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SOCIAL SCIENCE SERIES

Rousseau

The Social Contract

Fœderis æquas
Dicamus leges.

VIRGIL, Æneid *XI.* 321-2.

Society is indeed a contract. Subordinate contracts, for objects of mere occasional interest, may be dissolved at pleasure; but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, calico or tobacco, or some other such low concern to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, those who are dead, and those who are to be born.

BURKE, Reflections on the French Revolution

Jean Jacques Rousseau

The Social Contract

or Principles of Political Right

Translated with an
Historical and Critical Introduction
and Notes by
Henry J. Tozer
M.A. (Lond.)

LONDON
GEORGE ALLEN AND UNWIN LTD

(Paris, 1896) by M. Edmond Dreyfus-Brisac. This scholarly volume supplies a large number of parallel passages from various authors and from Rousseau's other works, together with valuable appendices illustrating from autograph manuscripts at Geneva and Neuchâtel the development of Rousseau's political conceptions.

In the present edition the preface printed in the first and second editions has been omitted, and a few amendments have been made in the body of the volume.

H. J. T.

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INTRODUCTION.

THE French Revolution was no sudden outburst of fury against oppression. It was rather the tardy outcome of a vast assemblage of heterogeneous conditions, moral, social, economic, political, and religious—a slowly manifested revulsion against centuries of unavenged wrong. The multiform evils of the long period of autocratic government that had culminated in the reign of Louis XIV., the incalculable injury to commerce and industry resulting from perpetual wars, the overwhelming financial burdens imposed upon the people by government, nobles, and clergy, the ruthless persecutions of Huguenots and Jansenists by the ecclesiastical abettors of royal despotism, the grievous misrule of Louis XIV.'s successors and their ministers,—all these circumstances concurred with the growth of new and pregnant ideas on the various subjects of human interest to evoke that great awe-inspiring outburst of popular wrath, which proclaimed that the many should no longer be the bond-slaves of the few.

Among those who generated and directed the forces by which the materials of that terrific eruption were concentrated and ignited, Rousseau stands pre-eminent. In the writings and speeches of the revolutionary leaders his political doctrines are more distinctly traceable than those of any other thinker; and friendly and hostile critics have alike acknowledged the paramount importance of his work in shaping and disseminating the explosive ideas that kindled the flames of revolution. "The world," said a vigorous critic,* "has not seen more than once or twice in all the course of history a literature which has exercised

* Maine, *Ancient Law*, ch. IV.

such prodigious influence over the minds of men, over every cast and shade of intellect, as that which emanated from Rousseau between 1749 and 1762." While radical reformers have extolled Rousseau as the founder of a new era, conservatives have regarded with contempt or horror the passionate enthusiast who declared in burning words the inalienable sovereignty of the people. This doctrine, long before enunciated, though never clearly realised by the masses until Rousseau preached it, was impressed once for all upon Europe by the Revolution. Since 1789 the tide of popular freedom has rolled rapidly onward, renewing and purifying the nations. A thousand ancient privileges which, by their survival, proved formidable barriers to political progress have been gradually undermined and submerged; and this beneficent process of reformation not only continues, but operates with accelerating force. The feudal and ecclesiastical principle that certain orders in the State are divinely invested with political power is fast vanishing before the loftier democratic principle that every member of the social organism should share the rights and duties of citizenship.

The *Social Contract* has a double claim to be considered an epoch-making work: historically, on account of its enormous influence upon European life and thought; and, philosophically, because it is the most eloquent expression of the theory of a social compact. An adequate appreciation of Rousseau's work, and a true idea of the significance of certain doctrines to which he gave free currency, and which to-day subsist in full vigour, can be obtained only by an enquiry into the origins of his principal theories—those of the social contract and of popular sovereignty. The purpose of this Introduction is to sketch briefly the development of these and kindred theories, with especial reference to the writers by whom Rousseau was most influenced.

I.

Rousseau had a profound admiration for the political ideals of antiquity. This is manifested in his direct borrowings from the treatises of Plato and Aristotle, as well as in his frequent references to the constitutions of Sparta and Rome, which, like his contemporaries, he lauded without much knowledge or discrimination. The subordination of the individual to the State, which was the dominant feature of these ancient polities, was also, as we shall see, the leading characteristic of Rousseau's own theory. In Hellas or in Rome the citizen had but few personal rights; his conduct was largely subject to public censorship, and his religion was imposed by State authority. In Plato's and in Aristotle's works the fundamental features of Hellenic States are retained unaltered; the only true citizens and members of the sovereign body being an aristocratic caste of freemen, whose manual work is performed by slaves possessing no civic rights.

The notion of a social contract may be found in Plato. Socrates (*Crito*, 49–52) is represented as contending that whoever, after reaching man's estate, voluntarily remains in a city, should submit to the government, even when he deems its laws unjust; accordingly, on the ground that he would break his covenant with the State by escaping from prison into exile, he determines to await the execution of an unjust sentence. Again, in *Republic*, II. 359, Glaucon, who probably represents the views of the Sophists as modified by Socrates, affirms in the course of a discussion on justice that legislation and contracts between man and man originated in a compact of mutual abstinence from injustice. Plato depicts in the *Republic* a kind of idealised Sparta. He traces the origin of society and the State to mutual need, for men as isolated beings are incapable of satisfying their manifold wants.* In an ideal State philosophers should rule; and to this aristocracy, or government of the best, the body of citizens would owe implicit obedience. Plato's emphasis on the careful train

* In *Laws*, III., Plato traces *historically* the growth of the family into the State, and the systematisation of customs into laws.

ing and education of citizens finds a parallel in Rousseau's *Émile.*

While Plato aimed at constructing an ideal State, Aristotle in his *Politics* expounded an elaborate political theory in a purely scientific spirit.* He was the first to disentangle politics from ethics, though he was careful not to sever them. The majority of men, he urged, are ruled by their passions rather than by reason, and the State must therefore train them to virtue by a life-long course of discipline, as in Sparta. Until political society is instituted there is no administration of justice. Since the State is a supreme and all-embracing society for the promotion of virtue, and since the highest good and the complete happiness of the individual can only be realised in the State, it is necessary to enquire into the best constitution and the best system of legislation. The germ of the State is found in the family or household. From the union of several households arose the village community, the members of which were blood-relations, subject to the kingly rule of the eldest male, in other words, to patriarchal government. By the association of several villages was formed the State, a natural, independent, and self-sufficing organisation. The State is the complete development of the household and the individual, though prior to these "in nature," since it is a whole of which they are parts. But while the household is ruled monarchically, in constitutional governments the subjects are free and on an equality with their rulers. Natural sociability and mutual advantage impel men to union. Man is by nature a political animal. But, although the impulse to political association is innate, the actual formation of States must be due to the initiative of particular persons.

The State is much more than an alliance which individuals can join or leave without effect, for the independent or cityless man (ἄπολις) is unscrupulous and savage, something essentially different from a citizen. The members of a State are numerous, and they differ in their personal qualities; it is by the co-operation of

* *Ethics*, X. 9.

its various parts in the performance of their proper functions, and by the reciprocal equality of these parts, that the State is constituted an organic whole, and its preservation secured. Plato (*Republic*, III.) had anticipated this conception of the State as a body whose members combine harmoniously for a common end.* Aristotle held that where freedom and equality prevail there should be alternate rule and subjection, but it is best, if possible, that the same persons should always rule. In opposition to Plato's communism, he argued in favour of duly regulated private property, considering that only a moral unity is possible or desirable in the State.

Aristotle divided governments into monarchies, aristocracies, and republics (πολιτεῖαι), and their respective perversions, tyrannies, oligarchies, and democracies, according as the supreme power is in the hands of one or a few or the many, and according as the end is the general good or the private interests of the rulers, regard being also paid to freedom, wealth, culture, and nobility. Each polity consists of three parts—the deliberative, the executive, and the judicial bodies. Citizenship is constituted neither by residence, nor by the possession of legal rights, but by participation in judicial power and public office. The many, having attained a certain standard of morality, should rule; for, though individually inferior, they are collectively wiser and more virtuous than a select few. But, while undertaking all deliberative and judicial functions, they should be excluded from the highest executive offices. The best polity is that in which the middle class between the very rich and the very poor controls the government; for that class has the most permanent life, and is the most conformable to reason, as well as the most capable of constitutional action. This is virtually an affirmation that sovereignty should reside in the majority of the citizens, slaves of course being ignored. Democracies agree in being based on equality in respect of personal liberty, which implies the eligibility of all citizens to hold, or elect to, the offices of State, and the rule of each over all and all over each in turn. Aristotle, like Plato,

* Cf. the fable of Menenius Agrippa (Livy, II.) and Ephesians iv. 25

treated democracy as a debased form of government, and held that it is more suitable to large States than to any others. Like Plato, too, he concerned himself chiefly with small city-states of the Hellenic type—States large enough to be independent, and small enough for all citizens to be acquainted with one another.

The conquests of Alexander changed the aspect of the Greek world; and the tendency to individualism that manifested itself upon the decay of the national spirit in Greece found expression in the Stoic and Epicurean philosophies. The Stoics, developing the principles of the Cynics, made a great advance towards cosmopolitism. They regarded all men as partakers in the divine reason, and as members of one community subject to nature's universal law, which required observance of contracts and abstinence from injury. The Epicureans revived the notion of a compact as the basis of justice. Justice, said Epicurus, is nothing in itself, but merely a compact of expediency to prevent mutual injury.

Little of direct importance was added to political theory by the Romans, but in a closely allied department—viz., Jurisprudence—they made contributions of deep interest and value. Under the Republic there had grown up beside the Civil Law (*Jus Civile*) a collection of rules and principles called the *Jus Gentium*, which represented the common features of the institutions prevailing among the Italian tribes. The great Roman jurisconsults, deriving from the Stoics the idea of a natural condition of society anterior to the formation of States, came gradually to identify the Law of Nature (*Jus Naturale*) with the *Jus Gentium*. They taught that this law was divine and eternal, and that, being imposed by natural reason on all mankind, it was superior in majesty and validity to the laws of particular States. Natural law was supposed to be actually existent and bound up with civil law, though distinguishable from it by its greater simplicity, harmony, and generality. In the Antonine era, when Roman Law attained a high development and Stoic doctrines were most influential, the jurists formulated as juridical, but not as political principles, the maxims that all men were born free, and that by the law of nature all men are equal—the implication being that although the civil law recognised class

distinctions, all mankind were equal before the law of nature. These unfounded assumptions of a state of nature and a natural law, which thus obtained a kind of authoritative recognition, were destined to exercise extraordinary influence on mediæval and modern political theories.*

The Roman jurists did not postulate a contract as the origin of civil society; but it has been suggested that Roman Law produced a strong tendency to deduce recognised rights and obligations from a supposed, but non-existent contract.† With regard to sovereignty, the citizens assembled in the *comitia tributa* exercised the supreme power during the golden days of the Republic. Under the Empire, the sovereign authority was vested in the Emperor, and, according to the later jurisconsults, the people, by the *lex regia*, delegated the supreme command (*imperium*) to each Emperor at the beginning of his reign, thus conferring on him all their rights to govern and legislate.‡

In the Middle Ages the chief representative of political theory, as of all scholastic philosophy, was Thomas Aquinas (1226–1274). Following the Roman jurists, who were assiduously studied at this period, Thomas recognised a natural law, the principles of which have been divinely implanted in human reason, together with positive laws that vary in different States. He held that the legislative power, the essential attribute of sovereignty, should be directed to the common good, and that, for the attainment of this end, it should belong to the multitude or to their representative, the prince. A mixed government of monarch, nobles, and people, with the Pope as final authority, seemed to him the best.

In his *Defensor Pacis*, Marsilio of Padua (d. 1328) advocated the doctrine of popular sovereignty, and combated the papal pretensions to temporal power that had been based on the False Decretals. Since men adopted civil life for their mutual advantage,

* Maine, *Ancient Law*, chs. III. and IV.

† Sir G. C. Lewis, *Methods of Observation and Reasoning in Politics*, I. p. 423.

‡ *Digest*, I. iv. 1.

the laws ought to be made by the body of citizens; for laws are not likely to be the best possible, nor to be readily obeyed, unless enacted by those whose interests are directly affected and who know what they need. He affirmed that the legislative power belongs to the people, and that the legislature should institute the executive, which it may also change or depose.

The Reformation marks the beginning of a new and momentous era—an era destined to terminate three centuries later with the French Revolution, which was the legitimate sequel of the Reformation in the sphere of politics. The right of the individual to liberty of opinion was the principle underlying the great religious upheaval that once for all freed men's minds from the fetters of mediæval scholasticism. The Renaissance, organically connected with the Reformation, contributed new stores of learning, and stimulated thinkers to unwonted vigour and independence of research. The study of Plato and of purer texts of Aristotle was especially instrumental in broadening and deepening the movement by presenting novel and lofty ideals of life and by suggesting freer methods of investigation. All departments of knowledge were vitalized, and the circumscribed philosophy, which for a thousand years had served as the handmaid of a crude and narrow theology, rapidly gave place to a new philosophy of nature and man, more liberal, more profound, and more comprehensive.

Relieved from the incubus of ecclesiastical authority, and untrammelled by tradition and superstition, thought once more became active and fruitful. Bacon recalled men from metaphysics to nature and actuality, while Descartes vied with Bacon in advocating direct appeal to experience. Philosophy must begin with universal scepticism. But one fact is soon found to be indubitable: the existence of a thinking principle in man (*cogito, ergo sum*). The existence of consciousness is a root-principle by reference to which the certainty of all other knowledge must be tested. The appeal to subjective conviction, to the authority of the individual, which was so strongly emphasized in the Reformation, thus becomes the very basis of the Cartesian philosophy, and we shall see it made prominent, with all its merits and defects, in the teaching of Rousseau and his contemporaries.

While a revolution was working itself out in the world of thought, a kindred revolution was proceeding in the world of action. As the consciousness of the individual longed for autonomy, so did the nations long for independence and self-government. In the Middle Ages feudalism had linked men in a chain of personal dependence. King and noble, freeman and serf, were connected by mutual obligations in each separate State, while the Pope claimed paramount authority over the whole system of European States. But the Reformation had struck a deadly blow at the temporal power of the Papacy, feudal privileges had been curtailed, municipal life had been reawakened, and a keener popular interest in public affairs was springing up. Undivided allegiance to the supreme national authority gave birth to a truer patriotism, which was quickened by the exclusion of priests from the offices of State. At first, however, liberty of thought was hardly more secure under the Reformers than under their theological antagonists, while the removal of the controlling discipline of the ancient Church, which, in spite of its corruptions and superstitions, had certain relative advantages in a comparatively barbarous age, was followed by disorder and strife. The urgent necessity of settling national governments on a legitimate basis began to be acutely felt, and the evils engendered by the prevailing unrest impelled many thinkers to original research on questions of government. To this new movement the study of Roman Law and of ancient works on politics gave impetus and guidance.

The modern period, so prolific in political theories, was heralded by Machiavelli, for whom Rousseau cherished a warm admiration; but his famous book, the *Prince*, is not so much a philosophical treatise as a manual of practical statecraft. He seems to have had a preference for republican government, though, doubting the stability of a popular constitution, he inculcated maxims for securing a strong princely rule. His advocacy of a centralised government has greatly affected political theory and practice in Europe. Machiavelli was perhaps the first writer who treated politics from purely secular standpoint.

The majority, however, of important thinkers on government

favoured the theory of an original pact or contract,* of which two forms may be distinguished after the Reformation. The first, or biblical and mediæval form, which still survived, was probably based on the Hebrew idea of a covenant between God and man (as *e.g.* in Gen. xvii. 10 or II. Sam. v. 3), supplemented by the Roman idea of contract. It postulated a tacit contract between the government and the people.† The second, or modern form, relates to the institution of political society by means of a compact among individuals. It is set forth in Hooker, and, still more explicitly, in Hobbes, in Locke, and in Rousseau.

The decline of the feudal nobility having enabled kings to exercise arbitrary authority by freeing themselves from many of the limitations which law or custom had imposed upon them, numerous scholars who had imbibed a spirit of liberty from study of the republican institutions of Greece and Rome, and who had marked the fate of evil kings in the Old Testament, showed themselves eager to restrain the growing despotism. Hence arose a vast literature of arguments for and against tyrannicide. The defenders of popular liberties at first took their stand upon the biblical form of the compact theory. The *Vindiciae contra Tyrannos* (1579), ascribed to the Huguenot Languet, contended on scriptural grounds that kings derive their power from the people's will, and that if a king violates the compact to observe the laws which he and the people promise conjointly at the institution of royalty, the latter are absolved from allegiance. Buchanan also held that king and people are mutually bound by a pact, and that its violation by the former entails forfeiture of his rights. Even the Jesuits Bellarmine and Mariana argued that kings derive their authority from the people, while affirming that they are subject to the Pope. James I. admitted this theory of a pact in a speech to Parliament in 1609, saying that "every just king in a settled kingdom is

* In Roman Law a *pact* was the product of an agreement among individuals, and fell short of a *contract*, which was a pact *plus* an obligation. In political science the words may be used interchangeably and in a non-legal sense.

† Sir G. C. Lewis, *Methods of Observation and Reasoning in Politics*, I. p. 426. Cf. Mr. Ritchie's *Darwin and Hegel*, p. 209.

bound to observe that paction made to his people by his laws, in framing his government agreeable thereunto." * Another important recognition of the theory was the declaration of the Convention Parliament in 1688 that James II., "having endeavoured to subvert the constitution by breaking the original contract between king and people," had rendered the throne vacant.

Before tracing the doctrine of the social contract in its second form, we must refer to the work of the first comprehensive political philosopher of modern times, Bodin, author of the *Republic* (1577 and 1586). According to Bodin, force, and not a contract, is the origin of commonwealths. Primitive patriarchal governments were overthrown by conquest, and natural liberty was thus lost either wholly or in part. Sovereignty is supreme power over citizens, and is itself bound by no laws except the law of nature. Whoever legislates is sovereign, for legislative power includes every other. In every independent community there must be some power residing in one or more persons which is the source of law, and which must therefore be superior to the positive law that it creates and enforces; "this power somewhere is necessary to an independent State, and its presence is the test of national independence." Since "the legal supremacy of the State is conceivable only when the State has acquired a local habitation and a permanent establishment," this view of sovereignty could not well assume definite shape till the sixteenth century. † Bodin, then, seized on the central position in the modern theory of the State, political sovereignty; and he regarded sovereignty as independent, indivisible, perpetual, inalienable, absolute power. He tended, however, to confuse his theoretical sovereignty with existing kingships, and held monarchy to be the best form of government, no such form as a limited monarchy being possible for the reason that sovereignty is indivisible. Bodin defined magistrates as officers of the sovereign possessing public authority.

* Quoted by Locke, *Treatises on Government*, II., sec. 200.

† Sir F. Pollock, *History of the Science of Politics*, pp. 46-9, from which the above quotations are made.

Althusius (1557–1638) is notable for clearly asserting that sovereignty resides in the people alone, kings being only their magistrates or administrators; and that the sovereign rights of the community are inalienable.

The great work of Grotius, *De Jure Belli et Pacis* (1625), contains observations on several questions connected with political theory. Grotius admits a natural right prior to any convention, and holds that man has a strong desire for a peaceable and ordered society. He appears, as Mr. Ritchie remarks,* to combine both forms of the social contract theory. "Since it is conformable to natural law to observe contracts, . . . civil rights were derived from this source, mutual compact. For those who had joined any community, or put themselves in subjection to any man or men, had either expressly promised, or from the nature of the case must have been understood to promise tacitly, that they would conform to that which either the majority of the community or those to whom the power was assigned should determine." The sovereign is that indivisible power whose acts cannot be invalidated by any human authority, except the succeeding sovereign. Grotius inculcates the doctrine of non-resistance, and denies that the people are always and everywhere sovereign, or that all government is established for the sake of the governed. Sovereignty arises either from conquest or from consent. A whole conquered people may, like individual prisoners, be reduced to slavery, and lose their liberty *de jure* and *de facto*, though a moderate victor will incorporate them with his own citizens on equal terms, or leave them such degree of independence as is consistent with his own security. Slavery, whether of individuals or of nations, may also arise from consent, and their posterity may become the property of a master or monarch, freedom being alienated in exchange for subsistence. M. Janet† observes that Grotius in some sense reduces sovereignty to a contract of sale, treating questions of natural or political right by the maxims of civil law. The right of sovereignty is the right of

* *Darwin and Hegel*, p. 215.
† *Histoire de la Science Politique*, II. pp. 227–234.

a master over a slave (which positive law recognised), transferred to a people or monarch over a conquered nation.

The social contract in its second form is probably first found in Hooker's *Ecclesiastical Polity*, Book I. (1592–3).* Following Thomas Aquinas, to whom he was greatly indebted, Hooker postulates an original state of nature in which all men were equal and subject to no law but the absolute and eternally binding law of nature, revealed by human reason. Desire for a life suitable to man's dignity, and aversion to solitude, impelled them to unite in "politic societies." The natural law still binds men as men, but is supplemented by the "law politic," which binds them as members of society. "Two foundations there are which bear up public societies: the one, a natural inclination, . . . the other, an order expressly or secretly agreed upon touching the manner of their union in living together. The latter is that which we call the law of a commonweal." To take away all mutual grievances, injuries, and wrongs, the only way was to ordain some kind of government, or common judge, in order that the authority appointed to govern might secure the peace and happiness of its subjects. While admitting with Aristotle that the origin of government was in kingship, Hooker considers that the inconveniences of this form caused others to be devised, "so that in a word all public regiment of what kind soever seemeth evidently to have risen from deliberate advice, consultation, and composition between men, judging it convenient and behoveful." Laws not only teach what is good, but also have a constraining force, derived from the consent of the governed, expressed either personally or through representatives. "Laws human, of what kind soever, are available [*i.e.* valid] by consent." "Laws they are not which public approbation hath not made so." Thus Hooker clearly recognised that political society originated in a compact, though probably he was unaware of any advance upon Aristotle and Thomas Aquinas in his description of it. He also affirmed explicitly that sovereignty, or legislative power, resides ultimately in the people.

* See Clarendon Press edition by Church.

In the famous declaration of the Pilgrim Fathers on board the *Mayflower* (1620), we find the compact theory actually applied to practice, though it must be remembered that an independent political society was not immediately formed: "We do solemnly and mutually in the Presence of God and of one another covenant and combine ourselves together into a civil Body Politic.' Another Puritan document, *The Agreement of the People of England*, which emanated from the army of the Parliament in 1647, expressly affirms the sovereignty of the people and other "native rights." The fourth article declares: "That the power of this and all future Representatives of this Nation is inferior only to theirs who chuse them, and doth extend without the consent or concurrence of any other person or persons to the enacting, altering, and repealing of Lawes; to the erecting and abolishing of Offices and Courts; to the appointing, removing, and calling to account magistrates and officers of all degrees; to the making war and peace, to the treating with foraigne States; and generally to whatsoever is not expressly or implyedly reserved by the represented themselves,"—the chief reservation being liberty of conscience.*

In his *Tenure of Kings and Magistrates* (1649), Milton propounds similar principles. After affirming that "all men naturally were born free," he says that wrong sprang up through Adam's sin; wherefore, to avert their own complete destruction, men "agreed by common league to bind each other from mutual injury and jointly to defend themselves against any that gave disturbance or opposition to such agreement. Hence came cities, towns, and commonwealths." Men having ordained some authority to restrain by force all who violated peace and common right, "this authority and power of self-defence and preservation, being originally and naturally in every one of them and unitedly in all," was vested in kings and magistrates as deputies and commissioners. "The Power of Kings and Magistrates is nothing else but what is only derivative, transferred, and committed to

* See Professor Gardiner's *History of the Civil War*, III. pp. 375-394. Cf. Borgeaud's *Rise of Modern Democracy*, chap. II.

them in trust from the People to the common good of all, in whom the power yet remains fundamentally and cannot be taken from them without a violation of their natural birthright." Hence nations may choose or depose kings, "merely by the right and liberty of freeborn men to be governed as seems them best."

Meanwhile a totally opposite theory had been growing up. It assumed that kingdoms being enlarged families, the patriarchal authority of the head of a household was transferred by primogenitary descent to "the representative of the first sovereign who could be historically proved to have reigned over any nation." * Monarchy was therefore presumed to rest on an indefeasible right, and the king was held responsible to God alone. The celebrated Spanish Jesuit, Suarez, attacked this doctrine of divine right, appealing against it to Thomas Aquinas, to the civil laws, and to the great canonists and casuists, "all of whom agree that the prince has that power of law-giving which the people have given him," the reason being that "all men are born equal," and consequently "no one has a political jurisdiction over another." Adam's authority was merely patriarchal, not political. Political power began when families were collected into a community by the founders of it. The people therefore might depose a bad ruler. As Hallam remarks, this refutation might well have shamed the English divines who so strenuously and servilely upheld divine right.

Thomas Hobbes (*De Cive*, 1642; *De Corpore Politico*, 1650; *Leviathan*, 1651) combined the doctrine of the unlimited authority of the sovereign, taught by the supporters of the patriarchal theory, with the rival doctrine of an original compact of the people. He emphasized forcibly the essential features of sovereignty, and gave prominence and distinctness to the social contract theory, which, after long serving as a basis for the defence of popular rights, now became the foundation of an uncompromising doctrine of passive obedience. Hobbes's defence of absolutism was secular and rationalistic rather than theological.

* Hallam's *Literature of Europe*, III. p. 160.

He regarded the happiness of the community as the great end of government.

According to Hobbes, a man's impulses are naturally directed to his own preservation and pleasure, and he cannot reasonably aim at anything but their gratification. Since, therefore, man is unsociable by nature, his altruistic actions must be ascribed to rational self-interest. In striking opposition to the ancient conception of the state of nature, Hobbes depicted it as a state in which "every man has a right to everything, even to one another's body,"—a state in which every man is at war with his fellows, struggling for safety, gain, or glory; in brief, a state in which "there is continual fear and danger of violent death, and the life of man solitary, poor, nasty, brutish, and short," like that of savages. Enlightened self-interest must endeavour to escape from such a miserable and perilous condition. No one feels safe, for men are "so equal in the faculties of body and mind" that no one has irresistible superiority over another. Fear of death, then, and desire of things "necessary to commodious living," impel them to political union, and reason suggests convenient articles of peace. As mere agreement would not restrain men's passions, a supreme common power is needed to overawe them.

Society is formed either by "acquisition," that is, by forcible subjection of foes to a conqueror in exchange for life, or by "institution" (political society proper), that is, by a compact according to the terms of which a common power is established, either one man or an assembly of men, that may reduce all wills, by plurality of voices, to one will, and "bear their person." "This is more than consent or concord; it is a real unity of them all in one and the same person." Hobbes defines the Leviathan* or commonwealth as "one person of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all as he shall think expedient for their peace

* In his Introduction to the *Leviathan*, Hobbes shows a dim perception of the theory of a social organism, comparing the commonwealth to an "artificial man," sovereignty to the soul, etc.

and common defence. And he that carrieth this person is called sovereign and every one besides his subjects." The sovereign is the soul of the body politic, giving it life and motion. He is not established by a covenant between himself and his future subjects, but by an agreement of the latter among themselves; the covenant is therefore irrevocable, and the subjects cannot be released from obedience. The sovereign may be established by the majority, and if any man, after taking part in the election, refuses to accept their decision, he may be destroyed. Since "every particular man is author of all the sovereign doth," and since "to do injury to oneself is impossible," the sovereign cannot commit injustice. As to acquisition by conquest, the right of dominion over vanquished foes is given, not by victory, but by the covenant of the latter not to escape or do violence if their lives are spared. Whether sovereignty be established by acquisition or by institution, its rights are the same.

On surrendering their natural rights to an absolute sovereign, men receive in exchange certain civil rights guaranteed by the supreme power, and herein is the source of civil inequality. To the sovereign belong the sole legislative power; the right of judicature; the right of making war and peace, together with command of the military forces; the appointment of all ministers, magistrates, and officers; and the power of rewarding or punishing subjects. The rights enumerated are of the essence of sovereignty, the marks denoting in what man or assembly it resides, and they are incommunicable and inseparable from it. To be effective the sovereign power must be unlimited, irreclaimable, and indivisible. Unlimited power may indeed give rise to mischiefs, but the worst of these is not so bad as civil war or anarchy.

Commonwealths (monarchy, aristocracy, and democracy) do not differ in their powers, but only in their aptitudes to produce peace, happiness, and security; for prosperity depends less on the kind of government than on the obedience and concord of its subjects. Hobbes, however, shows undisguised preference for monarchy, and dwells on the divisions and inconstancy of popular assemblies, and on their need of a dictator or temporary monarch in all great troubles. Sovereignty being indivisible,

elective or limited kings are not sovereigns, but ministers or authoritative representatives of the supreme power. As to legislation, "law in general is not counsel but command." Civil laws are commands of the sovereign, and are the standard of right and wrong to his subjects, sovereigns themselves being subject only to the law of nature, which is divine, and can therefore be abrogated by no man. Since it would not be reasonable for an individual to obey the laws unless all others did so, the sovereign must secure their general observance. The limits of sovereignty are set by those natural and indefeasible rights which cannot be surrendered by any covenant. Rebellion is unjustifiable except when the safety of the subjects is threatened by the sovereign, for it was self-preservation that induced men to associate, and rebellion would only restore the anarchy and insecurity of the state of nature. Reason may perhaps discover principles by which commonwealths may be made everlasting. The sovereign, Hobbes strongly insists, must regulate ecclesiastical as well as civil affairs, and determine what doctrines are conducive to peace; otherwise the subjects' allegiance will be divided, and the State will suffer dissolution.

Thus Hobbes upheld a clear and valid doctrine of sovereignty, while retaining the fiction of a social contract to generate the sovereign. He borrowed the sovereign's absolutism from the patriarchal theory, but rejected that theory of the foundation of political society. Hobbes affirmed that "the validity of covenants begins not but with the constitution of a civil power sufficient to compel men to keep them"; and yet, inconsistently with this, he bases the obligatoriness of the covenant by which the sovereign is established on a law of nature which enjoins "that men perform their covenants made," or else they remain in a state of war. Hobbes does not suggest that the social contract is historical; he appears to have believed that States had their natural beginning in conquest or in families gradually aggrandised by the acquisition of servants, but, being concerned with rational explanation, he supposes them to have been based on some kind of voluntary contract.*

* Croom Robertson, *Hobbes*, p. 146.

Spinoza (see especially *Tractatus Politicus*, 1677) regarded men as originally having equal rights over all things, and the state of nature as a state of war. He identified natural right with natural power. Men, led by their reason, freely combined their private forces to establish civil government, by which means they attained their ends—peace and security. The right of the supreme magistrate is the sum of the collective rights or powers of the citizens; and as their rights were absolute, the power of the State is also absolute. When the sovereign loses his superior power, he loses his superior right. In Hobbes the covenant is supposed to give a supreme right to the sovereign apart from his actual power; but if power and right are identical, Spinoza's conclusion is more logical.

Puffendorf (*The Law of Nature and of Nations*, 1672) held with Grotius that men are naturally sociable and inclined to family life, which is the primary form of society. Experience of the injuries that one man can inflict on another leads up to civil government, which is constituted (1) by a unanimous mutual covenant of a number of men to institute a commonwealth and be bound by the decisions of the majority, all dissentients retaining their natural liberty; (2) by a resolution of the majority that certain rulers shall be placed in authority; (3) by a covenant between the government and the subjects that the former shall rule for the common good, and that the latter shall faithfully obey lawful commands. The State, when duly constituted, may be regarded as one person having a single will represented by that of the sovereign, wherever the sovereignty may be placed.

In 1680 appeared Filmer's *Patriarcha*, a feeble and rambling tractate in defence of "the right divine of kings to govern wrong." Filmer traced the origin of political power to Adam, who derived his royal authority from the rights of fatherhood and property conferred by God. Adam having transmitted his absolute and arbitrary power through the patriarchs to each succeeding generation, civil power in general is by divine institution and cannot be limited. The existing rights of princes are derived from Noah and his children, of whom they are deemed the heirs even though they hold their titles unjustly. The stress Filmer laid on the

historical fact that patriarchal power was the leading feature of early societies, and his contention that men were not born free, gave him on these points a superiority over adherents of the compact theory, although his general conclusions were as absurd as they were slavish. Algernon Sidney was the first to oppose Filmer. In his *Discourses on Government* he argued against absolutism in favour of the social contract theory in its earlier form, maintaining that nations may make contracts, either express or implied, with their magistrates.

As the political theories of Milton and Hobbes sprang from the troublous times of the Great Rebellion, so that of Locke expressed and vindicated the principles of the Revolution of 1688. He devoted the first of *Two Treatises of Civil Government* (1690) to a vigorous attack upon Filmer, on the demolition of whose positions he bestowed excessive labour. The second treatise contains a constructive theory, avowedly built on the foundations of Hooker, whose name carried weight in the Tory camp. Locke seeks the "true original, extent, and end" of political power, by which is implied "the right of making laws with penalties for the regulating and preserving of property, and of employing the force of the community in the execution of such laws, and in the defence of the commonwealth from foreign injury, and all this only for the public good."

After showing that no man has a natural right to govern, Locke portrays the state of nature—a state of freedom and equality in respect of jurisdiction and dominion, limited only by natural law or reason, which prohibits men from harming one another in life, health, liberty, or possessions, the punishment requisite by way of restraint or reparation being in every man's hands. "Men living together according to reason without a common superior on earth with authority to judge between them is properly the state of nature." He who tries to enslave or kill another puts himself into a state of war with the latter. Every man has a natural right of property in his own person and in the product of his own labour exercised on the materials of nature. "As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property;" and this natural right may still be

allowed. Occupancy gives only an inchoate title; for value depending mainly on labour, labour is the primary basis of natural right. According to Locke, then, property is antecedent to civil society.

In early times fathers exercised the executive power of the law of nature, not in virtue of their paternal power, but by consent of their children, who "could nowhere find a greater security to their peace, liberties, and fortunes than in the rule of a father." Children are born to, though not in, a state of freedom and equality. "The natural fathers of families by an insensible change became the politic monarchs of them too," and thus were laid the foundations of hereditary and elective kingdoms; but that princes exercise government *de facto* does not prove that they have their titles in the father's right. If, as Locke said, the state of nature was "a state of peace, goodwill, mutual assistance and preservation," it is hard to see why men should desire political society. But it appears that they were full of fears and dangers in that state, and their chief end in political union was the better security of individual rights of life and property. They therefore renounced their natural liberty in favour of civil liberty, and then they had "a standing rule to live by, common to every one of that society, and made by the legislative power erected in it." In short, necessity, convenience, and inclination urged men into society.

A political society differs from a family in its constitution, power, and end. "Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders, are in civil society with one another." Men may either freely unite to form such a society by resigning their natural and necessary power to the majority of the community, or they may become members of one already formed, bare agreement to incorporate being all the compact necessary. In the former case the will and determination of the majority, by the law of nature and reason, rightly pass for those of the whole; otherwise nothing could be done, and the original compact would be meaningless. Conquest is not an "original" of government. Consent was and could be the sole origin of any lawful government. To the ob-

jection that the social contract is unhistorical, Locke replies that "government is everywhere anterior to records," and that the beginnings of Rome and Venice at least were due to the union of free and independent men, amongst whom there was no natural superiority. But the first argument is two-edged, and the second does not bear investigation; Locke, moreover, contradicts himself by admitting that history reveals the origin of commonwealths generally in the government of one man, the father of a family, or some one chosen for his merits as ruler of several families, whose power might by tacit submission pass to the eldest son. Almost all early monarchies were elective, "at least upon occasion," and that form of government having been established by free consent of the people enabled young societies to subsist. If it be urged that "every one is born subject to his father or his prince, and is therefore under the perpetual tie of subjection and allegiance," the reply is that men never admitted such subjection without their own consent. Posterity cannot be bound by compacts, but the consent of free men born under government is given by each separately as he comes of age, and so passes unnoticed. Thus the compact is renewed from generation to generation in the person of every citizen. Children are free to choose what political society they will join; but if they wish to enjoy the inheritance of their ancestors, they must submit to all the conditions annexed thereto. Tacit consent is inferred from the tenure of property, and is withdrawn when a man quits the country. Express consent is perpetually binding unless the society itself is dissolved.

