav kills Uriah by David's authority], are by that authority Excused against the Author [David, who may not accuse and punish Yoav for the murder of Uriah]; because no man [David] ought to accuse his own fact in another [e.g., in Yoav], that is but his instrument: *but it is not excused against a third person* [e.g., Uriah or God] thereby injured [cf. *Lev.* 148] [*Lev.* 208; italics supplied].⁶⁴

The mere designation of David the sovereign as author does not seem to indemnify Yoav *vis-a-vis* God. One wonders therefore if anything would be lost, or gained, by returning Yoav to the author/principal post, as is the supposition of Hobbes's primordial authorization scheme — anything lost other than, of course, putting Yoav and other subjects as co-principals terribly at risk to be held by

standard agency doctrine entirely responsible to God for the whole Uriah crime. In any case, here is that primordial formulation:

[W]hatsoever is commanded by the Sovereign Power, is as to the Subject (*though not so alwayes in the sight of God*) justified by the Command; for of such command every Subject is the Author [*Lev. 158; emphasis supplied*].

In point of fact, this formulation does not seem to make things worse for Yoav, but neither does it improve them markedly. As the italics tell us, that old Third Party problem seems to persist, no matter who is principal, who agent. Mere adoption of the mode in which the subject is viewed as author, does not “alwayes” square things with God, although we cannot be sure who — Yoav or David — remains ugly “in the sight of God,” and under what circumstances, if not “alwayes.”

Is there no way to get some closure here, to complete Hobbes’s Erastian agenda? Is the problem of Yoav’s liability to God’s punishment intractable? Perhaps not, supposing Hobbes is resourceful enough, which Orwin believes him to be. Indeed, Orwin may have succeeded in teasing out of Hobbes an interstitial argument for Yoav’s indemnification, an argument based on a conception of David as “Representative” (*Lev. 112, 121*).

The premise of Hobbes’s solution is that the people instituting the sovereign, *and deciding on the interface between man and God*, need not, nor should they, think small, as they might were they to stay within the connotations of regular agency doctrine, where the agent tends to be thought of as less substantial than the principal. Hobbes’s agent, his Sovereign Representative, will not be insubstantial. He will on the contrary be a person worthy of representing Yoav and the other subjects to God, and will do so in such a way that God will not feel He must go behind the representative to find substance in the person of the principal. This representative is no errand boy.

Let us first refresh our sense of the severity of the problem, so we can then gain an appreciation of the beauty of the solution Orwin finds Hobbes implying in his idea of the Sovereign Representative. The problem for Yoav is that, so long as God is even nominally in his heaven, a murder such as that perpetrated on Uriah will be problematical for the perpetrator. Indeed, both God and Yoav may conceivably remain, even after Hobbes’s reconstitution of obligation, under the impression that Yoav does have duties or obligations not arising from “act[s] of his own,” but rather from God’s own law of nature.⁶⁵ It is because of this possibility — the possibility that Yoav is under a law of nature obligation not to kill Uriah — that he can be thought to be in a bind, a genuine theological-moral-political dilemma.⁶⁶ For, on the one hand, as Hobbes indicates, Yoav is prohibited by the law of nature to kill an “Innocent [fellow] subject” (*Lev. 148, 219*); yet, on the other, it is

also the case that, by his "submission" (*Lev.* 150) — subsumed as it is by God's Third Law of Nature (*Lev.* 100) — Yoav is required to obey David's every command (*Lev.* 113), even a command entailing violation of the law of nature (*Lev.* 113), e.g., as in the killing of Uriah, an innocent fellow subject.

It is just at this point of desperation that Hobbes's solution emerges, salvaging Yoav's otherwise insupportable position by — propitiation! Leaving David's wishes out of it, Yoav has his hands full just avoiding "offen[se to] the Divine Majesty" (*Lev.* 245) one way or the other ("damned if he does and if he doesn't"). Yoav really would be well advised to have God propitiated. And propitiation is precisely what Orwin thinks Hobbes takes Yoav's case to be in need of. In return for the unquestioning obedience of the subject, obedience which would otherwise place the subject intolerably at risk for God's punishment, sovereigns agree to become, as representatives to God, sacrifices⁶⁷ to Him, on behalf of subjects such as Yoav:

To authorize the sovereign is above all to appoint him to bear our person to God, and to take the rap⁶⁸ for bearing our person to God [1975, 38].

According to the line of thought Orwin is here tracing from the *Leviathan*, subjects and sovereign agree between them to tell the Third Party that He is to have recourse for purposes of satisfaction only to the Sovereign Representative⁶⁹ — who is in turn constituted by the subjects, if not as their Exclusive Bargaining Agent, then at any rate their Sole Propitiator. "It is as man's profanely appointed agent that the sovereign approaches the throne of God, and not as the agent of God that he approaches man" (Orwin 1975, 40). The Sovereign Representative is such a "front" as that God may not, and apparently does not want to, go behind to find the subject principal for satisfaction.

As their representative, the sovereign purchases for "the subjects a novel freedom: the freedom to act singlemindedly in their worldly interests, and hence to obey the sovereign in every particular" (1975, 38). Indeed, "[Hobbesian] subjects [are those] for whom perfect freedom of conscience is compatible with a perfect loyalty" (1975, 40). And this is how, as Orwin also says, Hobbes gives us "divine right shorn of its imperfections — that is, of its divinity" (1975, 39), i.e., how he liberates Yoav from whatever misgivings he might have had about positioning Uriah:⁷⁰

Hobbes dissipates the problem of religion by placing upon the sovereign himself all responsibility before God for his actions — and for those which he thrusts upon his subjects....No matter how grave the crimes of the sovereign against the Deity, only by refusing to collaborate in them can the subject incur guilt before the

Deity. Hobbes therefore assigns to the subject such responsibility for public actions as serves to deprive him of the right to shun them...and to the sovereign such responsibility as deprives the subject of all incentive to do so. Man can serve two masters, after all [Orwin 1975, 38].

"Authorization is finally important to Hobbes," Orwin says,

not because it indemnifies the sovereign against charges of iniquity originating in the subject, but because it indemnifies the subject against charges of impiety originating in himself [38].

Contrary to what Hobbes says from time to time, it may not be necessary and it is not sufficient for the solution of the subject's theological-political problem that s/he "know what are...[the] Lawes of God" (*Lev.* 245). What is also necessary and may prove sufficient is to know whom we humans can instruct God to hold responsible for a breach of those laws. That person turns out to be our Sovereign Representative, Yoav's Savior and ours, by virtue of vicarious atonement.

* * *

Suppose the subject has been reluctant to obey the sovereign, for fear that in doing so he "offends the Divine Majesty" (*Lev.* 245). Suppose, further, that an amendment to the theological-political constitution makes the sovereign the sole focus of God's wrath and our fear, as *per* Orwin's interpretation of Hobbes's intention. Needless to say, this amendment is not likely to enhance the religiosity of the commonwealth, nor presumably would it be intended to do so. When a people understands Hobbes's resolution of the theological-political problem, it is well on its way to a non-religious future. One of the plausibilities of Orwin's Yoav hypothesis is that it does not require that the subjects' belief in the existence of a punishing God persist. It simply says that, so long as that belief does last, an especially designed authorization structure set in place by Hobbes will render it harmless. If the belief in God wanes, things will go on at least as swimmingly as if it were to wax, henchmen of the sovereign simply forgetting about God's commands and punishments altogether and concentrating single-mindedly on the sovereign's commands and punishments.

The idea of a non-religious Hobbesian future is indeed plausible so long as we focus only on the Yoav or henchman side of the theological-political problem. There is another side, however, and it may not be so easily satisfied if secularized. If the victims or witnesses of tyrannical acts are not allowed by Hobbes to hold the sovereign tormentor accountable to themselves, they must be satisfied that he will be held accountable by God.

9. The Thirst after Righteousness: Retribution for Injustice

When he heard what the rich man did with the poor man's lamb,
David's anger was greatly kindled against the man; and he said to Nathan, As the Lord liveth, the man that hath done this thing shall surely die: And he shall restore the lamb fourfold, because he did this thing, and because he had no pity [II *Samuel* 12:5-6; KJ].⁷¹

An initial question might be, how should we characterize this kind of anger, and if need be, cater for it — according, say, to *Samuel*, Aristotle, and Hobbes?

The author of *Samuel* seems to view David's reaction as an utterly predictable response to injustice of a man after God's own heart (I *Samuel* 13:14), whose righteousness is testified to by Saul himself (I *Samuel* 24:17). Anger at injustice is one of the very last things about a man a writer of the sacred histories, one of whose themes is righteousness, would deplore. Aristotle would likewise not deplore, but cherish, David's outburst. Teaching that we are the justice speaking and seeking animal (*Politics* 1253a15-18) — the being who naturally tries to learn and do justice in deliberation with others of the same nature (Arkes 1986, 11-14, 206) — for Aristotle the sounds of anger in the presence of injustice are human nature speaking (see *Politics* 1301a19-1304b18; but see Mansfield 1989, 40-43, 63, 132). He listens with sympathetic attention to speeches made in anger over perceived injustice (e.g., *Politics* 1280a7-1281a10).

Hobbes's posture is entirely different. Though seeing a difference between righteousness and iniquity, and though personally indignant at the triumph of evil, he is nevertheless not a happy auditor of popular speeches about justice. Such speeches do no good and great harm, he believes, and he would silence them if he could. In the meantime, however, he does *not* deny that for many vain-glorious reasons and into the foreseeable future men will be preoccupied with what they call natural justice. He is acutely aware that precisely this preoccupation all too frequently crowds out the healthy and truly natural human preoccupation with security and comfort. It is not hyperbolic to say that, in Hobbes's view, preoccupation with natural justice is part and parcel with much pride or vain-glory, hence with much political madness (*El.* I.9.1., II.6.10., II.8.3.; *DC.* I.2. and 12.; *Lev.* 88, 105, 107, 220-21).⁷² Meanwhile, however, though Hobbes regrets David's kind of reaction to iniquity, and hopes that such a reaction can be diminished in others by enlightenment, he knows almost as well as the author of *Samuel* and Aristotle that teachers of politics and makers of commonwealths

ignore anger about injustice at their peril. Nor is he so naive as to believe he can cure this obsession by legislating usage⁷³ — e.g., forbidding us to call an iniquitous ruler a tyrant, or conceiving justice as nothing but the performance of covenant, hence obedience to the command of the sovereign (*Lev.* 100-01, 120, 412-14; note 2, above). He knows his theory must minister substantially and seriously to this madness. One such ministration is his assurance to victims and witnesses that the sovereign will not do his iniquity with impunity — that someone will give righteousness the last word, that justice will be done. As Orwin puts it,

Hobbes may have reasoned that men are at least as likely to chastise their sovereign as is God but that the conviction that God will do so and that vengeance is His will render them less likely to do so [1975, 40].

