

*Hobbes and the purely artificial person of the state*

## I

Hobbes prefaces *Leviathan* with a letter in which he dedicates the work to Francis Godolphin and at the same time offers him a summary of the theory of public authority contained in the book. ‘I speak’, Hobbes explains, ‘not of the men, but (in the Abstract) of the Seat of Power.’<sup>1</sup> This seat, he adds in his Introduction, is occupied by ‘that great LEVIATHAN called a COMMON-WEALTH, or STATE’.<sup>2</sup> The essence of Hobbes’s theory of public power is thus that the person identifiable as the true ‘subject’ of sovereignty in any lawful state must be the person of the state itself.

Hobbes’s opening remarks allude to what has proved to be one of the most enduring puzzles in our inherited theories of government. On the one hand, most contemporary political philosophers would agree with Hobbes that the state is the seat of sovereignty.<sup>3</sup> As Hobbes expresses the claim later in *Leviathan*, it is ‘the Reason of this our Artificiall Man the Common-wealth, and his Command, that maketh Law’, so that civil law is nothing other than ‘the Will and Appetite of the State’.<sup>4</sup> But on the other hand, most contemporary philosophers would also agree with Hobbes when he adds that the state amounts to nothing more than an artifice. To quote Hobbes’s way of expressing this further point, the state has no capacity ‘to doe any thing’; it is ‘but a word, without substance, and cannot stand’.<sup>5</sup> There, then, is the puzzle. How can the state, an apparent abstraction, nevertheless be the name of the person who makes laws, punishes criminals, declares war and peace and performs all the

This chapter is a revised version of an article that originally appeared under the same title in *The Journal of Political Philosophy* 7 (1999), pp. 1–29.

<sup>1</sup> Hobbes 1996, Epistle, p. 3.

<sup>2</sup> Hobbes 1996, Introduction, p. 9.

<sup>3</sup> For some recent examples see the contributions to Biersteker and Weber 1996.

<sup>4</sup> Hobbes 1996, ch. 26, p. 187 and ch. 46, p. 469.

<sup>5</sup> Hobbes 1996, ch. 26, p. 184 and ch. 31, p. 245.

other actions necessary for maintaining – in Hobbes’s fine phrase – the safety of the people and their other contentments of life?<sup>6</sup>

One reason for wishing to focus on Hobbes’s answer is a strictly exegetical one. He informs us in chapter 17 of *Leviathan* that the state can actually be defined as ‘One Person’.<sup>7</sup> But it is far from clear what he means by this claim, and even less clear what he means by adding that this person is also the seat of power. Nor have these problems been very satisfactorily addressed in much of the critical literature. It is remarkable how many surveys of Hobbes’s thought – even the best recent surveys<sup>8</sup> – tend to glide past these issues in silence. The exegetical task is accordingly that of trying to say something further about the meaning of Hobbes’s claims about the person of the state.

My principal reason, however, for wishing to re-examine Hobbes’s theory is a more philosophical one. As I have observed, we continue to organise our public life around the idea of the sovereign state. But it seems to me that we do not always understand the theory we have inherited, and that arguably we have never managed fully to make sense of the proposition that the person of the state is the seat of sovereignty. This encourages me to hope that an historical investigation of Hobbes’s argument may turn out to be of more than purely historical interest.

## II

Hobbes eventually worked out a distinctive and highly influential approach to the question of how it is possible for a state – or any other abstraction or collectivity – to perform actions and take responsibility for the consequences. The explanation, he proposed, depends on making sense of what he describes as the class of attributed actions. What we need to understand is how actions can be validly attributed to agents, and genuinely counted as theirs, even when the agents in question did not in fact perform the actions, and perhaps could not in principle have performed them.

Hobbes gives his answer without preamble in chapter 16 of *Leviathan*, the chapter entitled *Of Persons, Authors and Things Personated*. His proposed solution (already implicit in his title) is impressively if deceptively

<sup>6</sup> Hobbes 1996, ch. 30, p. 231.    <sup>7</sup> Hobbes 1996, ch. 17, p. 121.

<sup>8</sup> For example, Tuck 1989, Flathman 1993, Martinich 1997. But this lack of interest is especially marked among Anglophone commentators. By contrast, the French literature includes a number of important studies of the *personne* of the state. See, for example, Polin 1981, Tricaud 1982, Jaume 1986, Lessay 1992, Zarka 1985 and 1995. For a valuable recent discussion in English see Sommerville 1992, pp. 57–63.

straightforward. It is possible, he argues, for an action genuinely to be attributed to a collectivity – or to an abstraction or even a thing – provided that one particular condition is met. The agent to whom the action is attributed must be represented by another agent who can validly claim to be ‘personating’ the first by way of acting on their behalf.<sup>9</sup>

The inspiration for this approach – along with so much else in the conceptual apparatus of *Leviathan* – appears to be drawn from the *Digest* of Roman law.<sup>10</sup> Book 14 of the *Digest* opens by considering the implications of the fact that owners of various kinds of property – specifically, owners of ships and shops – can appoint other persons to serve as their captains or managers.<sup>11</sup> The law describes a number of circumstances in which you may be liable for the consequences of whatever actions are performed on your behalf when you agree *praepondere* – that is, to appoint someone to serve as your agent.<sup>12</sup> Although you will not have performed the actions yourself, you will be legally obliged *praestare* – that is, to stand by the actions and accept responsibility for them as your own.<sup>13</sup>

There are several indications in Hobbes’s early works that – in common with other constitutional theorists of the 1640<sup>14</sup> – he was aware of this theory and interested in developing it.<sup>15</sup> In his first treatise on civil

<sup>9</sup> Pitkin 1967 rightly stresses that representation is the basic concept. Although I disagree with Pitkin at several points, I am greatly indebted to her classic analysis.

<sup>10</sup> Brett 1997, pp. 205–35 examines the place of this legal tradition in Hobbes’s thought. See also Springborg 1976 on Hobbes’s ‘incorporation’ of the commonwealth and Lessay 1992, pp. 167–79 on Hobbes’s invocations of the Roman law of corporations.

<sup>11</sup> *Digest* 1985, XIV. I. 1, vol. 1, p. 415 and XIV. III. 1, vol. 1, p. 422. Johnston 1995, esp. pp. 1517–24 discusses these passages and their implications for legal liability.

<sup>12</sup> *Digest* 1985, XIV. I. 5, vol. 1, p. 415 and XIV. III. 5, vol. 1, p. 422: even if I have put someone else in charge (*praeposui*) I may still be liable in full (*in solidum teneri*).

<sup>13</sup> *Digest* 1985, XIV. I. 5, vol. 1, p. 415: ‘*debeo praestare qui eum praeposui*’ – ‘I who have appointed that person ought to stand by their actions’.

<sup>14</sup> Among parliamentary writers, [Parker] 1933, p. 193 speaks of the need for ‘Authors’ to take responsibility for their ‘Actors’; among royalists, [Digges *et al.*] 1642, p. 22 claims that acts performed by judges are in effect performed by the king, since ‘they sustaine his person’. Thomas Thomason wrote on the title-page of his copy of [Digges] 1642: ‘Falk.[land] Chilyw:[orth] Digges & ye rest of ye University’.

<sup>15</sup> The earliest of these intimations can be found in [Hobbes (?)] 1986, I. 14, p. 61, where he speaks of the need to know ‘what a *publique Person*, or the *City* is; and what a *private Person*, or *Citizen* is’. This text is an English rendering of Hobbes MSS (Chatsworth) MS D. 1, Hobbes’s Latin paraphrase of Aristotle’s *Rhetoric*. For this manuscript see chapter 1 note 27 and chapter 2 note 79. Hobbes’s paraphrase is in turn drawn from Goulston 1619, a Latin translation of Aristotle’s *Rhetoric* published by Goulston alongside his edition of the Greek text. But the passage from chapter 14 is one of several that might lead one to doubt whether the English version in [Hobbes (?)] 1986 is in fact Hobbes’s work. There is nothing in Goulston’s text or Hobbes’s Latin paraphrase corresponding to the suggestion that a city can be described as ‘a *publique Person*’, and elsewhere in his early works Hobbes always prefers to speak of ‘civil’ persons. I owe this point to Karl Schuhmann, who has persuaded me that the English version is almost certainly not by Hobbes.

science, *The Elements of Law*, the manuscript of which he circulated in 1640, he already isolates the category of ‘civil persons’<sup>16</sup> and asks how ‘a multitude of persons naturall’ can become ‘united by Covenants into one person Civil, or body politique’.<sup>17</sup> And in the earliest published version of his political theory, the *Elementarum Philosophiae Sectio Tertia De Cive* of 1642, he examines the same question at greater length,<sup>18</sup> defining a city or *civitas* as a *persona civilis* ‘whose will, from the covenants of many men, is to be taken for the will of them all’.<sup>19</sup>

At the same time, Hobbes begins to raise the question of how it is possible for actions to be attributed to civil persons of this kind. In *The Elements* he asks how ‘any action done in a multitude’ can be ‘attributed to the multitude, or truly called the action of the multitude’.<sup>20</sup> And in *De Cive* he begins to supply his answer. He introduces a distinction in chapter 7 between a *populus* considered as a collectivity and ‘a disunited multitude to whom it is not possible for any *action* or any *right* to be attributed’.<sup>21</sup> The implication, duly pursued in chapter 12, is that a united body of people, by contrast with a mere multitude, may be capable of acting as a single person in the sense that ‘it is possible for *one single* action to be attributed to it’.<sup>22</sup>

The weakness of these discussions is that they lack any account of how such attributions are to be made, and of how to distinguish between genuine attributions and those that may be counterfeited. It is only in the *Leviathan* of 1651 that these questions are properly addressed and a theory of attributed action is systematically laid out. This initial effort, however, was marred by some obscurity and even incoherence. Hobbes later recognised these defects himself, and took the chance to introduce a number of improvements when he published *De Homine* in 1658, in which he devoted his closing chapter to the theme of *De Homine Fictitio*. Still later he introduced yet further refinements when he revised *Leviathan* and reissued it in Latin in 1668. While it will be best to begin with the English *Leviathan* of 1651, which contains Hobbes’s fullest statement of

<sup>16</sup> Hobbes 1969a, pp. 108, 117. Later, Hobbes adds (p. 174) that ‘though in the Chapters of subordinate Corporations, a Corporation be declared to be one Person in lawe, yet the same hath not been taken note of in the body of a Commonwealth, or City’.

