

LAW AND THE IDEOLOGY OF ORDER:THE PROBLEM OF KNOWLEDGE IN TH. HOBBS' "LEVIATHAN"\*

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It is a commonplace to say that Leviathan is based on a recognition of the importance of power and its fundamental place in all human relationships. What is not so often noted is that power is not an ahistorical constant which just happened to be recognised and theorised into a philosophy of the nature of man and the organisation of society by Hobbes. The concept of power, in a political context, arises out of the manner of existence of a society. It is not enough to say that all human relationships are mediated by power. It may be that we might wish to translate interaction accounted for, and therefore we might reasonably assume 'generated', by other terms such as obligation, into power relationships. However, this translation is only possible through the reification of power into a generalisable concept. It will be the contention of this paper that seventeenth century English society was a society undergoing radical and fundamental changes both to its political ordering and to the mode of practice of its social order, and that changes in the mode of practice of its social order reflect directly onto problems such as the socially constructed concept of knowledge and the practice of government. In the context of these changes Leviathan represents the most developed understanding of the complexities surrounding the new construction of knowledge gained through the individualising of the concept of 'method' and the developing practices of a social order based on the idea of the individual who must be held in check by the exercise of force. Hobbes' conception of what power was and how it related to the structure of society was a conception generated to try and help make sense of changes which appeared to him to be fundamental in the practice of order in early seventeenth century society.

\* In this paper the pronoun 'he' is used throughout. The reason for this is that Hobbes uses 'he' throughout Leviathan and in following his thought I did not want to become involved in the important, but here not fundamentally relevant, issue of Hobbes' view of women. It should not be necessary for me to add that no sexism is intended.

The practical expression of shifts in what is experienced as being 'knowledge' and in the practice of order may be found in, among other places, a new understanding and practice of what we call law. Leviathan gives us a new view of law as being fundamental to the structure of social order rather than being a reflection of a God-given social order which it exists to preserve. This new view of law and its function is grounded by Hobbes in his elaboration of the way in which the individual lives the world. Near the end of the second part of Leviathan, which is, in effect, the end of the secular outline of the constitution of Hobbes' Commonwealth, Hobbes writes:

'Hitherto I have set forth the nature of Man (whose Pride and other Passions have compelled him to submit himselfe to Government); together with the great power of his Governour ...' (1)

Here, as Strauss<sup>(2)</sup> points out, Hobbes is not suggesting that it is in the nature of social relationships that they must be controlled by the imposition of power. Hobbes is saying, rather, that it is in nature of man, and the most significant aspect of this nature is singled out as Pride. Strauss pursues this point in the context of the moral basis of Hobbes' view of man but there is another side to the problem which may be ascertained by asking what is the existential grounding which allows the individual such pride that he must be kept in check. The answer to this problem comes some two chapters earlier; vain-glory which appears to lead to pride is based on valuing oneself by one's great wealth or by one's large number of kin or friends or it resides in those that:

'... have a great and false opinion of their own Wisdome, [and] take upon them to reprehend the actions, and call in question the Authority of them that govern, and so to unsettle the lawes with their publique discourse, as that nothing shall be a Crime, but what their own designes require should be so.' (3)

So vain-glory, when not based on material things such as wealth or popularity, is based on a wrong attitude to one's own 'Wisdome'. Significantly whereas a multitude of friends give one the courage to 'violate the lawes' a person's great and false opinion of their own Wisdome 'unsettles the lawes'. Moreover the end result of this

unsettling of the laws is that crime, which as we shall see Hobbes defines as transgression of the Law, comes to be individualised in the sense that it becomes defined with reference to individual opinion. In other words, other things that generate vain-glory only enable one to transgress the pre-existing laws: that is to say they generate activities which, taking the laws for granted, then overstep them. By contrast the use of 'Wisdom' strikes at the very root of the laws by criticising them publicly.