Since the great end of civil society is the enjoyment of property in peace and safety, and since the established laws are the chief means to this end, "the first and fundamental positive law of all commonwealths is the establishment of the legislative power," which is not only supreme, "but sacred and unalterable in the hands where the community have placed it." It is the sole source of law, and cannot transfer its powers to any person or body. The legislative assembly is not absolutely arbitrary over the lives, liberties, and property of the people, for it possesses only the joint power which the separate members had prior to the formation of the society, and which they resigned to it for particular and

limited purposes. "The end of law is not to abolish or restrain but to preserve or enlarge freedom;" and the law of nature, being eternal, underlies all human laws. The legislative power is required—(1) to govern by promulgated laws, established for the common good alone, and resting ultimately on the consent and authority of the people, from which laws no one is exempt, not even the legislators themselves; (2) to appoint known and impartial judges authorised to administer the laws; and (3) to institute a power adequate to execute them. "The legislative being only a fiduciary power for certain ends," the people may remove or alter it when it violates the trust reposed in it. The society, then, does not covenant with royalty or with any other form of government, but entrusts its power to certain persons, who may, if necessary, be replaced. Thus the community always retains the supreme power or ultimate sovereignty (a term not used by Locke), but does not assume it until the government is dissolved. The legislative has the right to direct the force of the commonwealth, though it need not always remain in session; the executive power should be perpetual, as the laws have a lasting force. To prevent the sacrifice of the general welfare to private interests, it is expedient that the legislative and executive powers should be in different hands, the latter being subordinate to the former; the legislature, however, may withdraw the executive power, if advisable, and punish mal-administration. Where both powers are vested in an absolute monarch there is no civil government, for there is "no common judge with authority" between him and his subjects, and the state of nature continues. War and peace, alliances, and foreign affairs generally are to be vested in the federative power, which, also in subordination to the legislative, should be united with the executive, in order that the whole force of the community may be in the same hands. The form of the commonwealth or independent community (*civitas*) depends on the placing of the legislative power. The forms are democracy, oligarchy, and hereditary or elective monarchies, together with mixed forms.

Commonwealths may be dissolved from without by conquest, or from within by the dissolution of the executive or of the

legislative, which keeps the will that is the essence of the society The power which each individual gave the society on entering it cannot be resumed while the community lasts, nor can the legislative power revert to the society unless it was bestowed for a limited period. But a government may be dissolved from within, and yet the society may not be destroyed. The legislature, finally, may be changed both in persons and in form for the common good, though the original contract is perpetually binding and irrevocable. A revolution, therefore, is justifiable when the government ceases to fulfil its part of the contract—the protection of personal rights.

Hobbes and Locke, then, agreed that men emerged from the freedom and equality of the state of nature by a covenant of the majority to form a political society, which compact the law of nature obliges them to observe. But Locke did not agree with Hobbes that the natural state was a state of war; he seems, like Hooker, to have regarded the want of a common judge and of a known law as the chief inconvenience of that state. Again, Locke held that the power of the government should be carefully limited, and he justified any necessary revolution on the part of the sovereign people; whereas Hobbes pretended that a government when once established should always subsist and have absolute power, misgovernment being preferable to the evils that attend rebellion. Locke also made a great advance on Hobbes by carefully distinguishing between the establishment (or dissolution) of a political society and that of a government, legislative or executive. His ideal was a moderate constitutional government, sovereignty limited by the social contract, and he endeavoured to show that this alone was justified by the law of nature. His work began a new era of political opinion in Europe. It has been objected that his doctrine of the ultimate sovereignty of the people is open to the charge of sanctioning frequent revolutions, but Locke relied with reason on man's natural inertia as an adequate safeguard against this danger.

English thought was a factor of the highest import in the French *Aufklärung* or Illumination of the eighteenth century. The individualistic philosophy and the democratic political theory

of Locke were eagerly studied and assimilated; and, when carried out to their logical conclusions by such thinkers as Condillac, Diderot, Voltaire, and Rousseau, they bore an aspect that would have terrified their sober-minded author. The reverence for tradition and custom that had so long dominated French minds began rapidly to vanish before this awakening spirit of free enquiry. Scepticism in religion, destructive criticism of conventional morality, and scathing denunciation of royal misrule were the characteristics of the comprehensive movement which ushered in the "age of reason." The new ideas were in great measure cosmopolitan; Voltaire and his fellows protested in the name of human nature against the persecution and oppression that were everywhere rife.

The shameful abuses in France alone furnished them with ample food for thought. Under Louis XIV. the State had become a thoroughly organised and centralised despotism (*L'état c'est moi*, as Louis said), unrestrained by popular opinion and careless of the people's welfare. The States-General had not met since 1614, the nobility had been deprived of political power, and the provincial assemblies that had survived were dependent on the Crown, which governed the country directly by means of thirty Intendants. After Louis XIV.'s death the force and energy of the monarchy began to decline, and the fresh danger of instability was added. Trade and agriculture were harassed by numerous restrictions and imposts, and famines were frequent. Social and economic evils of various kinds made life a burden to the many. The absentee nobility levied a number of iniquitous feudal dues, and the corrupt priesthood, which upheld royal absolutism and violated liberty of conscience, was maintained by the odious tithe system and by vast landed estates that covered one-fifth of France. While the peasant farmers contributed eighty-two per cent. of their incomes towards the extravagant expenditure of the court and central government, the rich privileged classes and the clergy practically escaped taxation. The taxes, especially the *taille* and the *gabelle*, were bad in kind, oppressive in amount, and levied in the most unequal and arbitrary manner. Statute labour on the roads (*corvées*), com

pulsory enrolments for the militia, a venal and partial administration of the law, and a barbarous penal code were among the evils which had long afflicted the people. Riots in the provinces and revengeful attacks on the wealthy revealed from time to time the "despair and fell disease and ghastly poverty" that reigned throughout France. Arthur Young, whose vivid pictures of the state of affairs in 1787-89 abundantly testified to the urgent need for a revolution, roundly ascribed this bristling crop of abuses to the sinister influence of the government.

Impressed with the dignity of men as men, the eighteenth century publicists assailed established institutions with unprecedented freedom and vigour. They were filled with enthusiasm for that imaginary state of nature of which the ancients had dreamed. "A return to nature," said Taine, "meaning by this the abolition of society, was the war-cry of the whole encyclopædic battalion." There was an implicit theism in the current use of the term "nature"; the notion of nature as "red in tooth and claw" belongs to the scientific nineteenth century. To the writers of last century, "the state of nature was the reign of God." * They knew nothing of the actual life of primitive man; in fact, they appear to have conceived the natural state less as a definite and universal condition of the race in early times than as an ideal condition of simplicity and innocence strongly contrasting with the artificiality and depravity which prevailed in their own age. To seek an ideal in the past was characteristic of a period in which there was no true idea of progress. Men have now ceased to cast wistful glances backward to an imaginary state of perfection—to a garden of Eden or an age of gold. In the seventeenth century man had been regarded as a fallen being, naturally sinful; by an inevitable reaction he was assumed in the eighteenth century to be naturally good, and his debasement was attributed to laws and civilisation. The notion of a law of nature was revived; and this conception, says Maine,† regarded by Roman jurisconsults as remedial and reformative of positive

* Pope's *Essay on Man*, Epistle iii., l. 148.
† *Ancient Law*, ch. IV.

law, now became anarchical, and permeated all particular ideas on law, society, and government. The French lawyers changed "all men are equal" into "all men ought to be equal," and to this they added, "all men ought to be free." The law of nature, thus modified, was transferred from the forum to the street; and instead of a juridical theory it became an article of faith. Liberty and equality, now the great political ideals, were to be realised by a restoration of the state of nature. But a radical transformation of existing institutions was an indispensable pre-requisite of the evolution of a more perfect society, and hence the growth of a revolutionary spirit in politics. The philosophers who embodied this new spirit had little knowledge of history or of affairs, but they were full of confidence in the natural goodness of the individual. They therefore recommended appeal to the subjective reason as the highest and ultimate authority. Such a method could produce only negative results, and consequently these thinkers were, for the most part, "architects of ruin," endeavouring, through their mistrust of all authorities, to undermine the old order, without being competent to frame plans for a new order of a loftier type. Yet their function in clearing the ground was essential to reform and progress; and their labours rendered possible the erection of a more splendid edifice on surer foundations.

Amid the work of destruction, however, there were some who essayed a reconstruction. From Mably and Morelly emanated socialistic schemes, while D'Argenson, the Abbé de Saint-Pierre, and Montesquieu propounded moderate constitutional reforms. The chief of these, Montesquieu, is usually contrasted with Rousseau, and despite certain points of community, their differences were fundamental. Montesquieu (*Spirit of the Laws*, 1748) was positive, inductive, experiential, and historical in method; Rousseau was ideal, deductive, speculative, and metaphysical. The one was more akin to Aristotle, the other to Plato. Both desired to guarantee individual rights and social liberty; but Montesquieu wished to attain this end by amending the constitution, Rousseau by transforming existent States. The former favoured a mixed government on the

English model with its separation and supposed equilibrium of the constituent powers; the latter proclaimed the need of a revolution and the establishment of popular sovereignty on the basis of the original contract—a fiction which Montesquieu did not countenance. Again, while Montesquieu recognised the principle of the universal vote, Rousseau dwelt upon the rightful authority of the general will. Montesquieu held that men were born equal in a state of nature, but could not remain so, since society destroys equality, and only laws can restore it. He followed assiduously the Baconian method of collecting a mass of facts, but his data were often inaccurate, and his generalisations too sweeping. Unlike his contemporaries, he wisely did not disdain the study of mediæval institutions, though, in common with them, he bestowed undue praise on the institutions of Greece and Rome.

II.

Rousseau, more than all the rest, was alive to the necessity of supplementing destructive criticism by a constructive theory. This was one of his chief merits in an epoch of disintegration. In his earlier works he assailed vigorously the existing state of human society, and indirectly exhibited the need of revolutionary changes. The other philosophers had in the main accepted civilisation, though they attacked its abuses with unflinching zeal. But Rousseau, in this respect, stood aloof from his age. He did not, like Diderot, rely on the systematisation of knowledge and the enlightenment of the reason as the great means towards human perfectibility. Desiring to cure the disease of civilisation, he inculcated extreme simplicity and independence of life. He was neither optimistic, nor sceptical, nor epicurean, as his chief contemporaries were. Nor was he cosmopolitan; a national spirit, a profound patriotism, pervades all his work. Rousseau, the man of feeling, was sterner, more serious, more fervid than his great antagonist Voltaire, the man of *esprit*; he was also less tolerant. In his attacks on those who consumed the substance of the poor, and in his bold defence of popular rights, he was far

more vehement than any other publicist. No mere revision of established institutions would satisfy him; society must be rebuilt from its very foundations.

Rousseau's first work (1750) was a *Discourse on the question whether the restoration of the sciences and arts has contributed to purify manners.* His answer was a direct negative, for he believed that social institutions had transformed the sincerity, confidence, and rude simplicity of the natural man into deceit, suspicion, and a hollow uniformity of conduct. The prevalent corruption is due to the progress of the arts and sciences, which themselves, by a mutuality of cause and effect, owed their origin to men's vices; for without luxury there would have been no arts, and without idleness no sciences. The freedom and courage, the equity and temperance, of primitive men have passed away, and a fatal inequality has arisen from the distinction of talents and the disparagement of the virtues. We have chemists and astronomers, painters and poets, but we no longer have citizens. What, then, is the remedy? We must return to the ignorance, innocence, and poverty of early times, for thus only can real happiness be attained. A return to nature is the true panacea for the ills of the race. Rousseau's inaccurate presentment of history and the unfairness of his special pleading are easily apparent. He himself felt the defects of his work, admitting that it was absolutely devoid of logic and order, though full of warmth and force These latter qualities, however, appealed powerfully to his readers, and the book raised him immediately to fame. Grimm reported that it "made a kind of revolution in Paris." "Never was there such a success," said Diderot.

Rousseau followed up his trenchant indictment of the vaunted refinement of his age with a *Discourse on the origin and foundations of inequality among men* (1754). This influential work is a more elaborate defence of the position that men were equal* in a

* According to Mr. Morley (*Rousseau*, I. p. 181), Rousseau never says that all men are born equal. But in his Dedication to this Discourse he refers to "the equality which nature has put among men," and in the *Social Contract* he speaks of "all being born free and equal." In these statements he probably follows Locke; and equality

state of nature, and that inequality sprang from institutions. Since the demolition of the existing social order is essential to the erection of a more perfect system, the destructive doctrines of the second Discourse are a necessary prelude to the constructive theories of the *Social Contract.* Rousseau's first aim was to depict the state of nature, and he fully realised the difficulty of the task. "It is no light enterprise to separate what is original and what is artificial in man's actual nature, and to obtain clear knowledge of a state which no longer exists, which perhaps never has existed, which probably never will exist, but of which it is nevertheless necessary to have true notions in order to judge rightly of our present state." To ascertain the true foundations of the body politic, we must go in quest of the ideal, abstract, natural man. But how can we discern the majestic simplicity of primitive man through the manifold deformities which time and circumstances have wrought in his mental and physical constitution? Historical truth is indeed unattainable; our reasonings can only be hypothetical. We must, however, try to explain the origin and progress of inequality, the establishment and abuses of political society, so far as these things are deducible by the light of nature alone. Rousseau complains that other writers, in describing the state of nature, have transferred to it ideas peculiar to civil society; but he himself is liable to the same charge. By divesting men of their artificial faculties, he vainly hoped to discover them as they came from the hands of nature, ignorant of vice, simple, strong, and courageous. Primitive men, he supposed, were entirely isolated and guided solely by instinct, while their mental and physical inequality did not operate prejudicially to any one. In becoming members of society they became feeble, fearful, and servile. The state of reflection is contrary to nature; "the man who meditates is a depraved animal."

The Discourse attempts to fix the moment when, right succeed-

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may here mean simply equality in natural rights. On the other hand, it is true that Rousseau has many passages in which he admits a natural inequality in strength and intellect. For interesting remarks on equality among the Fuegians, see Darwin's *Journal of a Voyage in the Beagle*, ch. X.

ing violence, nature was subjected to law, and the people's real happiness was sacrificed to a speculative tranquillity. The natural man had no industry, no language, no habitation, no war, no connections of any kind, no need of his fellow-men, and no desire to injure them; he was subject to few passions; he had no true notion of justice or of *meum* and *tuum*; but he was imbued with two great principles—an ardent interest in his own preservation and well-being, and a lively sentiment of natural pity, which took the place of laws, manners, and virtue. In the lapse of centuries mankind extended, and differences in soil and climate changed their modes of living. By the fortuitous concurrence of such causes were developed social and other qualities, which the natural man had only *in posse*. How man passed from the natural to the civilised state must be matter of conjecture, but conjectures become reasons when they are the most probable that can be drawn from the nature of things, and our conclusions will not be conjectural. Such was Rousseau's facile and delusive method.

"The first man who, having enclosed a piece of land, thought of saying 'this is mine,' and found people simple enough to believe him, was the true founder of civil society." What wars, crimes, and horrors would have been spared to the race if some one had exposed this imposture, and declared that the earth belongs to no one, and its fruits to all! But the idea of property depended on many anterior ideas. The invention of tools effected a first revolution, bringing about the establishment and distinction of families, and introducing a species of property, with consequent inequality. Experience of comforts, extended intercourse, and the formation of permanent human societies produced new feelings; pride and envy being born of public preferences But in spite of a decline in endurance and natural pity, this state, which was a just mean between the indolence of the primitive state and the petulant activity of our own self-love, must have been the happiest and most durable for men. From this condition, which is that of most savages, all progress has been towards the perfection of the individual and the decay of the race. So soon as a man required another's aid in industry, equality disappeared.

Metallurgy and agriculture produced a great revolution. From the cultivation of land followed its partition, and thence sprang the right of property, which in turn gave rise to a multitude of fresh wants, producing mutual dependence and opposition of interests. Pointing to the oppression of the weak and the insecurity of all, the rich craftily devised rules of justice and peace, by which all should be guaranteed their possessions, and established a supreme ruler to enforce the laws. "This must have been the origin of society and of the laws, which gave new chains to the weak and new strength to the rich, finally destroyed natural liberty, and, for the profit of a few ambitious men, fixed for ever the law of property and of inequality, converted a clever usurpation into an irrevocable right, and subjected the whole human race henceforward to labour, servitude, and misery." In this way the law of nature gave place to civil law.

Time has been unable to repair the defects of the political state, which was from the first irregular and imperfect in form; it was incessantly patched up, whereas the first thing necessary was to sweep clean away the old materials, as Lycurgus did at Sparta, and then erect a sounder structure. This shows Rousseau's revolutionary spirit; he would utterly root out, and not merely reform, constitutions which were the growth of centuries. At first society only consisted in a few general conventions among individuals, of which the community guaranteed the observance; but continual disorders and the impunity of law-breakers led to the institution of magistrates as depositaries of the public authority. The establishment of the body politic is a true contract between the people and its chosen chiefs, a contract binding them mutually to respect the laws agreed upon.* The stages in the progress of inequality are therefore—(1) the establishment of law and of the right of property; (2) the institution of magistrates; and (3) the change of legitimate into arbitrary power. Political distinctions entailed civil distinctions, and inequality became

* It should be observed that this is the mediæval form of the social contract theory. In his *Social Contract* Rousseau adopts, after Locke, the second or modern form.

greater. The thirst for power, wealth, and privileges implies a condition in which the few are happy at the cost of misery to others, and this inequality leads on to despotism, which once more reduces all men to equality—an equality of nothingness. In short, inequality, which is hardly apparent in the state of nature, derives its force and growth from the development of our faculties, and at length becomes fixed and legitimate by the establishment of property and laws. But it is manifestly opposed to natural law that a handful of people should gorge superfluities while the famished multitude lack the necessaries of life.

Thus Rousseau devoted an extensive work to a minute description of an imaginary state of nature and of man's conjectural passage from that state to civilised society. The audience he addressed was not likely to criticise his positions, for speculation on such topics was, as we have seen, a fashion of the time, while its vividness and fulness of detail gave an air of reality to this striking piece of fiction. Voltaire remarked that the treatise made one long to walk on all-fours. We perceive clearly to-day that Rousseau had no conception of the effects of education, of "inherited drill," and of the innumerable other causes that have modified human beings in society. He fondly believed that by renouncing cultivated life and abolishing civil institutions, which have overlaid but not effaced man's essential attributes, a fresh start might be made towards a nobler mode of existence, a new and loftier social order. To exhibit in detail the discrepancies between Rousseau's account of primitive man and the conclusions of recent anthropology is hardly necessary. The humble method of inductive enquiry was alien to him, and he would doubtless have preferred the "high *a priori* road," even if our present scientific information had been available. Such glimpses as can be obtained of prehistoric men, together with accurate observations of savage life, reveal great differences among uncivilised men in mental, moral, and physical qualities, assignable to such various causes as race, climate, geographical position, war, superstition, etc. Barbarians are not isolated like Rousseau's primitive men, but members of tribes subject to the authority of chiefs; they are neither simple, nor peaceful, nor free, nor naturally good.

Great physical strength, with violent passions and weak reason, ignorance of nature, want of foresight, a rudimentary morality, inexplicable prejudices, cruel superstitions, fear of the strange and unknown, blind adherence to custom—these appear to be the leading features of barbarian life. Progress is only effected by overcoming nature, by substituting reasoned knowledge for the promptings of instinct, and by protecting the weak through common action. Rousseau, it is true, does not definitely affirm that the state of nature was a historical condition, though he suggests it more strongly here than in the *Social Contract.* In any case his description is wholly at variance with ascertained facts. Instinctive gregariousness, natural affection, and a perception of utility were far more influential in the formation of society than any of the factors that he enumerates.

But Rousseau's chief aim was to furnish a theoretical basis for his practical teaching. In whatever light we may regard his work, it served his purpose of contrasting a simple, unsophisticated mode of existence with the artificiality and corruption of modern Europe. His picture of an Arcadian paradise in which all natural wants were supplied, together with his denunciation of property, privileges, and tyranny, fascinated a people that groaned under the exactions of an extravagant court, a bigoted priesthood, and a luxurious nobility. The third estate, enslaved and impoverished, had no lively appreciation of a boasted civilisation which included among its institutions *lettres de cachet*, the *taille*, the *gabelle*, and the *corvées*, and under which the workers, attenuated with hunger and clothed in rags, languished in ruined hovels. They yearned for a millennium in which property and all other causes of inequality should be removed, and the poor and downtrodden should resume their rightful inheritance. It was this gospel that Rousseau preached with all the fervour of a Jesus. The free citizen of Geneva had lived among the poor, and his sensitive and passionate nature was profoundly touched by their sufferings and wrongs. Above the witty talk and gay laughter of the *salons* he heard the piercing cry of humanity; and with passion, clearness, and force he proclaimed deliverance from a servile yoke. But in his Discourse Rousseau offered no definite

scheme for redressing civil and political inequalities; the whole tenor of the work was radical and revolutionary.

"I hate this rage to destroy without building up," said Rousseau, in reference to current philosophical tendencies. Such a reconstruction he attempted in the *Émile* and the *Social Contract*, both published in 1762. The former was burned in Paris, and Rousseau narrowly escaped arrest. At Geneva both books were burned by order of the aristocratic *Petit Conseil*, and Rousseau in disgust renounced his citizenship. The action of the Council renewed the ancient strife between the aristocratic and democratic factions in that city, and to this struggle Rousseau contributed a severe indictment of the ruling classes in his *Letters from the Mountain* (1764).

The *Émile* was designed to exhibit the fittest mode of training the young from infancy to manhood. This is the first step towards any effectual rehabilitation of human nature. That man has degenerated from his primordial virtue is the keynote of the book; and the redemption of fallen man is the problem for the sometime Calvinist. The present system of education produces only "double men," having neither the independence of natural men, nor the complete dependence of citizens. The natural man is a unit, a whole; the citizen is but a fraction of the body politic. Further, the natural and social states are opposed, good social institutions being those which most distort human nature; and he who wishes to be both a man and a citizen will be neither. In society wisdom consists in servile prejudices; all our customs are merely subjection and restraint. The citizen is born, lives, and dies in slavery; and established social distinctions simply represent the triumph of the strong over the weak, of the unjust over the good. Nevertheless, a father owes men to the race, sociable men to society, and citizens to the State. Although, then, civic education is secondary compared with domestic education, Rousseau decides to treat of it, and thus attempts to solve a problem which he had at first declared insoluble. A combined study of the principles of political right on the lines of the *Social Contract*, and of the positive law of established governments as set forth by Montesquieu, is essential to a sound judgment on

existing governments. Great talents are less necessary here than a sincere love of justice and truth. Our elements shall be simple, clear, and derived immediately from the nature of things. If it be contended that our political structure is too regular, the reply is that right must not adapt itself to men's passions, but conversely. In several important particulars the *Émile* differs from the second Discourse. Rousseau admits, in the fifth book, that man is naturally sociable, or at least made to become so; and that the citizen, though less free, is far nobler than the primitive man.

In his *Confessions* Rousseau remarked with reference to his experiences at Venice, that existing civil institutions are opposed to justice and the true welfare of the people, and that they "add the sanction of public authority to the oppression of the weak and the iniquity of the strong." His meditations on the defects of the Venetian Republic led him to project an extensive work on *Political Institutions* (1756). Holding with Montesquieu, Mably, and Morelly that the character of a people depends on the nature of its government, he determined to enquire what government is best fitted to form the wisest and most virtuous nation, and to investigate the related problems, what law is and what government by its nature always keeps nearest to the law. The *Social Contract* was the most considerable fragment of this partially executed work. Certain passages in the *Émile* (Book V.) suggest that the subjects to be dealt with in *Political Institutions* were the rights and duties of citizens, the true characteristics of a fatherland, a comparison of civil societies, and an account of their mutual relations, with especial reference to the formation of federal States. A few dissertations on Laws, Religion, etc., discovered at Neuchâtel, appear to be fragments of this work.

The *Social Contract* has, perhaps, little claim to originality as regards its matter; but the borrowed doctrines are presented in a striking form. Rousseau's chief source was Locke's second *Treatise on Government*, and, in his *Letters from the Mountain*, he frankly admitted that he had treated the same subjects on exactly the same principles as Locke. The social contract is for each the basis of political society and the ground of political obliga-

tion, and both are agreed upon the defensibility of revolutions. Rousseau universalised and popularised Locke's teachings, which had been enunciated in special circumstances to meet special needs. By his matchless style he inspired with new life and vigour the doctrine of popular sovereignty, and he thoroughly assimilated the social contract theory. Expressing Locke's cumbrous propositions with brevity, clearness, and point, he gave them a ready portability. To Hobbes also Rousseau was greatly indebted, especially for his accurate account of the attributes of sovereignty and for his doctrine of the complete subordination of the ecclesiastical to the civil power. Mr. Morley has admirably described his theory as "a curious fusion between the premisses and the temper of Hobbes and the conclusions of Locke. This fusion produced that popular absolutism of which the *Social Contract* was the theoretical expression, and Jacobin supremacy the practical manifestation. Rousseau borrowed from Hobbes the true conception of sovereignty, and from Locke the true conception of the ultimate seat and original of authority, and of the two together he made the great image of the sovereign people." * Of the ancient philosophers Plato and Aristotle most strongly influenced him. His unbounded admiration for Sparta and the Roman Republic is perpetually displayed, and was the fruit of his uncritical study of Plutarch, Livy, and Tacitus. Rousseau was in a less degree affected by Machiavelli, Bodin, Grotius, Puffendorf, Althusius, Algernon Sidney, and Fénélon.† Among his immediate predecessors and contemporaries, he owed most to D'Argenson, the Abbé de Saint-Pierre, Voltaire, Mably, and Morelly, while from Montesquieu he derived many details and philosophical principles. The French lawyers with their theory of natural law must also have contributed to the numerous forces acting on his receptive mind. M. Vuij, of Geneva, has endeavoured to show that Rousseau's conception of sovereignty was taken from the franchises of the prince-bishop Adémar Fabri,

* *Rousseau*, II. p. 152.

† In his *Télémaque*, Book VII., Fénélon described a utopian State called Bétique.

promulgated at Geneva in 1387.* Rousseau was acquainted with this charter, but his doctrine is more positive and complete, and closely resembles that of Hobbes, from whom he probably derived it. He may in some degree have been affected by Fatio, who, in 1707, was appointed president of a commission at Geneva charged with formulating the grievances of the people. Fatio drew up a document upholding the sovereignty of the people, the equality of all citizens, and the subordination of magistrates as executive officers. The mass of materials gathered from such varied sources was fused and transformed by Rousseau's genius into an apparently new product, endowed with terrific energy, and destined to become the most destructive of the combustibles that were soon to set France aflame.

In the *Émile* Rousseau observed that the science of political right had yet to be constructed, and he despaired of this ever being done; Grotius and Hobbes had failed, and Montesquieu had not made the attempt. In the *Social Contract* Rousseau himself embarks on the doubtful enterprise, holding that it is necessary to know what ought to be in order to judge rightly of what is. "I wish to enquire," he begins, "whether, taking men as they are and laws as they can be, it is possible to establish some just and certain rule of administration in civil affairs." This, however, is not really his subject. He does not seek a rule of administration, but an abstract and universal principle of right. He does not take men as they are, but men in general, abstracted from all times, places, and circumstances. Sometimes he appears to treat the state of nature as historical, sometimes as a possible or desirable condition. Rousseau, in fact, continually oscillates between the actual and the ideal, and this accounts for much of the obscurity with which he is justly charged. The problems he propounds in his first chapter are to discover how men born free have become enslaved, and to determine what can render legitimate the establishment of civil society. He admits that he can-

* *Origines des Idées Politiques de Rousseau.* The franchises are interesting as evidence of the liberties secured by mediæval citizens. They were appealed to in popular movements at Geneva in 1734 and 1757.

not settle the former question (though he had tried to do so in the *Discourse on Inequality*), but believes that he can solve the second. The social order is a sacred right which serves as a basis for all others, but it does not come from nature and must therefore be based on conventions. We shall see that a hypothetical convention among men born free in an imaginary state of nature, and associating freely, is for Rousseau the sole source of legitimate authority in principle, if not in fact.

In the *Social Contract* we find nothing about the superiority of the natural to the civil state; Rousseau's enthusiasm for it appears to have abated. Thus, in describing the remarkable change produced in man by the passage from the former to the latter, he shows eloquently that, if many natural advantages are lost, equal or greater ones are secured (I. 8). Law and morality replace appetite and instinct, and equality and freedom are now realised under a system of impartial laws. But notwithstanding partial desertion of his earlier positions, Rousseau still takes the state of nature as his starting-point, and it forms throughout the invisible basis of his speculations. In resigning their natural state individuals are supposed to retain intact certain natural rights, prior to and distinct from those legal rights which derive their force from the voluntary social pact. A "right" in any exact sense, however, implies a state of society in which is recognised the possession of certain powers by individuals, and the term is therefore strictly inapplicable till a State is constituted. Further, Rousseau assumes that primitive men were isolated individuals. But he errs in seeking individuality in a pre-social state, for true individuality supposes civilisation. Such a conception is in sociology, as in psychology, a late growth; barbarians desired to conform all men to a uniform type. In common, then, with Hobbes and Locke, Rousseau posits as the basis of his theory a state of nature in which men lived as isolated units, subject only to natural law, free and equal in a certain sense, and possessing only the qualities that belong to men as men; moreover, all agreed that, owing to the drawbacks of this condition, men emerged from it by a voluntary, mutual compact to form a political society, this civil condition being sharply

divided from the state of nature, which is best defined negatively as a state in which there is no supreme authority empowered to enforce unquestioning obedience to its commands.

"Man is born free, and everywhere he is in chains." This stirring cry is at once the conclusion of the *Discourse on Inequality* and the keynote of the *Social Contract.* The proposition that man is born free cannot of course be predicated of men as revealed to us either by science or by history; yet this undemonstrated and exclusive principle forms the basis of Rousseau's whole theory. That men were not born free in those ancient States which he so greatly admired, that children are not born free in any real sense, and that where several men are gathered together the freedom of all is mutually limited, were facts which he silently passed by. My principles, he says in lofty scorn of the pedestrian experiential method, come from the nature of things, and are based on reason. Accordingly he appeals to consciousness, to sentiment, to natural instinct. To such a method as this, observation, induction, and history are foreign and irrelevant; and Rousseau's meagre and inaccurate historical knowledge is used, not to furnish materials for inference, but to illustrate preconceived ideas or foregone conclusions. Not only does he ignore the innumerable existing differences among men, attributable to race, customs, traditions, beliefs, and sentiments, and their objective embodiment in institutions; but he takes no note of the long and complicated growth from which these result, or of the concurrent and correlated development of the individual and the society to which he belongs.

Rousseau's scheme is that of a doctrinaire who is unconscious of the infinite variety and complexity of life, and its apparent simplicity is mainly due to his inability to realise and appreciate the difficulties of his task. He evinced no insight into the political complications of his time; and his total ignorance of affairs together with his contempt for civilised life, prevented him from framing a theory of any practical utility. Indeed, the disastrous attempt of the Jacobins to apply his principles proved how valueless and impracticable most of his doctrines were. He never attempted to trace social and political evils to their causes, in

order to suggest suitable modifications of existing conditions. He could not see how impossible it was to sweep away all institutions and impose a wholly new social order irrespective of the natures, faculties, and desires of those whom he wished to benefit; on the contrary, he exaggerates the passivity and plasticity of men and circumstances, and dreams that his model legislator, who apparently is to initiate the new society, will be able to repress all anti-social feelings. He aims at order and symmetry, oblivious that human nature does not easily and rapidly bend to such treatment. It is his inability to discover the true mode of investigation that accounts for much of Rousseau's sophistry. His truisms and verbal propositions, his dogmatic assertions and unreal demonstrations, savour more of theology than of political science, while his quasi-mathematical method of reasoning from abstract formulæ, assumed to be axiomatic, gives a deceptive air of exactness and cogency which is apt to be mistaken for sound logic. He supports glaring paradoxes with an array of ingenious arguments; and with fatal facility and apparent precision he deduces from his unfounded premisses a series of inconsequent conclusions, which he regards as authoritative and universally applicable. At times he becomes less rigid and absolute, as when, under the influence of Montesquieu, he studies the relations between the physical constitution of a nation, its territory, its customs, its form of government, and its deep-rooted opinions, or avows that there has been too much dispute about the forms of government. But such considerations are not prominent. In certain cases his inconsistencies may be due to rehandling, but he is said to have observed that those who boasted of understanding the whole contract were more clever than he.

The people, however, readily excused the fallacies and obscurities of the book; his conclusions at least seemed plausible, and possessed an irresistible charm for men who cared as little as Rousseau for inductive enquiries, and who were eager to escape by any means from the weltering chaos in which they had long been groping after some better state of things. The contrast he drew between the ideal state and the actual condition of political corruption and material destitution inspired the people with a

"divine discontent." The age, indeed, was ripe for revolution, and the inarticulate multitude, chafing under an effete administration, found in him a fitting champion. For such as these Rousseau's transcendent power of winging with passion a set of definite dogmas had an extraordinary fascination. His reason, indeed, was always at the mercy of his feelings, and the predominance of feeling in his constitution was at once the source of his enormous influence and the prime cause of the evil which his work produced. The emotions of men, which respond but sluggishly to the voice of reason, were stirred into fanatical fervour by the Genevese preacher of individual natural rights, and thus "the original contract, seized on as a watchword by Rousseau's enthusiasm, grew from an arid fiction into a great and dangerous deceit of nations." *

Before plunging into his subject Rousseau deals with a few disputed topics. Grotius, he contends, improperly denied that all human power is established for the benefit of the governed, for people are born free and equal, and alienate their liberty only for their own advantage. After ridiculing the doctrine of divine right, he passes to the right of the strongest, which he describes as a contradiction in terms. Where force controls us, moral obligation does not enter in; hence might does not make right. We are only bound to obey legitimate authority, and we have to determine what this is. Grotius had assimilated political subjection to slavery, asserting that a people may sell itself to a king as a slave sells himself to a master. But, replies Rousseau, "to renounce one's liberty is to renounce one's quality as a man"; and he concludes his discussion of a subject which has fortunately little interest now by remarking that the terms slavery and right are contradictory and mutually exclusive. Legitimate government implies consent as well as force.

The chief doctrines of the *Social Contract* require more detailed treatment, and we may consider in succession—(1) the origin of civil society in a contract; (2) the theory of sovereignty and the

* Sir F. Pollock, *History of the Science of Politics*, p. 63.

general will; (3) the constitution of a government; and (4) civil religion.

(1) "Since no man has any natural authority over his fellows, and since force confers no right, conventions remain as the basis of all legitimate authority among men," though not such unilateral conventions to enslave themselves as Grotius postulates (I. 4). Political society is not a mere aggregation of isolated men, but an association duly organised and possessing public property. The act by which a people becomes a people is the foundation of society, and on this first and unanimous convention rests the obligation of the minority to submit to the majority (I. 5). This convention, which is obligatory only because it is mutual, is formed when men have "reached a point at which the obstacles that endanger their preservation in the state of nature overcome the forces which each individual can exert with a view to maintaining himself in that state." Since the race would perish unless it changed its mode of existence, men combine their forces. The problem is to pledge their strength and freedom and secure the advantages of union without risking their safety and individual liberty—"to find a form of association which may defend and protect with the whole force of the community the person and property of every associate, and by means of which each, coalescing with all, may yet obey himself alone and remain as free as before." The social contract furnishes the solution of the problem. Its essential terms are: "Each of us places in common his person and his whole power under the supreme direction of the general will; and in return we receive every member as an indivisible part of the whole." The alienation being complete, the union is perfect, and no associate retains any individual rights; further, as the conditions are equal for all, no one has any interest in rendering it burdensome to others. Each giving himself to all gives himself to nobody, and since he acquires over others the same rights that he concedes over himself, he gains the equivalent of all that he loses and more power to preserve what he has. "This act of association produces a moral and collective body"—a republic, people, sovereign—which receives from the act its unity, life, and will (I. 6). Thus Rousseau

retains the French ideas of unity and centralisation; but while in the seventeenth century the State was confounded with the monarchy, Rousseau's influence causes it in the eighteenth century to be identified with the people. As partakers in the sovereign power, the members are called citizens, and as being under the law, subjects. By the pact men exchange natural liberty for civil and moral liberty; though it may be objected to this that the "natural rights" of which he speaks imply the existence of morality prior to the pact. The fundamental contract also substitutes a moral and legitimate equality for the mental and physical inequality of nature (I. 9). Rejecting, then, the right of the strongest, divine right, patriarchal authority, and slavery, Rousseau postulates a social contract as the basis of civil society and morality. By it the associates surrender their rights to the community and yet retain their equality; whereas, according to Hobbes's version of the compact, all agree to submit to the sovereign that they establish, and, according to Locke, the pact may be regarded indifferently as an agreement to incorporate into a society or to set up a government with limited powers.

Rousseau's confusion of the actual and the ideal makes it difficult to criticise his doctrines. When, with a show of precise detail, he speaks of a state of nature and of the transition from this state to political society, he appears to imply that the former really existed, and lays himself open to historical objections. No such sudden transition, it may be argued, was possible; a group of men must have been long subject to custom or to some other recognised rule,—in other words, must have been inchoately political, before such an idea could originate. Moreover, primitive society was not a collection of chance individuals, "without relations, without traditions, without a past, and without a country," bound together by a mere formal agreement; it was an aggregation of families, the family being the unit of ancient, as the individual is of modern, society. Rousseau perpetually reverts from the complex social man to the imaginary, isolated, natural man, who was born free; and he treats the social contract as an expedient for maintaining this natural independence in spite of the social union. But if "the movement of progressive societies

has been a movement from Status to Contract," * the notion of a contract at the dawn of society is an anachronism, a transference of individualistic ideas to a period when the individual was merged in the family. Again, the historian is entitled to ask when, where, and how the contract was made, and whether any traces of it survive; who were the contracting parties, and how many were needed; whether it must be renewed by us and our posterity, and, if so, at what intervals; and whether men must keep it if they become more enlightened.

