

Commonwealth by acquisition

1 Commonwealth by institution

A *commonwealth* is said to be *instituted*, when a *multitude* of men do agree, and *covenant, every one, with every one*, that to whatsoever *man, or assembly of men*, shall be given by the major part, the *right to present* the person of them all, (that is to say, to be their *representative*;) every one, as well he that *voted for it*, as he that *voted against it*, shall *authorize* all the actions and judgments, of that man, or assembly of men, in the same manner, as if they were his own, to the end, to live peaceably amongst themselves, and be protected against other men.

From this institution of a commonwealth are derived all the *rights*, and *faculties* of him, or them, on whom the sovereign power is conferred by the consent of the people assembled. ...

Thirdly, because the major part hath by consenting voices declared a sovereign; he that dissented must now consent with the rest; that is, be contented to avow all the actions he shall do, or else justly be destroyed by the rest. For if he voluntarily entered into the congregation of them that were assembled, he sufficiently declared thereby his will, (and therefore tacitly covenanted) to stand to what the major part should ordain: and therefore if he refuse to stand thereto, or make protestation against any of their decrees, he does contrary to his covenant, and therefore unjustly. And whether he be of the congregation, or not; and whether his consent be asked, or not, he must either submit to their decrees, or be left in the condition of war he was in before; wherein he might without injustice be destroyed by any man whatsoever. (*Leviathan*, 18.1-2, 4)

2 Commonwealth by acquisition

A *commonwealth by acquisition*, is that, where the sovereign power is acquired by force; and it is acquired by force, when men singly, or many together by plurality

of voices, for fear of death, or bonds, do authorize all the actions of that man, or assembly, that hath their lives and liberty in his power. (*Leviathan*, 20.1)

Dominion acquired by conquest, or victory in war, is that which some writers call **DESPOTICAL**, from *Despotes*, which signifieth a *lord*, or *master*; and is the dominion of the master over his servant. And this dominion is then acquired to the victor, when the vanquished, to avoid the present stroke of death, covenanteth either in express words, or by other sufficient signs of the will, that so long as his life, and the liberty of his body is allowed him, the victor shall have the use thereof, at his pleasure. And after such covenant made, the vanquished is a **SERVANT**, and not before: for by the word *servant*, (whether it be derived from *servire*, to serve, or from *servare*, to save, which I leave to grammarians to dispute) is not meant a captive, which is kept in prison, or bonds, till the owner of him that took him, or bought him of one that did, shall consider what to do with him: (for such men, (commonly called slaves,) have no obligation at all; but may break their bonds, or the prison; and kill, or carry away captive their master, justly:) but one, that being taken, hath corporal liberty allowed him; and upon promise not to run away, nor to do violence to his master, is trusted by him.

It is not therefore the victory, that giveth the right of dominion over the vanquished, but his own covenant. Nor is he obliged because he is conquered; that is to say, beaten, and taken, or put to flight; but because he cometh in, and submitteth to the victor; nor is the victor obliged by an enemy's rendering himself, (without promise of life,) to spare him for this his yielding to discretion; which obliges not the victor longer, than in his own discretion he shall think fit. (*Leviathan*, 20.10-11)

3 Review and Conclusion

In Chapter 29, I have set down for one of the causes of the dissolutions of commonwealths, their imperfect generation, consisting in the want of an absolute and arbitrary legislative power; for want whereof, the civil sovereign is fain to handle the sword of justice unconstantly, and as if it were too hot for him to hold. One reason whereof (which I have not there mentioned) is this, that they will all of them justify the war, by which their power was at first gotten, and whereon (as they

think) their right dependeth, and not on the possession. As if, for example, the right of the kings of England did depend on the goodness of the cause of William the Conqueror, and upon their lineal, and directest descent from him; by which means, there would perhaps be no tie of the subjects' obedience to their sovereign at this day in all the world: wherein whilst they needlessly think to justify themselves, they justify all the successful rebellions that ambition shall at any time raise against them, and their successors. Therefore I put down for one of the most effectual seeds of the death of any state, that the conquerors require not only a submission of men's actions to them for the future, but also an approbation of all their actions past; when there is scarce a commonwealth in the world, whose beginnings can in conscience be justified. (*Leviathan*, Review and Conclusion, ¶18)