The problem, however, is not located for Hobbes in the social situation of criticism. It lies one step removed in the very possibility of criticism. This possibility exists, according to Hobbes, because each individual has his own 'Wisdom'. This would appear to be implicit in the above quotation. Hobbes is here talking about one's own 'false' (note the categoricalness here) opinion of one's personal 'Wisdom'. The implication would appear to be that each individual has formulated, somehow, his own 'Wisdom'. Hobbes' problem here is not what happens when one person's Wisdom is not in congruence with another's, but one's attitude towards one's own Wisdom, which is fundamentally distinct from the Wisdom of other individuals. The problem for Hobbes here is that of how one individual's personal 'Wisdom' may be related to that of other individuals. This, as we shall see, leads Hobbes to consider the relationship between an individual's 'Wisdom' - we, perhaps, might think of this as an opinion or a personal belief - and the problem of knowledge as a belief system which establishes the social order.

Let us turn to the problem of crime in Leviathan:

'The source of every Crime, is some defect of the Understanding or some error in Reasoning, or some sudden force of the Passions.' (4)

Crime is here defined by Hobbes in such a way that it exists in its own right quite unambiguously in relation to some absolute moral order. Moreover it exists in relation to that Law which is the practical manifestation of the controlling 'power' which exists because men have submitted themselves to it:

'A Crime, is a sinne, consisting in the Committing (by Deed or Word) of that which the law forbiddeth, or the omission of what it hath commanded.' (5)

Now what Hobbes is concerned with is not the practice of crime but where crime as a practice comes from; in other words what it is that gives individuals the ability to commit crimes. We may note here that Hobbes' conception of Crime is dependent upon a view of the Law as being 'right' not merely because it is exercisable but because it is Right in some absolute sense. I would suggest that much of Leviathan is concerned not only with articulating a theory of law as being based on power but with then bringing that law into harmony with Hobbes' belief in Divine Order (or Law) which society reflects. It is this isomorphism which gives transgression its absolute quality. The differentiation between these two forms of law in relation to human beings is well brought out in Hobbes' discussion of how a 'defect of Understanding' may be a source of Crime. Hobbes suggests that '... ignorance of the Civill Law, shall excuse a man in a strange Country, till it be declared to him'.<sup>(6)</sup> However, if an individual in a strange country attempts to teach a new Religion or teaches anything that might lead people to disobey the civil law then this transgresses the Law of Nature. Thus it is individual 'Wisdom' which mediates between civil law and absolute order.

Here we have our first intimation of how individual Wisdom may be a threat. It is a threat when it is able to transgress the Law of Nature by teaching a new Religion - I shall return to this point later - and it is a threat when it enables an individual to challenge the civil law as being 'right'. The problem of knowing what is 'right' brings us to Hobbes' discussion of reason and the question of the possibility of erroneous Reasoning. Hobbes breaks this category down into three possibilities: first the presumption of false principles; second the impact of false teachers, that is to say people who spread teaching 'which either is a misinterpretation of the Law of Nature' or is 'inconsistent with the duty of a Subject'; third the effect of 'Erroneous Inferences from True Principles'.<sup>(7)</sup> The question now is what does the individual think he has when he orders his life in the light of the conclusions he has gained from any of these three possible modes of erroneous Reasoning?

The answer inevitably must be that the individual considers himself to have 'Wisdom'. Wisdom which is inherently his because, whilst possibly based on other people's information, such as that given by teachers, it is made the individual's own by the personal use of Reason. Reason, for Hobbes, is not a faculty of the mind; it is an activity the possibility for which is dependent upon the individual's interaction with 'society':

'... it appears that Reason is not as Sense, and Memory, borne with us; nor gotten by Experience onely; as Prudence is; but attained by Industry; first in the apt imposing of Names; and secondly by getting a good and orderly Method in proceeding from the Elements, which are Names, to Assertions made by connexion of one of them to another.' (8)