<sup>17</sup> Hobbes 1969a, p. 108.

<sup>18</sup> Hobbes 1983a, V. IX–X, p. 134 and VI. I, p. 136 describes the *civitas* as a *persona civilis*.

<sup>19</sup> Hobbes 1983a, V. IX, p. 134: ‘cuius voluntas, ex pactis plurium hominum, pro voluntate habenda est ipsorum omnium’.

<sup>20</sup> Hobbes 1969a, p. 108.

<sup>21</sup> Hobbes 1983a, VII. V, p. 153: ‘multitudo dissoluta cui nulla neque *actio* neque *ius* attribui potest’. Cf. Hobbes 1983a, VI. I, p. 136 on why it is impossible for an action to be attributed to a multitude.

<sup>22</sup> Hobbes 1983a, XII. VIII, p. 190: ‘cui actio *una* attribui possit’.

his distinctions and arguments, it will be necessary at various points to take account of these later corrections and embellishments.

Hobbes introduces his attempt to analyse attributed action in terms of representation at the start of chapter 16 of *Leviathan*,<sup>23</sup> where he begins by unveiling his definition of the underlying concept of a person:

*A PERSON, is he, whose words or actions are considered, either as his own, or as representing the words or actions of an other man, or of any other thing to whom they are attributed, whether Truly or by Fiction.*<sup>24</sup>

To construe. A general theory of action will not only have to explain how individual persons can represent themselves, so that their words and actions can truly be attributed to them. Such a theory will also have to explain how it is possible for one person to represent someone else – or some *thing* else – in such a way that the words or actions of the representative can validly be attributed to the person (or thing) being represented. To put the point in a different way – as Hobbes himself does later in the chapter – a general theory of action will need to include an account of how it is possible for one person to act in the name of another. This is because ‘to *Personate*, is to *Act*, or *Represent* himselfe, or an other; and he that acteth another, is said to beare his Person, or act in his name’.<sup>25</sup>

These phrases about ‘bearing’ and ‘personating’ fall strangely on modern ears, so it is worth recalling that Hobbes’s usages were not at all uncommon at the time. It has lately been suggested that the peculiarities of his terminology stem from the fact that he was drawing on the vocabulary of covenanting theology.<sup>26</sup> But as Hobbes himself emphasises, his terminology is largely taken from the theatre.<sup>27</sup> By the time he was writing, the idea of ‘bearing’ or ‘presenting’ *dramatis personae* on the stage had become sufficiently familiar to be understood even by such unsophisticated thespians as the tradesmen in *A Midsummer Night’s Dream*. Rehearsing the story of Pyramus and Thisbe, they find themselves beset by various problems of mimesis. One is how to convey the fact that the lovers met by moonlight. They decide that someone will have to enter ‘with a bush of thorns and a lantern and say he comes to disfigure, or to present, the person of Moonshine’.<sup>28</sup> A further problem is that the lovers spoke through a chink in a wall, and that it will not be possible to

<sup>23</sup> Although Hobbes 1996, ch. 15, pp. 103–4 already introduces the concept when discussing the attribution of justice and injustice to actions and to men.

<sup>24</sup> Hobbes 1996, ch. 16, p. 111. <sup>25</sup> Hobbes 1996, ch. 16, p. 112.

<sup>26</sup> See Martinich 1992, pp. 165, 384 and references there.

<sup>27</sup> Paganini 2001 also draws attention to Boethius’s *De Persona* and Renaissance commentaries on it. On the place of theatricality in Hobbes’s account see Pye 1984 and Runciman 1997, pp. 224–9.

<sup>28</sup> Shakespeare 1988, *A Midsummer Night’s Dream*, III. i. 54–6, p. 320.

bring a wall on stage. Again they agree that ‘some man or other must present Wall’,<sup>29</sup> and when they later perform their play the wall is duly personated by the tinker Snout.<sup>30</sup>

The anxiety of Shakespeare’s rustics to demonstrate their mastery of theatrical terminology is of course part of the comedy. But the passage reminds us that, in drawing on the same terminology in *Leviathan*, Hobbes was merely ‘translating’, as he puts it, a range of concepts long familiar in the playhouse to encompass ‘any Representer of speech and action, as well in Tribunalls, as Theaters’.<sup>31</sup> The outcome, as he adds, is that in his theory ‘a *Person*, is the same that an *Actor* is, both on the Stage and in common Conversation’.<sup>32</sup> As Hobbes’s theory continually reminds us, *persona* is, in Latin, the ordinary word for a theatrical mask.

The term *attributed* was likewise a familiar piece of legal terminology, and was evidently chosen by Hobbes with some care. The Latin verb *attribuere* had always been used to convey the sense that something should be counted as belonging to someone. Furthermore, there was always the implication – as in the case of attributing an anonymous text to its rightful author – that the responsibility for a work may sometimes be hard to assign, and that appearances may often be deceptive. These considerations had already been highlighted by the ancient theorists of forensic eloquence. They had made it a principle that, whenever the wording of a text is in question in a court of law, you must seek to cast doubt on whatever attributions of meaning and authorship have been made by your adversaries.<sup>33</sup> The parallel with attributed action is close: while it may be evident who performed a given action, it may not be evident who should count as its true author, and hence as responsible for its consequences. These were exactly the parallels that Hobbes was concerned to bring out.

With the introduction of the key concept of an attributed action, Hobbes comes face to face with the principal problem he needs to address. What is to count as the valid representation of one person’s words or actions by someone else, such that it will be proper to say of an action performed by a representative that it ought to be attributed to the person – or thing or collectivity – being represented? What, in a word, distinguishes representation from misrepresentation?

Hobbes grappled with this problem in every recension of his civil science, but it was only in *Leviathan* that he arrived at an answer that he

<sup>29</sup> Shakespeare 1988, *A Midsummer Night’s Dream*, III. i. 62, p. 320.

<sup>30</sup> Shakespeare 1988, *A Midsummer Night’s Dream*, V. i. 154–5, 160–1, p. 330.

<sup>31</sup> Hobbes 1996, ch. 16, p. 112.      <sup>32</sup> Hobbes 1996, ch. 16, p. 112.

<sup>33</sup> See, for example, *Ad C. Herennium* 1954, II. IX. 13, p. 80 on how a *sententia* should be *adtributa*.

seemed to find satisfactory.<sup>34</sup> Once again his solution wears an air of remarkable simplicity, but it constitutes one of the most important theoretical advances he made between the publication of *De Cive* in 1642 and *Leviathan* nearly a decade later, and arguably embodies his most original contribution to the theory of the state.<sup>35</sup> His suggestion is that an action can be validly attributed to one person on the basis of its performance by a representative if and only if the representative has in some way been duly authorised,<sup>36</sup> and hence instructed and commissioned, to perform the action concerned.<sup>37</sup> The crucial concept is accordingly that of authorisation,<sup>38</sup> and more specifically that of being an author and hence in a position to grant authority.<sup>39</sup> These terms make no appearance in *The Elements* or *De Cive*. Although Hobbes gives some consideration in those texts to the question of where authority may be said to reside, he never considers how it comes to be authorised. In *Leviathan*, by contrast, he deploys the concepts of authorisation and of ‘being an author’ to furnish the entire theoretical grounding for his theory of the legitimate state.<sup>40</sup>

This terminology is introduced at an early stage in chapter 16 of *Leviathan*. Hobbes first employs these terms when considering the sense in which we can speak of actions, by analogy with possessions, as ‘owned’ by particular individuals:

Then the Person is the *Actor*; and he that owneth his words and actions, is the **AUTHOR**: In which case the Actor acteth by Authority. For that which in speaking of goods and possessions, is called an *Owner*, and in latine *Dominus*, in Greeke *κύριος*, speaking of Actions, is called an Author.<sup>41</sup>

<sup>34</sup> Although Hobbes made several changes in the Latin version of *Leviathan* to his theory about the person of the state, his theory about authorisation remained unchanged.

<sup>35</sup> Rightly stressed in Gauthier 1969, p. 120 and Zarka 1995, p. 197.

<sup>36</sup> Note that ‘duly’ need not mean ‘explicitly’: implicit authorisation is a possibility for Hobbes.

<sup>37</sup> Hobbes does not say that the representative has to be authorised by the person being represented. As we shall see in section III, he needs to leave space for the fact that this will sometimes be impossible in principle.

<sup>38</sup> Hobbes 1996, ch. 17, p. 120 and ch. 21, p. 151 explicitly invokes this terminology. On Hobbes’s concept of authorisation see Copp 1980, pp. 582–95, a discussion to which I am particularly indebted.

<sup>39</sup> On ‘authors’ and ‘authority’ in this period see Elsky 1989.

<sup>40</sup> My discussion is mainly confined to the basic case in which one natural person or body of persons directly authorises another to act either on their behalf or on behalf of a third party. Hobbes adds many possible refinements: conditional authorisation (Hobbes 1996, ch. 16, p. 115); authorisation of Assemblies (Hobbes 1996, ch. 19, p. 129); and authorisation not by mutual covenant but by covenant with a conqueror (Hobbes 1996, ch. 20, p. 141). A full analysis of Hobbes’s theory would need to take account of these refinements, but in the meantime there are several good reasons for concentrating on the basic case. One is that Hobbes does so himself. Another is that he is not always successful in explaining how the refinements fit on to the basic case. As we shall see, one consequence is that sometimes there is insufficient textual basis for discussing them.

<sup>41</sup> Hobbes 1996, ch. 16, p. 112.

Hobbes is asking what allows an actor – that is, a representative – to claim that he is acting by authority. (I shall sometimes be obliged to follow him in writing as if all such actors are male.) The representative needs to be able to claim that he was duly authorised, in which case the person who granted him authority will count as the author of his action and will have to take responsibility for its consequences. The conclusion is guaranteed by the two stipulations underpinning Hobbes's argument. The first states that anyone who authorises an action can be identified as its author. The second adds that, when we speak about the authors of actions, we are equivalently speaking about their owners, since we are speaking about those who must 'own up' to whatever is done in their name.<sup>42</sup>

A dramatic implication underlies this analysis, as Hobbes immediately points out:

From hence it followeth, that when the Actor maketh a Covenant by Authority, he bindeth thereby the Author, no lesse than if he had made it himselfe; and no less subjecteth him to all the consequences of the same.<sup>43</sup>

The implication is brought out still more forthrightly in *De Homine*: 'He is called an author who has declared that he wishes an action to be held as his own which another person has performed.'<sup>44</sup> Hobbes is now prepared unequivocally to state that the reason why authors must 'own up' to the actions they have authorised is that the actions in question will be theirs, not those of anyone else.

