

【英汉对照全译本】

LEVIATHAN

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# 利 维 坦

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[英]霍布斯 著

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(二)

中国社会科学出版社

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刘胜军 胡婷婷 译

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## CHAP. XXIV

### Of The Nutrition, And Procreation Of A Common-Wealth

The Nutrition of a Common-wealth consisteth, in the *Plenty*, and *Distribution of Materials* conducing to Life ; In *Concoction*, or *Preparation* ; and ( when concocted ) in the *Conveyance* of it, by convenient conduits, to the Publique use.

As for the Plenty of Matter, it is a thing limited by Nature, to those commodities, which from ( the two breasts of our common Mother ) Land, and Sea, God usually either freely giveth, or for labour selleth to man-kind.

For the Matter of this Nutriment, consisting in Animals, Vegetals, and Minerals, God hath freely layd them before us, in or neer to the face of the Earth ; so as there needeth no more but the labour, and industry of receiving them. Insomuch as Plenty dependeth ( next to Gods favour ) meerly on the labour and industry of men.

This Matter, commonly called Commodities. is partly *Native*, and partly *Forraign* : *Native*, that which is to be had within the Territory of the Common-wealth ; *Forraign*, that which is imported from without. And because there is no Territory under the Dominion of one Common-wealth, ( except it be of very vast extent, ) that produceth all things needfull for the maintenance, and motion of the whole Body ; and few that produce not something more than necessary ; the superfluous commodities to be had within, become no more superfluous, but supply these wants at home, by importation of that which may be had abroad, either by *Exchange*, or by just *Warre*, or by *Labour* : for a mans Labour also, is a commodity exchangeable for benefit, as well as any other thing : And there have been Common-wealths that having no more Territory, than hath served them for habitation, have neverthesse, not onely maintained, but also encreased their Power, partly by the labour of trading from one place to another,

## 第二十四章 论一个国家的营养和生殖

国家的营养在于生活物资的数量和分配、调制或准备,以及以便捷的渠道运输给公众使用。

物资的数量,被自然限制在这些商品,它们或者由上帝通过我们人类共同母亲的双乳——地球和海洋无偿赠送给我们,或者让人类通过劳动来交换获取。

这些营养物质存在于动物、植物和矿物质,上帝已经无偿地放在我们面前的地球表面,因此只需要不多的劳动和勤奋就可以获取它们。在决定获取这些营养物质的数量方面,人类的劳动和勤奋仅次于上帝的恩惠。

这些物资通常被称为商品,一部分是国内商品,一部分是国外商品。如果在本国领域内取得那就是国内商品。如果本国没有从国外进口那就是国外商品。没有一个国家的领土(除非幅员非常辽阔)能生产维持整个身体的一切必需品,同时也很少有国家生产某种物资不超过需要。在境内取得的商品通过交换、正义的战争或劳动同国外的交换商品后,除非继续在国内供应,这些商品就显得不再多余,因为人类的劳动和其他商品一样,也可以作为商品用来交换利益。有些国家的领土只能提供居住的条件,但是这个国家不仅能够维持而且还可以扩张它们的国力。这部

and partly by selling the Manufactures, whereof the Materials were brought in from other places.

The Distribution of the Materials of this Nourishment, is the constitution of *Mine*, and *Thine*, and *His* ; that is to say, in one word *Propriety* ; and belongeth in all kinds of Common-wealth to the Sovereign Power. For where there is no Common-wealth, there is (as hath been already shewn) a perpetuall warre of every man against his neighbour; And therefore every thing is his that getteth it, and keepeth it by force; which is neither *Propriety*, nor *Community*; bat *Uncertainty*. Which is so evident, that even *Cicero*, ( a passionate defender of Liberty, ) in a publique pleading, attributeth all *Propriety* to the Law Civil, *Let the Civill Law*, saith he, *be once abandoned, or but negligently guarded, ( not to say oppressed, ) and there is nothing, that any man can be sure to receive from his Ancestor, or leave to his Children.* And again; *Take away the Civill Law, and no man knows what is his own, and what another mans.* Seeing therefore the Introduction of *Propriety* is an effect of Common-wealth; which can do nothing but by the Person that Represents it, it is the act onely of the Sovereign ; and consisteth in the Lawes, which none can make that have not the Sovereign Power. And this they well knew of old, who called that Νόμος, ( that is to say, *Distribution*, ) which we call Law; and defined Justice, by *distributing* to every man *his own*.