But, in spite of his misleading language, Rousseau probably did not consider the contract to be historical. He acknowledged that he was ignorant how natural freedom was lost (I. 1), that the family is the most ancient society (I. 2), and that primitive societies were governed aristocratically (III. 5); he also admitted that we can only conjecture how nations have been formed (IV. 4). In fact, his state of nature was conceived rather as a condition in which men would be found to exist if the swaddling clothes of civilised society could be stripped off. He is concerned not with fact, but with right; and in remarking that the clauses of the contract, "although they have perhaps never been formally enunciated, are everywhere the same, everywhere tacitly admitted and recognised," he evidently refers to the true method of constituting a body politic juridically, and to the conditions necessary for the formation of such a society on an ideal basis. According to Rousseau, then, the nation is created by concordant human wills; and by a convenient fiction, analogous to the fictions of Roman Law, he conceived it as instituted by a compact. Hence the State is an association of free and equal men working for the common good, under the regulation, and within the limitations, of a tacit and implied contract, which apparently is to be considered indissoluble, unless a return to the natural state is precipitated by an infraction of the so-called natural rights of individuals.

Rousseau might have learned from others that this hypothesis was unnecessary. Montesquieu had dispensed with it, and Hume

* Maine, *Ancient Law*, ch. V.

had already overthrown it in his essay *Of the Original Contract* (1752). Hume points out that submission to chiefs rests on utility, and that military force or political craft has usually been the foundation of governments, which subjects have at first obeyed through fear or necessity, and afterwards from habit. He asks how the contract can retain any authority when governments have undergone so many changes. The theory "leads to paradoxes repugnant to the common sentiments of mankind and to the practice and opinion of all nations and all ages." If we observe the supposed compact, it is because the interests of society require us to keep our promises; why not, then (Hume argues), make utility the direct test whether a society should be formed or maintained? Bluntschli's objection * that a contract among individuals creates only private rights, and not public rights, rests on a technical meaning of the term contract, and therefore is hardly in point. It suffices to observe, however, that nations are mainly recruited by birth, and that we are members of a State in that we are the sons of citizens. The words "nation" and "patriot" suggest this fundamental identity of the State and the family. We enter at birth into a pre-existent complex system, in which our rights and duties in relation to others are already defined; we are never isolated units. As Aristotle perceived, nationality is prior to any consent of individuals, and the State rests on man's natural sociability, not on an external and artificial contract.

If we turn to the details of Rousseau's theory, we shall find him self-contradictory. He had inveighed against the doctrine of Grotius that men can bind their posterity, but he has not avoided the same error. Against Grotius, also, he had argued that neither a man nor a nation can renounce their freedom; yet by the compact every associate must effect a total alienation of himself and all his rights to the community. He seems afterwards to have had an uneasy feeling that this abdication was too complete and fraught with perilous consequences; he therefore contended (II. 4) that a man alienated only a portion of his power, property, and

* *Theory of the State* (2nd edition), IV. 9.

liberty. But as the community itself is judge of what sacrifices are necessary, this concession to the individual is worthless, for he has no rights that he can lawfully vindicate. Further, Rousseau argued that there is no real renunciation on the part of individuals, since the compact improves their mode of existence and substitutes inviolable right for natural power. If, then, the alienation is neither total nor real, Rousseau's use of the term is as equivocal as that of Grotius. The modifications and restrictions he tries to introduce in his theory of complete alienation are unavailing. Even if all the associates make the same sacrifice, one's own slavery does not become more tolerable; for, as Rousseau said earlier (I. 4), "there is no possible compensation for him who renounces everything." Is it enough that in exchange for his person and property a man should receive an illusory equivalent in the shape of an infinitesimal fraction of the indivisible person and property of others? Rousseau apparently thought that the free consent of individuals to the compact sufficed to justify any action of the community so constituted. But, in Burke's words, "liberty, when men act in bodies, is power." Even the "natural rights" to life and liberty, which the pact is supposed not to infringe, are wholly annihilated. In brief, the unity to be secured by the alienation of all to all is a meaningless abstraction. The State, said Aristotle, is not an absolute unity, but a collection of individuals specifically different. Lastly, Rousseau contended that for a government to be legitimate the people should in each generation have the option of accepting or rejecting it (I. 4); yet he made no provision for this. His disciple Jefferson proposed a renewal of the constitution every nineteen years.

Bluntschli * has observed that the social compact theory is favourable to anarchy, since it claims universal validity and makes the rise and also the continuance of States depend on an arbitrary compact among individuals, revocable at will, for what the general will has done it can undo; but that the theory has an element of truth in accentuating the fact that the human will can determine

* *Theory of the State*, IV. 9.

and influence the formation of the State. It thus supplements the half-truth of Mackintosh that "constitutions are not made but grow." M. Janet and others have affirmed that a social contract has actually been made; for example, in establishing the Swiss Confederation by the union of separate provinces. But this process of federation is quite different from Rousseau's compact among isolated men living free in a state of nature.

Rousseau's doctrine of property is an integral part of his theory. In his second Discourse he had anticipated Proudhon's "property is theft." In his article on Political Economy in the *Encyclopædia*, he affirmed that "the foundation of the social compact is property," and that the right of property is "the most sacred of all the rights of citizens, in some respects even more important than liberty itself." * Similar views are expressed in *Émile* (Book V.). In the *Social Contract* his position is again changed. The pact is the basis of all rights in the State, and by making the State master of all that belongs to its members, it transforms possession, which is only the result of force and of the right of first occupancy, into property, which rests on a positive title, the guarantee of the State. Possession does not become property in the sovereign's hands, but the forces of the State being incomparably greater than those of any individual, public possession is more secure and irrevocable, though not more legitimate as regards foreigners. The right of first occupancy becomes real only when the right of property is established. Its justification depends on these conditions: (*a*) that the land is uninhabited; (*b*) that a man occupies only the area required for his subsistence; (*c*) that he takes possession of it not by an empty ceremonial, but by labour and cultivation, the only sign of property that should be respected in default of juridical titles. The social contract converts usurpation into true right and renders possessors depositaries of the commonwealth; and, in this way, by a cession advantageous both to the public and to themselves they acquire all that they gave up, for their rights are respected by every one and guaranteed against

* Cicero said (*De Off.*, II. xxi. 73) that the security of private property was the chief reason for the constitution of Republics and States.

foreigners by the whole force of the State. Thus the compact converts possession *de facto* into possession *de jure*; the property of individuals becomes the national estate, and their continued enjoyment of it is due to the tolerance and recognition of the State. Rousseau's doctrine is clearly not communism; his ideal appears to have been a small State composed of peasant proprietors, but the complete subordination of individual rights was held to be necessary to the stability of the social union. Rousseau's view, derived from Locke, that ownership rests on first occupancy, is another instance of the improper transference of modern individualistic ideas to primitive men, joint ownership by families being probably the archaic form. Property is now regarded as held and regulated with reference to the general welfare; it is a right conferred by law, and includes rights of possession, enjoyment, and disposition.* In a note Rousseau observes that the social state is advantageous to men only in so far as all have something and none have too much; for otherwise equality is only illusory, and the poor are kept in their misery and the rich in their usurpation. But if, as we must suppose, the State is entitled to dispose of property, it may confiscate excessive wealth in order to secure greater equality, and foreknowledge of this might deter rich men from entering into the social contract.

(2) Hobbes regarded the sovereign as a common authority, established by a compact among individuals, and invested with all their power and resources; while Locke argued that the supreme authority remains in the people, even after they have established a government. According to Rousseau, sovereignty is the absolute power which the social contract gives the body politic over all its members, when this power is directed by the general will, that is, by the will of the citizens as a corporate whole (II. 4). The sovereign cannot contract with itself, and therefore cannot be bound by law; hence no kind of fundamental law is binding upon the community, not even the social pact. It may enter into engagements with foreigners, but not in anything

* Cf. Holland, *Elements of Jurisprudence* (6th edn.), pp. 179–181.

that derogates from the sanctity of the contract, such as alienation of part of itself or submission to another sovereign. Rousseau rightly insists on the double aspect of sovereignty—its independence of external control and its paramount power over all internal action. The sovereign can have no interests antagonistic to those of the citizens composing it, and consequently needs no guarantee with reference to its subjects; for the body cannot wish to injure its members individually or collectively. "The sovereign, for the simple reason that it is so, is always everything that it ought to be." The general will, however, which always aims at the common good, cannot be durably in accord with particular wills; private interests may be opposed to it, and when they are pursued to the detriment of civic duties the State's safety is imperilled. The social compact tacitly involves this engagement, which alone can give force to others,—that whoever refuses to obey the general will shall be constrained to do so by the whole body, in other words, he shall be forced to be free, since only on this condition can he be guaranteed from all personal dependence and civil engagements rendered legitimate, which would otherwise be "absurd, tyrannical, and subject to the most enormous abuses" (I. 7).

Sovereignty, being nothing but the exercise of the general will, can never be alienated. If the people submit absolutely to a master, sovereignty ceases to exist, and the body politic is dissolved. Further, as the sovereign is a collective being, it can only be represented by itself; power may be transmitted but not will. Sovereignty, again, is indivisible for the same reason that it is inalienable, and those who divide it into legislative power and executive power take as parts of it what are only emanations from it, for example, the rights of taxation and of justice, home and foreign administration, etc. (II. 1, 2). The sovereign power, in short, is incorruptible, inalienable, unrepresentable, indivisible, and, as appears later, indestructible.

Sovereignty must be exercised in assemblies of the whole people, otherwise there is no declaration of the general will, and consequently no freedom. Although the general will is always right and always tends to public utility, the people's resolutions

have not always the same rectitude. Men always desire their own good, but do not always perceive it; the people are never corrupted, though often deceived. This is in reality an adaptation of the old monarchical maxim that the king can do no wrong, though he may be misled or misinformed. Rousseau insists that the will of all, which is the sum of particular wills, regards only private interests, and therefore differs from the general will, which considers only the common interest. A will in order to be general need not be unanimous, but every voice should be counted; it is the common interest rather than the number of voices which generalises the will. If the people came to a resolution on sufficient information and without intercommunication, the general will would result and the resolution would be always good. But, as particular associations, pursuing their own ends, may prevent this, they should be forbidden, or their number should be multiplied (II. 3).

Rousseau, in recurring to this subject (IV. 1), remarks that in ill-constituted States private interests and small associations conflict with the general interest, and the general will is no longer the will of all. Nevertheless, the general will remains pure and unalterable; although obscured, it is uncorrupted and indestructible. In pursuing their private interests men do not extinguish the general will in themselves but elude it; they vote, not for what is beneficial to the State, but for what is advantageous to a certain man or party. Rousseau does not say, however, that unless a law actually contributes to the public good, it is not an expression of the general will.

Since the State is a moral person whose life consists in the union of its members, it requires a universal and compelling force to move and dispose each part in the manner most expedient for the whole. Now the life and liberty of its members are naturally independent of the sovereign, and we must therefore distinguish the respective rights of the citizens and the sovereign, and their duties as subjects from their natural rights as men. A man does not alienate to the State all his power, property, and liberty, but only such part as the community requires, the sovereign alone being judge of what must be given up. Although a citizen mus

render the sovereign every possible service, the latter cannot, under the law of reason, impose on subjects any useless or unequal burdens, or favour one at the expense of others. The pledges binding us to the social body are obligatory only because they are mutual, and as in fulfilling them we cannot work for others without working for ourselves, every man's natural tendency to study his own interests is satisfied (II. 4).

An act of sovereignty is an authentic declaration of the general will about an object of common interest and constitutes law. It is a convention, not between a superior and an inferior, but between the body and each of its members; legitimate, because based on the social contract, equitable, because common to all, useful, because it aims at the general good, and stable, because it has for guarantee the supreme public force. So long as they submit to such conventions only, the citizens obey no will but their own, and the rights of sovereign and subjects are coincident. Consequently, the sovereign power, absolute, sacred, and inviolable as it is, cannot pass the limits of general conventions, and any man can dispose fully of what those conventions leave him (II. 4). As the social treaty aims at the preservation of its members, the life of each is a conditional gift of the State, and must, if necessary, be sacrificed for the public welfare—a statement which seems inconsistent with Rousseau's doctrine that in civil society a man retains his natural right to life (II. 5).

Conventions and laws are necessary to secure the administration of justice, and the civil law is therefore essential to the preservation of the State. It fixes and guarantees all rights and gives movement and will to the body politic. The general will is not concerned with particular objects, but when the whole people make an ordinance about the whole people, this act is called a law. Positive laws must be agreed to by all whom they bind, or they may become instruments of oppression. Moreover, the general will must be general in its object as well as in its essence. An ordinance of the sovereign about a particular object is not a law but a decree, an act not of sovereignty but of magistracy. The sovereign may indeed establish privileges, though it should not nominate persons to them. Laws, then, are

properly only the conditions of civil association, and being acts of the general will, they cannot be unjust, for no one is unjust towards himself; nor can they infringe our liberty, since they are simply registers of our will. Hobbes had argued that no law can be unjust, because what is just is identical with what the sovereign commands. As the general will is the true sovereign, all laws, including the compact itself, are liable to revision or repeal. Every State guided by the general will, that is, ruled by laws made in the general assembly of citizens, is a republic, whatever may be its form of administration; for then only does the public interest rule. Thus even hereditary monarchy is admissible if it can be made consonant with popular sovereignty (II. 6).

In his treatment of laws Rousseau makes an advance on Montesquieu by distinguishing between a law of nature, which is merely a uniformity, and a law of the State. He did not, however, fully realise all the distinctive attributes of laws, and comprehended but imperfectly the idea of law as a command. Hampered by his notion of the necessity of consent to whatever binds individuals, he follows the Sophists in regarding laws as conventions between the body and its members, and bases their legitimacy on the social contract. According to Austin * (who follows Hobbes), every law is a command or expression of the wish of the lawgiver, imposing an obligation on the citizen, and threatening a sanction in case of disobedience. Austin adds that a law prescribes not a single act but a series of acts or forbearances of the same kind, whereas a particular command obliges to specific acts or forbearances; but he admits that usage is opposed to this sharp division. Rousseau lays exaggerated stress on generality and treats particular commands or decrees as pertaining only to the government, and not to the sovereign or legislative power, so that the choice of a king or dynasty would not be a legislative act. Yet the English Act of Settlement is always held to be a law, and private bills occupy much of the attention of the House of Commons. In England, too, even high judicial decisions may be sources of law. Rousseau's argument that magisterial decrees

* *Jurisprudence*, Part I. Lecture i.

are not acts of sovereignty (II. 6) appears inconsistent with his declaration that the orders of chiefs may pass as general wills so long as the sovereign refrains from opposing them (II. 1).

Rousseau at length begins to harbour doubts concerning the inherent wisdom of the multitude, and perceives that an unenlightened people, blindly groping after their own good, require guidance in the difficult task of legislation; they need the aid of a Moses or a Lycurgus to interpret and express the general will (II. 6). The legislator, or, more correctly, constitution-maker, must be an extraordinary man both by genius and office; he is no part of the constitution—neither sovereign nor magistrate—but the founder of it. He who frames institutions for a people must feel able, as it were, to change human nature, to substitute a social and moral existence for a natural and physical one, to weld individuals into a strong and lasting community (II. 7). Rousseau could not see that institutions, if they are to be of any utility, must spring immediately from the needs and circumstances of the people, and must be the result of a slow growth instead of being suddenly imposed by an external act. "A true politician," said Burke,* "always considers how he shall make the most of the existing materials of his country." Later on, indeed, Rousseau allows, with Montesquieu, that laws must be adapted to the character of the people, and to geographical position, soil, and climate (II. 8, 11), an admission, however, which is clearly at variance with his doctrine of the indefinite modifiability of human nature in the hands of a legislator. In postulating the necessity of an ideal law-giver he pays extravagant homage to antiquated ideas. The example of Calvin, as well as that of the semi-historical Moses, Lycurgus, and Numa, probably induced him to suggest a method so utterly alien to modern notions.

Rousseau dwells upon the disadvantages of large States. Their administration is not only difficult and costly, but ineffective in reforming abuses and enforcing laws. A territory peopled uniformly, abundance, and equal rights are the essentials of a strong and good government. The nation best fitted for legislation is

* *Reflections on the Revolution in France.*

one in which the people have some bond of origin, interest, or convention, one in which customs and superstitions are not deep-rooted, one which is large and strong enough to subsist without external aid, and yet small enough for all the members to know one another, stable yet docile, neither too rich nor too poor, but self-sufficing.* What renders the work of legislation difficult is not so much what has to be established as what has to be destroyed. This is an echo of Rousseau's second Discourse, and it is the very key-note of modern radicalism. If success is rare, he continues, it is owing to the impossibility of finding the simplicity of nature conjoined with the necessities of society (II. 9, 10; III. 15).

The greatest good, which is the end of every system of legislation, consists in liberty and equality. Equality, without which liberty cannot subsist, does not mean that the degrees of power and wealth should be absolutely the same, but that power should only be exercised by virtue of rank and according to law, while no one should be rich enough to buy another nor poor enough to be forced to sell himself. Great inequalities pave the way for tyranny (II. 11).

Liberty and equality, then, are the starting-point as well as the goal of Rousseau's theory; they are realised alike in the state of nature, in which men have no bond of union, and in civil society in which all are unified by the sovereign power. "The sovereignty of the multitude is only individual sovereignty multiplied by itself, the sovereignty of each, or liberty, being limited by the sovereignty of others, or equality." † But the terms assume a somewhat different meaning when used of civil society. The liberty and equality of the second Discourse are not those of the *Social Contract.* In the former they have a meaning largely negative, liberty being absence of restraint by a superior power, and equality absence of preference among individuals together with the positive existence of equal "natural rights." In the

* Cf. Rousseau's description of G
of the *Discourse on Inequality.*

† Henri Martin, *Histoire de Fran*

latter, all citizens are supposed to retain their "natural rights" and to be civilly and politically free and equal in virtue of common laws. But, as we have seen, Rousseau does not demand absolute equality of wealth and rank, although he seems to suggest the removal of any great inequalities in these respects. Equality therefore means something more than the equality before the law and equality in political rights, which follow from the social compact, though to claim even these latter kinds of equality was a distinctive merit in an age of feudal privileges and distinctions. Those, however, who go so far as to charge Rousseau with preaching that men are equal in intellect and strength, or that they ought to be perfectly equal in rank and wealth, are false witnesses whom the *Social Contract* puts to confusion. From the freedom and equality of all partakers in the sovereign power, it was inferred that all men form a social brotherhood, and hence we obtain the famous triad of "Liberty, Equality, Fraternity."

In reasoning against large States, Rousseau supposes a community of 10,000 citizens, each of whom is to be regarded as the possessor of one ten-thousandth part of the sovereign authority, while he is entirely subjected to it. If a State has 100,000 citizens, each of these possesses ten times less influence than a citizen of the former State; accordingly, as the State is enlarged, liberty is diminished (III. 1). In this argument liberty is confounded with sovereignty, and both are assumed to vary with population. The absurdity of this contention is easily shown by the consideration that, on Rousseau's view, a Swiss citizen of to-day would possess about thirteen times as much freedom and sovereign power as a British citizen. Rousseau's argument illustrates at once his exaggerated individualism, his imperfect grasp of the true conception of sovereignty, and the dangers of his rigid mathematical method.

The sovereign, having no other force than the legislative power, acts only through the laws, and since laws are simply acts of the general will, the sovereign can only act when the whole people are assembled. This may seem chimerical, but what existed in Rome may exist now (III. 12). Mr. Morley remarks that Rousseau might have adverted to the assemblies held in Uri and

Appenzell in his own day.* He was in reality taking Geneva as a pattern. In his *Letters from the Mountain* (VI.) he mentions that he adopted it as the model of his political institutions, but not without introducing amendments of his own based upon ancient republics. In dedicating his second Discourse to the "sovereign lords" of the republic of Geneva (the excellences of which he greatly magnified while disregarding its oligarchical abuses), he had affirmed that all the best principles of government were applied in that city; the State had no need of representatives, and all functions of government were delegated to the magistrates by the sovereign assembly. But Rousseau also kept before his mind the assemblies of Sparta and Rome, and Plato's ideal State certainly influenced him. Plato, in fact, with his small and unified State and his severe Spartan ideal, haunts Rousseau throughout.

The people must not only fix a State-constitution by enacting a body of laws; they must also establish a perpetual government, provide for periodical assemblies which cannot be abolished or prorogued, and regulate the mode of convoking all other assemblies. It is always an evil to combine several cities into one State; large States are liable to abuses, and therefore Rousseau desires none but small ones, which are stronger in proportion, and will, as in former times, be able to resist more powerful neighbours. Where several cities are combined in one State no capital should be allowed (III. 13). Rousseau has to show how a system of city-states can be formed so as to unite the good order and real sovereignty of a small State with the extensive territory and external power of a large modern State. He proposed to complete his theory by demonstrating how small States can defend themselves by federation, somewhat in the fashion of the present Swiss Confederation, but his work on this subject was never published. He commended, however, a system of federal governments to the Poles on the ground that it combined the advantages

* Cf. Freeman's *Growth of the Constitution*, ch. I. Uri, Unterwalden, Glarus, and Appenzell still have assemblies of all the citizens (*landesgemeinden*).

of large and small States. It is not clear whether Rousseau entertained the fantastic idea of resolving Europe into a vast number of small and independent, but federated, communes, which appears to be the aim of anarchist communists to-day. England has shown how it is possible to decentralise the administration of a large State, and, by organising a network of local governments, to secure all the real advantages at which Rousseau aimed.

Rousseau's preference for small States is a main characteristic of his work; and, taken in conjunction with his theory of the incommunicability of the general will, it explains his opposition to representation. A body of magistrates cannot declare themselves to be representatives of the people except through usurpation or deception; they can be nothing more than limited agents whose acts require ratification by a general assembly of citizens. Representation is the outcome of incivism and political abuses, of conquests and the vast size of States. So soon as a people appoint representatives they cease to be free, and lose the exercise of their sovereign rights. The English system of representation is an illusion, for the people are mere slaves of the Parliament, except at election time; in fact, few, if any, nations have true laws for want of a proper declaration of the general will (III. 15). It appears in his *Letters from the Mountain* (VII.) that Rousseau considered that England had lost her liberty through neglecting to renew the House of Commons with sufficient frequency; the Court, he said, would be exhausted if it had to bribe a new Parliament every year. As Rousseau, however, admits that the people cannot be incessantly assembled, representation is the only practicable system in States larger than city-states of the Greek type. The demand that every law should be approved in person by those whom it is to bind is another result of his uncompromising individualism, which here shows itself hopelessly unworkable. In truth, citizens renounce none of their rights in appointing representatives, for they can limit the latter's power and tenure of office, and revoke or modify the mandates they have given. Frequent elections would secure the necessary harmony between electors and their representatives. In great

modern nations representation serves to combine true liberty with sufficient unity; and it has the further advantage of intermixing aristocratic with democratic elements, for, although the sovereign power still rests ultimately with the people, it is temporarily delegated to chosen persons whose experience, knowledge, or aptitude for legislative work enables them to handle complex affairs more wisely than an untrained and unleisured general assembly. In his *Government of Poland* Rousseau approves of representatives on condition that they receive an imperative mandate from their constituents, and render an account of their stewardship. But in the *Social Contract* he makes no such concession, and even refers to the system of slavery, by which leisure for the political activity of the citizens was secured in ancient States, as merely one of the unfortunate inconveniences of civil society. He adds equivocally that he does not advocate slavery, but simply wishes to point out that modern nations, which have no slaves, are themselves enslaved by their representatives.

In accordance with Locke's doctrine that nothing can make a man a member of a commonwealth but an express promise upon entering it, Rousseau holds that the social contract alone requires unanimity, for no one can subject a man without his assent. Opponents of the compact do not nullify it, but, being excluded from it, they remain as foreigners among the citizens. When the State is established consent lies in residence, unless circumstances detain a man against his will; for if a society guarantees his person and property he is morally bound to accept the laws of the sovereign power (IV. 2). But is not this an abandonment of the doctrine of obligation as based on consent? And if a man objects to the decision of the majority, would he not have a "natural right" to refuse obedience? Locke * more correctly affirmed that a man may submit to the administration without formally becoming a member of the society; and on this ground foreigners who commit crimes in our territory are held amenable to our tribunals. If mere acquiescence in a government were sufficient, we might be forced to acquiesce in a bad one, and in

* *Civil Government*, II. secs. 119, 122.

that case every government actually submitted to would be lawful. Moreover, the majority of people could not get away from an ill-governed country, although Rousseau, like Grotius, admits that they are entitled to relinquish it. On his principles, in short, the most thorough despotism, if once established, might claim to rest on free consent just as much as a popular government; and this is manifestly at variance with his position that sovereignty, resting solely on the people's consent, can have no power over those who refuse consent.

Except in the original contract, the vote of the majority always binds the rest. But how can a man be free and yet bound by laws he has not assented to? A citizen, replies Rousseau, really consents to all the laws, even to those passed in spite of him; for the members of the State are citizens and freemen through the general will, and when a law is proposed in the assembly, they are not asked whether they approve or reject it, but whether it is conformable or not to the general will, in which they share, and which is ascertained by the counting of votes. Assemblies do not ensure that the general will shall be maintained, but only that it shall always be consulted and always respond. The more the voting approaches unanimity, the more is the general will predominant. If my own opinion does not prevail, this only shows that I was mistaken as to the general will, and if it had prevailed, I should have done something other than I wished, and should therefore not have been free. If the majority does not possess the marks of the general will, liberty is of course absent. For important resolutions a large majority should be required; where despatch is necessary, a bare majority suffices * (IV. 1, 2).

In short, the people alone are the true and original sovereign, and the general will is the sole source of law; to use the Roman formula: *Uti populus jusserit ita lex esto.* In modern republics (for example, the United States), the Constitution serves as a check on rapid or revolutionary changes, but Rousseau provides no safeguard against the temporary aberrations of the sovereign

* In his *Government of Poland* Rousseau requires unanimity for a change in fundamental laws affecting the existence of the body politic, while a strong majority suffices for changes in political forms.

people, except that a large majority should be required to carry important resolutions. In the political distractions following upon the execution of Charles I., Cromwell saw clearly the necessity of a "law paramount" as a constitutional basis. "In every Government there must be somewhat fundamental, somewhat like a *Magna Carta*, which should be standing and unalterable" (1654).* That the sovereign is irresponsible and absolute in the State must be allowed, but experience has proved that the general welfare is best attained by exempting from the operation of law a portion of the individual's interests, and a Constitution may usefully indicate what is reserved. Precisely what liberties should be conceded is a perennial question to be decided differently in different ages, countries, and circumstances. Mazzini,† who rightly regarded liberty only as a means to a higher end, enumerated as indispensable,—personal liberty; liberty of labour, trade, and locomotion; liberty of religious faith; liberty of opinion on all subjects, and of free expression of such opinions by any peaceful means; and liberty of association. But Rousseau, like Hobbes, places even religion under the tyranny of the sovereign. His whole system, indeed, is "inverted Hobbism," the many-headed multitude supplanting the despotic monarch. Rousseau's ground for vesting everything in the State is, that if some fact or right not regulated by an anterior general convention were in dispute, there would be no common judge to decide between the sovereign and a private individual, and the state of nature would still subsist. But in modern States it is found possible to allow extensive liberties to the individual, and the State may even consent, as an act of grace, to engage in litigation with its subjects.

Rousseau, however, could not conceive any union of social and individual liberty which did not involve the total suppression of the one or the other. This was evident in *Émile*. He wished in the spirit of Locke to devise a system by which natural liberty

* Carlyle, *Letters and Speeches of Oliver Cromwell*, Part VIII

† *On the Duties of Man*. Cf. Mill's *On Liberty*; Sir J. F. Stephen's *Liberty, Equality, Fraternity*; and Mr. D. G. Ritchie's *Principles of State Interference*.

should be guaranteed, while to secure political unity he provided in the spirit of Hobbes for the total alienation of the individual and all his rights in return for civil liberty, which meant in effect absolute subjection to a body of laws enforced by the whole power of the State. Thus there is a fundamental contradiction in Rousseau's system; his narrow individualism perpetually conflicts with his overweening desire for complete political unity, and he finds it impossible to bridge the chasm that divides the free natural man, whose liberty he would fain preserve, from the civil man whom the compact has transfigured and adapted to social life. Rousseau's system turns out to be imperious and despotic; he imposes civism under the pretext of guaranteeing personal rights, and he compels men to be free just as Calvin compelled them to be religious. We have seen that Rousseau becomes frightened at the unlimited power he confers on the State, and endeavours to except "natural rights" from the sphere of its influence. But in vain does he endeavour to restrain on the plea of conventions the absolute sovereign he has created; inexorable logic forces him to conclude that the sovereign alone must judge what rights the individual should retain. Thus his distinction between the respective rights of the sovereign and the citizens is a pretence, as he seems to admit later on (II. 4 *ad fin.*).

It is his emphasis on personality that causes Rousseau to exaggerate the unity of the nation as a collective and sovereign person controlling all the interests of life under the guidance of the general will. In this respect he follows closely his favourite models. Sparta was organized into a solid political phalanx; early Rome, "that model of all free peoples," had the unity and stern discipline of a legion; while the Geneva of Calvin, whose exclusive political institutions Rousseau greatly admired, was a kind of Christian Sparta. The ascendency of an aristocratic caste and the complete subordination of the individual to the State were features common to all these republics. Rousseau's austere ideal was not merely a result of his training and education as a Genevan citizen; it was congenial to his narrow emotional disposition. Moreover, he was unable to discern the course of historical evolution or to recognise the desirability of free indi-

vidual development. Wholly ignoring the continuity between modern and earlier societies, he cut himself off altogether from the immediate past. He wished rather to revive the homogeneity, coherence, and unity which marked the ancient States, whose artificial constitutions, based on slavery, are quite unsuited to modern conditions. His ideal State is stereotyped; all must conform to this one standard, deviation from which implies degradation. In brief, Rousseau disregards or despises the complexity of modern societies, in which numerous citizens exercise extremely varied functions, and in which a real solidarity is rendered possible only by an elaborate co-operation among individuals. Such differentiation seemed a fatal defect to Rousseau; what we call progress was to him retrogression.

It was partly his zeal for unity and partly a remnant of his respect for natural goodness that made him oppose intercommunication when a true expression of the general will is desired. Men, he assumes, in opposition to experience, are more likely to decide rightly by appealing to their natural instincts than by free and rational discussion. He therefore distrusts all particular associations (*e.g.* churches or *parlements*) whose power may destroy the factitious unity of the State, or seriously menace the sovereignty. His reference is sweeping enough to include political parties such as now exist in all constitutional States. It is obvious, however, that without organisation and discussion complex questions cannot be properly investigated and determined. Rousseau should have seen that a strong representation of classes and interests is the most effectual check on tyranny, and that it was the complete destruction of national and local bodies which had enabled the French monarchy to become absolute. But he felt implicit confidence in his sovereign assembly, and would tolerate no divisions. It does not appear to have occurred to him that a majority, under the pretext of forcing men to be free, could abuse their power, and produce even greater disasters than the most self-seeking of particular associations.

Rousseau, in fact, could not get rid of Hobbes's conception of sovereignty as a supreme coercive power, although he strove to dissemble its despotism by identifying the general will with the

vote of the majority. But though a majority may be conceived as a coercive power, a general will in the sense of an unselfish interest in the common good cannot be so conceived; "power may be transmitted but not will." And thus for the sovereignty of the general will we get the sovereignty of a majority of particular wills. Rousseau said expressly that the general will differs from the will of all; but unless the sum of individual interests forms the common interest his system is a failure. Again, his argument that the general will is always just and necessarily desires the common good (with its corollary that no law can be unjust), although it is a fallacious deduction from the assumption that no one wishes to injure or be unjust to himself, clearly implies that the sum of particular wills does constitute the general will. Thus we get a sovereignty of mere numbers, and, as Bluntschli* remarks, the sovereignty of the people as a sum of individuals is anarchy and incompatible with any constitution; for even in an absolute democracy it is the ordered national assembly, and not the crowd of atoms, that exercises authority in the State. The general will which Rousseau supposes to consist in the common elements of particular wills is in reality a mere abstraction; for opposing wills may not cancel one another, or factions may prevail, or, even if the general will is always right, as he dogmatically affirms, patriotic citizens may err from want of enlightenment; and in all such cases the object of the general will, viz. the common good, is unrealised. Rousseau does not indicate how the general will is in any exact sense determinable; he refers to the marks of it without enumerating them, though we may perhaps infer from various observations that unanimity, the absence of particular associations, the possession of adequate information, and the fact that the public welfare is being actively pursued are the outward and visible signs of its exercise. But Rousseau has to admit that in practice we can only count the heads of absolute and mutable majorities, in which case his distinction between the general will and the sum of particular wills completely vanishes; for his representation that a member of the minority, as such, must be mistaken about the general will

* *Theory of the State*, Book VII., ch. 2.

is a mere subterfuge resorted to in a desperate effort to save consistency. The majority, then, has absolute right, because its decisions, being the true interpretation of the general will, are always just and morally obligatory. Such a position, however, is clearly untenable; it is the paradox of Spinoza that the right of the supreme authority is proportionate to its power, and that its power being absolute its right is also absolute. The right of the majority to bind the minority is deduced by Rousseau from the original pact, which required unanimity. In strict consistency, however, he should have demanded unanimous assent to every measure, for if deputies cannot represent a people, the majority cannot represent the minority. Moreover, if a man has a natural right to disregard any law which he has not agreed to as a member of a general assembly, there seems no valid reason why he should not disregard the decision of a majority opposed to his own opinion, at any rate if he is convinced that they are self-seekers.

Throughout, Rousseau is perpetually embarrassed by his confusion between what is and what ought to be. His sovereign power, which imposes no useless burdens, injures none of its subjects, and always aims impartially at the common good without prejudice to individual interests, is an ideal. But when he proceeds to identify sovereignty with the general will, and the general will with the will of the majority, as ascertained by the counting of votes, we perceive how rapid is the transition from the ideal to the actual, how easy the lapse into fallacy. The true reasons for submission to the will of a majority are that the majority are most likely to discern and aim at the common well-being, and that, as they possess superior force, no other mode of government is practicable. Further, wherever individuals have certain common ends in view, expediency demands that, after unrestricted discussion, the minority should yield; to require absolute unanimity would render legislation difficult or impossible. But it is indispensable that the majority should tolerate free expression of contrary opinions. Reforms usually originate with a few enthusiasts, whose energy and activity, as in the campaign against slavery, may ultimately triumph over the indifference or opposition of a great number. We must remember, however, that even when a

majority is secured for a law, it may not express the general will, for many persons may remain honestly opposed to it.

According to Austin,* sovereignty resides in a determinate person or persons, and to this common superior, who must be independent of any other superior, the bulk of the given society must be in habitual obedience, the essence of sovereignty being unlimited power over those in subjection to it. On Rousseau's theory the general will resides, not in determinate persons, but in the majority of an assembly of citizens, whose vote does not necessarily express the general will, or even give a power of compulsion. T. H. Green suggested that the truest notion of sovereignty is reached by regarding Rousseau's and Austin's theories as complementary. In his view, obedience is rendered to a determinate superior because he is regarded as expressing the general will, and obedience is virtually conditional upon this. The superior's power of compulsion is not unbounded, and its exercise depends on his conformity to certain convictions on the subjects' part as to what is for the general interest. If this be so, the power of the ostensible sovereign is exercised with the people's assent, which assent is not reducible to a conscious fear of the supreme coercive power, but to a common desire for certain ends (especially peace and security) to which law-observance contributes. Hence a people or peoples (*e.g.* the natives of India), without having any affection for their rulers, may at least quietly acquiesce in the sovereignty. It is the desire for common objects which is the indispensable condition of the existence of real sovereign power, and if this desire, which we may regard as the general will, should conflict with the sovereign's commands, habitual obedience will also cease. Nor does it suffice that a majority can temporarily impose its will; true laws must be habitually recognised and permanently enforced. Except, however, in times of great popular excitement, the general will can only be roughly ascertained by consulting the organs of public opinion, or by finding out in a tentative way what the people will tolerate.

* *Jurisprudence*, Part I., Lecture vi.

The sovereign power is the essential thing in a State, and Rousseau supposed that it was established by a compact in order to guarantee impartially certain rights, freedom of action and acquisition, which only occasionally need the support of a coercive power. The sovereign power, however, is not itself the general will nor a mere coercive force, but the agent for realising the general will, and in proportion as it does this it commands habitual obedience.* Further, political institutions may be held to express and depend on the general will, while laws may be regarded as maintaining rights in accordance with it. When the coercive feature of sovereignty becomes prominent, the implication is that the general interest in maintaining equal rights has lost its hold on the people, or that the sovereign no longer fulfils its function in preserving these rights.