This is why Hobbes insists that “David was Gods Subject; and prohibited all Iniquitie by the law of Nature” (*Lev.* 148). Outraged subjects need to believe that God, like the old David in his instructions to Solomon about Yoav, will leave no egregious injustices uncorrected.⁷⁴ Hobbes’s theological-political regime requires not only that divine but also subject resentment be propitiated.

10. Problems with Hobbes’s Reliance on God’s Punishment of David

The fragmentation strategy presupposes that people believe there is a God who picks up the slack and punishes those tyrants against whom subjects are debarred from raising a hand.⁷⁵ Subject confidence that God will make the sovereign pay is obviously, even tautologically, a necessary condition to the success of Hobbes’s strategy of fragmenting the political whole, of leaving the problem of tyranny to God. Will that condition be met? This is the latter of two difficulties the assertion of such a necessity poses, the first being that it may prove too much, the second too little.

The first problem is that, if subjects have an idea their sovereign is a divinely marked man, they may be uncomfortable associating with, to say nothing of defending him. This is so whether he (a) believes himself damned, and acts damned; (b) does not believe himself damned, but acts as if he does believe it; or (c) does not believe it, and does not act it. Rousseau, for one, is known to have doubted that those who believe their neighbors are damned can live in peace with them.⁷⁶

The second difficulty is, as indicated, that the sovereign-as-damned hypothesis proves too little if fear of God subsides.⁷⁷ Either

the faith remains vital and the fragmentary model works, or the faith wanes, with the following conceivable aftermaths: (1) love of righteousness declines along with the waning of the faith, leaving no human purpose for belief in a punishing God to serve, were there belief in such, hence no need for the fragmentary model, or (2) the love of righteousness remains strong, resentment toward unpunished iniquity therefore also retaining its bitter savor, with the possible consequences of (a) iniquitous sovereigns running impunitously amidst outraged and resentful subjects, or (b) a return to Aristotle and the self-sufficient city, ready and able to take care of its tyrants. It makes one wonder if Hobbes has not finally overreached even his formidable powers of reconciliation. Will he escape the predicament of which he has done so much to make us aware? The answer may depend on what he tells us through the last example supplied in our paragraph, namely, the way the *demos* exiled subjects from Athens. It is appropriate that we return to that ancient venue, because it was by contrasting Hobbes's doctrine with a certain understanding of the Greek city that we began this study.

V. Banishment from Athens

Having told the stories of Jephtha's daughter and Uriah, Hobbes then relates that,

In the same manner, the people of *Athens*, when they banished the most potent of their Common-wealth for ten years, thought they committed no Injustice; and yet they never questioned what crime he had done; but what hurt he would doe; Nay they commanded the banishment of they knew not whom; and every Citizen bringing his Oystershell into the market place, without actuall accusing him, sometimes banished an *Aristides*, for his reputation of Justice; And sometimes a scurrilous Jester, as *Hyperbolus*, to make a Jest of it. And yet a man cannot say, the Sovereign People of *Athens* wanted right to banish them; or an *Athenian* the Libertie to Jest, or to be Just [*Lev.* 148; italics original].

A striking fact about the paragraph of which this passage is a part is that the individuals referred to in it as having violence done to them were all at liberty to do what they did or be who they were. There was no law against being first to come out of Jephtha's door or being the husband of Bathsheba; and there was no law against being reputed just, or telling a joke. Yet Hobbes's claim, as *per* the headnote to the paragraph, is that in each case the "Liberty of the Subject [is] consistent with the unlimited power of the Sovereign" (*Lev.* 148). That is,

their liberty to do or be is consistent with their sovereign having the "power" (right) to perpetrate on them hard treatment because of, or in spite of, that liberty. This is a problematical claim.

Actually, it is misleading of the headnote to suggest that David has anything more than an immunity to subject accusation; for David arguably did *not* have a right — arguably he was *not* morally at liberty — either to act with hostility toward, or to punish Uriah. There is no moral liberty to "punish" the innocent if (a) "all Punishments of Innocent subjects,...are against the Law of Nature" (*Lev.* 219), and b) David is subject to the law of nature — something the paragraph in fact implies him to be.⁷⁸ David having no right to punish (nor, one supposes, to perpetrate acts of hostility on) Uriah, our question now becomes whether the case of the Athenian people is different from his. Can we believe, as Hobbes does, that "a man cannot say, the Sovereign People of *Athens* wanted right to banish [*Aristides and Hyperbolus*]" (*italics original*)?

One's initial response to this proposition will be that Hobbes is simply wrong — that the Athenians *did* want, did *not* have, the right to banish, a "right" which, in the circumstances, would have been to "punish" the innocent. Indeed, the same reasoning would seem to dispose of the Athenians' case as decided David's, at least if the law of nature applies to the Athenians. In speaking of the practice of hostile, non-punishment⁷⁹ banishing, Hobbes must therefore mean, it would seem, that the Athenians have a right only in the same limited sense that he said David had one, namely, a right understood as an *immunity* — neither of these sovereigns being accountable to their subjects for their iniquity, i.e., for doing what they did not have a right to do, *qua* moral liberty (Hohfeld 1966, 35-36, 38-50, 60-64).

This is the first impression, and for the time being we shall assume that the Athenians were a sovereign in violation of the law of nature, though nevertheless not accountable to their victims for their iniquity. But, if the Athenian case were to conform to the fragmentary pattern of the rest of the paragraph, there would have to be posited an awareness, amongst at any rate the Athenian banishment victims, that there is an Almighty God ready to step in and see that no one, not even the sovereign *demos*, practices iniquity with impunity. Our question is, what would happen to politics as conceived by Hobbes according to the fragmentary model, if that consciousness were lost, or, as in the Athenian case, never gained? What would become of Hobbesian politics if there were such an advent of atheism as that the One God, the Enforcer of the law of nature and the Vindicator of righteousness, would be unknown to the victims and witnesses of sovereign iniquity? Hobbes's reference to the Athenian case may be his answer to that question — or rather, his two answers.

One answer the case of Athens may imply is that the loss of consciousness of the One Holy and Almighty God would be a huge calamity for Hobbesian politics — polytheistic or virtually atheistic polities simply not working. The fragmentary model, our sole hope for avoidance of the Aristotelian anarchy of private judgment, utterly depends on belief in the One God as enforcer of the law of nature. Without subject belief in the divine vindicator of righteousness, the result will be sullen restiveness on the part of the victims and witnesses of iniquity,⁸⁰ finding outlet in subject attempts to hold sovereigns accountable, in the old Aristotelian way. Accordingly, this first answer maintains that the Athenians illustrate a dead end. We must stay within the Christian fold, it says, and proceed, as before, on the God-based fragmentary model. Given that a non-accountable sovereign is ultimately intolerable to a people, and given that Hobbes believes nothing good can come of making sovereigns accountable to subjects, the sovereign must be thought to remain accountable to God Almighty.

The other answer Hobbes might base on his Athenian example shows more confidence in the atheistic politics that the Athenians may have prefigured for Hobbes. It is also less sanguine about the likelihood of such a thing as Christian-Hobbesian politics. It denies that anyone whose every theological remark threatens to veer in impious and subversive directions can be considered in any significant sense a Christian theologian.⁸¹ It doubts, further, that anyone as constantly preoccupied, as Hobbes is, with the untoward effects fear of the powers invisible can have on politics,⁸² could agree in good faith to a permanent peace with the Christian religion — not even to a peace on Hobbes's own imperiously and cynically Erastian terms. Finally, the second answer claims that it *can* relieve Hobbes of his erstwhile dependency on the Christian God. This answer purports to show how God can be dispensed with or gotten along without, even in the one capacity for which the other answer treats Him as indispensable, i.e., as enforcer of the law of nature in the fragmentary model.

The second answer's solution is itself two-fold: democratize the sovereignty and de-emphasize the law of nature or equity. By doing these two things, it claims, Hobbes will obviate the whole obsession with justice and accountability, hence ending reliance on God as the Divine Accountant, thus taking away the point of the fragmentary model. He could do all this, it maintains, without collapsing back into the Aristotelian city with its anarchy of private judgments and its vainglorious moralistic recriminations. We should elaborate.

Hobbes's reference in our paragraph to the Athenian *demos* can be read as a challenge to himself — to his own rigid monarchist predilections. He can be seen forcing himself to consider the possibility that the need tyranny creates for intervention by the Christian God in a

monarchical sovereignty can be obviated by replacing the monarch with a majoritarian or democratic sovereign. What is the basic insight here? That God is not needed to punish the tyrant if the tyrant is the erstwhile victim, the many or a majority. The problem of outrage and resentment is virtually solved by the fact that those who, under a monarchy, yearn to have God hold the tyrant accountable, will, as pagan or atheistic democrats, themselves now replace the monarchy, becoming the non-accountable sovereign, the tyrant.⁸³ Although victims of the new tyranny will of course be sullen, when the sovereign is not the one but the many, its victims are few in proportion to its own numbers. The majority of the people will not be sullen, will indeed be happy, because they are the tyrant, and tyranny can be fun.

But, skeptics will ask, what is to prevent the politics of modern atheistic democracy from replicating the old judgmental, "Aristotelian" politics? — not, to be sure, with the many accusing the one, nor with anybody listening to the few as they lament their victimization, but, say, with the many dividing against itself in factions predicated on conceptions of justice? The answer is that such divisions presuppose that people will continue to take justice seriously enough to fight over it. This of course is where the second part of the second answer, the "de-moralization" of politics, the extirpation of moral foundationalism, would come in.

The way to rid the world of the politics of accountability is not only to switch the incumbency of the sovereignty from monarch to *demos*, but also to eliminate the occasion for thinking, to say nothing of talking about, external standards of right — "justice" for Aristotle, "equitie" for Hobbes. That external standard may be either the God-certified law of nature of the Christians, or Aristotle's non-theological natural right. Let us first take the conception Hobbes seems to have especially in mind, whether as ideal or foil (cf. *Lev.* 111), the Christianized conception of justice or equity as the law of nature.

To avoid judgmental politics based on the law of nature, one must presumably never experience — or one must lose or stifle — consciousness of the law of nature as a law. What, if anything, is the natural law consciousness of the votaries of the Athenian popular religion, and what will be that of their modern analogues? In turning to this question, we come back to the question we earlier raised and shelved, namely, whether the Athenians had, as Hobbes said, "a right [*qua* moral liberty and not mere immunity] to banish [Aristides and Hyperbolus]" (*Lev.* 148)?⁸⁴ Is it possible that the Athenians' moral status does differ after all from that of David?

The following passage would seem to be Hobbes's answer to that question:

[H]e onely is properly said to Raigne, that governs his Subjects, by his Word, and by promise of Rewards to those that obey it, and by threatning them with Punishments that obey it not. Subjects therefore in the Kingdome of God, are not Bodies Inanimate, nor creatures Irrationall; because they understand no Precepts as his: *Nor Atheists; nor they that believe not that God has any care of the actions of mankind; because they acknowledge no Word of his, nor have hope of his rewards, or fear of his threatnings.* They therefore that believe there is a God that governeth the world, and hath give Praecepts, and propounded Rewards, and Punishments to Mankind, are Gods Subjects; *all the rest, are understood as Enemies* [Lev. 245-46; emphasis supplied].