The significance of the implication is that it yields the required criterion for judging when an alleged author can validly claim to have been misrepresented. If you are impersonated by a purported representative without having antecedently granted him authority, you are under no obligation to 'own' his actions, since you cannot be said to have authorised their performance. It is only 'when the Authority is evident' that the author is obliged; if, by contrast, 'the Authority is feigned, it obligeth the Actor onely; there being no Author but himselfe'.<sup>45</sup>

To round off his exposition, Hobbes provides an account of the mechanism by which it is possible for one person to receive the kind of authority that enables them validly to represent another and act in their name. He

<sup>42</sup> I am indebted to Pitkin 1967, pp. 18–19 on owning and 'owning up'.

<sup>43</sup> Hobbes 1996, ch. 16, p. 112.

<sup>44</sup> Hobbes 1839d, XV. 2, p. 131: '*Author enim vocatur is, qui actionem quam facit alius pro sua habere se velle declaravit.*'

<sup>45</sup> Hobbes 1996, ch. 16, p. 113.



gives his explanation – again by analogy with the ownership of goods – in the same passage of chapter 16:

And as the Right of possession, is called Dominion; so the Right of doing any action, is called AUTHORITY.<sup>46</sup> So that by Authority, is always understood a Right of doing any act; and *done by Authority*, done by Commission, or License from him whose right it is.<sup>47</sup>

To construe again. To be able to act by authority is to have been granted a commission or at least a licence to perform an action by some person or persons who must possess the right to perform the given action themselves. The grant must take the form of a voluntary transfer of right, since commissioning and licensing are names of voluntary acts. So the receipt of such a commission must be equivalent to the acquisition of the transferred right of performing the action involved.<sup>48</sup> Hobbes later summarises more clearly in *De Homine*. ‘They are said to have authority who do something by the right of someone else’,<sup>49</sup> so that ‘unless he who is the author himself possesses the right of acting, the actor has no authority to act’.<sup>50</sup>

By signalling acceptance of such a covenant,<sup>51</sup> the authorising agent acquires two contrasting obligations towards his representative. One is a duty to take responsibility for the actions performed by the representative in his name. But the other is a duty of non-interference. The latter obligation follows from the fact that, whenever an authorising agent voluntarily transfers the right to perform an action, he thereby gives up the right to perform it himself. As Hobbes explains, ‘To *lay downe* a mans Right to any thing, is to *devest* himselfe of the *Liberty*, of hindring another of the benefit of his own Right to the same.’<sup>52</sup> He goes on to trace the implications in his most minatory tones:

<sup>46</sup> Hobbes in BL MS Egerton 1910, p. 96 adds ‘and sometimes warrant’ at this point, but this is omitted from the 1651 text.

<sup>47</sup> Hobbes 1996, ch. 16, p. 112.

<sup>48</sup> This point is worth underlining, if only because it has sometimes been argued that (as Gauthier 1969, p. 124 puts it) although the act of authorisation seems to involve ‘some translation of right’, this is ‘evidently not mere renunciation, nor is it transfer, in Hobbes’s usual sense’.

<sup>49</sup> Hobbes 1839d, XV. 2, p. 131: ‘Itaque auctoritatem habere dicuntur, qui quid iure faciunt alieno.’

<sup>50</sup> Hobbes 1839d, XV. 2, p. 131: ‘Nisi enim is, qui auctor est, ius habet agendi ipse, actor agendi auctoritatem non habet.’

<sup>51</sup> Note that this is the form of the covenant only in what I am calling the basic case – what Hobbes 1996, ch. 16, p. 115 calls the case of being ‘simply’ as opposed to ‘conditionally’ authorised. Leyden 1982, pp. 89–95 discusses the special complexities attaching to conditional authorisation.

<sup>52</sup> Hobbes 1996, ch. 14, p. 92.

When a man hath in either manner abandoned, or granted away his Right; then is he said to be OBLIGED, or BOUND, not to hinder those, to whom such Right is granted, or abandoned, from the benefit of it: and that he *Ought*, and it is his DUTY, not to make voyd that voluntary act of his own: and that such hindrance is INJUSTICE, and INJURY, as being *Sine Jure*; the Right being before renounced, or transferred.<sup>53</sup>

Once you have covenanted, you must leave it to your representative, who is now in possession of your right of action, to exercise it at his discretion when acting in your name.

Before considering how Hobbes applies this general theory, we need to examine one allegedly knock-down objection to his entire line of thought.<sup>54</sup> One commentator to press the objection has been Joel Feinberg, who has raised it in discussing Hobbes's example in chapter 15 of *Leviathan* of a master who 'commandeth his servant to give mony to a stranger'.<sup>55</sup> The servant is acting as his master's representative, from which it follows, according to Hobbes, that the act of paying the stranger must be attributed to the master.<sup>56</sup> According to Feinberg this analysis is dangerously misleading. Although the 'pecuniary consequences' may be the same as if the master had acted himself, 'it is nevertheless true that *he* did not act'; what we have to say is that his servant acted for him.<sup>57</sup> The objection is thus that attributed actions are not actions.

One possible retort<sup>58</sup> would be to insist that, in spite of the obvious difference between attributed actions and actions performed at first hand, the two ought nevertheless to be classified together on the grounds of their numerous family resemblances.<sup>59</sup> While this raises some interesting questions about the concept of action, Hobbes himself makes no

<sup>53</sup> Hobbes 1996, ch. 14, pp. 92–3.

<sup>54</sup> Copp 1980, pp. 585–6 offers a more specific objection. I can validly be held accountable for an action performed by someone else if I coerce them into performing it. But coercing is not authorising; so I can validly be held accountable, *pace* Hobbes, for actions I have not authorised. Hobbes would not regard this as an objection. For him, coercion and freedom of action are compatible, so that even coercive acts of authorisation genuinely authorise. For a discussion of this aspect of Hobbes's theory of freedom see below, chapter 7 section III.

<sup>55</sup> Hobbes 1996, ch. 15, p. 104; cf. Feinberg 1970, p. 227.

<sup>56</sup> Hobbes 1996, ch. 16, pp. 112, 113; cf. also Hobbes 1996, ch. 22, p. 156.

<sup>57</sup> Feinberg 1970, p. 227.

<sup>58</sup> Copp 1979, pp. 177–8 suggests another possible retort: that the question of what it may be misleading to say in the case of the master and his servant depends on what is in question about the episode. Suppose that, although the servant duly hands over the money, a question later arises as to whether the stranger has been paid. What it will be misleading to say in these circumstances is that the master has *not* paid the stranger. He *has* paid him – by commanding and thereby causing his servant to make the payment.

<sup>59</sup> Copp 1980, pp. 581–2 discusses Feinberg's objection to Hobbes's analysis and proposes this response.

attempt to mount this kind of defence, and he surely stands in no need of it. It is true that he likes to speak of attributed actions as if they are genuine instances of action. But it is sufficient for his purposes to defend the much less controversial claim he puts forward about ‘ownership’: the claim that, when someone acts as an accredited representative, the person being represented must ‘own’ the consequences of the action *as if* they had performed it themselves. The action counts as theirs, and is called their action,<sup>60</sup> not because they actually performed it, but because they are under an obligation to take responsibility for its occurrence.<sup>61</sup>

## III

I have now laid out what I take to be the basic elements in Hobbes’s theory of attributed action. But the plot is a great deal thicker than I have so far intimated. When Hobbes introduces his theory, he specifies that two distinct types of person are capable of performing attributed actions: natural persons and feigned or artificial persons:

A PERSON, is he, *whose words or actions are considered, either as his own, or as representing the words or actions of an other man, or of any other thing to whom they are attributed, whether Truly or by Fiction.*

When they are considered as his owne, then is he called a *Naturall Person*: And when they are considered as representing the words and actions of an other, then is he a *Feigned or Artificiall person*.<sup>62</sup>

To appreciate the scope of Hobbes’s theory, and to locate the person of the state within his general scheme of things, we next need to consider these different types of person and the different ways in which it is possible for actions to be attributed to them.

Since the distinction between natural and artificial persons turns out to be fundamental to Hobbes’s theory of the state, it is unfortunate that he introduces it in such an ambiguous way. In the second paragraph quoted above, strict grammar requires that the referent of the final ‘he’ should be ‘an other’, so that the artificial person must be the person represented. But the flow of the sentence suggests that the referent of ‘he’ must be the

<sup>60</sup> This phrase is actually invoked by Hobbes’s friend Ben Jonson in *Catiline his Conspiracy*. See Jonson 1937, III. i. 38–9, p. 469, where Cicero, on his election as Consul, is made to declare:

‘For every lapse of mine will, now, be call’d  
Your error, if I make such . . .’

<sup>61</sup> Runciman 1997 p. 7. I am much indebted to Runciman’s analysis at this point.

<sup>62</sup> Hobbes 1996, ch. 16, p. 111. These paragraphs are unchanged in sense from Hobbes’s manuscript version in BL MS Egerton 1910, pp. 95–6.

natural person mentioned at the start of the first paragraph, in which case the artificial person must be the representative.