In short, individual rights depend on relation to a society, and only as the organ of the general interest can the popular vote endow any law with a right to obedience. To ask why I am to submit to the State, says Green, is to ask why I am to allow my life to be regulated by that complex of institutions without which I have no life to call my own. Freedom of action and acquisition can only be secured through mutual recognition of this freedom by members of the society as being for a common good. While the State is merely regarded as an aggregate of individuals under a sovereign power which can compel their obedience, and while this compulsive power is considered as the characteristic thing in a State, no true conception of the rights of individuals in relation to one another or to the State is possible. On such a view the question as to the sovereign's right to enforce obedience on individuals can only be met by some device for representing individual rights as derived from the sovereign, and therefore as having no existence against it. But unless the sovereign power is exercised against the will of individuals, its characteristic as a compulsive power would be lost, it would not be a sovereign power. As we

* Hume said in his essay *Of the First Principles of Government:* "As force is always on the side of the governed, the governors have nothing to support them but opinion It is, therefore, on opinion only that the government is founded.'

have seen, the majority cannot, on Rousseau's theory, justly exercise power on behalf of an unconsenting minority, for the representation that the minority virtually consent by the social contract always to be bound by the majority is clearly fictitious. On the other hand, the theory that all right is derived from the sovereign's power reduces right to might, and obedience is claimed by the sovereign as a power. The truth is that only so far as a government represents to them a common good are subjects conscious that they ought to obey it, though Rousseau confounded this with the proposition that no government can claim obedience unless it originates in a general assembly of the people.*

Hegel considered that Rousseau's great work was to base everything on will; for not only did he conceive the State to be a product of the wills of the parties to the social pact, but also regarded it as maintained by their will and consent, since sovereignty resides in the general will. Green also held that the permanently valuable thing in Rousseau was his conception of sovereignty as representing a general will and on that account entitled to obedience. As he remarked, however, the doctrine would have justified rebellion in any Continental State of the time; for to Rousseau the general will was sovereign *de jure*, and therefore he would have recognized in ordinary States only sovereigns *de facto*, the true sovereigns being dormant or suppressed. The only system really fulfilling his conditions (including active participation in legislation by the whole body of citizens) would be one of small self-governing communes.

An important omission should be noted in connection with

* The above remarks on the general will are largely founded upon T. H. Green's Lectures on Political Obligation included in his *Works* (vol. II.). An interesting attempt to place the theory of the general will on a philosophical basis has been made by Dr. Bosanquet in an article on "The Reality of the General Will" in the *International Journal of Ethics* (April, 1894). He considers the general will to be "the whole assemblage of individual minds considered as a working system with parts corresponding to one another, and producing as a result a certain life for all these parts themselves." On this view the general will cannot be identified with the decision of a community by vote on any single issue, nor with public opinion.

Rousseau's theory of sovereignty. He has strangely neglected the tribunal, on which Locke laid so much emphasis. In early societies, as Maine has shown,* the chief duty of a king was not legislation, but the decision of law-suits in accordance with custom or primitive law. Supreme legislative assemblies have been the exception rather than the rule throughout the historical period. With the tribunal the State began, and so long as States endure, tribunals must exist to interpret and enforce the laws. Yet Rousseau, though he speaks of the institution of the State as a means for securing justice between man and man, never assigns a definite place to the judicial power in the constitution of the State. In adverting to the execution of criminals, he says that they should be slain as foes because they have broken the compact, which is a very different conception from that which underlies rational punishment inflicted for the general welfare.

(3) In the body politic we must distinguish the legislative or sovereign power from the executive power, which is only exerted in particular acts. This is Rousseau's adaptation of Montesquieu's division of powers. The former cannot govern directly, and the government is a subordinate, ministerial body, distinct from, and intermediate between, the subjects and the sovereign, established for their mutual correspondence, and charged with the execution of the laws and the maintenance of liberty. The government, then, exists through the sovereign, and is the agent or commission which concentrates in itself the public force and exerts it in pursuance of the directions of the legislature. The individuals entrusted with the government are called magistrates, and the body of magistrates as a whole is called the Prince. Since they exercise power as depositaries only, the sovereign can limit, modify, or resume it at pleasure. If the legislative encroaches on the executive, or conversely, or if the subjects refuse obedience, the State is dissolved, and anarchy or despotism supervenes. Should the executive successfully exercise its will in opposition to the legislative, there are two sovereigns, the one *de facto* and the other *de jure* (III. 1).

* *Ancient Law*, ch. I.

The principle of sovereignty is everywhere the same, but different (executive) governments may be suitable for different nations according to circumstances. The force of the government should be increased as population increases, and it should be greatest where the magistrates are most capable of abusing their power. Assemblies, rights, titles, and privileges, which render the magisterial position more honourable, are necessary to endow the government with a personality, a will, a common feeling, and a real life of its own (III. 1). This illustrates how far Rousseau has advanced beyond his doctrine of a state of nature.

The more numerous the magistrates are, the weaker is the government; therefore the most active government is that of a single person. As the force employed by the magistrates is the whole force of the State, which Rousseau improperly assumes to be constant, the government acquires no greater force by the multiplication of magistrates. Indeed, they should be diminished as population increases so as to secure the greatest force; but to secure the greatest rectitude, the magistracy should be increased, for by this means the corporate will is made to approach the general will (III. 2).

A government is called a democracy, an aristocracy, or a monarchy, according as it is conducted by a majority or a minority of the people or by a single magistrate; and there are also mixed forms (III. 3). In this division Rousseau's special and unusual restriction of the term government to the executive power tends to confuse his readers. Democracy and the other terms have generally been used to denote political constitutions, which include both the legislative and the executive. This is their meaning in Hobbes and Montesquieu, who perceived that sovereignty is manifested as clearly in the executive and the judiciary as in the legislative. On Rousseau's view the President of the United States would be a limited monarch. Moreover, his division of governments on the basis of number alone is unsatisfactory. Aristotle, as we saw, qualified a similar division by a reference to other considerations; while Montesquieu's division into republics (democracies or aristocracies), monarchies, and despotisms, though

logically faulty, emphasized important features which Rousseau has neglected.

That the legislative and executive power should be in different hands is especially true of a democracy (*i.e.* a government in which all citizens are born magistrates). There never has been and never will be any true democratic *government*, for the minority naturally govern the majority, and a whole people cannot remain in perpetual session to manage public affairs. A democracy supposes a very small State, simple habits, and great equality in rank and fortune, which secures equality in rights and authority. The appointment of deputies would change the form of administration. In fact, democracy does tend constantly to change its form, and hence a risk of civil strife and the need of continual vigilance. A nation of gods might be governed democratically, but not a nation of men (III. 4).

In an aristocracy the sovereign and the government are quite distinct, whereas in a democracy they are liable to be confused. There are three forms of aristocracy: natural aristocracy, which prevailed in early times and is suitable to simple peoples; elective aristocracy, which grew up when wealth and power were preferred to the experience of age; and hereditary aristocracy, which sprang from the bequest of property and the foundation of patrician families. Elective aristocracy is the best of all governments, and hereditary aristocracy is the worst.* The election of magistrates secures probity, intelligence, and other guarantees of wise government. In an aristocracy assemblies are more easily convoked, home affairs are conducted with more diligence and order, and foreign affairs with more dignity. It is best and most natural that the wisest should govern the multitude, if only they do so for the general welfare; but there is a risk that chiefs may aim at independent authority. Aristocracy comports with a certain inequality of fortune, and it is expedient that public affairs should

* In his *Letters from the Mountain* (VI.) Rousseau asserted that an aristocracy is the best of governments and the worst of sovereignties. Gambetta said with some truth that Rousseau was at bottom an aristocrat.

be entrusted to those who can devote their whole time to them (III. 5).

In a monarchy the power is vested in a natural, not in a moral and collective person. Monarchy has the vigour which unity gives, but a king, whose very training unfits him to rule, aims at his own, and not at the public good. It is an inevitable defect of large monarchical States that subordinate officers are necessary; and as a monarchical government varies with the character of a king or of his ministers, it is less stable than a republican one (III. 6). In treating of monarchies Rousseau does not adhere consistently to his own definition; he is really dealing with despotisms of an Oriental type in the manner of Montesquieu, and not with royal executive governments. He also deserts his definition in arguing that monarchy is capable of some subdivision; while in his illustrations from Sparta and Rome he is speaking of States in which there was no clear distinction between a sovereign people and a monarchical executive.

There is properly no simple government, for a single chief must have subordinate magistrates, and a popular government must have a head. The maximum of strength and also of weakness is found in simple governments, while the mixed forms give a medium strength (III. 7).

Rousseau agreed with Montesquieu that liberty, not being the fruit of all climates, is not within the reach of all nations. Government subsists on the surplus products of the people's labour, and its expenditure varies with the needs and size of States. Democracy is therefore best suited to small and poor States, aristocracy to those of moderate wealth and size, and monarchy to large States. Rousseau held also that despotism is most suitable to warm climates and a good polity to temperate regions (III. 8).

The suitability of governments, in short, depends on a variety of conditions, and none is absolutely the best. The true sign of a good one is an increasing population, which is evidence of the preservation and prosperity of the people. Liberty conduces to prosperity more than peace does (III. 9).

The government acts incessantly against the sovereign, and, at

length overcoming it, violates the social contract. This is an inherent vice which is ever tending to destroy the body politic. A government degenerates: (*a*) when it contracts and passes from democracy through aristocracy to royalty—its natural tendency; or (*b*) when the State is dissolved, which arises from the usurpation of the sovereign power by the government and the consequent restoration of natural liberty, or from the disintegration of the government itself owing to the usurpation of its whole power by individuals (III. 10). Such is the natural and inevitable tendency of the best-constituted governments. But although the government may be paralysed, the State may live if the legislative power endures (III. 11). Rousseau's view that the executive is usually in conflict with the general will, and must eventually overbear it, is of course grossly exaggerated.

While the sovereign body is assembled the whole executive jurisdiction is in abeyance; for where the represented are there can be no representative. If the citizens yield to the ruling classes, who always put obstacles in the way of such assemblies, the doom of the State is sealed (III. 14). But it is absurd to contend that the executive power can be suspended; Locke had rightly argued that it should be continuous. The sovereign is not the same as the government (III. 1), except in a pure democracy; and, therefore, to convoke the sovereign is not to suspend the jurisdiction of the government, which is superior to each citizen as an individual. Further, this cessation of jurisdiction would endanger public order, and "an assembly of the people would," as Voltaire said, "be a solemn invitation to crime."

Although the people cannot be represented in their legislative capacity, they can, and should be, in their executive power (III. 15). Government, says Rousseau in opposition to the mediæval theory of the compact, is established by an act of sovereignty, not by a contract of rule and obedience between the people and the king or other chiefs whom they appoint. If the sovereign people acknowledged a superior, their supreme authority would be limited, which is nonsense. Moreover, in such a contract there would be no common authority to secure the performance of reciprocal engagements. The contract of association

excludes all others, for by this compact individuals transferred all their rights to the State (III. 16). In establishing a government the sovereign fixes its form by law, and certain chiefs are entrusted with it by a particular act, which is not a law, but a function of government, since the sovereign people by a simple act of the general will resolve themselves for this purpose into a democracy. Such is the subterfuge by which Rousseau tries to escape from the meshes in which his narrow definition of law has entangled him. The government provisionally established may either retain power or invest others with it, according to the form which the sovereign has decided to establish (III. 17).

The depositaries of the executive power are not masters but officers of the people, appointed or dismissed by them at will, and bound to unquestioning obedience. Nevertheless, changes in the established government are always perilous and should only be made when urgently needed, though this is a question of policy, not of right. The formalities requisite to distinguish regular and lawful acts from their opposites should be carefully observed. Periodical assemblies are especially useful for preventing usurpations of the sovereign power by governments. Assemblies should always be opened with two questions, viz. whether the sovereign desires to maintain the present form of government, and whether those now charged with it shall retain office. In these assemblies the people practically re-assume the government, and if they please, they may dissolve the social contract, or appoint officers to conduct the government till the next assembly. Should the government usurp the sovereignty the contract is broken, and the people are restored to their natural liberty (III. 18). It had apparently been broken in all existing States, and therefore the citizens were justified in resuming their natural liberty—if they could. Rousseau never attempted to explain how his principles could be applied in practice without entailing revolution or anarchy.

Rousseau appears anxious to disparage the executive power, even speaking of its exercise as a burden which men are bound to accept against their will; and he is much more careful to provide against usurpations of the government on the State than against encroachments of the State on individual liberties. The

sovereign can doubtless resume any power that it confers, but, although he admits that changes are impolitic except when urgently required, Rousseau would really leave the executive little permanence, independence, or cohesion. With an executive whose tenure of office was precarious, settled government would be impossible. His system, however, is doubtless only intended for very small States; in any others it would be, in Voltaire's words, "a code of anarchy." In establishing an executive, the sovereign should be conceived as giving an implicit pledge to maintain it so long as its functions are satisfactorily performed.

In the last book Rousseau examines by way of comparison with "the best government that ever existed, viz. that of Rome, the policy most favourable to the good constitution of the State." * His imperfect grasp of a truth he had himself enunciated, that the advantages of different forms of government are relative to circumstances, and his ignorance of the details of administration, prompted him to a dissertation on Roman forms, apparently with a tacit implication that they can be adapted to modern conditions. His commendation of the offices of tribune, censor, and dictator constitutes a kind of *reductio ad absurdum* of his system from a practical standpoint. Hobbes had regarded the dictatorship as a remedy for the dissensions inevitable in popular governments, and the praise that Rousseau lavished on this perilous institution would have excited the admiration of the English philosopher. Rousseau assigned to tribunes the function of watching over the preservation of the laws, and maintaining the respective rights of the sovereign, the government, and the citizens. In advocating censors as ministers and guardians of public morality, he was certainly influenced not only by the policy of the Romans, but by that of his great exemplar Calvin, who had rigidly controlled public morals (IV. 3–7).

(4) In introducing the question of civil religion, Rousseau refers to the intimate union that existed in ancient societies between religion and the State. But he fails to perceive that this union, serviceable as it was in disciplining barbarous nations, is wholly

* *Letters from the Mountain*, VI.

unadapted to modern States, in which legislation provides much stronger sanctions than existed in primitive societies, and in which the development of a social conscience renders external inducements to morality less and less necessary. Among modern progressive communities there is an increasing tendency to regard Church and State as properly distinct. Few persons, however, would venture to dispute that ecclesiastical bodies, whether established or not, must be subordinated to the sovereign. Hobbes had clearly realised that any conflict of jurisdiction between the civil and ecclesiastical authorities, such as occurred in the Middle Ages, was fatal to true sovereignty, and it is Hobbes whom Rousseau avowedly follows when he declares in favour of the rigorous subjection of the Church. On the other hand, both have erred in recommending the inculcation of particular dogmas under State authority.

Rousseau enumerates three kinds of religion: (*a*) the religion of the individual man, internal, personal, or natural religion, true theism, without temples, rites, or altars, the pure and simple religion of the Gospel;* (*b*) the religion of the citizen, external and national, with rites and dogmas prescribed by law; (*c*) the religion of the priests, which, like Roman Christianity, gives men two sets of laws, two chiefs, two countries, and subjects them to contradictory duties. The first, or spiritual religion, though holy and sublime, is anti-social and anti-patriotic, since it detaches the hearts of citizens from all earthly things and renders men patient under despotism. It was the divorce which Jesus effected between the temporal and spiritual powers that resulted in the suppression of the former by the latter. In condemning Rousseau's remarks on the lack of military courage and other qualities among Christians, critics often ignore his definition of pure Christianity and his statement that a society of true Christians would no longer be a society of men. The second kind of religion may be useful in the State itself by identifying religion with patriotism and lawlessness with impiety, but is injurious if

* Rousseau's own scheme of natural religion is unfolded in his Confession of a Savoyard Vicar (*Émile* IV.).

it is superstitious and prompts to international strife. The third kind is wholly bad.

What, then, are the true principles governing the relations between religion and the State? The sovereign's rights over his subjects, Rousseau re-affirms, cannot pass the limits of public utility, and therefore the latter owe no account of their opinions to the former, except so far as such opinions are of moment to the community in their bearing on morality or on other mutual relations of citizens. The sovereign having no competence in another world, its sole aim should be to secure good citizenship. After uttering these laudable sentiments, Rousseau propounds his civil profession of faith, the articles of which should be determined by the sovereign, not exactly as dogmas of religion, but as sentiments of sociability, without which a man cannot be a good citizen or a faithful subject. The sovereign cannot compel a man to accept them, but may banish an unbeliever from the State, not indeed as impious, but as unsociable and incapable of sincerely loving law and justice; while a backslider may be slain as the greatest of criminals. The dogmas should be few, simple, and precise, the positive dogmas being the existence of the Deity, a future life of rewards and punishments, the sanctity of the social pact and of the laws; while the single negative dogma is absence of intolerance (IV. 8).

There is something almost ludicrous in this solemn renunciation of intolerance after Rousseau's declaration that a citizen may be put to death for a constructive act of disbelief in a set of speculative dogmas. It matters little whether a man be treated as a rebel or an apostate, and whether the judge be a civil magistrate or an inquisitor; the intolerance is equal in either case. But Rousseau's real method and aim are clear. Regretting the loss of unity which existed of old through the alliance between religion and the State, and insisting on the supposed fact that "no State was ever founded without religion serving as its basis," he aimed at constituting a civil religion that should include as its fundamental principles the theological dogmas most widely accepted, and exclude all those which have engendered civil and national strife. The former, being essential to a human and civic religion,

were rightly to be imposed as indispensable guarantees of social morality. Any other dogmas consistent with these might be tolerated.

Thus once again we find that the doctrines of Rousseau are fatal to true individual liberty. The State would become a persecutor, and every candid and ingenuous citizen would be at the mercy of any body of religionists who might temporarily form a majority and so be able to impose their opinions on others. Such a majority, as claiming to represent the general will, would obviously be entitled to extend indefinitely the number of compulsory dogmas, and none but hypocrites and fanatics would flourish. Rousseau had never freed himself from the Genevan puritanism imbibed in his youth; and his close association of civism, religion, and morality was doubtless another of his debts to Calvin. According to the Ordonnances of the Church of Geneva, citizens who refused to participate in the prescribed acts of worship might be banished by the ecclesiastical police; and Servetus found that religious dissidence was as criminal as high treason. M. Janet thinks it possible that, in an age when mere tolerance, and not absolute religious liberty, was recognised, Rousseau's restriction of necessary dogmas to those of natural religion may have had a liberalising influence. But Rousseau contrasts unfavourably with the tolerant Montesquieu, and with Voltaire, the champion of free-thought and religious liberty.

Such are the doctrines of the *Social Contract.* Rousseau's inflexible and consistent treatment of the contract theory, said Green, revealed the fundamental errors involved in that method of deducing political obligation. The hypothesis of a state of nature and of natural men, born free and equal in rights, not only availed nothing, but hindered the search for a truer theory. Hobbes, Locke, and Rousseau regarded society as static; they had no conception of progress and of the development of man and society such as Turgot, Lessing, Condorcet, Hegel, Comte, and Spencer have made increasingly prominent and fruitful. Nor again did they anticipate Hegel's distinction between society and the State, though they perceived that there are collective interests that can only be realised by the formation of an organized society

Further, they erred in regarding the sovereign as a supreme and external coercive power, created by the citizens and incessantly controlling all social affairs, while at the same time they represent the citizens as aiming at the retention of certain natural rights, and as consenting parties to the exercise of the sovereign power, even when it acts in direct opposition to their wishes. The hopeless self-contradiction of such a theory is manifest. It is in truth, as Green said again, only as members of a society recognising common ends that individuals come to have these rights, and the sovereign power is derived from the systematisation and development of those institutions for the regulation of a common life without which they would have no rights at all. No true theory, in fact, can be based on natural persons and abstract rights. The Greeks had long ago taught, and Hume had again pointed out, that we must consider the end for which a State exists rather than the means by which it is constituted. Rousseau speaks of his political structure as a machine, and certainly he has done little more than construct an elaborate engine of government, which is expected to realise the common good, when an artificial solidarity has been produced by the suppression of individual liberties and private opinions, and by the complete centralisation of all the powers and resources of the community.

In his article on Political Economy, Rousseau compared the body politic to an "organised body, living and like that of a man"; and in the *Social Contract* (II. 7) he speaks of a man as receiving from the State in some manner his life and his being, while acquiring powers which are alien to him, and of which he cannot make use without the aid of other people. But he did not realise that the State is an organism in the sense that the co-operation of its various members is necessary to the existence and welfare of the body itself, and that their relation to the organism even makes these members true individuals. Primitive societies are formless and incoherent. A process of differentiation is the beginning of progress, and, combined with another process of integration, effects the transformation of indefinite masses into duly organised groups. The establishment of some form of government serves to co-ordinate these groups; and thus mere incoher-

ent aggregates of individuals in simple juxtaposition coalesce and form a body whose connective tissue is composed, not of ill-defined custom and tradition, but of definite law. By reaction on its environment, the organic growth attains greater size and ever-increasing diversity and complexity of structure, while the functions of its members become more and more varied. Again, the actual form of institutions must be relative to circumstances, and all progress must depend on intelligent adaptation to environment, on the suitable distribution of social functions, on organised association of citizens in mutual dependence, and on appropriate modification of the social structure in response to changing needs. The theory of a social organism enables us to escape the dilemma of the social contract theory—the antagonism between the sovereign and the citizens—since it leads us to conceive the sovereign less as a coercive power than as an agent for furthering the general welfare by securing free scope for the varied play of individual interests. Moreover, this theory, in regarding society as a persistent structure, with a certain fixity in the distribution and relation of classes, forces us to remember, what Rousseau ignored, that "the roots of the present lie deep in the past," and that we cannot rudely cut away existing institutions without impairing the efficiency of the organism itself. If the doctrine of heredity is problematical with reference to individual acquisitions it seems undoubtedly applicable to society. Burke supplies a striking anticipation of it:* "The idea of inheritance furnishes a sure principle of conservation, and a sure principle of transmission, without at all excluding a principle of improvement. It leaves acquisition free; but it secures what it acquires." Constitutional changes, therefore, must be made in subservience to fundamental human characteristics, physical and mental, as well as to the powers and properties of nature which form our environment.†

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* *Reflections on the Revolution in France.*

† See Mr. Spencer's *Principles of Sociology*, Book I., part ii., and *Study of Sociology*, chap. III.; Mr. Leslie Stephen's *Science of Ethics*, chap. I. iii. and iv., and chap. III. ii. to iv.; Mr. Ritchie's *Principles of State Interference*, I. iii.; and M. Fouillée's *La Science Sociale Contemporaine*, Book II. M. Fouillée has endeavoured to harmonise the

III.

No attempt can be made to trace with any fulness the extraordinary influence of Rousseau's ideas and temperament on subsequent literature and philosophy. Even those who rose up to assail his doctrines fell to a large extent under his potent spell; and the intense emotional energy which he diffused appears indestructible, being perpetually re-embodied in new forms.* What may be called, however, the pure theory of the social contract had little further vitality, and the few notable writers in whom it awakened sympathy or antagonism demand only a brief notice. The triumph of the experiential and historical methods of enquiry and the growing predominance of the utilitarian theory, which emphasized the end for which a State exists rather than the process by which it is instituted, soon made the compact theory untenable.

In France, Voltaire, who hated speculative politics, expressed keen antagonism to Rousseau's ultra-revolutionary ideas; for although he regarded a republican government as the most tolerable, he was no enthusiast for universal suffrage and political equality. Like Montesquieu, he preferred the gradual introduction of constitutional reforms, reasonably fearing that a complete overthrow of existing governments would be followed by a violent reaction. On the other hand, Rousseau found disciples in D'Holbach, whose *Social System* (1773) set out with the hypothesis of a tacit pact; in Condorcet, who became an interpreter of Rousseau in the revolutionary struggle, and whose *Progress of the*

social contract and social organism theories by combining them in his theory of a "contractual organism." It is, he says, not contiguity, but voluntary union, a moral bond of conventions and promises, that unifies the members of a society, and the more contractual an organism is, the more truly organised is it. The term, "contractual organism," although awkward in so far as it suggests that the members of an organism are individually free to co-operate or not with one another, nevertheless expresses concisely the conception of society as a body of interdependent members whose relations are determined partly by birth and environment and partly by voluntary contract.

* Professor Huxley in his political essays (VII. to IX.) in *Method and Results* has attacked the new Rousseauism. Cf. Maine's *Popular Government*, especially Essay III.

Human Mind owed much to his influence; in Raynal, whose socialistic doctrines savoured more of the *Discourse on Inequality* than of the *Social Contract.*

In Germany two great names, those of Kant and Fichte, are linked with Rousseau's theory. Kant, who proceeded analytically, and not synthetically like Rousseau, conceived the simple idea of the act by which a nation constitutes itself a State as a contract by which men resign their external liberty in order to resume it immediately as members of a State in a legal dependence resulting from their own will. He recognised clearly that the compact is only an "idea of reason," a convenient method for representing the process by which the State is organised and mutual rights established; yet he regarded it as having practical reality in that it obliges the legislator to dictate his laws as if they represented the general will of the nation, while it binds all citizens to observe the laws as if they had freely consented to them. Thus Kant regarded the social pact as a kind of fiction expressing the characteristics of political obligation applicable to any State, whatever its historical origin. He also held that it is man's duty to pass into the civil state as the only mode of guaranteeing justice. Further, he considered that a republican constitution is the legitimate outcome of the idea of an original contract as the source of all rightful legislation, though he regarded a democracy, in which the whole people have both legislative and executive power, as necessarily despotic. According to Fichte, also, the social compact furnishes the fundamental idea by the rule of which societies should act, and it implies the right of the people to change their institutions. Political institutions include: (*a*) a free contract among political units as a mutual guarantee of rights; (*b*) a legislature through which the common will of the people becomes law; and (*c*) an executive which realises this will and so unites the private and the general will. The actual State must be made to approximate more and more to the rational State.

Rousseau had few disciples in England. Priestley and Price

were chief among those who adopted his principles. Paine and Godwin supported doctrines still more extreme and revolutionary.* Godwin definitely repudiated the social contract. He desired to abolish all governments, to reduce all ordered society to its original elements, and thus to restore the state of nature. He was, in short, a philosophical anarchist. Burke, however, best represents the prevailing attitude towards Rousseau in England. The positive English spirit, with its ingrained distaste for metaphysical reasoning and abstract theorising, was expressed in Burke's contemptuous allusion to "the chaff and rags and paltry blurred shreds of paper about the rights of man."

Rousseau, the man of natural rights, was the very antitype of Burke, the man of constitutional law. Art is man's nature, was Burke's principle, and the destructive tendencies of the French philosophers angered him. Reverencing national constitutions as almost sacred structures, built up by a laborious, age-long process, and directed to lofty and permanent ends, he was indignant with "those whose principle it is to despise the ancient and permanent sense of mankind, and to set up a scheme of society on new principles." "Rage and phrenzy will pull down more in half an hour than prudence, deliberation, and foresight can build up in a hundred years"; while "by preserving the method of nature in the conduct of the State, in what we improve we are never wholly new; in what we retain we are never wholly obsolete." He despised the notion of a geometrical and arithmetical constitution. Burke, however, did not cast aside the social compact doctrine—he regarded the constitution as the "engagement and pact of society." "If civil society be the offspring of convention, that convention must be its law. That convention must limit and modify all the descriptions of constitution which are formed under it. Every sort of legislative, judicial, or executory power are its creatures." In entering civil society a man abdicates all right to be judge in his own cause and surrenders his right of self-defence as well as some of his liberty; to talk of abstract rights is useless. Further, if society is a contract, it is no casual and temporary

* See Mr. Leslie Stephen's *History of English Thought in the Eighteenth Century*, II. chap. x.

partnership, but a permanent, organic union. The constitution of a State and the due distribution of its powers are matters of the most delicate and complicated skill. "It requires a deep knowledge of human nature and human necessities, and of the things which facilitate or obstruct the various ends which are to be pursued by the mechanism of civil institutions." The science of constructing or reforming a State cannot be taught *a priori*; it requires patience and far more than the experience of a life-time. "The nature of man is intricate; the objects of society are of the greatest possible complexity." Hence the boasted simplicity of new political constitutions shows that they are fundamentally defective, and that their artificers are grossly ignorant or narrow in their views. While Rousseau had insisted on the evils of particular associations, Burke insisted on the value of "all that combination and all that opposition of interests . . . which, in the natural and in the political world, from the reciprocal struggle of discordant powers, draws out the harmony of the universe. These opposed and conflicting interests . . . interpose a salutary check to all precipitate resolutions; they render deliberation a matter not of choice, but of necessity; they make all change a subject of *compromise*, which naturally begets moderation." * Thus Burke endeavoured to explain or extenuate those inequalities and inconsistencies in political institutions which Rousseau's mechanical and symmetrical theory ignored or contemned.

The value attached to Rousseau's work was evidenced by the requests made to him to draw up constitutions for Corsica and Poland. In the *Social Contract* he observed that there was still in Europe one country capable of legislation, viz. Corsica, which, under Paoli's leadership, had long waged a glorious but hopeless struggle against the Genoese. In 1764 Buttafuoco, a Corsican officer, applied to Rousseau to frame a code of laws and a set of political institutions, but there is some doubt whether he acted

* The above quotations are from Burke's *Reflections on the Revolution in France*, in which he deals specially with the compact theory. In his *Letter to a Member of the National Assembly* he made a violent attack on Rousseau's "philosophy of vanity."

with the concurrence of his fellow-countrymen. Rousseau, after accepting the invitation and issuing the *Project of a Constitution for Corsica*, was prevented by personal pre-occupations from pursuing his designs. In 1768 Corsica was ceded to France.

In 1772, in response to a request of the Poles, Rousseau produced his *Considerations on the Government of Poland*, which contains many modifications of his political theories, and serves as a kind of corrective to the abstractions of the *Social Contract*. He recommended truly national institutions, a re-establishment of ancient customs,* the civic education of youth, and the introduction of a representative system. But the partition of Poland, which Rousseau feared, occurred in the following year. Thus both attempts to apply his principles to practical affairs proved abortive.

IV.

In conclusion, reference must be made to Rousseau's influence on the course of historical events. Whether his doctrines contributed in any degree to the cause of American independence it is extremely difficult to determine. The Puritans of New England had from the beginning been thoroughly democratic, at least in principle;† and Locke's theories of popular sovereignty and of the lawfulness of rebellion were probably well known in America. But it is likely that the close intercourse between the French and the revolutionary leaders familiarised the latter with many of Rousseau's principles. The Declaration of Independence (1776) was a declaration of natural, abstract, and inalienable rights wholly in his spirit. "We hold these truths to be self-evident—that all men are created equal; that they are endowed by the Creator with inalienable rights; that among these are life, liberty, and the pursuit of happiness." It is also affirmed that governments have been instituted to assure these rights, that they derive their just power from the consent of the governed, and that the people have a right to change or destroy a government destructive of these ends. In the Constitutions of particular American States

* Cf. Rousseau's *Letter to D'Alembert.*

† Cf. Borgeaud's *Rise of Modern Democracy*, pp. 105–116.

similar principles are asserted. Thus, in the Virginian Declaration of Rights, we are told that all men are by nature equally free and independent, that they possess certain inherent rights, and that all powers reside in the people.

If the Americans learned anything from their French allies, the debt was amply repaid by the direct impulse which their rebellion communicated to the revolutionary movement then stirring in France. Keen observers had long foreseen that a volcanic outburst was impending in that distressful country. D'Argenson had predicted it as early as 1752; while Lord Chesterfield, writing on December 25th, 1753, said that "all the symptoms which I ever met with in history previous to great changes and revolutions in government now exist and daily increase in France." Rousseau* himself had written in 1762, "We are approaching a state of crisis and an age of revolutions;" while, later on, in his *Confessions*, he dwelt on disasters in war, bad administration, and general discontent as portents of a coming dissolution. He was, indeed, a prophet who hastened the fulfilment of his own prophecies; for his work made him the spiritual father of the Revolution. "The *Contrat Social* ranks with the *Wealth of Nations* as one of the two political works of the eighteenth century which have had the greatest influence upon public affairs."† The influence of Voltaire and Montesquieu, the constitutionalists, and of Morelly, Mably, and Raynal, the socialists, counted for little in comparison with that of Rousseau. "Take away Jean Jacques from the eighteenth century, leave only Montesquieu and Voltaire, and you can no longer explain the insurrection of minds, their ardour to gain freedom, their enthusiasm, their faith, the spirit, the virtues, the power, and the greatness of our Revolution."‡ In the *salons* and in the streets his doctrines were eagerly discussed. In 1765 Hume wrote from Paris: "It is impossible to express or imagine the enthusiasm of this nation in his favour; . . . no person ever so much engaged their attention as Rousseau. Voltaire and

* *Émile*, Book III.

† Mr. Lecky's *History of England in the Eighteenth Century*, V. p. 347.

‡ Lerminier, *Philosophie du Droit*, II. 251.

everybody else are quite eclipsed by him." He had, indeed, proclaimed as with a trumpet-blast the enfranchisement of the people, and the sound vibrated throughout France, arousing the oppressed from the dull sleep of servitude. Those who had so long bowed under the yoke of priest and noble now began to walk erect with all the pride and confidence of free-born men. Quinet said rightly that Rousseau bequeathed to the Revolution not only his ideas but his temperament; he was its soul and gave it his own religious and emotional character; and thus he became "the forerunner of the emancipated people." The testimony of contemporaries proves that his influence penetrated every phase of the great struggle. Napoleon said that without Rousseau there would have been no Revolution. Saint-Just entitled him the "revolutionary man." Mercier described his work as "the lever for overturning the colossus of despotism." Joseph Chénier affirmed that the human race had lost its title-deeds and that Rousseau had found them. At a later time Lamartine spoke of him as the "great and fatal utopist of societies," and of the *Social Contract* as "the fundamental book of the Revolution."

The *Social Contract* was not, as detractors suggest, a mere phrase-book of fanatics. Taine has called it "adulterated brandy;" but in the revolutionary epoch it was regarded as "the beacon of legislators," and was incessantly quoted as such by lawyers and publicists. "It is in all hands," said Camille Desmoulins. Taine himself tells us that in 1784 certain magistrates' sons, on taking their first lesson in jurisprudence, had the *Social Contract* placed in their hands as a manual. It was, in fact, a political catechism for all classes, and its chief propositions were widely disseminated. Coleridge * says that he knew men of intelligence who were travelling in France at the commencement of the Revolution, and who bore witness that "the public highways were crowded with enthusiasts, some shouting the watchwords of the Revolution, others disputing on the most abstract principles of the universal constitution, . . . the most ignorant confident of his fitness for the highest duties of a legislator, and all prepared to shed their

* *The Friend*, I. 199.

blood in defence of the inalienable sovereignty of the self-governed people. The more abstract the notions were, with the closer affinity did they combine with the most fervent feelings and all the immediate impulses to action." We find Rousseau's principles embodied in the petition of the Tiers État of Nivernois,* in which the people complain of "the profound ignorance of the conditions of the social pact which has perpetuated their servitude," and demand the restitution of the inalienable and imprescriptible rights of the people. In the hymn of the twentieth Vendémiaire the people proclaimed him a true citizen, a friend of nature and of truth, and hailed him as the model of sages and the benefactor of humanity. The very thought of him aroused enthusiasm. "O Jean Jacques," cried a volunteer, "that thou art not a witness of our Revolution! Thou wert the precursor of it, . . . thy writings have enlightened us." Mallet du Pan † wrote that Rousseau "had a hundred times more readers than Voltaire among the middle and lower classes of society. . . . It is he alone who has inoculated the French with the doctrine of the sovereignty of the people and its most extreme consequences. I heard Marat, in 1788, reading and commenting on the *Social Contract* in the public promenades amid the plaudits of an enthusiastic audience. It would be difficult to mention a single revolutionary who was not transported with these anarchical theories and burning with the desire to realise them. This *Social Contract*, the solvent of society, was the Koran of the bombastic talkers of 1789, of the Jacobins of 1790, of the Republicans of 1791, and of the most atrocious of the madmen." A thousand pamphleteers paraphrased it; the orators of the Palais Royal discoursed from it on popular sovereignty, loudly demanding the abolition of privileges and the establishment of a free, democratic constitution; the club orators made it their breviary.

The extraordinary influence that Rousseau wielded must not be assigned to the *Social Contract* alone. His Discourses, de-

* Quoted by Arthur Young, *Travels in France.*
† *Mercure Britannique*, II. 362–3.

nouncing civilisation and attacking property, had ascribed the gross civil and political inequalities that existed to the evil operations of government. They were at once socialistic in spirit and anarchical in tendency. Rousseau's hostility to knowledge and culture had led him to exalt the uneducated masses, and to trust to the free play of their natural instincts for the regeneration of society. The very vagueness of his general principles commended them to the multitude, and their plausibility made them dangerous in the mouths of demagogues. The people are sovereign by "natural right," and the sovereign is everything that it should be; the people are the sole source of legitimate power, and are supreme over all individuals and all property. The name "citizen" acquired a new significance, for it now implied participation in the sovereign power. The pauperized peasant and the social outcast were at length to rank, civilly and politically, on an equality with their old oppressors. *Vox populi, vox dei* was no longer an empty phrase, but an indubitable truth.