The question is whether the Athenians are classified by this passage as God's subjects or His enemies. Do they know God's word and His rewards and punishments, as such? Are these polytheists to be regarded as believers or atheists within the terms of the passage?

Apparently not knowing the One God Himself, it is doubtful that adherents of Athenian popular religion will know the precepts of the laws of nature as His commands (cf. *Lev.* 111). Although Hobbes does seem to affirm that the unaided reason can discover God Almighty as first cause (*Lev.* 77), the reason of the Athenian polytheists does not seem to have carried them that far yet, to say nothing of discovering for them a first cause Who is also a providential⁸⁵ and legislating God, One whose commands, the laws of nature, are known as such to be His commands. The same problem obtains with reference to God's rewards and punishments. If people do not know Himself, it is difficult to see how they can know His rewards and punishments, as such. We conclude therefore that the Athenians do not meet Hobbes's criteria for being obligated by the laws of nature and that they are therefore not subject to God's punishment for their otherwise iniquitous "punishment" of Aristides and Hyperbolus. Were it not impious to say so, we could remark that, for God to "punish" the Athenians would seem as anomalous as for the Athenians to "punish" Aristides and Hyperbolus. Accordingly, we can indeed answer one of our long-standing questions, by reversing our former tentatively taken position. Quoting once again some words of Hobbes, we now conclude that the Athenian case *was* in fact as Hobbes has all along been saying it was, i.e., that "the Sovereign People of Athens [really did *not*] want[.]...right to banish [Aristides and Hyperbolus]" (*Lev.* 148);⁸⁶ unlike David they really did *have* the right, were at moral liberty, because they were not subject to laws of nature of which they had no consciousness. Furthermore, what is true for the Athenians is true for all similarly circumstanced people, including those modern peoples who might be affected by or carry out

Hobbes's project. We modern, Hobbesian, peoples are also at liberty to perpetrate random violence because we too are in oblivion of the law of nature as God's law. For, it will be recalled, the hypothesis of this whole discussion has been that there will be a waning of faith, a de-Christianization, an atheicization of the Hobbesian peoples of the future.

The process of de-moralization — the annihilation of moral foundationalism — will be furthered but not finished by completion of the polemic against Christianity and against the law of nature as the law of God (*Lev.* 111). In addition, there must be a root and branch extirpation of all standards of morality whatsoever, hence even of Hobbes's own lines between righteousness and iniquity, and therefore of the possible grounds for indignation, accusation, recrimination, and punishment, that even his watered down and preservationist morality might foster. In other words, Hobbes's positivism (relativism, a-moralism, subjectivism), half-hearted as long as he concedes the existence of laws of nature, theological or not, as criteria for characterization of iniquitous conduct, must become radical and thorough-going. Systematic positivism means not merely identification of right with might, as in Spinoza (1951, Chapter 16), but more, the dropping of the category of right altogether, as Rousseau ruefully says we may as well do, if we are to acquiesce in Spinoza's identification (1973, I.3.). The moral-political problem will be solved at the same time the theological-political problem is solved — with the cessation of all moral and theological preoccupations, through adoption of a thorough-going positivism. When people no longer talk to each other about God and justice, when they no longer accuse each other of violating the natural law, when they no longer remember how to frame an argument with respect to right and morality, and can only talk in terms of needs or desires for material goods or psychic gratifications ("I need it; I want it"), *then*, with accountability and accusation therefore no longer part of the discourse, you have solved the theological-moral-political problem as Hobbes understands it.

But, someone might object, old habits of thought are tenacious: what is to prevent a return of Aristotle's non-theological natural justice mode of judging politics? If man is by nature political, will not his political nature continue to manifest itself in the collective quest for justice, hence in the perennial re-articulation of putative criteria of justice? Yes, but Hobbes is not burdened with such a conception of man. And even were he to concede that periodic vain-glorious wild-goose chases for natural justice, however absurd, are possible, his follow-up rejoinder could be that such quests will not be the same as they might have been in Aristotle's time, for two reasons: (1) the life, and now the hypothesized death, of the Christian God has intervened, and the theory and practice of natural justice cannot be the same after such an

event as before it; and (2) the emergence of modern science and the modern economy utterly changes the context in which justice might be sought: these forces will buy off, crowd-out, stifle, or distract, any movement toward justice for its own sake (cf. Salkever 1974).

To be sure, the kind of politics we are sketching here is *prima facie* not likely to attract Hobbes. For it is not likely to be an orderly activity, the many as a sovereign being of many, though hopefully not obdurate, minds — noisy, fractious, and even episodically violent. One thinks of the rambunctious politics of the Roman Republic celebrated by Machiavelli early in the *Discourses*. Can we imagine Hobbes acquiescing in such a virtual war of all against all as that? Yes, if his other options are sufficiently repellant. We have seen that those alternatives — the moralistic Aristotelian and Christian alternatives — *are* repellant to him. In his view, satisfactory politics has never been conducted by people while they are looking outward or upward. Whether one looks beyond the city to a transcending *Person*, as in the Christian scenario, or to a transcending *standard*, as in the Aristotelian scenario, one looks for trouble. So, although democratic politics without theological or moral reference points would, as noisy and messy, assault Hobbes's nerves and taste, it would at any rate be free of the vainglorious and intractably embittering features of the principled politics that originally called forth his historic denunciations of Aristotle and Christianity.

* * *

In the passage we have studied — *Leviathan*, paragraph seven of Chapter 21 — Hobbes positions himself to preempt modern majoritarian and democratic teachings. That he did not follow up on his own pregnant hypothesis testifies to, among other things, both his monarchical habits and the radical nature of the idea. That he even risked the suggestion is rather astonishing.

One can of course doubt whether, by referring to the Athenian democracy, Hobbes the arch-monarchist meant even momentarily to flirt with, say, a majoritarian teaching such as Locke's, or a democratic teaching such as Spinoza's. I surely would not have thought so, until faced with the task of explaining his inclusion of the Athenian example in our paragraph. Now, I am not so sure. My confidence in Hobbes as an incorrigible monarchist has been shaken.

Notes

- * An earlier version of this essay was delivered at a Liberty Fund conference on "The Bible and the Political Thought of Thomas Hobbes," November 16-18, 1991, Minneapolis, Minnesota. I want to thank Daniel Elazar for that fine occasion and our colleagues there for helpful questions about my draft. Ralph Lerner burnishes and gives new life to the idea of "friendly critic." Morton Frisch makes possible many things for many people, as he has this essay for me.
1. Does the juxtaposition make sense? Does Aristotle loom on Hobbes's horizon? Hobbes characterized Aristotle as the one "whose opinions are at this day, and in these parts of greater authority than any other human writings" (*El.* I.17.1.).
 2. For those inclined to resist that stipulation, let me run up a laundry list of some ways in which the difference I allege is expressed or implied. The last two items on the list connect the issue of natural politicality with that of holding tyrants accountable, and are discussed in part I of the text.
 - (a) There is, most obviously, Hobbes's assault on Aristotle at the beginning of *De Cive* (I.2.), where he denies that men seek society *qua* togetherness for its own sake. As he also condemns there by name Aristotle's notion of the *zoon politikon*, it is plausible to think he is contesting not only the ascription of natural gregariousness to men but also the notion that they by nature seek or should seek *political* society, the experience of rule and being ruled, in the intentional collective quest after justice for its own sake, as the complete and therefore natural human life (*Politics* 1253a1-40; see also Diamond 1972, and Arkes 1986, 11-27, 206-07). Hobbes contends in effect that human beings are in principle complete as individuals (Nichols 1987, 184; cf. Aristotle, *Politics* 1253a26), and that they take refuge in political society only for security, economic life, and vain-glory (*DC*, I.2.; *Lev.* 69-72; Salkever, 1974). This is his well-known "individualism" or "atomism," to be contrasted with Aristotle's "holism" or "organicism" (on the same contrast, with a view to "intrinsic" and "functional" properties, see Hampton 1986, 6-11).
 - (b) There is also a manifestation of Hobbes's a-political individualism in, or part and parcel with, his law of nature teaching. As Clifford Orwin puts Hobbes's achievement, "[i]t is to establish civil rule sanctified by natural law without admitting a natural basis for civil rule" (1975, 32). The essential background is this: Aquinas had said "the order of the precepts of the natural law corresponds to the order of our natural inclinations," there being separate self-preservationist, social/political, and theological-philosophical inclinations and precepts (*Summa Theologica* I-II. Q.94.a.2., concl.). The social/political inclination being higher than the preservationist, its precept, to be just and foster the common good, may supercede and will certainly condition the latter (Aquinas, *Summa Theologica* II-II.Q.64.a.7.). According to Hobbes, however, there is no separate social/political inclination, precept, or virtue. In his view, self-preservation is not one precept of the law of nature in a hierarchy of precepts corresponding to the hierarchy of inclinations, as in Aquinas's

Aristotelian hierarchical soul. Self-preservation is not commanded by the law of nature or morality but is rather the *basis* of the law of nature or morality (Strauss 1959, 215-16). According to Hobbes, the virtue of justice, and the laws of nature related to it, do not stand independently on their own separate foundation or platform, their own separate inclination of the soul, the social/political inclination, but rather stand on or are derivative from and instrumental to self-preservation and "commodious living." If secure and affluent self-preservation could be achieved without justice, Hobbes would see no point in seeking justice (Salkever, 1974; but see *Leviathan*, Ep. Ded. and 104. Also read Grotius [1925, Proleg. 16 and II.i.ix.2-3] and Arkes [1986, 206-09]). Hobbes himself speaks of "the conditions of society, or of human peace; that is to say (changing the words only), what are the fundamental *laws of nature*" (DC I.1.; italics original). And he says that

all these precepts of nature [are] derived...from the single dictate of reason advising us to look to the preservation and safeguard of ourselves [DC III.26.31.; cf. *Lev.* 109-10, 151-52].

Hobbes's laws of nature solicit preservation, not edification (*Lev.* 91, 111, 185). Cumberland speaks truly when he says Hobbes "deduces them [the laws of nature] from the care of self-preservation only" (1727, 228 — V.xxv.). Hobbes's laws of nature do not counsel or command justice as a perfection of soul and city but as a way to preserve the self in stable peace and prosperity (*Lev.*, 151-52). In contrast to Hobbes are Cumberland ("In short, I affirm first, That a Right...even to Self-defence, cannot be understood without Respect had to the Concessions of the Law of Nature, which consults the Good of all" [1727, 67 — I.xxiii; italics original]) and Arkes ("[to the extent we have a right] to use violence in...cases [of self-defence, it] arises from our right to resist injustice of any kind, including unjustified attacks on ourselves" [1986, 208]).