Hobbes initially resolved the ambiguity by endorsing the latter alternative. Later in chapter 16 he explains that ‘Of Persons Artificiall, some have their words and actions *Owmed* by those whom they represent’, thereby making it clear that the artificial person is the representative.<sup>63</sup> The artificiality of such representatives, he later makes clear, resides in the fact that they are acting as public persons rather than in their private capacity. This is explicitly brought out in chapter 35, where Hobbes declares that ‘the King of any Countrey is the *Publique* Person, or Representative of all his own Subjects’, to which he adds in chapter 42 that any such ‘*Publique Person*’ will at the same time be ‘the Representant of the Common-wealth’.<sup>64</sup>

It is still more unfortunate, however, that so many of Hobbes’s interpreters have followed him at this point.<sup>65</sup> The subsequent deletion from the Latin *Leviathan* of the passage from chapter 16 in which Hobbes lays it down that representatives are artificial persons strongly implies that he had come to feel that he initially misstated his own argument. There are in any case conclusive reasons for preferring the alternative reading, reasons that seem especially conclusive in the case of the person of the state. If we adopt Hobbes’s initial proposal and call representatives artificial persons, then sovereigns are artificial persons while states are not. This is bad enough in itself, since states are obviously not natural persons, while sovereigns obviously are. The problem is made worse when commentators infer that, since the state is neither a natural nor an artificial person, it must be a *persona ficta*. It is true that Hobbes occasionally uses the terms ‘artificial’ and ‘fictitious’ as synonyms in this context.<sup>66</sup> But as we shall see in section IV, it is crucial to his theory that, although the state is an artificial person, it is very far from being fictitious in the strict sense of being imaginary.<sup>67</sup>

<sup>63</sup> Hobbes 1996, ch. 16, p. 112.      <sup>64</sup> Hobbes 1996, ch. 35, p. 285; ch. 42, p. 399.

<sup>65</sup> The reason is that, insofar as Hobbes’s commentators have examined his theory of persons, they have usually concentrated on chapter 16 of *Leviathan*. Some have gone so far as to claim that Hobbes’s articulation of his theory is almost wholly confined to that chapter. See, for example, Pitkin 1967, pp. 14–15; Gauthier 1969, p. 121; Runciman 1997, pp. 7–8. As a result, it has come to be widely agreed that Hobbes’s distinction between natural and artificial persons is equivalent to the distinction between represented persons and their representatives. See, for example, Hood 1964, pp. 147–8; Pitkin 1967, pp. 15–16; Gauthier 1969, pp. 121–3; Jaume 1986, pp. 95–104; Baumgold 1988, pp. 38, 45; Martinich 1992, p. 165; Tukiainen 1994, p. 46; Martinich 1995, pp. 228–30; Zarka 1995, pp. 208–18; Runciman 1997, pp. 7–8, 33. But for two correctives to which I am indebted see Tricaud in Hobbes 1971 a, pp. 168–9 and Copp 1980, pp. 582–4.

<sup>66</sup> See Hobbes 1996, ch. 16, p. 113 and cf. Hobbes 1840d, p. 130.

<sup>67</sup> But Runciman 2000 counters that, although the state is not a fictional person, it is best understood as a ‘person by fiction’.

The decisive point is that Hobbes himself subsequently makes it clear that his own considered preference is for using the terminology of artificial persons to describe persons who are represented. He first brings this out at a later stage in the English *Leviathan* in the course of explaining his intensely controversial theory about the three persons of the Holy Trinity. He describes Moses and Christ as natural persons who spoke in the name of God, thereby serving as His representatives on earth. But he adds that each represented God in his own way, Moses by preaching His word, Christ by ‘Teaching, and Reigning’ as his son.<sup>68</sup> The implication is that God converted Himself into an artificial person by virtue of authorising his representation in these contrasting ways. Hobbes underlines the suggestion by adding that the effect of these representations was to give God a number of different *personae*, since He became ‘one Person as represented by Moses, and another Person as represented by his Sonne the Christ’.<sup>69</sup>

Hobbes indicates his change of mind yet more clearly in the course of restating his theory of attributed action in the final chapter of *De Homine*. Here he leaves little room for doubt that, when he speaks of artificial or fictitious persons, he means persons represented:

What concerns the civil use of the term person can be defined as follows. *A person is someone to whom the words and actions of men are attributed, whether they are his own or those of someone else.* If they are his own, then the person is a *natural* one. If they are those of someone else, then the person is a *fictitious* one.<sup>70</sup>

Returning to the same issue yet again in the Latin *Leviathan* ten years later, Hobbes appears to confirm this analysis:

A Person is *someone who acts either in his own name or in the name of someone else.* If he acts in his own name, then the Person is *his Own* or a *Natural* one; if he acts in the name of someone else, then the Person is *Representative* of the one in whose name he acts.<sup>71</sup>

Here the terminology of artificial or fictitious persons is dropped, while the persons whom Hobbes had initially classified as artificial are now described simply as representatives.

<sup>68</sup> Hobbes 1996, ch. 41, p. 338; ch. 42, pp. 339–41.      <sup>69</sup> Hobbes 1996, ch. 41, p. 338.

<sup>70</sup> Hobbes 1839d, p. 130: ‘Quod autem ad usum personae civilem attinet, definiri potest hoc modo: *persona est, cui verba et actiones hominum attribuuntur vel suae vel alienae*: si suae, *persona naturalis* est; si alienae, *fictitia* est.’

<sup>71</sup> Hobbes 1841a, p. 123: ‘PERSONA est *is qui suo vel alieno nomine res agit*: si suo, *persona propria*, siue naturalis est; si alieno, *persona est eius, cuius nomine agit repraesentativa*.’ (Note that, although Molesworth uses the 1668 edition of the Latin *Leviathan* as his copy-text, he does not hesitate, here as elsewhere, to alter spellings and weed out Hobbes’s luxuriant use of capital letters.)

It would be unwise, however, to assume that Hobbes simply nodded when he initially claimed that representatives are engaged in a form of artifice. What he seems to have had in mind is that, when you serve as a representative, you act as the player of a legally or socially recognised role. You become a public person as opposed to an ordinary individual. Hobbes offers many examples: you can serve as a lieutenant, a vicar, an attorney, a deputy, a procurator, a rector, a master, an overseer, a guardian, a curator and the like.<sup>72</sup> To adopt one or other of these *personae* is to play a part in a world that Hobbes never ceased to describe as artificial: the world of civil society in which our behaviour is conditioned and regulated by the artificial chains of the civil law.<sup>73</sup> The insight he evidently wished to capture is that there is a sense in which all the world's a stage.

Perhaps one might go so far as to say that the best statement of Hobbes's theory is the one that he never explicitly gave. The suggestion is hermeneutically daring, to say the least, but perhaps both possible ways of reading Hobbes's theory are correct. Natural persons convert themselves into artificial persons – even into a variety of different *personae* – by agreeing to be represented in different ways. But natural persons who agree to serve as representatives also convert themselves into artificial persons, since the act of making such an agreement is at the same time the act of turning oneself from a private individual into a public person discharging a recognised role.

With these cautions and attempted clarifications, I am now in a position to lay out Hobbes's considered views about the defining characteristics of natural persons. A natural person is someone capable of representing him or herself. In the words of Hobbes's initial definition, it is when someone's words and actions are 'considered as his owne' that he can be described as 'a Naturall Person'. As we have seen, however, anyone capable of owning his actions in this way can also be described according to Hobbes as an author, and hence as capable of authorising other persons to serve as his representatives. A further defining characteristic of natural persons must therefore be that they are capable of converting themselves – for certain determinate purposes – into represented or artificial persons by way of commissioning others to act in their name.

We may say, then, that in isolating the category of natural persons Hobbes has two closely connected ideas in mind. One is that natural

<sup>72</sup> Hobbes 1996, ch. 16, pp. 112–13; cf. Hobbes 1841 a, pp. 123–4, where he lists *deputati*, *procuratores* and *proreges*, and later adds *rectores*, *curatores* and *tutores*.

<sup>73</sup> Hobbes speaks of the civil society in which we live as artificial (*artificialis*) and as tied together by artificial chains (*vincula artificialia*) in the Latin as well as in the English *Leviathan*. For the English formulae see Hobbes 1996, Introduction, pp. 9–10 and Hobbes 1996, ch. 21, p. 147. For the Latin formulae see Hobbes 1841 a, pp. 2, 161.

persons are those capable of autonomously choosing whatever roles or *personae* they may wish to assume in social life. Hobbes is very fond of quoting a remark of Cicero's to the effect that (as he translates it in *Leviathan*) it is possible to 'bear' a number of different persons simultaneously.<sup>74</sup> Hobbes's most interesting gloss on the dictum appears in his posthumously published *Answer* to John Bramhall's *The Catching of Leviathan*:

Cicero, in an epistle to Atticus, saith thus: *Unus sustineo tres personas, mei, adversarii, et judicis*: that is, 'I that am but one man, sustain three persons; mine own person, the person of my adversary, and the person of the judge'. Cicero was here the substance intelligent, one man; and because he pleaded for himself, he calls himself his own person: and again, because he pleaded for his adversary, he says, he sustained the person of his adversary: and lastly, because he himself gave the sentence, he says, he sustained the person of the judge. In the same sense we use the word in English vulgarly, calling him that acteth by his own authority, his own person, and him that acteth by the authority of another, the person of that other. And thus we have the exact meaning of the word *person*.<sup>75</sup>

Hobbes's allusion here to the idea of 'being one's own man' as opposed to being the person (perhaps even the creature) of someone else points to his second and closely related thought: that a natural person is someone under no one else's sway. He is someone capable of voicing his own thoughts, making his own promises, agreeing the terms of his own contracts and covenants.

It is worth underlining these implications, since they have the effect of making the category of natural persons a remarkably narrow one.<sup>76</sup> Hobbes seems to have come to terms with this aspect of his theory only in the course of working it out. When he first speaks of 'men as persons natural' in *The Elements of Law*, he appears to treat all human beings as natural persons.<sup>77</sup> But in *Leviathan* he explicitly states that many people lack the required ability to act on their own behalf, including 'Children, Fooles, and Mad-men'.<sup>78</sup> On the one hand, such persons are undoubtedly capable of acting and of exercising rights, since they are capable of having actions attributed to them on the basis of their performance by guardians authorised to act in their name. But on the other hand, they 'can be no

<sup>74</sup> Hobbes 1996, ch. 16, p. 112. He also quotes the dictum in the corresponding passage of the Latin *Leviathan* (and again in the Appendix); in chapter 15 of *De Homine*; and in his *Answer* to Bramhall. See, respectively, Hobbes 1841 a, pp. 123, 533; Hobbes 1839d, XV. 1, p. 130; Hobbes 1840b, p. 310.

<sup>75</sup> Hobbes 1840b, pp. 310–11.