The violence of the Revolution cannot fairly be attributed to Rousseau's teachings, for he had deprecated all violence. He had warned the Poles that reform needed great circumspection; he had contended that legislation should be adapted to the character of the people as well as to climate and other conditions; and he had affirmed not only that a true democracy is impossible, but that an elective aristocracy is the best form of government. His own system was formulated for a group of small and homogeneous States, and he refused in anticipation to be held responsible for any of the abuses of large States. The attempted application of his limited conceptions to a large and diversified State naturally produced startling results; while the demoralisation caused by the overthrow of the old feudal system, the rotten state of the finances, and the lack of administrative skill and knowledge among the leaders who were striving vainly to construct a new engine of government on ideal principles in utter disregard of what was practicable, rendered violence almost inevitable.

Some have been disposed to assign to Montesquieu's influence the work of the moderate revolutionists who predominated in the

Constituent Assembly, and to credit Rousseau with the work of the Convention and other excesses. But Burke described the latter as "the insane Socrates of the National Assembly," and there was more of Rousseau than of Montesquieu in the speeches of its members, "twelve hundred Jean Jacques Evangelists," as Carlyle called them. Rousseau's was the first of the statues erected by the Assembly. Eymar, one of the deputies, spoke of the *Social Contract* as "the charter in which you found the National Rights; there you learned where alone the imprescriptible, unalterable right of sovereignty is placed." Another member, the Protestant leader Rabaut de St. Étienne, summed up Rousseau's radical doctrines by denouncing all French institutions, and by contending that it is necessary to destroy everything, in order that men and things, manners and laws, ideas and language having been changed, all may be created anew. A root and branch revolution of this kind was advocated by the "thirty voices," a faction sitting on the extreme left, which included the fateful Robespierre, and which was destined to increase with the decrease of all other existing parties. Mirabeau and Siéyès, two of the greatest names in the Assembly, were warm admirers of Rousseau. In 1788 Siéyès had issued a famous brochure, "What is the *Tiers État?*" which contains the quintessence of the *Social Contract.* "What is the *Tiers État?* Everything. What has it been hitherto? Nothing. What does it ask for? To be something." The Third Estate, he asserted, is fettered and oppressed, though without the nobility it might be free and flourishing. It is at length necessary to constitute the nation as a single whole. But Siéyès and most of Rousseau's disciples so far deserted his precepts as to approve of large States and a representative system, deeming that federalism was inconsistent with the unity and indivisibility of a republic.

At the very outset there had been a struggle on the question of voting *par ordre* or *par tête* in the States-General, and the representatives of the people vindicated the principle of equality against nobles and clergy. A month later they boldly declared themselves the sovereign National Assembly and proceeded to formulate a constitution. On the night of August 4th, 1789,

orders and privileges and many feudal abuses were abolished in accordance with Rousseau's doctrine that liberty could not subsist without equality. The famous *Declaration of the Rights of Man*, which affirmed the principles on which the new government was to be based, is full of his theories. It declares: (1) that men are born free and equal in rights; (2) that these rights are liberty, property, security, and resistance to oppression. Other clauses affirm that the nation is sovereign, and that no body or individual can exercise any authority which does not emanate from it; that the law is the expression of the general will; and that all citizens have a right to participate in legislation, either personally or by their representatives. When, however, it was proposed to enumerate civic duties, the Assembly was as reticent as Rousseau. The organisation of Paris into sections (not unlike the ancient democratic States), in which the inhabitants exercised almost sovereign power, and passed resolutions that had the force of law, reminds one of Rousseau's ideal community. Further, the numerous overlapping governing powers throughout the country were abolished and were superseded by a simpler, more regular system. France, as a whole, was divided into communes, which Burke described as separate republics; but representation in a national legislature was of course admitted. Federations of towns and districts were formed to secure observance of the law, and a grand federation of the whole nation was held in Paris in 1790, as a manifestation of unity and fraternity. National guards were organised to replace those mercenaries whom Rousseau had denounced. In 1790 the Church was subordinated to the State by the Civil Constitution of the Clergy; and in the same year Louis XVI. swore to use all the power delegated to him by the State in support of the new constitution. In 1791 the Assembly dissolved itself. In two years it had swept away feudalism, had acknowledged individual liberty and equality in civic rights, and had established Rousseau's leading principles that the people are sovereign, that all executive functions should be delegated, and that the executive and the Church should be controlled by a popular legislature. In practice the legislative tended more and more to usurp the functions of the executive power, which was

exercised by committees of the popular assembly. This subordination was also a reflex of Rousseau's theory.

The Constituent Assembly had not instituted absolute equality in the suffrage; but under the ardent and youthful Legislative Assembly the real power passed into other hands. The Girondins, who at first preponderated in the new legislature, found bitter opponents in the Jacobins, who constituted the violent section and broad-based their power upon clubs scattered throughout France. Both parties, however, borrowed doctrines from Rousseau. Among the Girondins the philosopher Condorcet was a notable disciple; while, on account of his influence upon their opponents, Rousseau was called "the grand Pontiff of the Jacobins." In its declaration of war the Legislative Assembly proclaimed the inherent and irrevocable sovereignty of peoples, together with their inalienable right of making and changing laws, and of deposing all usurpers of the supreme power. The dethronement of the king on August 10th, 1792, signalised the beginning of the arbitrary and dictatorial epoch of the Revolution. An attempt was made to defend even the September massacres by a perversion of Rousseau's teachings: "When a society or the majority wish a thing it is just; the minority is always guilty even if morally right."

France became a republic upon the establishment of the National Convention, which showed its determination to act in pursuance of Rousseau's early maxim that the destruction of existing institutions is essential to happiness. It reformed education on Rousseau's principles and began a new legal code. It declared that the monarchy could not be legitimate since it did not exist in accordance with the general will, and its laws were therefore not true laws; moreover, the monarch being only a usurper of the legislative power, his hereditary office was incompatible with liberty. Again, since the royal government was not appointed by the sovereign people and obedience was imposed by force, the social contract was broken, and citizens were justified in resuming their natural rights. When Louis was brought to trial, the Jacobin Saint-Just demanded that he should be treated as a public enemy, for Rousseau had said that a

criminal is a foe of the State and can therefore be slain as a violator of the pact. "Let us tell the king," said the Girondin Isnard, "that the nation is his sovereign, and that he is subject to the law."

The dreaded name of Marat is associated with the violent measures that ensued upon the fall of the Girondins in June, 1793. He had long been notorious for his extreme views. To the starving Parisians he had proclaimed that society is based on a contract terminable at will, that the rich having violated it, the state of nature was restored, and that all were now free to take what they could. To realize revolutionary ideals more speedily, the people's idol proposed that a dictator should be created. Châlier, an imitator of Marat, while addressing the Club at Lyons cried: "You are kings and more than kings; do you not feel the sovereignty circulating in your veins?"

The constitutional law of 1793 marks the growth of a still more democratic spirit. The problem to be solved, said Hérault de Séchelles, is to guarantee at once the exercise of the general will and unity of representation. Unlimited sovereignty, magistracies held on precarious tenure, direct elections in which all should take part, primary assemblies which should meet at fixed dates without summons, and which should nominate representatives and control their acts, a national assembly drawn from the primary assemblies and annually renewed,—such were the propositions by which Rousseau's principles were to be realised. But the new constitution was soon found unworkable.

The Committee of Public Safety, which now controlled all executive powers, was established by the Montagnards, or extreme Jacobins, who included Robespierre, Couthon, and Saint-Just. These men, professed followers of Rousseau, carried his doctrines to the most violent extremes. In the name of the public safety they excused murder and outrage, and initiated the Reign of Terror. Rousseau, who had proclaimed that to sacrifice an innocent man for the safety of the multitude is one of the most execrable maxims of tyranny, and the most dangerous that can be admitted, would have abhorred the atrocities of these false disciples. "What constitutes the republic," said Saint-Just, "is

the destruction of everything that is opposed to it;" "liberty must conquer at any cost." To Robespierre "the government of the Revolution was the despotism of liberty against tyranny," and he affirmed that the motive powers of popular government should be virtue and terror—terror which is "nothing but prompt, severe, and inflexible justice." They desired to give all the citizens similar interests by levelling all class distinctions; and, sharing Rousseau's belief in the pliancy of human nature, they were eager to change the customs and character of the French and mould them upon the simple and virtuous types of antiquity. "You must entirely refashion a people that you desire to make free—destroy its prejudices, change its habits, limit its necessities, eradicate its vices, purify its desires." Such was the method recommended by the decree of the Committee of April 20th, 1794, reported by Billaud-Varenne. Saint-Just formed his ideas on the polity of Sparta; and the ancient republics became the objects of exaggerated eulogy. Robespierre declared, almost in Rousseau's words, that "the sovereignty resides in the people; 't is one, indivisible, imprescriptible, and inalienable." The government, too, was to be indivisible, that is, the old, bad system of centralisation was to be maintained. The citizens were to be free, equal, and fraternal; while the public safety and welfare were to be the end, and virtue the principle, of political action. These ideas were deemed just and natural, but those who supported them had no clear notions how they could be realised without resort to force. Robespierre, Couthon, and Saint-Just working in alliance on Rousseau's principles, aspired to be model legislators. But, like the Decemvirs, they crushed out liberty in liberty's name, and practically annihilated the rights of the citizen. Saint-Just even desired to nominate Robespierre as dictator in order that their projects of regeneration might be more speedily and completely carried into effect. Their master had commended the dictator's office. In 1794 Robespierre, who held with Rousseau that society should repose on a religious basis, caused the Convention to decree that the French nation should acknowledge the existence of God and the immortality of the soul. Festivals were decreed in honour of the supreme being

and f the moral and republican virtues, and civil religion was mposed upon France.

In such manifold ways and by such diverse men were the principles of Rousseau applied to practice. "Royalists and aristocrats were pursued in the name of liberty and equality; the Girondins, in the name of indivisibility; Philippeaux, Camille Desmoulins, and the moderates, in the name of the public safety; Chaumette, Anacharsis Clootz, Gobet, Hébert, and all the anarchist and atheist party in the name of virtue and the supreme being."* Mr. Lecky has said with truth:† "That which distinguishes the French Revolution from other political movements is that it was directed by men who had adopted certain speculative *a priori* conceptions of political right with the fanaticism and proselytising fervour of a religious belief, and the Bible of their creed was the *Contrat Social* of Rousseau."

In 1794 a public funeral was decreed to Rousseau, and his remains were borne in state to the Panthéon, the *Social Contract* being carried in front of the Convention. Robespierre apostrophised him as the apostle of liberty and equality, and ascribed to him the happy changes that had been wrought in manners, customs, and laws, and in the minds of men.

Thus the vagueness and latitude of Rousseau's principles had enabled the worst tyrants to employ them for the worst purposes. The power of the Convention, which rested on a broad democratic foundation, became centred in men whose tyranny was as ruthless as that of the deposed line of kings. What wonder that exhausted France, misled by metaphysics, betrayed by false or visionary leaders, and deluged with the blood of citizens, was fain to seek refuge at the feet of the mighty despot Napoleon, who alone could evolve ordèr out of chaos?

It is impossible to trace the subsequent labyrinthine ramifications of Rousseauism. His influence is revealed in the Swiss Referendum for submitting legislative proposals to the direct vote of the whole nation, as well as in the Napoleonic plebiscite, which furnished a lamentable illustration of the people's liability to be

* Mignet, *History of the French Revolution*, ch. IX.

† *History of England in the Eighteenth Century*, V. p. 345.

deceived. The unguarded application of Rousseau's principles in France has, indeed, been largely responsible for that revolutionary method in politics which has caused so many changes of constitutions and ministries during the past century. Outside France there has been too general a tendency to apply prematurely the doctrine of popular sovereignty, without due consideration of race, social conditions, education, past history, and other circumstances. It has been overlooked that many things are right which are not expedient. In South America, the adoption of democratic government has been merely the establishment of an unstable monarchy under republican forms. In England, however, the principle promises to be fully, and yet safely, realised by the institution of manhood suffrage, by the shortening of the duration of Parliaments, and by the abolition of the hereditary element in the legislature; but the growing tendency to regard representatives as mere delegates bound by imperative mandates is liable to deter men of wisdom and character from entering the political arena, and to encourage the growth of mere self-seeking opportunism.

In overthrowing the old conception that property and birth should alone give a title to political power, and in strenuously upholding the claim of the toilers to share in the government of the State which they sustain by their productive labour, Rousseau did inestimable service to the cause of liberty. But his insistence on the alienation of all persons and property to the State is a perilous doctrine, which has doubtless given an impulse, if not a foundation, to the socialistic movement of the present century. Fourier, Saint-Simon, Owen, Lassalle, and Marx have carried the problem of popular control into the industrial sphere, where it now presses for solution more powerfully than in the domain of politics. The labour movement is the most significant outcome of democracy. The growth of socialistic and anarchic doctrines in this generation is, however, a symptom of social disease, and forces us to consider whether the existing predominance of aristocratic and plutocratic influences, with the glaring inequalities which they entail, does not constitute a grave menace to the peace and welfare of the State.

H. J. Tozer.

THE SOCIAL CONTRACT.

PREFATORY NOTE.

THIS little treatise is extracted from a larger work undertaken at an earlier time without consideration of my capacity, and long since abandoned. Of the various fragments that might be selected from what was accomplished, the following is the most considerable, and appears to me the least unworthy of being offered to the public. The rest of the work is no longer in existence.

BOOK I.

INTRODUCTORY NOTE.

I WISH to enquire whether, taking men as they are and laws as they can be made, it is possible to establish some just and certain rule of administration in civil affairs. In this investigation I shall always strive to reconcile what right permits with what interest prescribes, so that justice and utility may not be severed.

I enter upon this enquiry without demonstrating the importance of my subject. I shall be asked whether I am a prince or a legislator that I write on politics. I reply that I am not; and that it is for this very reason that I write on politics. If I were a prince or a legislator, I should not waste my time in saying what ought to be done; I should do it or remain silent.

Having been born a citizen of a free State,[1] and a member of the sovereign body, however feeble an influence my voice may have in public affairs, the right to vote upon them is sufficient to impose on me the duty of informing myself about them; and I feel happy, whenever I meditate on governments, always to discover in my researches new reasons for loving that of my own country.

CHAPTER I.

SUBJECT OF THE FIRST BOOK.

MAN is born free, and everywhere he is in chains. Many a one believes himself the master of others, and yet he is a greater slave than they. How has this change come about? I do not know. What can render it legitimate? I believe that I can settle this question.

If I considered only force and the results that proceed from it, I should say that so long as a people is compelled to obey and does obey, it does well; but that, so soon as it can shake off the yoke and does shake it off, it does better; for, if men recover their freedom by virtue of the same right by which it was taken away, either they are justified in resuming it, or there was no justification for depriving them of it.[1] But the social order is a sacred right which serves as a foundation for all others. This right however, does not come from nature. It is therefore based on conventions. The question is to know what these conventions are. Before coming to that, I must establish what I have just laid down.

CHAPTER II.

PRIMITIVE SOCIETIES.

THE earliest of all societies,[3] and the only natural one, is the family; yet children remain attached to their father only so long as they have need of him for their own preservation. As soon as this need ceases, the natural bond is dissolved. The children being freed from the obedience which they owed to their father, and the father from the cares which he owed to his children, become equally independent. If they remain united, it is no longer naturally but voluntarily; and the family itself is kept together only by convention.

This common liberty is a consequence of man's nature. His first law is to attend to his own preservation, his first cares are those which he owes to himself; and as soon as he comes to years of discretion, being sole judge of the means adapted for his own preservation, he becomes his own master.

The family is, then, if you will, the primitive model of political societies; the chief is the analogue of the father, while the people represent the children; and all, being born free and equal,[4] alienate their liberty only for their own advantage. The whole difference is that, in the family, the father's love for his children repays him for the care that he bestows upon them; while, in the State, the pleasure of ruling makes up for the chief's lack of love for his people.

Grotius [5] denies that all human authority is established for the benefit of the governed, and he cites slavery as an instance. His invariable mode of reasoning is to establish right by fact.* A juster method might be employed, but none more favourable to tyrants.

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* "Learned researches in public law are often nothing but the history of ancient abuses; and to devote much labour to studying them is misplaced pertinacity" (*Treatise on the Interests of France in relation to her Neighbours*, by the Marquis d'Argenson [6]). That is exactly what Grotius did.

It is doubtful, then, according to Grotius, whether the human race belongs to a hundred men, or whether these hundred men belong to the human race; and he appears throughout his book to incline to the former opinion, which is also that of Hobbes.[7] In this way we have mankind divided like herds of cattle, each of which has a master, who looks after it in order to devour it.

Just as a herdsman is superior in nature to his herd, so chiefs, who are the herdsmen of men, are superior in nature to their people. Thus, according to Philo's[8] account, the Emperor Caligula reasoned, inferring truly enough from this analogy that kings are gods, or that men are brutes.

The reasoning of Caligula is tantamount to that of Hobbes and Grotius. Aristotle,[9] before them all, had likewise said that men are not naturally equal, but that some are born for slavery and others for dominion.

Aristotle was right, but he mistook the effect for the cause. Every man born in slavery is born for slavery; nothing is more certain. Slaves lose everything in their bonds, even the desire to escape from them; they love their servitude as the companions of Ulysses loved their brutishness.* If, then, there are slaves by nature, it is because there have been slaves contrary to nature. The first slaves were made such by force; their cowardice kept them in bondage.

[10] I have said nothing about King Adam nor about Emperor Noah, the father of three great monarchs who shared the universe, like the children of Saturn with whom they are supposed to be identical. I hope that my moderation will give satisfaction; for, as I am a direct descendant of one of these princes, and perhaps of the eldest branch, how do I know whether, by examination of titles, I might not find myself the lawful king of the human race? Be that as it may, it cannot be denied that Adam was sovereign of the world, as Robinson was of his island, so long as he was its sole inhabitant; and it was an agreeable feature of that empire that the monarch, secure on his throne, had nothing to fear from rebellions, or wars, or conspirators.

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* See a small treatise by Plutarch, entitled *That Brutes employ Reason.*

CHAPTER III.

THE RIGHT OF THE STRONGEST.

THE strongest man is never strong enough to be always master, unless he transforms his power into right, and obedience into duty. Hence the right of the strongest—a right apparently assumed in irony, and really established in principle. But will this phrase never be explained to us? Force is a physical power; I do not see what morality can result from its effects. To yield to force is an act of necessity, not of will; it is at most an act of prudence. In what sense can it be a duty?

Let us assume for a moment this pretended right. I say that nothing results from it but inexplicable nonsense; for if force constitutes right, the effect changes with the cause, and any force which overcomes the first succeeds to its rights. As soon as men can disobey with impunity, they may do so legitimately; and since the strongest is always in the right, the only thing is to act in such a way that one may be the strongest. But what sort of a right is it that perishes when force ceases? If it is necessary to obey by compulsion, there is no need to obey from duty; and if men are no longer forced to obey, obligation is at an end. We see, then, that this word *right* adds nothing to force; it here means nothing at all.

Obey the powers that be. If that means, Yield to force, the precept is good but superfluous; I reply that it will never be violated. All power comes from God,[11] I admit; but every disease comes from him too; does it follow that we are prohibited from calling in a physician? If a brigand should surprise me in the recesses of a wood, am I bound not only to give up my purse when forced, but am I also morally bound to do so when I might conceal it? For, in effect, the pistol which he holds is a superior force.

Let us agree, then, that might does not make right, and that we are bound to obey none but lawful authorities. Thus my original question ever recurs.

CHAPTER IV

SLAVERY.[12]

SINCE no man has any natural authority over his fellow-men, and since force is not the source of right, conventions remain as the basis of all lawful authority among men.[13]

If an individual, says Grotius,[14] can alienate his liberty and become the slave of a master, why should not a whole people be able to alienate theirs, and become subject to a king? In this there are many equivocal terms requiring explanation; but let us confine ourselves to the word *alienate*. To alienate is to give or sell. Now, a man who becomes another's slave does not give himself; he sells himself at the very least for his subsistence. But why does a nation sell itself? So far from a king supplying his subjects with their subsistence, he draws his from them; and, according to Rabelais,[15] a king does not live on a little. Do subjects, then, give up their persons on condition that their property also shall be taken? I do not see what is left for them to keep.

[16] It will be said that the despot secures to his subjects civil peace. Be it so; but what do they gain by that, if the wars which his ambition brings upon them, together with his insatiable greed and the vexations of his administration, harass them more than their own dissensions would? What do they gain by it if this tranquillity is itself one of their miseries? Men live tranquilly also in dungeons; is that enough to make them contented there? The Greeks [17] confined in the cave of the Cyclops lived peacefully until their turn came to be devoured.

To say that a man gives himself for nothing is to say what is absurd and inconceivable; such an act is illegitimate and invalid, for the simple reason that he who performs it is not in his right mind. To say the same thing of a whole nation is to suppose a nation of fools; and madness does not confer rights.

[18] Even if each person could alienate himself, he could not alienate his children; they are born free men; their liberty

belongs to them, and no one has a right to dispose of it except themselves. Before they have come to years of discretion, the father can, in their name, stipulate conditions for their preservation and welfare, but not surrender them irrevocably and unconditionally; for such a gift is contrary to the ends of nature, and exceeds the rights of paternity. In order, then, that an arbitrary government might be legitimate, it would be necessary that the people in each generation should have the option of accepting or rejecting it; but in that case such a government would no longer be arbitrary.

To renounce one's liberty is to renounce one's quality as a man, the rights and also the duties of humanity. For him who renounces everything there is no possible compensation. Such a renunciation is incompatible with man's nature, for to take away all freedom from his will is to take away all morality from his actions. In short, a convention which stipulates absolute authority on the one side and unlimited obedience on the other is vain and contradictory. Is it not clear that we are under no obligations whatsoever towards a man from whom we have a right to demand everything? And does not this single condition, without equivalent, without exchange, involve the nullity of the act? For what right would my slave have against me, since all that he has belongs to me? His rights being mine, this right of me against myself is a meaningless phrase.

Grotius and others[19] derive from war another origin for the pretended right of slavery. The victor having, according to them, the right of slaying the vanquished, the latter may purchase his life at the cost of his freedom; an agreement so much the more legitimate that it turns to the advantage of both.

But it is manifest that this pretended right of slaying the vanquished in no way results from the state of war. Men are not naturally enemies, if only for the reason that, living in their primitive independence, they have no mutual relations sufficiently durable to constitute a state of peace or a state of war.[20] It is the relation of things and not of men which constitutes war; and since the state of war cannot arise from simple personal relations, but only from real relations, private war—war between man and man—cannot exist either in the state of nature, where there is no settled ownership, or in the social state, where everything is under the authority of the laws.

Private combats, duels, and encounters are acts which do not constitute a state of war; and with regard to the private wars authorised by the Establishments of Louis IX.,[21] king of France,

and suspended by the Peace of God, they were abuses of the feudal government, an absurd system [22] if ever there was one, contrary both to the principles of natural right and to all sound government.

War, then, is not a relation between man and man, but a relation between State and State, in which individuals are enemies only by accident, not as men, nor even as citizens,* but as soldiers; not as members of the fatherland, but as its defenders.[23] In short, each State can have as enemies only other States and not individual men, inasmuch as it is impossible to fix any true relation between things of different kinds.

This principle is also conformable to the established maxims of all ages and to the invariable practice of all civilized nations. Declarations of war are not so much warnings to the powers as to their subjects. The foreigner, whether king, or nation, or private person, that robs, slays, or detains subjects without declaring war against the government, is not an enemy, but a brigand. Even in open war, a just prince, while he rightly takes possession of all that belongs to the State in an enemy's country, respects the person and property of individuals; he respects the rights on which his own are based. The aim of war being the destruction of the hostile State, we have a right to slay its defenders so long as they have arms in their hands; but as soon as they lay them down and surrender, ceasing to be enemies or instruments of the enemy, they become again simply men, and no one has any further right over their lives. Sometimes it is possible to destroy the State without killing a single one of its members; but war confers no right except what is necessary to its end. These

* The Romans, who understood and respected the rights of war better than any nation in the world, carried their scruples so far in this respect that no citizen was allowed to serve as a volunteer without enlisting expressly against the enemy, and by name against a certain enemy. A legion in which Cato the younger made his first campaign under Popilius having been re-formed, Cato the elder wrote to Popilius that, if he consented to his son's continuing to serve under him, it was necessary that he should take a new military oath, because, the first being annulled, he could no longer bear arms against the enemy (Cicero, *De Officiis* I. 11). And Cato also wrote to his son to abstain from appearing in battle until he had taken this new oath. I know that it will be possible to urge against me the siege of Clusium and other particular cases; but I cite laws and customs (Livy, V. 35–37). No nation has transgressed its laws less frequently than the Romans, and no nation has had laws so admirable.

are not the principles of Grotius;[24] they are not based on the authority of poets, but are derived from the nature of things, and are founded on reason.

With regard to the right of conquest, it has no other foundation than the law of the strongest. If war does not confer on the victor the right of slaying the vanquished, this right, which he does not possess, cannot be the foundation of a right to enslave them. If we have a right to slay an enemy only when it is impossible to enslave him, the right to enslave him is not derived from the right to kill him; it is, therefore, an iniquitous bargain to make him purchase his life, over which the victor has no right, at the cost of his liberty. In establishing the right of life and death upon the right of slavery, and the right of slavery upon the right of life and death, is it not manifest that one falls into a vicious circle?

Even if we grant this terrible right of killing everybody, I say that a slave made in war, or a conquered nation, is under no obligation at all to a master, except to obey him so far as compelled. In taking an equivalent for his life the victor has conferred no favour on the slave; instead of killing him unprofitably, he has destroyed him for his own advantage. Far, then, from having acquired over him any authority in addition to that of force, the state of war subsists between them as before, their relation even is the effect of it; and the exercise of the rights of war supposes that there is no treaty of peace. They have made a convention. Be it so; but this convention, far from terminating the state of war, supposes its continuance.

Thus, in whatever way we regard things, the right of slavery is invalid, not only because it is illegitimate, but because it is absurd and meaningless. These terms, *slavery* and *right*, are contradictory and mutually exclusive. Whether addressed by a man to a man, or by a man to a nation, such a speech as this will always be equally foolish: "I make an agreement with you wholly at your expense and wholly for my benefit, and I shall observe it as long as I please, while you also shall observe it as long as I please."

CHAPTER V.

THAT IT IS ALWAYS NECESSARY TO GO BACK TO A FIRST CONVENTION.

If I should concede all that I have so far refuted, those who favour despotism would be no farther advanced. There will always be a great difference between subduing a multitude and ruling a society. When isolated men, however numerous they may be, are subjected one after another to a single person, this seems to me only a case of master and slaves, not of a nation and its chief; they form, if you will, an aggregation, but not an association, for they have neither public property nor a body politic. Such a man, had he enslaved half the world, is never anything but an individual; his interest, separated from that of the rest, is never anything but a private interest. If he dies, his empire after him is left disconnected and disunited, as an oak dissolves and becomes a heap of ashes after the fire has consumed it.[25]

A nation, says Grotius, can give itself to a king.[26] According to Grotius, then, a nation is a nation before it gives itself to a king. This gift itself is a civil act, and presupposes a public resolution. Consequently, before examining the act by which a nation elects a king, it would be proper to examine the act by which a nation becomes a nation; for this act, being necessarily anterior to the other, is the real foundation of the society.

In fact, if there were no anterior convention, where, unless the election were unanimous, would be the obligation upon the minority to submit to the decision of the majority? And whence do the hundred who desire a master derive the right to vote on behalf of ten who do not desire one? The law of the plurality of votes is itself established by convention, and presupposes unanimity once at least.

CHAPTER VI.

THE SOCIAL PACT.[37]

I ASSUME that men have reached a point at which the obstacles that endanger their preservation in the state of nature overcome by their resistance the forces which each individual can exert with a view to maintaining himself in that state. Then this primitive condition can no longer subsist, and the human race would perish unless it changed its mode of existence.

Now, as men cannot create any new forces, but only combine and direct those that exist, they have no other means of self-preservation than to form by aggregation a sum of forces which may overcome the resistance, to put them in action by a single motive power, and to make them work in concert.

This sum of forces can be produced only by the combination of many; but the strength and freedom of each man being the chief instruments of his preservation, how can he pledge them without injuring himself, and without neglecting the cares which he owes to himself? This difficulty, applied to my subject, may be expressed in these terms:—

"To find a form of association which may defend and protect with the whole force of the community the person and property of every associate, and by means of which each, coalescing with all, may nevertheless obey only himself, and remain as free as before." Such is the fundamental problem of which the social contract furnishes the solution.

The clauses of this contract are so determined by the nature of the act that the slightest modification would render them vain and ineffectual; so that, although they have never perhaps been formally enunciated, they are everywhere the same, everywhere tacitly admitted and recognised, until, the social pact being violated, each man regains his original rights and recovers his natural liberty, whilst losing the conventional liberty for which he renounced it.

These clauses, rightly understood, are reducible to one only, viz. the total alienation to the whole community of each associate

with all his rights; for, in the first place, since each gives himself up entirely, the conditions are equal for all; and, the conditions being equal for all, no one has any interest in making them burdensome to others.

Further, the alienation being made without reserve, the union is as perfect as it can be, and an individual associate can no longer claim anything; for, if any rights were left to individuals, since there would be no common superior who could judge between them and the public, each, being on some point his own judge, would soon claim to be so on all; the state of nature would still subsist, and the association would necessarily become tyrannical or useless.

In short, each giving himself to all, gives himself to nobody; and as there is not one associate over whom we do not acquire the same rights which we concede to him over ourselves, we gain the equivalent of all that we lose, and more power to preserve what we have.

If, then, we set aside what is not of the essence of the social contract, we shall find that it is reducible to the following terms: "Each of us puts in common his person and his whole power under the supreme direction of the general will; and in return we receive every member as an indivisible part of the whole."

Forthwith, instead of the individual personalities of all the contracting parties, this act of association produces a moral and collective body, which is composed of as many members as the assembly has voices, and which receives from this same act its unity, its common self (*moi*), its life, and its will. This public person,[28] which is thus formed by the union of all the individual members, formerly took the name of *city*,*[29] and now takes that

* The real meaning of this word has been almost completely effaced among the moderns; the majority take a town for a city, and a burgess for a citizen. They do not know that houses make the town, and that citizens make the city. This very mistake cost the Carthaginians[30] dear. I have never read of the title citizens (*cives*) being given to the subjects of a prince, not even in ancient times to the Macedonians, nor, in our days, to the English, although nearer liberty than all the rest. The French alone employ familiarly this name *citizen*, because they have no true idea of it, as we can see from their dictionaries; but for this fact, they would, by assuming it, commit the crime of high treason. The name, among them, expresses a virtue, not a right. When Bodin wanted to give an account of our citizens and burgesses he made a gross blunder, mistaking the one for the other. M. d'Alembert has not erred in this, and, in his article

of *republic* or *body politic*, which is called by its members *State* when it is passive, *sovereign* when it is active, *power* when it is compared to similar bodies. With regard to the associates, they take collectively the name of *people*, and are called individually *citizens*, as participating in the sovereign power, and *subjects*, as subjected to the laws of the State. But these terms are often confused and are mistaken one for another; it is sufficient to know how to distinguish them when they are used with complete precision.

Geneva, has clearly distinguished the four orders of men (even five, counting mere foreigners) which exist in our town, and of which two only compose the republic.[31] No other French author that I know of has understood the real meaning of the word *citizen*.

CHAPTER VII.

THE SOVEREIGN.[32]

We see from this formula that the act of association contains a reciprocal engagement between the public and individuals, and that every individual, contracting so to speak with himself, is engaged in a double relation, viz. as a member of the sovereign towards individuals, and as a member of the State towards the sovereign. But we cannot apply here the maxim of civil law that no one is bound by engagements made with himself; for there is a great difference between being bound to oneself and to a whole of which one forms part.

We must further observe that the public resolution which can bind all subjects to the sovereign in consequence of the two different relations under which each of them is regarded cannot, for a contrary reason, bind the sovereign to itself; and that accordingly it is contrary to the nature of the body politic for the sovereign to impose on itself a law which it cannot transgress. As it can only be considered under one and the same relation, it is in the position of an individual contracting with himself; whence we see that there is not, nor can be, any kind of fundamental law binding upon the body of the people, not even the social contract. This does not imply that such a body cannot perfectly well enter into engagements with others in what does not derogate from this contract; for, with regard to foreigners, it becomes a simple being, an individual.

But the body politic or sovereign, deriving its existence only from the sanctity of the contract, can never bind itself, even to others, in anything that derogates from the original act, such as alienation of some portion of itself, or submission to another sovereign. To violate the act by which it exists would be to annihilate itself; and what is nothing produces nothing.

So soon as the multitude is thus united in one body, it is impossible to injure one of the members without attacking the body, still less to injure the body without the members feeling the effects. Thus duty and interest alike oblige the two contracting

parties to give mutual assistance; and the men themselves should seek to combine in this twofold relationship all the advantages which are attendant on it.

Now, the sovereign, being formed only of the individuals that compose it, neither has nor can have any interest contrary to theirs; consequently the sovereign power needs no guarantee towards its subjects, because it is impossible that the body should wish to injure all its members; and we shall see hereafter that it can injure no one as an individual. The sovereign, for the simple reason that it is so, is always everything that it ought to be.

But this is not the case as regards the relation of subjects to the sovereign, which, notwithstanding the common interest, would have no security for the performance of their engagements, unless it found means to ensure their fidelity.

Indeed, every individual may, as a man, have a particular will contrary to, or divergent from, the general will which he has as a citizen; his private interest may prompt him quite differently from the common interest; his absolute and naturally independent existence may make him regard what he owes to the common cause as a gratuitous contribution, the loss of which will be less harmful to others than the payment of it will be burdensome to him; and, regarding the moral person that constitutes the State as an imaginary being because it is not a man, he would be willing to enjoy the rights of a citizen without being willing to fulfil the duties of a subject. The progress of such injustice would bring about the ruin of the body politic.

In order, then, that the social pact may not be a vain formulary, it tacitly includes this engagement, which can alone give force to the others,—that whoever refuses to obey the general will shall be constrained to do so by the whole body; which means nothing else than that he shall be forced to be free; for such is the condition which, uniting every citizen to his native land, guarantees him from all personal dependence, a condition that ensures the control and working of the political machine, and alone renders legitimate civil engagements, which, without it, would be absurd and tyrannical, and subject to the most enormous abuses.

CHAPTER VIII.

THE CIVIL STATE.

THE passage from the state of nature to the civil state produces in man a very remarkable change, by substituting in his conduct justice for instinct, and by giving his actions the moral quality that they previously lacked.[33] It is only when the voice of duty succeeds physical impulse, and law succeeds appetite, that man, who till then had regarded only himself, sees that he is obliged to act on other principles, and to consult his reason before listening to his inclinations. Although, in this state, he is deprived of many advantages that he derives from nature, he acquires equally great ones in return; his faculties are exercised and developed; his ideas are expanded; his feelings are ennobled; his whole soul is exalted to such a degree that, if the abuses of this new condition did not often degrade him below that from which he has emerged, he ought to bless without ceasing the happy moment that released him from it for ever, and transformed him from a stupid and ignorant animal into an intelligent being and a man.

Let us reduce this whole balance to terms easy to compare. What man loses by the social contract is his natural liberty and an unlimited right to anything which tempts him and which he is able to attain; what he gains is civil liberty and property in all that he possesses. In order that we may not be mistaken about these compensations, we must clearly distinguish natural liberty, which is limited only by the powers of the individual, from civil liberty, which is limited by the general will; and possession, which is nothing but the result of force or the right of first occupancy, from property, which can be based only on a positive title.

Besides the preceding, we might add to the acquisitions of the civil state moral freedom, which alone renders man truly master of himself; for the impulse of mere appetite is slavery, while obedience to a self-prescribed law is liberty. But I have already said too much on this head, and the philosophical meaning of the term *liberty* does not belong to my present subject.

CHAPTER IX.

REAL PROPERTY.[34]

EVERY member of the community at the moment of its formation gives himself up to it, just as he actually is, himself and all his powers, of which the property that he possesses forms part. By this act, possession does not change its nature when it changes hands, and become property in those of the sovereign; but, as the powers of the State (*cité*) are incomparably greater than those of an individual, public possession is also, in fact, more secure and more irrevocable, without being more legitimate, at least in respect of foreigners; for the State, with regard to its members, is owner of all their property by the social contract, which, in the State, serves as the basis of all rights; but with regard to other powers, it is owner only by the right of first occupancy which it derives from individuals.

The right of first occupancy, although more real than that of the strongest, becomes a true right only after the establishment of that of property. Every man has by nature a right to all that is necessary to him; but the positive act which makes him proprietor of certain property excludes him from all the residue. His portion having been allotted, he ought to confine himself to it, and he has no further right to the undivided property. That is why the right of first occupancy, so weak in the state of nature, is respected by every member of a State. In this right men regard not so much what belongs to others as what does not belong to themselves.

In order to legalize the right of first occupancy over any domain whatsoever, the following conditions are, in general, necessary: first, the land must not yet be inhabited by any one, secondly, a man must occupy only the area required for his subsistence; thirdly, he must take possession of it, not by an empty ceremony, but by labour and cultivation, the only mark of ownership which, in default of legal title, ought to be respected by others.