(c) As a denial of natural politicality, there is also the idea Hobbes himself originates, of the natural condition of human beings as a primitive anarchy. (Quentin Skinner [1978, 155-63] argues that not Hobbes but the "Spanish Thomists" — Soto, Molina, Suarez, *et al.* — originated the modern state of nature idea. For a corrective, as well as a recognition of the grain of truth in a Skinner-like thesis, see Strauss [1950, 182-85, especially note 23].) By propounding his state of nature idea, Hobbes *ipso facto* denies that our natural state is, as Aristotle would have it, life in a well-governed city (see *Politics* 1253a1-5). Hobbes denies that we are the animal whose natural niche and ecology is political society. His most trenchant Christian-Aristotelian critics, Bramhall (1844, 593, 595-96) and Cumberland (1727, 94-97 — II.ii.), single out Hobbes's state of nature teaching as his signal departure from Aristotle and his root error.

(d) Another denial of the political by nature thesis is Hobbes's disparagement of

Aristotle [who] in the first booke of his *Politiques*, for a foundation of his doctrine, maketh men by Nature, some more worthy to Command...others to Serve...as if Master and Servant were not introduced by consent of men, but by difference of Wit [*Lev.* 107; italics original].

Aristotle's elitism is part and parcel with his teaching that we are the political animal, and Hobbes's egalitarianism is at one with his denial of natural politicality.

(e) Consider finally (as still another indication that the Hobbesian commonwealth is founded on altogether different terms, with altogether different objectives, from the Aristotelian city) Hobbes's attempt to deny natural politicality by denying the existence of natural justice or by identifying the content of the rules of justice ("Justice of Actions" [Lev. 104]) with the rules of the positive law (see, e.g., Lev. 90, 184, 469), and by identifying a person's inclination to do justice ("Justice of Manners" [Lev. 104]) with his disposition to obey the commands of the sovereign (Lev. 100-01, 404, 414). To be sure, this positivism is partially undermined by Hobbes's own insistence that there is something we can call natural "equitie," hence also "iniquity" (Lev. Chapters 15 and 28, *passim*), which is as such independent of the sovereign's *fiat* — a point to which I recur in the text. But the sum of the new parts (justice + equity) is not equal to the old moral/political whole of Aristotle's justice.

What would be items "f" (no subject accusation of the sovereign) and "g" (no tyrants to oppose) in this list are discussed in the text.

3. [H]ow great a fault it is, to speak evill of the Sovereign Representative...or to argue and dispute his Power, or in any way to use his Name irreverently, whereby he may be brought into Contempt with his People, and their Obedience...slackened [Lev. 234].
4. "[M]y Sovereign,...may oblige me to obedience, so, as not by act or word to declare I beleieve him not" (Lev. 256):

The subjects of the polity would not be conceded the right to question whether the ruler might have made a mistake, whether he might have misconceived the facts, or whether he was directing his power toward ends that were incompatible with the character of his mandate to govern [Arkes 1986, 215].
5. To be sure, as our paragraph, the seventh of Chapter 21 (Lev. 148), tells us, Hobbes does allow that there may be iniquitous rulers — against whom, however, no human but only a divine writ runs. For Hobbes to prohibit us to use "tyrant" as a synonym for "iniquitous sovereign" is artificial and disingenuous, as he himself in effect acknowledges, e.g., in the *Dialogue*, when he has the Philosopher ask the Lawyer, "What think you of this? Was it a Royal, or Tyrannical Judgment?" (1971, 141).
6. Hobbes's other denials are listed in note 1, above.
7. Though, to his great credit, it certainly has occurred to Hadley Arkes (1986, 11-19, 206-09).
8. Not necessarily mine alone, however. Consult the citations to Arkes in the previous note.
9. Christian Aristotelians called it the "perfect" society, by contrast with "imperfect" societies, for instance, the family: see, e.g., Aquinas (1949, 9-10 — I.i. 14.), Suarez (1944a, 364-65 — III.i.3.); Grotius (1925, 44, 102-03 — I.i.xiv.1, I.iii.vii.), and Aristotle, himself (*Politics* 1252a28-31).

10. Aristotle does not say this is part of what he means in Book I, Chapter 2 of the *Politics*; and he talks very little anywhere about what people should do, as opposed to what they will do, in the way of opposing tyranny (*Politics* 1267a14; 1312a24; see Jaszi and Lewis 1957, 7-8). But (a) he names tyrants as a problem, is indeed at the head-water of the anti-tyrant tradition of which Hobbes is critical (Aquinas [*Summa Theologica*, III.Q42. A2.]; Milton [1932, 12]; Jaszi and Lewis [1957, 15]); (b) tyranny just is part of political business, which all self-respecting Aristotelian political associations will presumably take care of; and (c) in any case, Hobbes blames Aristotle and other authors of “books of Policy, and Histories of the antient Greeks, and Romans” (*Lev.* 225), for their preoccupation with tyranny:

From the reading...of such books, men have undertaken to kill their Kings, because the Greek and Latine writers, in their books, and discourses of Policy, make it lawfull, and laudable, for any man so to do; provided before he do it, he call him Tyrant. For they say not *Regicide*, that is, killing of a King, but *Tyrannicide*, that is, killing of a Tyrant, is lawfull [*Lev.* 226; italics original].

See Joseph Cropsey’s magisterial account of Hobbes’s posture toward Aristotle (1977, 293-94, 303-08).

11. Man is the being with multiple needs for justice: (1) he not only urgently needs to have justice done to himself — to live under a just government — but also and more nobly (2) he needs to do — to practice doing — justice (Aristotle, *Nic. Ethics* 1103a.15-25). Most “humanly,” however, (3) he needs to talk about justice (Aristotle, *Politics* 1253a15-18). Man naturally talks about justice with his fellow city dwellers, some of whom will be his rulers, and whose rulings will from time to time of course be accused, thus becoming grist for the mills of justice. So, when Hobbes declares those rulings beyond subject/sovereign discussion, indeed not even to be taken cognizance of publicly by the subject because designated by the fragmentary model to be matters only for sovereign/God discussion, he operationalizes his denial that man is the political animal. Hobbes replaces the political association of fellow citizens with the theological association of God and the sovereign. Sealed off from any public contact with questions of natural justice, subjects are left with no political community — as befits a-political animals.
12. On the *Leviathan* as a self-nominated candidate for adoption by the National Schoolboard as the official civics text-book, see 491.
13. In Chapter 28 citizens of the Hobbesian commonwealth can read that “All Punishments of Innocent subjects,...are against the Law of Nature” (219). In the same chapter, Hobbes lists the requirements of due process, neglect of which is tantamount to punishment of the innocent. Accordingly, if citizens or subjects want to know whether their sovereign’s criminal justice system is violating the law of nature and perpetrating iniquity, all they need do is juxtapose his criminal process with the natural law requirements on that topic which Hobbes sets out in Chapter 28.

14. Mort Frisch draws my attention to what can be called natural right, "realist," or "objectivist" passages in Chapter 26, passages showing that, as between the sovereign *fiat* and the law of nature, Hobbes wants at any rate his *judges* to choose the latter, despite apparently wanting his *citizens* to choose the former (*Lev.* 192 and 194).
15. Concerning a "remarkable paragraph" at *Leviathan*, page 172, from which "readers could justifiably conclude that Hobbes had made an enclave of freedom for subjects, from which they might sally out on special occasions to much effect," see Cropsey (1977, 305-06).
16. On which, see Cropsey (1977, 293, 307).
17. The *Nicomachean Ethics* 1176b25ff. to the contrary notwithstanding, the last thing in the world Aristotle's recognition of the necessity of judgment means to him is some kind of capitulation to subjectivism, of either aspiration or meta-ethic (see *Lev.* 461, where Hobbes insinuates such a thing with Aristotle in mind: "[t]heir [*i.e.*, the Greeks'] Morall Philosophy is but a description of their own passions"). Utterly to the contrary, Aristotle's human being is always groping for or trying to intuit, articulate, consult, and approximate — usually, to be sure, with little reflective awareness of what he is doing and with even less success in doing it — objective natural standards, standards that are in principle accessible to the unassisted human reason. To the extent that Hobbes uses the idea of private-man-as-judge-of-good-and-evil as an excuse for ascribing to Aristotle some kind of studied contempt for intersubjectively cognizable standards of human conduct and organization, he simply slanders him.
18. As Joseph Cropsey recapitulates Hobbes's (correct) characterization of Aristotle's teaching, it goes like this:

Aristotle taught that the virtues and vices, and of course justice and injustice, are distinguished from each other by nature and not by positive law. Therefore, each man is not only free but compelled to judge of the goodness and badness of deeds and, incidentally, to govern his own conduct similarly by use of a standard that is not necessarily identical with the civil law [1977, 293].
19. It should go without saying that Aristotle's political-by-nature teaching is not a doctrine of sovereignty *qua* who trumps whom within a state. Not knowing the state (Jaffa 1963, 65-67; Dunbabin 1988, 479), Aristotle does not know the issue of who or what is sovereign within the state. He rather knows the *polis*, as it is shaped by the *politeia* (*Politics*, Book III), hence as energized by opinions on the relative worthiness for rule of competing human types. (On the difference between politics "base[d]...on opinions of the good, which are variable and set men at odds," and politics based "on a passion which is unchanging and conduces to peace" [Orwin 1975, 35, 51], see Strauss [1936/1952, 136-70], Winiarski [1963, 252-58], Mansfield [1971, 98-102, 107-09], Diamond [1972].) No matter who or what you are — democrat, oligarch, noble, child of a monarch — your eligibility for rule is not determined by postulating some doctrine of primitive sovereignty, whether popular or divine right, or some derivation therefrom, whether by gift, inheritance, contract, authorization, or trust. When, with Aristotle

in mind, we think of the politically relevant human beings (all adults living in the city except natural slaves) as by nature having thoughts which, if given a chance, might emerge as speeches and acts bearing on the city's government, we are thinking less of a right to a last word or to criticize and resist, than of a natural fact and of the responsibility or duty of judgment grounded in that fact. For a lucid presentation of the view that this was also Hobbes's understanding of Aristotle, and the reason why he opposed him so vigorously, consult Cropsey (1972, 293-94, 303-08). Needless to say, no one is claiming that all persons but natural slaves participated in the politics of any Greek city, or that Aristotle championed any such level of participation. He was, however, committed to the idea that deliberating about justice is something all competent adults are cut out for by virtue of their membership in the species (*Politics* 1253a8-19; Levy 1990).

20. Hobbes's putative monotheism — his seeming stipulation for a single providential God (but see part V, below) — sets his political-theological doctrine apart from the polytheism of Greek popular or political religion. If this much is reasonably clear and uncontroversial, there remains a need, though, to sort out the extent to which Hobbes's doctrine is anticipated by Christian thinkers. What are the Christian precedents for his teaching? Does he preach an essentially Christian theological-political doctrine? The present note juxtaposes Hobbes with (A) those Christian thinkers, to be represented here by Milton, who teach resistance, and with whom Hobbes has only a tenuous, though still important, positive connection, and then with (B) Christian teachers of non-resistance, for whom he has greater affinity.