<sup>76</sup> But as Tricaud 1982 notes, Hobbes also speaks of human beings as persons in familiar, non-technical ways. In Part 1 of *Leviathan* he consistently uses 'person' to refer to any man, woman or child. See Hobbes 1996, ch. 2, pp. 16, 17–19; ch. 7, pp. 48–9; ch. 8, pp. 51–2; ch. 12, pp. 80, 82–3. In Part 2 he uses the term to refer more specifically to the living bodies of men, women and children. See Hobbes 1996, ch. 20, p. 141; ch. 21, pp. 152, 154; ch. 30, pp. 236, 238.

<sup>77</sup> Hobbes 1969a, p. xiv. <sup>78</sup> Hobbes 1996, ch. 16, p. 113.

Authors (during that time) of any action done by them', because they have no capacity to take responsibility for any actions their guardians may undertake.<sup>79</sup>

Nor does Hobbes even treat the class of natural persons as coterminous with that of sane adult males. In Hobbes's England some 20 per cent of the latter class would have been servants,<sup>80</sup> and servants according to Hobbes are not to be counted as natural persons, or at least not for a considerable number of purposes.<sup>81</sup> This exclusion stems from the fact that the civil law takes lawful families to be united in 'the Father, or Master' as 'one Person Representative'.<sup>82</sup> But to say that a father is a representative is to say that he has the right to speak and act in the name of his entire family.<sup>83</sup> This in turn means that, insofar as the father chooses to exercise this right, his household servants (to say nothing of his wife and children) cannot be counted as natural persons, since they lack the required capacity to speak and act on their own behalf.<sup>84</sup>

I next need to examine Hobbes's contrasting concept of an artificial person, which is of still greater importance for his theory of the state. So far we have seen that some natural persons can be artificial at the same time. But Hobbes is principally interested in those artificial persons who are not natural persons at all. These are persons capable of being represented, but incapable of acting as authors in the distinctive manner of natural persons, and hence of authorising their own representatives. It follows that, while it is possible for such artificial persons to speak and act, it is possible for them to do so *only* if their words and actions can validly be attributed to them on the basis of their performance by some other person or collectivity licensed to act in their name.

Hobbes proposes no particular term to isolate this category, but it may be helpful to designate them as *purely* artificial persons to distinguish them from those who voluntarily take on this status by authorising others to represent them. As we have seen, Hobbes further lays it down that two

<sup>79</sup> Hobbes 1996, ch. 16, p. 113. The time to which Hobbes refers is the time of their childhood, folly or madness.

<sup>80</sup> I am greatly indebted to Keith Wrightson for making this computation on my behalf. His figure is derived from information in Wrigley and Schofield 1981 and Kussmaul 1981.

<sup>81</sup> The proviso is important, because Hobbes is here treading a very fine line. A servant ordered to walk to a neighbour's house with a message who instead chooses to run will apparently be running to the house (as opposed to somewhere else) as an artificial person, but running (as opposed to walking) as a natural one.

<sup>82</sup> Hobbes 1996, ch. 22, pp. 162–3. <sup>83</sup> Hobbes 1996, ch. 20, p. 142.

<sup>84</sup> There is a remarkably close parallel with the Leveller refusal to include servants even in an extended franchise on the grounds that 'they are included in their masters'. See Woodhouse 1938, p. 83.



sub-classes of this category need to be anatomised: those whose words and actions can be ‘truly’ attributed to them, and those who can only have words and actions attributed to them ‘by Fiction’.

Nothing further is said in *Leviathan* about the class of purely artificial persons who are also wholly fictitious. But in *De Homine* it emerges that what Hobbes has in mind are the characters impersonated by actors on the stage:

For it was understood in the ancient<sup>85</sup> theatre that not the player himself but someone else was speaking, for example Agamemnon, namely when the player, putting on the fictitious mask of Agamemnon, was for the time being Agamemnon. At a later stage, however,<sup>86</sup> this was understood to be so even in the absence of the fictitious mask, namely when the actor declared publicly which person he was going to play.<sup>87</sup>

This is a dark passage, but the implications for my present argument can perhaps be spelled out as follows. If I play the part of Agamemnon on the stage, the actions I perform in the *persona* of Agamemnon will be taken by the audience to be Agamemnon’s actions rather than mine. They will not ‘truly’ be taken to be Agamemnon’s actions, however, but only ‘by fiction’, since the audience will remain aware of the fact that (as we put it in a knowingly ambiguous phrase) I am only playing. This will especially be the case, Hobbes implies, if I follow the convention of explicitly pointing out that I am merely engaged in a performance. For then it will be clear that I am only pretending to be an imaginary character, that there is no other person whom I am ‘truly’ representing, and thus that there is no one else to whom my actions can validly be attributed.<sup>88</sup>

Some commentators have taken exception to Hobbes’s inclusion of stage characters in his account. As Hanna Pitkin emphasises, Hobbes lays it down that, if there is to be a valid act of representation, there must be some natural person or collectivity in possession of the right to authorise it. Pitkin adds that this requirement makes no sense in the

<sup>85</sup> I have added the adjective, since Hobbes makes it clear in the preceding sentence that he is referring to ancient Greece and Rome.

<sup>86</sup> A later stage, that is, in the evolution of theatrical conventions, when masks were no longer worn.

<sup>87</sup> Hobbes 1839d, XV. 1, p. 130: ‘Intelligebatur enim in theatro loqui non ipse histrio, sed aliquis alius, puta Agamemnon, nimirum faciem fictitiam Agamemnonis induente histrione, qui pro illo tempore erat Agamemnon; quod tamen postea intelligebatur etiam sine facie ficta, nimirum profitente se actore quam personam acturus erat.’

<sup>88</sup> From the fact, however, that the action of a play does not ‘truly’ take place, it does not follow for Hobbes that a play might not create as powerful an impression as an action ‘truly’ performed. See Hobbes 1969a, p. 68, where he goes to the extreme of arguing that, because ‘not truth, but Image, maketh passion’, it follows that ‘a Tragedie affecteth no lesse than a Murder, if well acted’.

case of actors in a play. ‘No one has authorized their actions, neither the person(s) they represent nor any third party.’<sup>89</sup> But this is an unhistorical criticism. By 1640, the year in which Hobbes completed *The Elements of Law*, the compulsory licensing of theatrical productions had been a feature of English law for nearly a century. The official with the right to authorise the representation of fictional characters on the stage was the Master of the Revels, from whom a permit had to be purchased for every play intended for public performance.<sup>90</sup> Two years later, moreover, all the theatres in England were closed by Act of Parliament.<sup>91</sup> While it remained possible to impersonate Agamemnon on the stage, it was no longer legally permissible to do so, since it was no longer possible to obtain the necessary licence. It is, in short, anachronistic to suggest that Hobbes introduces any inconsistency into his general theory of persons by implying that theatrical representations have to be authorised. He was writing in a society in which the need for such authorisation was taken for granted.

I turn finally to Hobbes’s other class of purely artificial persons: those who, while incapable of acting except through representatives, are nevertheless more than merely fictitious because they are capable of having words and actions ‘truly’ attributed to them. As we have seen, Hobbes regards some human beings (notably fools and madmen) as purely artificial in this sense. But he is more interested in the fact that various inanimate objects and even figments of the imagination can be classified in a similar way. Among inanimate objects he lists ‘a Church, an Hospital, a Bridge’. Since these are ‘things Inanimate’ they ‘cannot be Authors, nor therefore give Authority to their Actors’. Nevertheless, they can perfectly well be personated or represented ‘by a Rector, Master, or Overseer’ who can be commissioned and thereby given authority to act on their behalf.<sup>92</sup> Among imaginary objects he singles out the gods of the heathen. Such idols obviously cannot be authors, ‘for an Idol is nothing’.<sup>93</sup> Nevertheless, in ancient times such deities were frequently recognised as having the ability not merely to own possessions but to exercise rights. As in the case of the hospital and the bridge, these capacities stemmed from the fact that authorised persons (in this case officiating priests) were assigned a legal right to act in their name.<sup>94</sup>

<sup>89</sup> Pitkin 1967, p. 25.   <sup>90</sup> Bentley 1971, pp. 145–50.   <sup>91</sup> Bentley 1971, p. viii.

<sup>92</sup> Hobbes 1996, ch. 16, p. 113.

<sup>93</sup> Hobbes 1996, ch. 16, p. 114. As he later points out (Hobbes 1996, ch. 45, p. 445), he is quoting St Paul.

<sup>94</sup> Hobbes 1996, ch. 16, pp. 113–14.

To classify bridges, hospitals and imaginary objects as persons may seem the merest abuse of language, and Hobbes in *Leviathan* undoubtedly balks at expressing his argument in these terms. The most he is prepared to say is that 'there are few things, that are uncapable of being represented by Fiction'.<sup>95</sup> As he subsequently recognised, however, this is an unfortunate way of expressing his point. What he appears to be saying is that, like Agamemnon, the hospital and the bridge are purely fictitious entities. But this is not in the least what he believes. On the contrary, it is crucial to his argument that, if the hospital or the bridge is validly represented by an authorised overseer, then the actions of the overseer will 'truly' and not merely 'by fiction' count as the actions of the hospital or the bridge.

Eventually Hobbes resolved the confusion by biting the bullet. When he translated *Leviathan* into Latin, he rewrote the passage to say that, since there are few things incapable of being represented, 'there are few things incapable of being persons'.<sup>96</sup> This certainly clarifies the phrase in the English *Leviathan* about representation 'by Fiction'. The fiction is evidently that the bridge, the hospital and so forth are persons; if and only if we allow that fiction can they be validly represented. Meanwhile Hobbes had made the point explicitly in *De Homine*: 'even an inanimate thing can be a person, that is, can own possessions and other goods and be able to act at law', so long as it is capable of being validly represented.<sup>97</sup> Hobbes's final position is thus that the hospital and the bridge are indeed persons, albeit purely artificial ones, since there is no doubt that they can be validly represented.

The category of purely artificial persons leaves Hobbes with one last problem to solve. Who has the right to authorise their representation? We have seen that, in the case of entirely fictitious *personae*, the answer in Hobbes's time was fully determinate: the right was possessed by the Master of the Revels acting as an officer of state. But what of purely artificial persons who are not fictitious, but who possess (like the bridge) their own independent reality, or may even be able to count (like the child or the madman) as natural persons for certain purposes? We still need a test for judging whether a third party who lays claim to authorise

<sup>95</sup> Hobbes 1996, ch. 16, p. 113.

