



THE RIGHT AND WRONG OF SOVEREIGNTY

Mortimer Adler

Part I of 2

To the proposition that war results from anarchy and anarchy from the sovereignty of nations, the most serious reaction is the one which affirms the truth, and accepts the consequences.

Holding sovereignty to be a natural and inalienable right of nations, some men take the position of the German philosopher Hegel: that peace is impossible, war unavoidable. World government cannot be instituted because that would destroy the sovereignty of independent nations. Sovereignty being indestructible, we can never eliminate the potential war or actual conflict between states.

I think, this view is partly right and partly wrong.

It is right in regarding national sovereignty as incompatible with world government. On this matter, many persons take the flimsy position that only *absolute* national sovereignty rejects a supranational government. They think there is some way both to keep a

multiplicity of sovereign states and also to have the people of the world live in a single political community under one government.

It is wrong in regarding a multiplicity of independent states to be the natural and necessary order of man's political life. Yet, on this point there are others who go to the opposite extreme of supposing that sovereignty is nothing but a misleading fiction and that the theory of government would do well to get rid of this notion entirely.

2

Again we face a problem that is unduly complicated by the ambiguity of the principal word. We are helped here by our previous experience with "peace" and "war." For each of these words we found two chief meanings, one concerned with the internal condition of a community, the other concerned with its external relationship to other communities.

It is no accident that the two chief meanings of "sovereignty" should fall into the same pattern.

In one of these meanings, "sovereignty" signifies an attribute of civil government in relation to the individual men who are subject to its laws and administration. *This is the internal aspect of sovereignty.*

In its other meaning, "sovereignty" signifies an attribute of the political community as a whole, including its government, but now in relation to other, distinct, and independent societies. *This is the external aspect of sovereignty.*

In both aspects, the fact of sovereignty is as old as the historic institution of civil governments and political communities. I say this because the word "sovereignty" gained wide currency only in modern times, in the language of statecraft and in the writings of political theorists. In consequence, many historians falsely suppose that sovereignty is itself a modern phenomenon. They have allowed a word to deceive them about the facts.

It is important to get the history of these matters straight. Confusion on this subject has led many persons to identify sovereignty with the modern nation state, in contrast to the Greek city-states or the Roman Republic and Empire. This in turn leads them to think of national or dynastic aggrandizement as a peculiarly modern

phenomenon, given impetus by pretensions to absolute sovereignty on the part of states or kings.

Finally, by a series of obvious steps, they come to think that there is a peculiarly modern problem of war and peace, which did not exist in the medieval or ancient world. Only in modern times is nationalism a cause of wars. Only in modern times is peace blocked by the sovereignty of states.

Against these views, I should like to insist that the problem of war and peace has always been essentially the same and always will be. Sovereignty has always been at the heart of the problem and always will be.

3

Two maxims formulated by the Roman jurist Ulpian help us to unravel the confusions about sovereignty. The first was: *whatever pleases the prince has the force of law*. The second was: *the prince is above the law and cannot be subjected to its coercive force*.

In these pronouncements, Ulpian did not invent a theory of what should obtain. He merely described the absolutism of the Caesars during the worst period of the Empire.

When the word “sovereign” is applied to an individual person—not to a state or an impersonal government—its meaning includes one or both of the elements formulated in Ulpian’s two maxims.

Certain medieval rulers were sovereign *men* only in one respect, namely, that they were above the coercive force of the laws of their own realm. Since the king was himself the repository of public force and administered the law through officials responsible to him alone, there was no way of enforcing the law against him when he violated it. When his subjects were sufficiently outraged by his lawlessness, they could unite against him, using their own private force in armed rebellion.

Though the medieval ruler was above the coercive force of law, he seldom if ever regarded himself as the source of law. The law which he pledged himself to administer when he took his coronation oath did not consist of rules either adopted at his pleasure or ratified by his will. They were customary rules—the immemorial customs of the realm.

In the sixteenth and seventeenth centuries, kings tried to extend their personal sovereignty. They tried to make it complete by adding the other element involved in the absolutism of the late Caesars. Not only would they be above the coercive force of laws, but their will, and nothing but their will or pleasure, would give a rule the authority of law. In addition to being the repository of public force, they would become the sole arbiter of the law.

This effort on their part, which led to all the great modern revolutions, represents a departure only from medieval precedents. Far from being a startling novelty, it represents a return to the absolute sovereignty of the Roman emperors, of Philip of Macedon, of the Persian kings and the Egyptian pharaohs. We must also remember that the modern revolutions which set up constitutional governments had ancient models in the Roman Republic and in many of the Greek city-states.

With the revival of republics and constitutional government in modern times, there arose the theory of popular sovereignty. This denied both of Ulpian's maxims.

Sovereignty belongs to no individual man. No man shall be above the positive law or exempt from its coercive force—not even the chief magistrate of the land, certainly not its legislators, judges, or minor officials. The personal will of no man shall enact or set aside a law. The constitution itself, and all the laws which are made by due process under it, are formulated and instituted by the whole community, or by their chosen representatives.