A Christian thinkers who have countenanced or urged resistance to tyrants will presumably say that, however Christian the inspiration of Hobbes's teaching may be, its total reliance on God for redress against tyrants is a mistake. Milton's is one version of the Christian resisters' position:

[T]o say Kings are accountable to none but God, is the ouerturning of all Law and government. For if they may refuse to give account, then...all Oathes are in vaine, and meer mockeries...; for if the King feare not God, as how many of them doe not? we hold then our lives and estates, by the tenure of his meer grace and mercy....*Aristotle* therefore, whom we commonly allow for one of the best interpreters of nature and morality, writes...that Monarchy unaccountable, is the worst sort of Tyranny [1932, 11-12; italics original; for a more *theological* objection to total reliance on God, by radical Protestants, see references in Orwin 1975, 43n.43].

Milton might be accused of abandoning the Christian approach entirely and reverting to the Greek conception of political responsibility, thus restoring the city to self-sufficiency. The diminished and ambiguous role assigned to God by such a resister as Milton arguably leaves the city intact, not fragmented. Instead of being named a necessary condition for a good outcome, God seems to become for Milton a super-additive to an already sufficient whole. Observe, however, that Milton does not deny a

necessity for God's participation; to deny that "Kings are accountable to none but God" is not to deny that they are partially accountable to God, nor is it to deny that accountability to God is necessary to viable politics. To some unspecified extent Milton may be relying on the particular and punitive Providence of God. Indeed, were we to assimilate his position to a medieval doctrine, it might be subsumed under the following generalization:

In connection with each one of...[five different medieval answers to the question, What can be done about the tyrant?] it should be remembered that every Christian could confidently expect that even if the tyrant should escape all earthly accountability and punishment, there awaited him still the just punishment of God [Jaszi and Lewis 1957, 22-23].

So much then for Christian teachers of resistance. But what about Hobbes and Christian teachers of *non-resistance*?

B. I have in mind not only the great Reformers (Forrester 1963, 297-300, 309) and other early Protestants, e.g., Tyndale (Jaszi and Lewis 1957, 75), but also James I and the run of Stuart apologists — in other words, all Christian writers who, on the one hand, construed *Romans* 13 and *I Peter* 2 literally and strictly, requiring non-resistance even against tyrants, but who also, on the other, took *Acts* 5:29 ("we ought to obey God rather than men") (see Forrester 1963, 298-300) seriously, thus also requiring (passive) non-compliance with iniquitous governmental decrees (e.g., James I 1918, 61; Bramhall 1844, 543). How does Hobbes relate to them?

Hobbes follows Christian non-resisters in fragmenting the erstwhile political whole. By teaching that the only reckoning is God's, non-resisters (Hobbes and these others) depart from a Greek's conception of the civic reckoning appropriate for tyrants. By radicalizing and "completing" the non-resisters' teaching on tyranny, Hobbes finishes the process implicitly called for by the Christian idea of an Almighty punishing God, and brought into explicit relief by the early Protestants and the teachers of divine right, of dismantling natural politicality.

Yet, Hobbes is not theologically at one with the Christian non-resisters — neither with the early Protestants nor with James and the Stuart apologists. He renders an overall interpretation of Scripture strikingly different from anything they knew (*Lev.* 489 ["some new Doctrines"]; Strauss 1959, 182-89), as well as exhibiting differences from them in four specific ways that need mention here:

(1) Unlike the Christian non-resisters, Hobbes does not, to say the least, rely heavily on *Romans* 13 (but see *DC* XI.5., and *Lev.* 414; cf. *Lev.* 150 and *I Peter* 2:13-14), probably because one can doubt (a) how, or that, the Hobbesian sovereign is ordained of God (*El.* II.1.1. and *Lev.* 120, 150; Orwin 1975, 39-40: "Hobbes...ground[s] his despotism upon an earthly rather than a heavenly foundation. The standing of his ruler before the Lord is not the basis but merely the consequence of his standing with his subjects"), and (b) how it can be that, if "whoever resisteth the [higher] power, resisteth the ordinance of God" (13:2; KJ), convicted criminals can

have the right to resist the punishing sovereign that Hobbes declares for them (*Lev.* 93, 98, 151).

(2) Unlike the Christian non-resisters, who of course acknowledge the existence of tyrants, Hobbes denies their existence, hence also denying the existence of tyrants as God's scourges. (James I recognizes that there are and will always be tyrants in the world [1918, 66-67 — and see 59-61]. As for the early Protestant theorists, it is to the tyrant as such that they are passively resistant. They are *not* actively resistant because the tyrant is ordained of God as a scourge; they *are* passively resistant because he is issuing tyrannical and ungodly edicts [e.g., Luther 1962, 111-112; Calvin 1966, 675-76 [IV.xx.32]].)

(3) Unlike what is the case with the non-resisters mentioned, all of whom require disobedience to iniquitous sovereign orders (Jaszi and Lewis 1957, 13; e.g., Forrester 1963, 298-300; James I 1918, 61), it is a major part of Hobbes's theological-political settlement to clear the way for obedience by subjects to such orders (see section IV, 8, below).

(4) Unlike many non-resisters, e.g., Luther and Calvin (Forrester, 1963, 297, 312n.61) — though not James I (1918, 61) — Hobbes forbids all accusation by citizens of the sovereign.

21. See note 3, above, item "b"; and for a more subtle and adequate run-down of the "external standard" theme in Hobbes, see Mansfield 1971, 108-110 ("conclusion").
22. This oversight or providence may be implied when Hobbes says in our paragraph that "*David was Gods Subject; and prohibited all Iniquities by the law of Nature....To Thee only have I sinned*" (*Lev.* 148; italics original).
23. One can say Hobbes finds himself driven to try providing a non-political, theological, solution to a political problem, much as nowadays people feel compelled to propose other kinds of non-political, e.g., bureaucratic and technological, nostrums for our political ills.
24. The other kind of liberty — a kind to be contrasted with what we might call "mere" and what Hobbes calls "praetermitted" — is "true Liberty of a Subject" (*Lev.* 150):

that is to say, what are the things, which though commanded by the Sovereign, he [the subject] may neverthelesse, without Injustice, refuse to do [*Lev.* 150].

Of special, and shocking, interest is the true liberty of the suspected, accused, or convicted and guilty subject to join with others to kill the sovereign, "which the Guilty man may as well do, as the Innocent" (*Lev.* 152; Schrock 1991, e.g., ns. 11-12 and 54; Arkes 1986, 209).

25. Readers will probably think of punishment when they encounter our seventh paragraph of *Leviathan*, Chapter 21, introduced as it is with a sentence containing this venerable phrase, "the Sovereign Power of life, and death" (148). Nevertheless, and paradoxically, no example of the exercise of that power given in the paragraph is an instance of punishment — all being what in Hobbes's parlance are "acts of hostility," perhaps even iniquitous acts of hostility. Why did he associate this venerable

phrase with, at best, such ambiguous, or at worst, such reprehensible sovereign conduct? See note 31, below.

26. "[V]olenti non fit iniuria" (DC, III.7, *Lev.* 104-05, 124).
27. This collectivity, taken to include the gods of the city, does not refer outside itself to transcending persons, though it does to transcending standards.
28. Of some interest is the fact that Hobbes's premise does not fit the case of Jephtha's daughter. What was the praetermitted "action[], for which...[she was] neverthelesse, without Injury put to death"? It was to "come out to meet...[her father] with timbrels and with dances"; or rather, just *being* the first person or thing out the door — *that* was the "action" for which she was put to death without injury.
29. Hobbes does not call David a tyrant. Nor, God forbid, is David one. He is a "Righteous" or "Just" man who "does not lose that Title, by one,... unjust [or iniquitous] Action[], that proceed from sudden Passion" (*Lev.* 103-04). It must be kept in mind that "[t]o denounce tyrannical behaviour is a long step from condemning a king as a tyrant" (Dunbabin 1988, 495).
30. Cf. EW V, 117, 138, 142-43.
31. "[O]n what pretence soever": we should think about this phrase in view of the difference sometimes alleged between the sovereign's private or natural capacity, and his political or sovereign capacity. Hobbes once accused "the Bishop [of] endeavour[ing]...to make the multitude believe I maintain, that the King sinneth not, though he bid hang a man for making his apparel otherwise than he appointed, or his servant for negligent attendance" (EW VI, 371). To which Hobbes replies in part that "he [Bramhall] knew I distinguished always between the King's natural and politic capacity" (371; see Warrender 1957, 258-63). But *did* Hobbes always distinguish thus? Or, having so distinguished, did he always allow the distinction to make a difference for the sovereign and the tailor or attendant whom he hanged?

Assume there is sovereign sin in the case of the tailor, as there is in ours of David and Uriah. That issue — what is to be done in response to iniquity or sin — is, according to the fragmentary system, to be settled by God, not by subjects, *e.g.*, the tailor's fellow subjects. But that being so, Bramhall's insinuation that Hobbes ignores the natural/politic distinction is correct, at any rate for this kind of political purpose. For such purposes the distinction indeed makes no difference.

We must also consider the possibility that the Hobbes of *Leviathan*, Chapter 21, paragraph seven, is not merely preventing the distinction from making a difference, but is in addition trying to discredit — exhibit the speciousness of — the natural/politic distinction itself, as a distinction. Hobbes may wish to discourage anyone — God or man, Bramhall or Hobbes himself — from trying to distinguish between politic and natural acts in such a way as would, on the one hand, legitimate an order soberly issued in the Privy Council and, on the other, stigmatize as iniquitous angry or drunken commands to get rid of a tailor or valet.

Take David's case, exquisitely poised as it is between nature and polity. Whereas the means, a military order to a lieutenant for placement of a soldier, is quintessentially politic, the end is at least as natural as ordering a suit of apparel, or expecting a servant to attend. This being so, and Hobbes knowing what critics such as Bramhall would like to accuse him of, why did he nevertheless make David's murder of Uriah his most conspicuous example of sovereign conduct non-accountable to subjects? Why did Hobbes go so far out of his way to associate the venerable title, "the Sovereign Power of life, and death," with egregious thuggery committed by the sovereign "on what pretence soever"? Why did not Hobbes, as author of the *Leviathan*, insist that the doctrine of non-accountability extends only to acts of the sovereign that can be comprehended in strictly "politic" terms? Why did he not reserve the notion of sovereign power to the right to make war and punish, rather than invoking it in connection with a sordid murder?