Indeed, if we accord the right of first occupancy to necessity

and labour, do we not extend it as far as it can go? Is it impossible to assign limits to this right? Will the mere setting foot on common ground be sufficient to give an immediate claim to the ownership of it? Will the power of driving away other men from it for a moment suffice to deprive them for ever of the right of returning to it? How can a man or a people take possession of an immense territory and rob the whole human race of it except by a punishable usurpation, since other men are deprived of the place of residence and the sustenance which nature gives to them in common? When Nuñez Balbao[35] on the sea-shore took possession of the Pacific Ocean and of the whole of South America in the name of the crown of Castille, was this sufficient to dispossess all the inhabitants, and exclude from it all the princes in the world? On this supposition, such ceremonies might have been multiplied vainly enough; and the Catholic king in his cabinet might, by a single stroke, have taken possession of the whole world, only cutting off afterwards from his empire what was previously occupied by other princes.

We perceive how the lands of individuals, united and contiguous, become public territory, and how the right of sovereignty, extending itself from the subjects to the land which they occupy, becomes at once real and personal; which places the possessors in greater dependence, and makes their own powers a guarantee for their fidelity—an advantage which ancient monarchs do not appear to have clearly perceived, for, calling themselves only kings of the Persians or Scythians or Macedonians, they seem to have regarded themselves as chiefs of men rather than as owners of countries. Monarchs of to-day call themselves more cleverly kings of France, Spain, England, etc.; in thus holding the land they are quite sure of holding its inhabitants.[36]

The peculiarity of this alienation is that the community, in receiving the property of individuals, so far from robbing them of it, only assures them lawful possession, and changes usurpation into true right, enjoyment into ownership. Also, the possessors being considered as depositaries of the public property, and their rights being respected by all the members of the State, as well as maintained by all its power against foreigners, they have, as it were, by a transfer advantageous to the public and still more to themselves, acquired all that they have given up—a paradox[37] which is easily explained by distinguishing between the rights which the sovereign and the proprietor have over the same property, as we shall see hereafter.[38]

It may also happen that men begin to unite before they possess

anything, and that afterwards occupying territory sufficient for all, they enjoy it in common, or share it among themselves, either equally or in proportions fixed by the sovereign. In whatever way this acquisition is made, the right which every individual has over his own property is always subordinate to the right which the community has over all; otherwise there would be no stability in the social union, and no real force in the exercise of sovereignty.

I shall close this chapter and this book with a remark which ought to serve as a basis for the whole social system; it is that instead of destroying natural equality,[39] the fundamental pact, on the contrary, substitutes a moral and lawful equality for the physical inequality which nature imposed upon men, so that, although unequal in strength or intellect, they all become equal by convention and legal right.*

* Under bad governments this equality is only apparent and illusory; it serves only to keep the poor in their misery and the rich in their usurpation. In fact, laws are always useful to those who possess and injurious to those that have nothing; whence it follows that the social state is advantageous to men only so far as they all have something, and none of them has too much

BOOK II.

CHAPTER I.

THAT SOVEREIGNTY IS INALIENABLE.

THE first and most important consequence of the principles above established is that the general will alone can direct the forces of the State according to the object of its institution, which is the common good;[1] for if the opposition of private interests has rendered necessary the establishment of societies, the agreement of these same interests has rendered it possible. That which is common to these different interests forms the social bond; and unless there were some point in which all interests agree, no society could exist. Now, it is solely with regard to this common interest that the society should be governed.

I say, then, that sovereignty, being nothing but the exercise of the general will, can never be alienated, and that the sovereign power, which is only a collective being, can be represented by itself alone; power indeed can be transmitted, but not will

In fact, if it is not impossible that a particular will should agree on some point with the general will, it is at least impossible that this agreement should be lasting and constant: for the particular will naturally tends to preferences, and the general will to equality. It is still more impossible to have a security for this agreement; even though it should always exist, it would not be a result of art, but of chance. The sovereign may indeed say: "I will now what a certain man wills, or at least what he says that he wills;" but he cannot say: "What that man wills to-morrow, I shall also will," since it is absurd that the will should bind itself as regards the future, and since it is not incumbent on any will to consent to anything contrary to the welfare of the being that wills. If, then, the nation simply promises to obey, it dissolves itself by that act and loses its character as a people; the moment there is a master, there is no longer a sovereign, and forthwith the body politic is destroyed.

This does not imply that the orders of the chiefs cannot pass for decisions of the general will, so long as the sovereign, free to oppose them, refrains from doing so. In such a case the consent of the people should be inferred from the universal silence. This will be explained at greater length.[2]

CHAPTER II.

THAT SOVEREIGNTY IS INDIVISIBLE.

FOR the same reason that sovereignty is inalienable it is indivisible; for the will is either general,* or it is not; it is either that of the body of the people, or that of only a portion. In the first case, this declared will is an act of sovereignty and constitutes law; in the second case, it is only a particular will, or an act of magistracy—it is at most a decree.[3]

But our publicists, being unable to divide sovereignty in its principle, divide it in its object. They divide it into force and will, into legislative power and executive power;[4] into rights of taxation, of justice, and of war; into internal administration and power of treating with foreigners—sometimes confounding all these departments, and sometimes separating them. They make the sovereign a fantastic being, formed of connected parts; it is as if they composed a man of several bodies, one with eyes, another with arms, another with feet, and nothing else. The Japanese conjurers, it is said, cut up a child before the eyes of the spectators; then, throwing all its limbs into the air, they make the child come down again alive and whole. Such almost are the jugglers' tricks of our publicists; after dismembering the social body by a deception worthy of the fair, they recombine its parts, nobody knows how.

This error arises from their not having formed exact notions about the sovereign authority, and from their taking as parts of this authority what are only emanations from it. Thus, for example, the acts of declaring war and making peace have been regarded as acts of sovereignty, which is not the case, since neither of them is a law, but only an application of the law, a particular act which determines the case of the law, as will be clearly seen when the idea attached to the word *law* is fixed.

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* That a will may be general, it is not always necessary that it should be unanimous, but it is necessary that all votes should be counted; any formal exclusion destroys the generality.

By following out the other divisions in the same way, it would be found that, whenever the sovereignty appears divided, we are mistaken in our supposition; and that the rights which are taken as parts of that sovereignty are all subordinate to it, and always suppose supreme wills of which these rights are merely executive.

It would be impossible to describe the great obscurity in which this want of precision has involved the conclusions of writers on the subject of political right when they have endeavoured to decide upon the respective rights of kings and peoples on the principles that they had established. Every one can see, in chapters III. and IV. of the first book of Grotius, how that learned man and his translator Barbeyrac[5] become entangled and embarrassed in their sophisms, for fear of saying too much or not saying enough according to their views, and so offending the interests that they had to conciliate. Grotius, having taken refuge in France through discontent with his own country, and wishing to pay court to Louis XIII., to whom his book is dedicated, spares no pains to despoil the people of all their rights, and, in the most artful manner, bestow them on kings. This also would clearly have been the inclination of Barbeyrac, who dedicated his translation to the king of England, George I. But unfortunately the expulsion of James II., which he calls an abdication, forced him to be reserved and to equivocate and evade, in order not to make William appear a usurper. If these two writers had adopted true principles, all difficulties would have been removed, and they would have been always consistent; but they would have spoken the truth with regret, and would have paid court only to the people. Truth, however, does not lead to fortune, and the people confer neither embassies, nor professorships, nor pensions.

CHAPTER III.

WHETHER THE GENERAL WILL CAN ERR.

IT follows[6] from what precedes that the general will is always right and always tends to the public advantage; but it does not follow that the resolutions of the people have always the same rectitude. Men always desire their own good, but do not always discern it; the people are never corrupted, though often deceived, and it is only then that they seem to will what is evil.

There is often a great deal of difference between the will of all and the general will; the latter regards only the common interest, while the former has regard to private interests, and is merely a sum of particular wills; but take away from these same wills the pluses and minuses which cancel[7] one another,* and the general will remains as the sum of the differences.

If the people came to a resolution when adequately informed and without any communication among the citizens, the general will would always result from the great number of slight differences, and the resolution would always be good. But when factions, partial associations, are formed to the detriment of the whole society, the will of each of these associations becomes general with reference to its members, and particular with reference to the State; it may then be said that there are no longer as many voters as there are men, but only as many voters as there are associations. The differences become less numerous and yield a less general result. Lastly, when one of these associations becomes so great that it predominates over all the rest, you no longer have as the result a sum of small differences, but a single

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* "Every interest," says the Marquis d'Argenson,[8] "has different principles. The accord of two particular interests is formed by opposition to that of a third." He might have added that the accord of all interests is formed by opposition to that of each. Unless there were different interests, the common interest would scarcely be felt and would never meet with any obstacle; everything would go of itself, and politics would cease to be an art.

difference; there is then no longer a general will, and the opinion which prevails is only a particular opinion.

It is important, then, in order to have a clear declaration of the general will, that there should be no partial association in the State, and that every citizen should express only his own opinion.* Such was the unique and sublime institution of the great Lycurgus.[9] But if there are partial associations, it is necessary to multiply their number and prevent inequality, as Solon, Numa, and Servius did. These are the only proper precautions for ensuring that the general will may always be enlightened, and that the people may not be deceived.

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* "It is true," says Machiavelli, "that some divisions injure the State, while some are beneficial to it; those are injurious to it which are accompanied by cabals and factions; those assist it which are maintained without cabals, without factions. Since, therefore, no founder of a State can provide against enmities in it, he ought at least to provide that there shall be no cabals" (*History of Florence*, Book VII.).

CHAPTER IV.

THE LIMITS OF THE SOVEREIGN POWER.

If the State or city is nothing but a moral person, the life of which consists in the union of its members, and if the most important of its cares is that of self-preservation, it needs a universal and compulsive force to move and dispose every part in the manner most expedient for the whole. As nature gives every man an absolute power over all his limbs, the social pact gives the body politic an absolute power over all its members; and it is this same power which, when directed by the general will, bears, as I said, the name of sovereignty.

But besides the public person, we have to consider the private persons who compose it, and whose life and liberty are naturally independent of it. The question, then, is to distinguish clearly between the respective rights of the citizens and of the sovereign,* [10] as well as between the duties which the former have to fulfil in their capacity as subjects and the natural rights which they ought to enjoy in their character as men.

It is admitted that whatever part of his power, property, and liberty each one alienates by the social compact is only that part [11] of the whole of which the use is important to the community; but we must also admit that the sovereign alone is judge of what is important.

All the services that a citizen can render to the State he owes to it as soon as the sovereign demands them; but the sovereign, on its part, cannot impose on its subjects any burden which is useless to the community; it cannot even wish to do so,[12] for, by the law of reason, just as by the law of nature, nothing is done without a cause.

The engagements which bind us to the social body are obligatory only because they are mutual; and their nature is such that

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* Attentive readers, do not, I beg you, hastily charge me with contradiction here. I could not avoid it in terms owing to the poverty of the language, but wait.

in fulfilling them we cannot work for others without also working for ourselves. Why is the general will always right, and why do all invariably desire the prosperity of each, unless it is because there is no one but appropriates to himself this word *each* and thinks of himself in voting on behalf of all? This proves that equality of rights and the notion of justice that it produces are derived from the preference which each gives to himself, and consequently from man's nature; that the general will, to be truly such, should be so in its object as well as in its essence; that it ought to proceed from all in order to be applicable to all; and that it loses its natural rectitude when it tends to some individual and determinate object, because in that case, judging of what is unknown to us, we have no true principle of equity to guide us.

Indeed, so soon as a particular fact or right is in question with regard to a point which has not been regulated by an anterior general convention, the matter becomes contentious; it is a process in which the private persons interested are one of the parties and the public the other, but in which I perceive neither the law which must be followed, nor the judge who should decide. It would be ridiculous in such a case to wish to refer the matter for an express decision of the general will, which can be nothing but the decision of one of the parties, and which, consequently, is for the other party only a will that is foreign, partial, and inclined on such an occasion to injustice as well as liable to error. Therefore, just as a particular will cannot represent the general will, the general will in turn changes its nature when it has a particular end, and cannot, as general, decide about either a person or a fact. When the people of Athens, for instance, elected or deposed their chiefs, decreed honours to one, imposed penalties on another, and by multitudes of particular decrees exercised indiscriminately all the functions of government, the people no longer had any general will properly so called; they no longer acted as a sovereign power, but as magistrates. This will appear contrary to common ideas, but I must be allowed time to expound my own.[18]

From this we must understand that what generalises the will is not so much the number of voices as the common interest which unites them; for, under this system, each necessarily submits to the conditions which he imposes on others—an admirable union of interest and justice, which gives to the deliberations of the community a spirit of equity that seems to disappear in the discussion of any private affair, for want of a common interest to

unite and identify the ruling principle of the judge with that of the party.

By whatever path we return to our principle we always arrive at the same conclusion, viz. that the social compact establishes among the citizens such an equality that they all pledge themselves under the same conditions and ought all to enjoy the same rights. Thus, by the nature of the compact, every act of sovereignty, that is, every authentic act of the general will, binds or favours equally all the citizens; so that the sovereign knows only the body of the nation, and distinguishes none of those that compose it.

What, then, is an act of sovereignty properly so called? It is not an agreement between a superior and an inferior, but an agreement of the body with each of its members; a lawful agreement, because it has the social contract as its foundation; equitable, because it is common to all; useful, because it can have no other object than the general welfare; and stable, because it has the public force and the supreme power as a guarantee. So long as the subjects submit only to such conventions, they obey no one, but simply their own will; and to ask how far the respective rights of the sovereign and citizens extend is to ask up to what point the latter can make engagements among themselves, each with all and all with each.

Thus we see that the sovereign power, wholly absolute, wholly sacred, and wholly inviolable as it is, does not, and cannot, pass the limits of general conventions, and that every man can fully dispose of what is left to him of his property and liberty by these conventions; so that the sovereign never has a right to burden one subject more than another, because then the matter becomes particular and his power is no longer competent.

These distinctions once admitted, so untrue is it that in the social contract there is on the part of individuals any real renunciation, that their situation, as a result of this contract, is in reality preferable to what it was before, and that, instead of an alienation, they have only made an advantageous exchange of an uncertain and precarious mode of existence for a better and more assured one, of natural independence for liberty, of the power to injure others for their own safety, and of their strength, which others might overcome, for a right which the social union renders inviolable. Their lives, also, which they have devoted to the State, are continually protected by it; and in exposing their lives for its defence, what do they do but restore what they have received from it? What do they do but what they would do more

frequently and with more risk in the state of nature, when, engaging in inevitable struggles, they would defend at the peril of their lives their means of preservation? All have to fight for their country in case of need, it is true; but then no one ever has to fight for himself. Do we not gain, moreover, by incurring, for what ensures our safety, a part of the risks that we should have to incur for ourselves individually, as soon as we were deprived of it? [14]

CHAPTER V.

THE RIGHT OF LIFE AND DEATH.

It may be asked how individuals who have no right to dispose of their own lives can transmit to the sovereign this right which they do not possess. The question appears hard to solve only because it is badly stated. Every man has a right to risk his own life in order to preserve it. Has it ever been said that one who throws himself out of a window to escape from a fire is guilty of suicide? Has this crime, indeed, ever been imputed to a man who perishes in a storm, although, on embarking, he was not ignorant of the danger?

The social treaty has as its end the preservation of the contracting parties. He who desires the end desires also the means, and some risks, even some losses, are inseparable from these means. He who is willing to preserve his life at the expense of others ought also to give it up for them when necessary. Now, the citizen is not a judge of the peril to which the law requires that he should expose himself; and when the prince has said to him: "It is expedient for the State that you should die," he ought to die, since it is only on this condition that he has lived in security up to that time, and since his life is no longer merely a gift of nature, but a conditional gift of the State.

The penalty of death inflicted on criminals may be regarded almost from the same point of view; it is in order not to be the victim of an assassin that a man consents to die if he becomes one. In this treaty, far from disposing of his own life, he thinks only of securing it, and it is not to be supposed that any of the contracting parties contemplates at the time being hanged.

Moreover, every evil-doer who attacks social rights becomes by his crimes a rebel and a traitor to his country; by violating its laws he ceases to be a member of it, and even makes war upon it. Then the preservation of the State is incompatible with his own—one of the two must perish; and when a guilty man is executed, it is less as a citizen than as an enemy. The proceedings and the judgment are the proofs and the declaration

that he has broken the social treaty, and consequently that he is no longer a member of the State. Now, as he has acknowledged himself to be such, at least by his residence, he ought to be cut off from it by exile as a violator of the compact, or by death as a public enemy; for such an enemy is not a moral person, he is simply a man; and this is a case in which the right of war is to slay the vanquished.

But, it will be said, the condemnation of a criminal is a particular act. Granted; but this condemnation does not belong to the sovereign; it is a right which that power can confer, though itself unable to exercise it. All my ideas are connected, but I could not expound them all at once.

Again, the frequency of capital punishments is always a sign of weakness or indolence in the government. There is no man so worthless that he cannot be made good for something. We have a right to kill, even for example's sake, only those who cannot be preserved without danger.

As regards the right to pardon or to exempt a guilty man from the penalty imposed by the law and inflicted by the judge, it belongs only to a power which is above both the judge and the law, that is to say, the sovereign; still its right in this is not very plain, and the occasions for exercising it are very rare. In a well-governed State there are few punishments, not because many pardons are granted, but because there are few criminals; the multitude of crimes ensures impunity when the State is decaying. Under the Roman Republic neither the Senate nor the consuls attempted to grant pardons; the people even did not grant any, although they sometimes revoked their own judgments. Frequent pardons proclaim that crimes will soon need them no longer, and every one sees to what that leads.[15] But I feel my heart murmuring and restraining my pen; let us leave these questions to be discussed by the just man who has not erred, and who never needed pardon himself.

CHAPTER VI.

THE LAW.

By the social compact we have given existence and life to the body politic; the question now is to endow it with movement and will by legislation. For the original act by which this body is formed and consolidated determines nothing in addition as to what it must do for its own preservation.

What is right and conformable to order is such by the nature of things, and independently of human conventions. All justice comes from God, he alone is the source of it; but could we receive it direct from so lofty a source, we should need neither government nor laws. Without doubt there is a universal justice emanating from reason alone; but this justice, in order to be admitted among us, should be reciprocal. Regarding things from a human standpoint, the laws of justice are inoperative among men for want of a natural sanction; they only bring good to the wicked and evil to the just when the latter observe them with every one, and no one observes them in return. Conventions and laws, then, are necessary to couple rights with duties and apply justice to its object. In the state of nature, where everything is in common, I owe nothing to those to whom I have promised nothing; I recognize as belonging to others only what is useless to me. This is not the case in the civil state, in which all rights are determined by law.

But then, finally, what is a law? So long as men are content to attach to this word only metaphysical ideas,[16] they will continue to argue without being understood; and when they have stated what a law of nature is, they will know no better what a law of the State is.

I have already said that there is no general will with reference to a particular object. In fact, this particular object is either in the State or outside of it. If it is outside the State, a will which is foreign to it is not general in relation to it; and if it is within the State, it forms part of it; then there is formed between the whole and its part a relation which makes of it two separate

beings, of which the part is one, and the whole, less this same part, is the other. But the whole less one part is not the whole, and so long as the relation subsists, there is no longer any whole, but two unequal parts; whence it follows that the will of the one is no longer general in relation to the other.

But when the whole people decree concerning the whole people, they consider themselves alone; and if a relation is then constituted, it is between the whole object under one point of view and the whole object under another point of view, without any division at all. Then the matter respecting which they decree is general like the will that decrees. It is this act that I call a law.

When I say that the object of the laws is always general, I mean that the law considers subjects collectively, and actions as abstract, never a man as an individual nor a particular action. Thus the law may indeed decree that there shall be privileges, but cannot confer them on any person by name; the law can create several classes of citizens, and even assign the qualifications which shall entitle them to rank in these classes, but it cannot nominate such and such persons to be admitted to them; it can establish a royal government and a hereditary succession, but cannot elect a king or appoint a royal family; in a word, no function which has reference to an individual object appertains to the legislative power.

From this standpoint we see immediately that it is no longer necessary to ask whose office it is to make laws, since they are acts of the general will; nor whether the prince is above the laws, since he is a member of the State; nor whether the law can be unjust, since no one is unjust to himself; nor how we are free and yet subject to the laws, since the laws are only registers of our wills.[17]

We see, further, that since the law combines the universality of the will with the universality of the object, whatever any man prescribes on his own authority is not a law; and whatever the sovereign itself prescribes respecting a particular object is not a law, but a decree, not an act of sovereignty, but of magistracy.

I therefore call any State a republic which is governed by laws, under whatever form of administration it may be; for then only does the public interest predominate and the commonwealth count for something. Every legitimate government is republican;* I will explain hereafter what government is.[18]

* I do not mean by this word an aristocracy or democracy only,

Laws are properly only the conditions of civil association. The people, being subjected to the laws, should be the authors of them; it concerns only the associates to determine the conditions of association. But how will they be determined? Will it be by a common agreement, by a sudden inspiration? Has the body politic an organ for expressing its will? Who will give it the foresight necessary to frame its acts and publish them at the outset? Or how shall it declare them in the hour of need? How would a blind multitude, which often knows not what it wishes because it rarely knows what is good for it, execute of itself an enterprise so great, so difficult, as a system of legislation? Of themselves, the people always desire what is good, but do not always discern it. The general will is always right, but the judgment which guides it is not always enlightened. It must be made to see objects as they are, sometimes as they ought to appear; it must be shown the good path that it is seeking, and guarded from the seduction of private interests; it must be made to observe closely times and places, and to balance the attraction of immediate and palpable advantages against the danger of remote and concealed evils. Individuals see the good which they reject; the public desire the good which they do not see. All alike have need of guides. The former must be compelled to conform their wills to their reason; the people must be taught to know what they require. Then from the public enlightenment results the union of the understanding and the will in the social body; and from that the close co-operation of the parts, and, lastly, the maximum power of the whole. Hence arises the need of a legislator.

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but in general any government directed by the general will, which is the law. To be legitimate, the government must not be combined with the sovereign power, but must be its minister; then monarchy itself is a republic. This will be made clear in the next book.

CHAPTER VII.

THE LEGISLATOR.[1]

In order to discover the rules of association that are most suitable to nations, a superior intelligence would be necessary who could see all the passions of men without experiencing any of them; who would have no affinity with our nature and yet know it thoroughly; whose happiness would not depend on us, and who would nevertheless be quite willing to interest himself in ours; and, lastly, one who, storing up for himself with the progress of time a far-off glory in the future, could labour in one age and enjoy in another.* Gods would be necessary to give laws to men.

The same argument that Caligula[20] adduced as to fact, Plato[21] put forward with regard to right, in order to give an idea of the civil or royal man whom he is in quest of in his work the *Statesman.* But if it is true that a great prince is a rare man, what will a great legislator be? The first has only to follow the model which the other has to frame. The latter is the mechanician who invents the machine, the former is only the workman who puts it in readiness and works it. "In the birth of societies," says Montesquieu,[22] "it is the chiefs of the republics who frame the institutions, and afterwards it is the institutions which mould the chiefs of the republics."

He who dares undertake to give institutions to a nation ought to feel himself capable, as it were, of changing human nature; of transforming every individual, who in himself is a complete and independent whole, into part of a greater whole, from which he receives in some manner his life and his being; of altering man's constitution in order to strengthen it; of substituting a social and moral existence for the independent and physical

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* A nation becomes famous only when its legislation is beginning to decline.[23] We are ignorant during how many centuries the institutions of Lycurgus conferred happiness on the Spartans before they were known in the rest of Greece.

existence which we have all received from nature. In a word, it is necessary to deprive man of his native powers in order to endow him with some which are alien to him, and of which he cannot make use without the aid of other people. The more thoroughly those natural powers are deadened and destroyed, the greater and more durable are the acquired powers, the more solid and perfect also are the institutions; so that if every citizen is nothing, and can be nothing, except in combination with all the rest, and if the force acquired by the whole be equal or superior to the sum of the natural forces of all the individuals, we may say that legislation is at the highest point of perfection which it can attain.[24]

The legislator is in all respects an extraordinary man in the State. If he ought to be so by his genius, he is not less so by his office. It is not magistracy nor sovereignty. This office, which constitutes the republic, does not enter into its constitution; it is a special and superior office, having nothing in common with human government; for, if he who rules men ought not to control legislation, he who controls legislation ought not to rule men; otherwise his laws, being ministers of his passions, would often serve only to perpetuate his acts of injustice; he would never be able to prevent private interests from corrupting the sacredness of his work.

When Lycurgus gave laws to his country, he began by abdicating his royalty. It was the practice of the majority of the Greek towns[25] to entrust to foreigners the framing of their laws. The modern republics of Italy often imitated this usage; that of Geneva did the same and found it advantageous.* Rome, at her most glorious epoch, saw all the crimes of tyranny spring up in her bosom, and saw herself on the verge of destruction, through uniting in the same hands legislative authority[27] and sovereign power.

Yet the Decemvirs themselves never arrogated the right to pass any law on their sole authority. Nothing that we propose to you, they said to the people, can pass into law without your consent. Romans, be yourselves the authors of the laws which are to secure your happiness.

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* Those who consider Calvin[26] only as a theologian are but little acquainted with the extent of his genius. The preparation of our wise edicts, in which he had a large share, does him as much credit as his *Institutes*. Whatever revolution time may bring about in our religion, so long as love of country and of liberty is not extinct among us, the memory of that great man will not cease to be revered.

He who frames laws, then, has, or ought to have, no legislative right, and the people themselves cannot, even if they wished, divest themselves of this incommunicable right, because, according to the fundamental compact, it is only the general will that binds individuals, and we can never be sure that a particular will is conformable to the general will until it has been submitted to the free votes of the people. I have said this already, but it is not useless to repeat it.

Thus we find simultaneously in the work of legislation two things that seem incompatible—an enterprise surpassing human powers, and, to execute it, an authority that is a mere nothing.

Another difficulty deserves attention. Wise men who want to speak to the vulgar in their own language instead of in a popular way will not be understood. Now, there are a thousand kinds of ideas which it is impossible to translate into the language of the people. Views very general and objects very remote are alike beyond its reach; and each individual, approving of no other plan of government than that which promotes his own interests, does not readily perceive the benefits that he is to derive from the continual deprivations which good laws impose. In order that a newly formed nation might approve sound maxims of politics and observe the fundamental rules of state-policy, it would be necessary that the effect should become the cause; that the social spirit, which should be the work of the institution, should preside over the institution itself, and that men should be, prior to the laws, what they ought to become by means of them. Since, then, the legislator cannot employ either force or reasoning, he must needs have recourse to an authority of a different order, which can compel without violence and persuade without convincing.

It is this which in all ages has constrained the founders of nations to resort to the intervention of heaven, and to give the gods the credit for their own wisdom, in order that the nations, subjected to the laws of the State as to those of nature, and recognising the same power in the formation of man and in that of the State, might obey willingly, and bear submissively the yoke of the public welfare.[28]

The legislator puts into the mouths of the immortals that sublime reason which soars beyond the reach of common men, in order that he may win over by divine authority those whom human prudence could not move.* But it does not belong to every man

* "It is true," says Machiavelli, "there never was in a nation any promulgator of extraordinary laws who had not recourse to God,

to make the gods his oracles, nor to be believed when he proclaims himself their interpreter. The great soul of the legislator is the real miracle which must give proof of his mission. Any man can engrave tables of stone, or bribe an oracle, or pretend secret intercourse with some divinity, or train a bird to speak in his ear, or find some other clumsy means to impose on the people.[29] He who is acquainted with such means only will perchance be able to assemble a crowd of foolish persons; but he will never found an empire, and his extravagant work will speedily perish with him. Empty deceptions form but a transient bond; it is only wisdom that makes it lasting. The Jewish law, which still endures, and that of the child of Ishmael,[30] which for ten centuries has ruled half the world, still bear witness to-day to the great men who dictated them; and whilst proud philosophy or blind party spirit sees in them nothing but fortunate impostors, the true statesman admires in their systems the great and powerful genius which directs durable institutions.

It is not necessary from all this to infer with Warburton[31] that politics and religion have among us a common aim, but only that, in the origin of nations, one serves as an instrument of the other.

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because otherwise they would not have been accepted; for there are many advantages recognised by a wise man which are not so self-evident that they can convince others" (*Discourses on Titus Livius*, Book I. chapter 11).

CHAPTER VIII.

THE PEOPLE.

As an architect, before erecting a large edifice, examines and tests the soil in order to see whether it can support the weight, so a wise lawgiver does not begin by drawing up laws that are good in themselves, but considers first whether the people for whom he designs them are fit to endure them. It is on this account that Plato [32] refused to legislate for the Arcadians and Cyrenians, knowing that these two peoples were rich and could not tolerate equality; and it is on this account that good laws and worthless men were to be found in Crete, for Minos had only disciplined a people steeped in vice.

A thousand nations that have flourished on the earth could never have borne good laws; and even those that might have done so could have succeeded for only a very short period of their whole duration. The majority of nations, as well as of men, are tractable only in their youth; they become incorrigible as they grow old. When once customs are established and prejudices have taken root, it is a perilous and futile enterprise to try and reform them; for the people cannot even endure that their evils should be touched with a view to their removal, like those stupid and cowardly patients that shudder at the sight of a physician.

But just as some diseases unhinge men's minds and deprive them of all remembrance of the past, so we sometimes find, during the existence of States, epochs of violence, in which revolutions produce an influence upon nations such as certain crises produce upon individuals, in which horror of the past supplies the place of forgetfulness, and in which the State, inflamed by civil wars, springs forth so to speak from its ashes, and regains the vigour of youth in issuing from the arms of death. Such was Sparta in the time of Lycurgus, such was Rome after the Tarquins, and such among us moderns were Holland and Switzerland after the expulsion of their tyrants.[33]

But these events are rare; they are exceptions, the explanation

of which is always found in the particular constitution of the excepted State. They could not even happen twice with the same nation; for it may render itself free so long as it is merely barbarous, but can no longer do so when the resources of the State are exhausted. Then commotions may destroy it without revolutions being able to restore it, and as soon as its chains are broken, it falls in pieces and ceases to exist; henceforward it requires a master and not a deliverer. Free nations, remember this maxim: "Liberty may be acquired but never recovered."

Youth is not infancy. There is for nations as for men a period of youth, or, if you will, of maturity, which they must await before they are subjected to laws; but it is not always easy to discern when a people is mature, and if the time is anticipated, the labour is abortive. One nation is governable from its origin, another is not so at the end of ten centuries. The Russians will never be really civilized, because they have been civilized too early.[34] Peter had an imitative genius; he had not the true genius that creates and produces anything from nothing. Some of his measures were beneficial, but the majority were ill-timed. He saw that his people were barbarous, but he did not see that they were unripe for civilization; he wished to civilize them, when it was necessary only to discipline them. He wished to produce at once Germans or Englishmen, when he should have begun by making Russians; he prevented his subjects from ever becoming what they might have been, by persuading them that they were what they were not. It is in this way that a French tutor trains his pupil to shine for a moment in childhood, and then to be for ever a nonentity. The Russian Empire will desire to subjugate Europe, and will itself be subjugated. The Tartars, its subjects or neighbours, will become its masters and ours. This revolution appears to me inevitable. All the kings of Europe are working in concert to accelerate it.

CHAPTER IX.

THE PEOPLE (continued).

As nature has set limits to the stature of a properly formed man, outside which it produces only giants and dwarfs; so likewise, with regard to the best constitution of a State, there are limits to its possible extent so that it may be neither too great to enable it to be well governed, nor too small to enable it to maintain itself single-handed. There is in every body politic a maximum of force which it cannot exceed, and which is often diminished as the State is aggrandised. The more the social bond is extended, the more it is weakened; and, in general, a small State is proportionally stronger than a large one.[35]

A thousand reasons demonstrate the truth of this maxim. In the first place, administration becomes more difficult at great distances, as a weight becomes heavier at the end of a longer lever. It also becomes more burdensome in proportion as its parts are multiplied; for every town has first its own administration, for which the people pay; every district has its administration, still paid for by the people; next, every province, then the superior governments, the satrapies, the vice-royalties, which must be paid for more dearly as we ascend, and always at the cost of the unfortunate people; lastly comes the supreme administration, which overwhelms everything. So many additional burdens perpetually exhaust the subjects; and far from being better governed by all these different orders, they are much worse governed than if they had but a single superior. Meanwhile, hardly any resources remain for cases of emergency; and when it is necessary to have recourse to them the State trembles on the brink of ruin.

Nor is this all; not only has the government less vigour and activity in enforcing observance of the laws, in putting a stop to vexations, in reforming abuses, and in forestalling seditious enterprises which may be entered upon in distant places; but the people have less affection for their chiefs whom they never see, for their country, which is in their eyes like the world, and for their fellow-citizens, most of whom are strangers to them. The

same laws cannot be suitable to so many different provinces, which have different customs and different climates, and cannot tolerate the same form of government. Different laws beget only trouble and confusion among the nations which, living under the same chiefs and in constant communication, mingle or intermarry with one another, and, when subjected to other usages, never know whether their patrimony is really theirs. Talents are hidden, virtues ignored, vices unpunished, in that multitude of men, unknown to one another, whom the seat of the supreme administration gathers together in one place. The chiefs, overwhelmed with business, see nothing themselves; clerks rule the State. In a word, the measures that must be taken to maintain the general authority, which so many officers at a distance wish to evade or impose upon, absorb all the public attention; no regard for the welfare of the people remains, and scarcely any for their defence in time of need; and thus a body too huge for its constitution sinks and perishes, crushed by its own weight.

On the other hand, the State must secure a certain foundation, that it may possess stability and resist the shocks which it will infallibly experience, as well as sustain the efforts which it will be forced to make in order to maintain itself; for all nations have a kind of centrifugal force, by which they continually act one against another, and tend to aggrandise themselves at the expense of their neighbours, like the vortices of Descartes.[36] Thus the weak are in danger of being quickly swallowed up, and none can preserve itself long except by putting itself in a kind of equilibrium with all, which renders the compression almost equal everywhere.

Hence we see that there are reasons for expansion and reasons for contraction; and it is not the least of a statesman's talents to find the proportion between the two which is most advantageous for the preservation of the State. We may say, in general, that the former, being only external and relative, ought to be subordinated to the others, which are internal and absolute. A healthy and strong constitution is the first thing to be sought; and we should rely more on the vigour that springs from a good government than on the resources furnished by an extensive territory.

States have, however, been constituted in such a way that the necessity of making conquests entered into their very constitution, and in order to maintain themselves they were forced to enlarge themselves continually. Perhaps they rejoiced greatly at this happy necessity, which nevertheless revealed to them, with the limit of their greatness, the inevitable moment of their fall.[37]

CHAPTER X.

THE PEOPLE (continued).

A BODY politic may be measured in two ways, viz. by the extent of its territory, and by the number of its people; and there is between these two modes of measurement a suitable relation according to which the State may be assigned its true dimensions. It is the men that constitute the State, and it is the soil that sustains the men; the due relation, then, is that the land should suffice for the maintenance of its inhabitants, and that there should be as many inhabitants as the land can sustain. In this proportion is found the maximum power of a given number of people; for if there is too much land, the care of it is burdensome, the cultivation inadequate, and the produce superfluous, and this is the proximate cause of defensive wars. If there is not enough land, the State is at the mercy of its neighbours for the additional quantity; and this is the proximate cause of offensive wars. Any nation which has, by its position, only the alternative between commerce and war is weak in itself; it is dependent on its neighbours and on events; it has only a short and precarious existence. It conquers and changes its situation, or it is conquered and reduced to nothing. It can preserve its freedom only by virtue of being small or great.

[38] It is impossible to express numerically a fixed ratio between the extent of land and the number of men which are reciprocally sufficient, on account of the differences that are found in the quality of the soil, in its degrees of fertility, in the nature of its products, and in the influence of climate, as well as on account of those which we observe in the constitutions of the inhabitants, of whom some consume little in a fertile country, while others consume much on an unfruitful soil. Further, attention must be paid to the greater or less fecundity of the women, to the conditions of the country, whether more or less favourable to population, and to the numbers which the legislator may hope to draw thither by his institutions; so that an opinion should be based not on what is seen, but on what is foreseen, while the actual state of the people should be less observed than that which it

ought naturally to attain. In short, there are a thousand occasions on which the particular accidents of situation require or permit that more territory than appears necessary should be taken up. Thus men will spread out a good deal in a mountainous country, where the natural productions, viz. woods and pastures, require less labour, where experience teaches that women are more fecund than in the plains, and where with an extensive inclined surface there is only a small horizontal base, which alone should count for vegetation. On the other hand, people may inhabit a smaller space on the sea-shore, even among rocks and sands that are almost barren, because fishing can, in great measure, supply the deficiency in the productions of the earth, because men ought to be more concentrated in order to repel pirates, and because, further, it is easier to relieve the country, by means of colonies, of the inhabitants with which it is overburdened.

In order to establish a nation, it is necessary to add to these conditions one which cannot supply the place of any other, but without which they are all useless—it is that the people should enjoy abundance and peace; for the time of a State's formation is, like that of forming soldiers in a square, the time when the body is least capable of resistance and most easy to destroy. Resistance would be greater in a state of absolute disorder than at a moment of fermentation, when each is occupied with his own position and not with the common danger. Should a war, a famine, or a sedition supervene at this critical period, the State is inevitably overthrown.