Reason becomes the pivotal practice which allows the individual to engage with other individuals in society. It is reason which generates individual 'Wisdom' but the practice of reason is only possible once the world is labelled by language. Now, leaving aside the problem of language, it is possible to see that Hobbes' view of science as giving 'knowledge' is dependent not only, as he says, on Reasoning<sup>(9)</sup> but is also dependent on the generation of correct Reason, through interaction with society, in the first place. Indeed, for Hobbes, there could not be incorrect Reason; there could only be mistakes made in the use of Reason or Reason based on false principles. Reason in the abstract must be, by definition, correct. Thus, for Hobbes, an argument could not be 'reasonable' in the sense of being convincing; it would either be right because it was based on right principles and used the method of Reason, or it would be wrong because it was based on incorrect principles or because a mistake had been made in the use of reason as a method. However, whilst '... Reason itself is always Right Reason...'<sup>(10)</sup> which is to say that the correctness of Reason in the abstract is an inherent part of the conceptualisation of Reason, '... no one man's Reason, nor the Reason of any number of men, makes the certainty'.<sup>(11)</sup> Thus, no matter how right Reason may be in the abstract, the individual is liable to make mistakes in using it. It is because of this that all conclusions reached by individuals are questionable.

In his discussion of the ordering of society Hobbes takes this

understanding of what reason is and goes on to draw this conclusion:

'And therefore, as when there is a controversy in an account, the parties must by their own accord, set up for right Reason, the Reason of some Arbitrator or Judge, to whose sentence they will both stand or (their) controversy must either come to blows, or be undecided, for want of a right Reason constituted by Nature.' (12)

Reason, then, is not only inherently right but it is also directly related to Nature - the implication being, as we shall see when we come to talk about Natural Law, that Nature itself is 'right'. But Hobbesian man is a man who does not have direct access to Reason. The problem then becomes one of elucidating where the knowledge lies that 'Reason' is being used correctly. If all men reasoned correctly using correct principles then all men would be in fundamental agreement; it is because men do not all agree that we know that either they are not using the right principles or they are not using reason with proper methodological rigour. If this interpretation of Hobbes' thought is correct, it might be suggested that Hobbes' premise is not that in the natural state all men are for some reason essentially separated from one another and in continual war with each other<sup>(13)</sup> but, rather, quite the reverse. Hobbes' basic image of society is of a harmonious society where man, using his reason, is on amicable terms with his neighbours and where this is occasioned because reason is 'right' and is also 'natural'. However, in the day-to-day life of Hobbesian individuated man, where correct Reason is not always practised, disputes do arise and when they do what is required is an 'Arbitrator or Judge'. The mere fact of arbitration, it would seem, brings the individuals, and therefore perhaps 'the social order', closer to observance of the right Reason constituted by Nature. In other words, there is an implication here that arbitration itself is an essentially reasonable activity, reasonable in the sense that its practice is an act of 'Reason'. It is significant also that arbitration is here linked with legal terminology: 'Judge' and 'sentence'. Yet Hobbes is apparently here talking about disputes which do not involve the civil law as he defines the term with reference to imposed power. I would suggest that here, in his discussion of arbitration, Hobbes comes close to conflating his two views of society; his ideal of a harmonious society in which shared (correct)

assumptions order the polity and his understanding of the society in which he was living where knowledge, the shared assumptions of the (correct) belief system, was obscured by bad use of Reason and the mistaken use of false principles from which to start the process of Reasoning. I will now attempt to explain this.