One plausible though light-weight reason for Hobbes's stress on the David/Uriah episode is that by bringing it up he gives himself the occasion he may have thought he needed to quote that favorite language of monarchists from *Psalm 51*, the "to thee only have I sinned" (see part IV.5., below). A weightier reason would be this: that, when writing Chapter 21, paragraph seven, of the *Leviathan*, Hobbes may not have been as sanguine as he was later, when wrangling with the Bishop, that there is a crisp, fool and knave proof distinction between "the King's natural and politic capacity," such that a political theorist should encourage subjects to deploy it against the king.

After all, Hobbes might observe, the king's apparel can be of some political importance: who knows when a child will shout out that he has no clothes, or when a couturier will put him on a list of the ten worst dressed? And, of course, a king who cannot dress like a king, or get his valets to attend him, can hardly make a kingdom obey. So it really is hard to tell where the "politic," understood as the "politically relevant," leaves off and the "natural" begins. Indeed, Hobbes may have decided it is impossible to find that line. And bent as he was on erecting an "absolute" sovereign (*El.* II.1.14., II.1.18.; *DC* VI.13, 17-18, XI.6.; *Lev.* 230, 269), he presumably had to take away occasions for subjects to raise an eyebrow, or to ask themselves, e.g., Is the sovereign too far gone in his cups? When does a King Henry's non-accountable and immunized statecraft leave off and his accountable lust take control? When is an expenditure from the Royal Treasury for a private bauble and when is it necessary to keep up appearances at court? In his forthright (and reckless) way (see *Lev.* 152, for another instance in which Hobbes articulates and stands by what others, not knowing him, would think a *reductio ad absurdum*), he cuts through and preempts all this uncertainty and ambiguity by rendering explicitly non-accountable a most extreme case of private-regarding iniquitous sovereign conduct — that of David *vis-a-vis* Uriah. If he can immunize David's conduct here as non-accountable, every other case will follow *a fortiori*.

32. Even less than Jephtha's daughter will Uriah vindicate Hobbes's premise, of there being a praetermitted "action[], for which he is nevertheless, without Injury put to death." What is the action in Uriah's case? Truly, the "action" was to have been married to Bathsheba, just to have *been* her husband, i.e., just to have *had* a status, and not to have *done* anything, *perform* any action.
33. Something that, according to Clarendon, "Uriah never knew he had don" (1676, 81). On the same point, William Lucy acknowledges that if Hobbes "[s]hew that concession or gift from Uriah...it will go a great way to my satisfaction" (1673, 132).
34. In search of satisfaction — call it justice — Uriah's kin or shade walks up to the "Injurie/Injustice" window only to be told that "they" handle such matters "over there," at the "Iniquitie" window. At that window, he is told that, though he has indeed come to the right place, he is the wrong person: only *The Person* is heard at the Iniquitie window. Uriah's kin *qua* Hobbesian subject is given a theological-bureaucratic run-around. He is made to understand that accusation presupposes injury, that injury is a matter of injustice, that injustice is "the not Performance of Covenant" (*Lev.* 100), and that the sovereign is party to no covenant with the subject. "[I]t is true," Hobbes allows, "that they that have Sovereigne power may commit Iniquity; but not Injustice, or Injury in the proper signification" (*Lev.* 124). The upshot: if "whatsoever...[the Sovereigne] doth,...can be no injury to any of his Subjects; [then] nor ought he to be by any of them accused of Injustice" (124).

Hobbes's doctrine, unlike Hobbes himself, is estranged from righteousness. Disconnecting justice from its traditional constituents — the common good, notions of fairness in commutation and distribution, and the guilt or innocence of parties — he reduces it to nothing more than a function of covenanted authorization — authorization which is both prompted and delimited by the almighty imperative of self-preservation (Arkes 1986, 209). If the subject criticises or resists the sovereign because he is perpetrating an iniquity on an innocent third party, the "interfering" subject is guilty of both iniquity and injustice. If instead, the guilty subject resists the sovereign solely on his *own* behalf, he will do so "without Injustice" (*Lev.* 150), nay without iniquity, no matter how unjust and iniquitous, indeed how atrocious, his own primary crime may have been ("For...[he] but defend[s]...[his] life[], which the Guilty man may as well do, as the Innocent" [*Lev.* 152]), or how righteous the sovereign may be, nor how destructive of sovereign and hence commonwealth his resistance may prove (*Lev.* 88, 152; Schrock 1991, n. 54). What we are entitled to do on our own behalf has nothing to do with our own righteousness or iniquity, and we may not do anything against an iniquitous sovereign "in defence of another man, guilty, or innocent" (*Lev.* 152). Hobbes denies standing to knights errant and private attorneys general (cf. Grotius 1925, 504-06 — II.xx.xi). Entering the lists on behalf of righteousness for the sake of righteousness is to make the mistake of acting as if we are by nature political and as if virtue and the common good rather than peace and preservation were our end (see Arkes 1986, 206-10).

35. Cf. Grotius 1925, 107 — I.iii.viii.8.
36. On Hobbes's equivocation with respect to the true liberty of desertion, see *Lev.* 151-52, 230, 484; and see the plausible "Carthaginian" interpretation in Arkes (1986, 213-14). On Hobbes and military duty, see Morgan 1982 and Baumgold 1983.
37. I put off and pass over until another time a huge problem in Hobbes: How to justify punishment for the exercise of a "true Liberty of a Subject" (*Lev.* 150). See Cropsey 1971, 41.
38. Here is Warrender's amused characterization of the situation: "the sovereign may attempt to put a subject to death and the subject may resist violently, and both sovereign and subject be completely justified. These are typical situations in Hobbes's philosophy" (1957, 20). See also Schrock 1991, 855-56. Arkes is not amused. He berates Hobbes's declaration of the rights to desert and resist punishment (1986, 208-14). Working largely from Aristotelian premises, he decries the so-called true liberties as false. He also attacks Hobbes's fragmentation of politics. In Arkes' Aristotelian understanding, capricious, atrocious, or otherwise abominable acts, whether perpetrated by subject or sovereign, do not occur with impunity and without censure. There is no occasion on which either a ruler or a citizen may seal himself off from accountability and give himself over to indulgence of absolutes (1986, 209). For Arkes, the Aristotelian, there is no truth to such propositions as that, between sovereign and subject, absolutely anything the former does to the latter is unexceptionable (*Lev.* 148), and that absolutely anything the subject does to save himself from the sovereign is *ipso facto* by right (*Lev.* 88, 152; Schrock 1991, n.54). Politics according to Arkes following Aristotle is not regulated by counterposing absolutes in "a political order in which government and citizen alike may exercise a license unaffected by moral restraints" (1986, 209), but rather by instilling moderation and forbearance in rulers and ruled. To be suited by nature for political life means that we are open to the criticism of others, obligated to take seriously their speeches about justice, and duty-bound to discipline and moderate our conduct accordingly (Arkes, 1986, 209, 215). It also means that it is not unnatural for men to subordinate their preservation to justice and the common good (Arkes 1986, 206-16; another Aristotelian to the same effect: Cumberland 1727, 65, 67, 77, 87).
39. "Hobbes, whilst he pretends with one Hand to bestow Gifts upon Princes, does with the other treacherously strike a Dagger to their Hearts."
40. What position do various Christian authorities, as we might haphazardly collect them here, take on criticism or accusation of the sovereign? Roman Catholic commentators will think less of the laity than of the bishops, especially the Bishop of Rome, as possible critics or accusers of political sovereigns. The position of Luther and Calvin: "We owe our rulers not only our obedience, but also our prayers and, let it be noted, our frank criticism if this is necessary" (Forrester 1963, 297). James, on the other hand, though acknowledging the existence of tyrants (1918, 59-61, 66-67), makes no provision for subject criticism of them (1918, 61).

41. About whom, see the text immediately below.
42. Of course, the fact that Yoav is the accuser might itself show that the author of *Samuel* has reservations about subjects accusing sovereigns. The phrase, "thou knowest...what Yoav...did to me" (David accusing Yoav to Solomon; KJ) from I *Kings* 2:5 may be a reference to Yoav accusing David in II *Samuel* 19:5.
43. At least one Christian has thought of Nathan as other than an ordinary, lay subject. According to A. J. Carlyle,

we have in one of the letters of Gelasius perhaps the first example of a regular enumeration of occasions on which churchmen had, as he thinks, been compelled to resist and reprove the secular ruler. Gelasius begins by referring to the rebuke of David by the prophet Nathan [n.d., 188].
44. It must be kept in mind (1) that Nathan is probably speaking at least semi-privately with David (cf. Plato, *Apology of Socrates* 26a), and (2) that, public or private, Nathan's *accusation* of David gives little support to the idea of physical *resistance* to David the King. We know from David's avoidance of anything physical against Saul, let alone tyrannicide, that the books of *Samuel* do not sanction going beyond accusation. Both Saul and David are the "Lord's anointed," against whom a subject's hand may not be raised (see, e.g., I *Samuel* 24:1-10; 26:9-11, 23; II *Samuel* 1:14-16; 12:7), even, presumably, in self-defense. For the contrast with Hobbes, see part IV.2., above.
45. Except, of course, for the "Sovereign Prophet" (*Lev.* 299).
46. Nathan can thus be understood either as strictly a medium through which God speaks to David, hence as facilitator of communication within the fragmentary God/sovereign relationship — the model that leaves subjects as potential accusers "out of the loop" — or as virtually an "Aristotelian" subject accusing his ruler.
47. That there is indeed such a truth is manifest in the very paragraph we are reading — *Leviathan*, Chapter 21, paragraph seven. There and elsewhere (e.g., Chapter 15, and Chapter 28 [e.g., paragraphs 1, 3, 5, 6, 10, 11, 22]), the truth about the law of nature and iniquity is put beyond any sovereign's power to contradict.
48. A survey I have not made needs to be taken of the uses to which *Psalms* 51 has been put by commentators as well as by apologists for various monarchs. In the meantime, consider this from the Stuart loyalist, Dudley Digges, who takes David's "*to Thee only have I sinned*" as a plea for "impunity":

Notwithstanding he had abused *Uriah's* wife, and contrived the death of so gallant a man,...; yet he [David] saith, in the height of his humiliation, he had sinned against God onely, because there was no tribunal amongst men to which he was responsible [1643, 39; italics original].

Writing in 1649, with Digges and/or others like him in mind, Milton responds this way:

[S]ome would persuade us, that...[a certain] absurd opinion was King *David's*; because in the 51 *Psalm* he cries out to God, *Against thee onely have I sinn'd*; as if *David* had imagin'd that to murder *Uriah* and adulterate his Wife, had bin no sinn against his Neighbour,... *David* therefore by those words could mean no other, than either that the depth of his guiltiness was known to God onely, or to so few as had not the will or power to question him, or that the sin against God was greater beyond compare then against *Uriah* [1932, Vol. 5, 12-13].