Many governments, indeed, may be established during such storms, but then it is these very governments that destroy the State. Usurpers always bring about or select troublous times for passing, under cover of the public agitation, destructive laws which the people would never adopt when sober-minded. The choice of the moment for the establishment of a government is one of the surest marks for distinguishing the work of the legislator from that of the tyrant.

What nation, then, is adapted for legislation? That which is already united by some bond of interest, origin, or convention, but has not yet borne the real yoke of the laws; that which has neither customs nor superstitions firmly rooted; that which has no fear of being overwhelmed by a sudden invasion, but which, without entering into the disputes of its neighbours, can single-handed resist either of them, or aid one in repelling the other; that in which every member can be known by all, and in which

there is no necessity to lay on a man a greater burden than a man can bear; that which can subsist without other nations, and without which every other nation can subsist;* that which is neither rich nor poor and is self-sufficing; lastly, that which combines the stability of an old nation with the docility of a new one.[39] The work of legislation is rendered arduous not so much by what must be established as by what must be destroyed; and that which makes success so rare is the impossibility of finding the simplicity of nature conjoined with the necessities of society. All these conditions, it is true, are with difficulty combined; hence few well-constituted States are seen.

There is still one country in Europe capable of legislation; it is the island of Corsica.[40] The courage and firmness which that brave nation has exhibited in recovering and defending its freedom would well deserve that some wise man should teach it how to preserve it. I have some presentiment that this small island will one day astonish Europe.

* If of two neighbouring nations one could not subsist without the other, it would be a very hard situation for the first, and a very dangerous one for the second. Every wise nation in such a case will endeavour very quickly to free the other from this dependence. The republic of Thlascala, enclosed in the empire of Mexico, preferred to do without salt rather than buy it of the Mexicans or even accept it gratuitously. The wise Thlascalans saw a trap hidden beneath this generosity. They kept themselves free; and this small State, enclosed in that great empire, was at last the instrument of its downfall.

CHAPTER XI.

THE DIFFERENT SYSTEMS OF LEGISLATION.

If we ask precisely wherein consists the greatest good of all, which ought to be the aim of every system of legislation, we shall find that it is summed up in two principal objects, *liberty* and *equality*,—liberty, because any individual dependence is so much force withdrawn from the body of the State; equality, because liberty cannot subsist without it.

I have already said what civil liberty is. With regard to equality,[41] we must not understand by this word that the degrees of power and wealth should be absolutely the same; but that, as to power, it should fall short of all violence, and never be exercised except by virtue of station and of the laws; while, as to wealth, no citizen should be rich enough to be able to buy another, and none poor enough to be forced to sell himself,* which supposes, on the part of the great, moderation in property and influence, and, on the part of ordinary citizens, repression of avarice and covetousness.

It is said that this equality is a chimera of speculation which cannot exist in practical affairs. But if the abuse is inevitable, does it follow that it is unnecessary even to regulate it? It is precisely because the force of circumstances is ever tending to destroy equality that the force of legislation should always tend to maintain it.

[43] But these general objects of every good institution ought to be modified in each country by the relations which arise both from the local situation and from the character of the inhabitants; and it is with reference to these relations that we must assign to

* If, then, you wish to give stability to the State, bring the two extremes as near together as possible; tolerate neither rich people nor beggars. These two conditions, naturally inseparable, are equally fatal to the general welfare; from the one class spring tyrants, from the other, the supporters of tyranny; it is always between these that the traffic in public liberty is carried on; the one buys and the other sells.[42]

each nation a particular system of institutions, which shall be the best, not perhaps in itself, but for the State for which it is designed. For instance, if the soil is unfruitful and barren, or the country too confined for its inhabitants, turn your attention to arts and manufactures, and exchange their products for the provisions that you require. On the other hand, if you occupy rich plains and fertile slopes, if, in a productive region, you are in need of inhabitants, bestow all your cares on agriculture, which multiplies men, and drive out the arts, which would only end in depopulating the country by gathering together in a few spots the few inhabitants that the land possesses.* If you occupy extensive and convenient coasts, cover the sea with vessels and foster commerce and navigation; you will have a short and brilliant existence. If the sea on your coasts bathes only rocks that are almost inaccessible, remain fish-eating barbarians; you will lead more peaceful, perhaps better, and certainly happier lives. In a word, besides the maxims common to all, each nation contains within itself some cause which influences it in a particular way, and renders its legislation suitable for it alone. Thus the Hebrews in ancient times, and the Arabs more recently, had religion as their chief object, the Athenians literature, Carthage and Tyre commerce, Rhodes navigation, Sparta war, Rome valour. The author of the *Spirit of the Laws* has shown in a multitude of instances by what arts the legislator directs his institutions towards each of these objects.[45]

What renders the constitution of a State really solid and durable is the observance of expediency in such a way that natural relations and the laws always coincide, the latter only serving, as it were, to secure, support, and rectify the former. But if the legislator, mistaken in his object, takes a principle different from that which springs from the nature of things; if the one tends to servitude, the other to liberty, the one to riches, the other to population, the one to peace, the other to conquests, we shall see the laws imperceptibly weakened and the constitution impaired; and the State will be ceaselessly agitated until it is destroyed or changed, and invincible nature has resumed her sway.

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* Any branch of foreign commerce, says the Marquis d'Argenson, diffuses merely a deceptive utility through the kingdom generally; it may enrich a few individuals, even a few towns, but the nation as a whole gains nothing, and the people are none the better for it.[44]

CHAPTER XII.

DIVISION OF THE LAWS.[46]

In order that everything may be duly regulated and the best possible form given to the commonwealth, there are various relations to be considered. First, the action of the whole body acting on itself, that is, the relation of the whole to the whole, or of the sovereign to the State; and this relation is composed of that of the intermediate terms, as we shall see hereafter.

The laws governing this relation bear the name of political laws, and are also called fundamental laws, not without some reason if they are wise ones; for, if in every State there is only one good method of regulating it, the people which has discovered it ought to adhere to it; but if the established order is bad, why should we regard as fundamental laws which prevent it from being good? Besides, in any case, a nation is always at liberty to change its laws, even the best; for if it likes to injure itself, who has a right to prevent it from doing so?

The second relation is that of the members with one another, or with the body as a whole; and this relation should, in respect of the first, be as small, and, in respect of the second, as great as possible; so that every citizen may be perfectly independent of all the rest, and in absolute dependence on the State.[47] And this is always effected by the same means; for it is only the power of the State that secures the freedom of its members. It is from this second relation that civil laws arise.

We may consider a third kind of relation between the individual man and the law, viz. that of punishable disobedience; and this gives rise to the establishment of criminal laws, which at bottom are not so much a particular species of laws as the sanction of all the others.

[48] To these three kinds of laws is added a fourth, the most important of all, which is graven neither on marble nor on brass, but in the hearts of the citizens; a law which creates the real constitution of the State, which acquires new strength daily, which, when other laws grow obsolete or pass away, revives them or

supplies their place, preserves a people in the spirit of their institutions, and imperceptibly substitutes the force of habit for that of authority. I speak of manners, customs, and above all of opinion—a province unknown to our politicians, but one on which the success of all the rest depends; a province with which the great legislator is occupied in private, while he appears to confine himself to particular regulations, that are merely the arching of the vault, of which manners, slower to develop, form at length the immovable keystone.

Of these different classes, political laws, which constitute the form of government, alone relate to my subject.

BOOK III.

BEFORE speaking of the different forms of government, let us try to fix the precise meaning of that word, which has not yet been very clearly explained.

CHAPTER I.

GOVERNMENT IN GENERAL.

I WARN the reader that this chapter must be read carefully, and that I do not know the art of making myself intelligible to those that will not be attentive.

Every free action has two causes concurring to produce it; the one moral, viz. the will which determines the act; the other physical, viz. the power which executes it. When I walk towards an object, I must first will to go to it; in the second place, my feet must carry me to it. Should a paralytic wish to run, or an active man not wish to do so, both will remain where they are. The body politic has the same motive powers; in it, likewise, force and will are distinguished, the latter under the name of *legislative power*, the former under the name of *executive power*. Nothing is, or ought to be, done in it without their co-operation.

We have seen that the legislative power belongs to the people, and can belong to it alone. On the other hand, it is easy to see from the principles already established, that the executive power cannot belong to the people generally as legislative or sovereign, because that power is exerted only in particular acts, which are not within the province of the law, nor consequently within that of the sovereign, all the acts of which must be laws.

The public force, then, requires a suitable agent to concentrate it and put it in action according to the directions of the general will, to serve as a means of communication between the State and the sovereign, to effect in some manner in the public person what the union of soul and body effects in a man. This is, in the State, the function of the government, improperly confounded with the sovereign of which it is only the minister.[1]

What, then, is the government? An intermediate body established between the subjects and the sovereign for their mutual correspondence, charged with the execution of the laws and with the maintenance of liberty both civil and political.

The members of this body are called magistrates or *kings*, that is, *governors*; and the body as a whole bears the name of *Prince*.* [2] Those therefore who maintain that the act by which a people submits to its chiefs is not a contract are quite right.[3] It is absolutely nothing but a commission, an employment, in which, as simple officers of the sovereign, they exercise in its name the power of which it has made them depositaries, and which it can limit, modify, and resume when it pleases. The alienation of such a right, being incompatible with the nature of the social body, is contrary to the object of the association.

Consequently, I give the name *government* or supreme administration to the legitimate exercise of the executive power, and that of Prince or magistrate to the man or body charged with that administration.

It is in the government that are found the intermediate powers, the relations of which constitute the relation of the whole to the whole, or of the sovereign to the State. This last relation can be represented by that of the extremes of a continued proportion, of which the mean proportional is the government. The government receives from the sovereign the commands which it gives to the people; and in order that the State may be in stable equilibrium, it is necessary, everything being balanced, that there should be equality between the product or the power of the government taken by itself, and the product or the power of the citizens, who are sovereign in the one aspect and subjects in the other.

Further, we could not alter any of the three terms without at once destroying the proportion. If the sovereign wishes to govern, or if the magistrate wishes to legislate, or if the subjects refuse to obey, disorder succeeds order, force and will no longer act in concert, and the State being dissolved falls into despotism or anarchy. Lastly, as there is but one mean proportional between each relation, there is only one good government possible in a State; but as a thousand events may change the relations of a people, not only may different governments be good for different peoples, but for the same people at different times.[4]

To try and give an idea of the different relations that may

* It is for this reason that at Venice the title of Most Serene Prince is given to the College, even when the Doge does not attend it.

exist between these two extremes, I will take for an example the number of the people, as a relation most easy to express.

Let us suppose that the State is composed of ten thousand citizens.[5] The sovereign can only be considered collectively and as a body; but every private person, in his capacity of subject, is considered as an individual; therefore the sovereign is to the subject as ten thousand is to one, that is, each member of the State has as his share only one ten-thousandth part of the sovereign authority, although he is entirely subjected to it.

If the nation consists of a hundred thousand men, the position of the subjects does not change, and each alike is subjected to the whole authority of the laws, whilst his vote, reduced to one hundred-thousandth, has ten times less influence in their enactment. The subject, then, always remaining a unit, the proportional power of the sovereign increases in the ratio of the number of the citizens. Whence it follows that the more the State is enlarged, the more does liberty diminish.

When I say that the proportional power increases, I mean that it is farther removed from equality. Therefore, the greater the ratio is in the geometrical sense, the less is the ratio in the common acceptation; in the former, the ratio, considered according to quantity, is measured by the exponent, and in the other, considered according to identity, it is estimated by the similarity.

Now, the less the particular wills correspond with the general will, that is, customs with laws, the more should the repressive power be increased. The government, then, in order to be effective, should be relatively stronger in proportion as the people are more numerous.

On the other hand, as the aggrandisement of the State gives the depositaries of the public authority more temptations and more opportunities to abuse their power, the more force should the government have to restrain the people, and the more should the sovereign have in its turn to restrain the government. I do not speak here of absolute force, but of the relative force of the different parts of the State.

It follows from this double ratio that the continued proportion between the sovereign, the Prince, and the people is not an arbitrary idea, but a necessary consequence of the nature of the body politic. It follows, further, that one of the extremes, viz. the people, as subject, being fixed and represented by unity, whenever the double ratio increases or diminishes, the single ratio increases or diminishes in like manner, and consequently the middle term is changed. This shows that there is no unique and

absolute constitution of government, but that there may be as many governments different in nature as there are States different in size.

If, for the sake of turning this system to ridicule, it should be said that, in order to find this mean proportional and form the body of the government, it is, according to me, only necessary to take the square root of the number of the people, I should answer that I take that number here only as an example; that the ratios of which I speak are not measured only by the number of men, but in general by the quantity of action, which results from the combination of multitudes of causes; that, moreover, if for the purpose of expressing myself in fewer words, I borrow for a moment geometrical terms, I am nevertheless aware that geometrical precision has no place in moral quantities.

The government is on a small scale what the body politic which includes it is on a large scale. It is a moral person endowed with certain faculties, active like the sovereign, passive like the State, and it can be resolved into other similar relations; from which arises as a consequence a new proportion, and yet another within this, according to the order of the magistracies, until we come to an indivisible middle term, that is, to a single chief or supreme magistrate, who may be represented, in the middle of this progression, as unity between the series of fractions and that of the whole numbers.

Without embarrassing ourselves with this multiplication of terms, let us be content to consider the government as a new body in the State, distinct from the people and from the sovereign, and intermediate between the two.

There is this essential difference between those two bodies, that the State exists by itself, while the government exists only through the sovereign. Thus the dominant will of the Prince is, or ought to be, only the general will, or the law; its force is only the public force concentrated in itself; so soon as it wishes to perform of itself some absolute and independent act, the connexion of the whole begins to be relaxed. If, lastly, the Prince should chance to have a particular will more active than that of the sovereign, and if, to enforce obedience to this particular will, it should employ the public force which is in its hands, in such a manner that there would be so to speak two sovereigns, the one *de jure* and the other *de facto*, the social union would immediately disappear, and the body politic would be dissolved.

Further, in order that the body of the government may have an existence, a real life, to distinguish it from the body of the State;

in order that all its members may be able to act in concert and fulfil the object for which it is instituted, a particular personality is necessary to it, a feeling common to its members, a force, a will of its own tending to its preservation. This individual existence supposes assemblies, councils, a power of deliberating and resolving, rights, titles, and privileges which belong to the Prince exclusively, and which render the position of the magistrate more honourable in proportion as it is more arduous. The difficulty lies in the method of disposing, within the whole, this subordinate whole, in such a way that it may not weaken the general constitution in strengthening its own; that its particular force, intended for its own preservation, may always be kept distinct from the public force, designed for the preservation of the State; and, in a word, that it may always be ready to sacrifice the government to the people, and not the people to the government.

Moreover, although the artificial body of the government is the work of another artificial body, and has in some respects only a derivative and subordinate existence, that does not prevent it from acting with more or less vigour or celerity, from enjoying, so to speak, more or less robust health. Lastly, without directly departing from the object for which it was instituted, it may deviate from it more or less, according to the manner in which it is constituted.

From all these differences arise the different relations which the government must have with the body of the State, so as to accord with the accidental and particular relations by which the State itself is modified. For often the government that is best in itself will become the most vicious, unless its relations are changed so as to meet the defects of the body politic to which it belongs.

CHAPTER II.

THE PRINCIPLE WHICH CONSTITUTES THE DIFFERENT FORMS OF GOVERNMENT.

To explain the general cause of these differences, I must here distinguish the Prince from the government, as I before distinguished the State from the sovereign.

The body of the magistracy may be composed of a greater or less number of members. We said that the ratio of the sovereign to the subjects was so much greater as the people were more numerous; and, by an evident analogy, we can say the same of the government with regard to the magistrates.

Now, the total force of the government, being always that of the State, does not vary; whence it follows that the more it employs this force on its own members, the less remains for operating upon the whole people.

Consequently, the more numerous the magistrates are, the weaker is the government. As this maxim is fundamental, let us endeavour to explain it more clearly.

We can distinguish in the person of the magistrate three wills essentially different: first, the will peculiar to the individual, which tends only to his personal advantage; secondly, the common will of the magistrates, which has reference solely to the advantage of the Prince, and which may be called the corporate will, being general in relation to the government, and particular in relation to the State of which the government forms part; in the third place, the will of the people, or the sovereign will, which is general both in relation to the State considered as the whole, and in relation to the government considered as part of the whole.

In a perfect system of legislation the particular or individual will should be inoperative; the corporate will proper to the government quite subordinate; and consequently the general or sovereign will always dominant, and the sole rule of all the rest.

On the other hand, according to the natural order, these different wills become more active in proportion as they are con-

centrated. Thus the general will is always the weakest, the corporate will has the second rank, and the particular will the first of all; so that in the government each member is, firstly, himself, next a magistrate, and then a citizen—a gradation directly opposed to that which the social order requires.

But suppose that the whole government is in the hands of a single man, then the particular will and the corporate will are perfectly united, and consequently the latter is in the highest possible degree of intensity. Now, as it is on the degree of will that the exertion of force depends, and as the absolute power of the government does not vary, it follows that the most active government is that of a single person.

On the other hand, let us unite the government with the legislative authority; let us make the sovereign the Prince, and all the citizens magistrates; then the corporate will, confounded with the general will, will have no more activity than the latter, and will leave the particular will in all its force. Thus the government, always with the same absolute force, will be at its minimum of relative force or activity.

These relations are incontestable, and other considerations serve still further to confirm them. We see, for example, that each magistrate is more active in his body than each citizen is in his, and that consequently the particular will has much more influence in the acts of government than in those of the sovereign; for every magistrate is almost always charged with some function of government, whereas each citizen, taken by himself, has no function of sovereignty. Besides, the more a State extends, the more is its real force increased, although it does not increase in proportion to its extent; but, while the State remains the same, it is useless to multiply magistrates, for the government acquires no greater real force, inasmuch as this force is that of the State, the quantity of which is always uniform. Thus the relative force or activity of the government diminishes without its absolute or real force being able to increase.

It is certain, moreover, that the despatch of business is retarded in proportion as more people are charged with it; that, in laying too much stress on prudence, we leave too little to fortune; that opportunities are allowed to pass by, and that owing to excessive deliberation the fruits of deliberation are often lost.

I have just shown that the government is weakened in proportion to the multiplication of magistrates, and I have before demonstrated that the more numerous the people is, the more

ought the repressive force to be increased. Whence it follows that the ratio between the magistrates and the government ought to be inversely as the ratio between the subjects and the sovereign; that is, the more the State is enlarged, the more should the government contract; so that the number of chiefs should diminish in proportion as the number of the people is increased.

But I speak here only of the relative force of the government, and not of its rectitude; for, on the other hand, the more numerous the magistracy is, the more does the corporate will approach the general will; whereas, under a single magistrate, this same corporate will is, as I have said, only a particular will. Thus, what is lost on one side can be gained on the other, and the art of the legislator consists in knowing how to fix the point where the force and will of the government, always in reciprocal proportion, are combined in the ratio most advantageous to the State.[6]

CHAPTER III.

CLASSIFICATION OF GOVERNMENTS.[1]

WE have seen in the previous chapter why the different kinds or forms of government are distinguished by the number of members that compose them; it remains to be seen in the present chapter how this division is made.

The sovereign may, in the first place, commit the charge of the government to the whole people, or to the greater part of the people, in such a way that there may be more citizens who are magistrates than simple individual citizens. We call this form of government a *democracy*.

Or it may confine the government to a small number, so that there may be more ordinary citizens than magistrates; and this form bears the name of *aristocracy*.

Lastly, it may concentrate the whole government in the hands of a single magistrate from whom all the rest derive their power. This third form is the most common, and is called *monarchy*, or royal government.

We should remark that all these forms, or at least the first two, admit of degrees, and may indeed have a considerable range; for democracy may embrace the whole people, or be limited to a half. Aristocracy, in its turn, may restrict itself from a half of the people to the smallest number indeterminately. Royalty even is susceptible of some division. Sparta by its constitution always had two kings; and in the Roman Empire there were as many as eight Emperors at once without its being possible to say that the Empire was divided. Thus there is a point at which each form of government blends with the next; and we see that, under three denominations only, the government is really susceptible of as many different forms as the State has citizens.

What is more, this same government being in certain respects capable of subdivision into other parts, one administered in one way, another in another, there may result from combinations

of these three forms a multitude of mixed forms, each of which can be multiplied by all the simple forms.

In all ages there has been much discussion about the best form of government, without consideration of the fact that each of them is the best in certain cases, and the worst in others.

If, in the different States, the number of the supreme magistrates should be in inverse ratio to that of the citizens, it follows that, in general, democratic government is suitable to small States, aristocracy to those of moderate size, and monarchy to large ones. This rule follows immediately from the principle. But how is it possible to estimate the multitude of circumstances which may furnish exceptions?

CHAPTER IV.

DEMOCRACY.[8]

He that makes the law knows better than any one how it should be executed and interpreted. It would seem, then, that there could be no better constitution than one in which the executive power is united with the legislative; but it is that very circumstance which makes a democratic government inadequate in certain respects, because things which ought to be distinguished are not, and because the Prince and the sovereign, being the same person, only form as it were a government without government.

It is not expedient that he who makes the laws should execute them, nor that the body of the people should divert its attention from general considerations in order to bestow it on particular objects. Nothing is more dangerous than the influence of private interests on public affairs; and the abuse of the laws by the government is a less evil than the corruption of the legislator, which is the infallible result of the pursuit of private interests. For when the State is changed in its substance all reform becomes impossible. A people which would never abuse the government would likewise never abuse its independence; a people which always governed well would not need to be governed.

Taking the term in its strict sense, there never has existed, and never will exist, any true democracy.[9] It is contrary to the natural order that the majority should govern and that the minority should be governed. It is impossible to imagine that the people should remain in perpetual assembly to attend to public affairs, and it is easily apparent that commissions could not be established for that purpose without the form of administration being changed.

In fact, I think I can lay down as a principle that when the functions of government are shared among several magistracies, the least numerous acquire, sooner or later, the greatest authority,

if only on account of the facility in transacting business which naturally leads them on to that.

Moreover, how many things difficult to combine does not this government presuppose! First, a very small State, in which the people may be readily assembled, and in which every citizen can easily know all the rest; secondly, great simplicity of manners, which prevents a multiplicity of affairs and thorny discussions; next, considerable equality in rank and fortune, without which equality in rights and authority could not long subsist; lastly, little or no luxury, for luxury is either the effect of wealth or renders it necessary; it corrupts both the rich and the poor, the former by possession, the latter by covetousness; it betrays the country to effeminacy and vanity; it deprives the State of all its citizens in order to subject them one to another, and all to opinion.[10]

That is why a famous author has assigned virtue as the principle of a republic, for all these conditions could not subsist without virtue; but, through not making the necessary distinctions, this brilliant genius has often lacked precision and sometimes clearness, and has not seen that the sovereign authority being everywhere the same, the same principle ought to have a place in every well-constituted State, in a greater or less degree, it is true, according to the form of government.[11]

Let us add that there is no government so subject to civil wars and internal agitations as the democratic or popular, because there is none which tends so strongly and so constantly to change its form, none which demands more vigilance and courage to be maintained in its own form.[12] It is especially in this constitution that the citizen should arm himself with strength and steadfastness, and say every day of his life from the bottom of his heart what a virtuous Palatine * said in the Diet of Poland: *Malo periculosam libertatem quam quietum servitium.*[13]

If there were a nation of gods, it would be governed democratically. So perfect a government is unsuited to men.

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* The Palatine of Posnania, father of the King of Poland, Duke of Lorraine.

CHAPTER V.

ARISTOCRACY.

We have here two moral persons quite distinct, viz. the government and the sovereign; and consequently two general wills, the one having reference to all the citizens, the other only to the members of the administration. Thus, although the government can regulate its internal policy as it pleases, it can never speak to the people except in the name of the sovereign, that is, in the name of the people themselves. This must never be forgotten.

The earliest societies were aristocratically governed.[14] The heads of families deliberated among themselves about public affairs The young men yielded readily to the authority of experience. Hence the names *priests*, *elders*, *senate*, *gerontes*.[15] The savages of North America are still governed in this way at the present time, and are very well governed.

But in proportion as the inequality due to institutions prevailed over natural inequality, wealth or power* was preferred to age, and aristocracy became elective. Finally, the power transmitted with the father's property to the children, rendering the families patrician, made the government hereditary, and there were senators only twenty years old.

There are, then, three kinds of aristocracy—natural, elective, and hereditary. The first is only suitable for simple nations; the third is the worst of all governments. The second is the best; it is aristocracy properly so-called.

Besides the advantage of the distinction between the two powers, aristocracy has that of the choice of its members; for in a popular government all the citizens are born magistrates; but this one limits them to a small number, and they become magistrates by election only; †[16] a method by which probity, intelli-

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* It is clear that the word *optimates* among the ancients did not mean the best, but the most powerful.

† It is very important to regulate by law the form of election of magistrates; for, in leaving it to the will of the Prince, it is impossible

gence, experience, and all other grounds of preference and public esteem are so many fresh guarantees that men will be wisely governed.

Further, assemblies are more easily convoked; affairs are better discussed and are despatched with greater order and diligence; while the credit of the State is better maintained abroad by venerable senators, than by an unknown or despised multitude.

In a word, it is the best and most natural order of things that the wisest should govern the multitude, when we are sure that they will govern it for its advantage and not for their own. We should not uselessly multiply means, nor do with twenty thousand men what a hundred chosen men can do still better. But we must observe that the corporate interest begins here to direct the public force in a less degree according to the rule of the general will, and that another inevitable propensity deprives the laws of a part of the executive power.

With regard to special expediencies, a State must not be so small, nor a people so simple and upright, that the execution of the laws should follow immediately upon the public will, as in a good democracy. Nor again must a nation be so large that the chief men, who are dispersed in order to govern it, can set up as sovereigns, each in his own province, and begin by making themselves independent so as at last to become masters.

But if aristocracy requires a few virtues less than popular government, it requires also others that are peculiarly its own, such as moderation among the rich and contentment among the poor; for a rigorous equality would seem to be out of place in it, and was not even observed in Sparta.[17]

Besides, if this form of government comports with a certain inequality of fortune, it is expedient in general that the administration of public affairs should be entrusted to those that are best able to devote their whole time to it, but not, as Aristotle maintains,[18] that the rich should always be preferred. On the contrary, it is important that an opposite choice should sometimes teach the people that there are, in men's personal merits, reasons for preference more important than wealth.

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to avoid falling into hereditary aristocracy, as happened in the republics of Venice and Berne. In consequence, the first has long been a decaying State, but the second is maintained by the extreme wisdom of its Senate; it is a very honourable and a very dangerous exception

CHAPTER VI.

MONARCHY.

We have hitherto considered the Prince as a moral and collective person united by the force of the laws, and as the depositary of the executive power in the State. We have now to consider this power concentrated in the hands of a natural person, of a real man, who alone has a right to dispose of it according to the laws. He is what is called a monarch or a king.

Quite the reverse of the other forms of administration, in which a collective being represents an individual, in this one an individual represents a collective being; so that the moral unity that constitutes it is at the same time a physical unity, in which all the powers that the law combines in the other with so much effort are combined naturally.

Thus the will of the people, the will of the Prince, the public force of the State, and the particular force of the government, all obey the same motive power; all the springs of the machine are in the same hand, everything works for the same end; there are no opposite movements that counteract one another, and no kind of constitution can be imagined in which a more considerable action is produced with less effort. Archimedes,[19] quietly seated on the shore, and launching without difficulty a large vessel, represents to me a skilful monarch, governing from his cabinet his vast States, and, while he appears motionless, setting everything in motion.

But if there is no government which has more vigour, there is none in which the particular will has more sway and more easily governs others. Everything works for the same end, it is true; but this end is not the public welfare, and the very power of the administration turns continually to the prejudice of the State.

Kings wish to be absolute, and from afar men cry to them that the best way to become so is to make themselves beloved by their people. This maxim is very fine, and also very true in certain respects; unfortunately it will always be ridiculed in courts. Power which springs from the affections of the people is

doubtless the greatest, but it is precarious and conditional; princes will never be satisfied with it. The best kings wish to have the power of being wicked if they please, without ceasing to be masters. A political preacher will tell them in vain that, the strength of the people being their own, it is their greatest interest that the people should be flourishing, numerous, and formidable; they know very well that that is not true. Their personal interest is, in the first place, that the people should be weak and miserable, and should never be able to resist them. Supposing all the subjects always perfectly submissive, I admit that it would then be the prince's interest that the people should be powerful, in order that this power, being his own, might render him formidable to his neighbours; but as this interest is only secondary and subordinate, and as the two suppositions are incompatible, it is natural that princes should always give preference to the maxim which is most immediately useful to them. It is this that Samuel[20] strongly represented to the Hebrew; it is this that Machiavelli clearly demonstrated. While pretending to give lessons to kings, he gave great ones to peoples. The *Prince* of Machiavelli is the book of republicans.[21] *

We have found, by general considerations, that monarchy is suited only to large States; and we shall find this again by examining monarchy itself. The more numerous the public administrative body is, the more does the ratio of the Prince to the subjects diminish and approach equality, so that this ratio is unity or equality, even in a democracy. This same ratio increases in proportion as the government contracts, and is at its maximum when the government is in the hands of a single person. Then the distance between the Prince and the people is too great, and the State lacks cohesion. In order to unify it, then, intermediate orders, princes, grandees, and nobles, are required to fill them. Now, nothing at all of this kind is proper for a small State, which would be ruined by all these orders.

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* Machiavelli was an honourable man and a good citizen; but, attached to the house of the Medici, he was forced, during the oppression of his country, to conceal his love for liberty. The mere choice of his execrable hero sufficiently manifests his secret intention; and the opposition between the maxims of his book the *Prince* and those of his *Discourses on Titus Livius* and his *History of Florence* shows that this profound politician has had hitherto only superficial or corrupt readers. The court of Rome has strictly prohibited his book; I certainly believe it, for it is that court which he most clearly depicts.

But if it is difficult for a great State to be well governed, it is much more so for it to be well governed by a single man ; and every one knows what happens when the king appoints deputies.[22]

One essential and inevitable defect, which will always render a monarchical government inferior to a republican one, is that in the latter the public voice hardly ever raises to the highest posts any but enlightened and capable men, who fill them honourably; whereas those who succeed in monarchies are most frequently only petty mischief-makers, petty knaves, petty intriguers, whose petty talents, which enable them to attain high posts in courts, only serve to show the public their ineptitude as soon as they have attained them. The people are much less mistaken about their choice than the prince is ; and a man of real merit is almost as rare in a royal ministry as a fool at the head of a republican government.[23] Therefore, when by some fortunate chance one of these born rulers takes the helm of affairs in a monarchy almost wrecked by such a fine set of ministers, it is quite astonishing what resources he finds, and his accession to power forms an epoch in a country.[24]

In order that a monarchical State might be well governed, it would be necessary that its greatness or extent should be proportioned to the abilities of him that governs. It is easier to conquer than to rule. With a sufficient lever, the world may be moved by a finger ; but to support it the shoulders of Hercules are required. However small a State may be, the prince is almost always too small for it.[25] When, on the contrary, it happens that the State is too small for its chief, which is very rare, it is still badly governed, because the chief, always pursuing his own great designs, forgets the interests of the people, and renders them no less unhappy by the abuse of his transcendent abilities, than an inferior chief by his lack of talent. It would be necessary, so to speak, that a kingdom should be enlarged or contracted in every reign, according to the capacity of the prince ; whereas, the talents of a senate having more definite limits, the State may have permanent boundaries, and the administration prosper equally well.

The most obvious inconvenience of the government of a single person is the lack of that uninterrupted succession [26] which forms in the two others a continuous connexion. One king being dead, another is necessary ; elections leave dangerous intervals ; they are stormy ; and unless the citizens are of a disinterestedness, an integrity, which this government hardly admits of, intrigue and corruption intermingle with it. It would be hard for a man to

whom the State has been sold not to sell it in his turn, and indemnify himself out of the helpless for the money which the powerful have extorted from him. Sooner or later everything becomes venal under such an administration, and the peace which is then enjoyed under a king is worse than the disorder of an interregnum.

What has been done to prevent these evils? Crowns have been made hereditary in certain families; and an order of succession has been established which prevents any dispute on the demise of kings; that is to say, the inconvenience of regencies being substituted for that of elections, an appearance of tranquillity has been preferred to a wise administration, and men have preferred to risk having as their chiefs children, monsters, and imbeciles, rather than have a dispute about the choice of good kings. They have not considered that in thus exposing themselves to the risk of this alternative, they put almost all the chances against themselves. That was a very sensible answer of Dionysius the younger,[27] to whom his father, in reproaching him with a dishonourable action, said: "Have I set you the example in this?" "Ah!" replied the son, "your father was not a king."

All things conspire to deprive of justice and reason a man brought up to govern others. Much trouble is taken, so it is said, to teach young princes the art of reigning; this education does not appear to profit them. It would be better to begin by teaching them the art of obeying. The greatest kings that history has celebrated were not trained to rule; that is a science which men are never less masters of than after excessive study of it, and it is better acquired by obeying than by ruling. *Nam utilissimus idem ac brevissimus bonarum malarumque rerum delectus, cogitare quid aut nolueris sub alio principe, aut volueris.*[28]

A result of this want of cohesion is the instability of royal government, which, being regulated sometimes on one plan, sometimes on another, according to the character of the reigning prince or that of the persons who reign for him, cannot long pursue a fixed aim or a consistent course of conduct, a variableness which always makes the State fluctuate between maxim and maxim, project and project, and which does not exist in other governments, where the Prince is always the same. So we see that, in general, if there is more cunning in a court, there is more wisdom in a senate, and that republics pursue their ends by more steadfast and regular methods; whereas every revolution in a royal ministry produces one in the State, the maxim common to

all ministers, and to almost all kings, being to reverse in every respect the acts of their predecessors.

From this same want of cohesion is obtained the solution of a sophism very familiar to royal politicians; this is not only to compare civil government with domestic government, and the prince with the father of a family, an error already refuted, but, further, to ascribe freely to this magistrate all the virtues which he might have occasion for, and always to suppose that the prince is what he ought to be—on which supposition royal government is manifestly preferable to every other, because it is incontestably the strongest, and because it only lacks a corporate will more conformable to the general will to be also the best.

But if, according to Plato,[29] a king by nature is so rare a personage, how many times will nature and fortune conspire to crown him? And if the royal education necessarily corrupts those who receive it, what should be expected from a succession of men trained to rule? It is, then, voluntary self-deception to confuse royal government with that of a good king. To see what this government is in itself, we must consider it under incapable or wicked princes; for such will come to the throne, or the throne will make them such.[30]

These difficulties have not escaped our authors,[31] but they have not been embarrassed by them. The remedy, they say, is to obey without murmuring; God gives bad kings in his wrath, and we must endure them as chastisements of heaven. Such talk is doubtless edifying, but I am inclined to think it would be more appropriate in a pulpit than in a book on politics. What should we say of a physician who promises miracles, and whose whole art consists in exhorting the sick man to be patient? We know well that when we have a bad government it must be endured the question is to find a good one.

CHAPTER VII.

MIXED GOVERNMENTS.

PROPERLY speaking, there is no simple government.[32] A single chief must have subordinate magistrates; a popular government must have a head. Thus, in the partition of the executive power, there is always a gradation from the greater number to the less, with this difference, that sometimes the majority depends on the minority, and sometimes the minority on the majority.

Sometimes there is an equal division, either when the constituent parts are in mutual dependence, as in the government of England;[33] or when the authority of each part is independent, but imperfect, as in Poland.[34] This latter form is bad, because there is no unity in the government, and the State lacks cohesion.

Is a simple or a mixed government the better? A question much debated among publicists, and one to which the same answer must be made that I have before made about every form of government.

The simple government is the better in itself, for the reason that it is simple. But when the executive power is not sufficiently dependent on the legislative, that is, when there is a greater proportion between the Prince and the sovereign than between the people and the Prince, this want of proportion must be remedied by dividing the government; for then all its parts have no less authority over the subjects, and their division renders them all together less strong against the sovereign.

The same inconvenience is also provided against by the establishment of intermediate magistrates, who, leaving the government in its entirety, only serve to balance the two powers and maintain their respective rights. Then the government is not mixed, but temperate.

The opposite inconvenience can be remedied by similar means, and, when the government is too lax, tribunals may be erected

to concentrate it. That is customary in all democracies. In the first case the government is divided in order to weaken it, and in the second in order to strengthen it; for the maximum of strength and also of weakness is found in simple governments, while the mixed forms give a medium strength.

CHAPTER VIII.

THAT EVERY FORM OF GOVERNMENT IS NOT FIT FOR EVERY COUNTRY

LIBERTY,[35] not being a fruit of all climates, is not within the reach of all peoples. The more we consider this principle established by Montesquieu, the more do we perceive its truth; the more it is contested, the greater opportunity is given to establish it by new proofs.

In all the governments of the world, the public person consumes, but produces nothing. Whence, then, comes the substance it consumes? From the labour of its members. It is the superfluity of individuals that supplies the necessaries of the public. Hence it follows that the civil State can subsist only so long as men's labour produces more than they need.