<sup>96</sup> Hobbes 1841a, p. 124: 'Paucae res sunt, quarum non possunt esse personae.'

<sup>97</sup> Hobbes 1839d, XV. 4, p. 132: 'Etiam rei inanimatae persona esse potest, id est, possessiones et alia bona habere, et iure agere potest.' It is thus a mistake to infer, as does Runciman 1997, p. 21, that 'unrepresented "fooles" are not persons'. A person is anyone (or any thing) *capable* of being represented.

someone to represent such persons has a valid title to invite such a representative to act in their name.

The solution Hobbes puts forward is that the person performing such acts of authorisation must stand in some appropriate relationship of dominion or ownership with respect to the purely artificial person concerned.<sup>98</sup> One possibility, Hobbes suggests, would be for the relationship to be that of ownership in the strict sense. This applies to the case of the bridge: Hobbes specifically states that the person who authorises the overseer to procure its maintenance must be its proprietor.<sup>99</sup> A second possibility would be for the relationship to be that of a governor to his charge. This applies to the case of the church and the hospital, and equally to the fool, the madman and the child: all stand in need of governors with sufficient legal standing to authorise rectors or guardians to act on their behalf.<sup>100</sup> A third possibility would be for the dominion to be that of the state itself. When, for example, the gods of the heathen were represented by priests, their authority according to Hobbes ‘proceeded from the State’.<sup>101</sup> Finally, Hobbes considers a fourth possibility to which he attaches particular importance, although he only mentions it explicitly when discussing family power later in *Leviathan*. This last form of dominion arises when the first party brings the third into existence.<sup>102</sup> Again Hobbes has in mind the case of children, and offers as an example the right of dominion over infants in the state of nature. Since it will always be the mother who brings the child into the world, ‘the right of Dominion over the Child dependeth on her will, and is consequently hers’.<sup>103</sup> She can decide either to nourish it, or to abandon it, or to dispose of her rights in it to someone else.<sup>104</sup>

#### IV

I am now in a position to apply Hobbes’s general theory to solve the puzzle I began by isolating about the person of the state. How can such a

<sup>98</sup> Weimann 1996, pp. 12–13 comments on this linkage of authority with ownership.

<sup>99</sup> Hobbes 1996, ch. 16, p. 113.

<sup>100</sup> It is not clear, however, why Hobbes appears to exclude the possibility that the owner of the bridge or the governor of the child might decide to commission himself. If I stand in a relation of dominion with respect to the bridge or the child, then according to Hobbes I can authorise anyone I wish to represent them. But if I can authorise anyone, then I can certainly authorise myself.

<sup>101</sup> Hobbes 1996, ch. 16, p. 114.

<sup>102</sup> But Hobbes 1996, ch. 17, p. 120 implicitly mentions this form of dominion, since it underlies his pattern of sexual imagery, especially his claim that Leviathan is engendered out of the union of the multitude.

<sup>103</sup> Hobbes 1996, ch. 20, p. 140.

<sup>104</sup> Hobbes 1996, ch. 20, p. 140.

seemingly insubstantial person be the holder of sovereignty and the seat of power?

First we need to see exactly where Hobbes places the person of the state on his general map. He begins in chapter 16 of *Leviathan* by considering the process by which the members of a multitude living in a condition of mere nature can manage, as he puts it, to ‘institute’ a legitimate commonwealth or state.<sup>105</sup> Before turning to his analysis, however, I need to note by way of preliminary that I shall be concerned only with Hobbes’s account of sovereignty ‘by Institution’, not with sovereignty ‘by Acquisition’. Hobbes introduces this distinction at the end of chapter 17 of *Leviathan*, thereafter devoting chapters 18 and 19 to ‘institution’ and chapter 20 to ‘acquisition’.<sup>106</sup> Sovereignty is said to be ‘acquired’ when the members of a multitude covenant not with each other but with a conqueror to whom they individually submit themselves. Presumably Hobbes believed that the latter type of covenant also has the effect of converting the multitude into an artificial person with the conqueror as its sovereign representative. But he never says so, and his analysis of sovereignty by acquisition makes no mention of the person of the state. Although sovereignty by acquisition is in some ways the fundamental case,<sup>107</sup> it is not clear that Hobbes ever thought through his views about artificial persons in relation to it. For this reason it seems not merely preferable but essential to concentrate on the case of sovereignty ‘by Institution’, the subject of chapters 18 and 19.

The only means, according to Hobbes, by which a multitude can manage to ‘institute’ a commonwealth is by transforming themselves into an artificial person by way of authorising some natural person or persons to represent them. This is not in the least to say that the multitude acts in the manner of a single *persona* in agreeing to set up a government. This had been the view of the so-called ‘monarchomach’ or ‘king-killing’ writers of the French religious wars.<sup>108</sup> The author of the *Vindiciae, Contra Tyrannos*, for example, had argued in discussing the exemplary case of Israel that the king acted as one party to the covenant and the people as the other. Both were able to contract as single persons, the king because

<sup>105</sup> Hobbes 1996, ch. 17, p. 121.

<sup>106</sup> While this order seems logical, Hobbes must originally have placed what is now chapter 20 before chapter 19. The present chapter 20 makes two references (Hobbes 1996, pp. 139, 142) to the ‘precedent chapter’ which are in fact references to chapter 18, while chapter 21 makes a further reference (Hobbes 1996, p. 154) to ‘the precedent chapter’ which is in fact a reference to chapter 19.

<sup>107</sup> An argument persuasively developed in Hoekstra 1998.

<sup>108</sup> On these writers see Skinner 1978b, pp. 302–48.

he was a natural person, the people because they constituted a *universitas* and ‘were therefore able to play the part of a single person’.<sup>109</sup> But it is precisely this monarchomach view of the people as a natural unity capable of acting as one person that Hobbes aims to discredit. ‘The Multitude naturally is not *One*, but *Many*’, he retorts, so that it is only ‘the *Unity* of the Representer, not the *Unity* of the Represented, that maketh the Person *One*’. The only way in which ‘a Multitude of men, are made *One Person*’ is ‘when they are by one man, or one Person, Represented’. There is, in short, no natural unity outside the state; unity and community are attained only with the appointment of a representative, and ‘cannot otherwise be understood in multitude’.<sup>110</sup>

In chapter 17 Hobbes goes on to describe the mechanism by which this transformation takes place. It is as if each and every individual should agree with everyone else ‘to conferre all their power and strength upon one Man, or upon one Assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will’. When they perform this act of mutual covenanting, this is as much as to say that they ‘appoint one Man, or Assembly of men, to beare their Person’. So the outcome ‘is more than Consent, or Concord; it is a reall Unitie of them all, in one and the same Person’, in consequence of which they are now able, through the agency of the person representing them, to act in the manner of a single person with one will and voice.<sup>111</sup>

What is the name of the artificial person brought into existence when a multitude forms itself into such a unity by instituting a representative? The name of the person thus engendered is the commonwealth or state. As soon as the members of the multitude agree, each with each, ‘to appoint one Man, or Assembly of men, to beare their Person’, the multitude ‘so united in one Person, is called a COMMON-WEALTH, in latine CIVITAS’<sup>112</sup> – the term Hobbes also translates in *Leviathan* as ‘state’.<sup>113</sup> This union or coupling together has the effect of engendering immediate issue in just the manner of a marital union blessed by God. (The one crucial difference, later emphasised by Hobbes, is that the offspring of the multitude has no determinate gender, for ‘though *man* be *male* and *female*, *authority* is not’.)<sup>114</sup> Following out his metaphor of marriage and

<sup>109</sup> *Vindiciae* 1994, p. 38: ‘*universitas enim hominum unius personae vicem sustinet*’.

<sup>110</sup> Hobbes 1996, ch. 16, p. 114. <sup>111</sup> Hobbes 1996, ch. 17, p. 120.

<sup>112</sup> Hobbes 1996, ch. 17, p. 120; cf. Polin 1981, p. 95; Tukiainen 1994, p. 48.

<sup>113</sup> Hobbes’s preferred translation of *civitas* is ‘commonwealth’. See, for example, Hobbes 1996, ch. 17, p. 120; ch. 26, p. 183. But when he uses ‘state’ as a translation, the word he is translating is almost always *civitas*. For the most striking instance see Hobbes 1996, Introduction, p. 9.

<sup>114</sup> Hobbes 1840d, p. 434.

procreation, Hobbes then proceeds to baptise the person of the commonwealth or state with its own specific name, informing us of it in his gravest tones. ‘This is the Generation of that great LEVIATHAN, or rather (to speake more reverently) of that *Mortall God*, to which wee owe under the *Immortal God*, our peace and defence.’<sup>115</sup>

We still need to know the name of the person appointed by the members of the multitude to act in their name when they take the decision to be represented. Hobbes replies that the name of this person is the sovereign, who is thereby given authority to ‘bear’ or ‘carry’ or act the part of the purely artificial person of the state. The commonwealth or state ‘is *One Person*’, and ‘he that carryeth this Person, is called SOVERAIGNE, and said to have *Soveraigne Power*’.<sup>116</sup> The same distinction is subsequently drawn even more clearly in the Latin version of *Leviathan*. There the holder of *summa potestas* or sovereign power is described, in a phrase closely echoing Cicero’s *De Officiis*, as ‘he who bears the Person of the State’.<sup>117</sup> The sovereign may in turn be a natural person, as in the case of a monarchy, or else an assembly of natural persons, as in the case of an aristocracy or democracy.<sup>118</sup> But in every case the legal standing of the sovereign will be that of ‘the absolute Representative of all the subjects’.<sup>119</sup>

It is worth underlining the complexity of Hobbes’s argument, if only because so many commentators have oversimplified it. We are told that the ‘civil person’ brought into existence by the union of the multitude is the sovereign.<sup>120</sup> As we have seen, however, the name of the person engendered by the transformation of the multitude into one person through their agreement to appoint a representative is not the sovereign but the state. The sovereign is the name of the representative of the multitude united in one person, and is thus the name of the representative of the state.

Armed with this analysis, we can now see how the apparently insubstantial person of the state can nevertheless be the holder of sovereignty and the seat of power. Hobbes concedes of course that all the actions

<sup>115</sup> Hobbes 1996, ch. 17, p. 120.      <sup>116</sup> Hobbes 1996, ch. 17, p. 121.

