**Excerpt from *Leviathan* by Thomas Hobbes**

English 10

CHAPTER XXIII

OF THE PUBLIC MINISTERS OF SOVEREIGN POWER

IN THE last chapter I have spoken of the similar parts of a Commonwealth: in this I shall speak of the parts organical, which are public ministers.

A public minister is he that by the sovereign, whether a monarch or an assembly, is employed in any affairs, with authority to represent in that employment the person of the Commonwealth. And whereas every man or assembly that hath sovereignty representeth two persons, or, as the more common phrase is, has two capacities, one natural and another politic; as a monarch hath the person not only of the Commonwealth, but also of a man, and a sovereign assembly hath the person not only of the Commonwealth, but also of the assembly: they that be servants to them in their natural capacity are not public ministers; but those only that serve them in the administration of the public business. And therefore neither ushers, nor sergeants, nor other officers that wait on the assembly for no other purpose but for the commodity of the men assembled, in an aristocracy or democracy; nor stewards, chamberlains, cofferers, or any other officers of the household of a monarch, are public ministers in a monarchy.

Of public ministers, some have charge committed to them of a general administration, either of the whole dominion or of a part thereof. Of the whole, as to a protector, or regent, may be committed by the predecessor of an infant king, during his minority, the whole administration of his kingdom. In which case, every subject is so far obliged to obedience as the ordinances he shall make, and the commands he shall give, be in the king's name, and not inconsistent with his sovereign power. Of a part, or province; as when either a monarch or a sovereign assembly shall give the general charge thereof to a governor, lieutenant, prefect or viceroy: and in this case also, every one of that province is obliged to all he shall do in the name of the sovereign, and that not incompatible with the sovereign's right. For such protectors, viceroys, and governors have no other right but what depends on the sovereigns will; and no commission that can be given them can be interpreted for a declaration of the will to transfer the sovereignty, without express and perspicuous words to that purpose. And this kind of public ministers resembleth the nerves and tendons that move the several limbs of a body natural.

Others have special administration; that is to say, charges of some special business, either at home or abroad: as at home, first, for the economy of a Commonwealth, they that have authority concerning the treasury, as tributes, impositions, rents, fines, or whatsoever public revenue, to collect, receive, issue, or take the accounts thereof, are public ministers: ministers, because they serve the person representative, and can do nothing against his command, nor without his authority; public, because they serve him in his political capacity.

Secondly, they that have authority concerning the militia; to have the custody of arms, forts, ports; to levy, pay, or conduct soldiers; or to provide for any necessary thing for the use of war, either by land or sea, are public ministers. But a soldier without command, though he fight for the Commonwealth, does not therefore represent the person of it; because there is none to represent it to. For every one that hath command represents it to them only whom he commandeth.

They also that have authority to teach, or to enable others to teach the people their duty to the sovereign power, and instruct them in the knowledge of what is just and unjust, thereby to render them more apt to live in godliness and in peace amongst themselves, and resist the public enemy, are public ministers: ministers, in that they do it not by their own authority, but by another's; and public, because they do it, or should do it, by no authority but that of the sovereign. The monarch or the sovereign assembly only hath immediate authority from God to teach and instruct the people; and no man but the sovereign receiveth his power Dei gratia simply; that is to say, from the favour of none but God: all other receive theirs from the favour and providence of God and their sovereigns; as in a monarchy Dei gratia et regis; or Dei providentia et voluntate regis.

They also to whom jurisdiction is given are public ministers. For in their seats of justice they represent the person of the sovereign; and their sentence is his sentence; for, as hath been before declared, all judicature is essentially annexed to the sovereignty; and therefore all other judges are but ministers of him or them that have the sovereign power. And as controversies are of two sorts, namely of fact and of law; so are judgements, some of fact, some of law: and consequently in the same controversy, there may be two judges, one of fact, another of law.

And in both these controversies, there may arise a controversy between the party judged and the judge; which, because they be both subjects to the sovereign, ought in equity to be judged by men agreed on by consent of both; for no man can be judge in his own cause. But the sovereign is already agreed on for judged by them both, and is therefore either to hear the cause, and determine it himself, or appoint for judge such as they shall both agree on. And this agreement is then understood to be made between them diverse ways; as first, if the defendant be allowed to except against such of his judges whose interest maketh him suspect them (for as to the complainant, he hath already chosen his own judge); those which he excepteth not against are judges he himself agrees on. Secondly, if he appeal to any other judge, he can appeal no further; for his appeal is his choice. Thirdly, if he appeal to the sovereign himself, and he by himself, or by delegates which the parties shall agree on, give sentence; that sentence is final: for the defendant is judged by his own judges, that is to say, by himself.

These properties of just and rational judicature considered, I cannot forbear to observe the excellent constitution of the courts of justice established both for common and also for public pleas in England. By common pleas, I mean those where both the complainant and defendant are subjects: and by public (which are also called pleas of the crown) those where the complainant is the sovereign. For whereas there were two orders of men, whereof one was lords, the other commons, the lords had this privilege, to have for judges in all capital crimes none but lords; and of them, as many as would be present; which being ever acknowledged as a privilege of favour, their judges were none but such as they had themselves desired. And in all controversies, every subject (as also in civil controversies the lords) had for judges men of the country where the matter in controversy lay; against which he might make his exceptions, till at last twelve men without exception being agreed on, they were judged by those twelve. So that having his own judges, there could be nothing alleged by the party why the sentence should not be final. These public persons, with authority from the sovereign power, either to instruct or judge the people, are such members of the Commonwealth as may fitly be compared to the organs of voice in a body natural.

Public ministers are also all those that have authority from the sovereign to procure the execution of judgements given; to publish the sovereigns commands; to suppress tumults; to apprehend and imprison malefactors; and other acts tending to the conservation of the peace. For every act they do by such authority is the act of the Commonwealth; and their service answerable to that of the hands in a body natural.

Public ministers abroad are those that represent the person of their own sovereign to foreign states. Such are ambassadors, messengers, agents, and heralds, sent by public authority, and on public business.

But such as are sent by authority only of some private party of a troubled state, though they be received, are neither public nor private ministers of the Commonwealth, because none of their actions have the Commonwealth for author. Likewise, an ambassador sent from a prince to congratulate, condole, or to assist at a solemnity; though the authority be public, yet because the business is private, and belonging to him in his natural capacity, is a private person. Also if a man be sent into another country, secretly to explore their counsels and strength; though both the authority and the business be public, yet because there is none to take notice of any person in him, but his own, he is but a private minister; but yet a minister of the Commonwealth; and may be compared to an eye in the body natural. And those that are appointed to receive the petitions or other informations of the people, and are, as it were, the public ear, are public ministers and represent their sovereign in that office.

Neither a counsellor, nor a council of state, if we consider with no authority judicature or command, but only of giving advice to the sovereign when it is required, or of offering it when it is not required, is a public person. For the advice is addressed to the sovereign only, whose person cannot in his own presence be represented to him by another. But a body of counsellors are never without some other authority, either of judicature or of immediate administration: as in a monarchy, they represent the monarch in delivering his commands to the public ministers: in a democracy, the council or senate propounds the result of their deliberations to the people, as a council; but when they appoint judges, or hear causes, or give audience to ambassadors, it is in the quality of a minister of the people: and in an aristocracy the council of state is the sovereign assembly itself, and gives counsel to none but themselves.