In order to understand what is going on here we must leave Leviathan for a moment and turn to the reality of seventeenth century society. Wrightson, writing of village society at this time, says:

'Some way removed from the notion of order espoused by the moralists and legislators ... lay the complex of attitudes which surrounded the maintenance of harmony not so much between God and man, or even prince and people, as between neighbours in the face to face and day to day relationships of the village community. Order, as it was conceived at this most intimate local level, was less a positive aspiration towards a national condition of disciplined social harmony than a negative absence of disruption conflict locally.' (14)

The focus at village level, then, is on an avoidance of disruption, but an avoidance which in its very articulation assumes that an order exists which can be disrupted. It is this assumption which is crucially important for it gives us the reverse of the conventional Hobbesian view of man in society. Rather than rules or laws having to be generated and then enforced in order to create and perpetuate a society which by virtue of these regulations may subsequently be said to be ordered, here we have a society which takes for granted its existence and organises itself on this premise to ensure its continuity. This situation is one well understood by anthropologists; it is one in which all the members of a society take for granted the same fundamental belief system which means that, as Gluckman notes in The Ideas of Barotse Jurisprudence:

'... all ... members adhere to the same standards of right-doing and wrong-doing as the judges ...'. (15)

There is no question here of the possibility of moral objections to the law, no question that the law or any part of it might be 'wrong' in any way. Law in the sense of a consciously articulated set of regulations

does not exist in this context. Indeed, 'law' does not order such a society in the sense of articulating and proscribing certain activities; law is solely the re-ordering of that society where the day-to-day interaction breaks down. It must be emphasised, as Wrighton does in the context of seventeenth century village society, that I am not here suggesting any romanticised view of the harmonious village or conflictless society. These societies have innumerable conflicts; the point is that they are experienced and understood differently and as a result they are dealt with differently. The emphasis is not placed on punishment for transgression - apart from anything else it is very difficult to know exactly when a taken for granted order has been transgressed - it is placed on mediation and reconciliation when disputes occur or the order is threatened in some other way. Here we may refer back to Hobbes' use of arbitration and see more clearly how it would operate in Hobbes' ideal society. Societies such as those discussed above presuppose an ideal of harmony and work continually to preserve it. Illusion though it might be, its existence is embedded in, indeed is, the collective belief system and its assumption is necessary to the on-going existence of these societies.

Turning to the problem of disorder once more, Wrighton again notes:

'Wherever possible mediation was preferred, though it was not always successful'. (16)

By way of example he goes on to cite the case of one Adam Martindale who, in spite of having been badly beaten up, refused to take the matter to the courts - to the imposed law - because he 'took all such courses for pure revenge ...'.<sup>(17)</sup> Assuming we can take this as Martindale's own view, it is a particularly interesting statement. In societies which make use of an imposed law that law is understood as being for the purposes of social regulation. Martindale, living his life in a situation where 'law' was conceived in terms of the re-ordering and continued articulation of reciprocity, can only conceive of imposed law in those terms. As such he considers that the courts deal in 'pure revenge', which might be said to be the outer limit of reciprocity. It is experienced as the most base form of reciprocity, reciprocity which takes no

cognisance of the socio-cultural context within which it operates, where it is the end of the individual action which is perceived as important not the harmony of the society. For Martindale, then, the court is outside his concept of the ordered society in which the problem is not so much to establish guilt or innocence but to preserve the reciprocal ordering of the society. It is, I would suggest, an understanding of mediation in a manner somewhat similar to this which informs Hobbes' discussion of its importance and manner of use. This conflict between the understandings of the practice of social order may be illustrated from Wrighton again, when he talks of a case where the constable - it was occupiers of this post who had the invidious task of mediating between the two forms of law and order - of Worsley, Lancashire attempted to discriminate different degrees of culpability after a purge of unlicensed ale-houses. The clerk of the peace simply dismissed this attempt at gradation based on the social context and exercised the imposed law. (18)

Now it may be demonstrated that Hobbes' understanding of social order and of the law is very similar to the outline I have just given. For example, Hobbes writes:

'... the same Law which dictateth to men that have no Civil Government, what they ought to do, and what to avoyd in regard of another, dictateth the same in common-wealths that is to the Consciences of Sovereign Princes, and to Sovereign Assemblies; there being no Court of Natural Justice but in the conscience only; where not Man but God reigneth; whose Lawes ... in respect of God, as he is the Author of Nature are Natural.' (19)