<sup>117</sup> Hobbes 1841 a, p. 131: ‘Is autem, qui civitatis personam gerit, *summam habere dicitur potestatem*.’ Cf. Cicero 1913, I. XXXIV. 124, p. 126 on the office of magistrates: ‘se gerere personam civitatis’.

<sup>118</sup> Hobbes 1996, ch. 19, p. 129. The question of how assemblies can act as representatives obviously raises further questions, but I am concerned here only with the basic case. Copp 1980, p. 599 suggests that Hobbes must regard assemblies as their own representatives, but Hobbes himself never pronounces on the point.

<sup>119</sup> Hobbes 1996, ch. 22, p. 156.

<sup>120</sup> See, for example, Baumgold 1988, pp. 38–9; Burgess 1990, p. 687; Fukuda 1997, p. 43; Martinich 1997, pp. 44–9. But see, by contrast, Jaume 1986, pp. 99–100 and Zarka 1995, pp. 212, 225.

performed by states will in fact have to be performed by sovereigns acting in their ‘politique’ capacity.<sup>121</sup> He is always careful to insist, however, that sovereigns are not the proprietors of their sovereignty. They are holders of offices with duties attached, their fundamental duty being to procure the safety and contentment of the people. Although they are granted the right to exercise complete sovereign power, this power is merely ‘placed’ and ‘resideth’ in them by virtue of the office they are asked to discharge.<sup>122</sup> The true status of all lawful sovereigns is thus that they are merely ‘the Person representative of all and every one of the Multitude’.<sup>123</sup>

As I have shown, however, the central contention of Hobbes’s theory of attributed action is that, whenever a person or collectivity agrees to appoint such a representative, whatever actions are thereafter performed by the representative in their name will be attributable not to the representative but rather to the person or collectivity being represented. Not only will those who appoint the representative be held accountable for the consequences of any actions undertaken on their behalf, but the actions in question will actually count as theirs, not as those of the representative who carries them out. It follows that, whenever our sovereigns exercise their powers in order to procure our safety and contentment, the acts they perform should not be regarded as their own but rather as those of the person whom they are representing, that is, the person of the state. This, then, is how it comes about that we can properly speak – and not by metaphor – of the commonwealth or state as the person who imposes the laws and thereby ensures that our safety and contentment are secured. Although the sovereign is always the legislator, the legislator ‘is alwayes the Representative of the Common-wealth’.<sup>124</sup> So ‘the name of the person Commanding’ is not the sovereign but the person whom the sovereign represents. And the name of that person, as Hobbes eventually declares in a further echo of Cicero, is ‘*Persona Civitatis*, the Person of the Common-wealth’.<sup>125</sup>

<sup>121</sup> Hobbes 1996, ch. 19, p. 131. For general claims to the effect that the only way in which the state can act is for the sovereign representative to act in its name, see also Hobbes 1996, ch. 19, p. 136; ch. 21, p. 149; ch. 24, p. 174; ch. 26, pp. 184, 186; ch. 31, p. 253.

<sup>122</sup> Hobbes 1996, ch. 18, p. 127; ch. 20, p. 144. On the sovereign as holder of an office of trust see Hobbes 1996, ch. 18, p. 126; ch. 20, p. 143.

<sup>123</sup> Hobbes 1996, p. 129. For other references to the fact that the sovereign is merely the representative of the state, see Hobbes 1996, ch. 17, p. 121; ch. 22, pp. 155–6; ch. 23, p. 167; ch. 26, p. 185; ch. 27, p. 212; ch. 29, p. 223. When we are instead told in Hobbes 1996, ch. 26, p. 187 that the sovereign is ‘the Person of the Common-wealth’ (rather than the representative of that Person), this appears to be either an ellipsis or perhaps a slip of the pen.

<sup>124</sup> Hobbes 1996, ch. 29, p. 223.

<sup>125</sup> Hobbes 1996, ch. 26, p. 183; cf. Cicero 1913, I. XXXIV. 124, p. 126. Lessay 1992, pp. 159–60 discusses the allusion.



It is important to emphasise Hobbes's route to this conclusion, if only because a number of commentators have claimed to find in his theory of the state an incipient or latent belief in the real personality of groups.<sup>126</sup> The will of the sovereign, we are told, comes to be identical with that of the commonwealth because Hobbes presents us with a vision 'of an organic community, whose will is the sovereign's will'.<sup>127</sup> It is certainly true according to Hobbes that there cannot fail to be an identity between the will of a lawful sovereign and the will of the commonwealth or state. As I have laboured to demonstrate, however, this is not in the least because Hobbes believes in any kind of organic unity between the two. It is simply because he insists that all lawful sovereigns are representatives, and thus that all their public actions must be attributed to the person whom they represent, namely the person of the state.

It remains for Hobbes to distinguish between the representation and misrepresentation of the state's authority. How are we to discriminate between lawful sovereigns and those who merely usurp the powers of the state without enjoying the standing of accredited representatives? To put the same question the other way round, who has the right to authorise the actions of the state?

It is not open to Hobbes to reply that sovereigns themselves possess this right. Sovereigns are merely representatives, and all representatives must themselves be authorised. Nor can the actions of the state be authorised by the state itself. If an agent is to authorise its own actions it must be a natural person, capable of exercising its own rights and acting in its own name. But the state is not a natural person; on the contrary, there is a sense in which it more closely resembles a fictitious person such as Agamemnon in Aeschylus's play of that name. Agamemnon has no existence, except as words on a page, until he is brought to life by the skills of an actor who impersonates him and speaks his lines. The state likewise amounts to little more than a verbal entity in the absence of a sovereign to represent it and play its part in the world.

This is not to say that Hobbes regards the state as a *persona ficta*, as some commentators have maintained.<sup>128</sup> As we have seen, the defining characteristic of such *personae* is that, when someone represents them, the acts performed by their representatives will be attributable to such

<sup>126</sup> Forsyth 1981, pp. 197–8. But for an excellent critique of the view that the unity of Hobbes's commonwealth is 'organic' see Kronman 1980, pp. 167–8.

<sup>127</sup> Baumgold 1988, p. 39.

<sup>128</sup> See, for example, Gierke 1957, pp. 44–7; Oakeshott 1975b, p. 204; Runciman 1997, pp. 14, 18, 29.

persons merely ‘by fiction’. But it is of the utmost importance to Hobbes’s theory that the acts performed by sovereigns are ‘truly’ attributable to the state, and are in fact the actions of the state in the real world.

While the state is not fictional, however, it is undoubtedly a member of the class of persons I have characterised as purely artificial, and bears a close resemblance to such exemplary members of the class as hospitals, bridges and so forth. Like such inanimate objects, the state is unquestionably capable of acting, since it is capable of being represented and of having actions ‘truly’ attributed to it. Like such objects, however, the state cannot give authority to anyone to represent it, and cannot therefore authorise its own representation. As Hobbes puts it, it has no capacity ‘to doe any thing, but by the Representative’.<sup>129</sup> So shadowy, indeed, is its existence that it might be thought to bear a yet closer resemblance to such purely artificial persons as the gods of the heathen. Whereas hospitals and bridges remain things even when they are not being personated, the state in the absence of a sovereign ‘is but a word’, just as the gods of the heathen are ‘nothing’ in the absence of a priest to represent them.<sup>130</sup>

Who then is capable of authorising the actions of the state? We already know the answer in general terms from our examination of how it is possible for one person validly to authorise a second to represent a third – as in the case of the owner of a bridge who authorises an overseer to act on its behalf. As we have seen, two requirements must be met. One is that the natural person or persons authorising the representation must themselves possess the right to undertake whatever actions they intend to authorise. The other is that this right must in turn be owed to the fact that they stand in some appropriate relationship of dominion over the purely artificial person concerned.

According to Hobbes there is only one possible way in which these conditions can be satisfied in the case of the state. The public acts of a sovereign will count as valid acts of the state if and only if the sovereign has been authorised to perform them by each and every member of the multitude. With this contention, Hobbes is finally able to offer his formal definition of a commonwealth or state: it is ‘*One Person, of whose Acts a great Multitude, by mutuall Covenants one with another, have made themselves every one the Author; to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence*’.<sup>131</sup>

<sup>129</sup> Hobbes 1996, ch. 24, p. 171; ch. 26, p. 184.

<sup>130</sup> Hobbes 1996, ch. 16, p. 114; ch. 31, p. 245.

<sup>131</sup> Hobbes 1996, ch. 17, p. 121.

Hobbes makes good this central contention by pointing out in the first place that the individual members of the multitude undoubtedly possess the right to perform the actions undertaken by sovereigns as representatives of the state. When Hobbes describes the lines of conduct that sovereigns are authorised to pursue, he always makes it clear that their rights of action are merely those possessed by each one of us in the state of nature. These rights can be summarised as the blameless liberty of using our powers in any way that we judge necessary to defend our lives against others and to secure ourselves against threats by anticipating them.<sup>132</sup> Because the exercise of these equal rights brings war, we are led by reason to recognise that the best means of attaining peace and the other contentments of life will be to transfer our rights to a sovereign who will exercise them on our behalf. When we covenant to appoint such a sovereign, it is accordingly with the specific purpose of providing more effectively for our own peace and contentment. The sovereign is commissioned, in other words, merely to exercise those of our rights which, so long as we exercise them ourselves, will lead to war.<sup>133</sup>

Finally, Hobbes argues in addition that the individual members of the multitude stand – and alone stand – in an appropriate relationship of dominion with respect to the person of the state. The source of their dominion lies in the fact that the union of the multitude brings the state into existence. As a result, the relationship of the multitude to the state is analogous to that of the mother to her infant in the state of nature. Just as the mother brings her child into the world, thereby acquiring dominion over it, so the union of the multitude serves to procreate the state. Hobbes goes to the almost blasphemous extreme of drawing a parallel between this act of engendering and the work of God. ‘The *Pacts and Covenants*, by which the parts of this Body Politique were at first made, set together, and united, resemble that *Fiat*, or the *Let us make man*, pronounced by God in the Creation.’<sup>134</sup>

As Malcolm has recently emphasised, however, the person whom we engender when we covenant to institute a sovereign representative needs to be simultaneously seen in two perspectives.<sup>135</sup> On the one hand, the person in question – the person of the commonwealth or state – is ‘but

<sup>132</sup> Hobbes 1996, ch. 13, pp. 87–8, ch. 14, p. 91.