In this Distribution, the First Law, is for Division of the Land it selfe : wherein the Sovereign assigneth to every man a portion, according as he, and not according as any Subject, or any number of them, shall judge agreeable to Equity, and the Common Good. The Children of Israel, were a Common-wealth in the Wildernesse; but wanted the commodities of the Earth, till they were masters of the Land of Promise ; which afterward was divided amongst them, not by their own discretion, but by the discretion of *Eleazar* the Priest, and *Joshua* their Generall ; who when there were twelve Tribes, making them thirteen by subdivision of the Tribe of *Joseph* ;

分是通过不同地方的贸易往来获得,部分是通过从别的国家购买原材料制成工业品后销售来获得。

这些营养物质的分配就是决定它们是:“我的”,“你的”,他的制度。用一句话概括,那就是私有财产的制度,它在各种国家中都属于主权利力。因为如果没有国家,那么人们就处于人人相互状态中。于是每件东西都属于通过武力获得并占有的那个人。这既不是私有制也不是公有制,而是出于不确定的状态。这种情形很明显,甚至西塞罗(他是个积极捍卫自由的人)在一次公开辩论中把所有的私有财产权归于市民法。他讲:“一旦市民法被抛弃或者被消极捍卫,那么没有人能够有保障地从祖先那里获得遗产,将遗产给予子孙。同时,没有了市民法,没有人能够知道什么是他的,什么属于他人。”鉴于私有财产制度的建立是国家建立的结果,而国家除了通过代表它的人不能做任何事,因此私有财产制度的建立仅是主权者的行为,并存在于法律中,而任何人没有主权利力是不能够制定的。曾有人把我们所称的法律称为 *Nóuos*, *Nóuos* 就是分配的意思。而把正义界定为“正义就是分配给每个人他所应得的”。

这种分配的第一条法则是土地自身分配的法则。在此分配中主权者根据自己而不是根据任何臣民或某些臣民认为合于公平或共同利益的方式分给每人一份。以色列的子民在荒野中时就已经形成一个国家了,但是在他们成为乐土的主人<sup>①</sup>之前他们一直缺乏土地生产的各种物品。后来的土地在他们之间的分配不是根据他们自己的决定,而是根据以色列的大祭司伊利亚撒和将军的约书决定。当时有 12 个部族,约书将约瑟部族分成了两个部族,总共有 13 个部族,

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① 乐土,福地,希望之乡,来自《圣经》。

made neverthesse but twelve portions of the Land ; and ordained for the Tribe of *Levi* no land ; but assigned them the tenth part of the whole fruits ; which division was therefore Arbitrary. And though a People coming into possession of a Land by warre, do not alwaies exterminate the antient Inhabitants, ( as did the Jewes, ) but leave to many, or most, or all of them their estates ; yet it is manifest they hold them afterwards, as of the Victors distribution ; as the people of *England* held all theirs of *William the Conquerour*.

From whence we may collect, that the propriety which a subject hath in his lands, consisteth in a right to exclude all other subjects from the use of them ; and not to exclude their Sovereign, be it an Assembly, or a Monarch. For seeing the Sovereign, that is to say, the Common-wealth ( whose Person he representeth, ) is understood to do nothing but in order to the common Peace and Security, this Distribution of lands, is to be understod as done in order to the same : And consequently, whatsoever Distribution he shall make in prejudice thereof, is contrary to the will of every subject, that committed his Peace, and safety to his discretion, and conscience ; and therefore by the will of every one of them, is to be reputed voyd. It is true, that a Sovereign Monarch, or the greater part of a Sovereign Assembly, may ordain the doing of many things in pursuit of their Passions, contrary to their own consciences, which is a breach of trust, and of the Law of Nature ; but this is not enough to authorise any subject, either to make warre upon, or so much as to accuse of Injustice, or any way to speak evill of their Sovereign ; because they have authorised all his actions, and in bestowing the Sovereign Power, made them their own. But in what cases the Commands of Sovereigns are contrary to Equity, and the Law of Nature, is to be considered hereafter in another place.