Although it can be argued that Milton is more biblical than Digges and Hobbes, it must be acknowledged that the latter have the great authority of Aquinas on their side: In the *Summa Theologica* I-II. Q. 96. a. 5., Thomas quotes the "To Thee only have I sinned" from *Psalm* 51 to support the position that "the sovereign...[is] exempt from the law because none is competent to pass sentence on him, if he acts against the law...[though] in the judgment of God, the sovereign is not exempt from the law" (Pegis tr.); similarly, Grotius (1925, 127 — I.iii.xx.2). Bramhall, on the other hand, is one Christian-Aristotelian monarchist who, hating Hobbes so much, will, doubtlessly for that reason alone, if not also on the merits, resist the Aquinas/Grotius/Hobbes kind of use of *Psalms* 51 (1844, 546).

49. In case someone thinks it does *not* go without saying that David could sin against Uriah, and/or that his sinning against God and Uriah are not mutually exclusive, let me try to say it. There is, to begin with, no grammatical reason in "I have sinned against the Lord" (II *Samuel* 12:13; KJ) why David could not have believed he sinned against Uriah as well as God (that is what Milton supposes: David may be saying "that the sin against God was greater beyond compare than against Uriah" [1932, Vol. 5, 13]), unlike the case with *Psalm* 51:4, "To thee only have I sinned," where grammar does exclude sinning against Uriah. Of course, grammar is not dispositive. We also need to know whether David, or the books of *Samuel*, would, as a matter of actual practice, think or speak of a person sinning against another human being as well as against God. (On the question whether all violations of the Second Table of the Decalogue resolve into violations of the First, i.e., to sins only against God, see, e.g., Feinberg 1970, 459-60. For an illuminating study of the use in England of the Decalogue's Two Tables in Hobbes's day, see McGee 1976).

Actually, we have not yet hit on the precise issue, which is not whether a human being as such can sin against another human being as such (the Bible, Hebrew and Christian, is replete with such a thing), but rather whether this human being, who is a king, can sin against this other human being, who is his subject. With that precise question in mind, let us peruse the Books of *Samuel*. Are there passages in those books predicated on the possibility of a sovereign injuring or sinning against a subject? Consider, as an answer to that question, Jonathan's speeches to Saul on behalf of David in I *Samuel* 19:4: "Let not the king sin against his servant, against David; because he hath not sinned against thee"; or 19:5: "Wilt thou sin against innocent blood, to slay David without a cause?" (KJ).

50. Another way Orwin puts the point is that the sovereign right, being a natural right, "includes indemnity from punishment by ("accountability" to)...[the sovereign's] subjects" (1975, 34).
51. But, it must be said, the idea that the Hobbesian sovereign and subject are in a state of nature one to another is troublesome. Despite the facts that Hobbes says the only way persons can end a state of nature between them is through covenant (*Lev.* 227), and that he denies there is a covenant between subjects and sovereigns in the commonwealth by institution, he nevertheless leaves us room to wonder whether it makes sense to say that those in a permanent agency relationship, such as that obtaining between the Hobbesian sovereign and subject, where, as we will see below, each seems to be the principal to the other's agent, and *vice versa*, in an intricate *pas de deux*, are in a state of nature, one to the other. They are surely not fighting the war of all against all (but see Schrock 1991, 873). Perhaps this is why Joseph Cropsey is so cautious in characterizing the sovereign/subject relationship as a state of nature, to wit: "that there is no compact...between ruler and subject...[means] that they are *to this extent* in the state of nature with respect to each other" (1977; emphasis original).
52. Hobbes limns this possibility as follows:

[W]hatsoever is commanded by the Sovereign Power, is as to the Subject (*though not so alwayes in the sight of God*) justified by the Command; for of such command every Subject is the Author [*Lev.* 158; emphasis supplied; see also Shakespeare, *Richard III* {I.iv.112-14}].
53. Indeed, one may plausibly doubt — there are two reasons for doubting — whether Hobbes values subject fear of God's anger for disobedience to the sovereign. The *first* cause of doubt is that the fear of God is redundant as a motive for obedience to the sovereign, provided the sovereign is strong enough to put the fear of himself in his subjects. But the sovereign will not be strong if his servants do not do his bidding with alacrity, which they will not do if they fear their obedience to possibly iniquitous commands will get them in trouble with God (*Lev.* 99, 199, 227, 245, 372, 402-03). So, the *second* reason why Hobbes does not over-value the idea of God putting the fear of Himself in subjects so they will obey the sovereign is, as said in the text, that the same God who makes them fear Him for *disobedience* is also there to make them fear Him for *obedience* (see Orwin 1975, 36-38).

As fear is the ground, so it is the limit of obedience: where the greater danger is on the side of obedience, obedience will yield to the fear of that danger. Hence the intrinsic ["true"] liberties of subject, and the difficulty in the raising and keeping of armies....There is, however, another fear which is no less powerful than the fear of earthly death and which may oppose it. This is the fear of powers invisible, and of their malignity in this life and after [Orwin 1975, 35].
54. The "Yoav problem" under consideration here is of course not the one caused by his killing of Abner (II *Samuel* 3:27), Absalom (II *Samuel*

- 18:14), or Amasa (II *Samuel* 20:10), but rather the one caused by his obedience of David's command to kill Uriah (II *Samuel* 11:14-18).
55. See, e.g., Luther (1962, 111-112) and Calvin (1966, 675-76 — IV.xx.32); and see Grotius 1925, 138 — I.iv.i.3.
 56. "'Methinks'" the King says "'I could not die anywhere so contented as in the King's company, his cause being just and his quarrel honorable.' Williams: 'That's more than we know'" (IV.1.126-29). As Orwin says,

the most that theorists of divine right could claim was that in all doubtful cases one should obey the sovereign, who therein bore the burden of one's obedience [1975, 39].

Indeed, as Orwin also brings out, the Bates kind of "standard argument of divine right theorists" was "under constant attack by radical Protestants who pictured it as lulling subjects into an obedience which could only result in their damnation" (1975, 43n.43).
 57. The warrant settles the first agency issue, i.e., indemnifying the Murderer against blame by his principal, the King, for acts at the principal's behest.
 58. The warrant that protects the Murderer against Richard's censure does not protect him from the censure of God, the third party.
 59. Hobbes will not be satisfied to secure an obligation in Jews or Christians to co-religionist sovereigns. As Orwin says, Hobbes is determined "to solve the problem of the obedience of the subject *as such* to the sovereign *as such*" (1975, 36 [emphasis supplied]) — "Mohometan," "Infidel," heathen, atheist, whatever (*Lev.* 343-44, 414).
 60. No actual wedge will occur, of course, if "Yoav's" conscience is not instructed or active, and he has no intimation of a God Who will have uttered a Word. Conflict between subjects and sovereign over divine right requires that at least one of the parties has a divination of divine right.
 61. Or, he may go beyond merely straying from to actually denying, or requiring the subject to deny, that such a Source exists, as sovereigns have been known to do. Rimmon, heathen sovereign of Naaman, commanded him to deny God (2 *Kings* 17-18). "[W]hat shall we answer [on behalf of Naaman]," Hobbes asks, "to our Saviours saying, *Whosoever denyeth me before men, I will deny him before my Father which is in Heaven* [italics original]?" "This we may say," he tells us:

that whatsoever a Subject, as Naaman was, is compelled to in obedience to his Sovereign, and doth it not in order to his own mind, but in order to the laws of his country, that action is not his, but his Sovereigns; nor is it he that in this case denyeth Christ before men, but his Governour, and the law of his countrey [*Lev.* 344].

And when the Civill Sovereign is an Infidel, every one of his own Subjects that resisteth him, sinneth against the Laws of God (for such are the Laws of Nature,) and rejecteth the counsell of the Apostles, that admonisheth all Christians to obey their Princes....And for their faith, it is internall, and invisible; They have the licence that Naaman had, and need not put themselves into danger for it [*Lev.* 414; see also *EW* IV, 319-22, 360-65].

This evasion is not available to Christians, a fact which is from Hobbes's point of view one of gravest defects of Christianity, provoking him to figure out how Naaman's denial of God can be rendered harmless to Naaman.

62. Orwin rounds out the thought:

in obliging ourselves to do what the sovereign commands...we shift the onus of our obedience upon him, and thereby free ourselves to do what he commands. By obliging ourselves to obey him, we evade all responsibility for obeying him [1975, 38].

63. Not even to disobey passively. Passive (dis)obedience is a repellant idea to Hobbes: (a) because "the distinction between this and active resistance cannot be easily maintained" (Orwin 1975, 37), i.e., because passive easily segues into active (as it does in Hobbes's own exposition of passive obedience! [EW VI, 222-26]); (b) because Hobbes demands from subjects more than passivity or non-resistance, i.e., active, cooperative compliance with sovereign commands (*Lev.* 120, 121, 151; see Orwin 1975, 29); and above all (c) because passive (dis)obedience is predicated on the alleged propriety of subjects judging the relative righteousness of sovereign acts (EW VI, 222-26).

64. Actually, this passage can be construed in the opposite manner, with Yoav the author or principal, as follows:

Facts done against the Law, by the authority of another [David orders Yoav to kill Uriah by Yoav's authority], are by that authority Excused against the Author [Yoav, who may not accuse David for ordering the murder of Uriah]; because no man [Yoav] ought to accuse his own fact in another [e.g., in David], that is but his instrument: but it is not excused against a third person [e.g., Uriah or God] thereby injured.

65. Orwin is one who thinks we must entertain the possibility that, for Hobbes, our very law of nature duties depend on, are the result of, our consent.

Those who would base the obligation to obey the sovereign in Hobbes on the obligatory character of the natural law taken as God's law should and sometimes do remember that even the obligation to God is interpreted by Hobbes as self-assumed, when assumed at all (EW, III, 344) [1975, 43n.42; see also Wernham 1965, 135-36; but see Barry 1968/72, 59-61].

Orwin cites *Leviathan*, Chapter 14, for the proposition that, "in Hobbes all obligation originates in oneself" (1975, 38, 43n.42); he might also have cited Chapter 21 to the same effect: "there [is]...no Obligation on any man, which ariseth not from some Act of his own" (*Lev.* 150).

66. As Orwin puts the matter,

It is true that in disobeying the sovereign the subject would be violating the natural law which is God's law; he will in such cases be, quite literally, damned if he does and damned if he doesn't. Such an outcome can hardly be said to be unambiguously favorable to the obedience of the sovereign [1975, 43n.39].