The first thing to notice here is the relation between the Sovereign's conscience and natural justice, in 'Common-wealths' it is in the Sovereign that natural justice resides. It is also, for Hobbes, in the Sovereign that the power to make civil law resides. Thus civil law becomes a reflection of the Law of Nature and, I would suggest, the conscience of the Sovereign is given practical expression in his use of his Wisdom. For Hobbes, then, the Sovereign inevitably uses Reason and uses it correctly. The Sovereign, then, is the ultimate link between the ordering of society and the divine order. Hobbes, however, goes one step further and suggests that in societies which have no Civil

Government society is ordered directly by Natural Law, that is to say the Law of God which orders creation. In these societies there is no need for an imposed power to regulate and control the society because all live in accordance with the Law of Nature. Indeed, from Hobbes' perspective how else could such a society exist? Natural Justice here, I would suggest, must be present in all individuals; Wisdom is not differentiated, it is the single belief system which informs all social interaction.

In the context of Natural Justice we may note here the historical development of the concept of equity in parallel with the development of imposed law, for this is what the Worsley constable, mentioned above, wished exercised. Equity refers to the situation where a court takes into account more than the matter immediately before it. It is, therefore, a concept not relevant to societies where the starting point for the 'law' is the social context. It is only of significance in those societies where the principle and practice of imposed law is so strongly adhered to that it is necessary to recognise institutionally the possibility that the law should at times be tempered. In England the concept and practice of equity in this context originated in the late sixteenth and early seventeenth centuries when:

'... reports of equity cases began to make their appearance and then ... the doctrine of judicial precedent turned the principles of fair dealing into a settled system as technical as the common law'. (20)

Hobbes, of course, given what I have just said about his understanding of natural justice, saw the place of equity - which must be implicit in civil law as it reflects Natural Law - as being the reason of the Sovereign.

The developing articulation and institutionalisation of equity is a reflection of the development and exercise of a concept of law where that law is perceived as existing outside of the community and is imposed upon it. It is to this change that we must now turn our attention. Outside here refers to a conception of law where what is regarded as the law is not perceived as in any way pre-given to the society in

which it operates. When Edward Phelps, speaker of the House of Commons in 1604, said:

'The common law [is] grounded or drawn from the law of God, the Law of Reason, and the Law of Nations' (21)

he was not only justifying the legally actionable law of the land in terms of a higher law but he was also reasserting the common law as a manifestation of the order, the Law of God, within which society structured itself. The assumption behind the common law at this time was that, as a body of rules and regulations which structured society, it existed only to aid the ordering of society set out in the Law of God. Here is George Saltern on this problem:

'Now I take in hand to speak of our ancient Lawes, and God is the beginning and end of my worke ...'. (22)

God created the world: as an aspect of this creation he created man; logically then society owes its existence to God and, as a consequence, its order must be the order that reflects the order immanent in God. As a result, 'knowledge' is construed as being within the belief system rather than as something alienated, which must be discovered. Judson sums up the problem from the point of view of Law when she says:

'Law was normally regarded as more than human, as the reflection of eternal principles of justice' (23)

and here we have in a nutshell what is the most intriguing problem that surrounds the civil war. Both parliament and king not only thought that God was on their side, but that the law was as well. From one point of view this problem may be traced back to Henry VIII. When in 1534 Henry enacted the Act of Supremacy, he gave legal recognition in the most drastic manner to this conception of the relation between divine law and common law; from this moment on heresy was no longer merely a church offence, it became treason.<sup>(24)</sup> Simultaneously the link between the enacted law of the land and the law of God was recognised as being focused in the growing power of the ruler - thus paving the way for the developing theory of Absolutism and Divine Right.<sup>(25)</sup>

This, however, is only one illustration of the dramatic shift which was occurring in the practice of law throughout the late sixteenth century. Plunkett, for example, notes that in mere bulk:

'... the thirty-eight years of Henry VIII's reign ... produced a volume of statutes equal to the combined output of the previous two and a half centuries ...'. (26)

Moreover, the statutes became more detailed and tended to include long preambles explaining their purpose. At the same time older legal forms were falling into desuetude. For example, Year Books were not printed after 1532, and the Register of Writs was used less and less. Perhaps the most interesting point, however, is that from the sixteenth century onwards, indeed from 1483, collections of statutes began to be printed. By the early seventeenth century this movement had culminated in the completely revised version of the complete Statutes edited by Pulton and published from 1611 onwards. Increasingly the common law was perceived as being closely related to the Statutes and the law was perceived not as practice but as a historical and imposed body of legislation to which reference had constantly to be made. This new historical awareness was matched by the courts' increasing concern with the use of precedents. In practical terms, this was manifested in the shift of emphasis in the late medieval Year Books from a concern with procedure and discussion - where, as with Gluckman's Barotse, lay what we understand as equity - to a concern with the presentation of the case and, most importantly, the decision on it.

Even from this brief outline, it is obvious that the late sixteenth and early seventeenth centuries saw a radical shift in the practice of law which, it may be added, was reflected in a greater degree of institutional training for lawyers.<sup>(27)</sup> The common law came more and more to be seen as a historically continuous body which, by the nature of its organisation, was instituted and exercised in a hierarchical manner. Conceptually the problem increasingly came to be one of legitimation. More and more the ideology of the common law shifted from it being an institutional reflection and re-ordering of the pre-established order of the lived society to being the manifestation in terms of an imposed ordering of the Divine Law as understood by those in power.<sup>(28)</sup>

But this latter, taken for granted understanding which acted to legitimate the common law could only continue to exist if the law itself as legislation was not challenged. The debate between King and Parliament challenged it. Both sides held their position to be legitimated by the extant body of law; both sides attempted to use the divinely legitimated law to back what we could call 'points of view' or ideological positions. The unified, because taken for granted, base of the law began to crack; each side searched to find 'fundamental' laws which would make their arguments unassailable. Judson notes that Englishmen in the early seventeenth century '... drew no clear distinctions between laws which were fundamental and laws which were not ...'. (29) This was because, for people of this period, all laws and no laws were fundamental, because all were reflections of the fundamental law of God. As soon as the attempt was made to discriminate some laws as fundamental from others which were not the end was in sight, for the same ontological arguments used to justify some laws could be used for others and the same critical positions invoked. The only solution, as Hobbes understood, was to view the Law of Nature as a set of moral precepts of which laws in society were a reflection.

The result of the dissension was that it became harder and harder for men to believe that the law existed as one constituted body of knowledge which somehow or other reflected the one Order established by God. Increasingly the philosophical debate came to be concerned with the nature and legitimacy of sovereignty; this is reflected in the etymological shift of the meaning of status. From its original meaning (as in the Ciceronian status reipublicae) of order, understood as the pre-existing order, which enabled it to be applied also to one's position in that order, it gained through the medieval linkage with Divine Law<sup>(30)</sup> a meaning of 'good' order and was, by the time of Hobbes, coming to be used as 'state' with its modern connotation of a limited, sovereign, order within which hierarchised law/power is exercised. Thus the shift in meaning of law and the shift in meaning of status are both allied to a change in the understanding of order from something which was pre-given and which should be preserved to something which was based on power and hierarchically enforced on individuals who together constitute a society. The limits of the state now become the limits of its ability

to enforce its laws. This, in turn, is related to the idea that competing fundamental beliefs are possible provided they do not threaten the stability of the order in which they are allowed to exist.