In the Distribution of land, the Common-wealth it selfe, may be conceived to have a portion, and possesse, and improve the same by their Representative ; and that such portion may be made sufficient, to susteine the whole expence to the common Peace, and defence necessarily required : Which were very true, if there could be any Representative conceived free from humane passions, and infirmities.

然而土地只有 12 份。利未族根据规定没有分得土地,但是分给了全部产物的十分之一。所以这样的分配也是公正的。虽然人民通过战争获得土地的占有,但是并不总是像以色列人那样消灭原先的居民,而是留下许多、大部分甚至全部财产留给他们,然而显然以后这些人占有财产是以战胜者来获得这些分配物的,就如同英格兰人民从征服者威廉那里获得自己的财产。

从此我们可以推断一个人在他的土地上拥有的所有权是一项排除所有别的臣民对他的土地使用的权利,但是这一所有权却不能排除他们的主权者(这主权者或者是一个君主或者是一个会议)对它的使用。因为主权者代表国家的人格,所以他被认为他所做的一切都是为了共同的和平和安全,而土地的分配也被认为是出于同样的目的。于是,他所做的分配就违背了把和平和安全托付给他的判断和良知的臣民的意志。因此根据每一个臣民的意志这样的分配都应被认为是无效的。的确,主权君主或主权会议的大多数意见可能违反他们的良知,而为了追求自己的私欲规定做很多事情,这违背了臣民的信托和自然法。但是这并不足以授权任何臣民可以对主权者开战、甚至于控告或者诅咒主权者。因为臣民已经对主权者一切行为授权了,在赋予主权者权力时就已经使主权者的行为成为他们自己的行为。但是什么情形中主权者的命令是违背公正和自然法,这一问题将在别的地方论述。

在土地的分配中,国家自己可能被设想拥有一份土地,通过国家的代表者加以占有和善用。这样的土地的份额必须足以满足必需的共同和平和防卫的开支。如果设想有代表者能够去除人类的欲望和缺点,那么这样做就是非常正确的。但是人性已经



But the nature of men being as it is, the setting forth of Publique Land, or of any certaine Revenue for the Common-wealth, is in vaine; and tendeth to the dissolution of Government, and to the condition of meere Nature, and War, as soon as ever the Sovereign Power falleth into the hands of a Monarch, or of an Assembly, that are either too negligent of money, or too hazardous in engaging the publique stock, into a long, or costly war. Common-wealths can endure no Diet: For seeing their expence is not limited by their own appetite, but by externall Accidents, and the appetites of their neighbours, the Publique Riches cannot be limited by other limits, than those which the emergent occasions shall require. And whereas in *England*, there were by the Conquerour, divers Lands reserved to his own use, (besides Forrests, and Chases, either for his recreation, or for preservation of Woods,) and divers services reserved on the Land he gave his Subjects; yet it seems they were not reserved for his Maintenance in his Publique, but in his Naturall capacity: For he, and his Successors did for all that, lay Arbitrary Taxes on all Subjects Land, when they judged it necessary. Or if those publique Lands, and Services, were ordained as a sufficient maintenance of the Common-wealth, it was contrary to the scope of the Institution; being (as it appeared by those ensuing Taxes) insufficient, and (as it appears by the late small Revenue of the Crown) Subject to Alienation, and Diminution. It is therefore in vaine, to assign a portion to the Common-wealth; which may sell, or give it away; and does sell, and give it away when tis done by their Representative.

As the Distribution of Lands at home; so also to assigne in what places, and for what commodities, the Subject shall traffique abroad, belongeth to the Sovereign. For if it did belong to private persons to use their own discretion therein, some of them would bee drawn for gaine, both to furnish the enemy with means to hurt the Common-wealth, and hurt it themselves, by importing such things, as pleasing mens appetites, be neverthesse noxious, or at least unprofitable to them. And therefore it belongeth to the Common-wealth, (that is, to the Sovereign only,) to approve, or disapprove both of the places, and matter of forraign Traffique.

Further, seeing it is not enough to the Sustentation of a Common-