

Hobbes's command theory of law

The social contract *might* have given the sovereign the power to make laws through the authorization clause: the subjects could have authorized the sovereign to surrender their rights by making laws banning this or that.

However, that is *not* the way Hobbes did it. Hobbes used the alienation clause to support a command theory of the law.

The idea is that laws are commands. Commands are, by definition, obligatory. The sovereign can make laws because the subjects are obliged to obey the sovereign's commands. They are obliged to obey the sovereign's commands because they have given up the right to govern themselves in the social contract (see 17.13).¹

This is from *Leviathan* chapter 26, paragraphs 2-3.

it is manifest, that law in general, is not counsel, but command; nor a command of any man to any man; but only of him, whose command is addressed to one formerly obliged to obey him. And as for civil law, it addeth only the name of the person commanding, which is *persona civitatis*, the person of the commonwealth.

Which considered, I define civil law in this manner. CIVIL LAW, is to every subject, those rules, which the commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of, for the distinction of right, and wrong; that is to say, of what is contrary, and what is not contrary to the rule.

¹ Hobbes's theory inspired John Austin's, as you probably guessed.