Under republican or constitutional government, there are only citizens in private life and citizens who occupy public office for a time. No men are sovereigns; none are subjects. The citizen in office has no legitimate power or authority except that which is vested in the office he holds. No legitimate power or authority can be vested in a person, as opposed to an office.

According to the theory of popular sovereignty, the sovereignty which resides in the offices of constitutional government is derived from the authority and force of the community itself. A sovereign people confers sovereignty upon the government it constitutes. Being the source of all other sovereignties, popular sovereignty is unalterable. If the people of a particular community decide to federate with the people of another community, neither group relinquishes one iota of its popular sovereignty; but, as I shall show presently, in setting up a federation, the sovereign people of the several communities confer some authority and force upon the

newly constituted agencies of government, and so necessarily withdraw some authority and force from the governments of their several localities.

Because both local and federal governments must draw their sovereignty from the same ultimate source, each necessarily limits the scope of the other. The people who have joined to form a larger political community remain as sovereign as before, but the formation of the larger political unit *limits* the sovereignty of the governments of the previously independent communities, at the same time that it *annihilates* their independence. The fact that popular sovereignty does not suffer gain or loss must not mislead us into thinking that federation as an act of popular sovereignty does not involve a radical transformation on the institutional level.

4

It is fallacious to suppose that, with this shift from absolute monarchies to republican constitutions, sovereignty has disappeared from the political scene. It has merely changed its locus. The word “sovereign” can no longer be used to designate a man. It now designates the government of a community which has framed and adopted its own constitution.

Nor does the fundamental character of sovereignty change when it ceases to reside in persons and belongs to an impersonal institution, such as a constitution and the government it sets up. From the point of view of those who live under a constitutional regime, as well as from the point of view of those who live under absolute monarchy, the sovereignty of government consists in the same central fact: a union of authority and force.

In both communities, government has sovereignty because it has the authority which makes force legitimate, and the power which gives authority coercive force. The status of individual men differs radically according as sovereignty is personal or impersonal, but the sovereignty of government in relation to the community which lives under it remains the same.

In order to understand this point, it is only necessary to separate authority and force. A friend who gives us good advice which we follow *only* because it is good exercises some degree of moral authority over us, but no sovereignty. A conqueror to whom we submit only at the point of a gun rules us by might, but not by sovereignty.

Without might, men are not governed. They are merely admonished.

Without right, men are not governed. They are merely overpowered.

Government combines might and right, and in consequence has sovereignty over those who acknowledge the right and recognize the might.

5

If and when world government exists, it will have to possess sovereignty in this sense. Lacking it, it would not be government. Anyone who conceives world government as exercising only moral authority uses the word “government” but does not understand the fact. Many who do understand the fact are opposed to world government exactly because it would have to possess internal sovereignty. It could not have such sovereignty and permit the existing nations to retain their external sovereignty.

What are the attributes of sovereignty in its external aspect? Again we shall find the answer by reference to law, to authority and force.

Let us suppose that a group of men tried to live together under the following conditions: (a) that each would recognize no law as binding him *unless* he agreed to it; (b) that each would regard any threat or use of force by one or more of the others as illegitimate; (c) that each would feel entitled to use force, or threaten its use, whenever that served his own interests, whether defensively or aggressively.

The situation we have just supposed is not a preposterous fiction. Preposterous or not, it is a fact **exemplified** throughout all history and in the world today—not by sovereign *men*, of course, but by sovereign *states*.

It makes no difference whether, in its internal aspect, sovereignty resides in an absolute monarch or in a constitutional regime. In either case, an independent political community regards itself as sovereign in its external relations. *Here it is the community as a whole*, not its government, *which has sovereignty*.

The absolute monarch recognizes this fact when he says, “*L’etat, c’est moi!*” In relation to his own subjects, the absolute monarch

identifies the government with his person. In relation to other despots and their subjects, the absolute monarch identifies himself with the whole community, signing himself “France” or “England” or “Spain.”

It makes no difference to the facts of the situation whether one accepts this notion of the corporate or moral personality of the state, or rejects it as a myth, a fiction. In describing the interaction of independent communities, there is no way of avoiding language which personifies the corporate agents. In all its foreign relations, the political community acts as *if* it were an individual agent, making judgments, exercising free will.

Finally, it makes no difference whether a despot deals with a despot, a republic with a republic, or a republic with an absolute monarch. Regardless of their internal character, states act externally precisely as a group of individual men would act if, in their dealings with one another, each regarded himself and all others as having sovereignty.

Each tries to get along with the others only on terms entirely agreeable to itself, and submits to disagreeable terms only when compelled by naked might—power divorced from authority.

The plainest sign of external sovereignty in the affairs of independent states is, therefore., their insistence upon the principle of unanimity whenever they try by conference to decide anything affecting them all.

The embodiment of this principle in the Covenant of the League of Nations prevented the League from being anything more than a diplomatic conference. To be more, it had to be a sovereign government. But it could not be a sovereign government without abolishing the external sovereignty of each of the member states.

THE GREAT IDEAS ONLINE

is published weekly for its members by the

CENTER FOR THE STUDY OF THE GREAT IDEAS

Founded in 1990 by Mortimer J. Adler & Max Weismann

Max Weismann, Publisher and Editor

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A not-for-profit (501)(c)(3) educational organization.

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