<sup>133</sup> Hobbes 1996, ch. 13, pp. 87–9; ch. 18, p. 124; ch. 19, p. 131.

<sup>134</sup> Hobbes 1996, Introduction, pp. 9–10. But does the artifice created by the multitude more closely resemble a man or a machine? See Tukiainen 1994 and Runciman 1997, pp. 16–24 for Hobbes’s contrasting structures of imagery.

<sup>135</sup> Malcolm 1998, pp. 145–6.

a word' in the absence of a sovereign to act in its name. But on the other hand, it is important to Hobbes that the state is at the same time the name of a common power whose stature and strength are greater than those of any of its subjects and of all of them put together. While Hobbes aims to demystify sovereign power by showing it to be the outcome of a rational choice made by individual agents, he wishes at the same time to leave his great Leviathan invested with a certain mysterious force, if only as a guarantee that we shall in turn think of it, as we should, with a certain awe.

## v

What prompted Hobbes to develop this novel and intricate theory of the state? The clue lies, I believe, in attending to what he says at the outset of *Leviathan* about his hopes for the work. He aspires, he says, to pass unwounded between the opposing swords of 'those that contend, on one side for too great liberty, and on the other side for too much Authority'.<sup>136</sup>

Those contending for too much authority are identifiable as the theorists of divine right, who rose to renewed prominence in the face of the parliamentary attack on the English crown in the early 1640s. All political power, these writers declare, is 'naturall'.<sup>137</sup> God is its 'immediate Author'<sup>138</sup> and all rulers acquire it from divine ordination rather than from the consent of the people, who have 'no more *possibility* in right to choose their *Kings*, then to choose their *Fathers*'.<sup>139</sup> Hobbes's vision of the state as an artificial person authorised by its own citizens has the effect of challenging every element in this argument. All political power, he replies, is 'Artificiall'.<sup>140</sup> The only source from which the authority of the state can validly flow is 'the consent of every one of the Subjects'.<sup>141</sup> The capacity of sovereigns to act as legitimate representatives of the state must therefore be 'derived originally from the consent of every one of those that are to be governed'.<sup>142</sup> The state is a wholly human contrivance, not in the least an outcome of God's providence.

During the civil wars of the 1640s, this view of consent became one of the leading arguments used by the supporters of Parliament to question the powers of the crown. Drawing on the work of the monarchomachs,

<sup>136</sup> Hobbes 1996, Epistle, p. 3.      <sup>137</sup> Morton 1643, p. 3.

<sup>138</sup> Williams 1643, pp. 48, 49; Maxwell 1644, p. 19. See Sanderson 1989, p. 48 on Maxwell's authorship of this tract.

<sup>139</sup> Williams 1643, pp. 43, 48.      <sup>140</sup> Hobbes 1996, ch. 17, p. 120.

<sup>141</sup> Hobbes 1996, ch. 28, p. 219.      <sup>142</sup> Hobbes 1996, ch. 42, p. 395.

Henry Parker developed perhaps the most influential version of the argument in his *Observations* of 1642.<sup>143</sup> He begins by restating the monarchomach claim<sup>144</sup> that the only way in which lawful authority can arise is when ‘a societie of men’, acting in the manner of a *universitas*, agrees by ‘common consent’ to set it up.<sup>145</sup> One implication is that, since ‘the fountaine and efficient cause’ of all authority ‘is the people’, it follows that ‘the King, though he be *singulis Major*, yet he is *universis minor*’ – of lesser standing than ‘the whole universality’ from which his power is derived.<sup>146</sup> A further implication is that, if the king violates the terms of the covenant imposed by the *universitas* of the people in granting him power, they must retain the right to withdraw their consent and set down the authority they originally set up. As Parker summarises, ‘the whole universality’ of the people is not only the ‘free and voluntary Author’ of all sovereignty; it also retains its original sovereignty at all times, and accordingly remains ‘the proper Subject of all power’.<sup>147</sup>

While Hobbes agrees that all lawful government arises from consent, he violently disagrees with the radical implications drawn from this argument by the supporters of Parliament. He seeks instead to demonstrate that these alleged implications embody a peculiarly dangerous plea for too great liberty. As before, moreover, the way in which he mounts his case is by invoking and applying exactly the theory of attributed action on which I have concentrated.

One way in which Hobbes applies his theory is by returning to his rival account of how it is possible for a multitude to act as ‘one person’. A proper understanding of this process, he insists, will wholly defuse the Parliamentary argument:

There is little ground for the opinion of them, that say of Sovereign Kings, though they be *singulis majores*, of greater Power than every one of their Subjects, yet they be *Universis minores*, of lesse power than them all together. For if by *all together*, they mean not the collective body as one person, then *all together*, and *every one*, signifie the same; and the speech is absurd. But if by *all together*, they understand them as one Person (which person the Sovereign bears,) then the power of all together, is the same with the Sovereigns power; and so again the speech is absurd.<sup>148</sup>

<sup>143</sup> See Sommerville 1992, pp. 60–3; Mendle 1995, pp. 70–89.

<sup>144</sup> The influence of monarchomach thought, in particular the *Vindiciae*, was noted by Parker’s critics at the time. See Mendle 1995, pp. 123–5.

<sup>145</sup> [Parker] 1933, p. 167.

<sup>146</sup> See [Parker] 1933, pp. 168, 210, and cf. *Vindiciae* 1994, pp. 47–8, 78, 107, 157–8, 172 for the use of the *maior singulis, minor universis* formula.

<sup>147</sup> [Parker] 1933, pp. 167, 210.

<sup>148</sup> Hobbes 1996, ch. 18, p. 128; cf. Sommerville 1996, p. 262.

Hobbes's fiercely polemical message is thus that, since the people only transform themselves into a collective body by way of instituting a sovereign, it makes no sense to think of them as a collective body setting limits in advance to the exercise of sovereign power.

The main way, however, in which Hobbes applies his theory of attributed action to attack the Parliamentary cause is by invoking his analysis of what it means to authorise a representative. If we understand this process aright, he insists, we shall see that it is the merest *non sequitur* to suppose that the theory of covenanting commits us to defending the sovereignty of the people. On the contrary, we shall see that the idea of consent as the only source of lawful government is fully compatible with a strong defence of absolute sovereignty and the duty of non-resistance.

As we have seen, Hobbes stipulates that, if an act of authorisation is to be validly performed, a transfer of right must take place. Once this covenant has passed, the authorising agent is left with two specific obligations towards his or her representatives. One is the duty to 'own' their actions and those of any third party for whom they may have been authorised to act. But the other is the duty not to interfere with the execution of their commission, since the right to act as they think best in discharging their task is precisely what has been voluntarily handed over to them.

In chapter 17 of *Leviathan* Hobbes argues that the covenant by which lawful states are instituted takes exactly this form. When the members of the multitude agree, each with each, to appoint a sovereign representative, theirs is a covenant of authorisation embodying a declaration that a set of rights has been transferred. They covenant 'in such manner, as if every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men*'.<sup>149</sup> At the same time Hobbes examines the precise character of the covenant involved. What the members of the multitude agree is 'to conferre all their power and strength upon one Man, or upon one Assembly of men'.<sup>150</sup> But as we have seen, this has the effect of producing two immediate consequences. It gives them a single will and voice, thereby converting them into one person, the person of the state. But it also creates a representative of that person in the figure of the sovereign, who is thereby given the job of 'bearing' or 'carrying' the person of the state. To say all this, however, is to say that the members of the multitude remain the authors of all the

<sup>149</sup> Hobbes 1996, ch. 17, p. 120.

<sup>150</sup> Hobbes 1996, ch. 17, p. 120.

actions of their sovereign, and at the same time remain the authors of all the actions of the person whom they have authorised their sovereign to represent, namely the person of the state. Each member of the multitude must now 'acknowledge himselfe to be Author of whatsoever he that so beareth their Person, shall Act, or cause to be Acted, in those things which concerne the Common Peace and Safetie'.<sup>151</sup>

Hobbes lastly turns, in chapter 18, to consider the implications of this political covenant. The members of the multitude have given up their right of using their own discretion to secure their safety and contentment. They have voluntarily ceded their right of self-government to be exercised by their sovereign on their behalf. It follows according to Hobbes's theory of authorisation that the members of the multitude must now be under an absolute obligation not to interfere with their sovereign in the exercise of the rights they have transferred to him. The sovereign acquires complete discretion and absolute power to decide what shall be done to preserve the safety and contentment of every subject under his charge.

Hobbes goes still further. Not only do the members of the multitude have no remaining right to question the actions of their sovereign; they have a positive duty to 'own' whatever actions their sovereign may undertake in seeking their safety and contentment. But this is to say, according to Hobbes's theory of attributed action, that the public acts of the sovereign, and hence of the state, are nothing other than the acts of the individual members of the multitude. So it will not merely be unjust for them to oppose their sovereign; it will actually be self-contradictory, for they will be opposing themselves.

This moral is finally drawn in a powerful summarising passage in chapter 18:

Because every Subject is by this Institution Author of all the Actions, and Judgments of the Sovereigne Instituted; it followes, that whatsoever he doth, it can be no injury to any of his Subjects; nor ought he to be by any of them accused of Injustice. For he that doth any thing by authority from another, doth therein no injury to him by whose authority he acteth: But by this Institution of a Common-wealth, every particular man is Author of all the Sovereigne doth; and consequently he that complaineth of injury from his Sovereigne, complaineth of that whereof he himselfe is Author; and therefore ought not to accuse any man but himselfe.<sup>152</sup>

Although Hobbes returns to this claim with evident satisfaction in a number of later passages, he stands in no need of such uncharacteristic

<sup>151</sup> Hobbes 1996, ch. 17, p. 120.      <sup>152</sup> Hobbes 1996, ch. 18, p. 124.

repetitiousness.<sup>153</sup> His account of attributed action already enables him to rest his case against the constitutionalist writers of his age. The concept of the political covenant is not a means of limiting the powers of the crown; properly understood, it shows that the powers of the crown have no limits at all. The theory of attributed action lies at the heart of the politics of *Leviathan*.

<sup>153</sup> Hobbes 1996, ch. 19, p. 136; ch. 24, p. 172.