Here then is our clue to Hobbes' understanding of Reason and Wisdom. Hobbes' genius lay not so much in his recognition of the importance of power in a society of individuals where there is no single unified belief system, but one step further back. It exists in his struggle to understand that people could hold fundamentally different beliefs and his attempt to understand what would be the implications of this for social order; it is this that lies at the root of his discussions of reason as a constructed method rather than as pre-given, and of knowledge as something which would order the previously unknown. It should be noted that it is Reason used as a method which allows Hobbes to identify correctly the inherently Reasonable Laws of Nature which then become an object of knowledge to which reference may be made. Logically, for Hobbes, societies without the mediation of civil law between individual and society must live the Laws of Nature. In other words, this fundamental knowledge is a practice for such societies, not something which is alienated and which must be 'discovered'. The significance of Hobbes' State of Nature, then, is not that it represents Man but that it represents fallen Man, man where knowledge as the practice of personal wisdom has been lost. The essence of correct knowledge for Hobbes lay in its alliance with true Religion which, together with the Law of Nature, exists in that which was created by God. This is why the teaching of a new religion transgresses the Law of Nature. This point has been well demonstrated by Hood in The Divine Politics of Th. Hobbes.

Those who have foreseen in Leviathan the image of totalitarianism are right to an extent, for in this book Hobbes is attempting to outline a society based on power where knowledge is controlled. However, it is a society where that power is so used in conjunction with the method of Reason that social harmony might be reinstated through the repairing of a single (correct) belief system. In such a society the hierarchical articulation and practice of law by means of exercised

power would not be necessary. Dare I suggest that Hobbes wished to see the withering away of the State?

#### Footnotes

1. Leviathan, p.362. All references are to the Penguin edition, ed. C. McPherson, Harmondsworth, 1968.
2. L. Strauss, The Political Philosophy of Hobbes, trans. E. Sinclair, Chicago, 1952, p.13.
3. Leviathan, p.341.
4. Op cit, p.338.
5. Op cit, p.336.
6. Op cit, p.338.
7. Op cit, pp.339-341.
8. Op cit, p.115.
9. See op cit, Chapter IX 'Of the Severall Subjects of Knowledge', passim.
10. Op cit, p.111.
11. Op cit, p.111.
12. Loc sit.
13. The common understanding of Hobbes' idea of the situation of man in his 'natural' state is drawn from Leviathan, Chapter XIII. See also C. McPherson, The Philosophy of Possessive Individualism, Cambridge, 1962.
14. Wrightson, 'Two Concepts of Order', in J. Brewer and J. Styles, An Ungovernable People, London, 1980, pp.23-24.
15. M. Gluckman, The Ideas in Barotse Jurisprudence, London, repr. 1972, p.10.
16. Wrightson, op cit, p.30.
17. Quoted in loc sit.
18. Wrightson, op cit, p.32.
19. Leviathan, p.394.
20. G. Keeton and L. Sheriden, Equity, London, 2nd ed. 1976, p.4.

21. Quoted in M. Judson, The Crisis of the Constitution, New Brunswick, 1949, p.53.
22. Quoted in op cit.
23. Op cit, p.44.
24. It may be noted that the Statute of Treason passed by Edward I threatened the whole basis of the old order by making everybody responsible to the Crown, in contrast to the feudal system of reciprocal oaths and responsibilities. Henry VIII rationalised the problem by making the monarch responsible for both the idea of order as it emanated from God through Christianity as well as for the secular order. This formulation of the monarch's role is very similar to Hobbes' view of the role of the Sovereign.
25. See J. N. Figgis, Divine Right of Kings, Cambridge, 1914.
26. T. Plucknett, A Concise History of the Common Law, London, 1956, p.324.
27. See Holdsworth, History of English Law II, London, 1936, pp.267-71.
28. In practice cf e.g. Wrightson, p.35, on increase in regulative prosecutions. Also C. Bridenbaugh, Vexed and Troubled Englishmen, Oxford, 1968.
29. Judson, p.55.
30. M. Wilks, The Problem of Sovereignty in the later Middle Ages, Cambridge, 1963, p.158.