- Hobbes's project is to alleviate the subject's predicament by arranging things so he can think solely of his duty of obedience (*Lev.* 113).
67. Among the other prerequisites of this scheme, it would appear that candidates for sovereignty must either disbelieve in, and only fake fear of a punishing God, or have an incredibly self-sacrificing spirit.
 68. Is Hobbes's God a retributivist? It would appear that Hobbes's subjects must believe He is so. This is despite the fact that, in the seventh law of nature, Hobbes's God prohibits human beings to retribute, when he "forbid[s]...[them] to inflict punishment with any other designe, than for correction of the offender, or direction of others" (*Lev.* 106). Perhaps the difference between us and God on this point is that, God having no ends (*Lev.* 249), He can only be a retributivist, even as he forbids us teleological humans to punish any other way than with a view to an end, the end of reform or deterrence. If this is Hobbes's position, it is identical with that of Grotius (1925, 466-67 — II.xx.iv).
 69. Hobbes secures the main condition for subject obedience by telling his readers how to deny God access to the subject by giving Him access to the sovereign. To be sure, God might have put a stop to such collusion. He might have said, "No human agreement is going to determine whom I reckon with; no subject is going to achieve impunity for iniquity by making an agency agreement with his sovereign." But because God did not preempt Hobbes by thus putting His foot down, Hobbes has preempted Him and trammelled His unbounden power. When Hobbes gets through with God, He is no longer a wind blowing where He listeth.
 70. Actually, of course, we have been perpetrating a pious fraud — that Yoav was troubled by David's order. Yoav seems to have been one of the last men in the world to be worried about the consequences of one murder more or less.
 71. Although Hobbes does not mention Nathan in our paragraph, he does bring him up in an odd way in the *Dialogue* (1971, 141).
 72. I am persuaded by Robert Kraynak's argument that "a complete understanding of Hobbes's political teaching...requires an interpretation of *Behemoth*" (1982, 837), and that a careful reading of that book discovers its primary teaching to be that the root cause of the English Civil War was "intellectual vainglory," or opinion-mongering, particularly on the subject of justice (837-39). See also *DC* I.2.; *Lev.* 221; and, of course, Strauss (1936/1952, 6-29).
 73. Especially when Hobbes himself has most strikingly and eloquently articulated the natural law standards of equity, with a view to which all having eyes to see will judge the government and may thus become re-obsessed with and aroused by its iniquities.
 74. Observe that, whatever God may have in store for Yoav, David does not ground *his* death sentence for Yoav in the murder of Uriah, but in the deaths of Abner and Amasa (1 *Kings* 2:5-6). David presumably knows he himself is answerable to, or has answered, God for what his henchman did to Uriah on his orders.

David's death-bed motivations are a matter of conjecture. *Realpolitik* or utilitarian considerations probably account for the fact that David left Yoav alive, in possession of his lieutenancy, until David's own death. They do not account for the fact that he made sure the life of Yoav did not extend much beyond his own. In that connection something more than political calculations — something retributive — was at work: Solomon just *had* to punish Yoav, a necessity presumably stemming from Yoav's murder of Abner and Amasa (I Kings 2:5-6). David's "sense of justice" is offended, his "thirst for righteousness" aroused, and he assumes God's is, too. When David first heard of Yoav's murder of Abner, he said "I and my kingdom are guiltless before the Lord...from the blood of Abner the son of Ner: Let it rest on the head of Yoav, and on all his father's house" (II Samuel 3:28-29; KJ). Later, in his dying instructions to Solomon, David spoke as follows:

[T]hou knowest...what Yoav...did...unto Abner...and unto Amasa...whom he slew, and shed the blood of war in peace....Do therefore according to thy wisdom, and let not his hoar head go down to the grave in peace [I Kings 2:5-6; KJ].

75. Because it is not essential that God actually punish the tyrant, only that He be thought by subjects to do so, we see that Hobbes does not belabor the question of how we can *know* there is a providential God (but see *De Hom.* XIV.1.; *DC.* XV.2.; XVI.18.; *Lev.* 247), an after-life (*Lev.* Chapter 38), and providential rewards and punishments. On the latter, we read that:

there are two kinds of controversies: the one about spiritual matters, that is to say, questions of faith, the truth whereof cannot be searched into by natural reason; such are the questions concerning...rewards and punishments to come,...and the like [*DC.* XVII.28].

The workability of the fragmentary system obviously depends on the prevalence of certain beliefs. Yet Hobbes himself does nothing to foster the belief, e.g., that iniquitous sovereigns burn (nor for that matter that anyone burns [*Lev.* 314-15]). In our paragraph, he says only that every sovereign "is the Subject of God, and bound thereby to observe the laws of Nature" (*Lev.* 148). He does not speak there of hell-fire (though elsewhere asserting "there is that in heaven...that he [the sovereign] should stand in fear of" [*Lev.* 221]).

The biblical history of David depicts a God sufficiently holy and awesome, and with sufficient retributive powers, to make the fragmentary model work. It also shows us a dismayed, overwhelmed, penitent David as well as the death of Bathsheba's child, and (if Luther, for example [1956, 223-24], is correct), a whole subsequent (and arguably consequent) series of additional calamities. The puzzle is why Hobbes dwells so little on the extent to which an angry God made David suffer, as required by the fragmentary scenario. Instead of giving us a mortified and penitent David, utterly humbled, duly punished, he gives us a self-exculpating, adversarial David.

76. If subjects do not react thus instinctually as in Rousseau's scenario, perhaps some of them will avoid contact with the sovereign because of a

"papal claim that the subjects should shun intercourse with an excommunicated monarch" (Kern 1939, 112).

77. Although four functions might conceivably be served by the fear of God in Hobbes's political theology, only one of them is actually served by it at the end of the day. Here are the four:

(1) *Fear of God as motive for subject obedience to the sovereign.* Given that Hobbes would make the mortal god "*Leviathan, ... King of the Proud, ... King of all the children of pride*" (Lev. 221; italics original), why does he need the immortal God? It is possible, in other words, that Hobbes may not have believed what Machiavelli says *he* believed, namely, that "where the fear of God is wanting, there the country will come to ruin, unless it be sustained by the fear of the prince, which may temporarily supply the want of religion" (1950, 148; Detmold, tr.; emphasis supplied).

(2) *Fear of God as motive for sovereign obedience to the laws of nature.* Although Hobbes says "there is that in heaven, ... that ... [the sovereign] should stand in fear of" (Lev. 221), it is difficult to find junctures in his scenario at which he relies on this fear to motivate the sovereign (cf. e.g., Lev. 128-29). Nor is it clear that a sovereign who studies Hobbes's texts on government and theological-political problems will increase his fear of God by that exposure (see, e.g., Lev. 314-15, 414).

(3) *Fear of God as easing the mind of henchmen by promising the vicarious atonement of the sovereign for their sin — the sovereign as scape-goat and sacrifice for his civil servant.* Yoav is not going to need King David to front for him with God if Yoav has lost his fear of God. It is only necessary for David to be thought to take the rap if Yoav thinks there will be a rap. Eliminate God and Yoav is home free, without the necessity of David being scape-goat. If there were no God, Yoav and his fellow henchmen would not worry about being burned by God, nor hence whether David will atone vicariously. (Assuming, contrary to what was apparently the fact with the real, biblical Yoav, that he *was* thus worried.)

(4) *Fear of God, or God as fearful, as gratifying the subjects with the feeling that the sovereign had better indeed fear God because God is, sure as hell, going to burn him for his tyrannies.* For Hobbes's purposes in the working of the fragmentary theological-political system, this is, it seems to me, the only indispensable function served by the fear of God.

78. The following is said in preface to all three cases: the "Sovereign Representative...is the Subject of God, and bound thereby to observe the laws of Nature" (Lev. 148). Hobbes also says that "the action [putting an innocent subject to death]...[is] against the law of Nature, as being contrary to Equitie, (as was the killing of *Uriah*, by *David*)" (Lev. 148; italics original); and that "*David* was *Gods* Subject; and prohibited all Iniquitie by the law of Nature" (Lev. 148; italics original).
79. Is banishment punishment? It is, when "a man is for a crime, condemned to depart out of the dominion of the Common-wealth...during a prefixed time, or for ever, not to return to it" (Lev. 218). But the Athenian banishments Hobbes considers here were not punishments, but rather

"acts of hostility," and indeed iniquitous acts of hostility. (Not all acts of hostility are iniquitous; for example, war as such is itself not as such iniquitous, being not as such against the law of nature but by the right of nature.) This is so because they were not for a "crime...[a person] had done; but what hurt he *would doe*" (emphasis added), whereas a punishment "is an Evil inflicted...on him that *hath done*...that which is...a Transgression of the Law" (*Lev.* 214; emphasis added). These banishments were therefore "punishment of the innocent," "against the Law of Nature," iniquitous (*Lev.* 219).

80. Perhaps it will be asked, why assume there will be sovereign iniquity needing divine comeuppance? Because, as Hobbes says, "it may, *and doth often happen* in Common-wealths, that a Subject may be put to death, by command of the Sovereign Power; and yet...he that so dieth, had Liberty to doe the action, for which he is...put to death" (*Lev.* 148; emphasis added). In other words, political murders happen. My impression is that Hobbes could not conceive a longish interval of civil affairs in which someone does not have good reason for thinking someone else, generally the government, is getting away with murder.
81. Leo Strauss's most extended depiction of Hobbes's theology (1959, 182-89) begins with this remark: "[Raymond] Polin states without any ambiguity that Hobbes was an atheist....Since his thesis is by no means universally accepted, it will not be amiss if we indicate how it can be established" (1959, 182-83; see also Strauss 1950, 198-99).
82. Cf. *Lev.* 99, 199, 227, 245, 372, 402-03. In these frequently cited passages of the *Leviathan*, Hobbes dramatizes the plight of the subject immobilized by terror between two sources of fear, and who like as not gives way to the greater fear — of the powers invisible — thus weakening the sovereign and the commonwealth. Do these passages not militate in favor of efforts to simplify the subject's life and extricate him from his theological-political predicament? Do they not speak for a new order, one in which subjects are no longer paralyzed by terror of the powers invisible? For reasons persuasively set forth by Strauss (1950, 198-99) and Orwin (1975, 35-38), Hobbes could have found the death of God a clear political improvement, and would have so found, I believe, were it not for the need that even or especially he, among political theorists, had of a God to hold the sovereign accountable, in the sight of the people, for the sovereign's iniquities, as *per* his fragmentary model of the polity. But see part V, below.
83. See Aquinas, *De Regno, Ad Regem Cypri* I.i.11. (end), for the idea of the people as the tyrant.
84. It is understandable that we should be puzzled by the idea that Hyperbolus and Aristides, who, as a result of sovereign praetermission, have the liberty to jest and be just (*Lev.* 147-48), can be punished for the exercise of that liberty. How can they be guilty under the civil law, and punishable for that guilt, when the civil law has not prohibited but rather praetermitted the conduct? The answer is that they cannot be guilty or punishable. That is why Hobbes does not call their treatment punishment — distinguishing in their connection between punishment

and hostility by saying the sovereign *demos* "never questioned what crime he had done; but what hurt he would do" (*Lev.* 148).

85. But see Aristotle, *Nic. Eth.* 1179a24-25.
86. The fact that, shielded from punishment by the very nature of punishment, which presumably not even God can alter, the Athenian polytheists were nevertheless subject, as virtual atheists and therefore enemies of God, to whatever acts of hostility He cared to perpetrate on them at His pleasure (*Lev.* 219), may be thought to mitigate this conclusion. It does, in a way, but only at the expense of having God deny due process and punish the innocent.

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