Now this excess is not the same in all countries of the world. In several it is considerable, in others moderate, in others nothing, in others a minus quantity. This proportion depends on the fertility due to climate, on the kind of labour which the soil requires, on the nature of its products, on the physical strength of its inhabitants, on the greater or less consumption that is necessary to them, and on several other like proportions of which it is composed.

On the other hand, all governments are not of the same nature; there are some more or less wasteful; and the differences are based on this other principle, that the further the public contributions are removed from their source, the more burdensome they are. We must not measure this burden by the amount of the imposts, but by the distance they have to traverse in order to return to the hands from which they have come. When this circulation is prompt and well-established, it matters not whether little or much is paid; the people are always rich, and the finances are always prosperous. On the other hand, however little the people may contribute, if this little does not revert to them, they are soon exhausted by constantly giving; the State is never rich and the people are always in beggary.[36]

It follows from this that the more the distance between the people and the government is increased, the more burdensome do the tributes become; therefore, in a democracy the people are least encumbered, in an aristocracy they are more so, and in a monarchy they bear the greatest weight. Monarchy, then, is suited only to wealthy nations; aristocracy, to States moderate both in wealth and size; democracy, to small and poor States.

Indeed, the more we reflect on it, the more do we find in this the difference between free and monarchical States. In the first, everything is used for the common advantage; in the others, public and private resources are reciprocal, and the former are increased by the diminution of the latter; lastly, instead of governing subjects in order to make them happy, despotism[37] renders them miserable in order to govern them.

There are, then, in every climate natural causes by which we can assign the form of government which is adapted to the nature of the climate, and even say what kind of inhabitants the country should have.

Unfruitful and barren places, where the produce does not repay the labour, ought to remain uncultivated and deserted, or should only be peopled by savages; places where men's toil yields only bare necessaries ought to be inhabited by barbarous nations; in them any polity would be an impossibility. Places where the excess of the produce over the labour is moderate are suitable for free nations; those in which abundant and fertile soil yields much produce for little labour are willing to be governed monarchically, in order that the superfluity of the subjects may be consumed by the luxuries of the Prince; for it is better that this excess should be absorbed by the government than squandered by private persons. There are exceptions, I know; but these exceptions themselves confirm the rule, in that, sooner or later, they produce revolutions which restore things to their natural order.

We should always distinguish general laws from the particular causes which may modify their effects. If the whole south should be covered with republics, and the whole north with despotic States, it would not be less true that, through the influence of climate, despotism is suitable to warm countries, barbarism to cold countries, and a good polity to intermediate regions. I see, however, that while the principle is admitted, its application may be disputed; it will be said that some cold countries are very fertile, and some southern ones very unfruitful. But this is a difficulty only for those who do not examine the matter in all its relations.

It is necessary, as I have already said, to reckon those connected with labour, resources, consumption, etc.

Let us suppose that the produce of two districts equal in area is in the ratio of five to ten. If the inhabitants of the former consume four and those of the latter nine parts, the surplus produce of the first will be one-fifth, and that of the second one-tenth. The ratio between these two surpluses being then inversely as that of the produce of each, the district which yields only five will give a surplus double that of the district which produces ten.

But it is not a question of double produce, and I do not think that any one dare, in general, place the fertility of cold countries even on an equality with that of warm countries. Let us, however, assume this equality; let us, if you will, put England in the scales with Sicily, and Poland with Egypt; more to the south we shall have Africa and India; more to the north we shall have nothing. For this equality in produce what a difference in the cultivation! In Sicily it is only necessary to scratch the soil; in England what care is needed to till it! But where more exertion is required to yield the same produce, the surplus must necessarily be very small.

Consider, besides this, that the same number of men consume much less in warm countries. The climate demands that people should be temperate in order to be healthy; Europeans who want to live as at home all die of dysentry and dyspepsia. "We are," says Chardin,[38] "carnivorous beasts, wolves, in comparison with Asiatics. Some attribute the temperance of the Persians to the fact that their country is scantily cultivated; I believe, on the contrary, that their country is not very abundant in provisions because the inhabitants need very little. If their frugality," he continues, "resulted from the poverty of the country, it would be only the poor who would eat little, whereas it is the people generally; and more or less would be consumed in each province, according to the fertility of the country, whereas the same abstemiousness is found throughout the kingdom. They pride themselves greatly on their mode of living, saying that it is only necessary to look at their complexions, to see how much superior they are to those of Christians. Indeed, the complexions of the Persians are smooth; they have beautiful skins, delicate and clear: while the complexions of their subjects, the Armenians, who live in European fashion, are rough and blotched, and their bodies are coarse and heavy."

The nearer we approach the Equator, the less do the people

live upon. They eat scarcely any meat; rice, maize, *cuzcuz*, millet, cassava, are their ordinary foods. There are in India millions of men whose diet does not cost a half-penny a day. We see even in Europe palpable differences in appetite between northern and southern nations. A Spaniard will live for eight days on a German's dinner. In countries where men are most voracious luxury is directed to matters of consumption; in England it is displayed in a table loaded with meats; in Italy you are regaled with sugar and flowers.

Again, luxury in dress presents similar differences. In climates where the changes of the seasons are sudden and violent, garments are better and simpler; in those where people dress only for ornament, splendour is more sought after than utility, for clothes themselves are a luxury. At Naples you will see men every day walking to Posilippo with gold-embroidered coats, and no stockings. It is the same with regard to buildings; everything is sacrificed to magnificence when there is nothing to fear from injury by the atmosphere. In Paris and in London people must be warmly and comfortably housed; in Madrid they have superb drawing-rooms, but no windows that shut, while they sleep in mere closets.

The foods are much more substantial and nutritious in warm countries; this is a third difference which cannot fail to influence the second. Why do people eat so many vegetables in Italy? Because they are good, nourishing, and of excellent flavour. In France, where they are grown only on water, they are not nourishing and count almost for nothing on the table; they do not, however, occupy less ground, and they cost at least as much labour to cultivate. It is found by experience that the wheats of Barbary, inferior in other respects to those of France, yield much more flour, and that those of France, in their turn, yield more than the wheats of the north. Whence we may infer that a similar gradation is observable generally, in the same direction, from the Equator to the Pole. Now is it not a manifest disadvantage to have in an equal quantity of produce a smaller quantity of nutiment?

To all these different considerations I may add one which springs from, and strengthens, them; it is that warm countries have less need of inhabitants than cold countries, but would be able to maintain a greater number; hence a double surplus is produced, always to the advantage of despotism. The greater the surface occupied by the same number of inhabitants, the more difficult do rebellions become, because measures cannot be con-

certed promptly and secretly, and because it is always easy for the government to discover the plans and cut off communications.[39] But the more closely packed a numerous population is, the less power has a government to usurp the sovereignty; the chiefs deliberate as securely in their cabinets as the prince in his council, and the multitude assemble in the squares as quickly as the troops in their quarters. The advantage, then, of a tyrannical government lies in this, that it acts at great distances. By help of the points of support which it procures, its power increases with the distance, like that of levers.* That of the people, on the other hand, acts only when concentrated; it evaporates and disappears as it extends, like the effect of powder scattered on the ground, which takes fire only grain by grain. The least populous countries are thus the best adapted for tyranny; wild beasts reign only in deserts.

* This does not contradict what I said before (Book II. chapter ix.) on the inconveniences of large States; for there it was a question of the authority of the government over its members, and here it is a question of its power against its subjects. Its scattered members serve as points of support to it for operating at a distance upon the people, but it has no point of support for acting on its members themselves. Thus, the length of the lever is the cause of its weakness in the one case, and of its strength in the other.

CHAPTER IX.

THE MARKS OF A GOOD GOVERNMENT

WHEN, then, it is asked absolutely which is the best government, an insoluble and likewise indeterminate question is propounded; or, if you will, it has as many correct solutions as there are possible combinations in the absolute and relative positions of the nations.

But if it were asked by what sign it can be known whether a given people is well or ill governed, that would be a different matter, and the question of fact might be determined.

It is, however, not settled, because every one wishes to decide it in his own way. Subjects extol the public tranquillity, citizens the liberty of individuals; the former prefer security of possessions, the latter, that of persons; the former are of opinion that the best government is the most severe, the latter maintain that it is the mildest; the one party wish that crimes should be punished and the other that they should be prevented; the one party think it well to be feared by their neighbours, the other party prefer to be unacquainted with them; the one party are satisfied when money circulates, the other party demand that the people should have bread. Even though there should be agreement on these and other similar points, would further progress be made? Since moral quantities lack a precise mode of measurement, even if people were in accord about the sign, how could they be so about the valuation of it?

For my part, I am always astonished that people fail to recognize a sign so simple, or that they should have the insincerity not to agree about it. What is the object of political association? It is the preservation and prosperity of its members. And what is the surest sign that they are preserved and prosperous? It is their number and population.[40] Do not, then, go and seek elsewhere for this sign so much discussed. All other things being equal, the government under which, without external aids, without naturalizations, and without colonies, the citizens increase and

multiply most, is infallibly the best. That under which a people diminishes and decays is the worst. Statisticians, it is now your business; reckon, measure, compare.*

* On the same principle must be judged the centuries which deserve preference in respect of the prosperity of the human race. Those in which literature and art were seen to flourish have been too much admired without the secret object of their cultivation being penetrated, without their fatal consequences being considered: *Idque apud imperitos humanitas vocabatur, quum pars servitutis esset.*[41] Shall we never detect in the maxims of books the gross self-interest which makes the authors speak? No, whatever they may say, when, notwithstanding its brilliancy, a country is being depopulated, it is untrue that all goes well, and it is not enough that a poet should have an income of 100,000 livres for his epoch to be the of best all. The apparent repose and tranquillity of the chief men must be regarded less than the welfare of nations as a whole, and especially that of the most populous States. Hail lays waste a few cantons, but it rarely causes scarcity. Riots and civil wars greatly startle the chief men; but they do not produce the real misfortunes of nations, which may even be abated, while it is being disputed who shall tyrannize over them. It is from their permanent condition that their real prosperity or calamities spring; when all is left crushed under the yoke, it is then that everything perishes; it is then that the chief men, destroying them at their leisure, *ubi solitudinem faciunt, pacem appellant.*[42] When the broils of the great agitated the kingdom of France, and the coadjutor of Paris carried a poniard in his pocket to the *Parlement*, that did not prevent the French nation from living happily and harmoniously in free and honourable ease. Greece of old flourished in the midst of the most cruel wars; blood flowed there in streams, and the whole country was covered with men. It seemed, said Machiavelli, that amid murders, proscriptions and civil wars, our republic [43] became more powerful; the virtues of its citizens, their manners, their independence, were more effectual in strengthening it than all its dissensions had been in weakening it. A little agitation gives energy to men's minds, and what makes the race truly prosperous is not so much peace as liberty

CHAPTER X.

THE ABUSE OF THE GOVERNMENT AND ITS TENDENCY TO DEGENERATE.[44]

As the particular will acts incessantly against the general will, so the government makes a continual effort against the sovereignty. The more this effort is increased, the more is the constitution altered; and as there is here no other corporate will which, by resisting that of the Prince, may produce equilibrium with it, it must happen sooner or later that the Prince at length oppresses the sovereign and violates the social treaty. Therein is the inherent and inevitable vice which, from the birth of the body politic, tends without intermission to destroy it, just as old age and death at length destroy the human body.

There are two general ways by which a government degenerates, viz. when it contracts, or when the State is dissolved.

The government contracts when it passes from the majority to the minority, that is, from democracy to aristocracy, and from aristocracy to royalty. That is its natural tendency.* If it

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* The slow formation and the progress of Venice in her lagoons present a notable example of this succession; it is indeed astonishing that, after more than twelve hundred years, the Venetians seem to be still only in the second stage which began with the *Serrar di Consiglio* in 1198. As for the ancient Doges, with whom they are reproached, whatever the *Squittinio della libertà veneta* may say, it is proved that they were not their sovereigns.[45]

People will not fail to bring forward as an objection to my views the Roman Republic, which followed, it will be said, a course quite contrary, passing from Monarchy to aristocracy, and from aristocracy to democracy. I am very far from regarding it in this way.

The first institution of Romulus was a mixed government, which speedily degenerated into despotism. From peculiar causes the State perished before its time, as we see a new-born babe die before attaining manhood. The expulsion of the Tarquins was the real epoch of the birth of the Republic. But it did not at first assume a regular form, because, through not abolishing the patrician order, only a half of the work was done. For, in this way, the hereditary aristocracy,

retrograded from the minority to the majority, it might be said to relax; but this inverse progress is impossible.[46]

In reality, the government never changes its form except when its exhausted energy leaves it too weak to preserve itself; and if it becomes still more relaxed as it extends, its force will be annihilated, and it will no longer subsist. We must therefore concentrate the energy as it dwindles; otherwise the State which it sustains will fall into ruin.

The dissolution of the State may occur in two ways.

Firstly, when the Prince no longer administers the State in accordance with the laws and effects a usurpation of the sovereign power. Then a remarkable change takes place—the State, and not the government, contracts; I mean that the State dissolves, and that another is formed within it, which is composed only of the members of the government, and which is to the rest of the people nothing more than their master and their tyrant. So that as soon as the government usurps the sovereignty, the social compact is broken, and all the ordinary citizens, rightfully regaining their natural liberty, are forced, but not morally bound, to obey.

The same thing occurs also when the members of the govern-

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which is the worst of legitimate administrations, remaining in conflict with the democracy, the form of the government, always uncertain and fluctuating, was fixed, as Machiavelli has shown, only on the institution of the tribunes; not till then was there a real government and a true democracy. Indeed, the people then were not only sovereign, but also magistrates and judges; the Senate was only a subordinate tribunal for moderating and concentrating the government; and the consuls themselves, although patricians, although chief magistrates, although generals with absolute authority in war, were in Rome only the presidents of the people.

From that time, moreover, the government seemed to follow its natural inclination, and tend strongly to aristocracy. The patriciate abolishing itself as it were, the aristocracy was no longer in the body of patricians as it is at Venice and Genoa, but in the body of the Senate, composed of patricians and plebeians, and also in the body of tribunes when they began to usurp an active power; for words make no difference in things, and when a nation has chiefs to govern for them, whatever name those chiefs bear, they always form an aristocracy.

From the abuse of aristocracy sprang the civil wars and the triumvirate. Sylla, Julius Cæsar, Augustus, became in fact real monarchs; and at length, under the despotism of Tiberius, the State was broken up. Roman history, then, does not belie my principle, but confirms it

ment usurp separately the power which they ought to exercise only collectively; which is no less a violation of the laws, and occasions still greater disorder. Then there are, so to speak, as many Princes as magistrates; and the State, not less divided than the government, perishes or changes its form.

When the State is broken up, the abuse of the government, whatever it may be, takes the common name of *anarchy*. To distinguish, democracy degenerates into *ochlocracy*,[47] aristocracy into *oligarchy*; I should add that royalty degenerates into *tyranny*; but this last word is equivocal and requires explanation.

In the vulgar sense a tyrant is a king who governs with violence and without regard to justice and the laws. In the strict sense, a tyrant is a private person who arrogates to himself the royal authority without having a right to it. It is in this sense that the Greeks understood the word tyrant;[48] they bestowed it indifferently on good and bad princes whose authority was not legitimate.* Thus *tyrant* and *usurper* are two words perfectly synonymous.

To give different names to different things, I call the usurper of royal authority a *tyrant*, and the usurper of sovereign power a *despot*. The tyrant is he who, contrary to the laws, takes upon himself to govern according to the laws; the despot is he who sets himself above the laws themselves. Thus the tyrant cannot be a despot, but the despot is always a tyrant.

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* *Omnes enim et habentur et dicuntur tyranni, qui potestate utuntur perpetua in ea civitate quae libertate usa est.* (Corn. Nep., *in Miltiad.*, cap. viii.)[49] It is true that Aristotle (*Mor. Nicom.*, Book VIII. cap. x.) distinguishes the tyrant from the king, by the circumstance that the former governs for his own benefit, and the latter only for the benefit of his subjects; but besides the fact that, in general, all the Greek authors have taken the word *tyrant* in a different sense, as appears especially from Xenophon's *Hiero*, it would follow from Aristotle's distinction that, since the beginning o .the world, not a single king has yet existed

CHAPTER XI.

THE DISSOLUTION OF THE BODY POLITIC.

SUCH is the natural and inevitable tendency of the best constituted governments. If Sparta and Rome have perished, what State can hope to endure for ever? If we wish to form a durable constitution, let us, then, not dream of making it eternal. In order to succeed we must not attempt the impossible, nor flatter ourselves that we are giving to the work of men a stability which human things do not admit of.

The body politic, as well as the human body, begins to die from its birth, and bears in itself the causes of its own destruction. But both may have a constitution more or less robust, and fitted to preserve them a longer or shorter time. The constitution of man is the work of nature; that of the State is the work of art.[50] It does not rest with men to prolong their lives; it does rest with them to prolong that of the State as far as possible, by giving it the best constitution practicable. The best constituted will come to an end, but not so soon as another, unless some unforeseen accident brings about its premature destruction.

The principle of political life is in the sovereign authority. The legislative power is the heart of the State; the executive power is its brain, giving movement to all the parts. The brain may be paralysed and yet the individual may live. A man remains an imbecile and lives; but so soon as the heart ceases its functions, the animal dies.

It is not by laws that the State subsists, but by the legislative power. The law of yesterday is not binding to-day; but tacit consent is presumed from silence, and the sovereign is supposed to confirm continually the laws which it does not abrogate when able to do so. Whatever it has once declared that it wills, it wills always, unless the declaration is revoked.

Why, then, do people show so much respect for ancient laws? It is on account of their antiquity. We must believe that it is only the excellence of the ancient laws which has enabled them to be so long preserved; unless the sovereign has recognized them

as constantly salutary, it would have revoked them a thousand times. That is why, far from being weakened, the laws are ever acquiring fresh vigour in every well-constituted State; the prejudice in favour of antiquity renders them more venerable every day; while, wherever laws are weakened as they grow old, this fact proves that there is no longer any legislative power, and that the State no longer lives.

CHAPTER XII.

HOW THE SOVEREIGN AUTHORITY IS MAINTAINED.

THE sovereign, having no other force than the legislative power, acts only through the laws; and the laws being nothing but authentic acts of the general will, the sovereign can act only when the people are assembled. The people assembled, it will be said; what a chimera! It is a chimera to-day; but it was not so two thousand years ago. Have men changed their nature?

The limits of the possible in moral things are less narrow than we think; it is our weaknesses, our vices, our prejudices, that contract them. Sordid souls do not believe in great men; vile slaves smile with a mocking air at the word *liberty*.

From what has been done let us consider what can be done. I shall not speak of the ancient republics of Greece; but the Roman Republic was, it seems to me, a great State, and the city of Rome a great city. The last census in Rome showed that there were 400,000 citizens bearing arms, and the last enumeration of the Empire showed more than 4,000,000 citizens, without reckoning subjects, foreigners, women, children, and slaves.

What a difficulty, we might suppose, there would be in assembling frequently the enormous population of the capital and its environs. Yet few weeks passed without the Roman people being assembled, even several times.[51] Not only did they exercise the rights of sovereignty, but a part of the functions of government. They discussed certain affairs and judged certain causes, and in the public assembly the whole people were almost as often magistrates as citizens.

By going back to the early times of nations, we should find that the majority of the ancient governments, even monarchical ones, like those of the Macedonians and the Franks, had similar councils. Be that as it may, this single incontestable fact solves all difficulties; inference from the actual to the possible appears to me sound.

CHAPTER XIII.

HOW THE SOVEREIGN AUTHORITY IS MAINTAINED (continued).

IT is not sufficient that the assembled people should have once fixed the constitution of the State by giving their sanction to a body of laws; it is not sufficient that they should have established a perpetual government, or that they should have once for all provided for the election of magistrates. Besides the extraordinary assemblies which unforeseen events may require, it is necessary that there should be fixed and periodical ones which nothing can abolish or prorogue; so that, on the appointed day, the people are rightfully convoked by the law, without needing for that purpose any formal summons.

But, excepting these assemblies which are lawful by their date alone, every assembly of the people that has not been convoked by the magistrates appointed for that duty and according to the prescribed forms, ought to be regarded as unlawful and all that is done in it as invalid, because even the order to assemble ought to emanate from the law.

As for the more or less frequent meetings of the lawful assemblies, they depend on so many considerations that no precise rules can be given about them. Only it may be said generally that the more force a government has, the more frequently should the sovereign display itself.

This, I shall be told, may be good for a single city; but what is to be done when the State comprises many cities? Will the sovereign authority be divided? Or must it be concentrated in a single city and render subject all the rest?

I answer that neither alternative is necessary. In the first place, the sovereign authority is simple and undivided, and we cannot divide it without destroying it. In the second place, a city, no more than a nation, can be lawfully subject to another, because the essence of the body politic consists in the union of obedience and liberty, and these words, *subject* and *sovereign*, are correlatives,

the notion underlying them being expressed in the one word citizen.

I answer, further, that it is always an evil to combine several towns into a single State, and, in desiring to effect such a union, we must not flatter ourselves that we shall avoid the natural inconveniences of it. The abuses of great States cannot be brought as an objection against a man who only desires small ones.[52] But how can small States be endowed with sufficient force to resist great ones? Just in the same way as when the Greek towns of old resisted the Great King,[53] and as more recently Holland and Switzerland have resisted the House of Austria.

If, however, the State cannot be reduced to proper limits, one resource still remains; it is not to allow any capital, but to make the government sit alternately in each town, and also to assemble in them by turns the estates of the country.

People the territory uniformly, extend the same rights everywhere, spread everywhere abundance and life; in this way the State will become at once the strongest and the best governed that may be possible. Remember that the walls of the towns are formed solely of the remains of houses in the country. For every palace that I see rising in the capital, I seem to see a whole rural district laid in ruins.

CHAPTER XIV.

HOW THE SOVEREIGN AUTHORITY IS MAINTAINED (continued).

So soon as the people are lawfully assembled as a sovereign body, the whole jurisdiction of the government ceases, the executive power is suspended, and the person of the meanest citizen is as sacred and inviolable as that of the first magistrate, because where the represented are, there is no longer any representative.[54] Most of the tumults that arose in Rome in the *comitia* proceeded from ignorance or neglect of this rule. The consuls were then only presidents of the people and the tribunes simple orators; * the Senate had no power at all.

These intervals of suspension, in which the Prince recognizes or ought to recognize the presence of a superior, have always been dreaded by that power; and these assemblies of the people, which are the shield of the body politic and the curb of the government, have in all ages been the terror of the chief men; hence such men are never wanting in solicitude, objections, obstacles, and promises, in the endeavour to make the citizens disgusted with the assemblies. When the latter are avaricious, cowardly, pusillanimous, and more desirous of repose than of freedom, they do not long hold out against the repeated efforts of the government; and thus, as the resisting force constantly increases, the sovereign authority at last disappears, and most of the States decay and perish before their time.

But between the sovereign authority and the arbitrary government there is sometimes introduced an intermediate power of which I must speak.

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* Almost in the sense given to this term in the Parliament of England. The resemblance between their offices would have set the consuls and tribunes in conflict, even if all jurisdiction had been suspended.

CHAPTER XV.

DEPUTIES OR REPRESENTATIVES.

So soon as the service of the State ceases to be the principal business of the citizens, and they prefer to render aid with their purses rather than their persons, the State is already on the brink of ruin. Is it necessary to march to battle, they pay troops and remain at home; is it necessary to go to the council, they elect deputies and remain at home. As a result of indolence and wealth, they at length have soldiers to enslave their country and representatives to sell it.[55]

It is the bustle of commerce and of the arts, it is the greedy pursuit of gain, it is effeminacy and love of comforts, that commute personal services for money. Men sacrifice a portion of their profit in order to increase it at their ease. Give money and soon you will have chains. That word *finance* is a slave's word; it is unknown among citizens. In a country that is really free, the citizens do everything with their hands and nothing with money; far from paying for exemption from their duties, they would pay to perform them themselves. I am far removed from ordinary ideas; I believe that statute-labour (*les corvées*) is less repugnant to liberty than taxation is.[56]

The better constituted a State is, the more do public affairs outweigh private ones in the minds of the citizens. There is, indeed, a much smaller number of private affairs, because the amount of the general prosperity furnishes a more considerable portion to that of each individual, and less remains to be sought by individual exertions. In a well-conducted city-state every one hastens to the assemblies; while under a bad government no one cares to move a step in order to attend them, because no one takes an interest in the proceedings, since it is foreseen that the general will will not prevail; and so at last private concerns become all-absorbing. Good laws pave the way for better ones; bad laws lead to worse ones. As soon as any one says of the

affairs of the State, "Of what importance are they to me?" we must consider that the State is lost.

The decline of patriotism, the active pursuit of private interests, the vast size of States, conquests, and the abuses of government, have suggested the plan of deputies or representatives of the people in the assemblies of the nation. It is this which in certain countries they dare to call the third estate. Thus the private interest of two orders is put in the first and second rank, the public interest only in the third.

Sovereignty cannot be represented for the same reason that it cannot be alienated; it consists essentially in the general will, and the will cannot be represented; it is the same or it is different; there is no medium. The deputies of the people, then, are not and cannot be its representatives; they are only its commissioners and can conclude nothing definitely. Every law which the people in person have not ratified is invalid; it is not a law. The English nation thinks that it is free, but is greatly mistaken, for it is so only during the election of members of Parliament; as soon as they are elected, it is enslaved and counts for nothing.[57] The use which it makes of the brief moments of freedom renders the loss of liberty well-deserved.

The idea of representatives is modern; it comes to us from feudal government, that absurd and iniquitous government,[58] under which mankind is degraded and the name of man dishonoured. In the republics, and even in the monarchies, of antiquity, the people never had representatives; they did not know the word. It is very singular that in Rome, where the tribunes were so sacred, it was not even imagined that they could usurp the functions of the people, and in the midst of so great a multitude, they never attempted to pass of their own accord a single *plebiscitum*. We may judge, however, of the embarrassment which the crowd sometimes caused from what occurred in the time of the Gracchi, when a part of the citizens gave their votes on the house-tops.[59] But where right and liberty are all in all, inconveniences are nothing. In that wise nation everything was estimated at a true value; it allowed the lictors to do what the tribunes had not dared to do, and was not afraid that the lictors would want to represent it.[60]

To explain, however, in what manner the tribunes sometimes represented it, it is sufficient to understand how the government represents the sovereign.[61] The law being nothing but the declaration of the general will, it is clear that in their legislative capacity the people cannot be represented; but they can and

should be represented in the executive power, which is only force applied to law. This shows that very few nations would, upon careful examination, be found to have laws.[62] Be that as it may, it is certain that the tribunes, having no share in the executive power, could never represent the Roman people by right of their office, but only by encroaching on the rights of the Senate.

Among the Greeks, whatever the people had to do, they did themselves; they were constantly assembled in the public place. They lived in a mild climate and they were not avaricious; slaves performed the manual labour; the people's great business was liberty. Not having the same advantages, how are you to preserve the same rights? Your more rigorous climates give you more wants;* for six months in a year the public place is untenable, and your hoarse voices cannot be heard in the open air. You care more for gain than for liberty, and you fear slavery far less than you do misery.

What! is liberty maintained only with the help of slavery? Perhaps; extremes meet.[63] Everything which is not according to nature has its inconveniences, and civil society more than all the rest. There are circumstances so unfortunate that people can preserve their freedom only at the expense of that of others, and the citizen cannot be completely free except when the slave is enslaved to the utmost. Such was the position of Sparta. As for you, modern nations, you have no slaves, but you are slaves; you pay for their freedom with your own. In vain do you boast of this preference; I find in it more of cowardice than of humanity.

I do not mean by all this that slaves are necessary and that the right of slavery is lawful, since I have proved the contrary; I only mention the reasons why modern nations who believe themselves free have representatives, and why ancient nations had none. Be that as it may, as soon as a nation appoints representatives, it is no longer free; it no longer exists.

After very careful consideration I do not see that it is possible henceforward for the sovereign to preserve among us the exercise of its rights unless the State is very small. But if it is very

* To adopt in cold countries the effeminacy and luxuriousness of Orientals is to be willing to assume their chains, and to submit to them even more necessarily than they do.

small, will it not be subjugated? No; I shall show hereafter * how the external power of a great nation can be combined with the convenient polity and good order of a small State.

* It is this which I had intended to do in the sequel to this work, when, in treating of external relations, I came to confederations—a wholly new subject, the principles of which have yet to be estab lished.[64]

CHAPTER XVI.

THAT THE INSTITUTION OF THE GOVERNMENT IS NOT A CONTRACT.

THE legislative power being once well established, the question is to establish also the executive power; for this latter, which operates only by particular acts, not being of the essence of the other, is naturally separated from it. If it were possible that the sovereign, considered as such, should have the executive power, law and fact would be so confounded that it could no longer be known what is law and what is not; and the body politic, thus perverted, would soon become a prey to the violence against which it was instituted.

The citizens being all equal by the social contract, all can prescribe what all ought to do, while no one has a right to demand that another should do what he will not do himself. Now, it is properly this right, indispensable to make the body politic live and move, which the sovereign gives to the Prince in establishing the government.

Several have pretended that the instrument in this establishment is a contract [65] between the people and the chiefs whom they set over themselves—a contract by which it is stipulated between the two parties on what conditions the one binds itself to rule, the other to obey. It will be agreed, I am sure, that this is a strange method of contracting. But let us see whether such a position is tenable.

First, the supreme authority can no more be modified than alienated; to limit it is to destroy it. It is absurd and contradictory that the sovereign should acknowledge a superior; to bind itself to obey a master is to regain full liberty.

Further, it is evident that this contract of the people with such or such persons is a particular act; whence it follows that the contract cannot be a law nor an act of sovereignty, and that consequently it is unlawful.

Moreover, we see that the contracting parties themselves would be under the law of nature alone, and without any security for

the performance of their reciprocal engagements, which is in every way repugnant to the civil state. He who possesses the power being always capable of executing it, we might as well give the name contract to the act of a man who should say to another: "I give you all my property, on condition that you restore me what you please."

There is but one contract in the State—that of association; and this of itself excludes any other. No public contract can be conceived which would not be a violation of the first.

CHAPTER XVII.

THE INSTITUTION OF THE GOVERNMENT.

UNDER what general notion, then, must be included the act by which the government is instituted? I shall observe first that this act is complex, or composed of two others, viz. the establishment of the law and the execution of the law.

By the first, the sovereign determines that there shall be a governing body estabiished in such or such a form; and it is clear that this act is a law.

By the second, the people nominate the chiefs who will be entrusted with the government when established. Now, this nomination being a particular act, is not a second law, but only a consequence of the first, and a function of the government.

The difficulty is to understand how there can be an act of government before the government exists, and how the people, who are only sovereign or subjects, can, in certain circumstances, become the Prince or the magistrates.

Here, however, is disclosed one of those astonishing properties of the body politic, by which it reconciles operations apparently contradictory; for this is effected by a sudden conversion of sovereignty into democracy in such a manner that, without any perceptible change, and merely by a new relation of all to all, the citizens, having become magistrates, pass from general acts to particular acts, and from the law to the execution of it.[66]

This change of relation is not a subtlety of speculation without example in practice; it occurs every day in the Parliament of England, in which the Lower House on certain occasions resolves itself into Grand Committee in order to discuss business better, and thus becomes a simple commission instead of the sovereign court that it was the moment before. In this way it afterwards reports to itself, as the House of Commons, what it has just decided in Grand Committee.[67]

Such is the advantage peculiar to a democratic government, that it can be established in fact by a simple act of the general will; and after this, the provisional government remains in power, should

that be the form adopted, or establishes in the name of the sovereign the government prescribed by the law; and thus everything is according to rule. It is impossible to institute the government in any other way that is legitimate without renouncing the principles heretofore established.

CHAPTER XVIII.

MEANS OF PREVENTING USURPATIONS OF THE GOVERNMENT.[68]

FROM these explanations it follows, in confirmation of chapter XVI., that the act which institutes the government is not a contract, but a law; that the depositaries of the executive power are not the masters of the people, but its officers; that the people can appoint them and dismiss them at pleasure; that for them it is not a question of contracting, but of obeying; and that in undertaking the functions which the State imposes on them, they simply fulfil their duty as citizens, without having in any way a right to discuss the conditions.[69]

When, therefore, it happens that the people institute a hereditary government, whether monarchical in a family or aristocratic in one order of citizens, it is not an engagement that they make, but a provisional form which they give to the administration, until they please to regulate it differently.

It is true that such changes are always dangerous, and that the established government must never be touched except when it becomes incompatible with the public good; but this circumspection is a maxim of policy, not a rule of right; and the State is no more bound to leave the civil authority to its chief men than the military authority to its generals.

Moreover, it is true that in such a case all the formalities requisite to distinguish a regular and lawful act from a seditious tumult, and the will of a whole people from the clamours of a faction, cannot be too carefully observed. It is especially in this case that only such concessions should be made as cannot in strict justice be refused; and from this obligation also the Prince derives a great advantage in preserving its power in spite of the people, without their being able to say that it has usurped the power; for while appearing to exercise nothing but its rights, it may very easily extend them, and, under pretext of maintaining the public peace, obstruct the assemblies designed to re-establish good order; so that it takes advantage of a silence which it pre-

vents from being broken, or of irregularities which it causes to be committed, so as to assume in its favour the approbation of those whom fear renders silent and punish those that dare to speak. It is in this way that the Decemvirs, having at first been elected for one year, and then kept in office for another year, attempted to retain their power in perpetuity by no longer permitting the *comitia* to assemble; and it is by this easy method that all the governments in the world, when once invested with the public force, usurp sooner or later the sovereign authority.

The periodical assemblies of which I have spoken before are fitted to prevent or postpone this evil, especially when they need no formal convocation; for then the Prince cannot interfere with them, without openly proclaiming itself a violator of the laws and an enemy of the State.

These assemblies, which have as their object the maintenance of the social treaty, ought always to be opened with two propositions, which no one should be able to suppress, and which should pass separately by vote.

The first: "Whether it pleases the sovereign to maintain the present form of government."

The second: "Whether it pleases the people to leave the administration to those at present entrusted with it."

I presuppose here what I believe that I have proved, viz. that there is in the State no fundamental law which cannot be revoked, not even the social compact; for if all the citizens assembled in order to break this compact by a solemn agreement, no one can doubt that it would be quite legitimately broken. Grotius[70] even thinks that each man can renounce the State of which he is a member, and regain his natural freedom and his property by quitting the country.* Now it would be absurd if all the citizens combined should be unable to do what each of them can do separately.

* It must be clearly understood that no one should leave in order to evade his duty and relieve himself from serving his country at a moment when it needs him. Flight in that case would be criminal and punishable; it would no longer be retirement, but desertion.

BOOK IV.

CHAPTER I.

THAT THE GENERAL WILL IS INDESTRUCTIBLE.[1]

So long as a number of men in combination are considered as a single body, they have but one will, which relates to the common preservation and to the general well-being. In such a case all the forces of the State are vigorous and simple, and its principles are clear and luminous; it has no confused and conflicting interests; the common good is everywhere plainly manifest and only good sense is required to perceive it. Peace, union, and equality are foes to political subtleties. Upright and simple-minded men are hard to deceive because of their simplicity; allurements and refined pretexts do not impose upon them; they are not even cunning enough to be dupes. When, in the happiest nation in the world, we see troops of peasants regulating the affairs of the State under an oak and always acting wisely, can we refrain from despising the refinements of other nations, who make themselves illustrious and wretched with so much art and mystery?

A State thus governed needs very few laws; and in so far as it becomes necessary to promulgate new ones, this necessity is universally recognized. The first man to propose them only gives expression to what all have previously felt, and neither factions nor eloquence will be needed to pass into law what every one has already resolved to do, so soon as he is sure that the rest will act as he does.

What deceives reasoners is that, seeing only States that are ill-constituted from the beginning, they are impressed with the impossibility of maintaining such a policy in those States; they laugh to think of all the follies to which a cunning knave, an insinuating speaker, can persuade the people of Paris or London. They know not that Cromwell would have been put to hard labour by the people of Berne, and the Duke of Beaufort flogged by the Genevese.[2]

But when the social bond begins to be relaxed and the State

weakened, when private interests begin to make themselves felt and small associations to exercise influence on the State, the common interest is injuriously affected and finds adversaries; unanimity no longer reigns in the voting; the general will is no longer the will of all;[3] opposition and disputes arise, and the best counsel does not pass uncontested.

Lastly, when the State, on the verge of ruin, no longer subsists except in a vain and illusory form, when the social bond is broken in all hearts, when the basest interest shelters itself impudently under the sacred name of the public welfare, the general will becomes dumb; all, under the guidance of secret motives, no more express their opinions as citizens than if the State had never existed; and, under the name of laws, they deceitfully pass unjust decrees which have only private interest as their end.

Does it follow from this that the general will is destroyed or corrupted? No; it is always constant, unalterable, and pure; but it is subordinated to others which get the better of it. Each, detaching his own interest from the common interest, sees clearly that he cannot completely separate it; but his share in the injury done to the State appears to him as nothing in comparison with the exclusive advantage which he aims at appropriating to himself. This particular advantage being excepted, he desires the general welfare for his own interests quite as strongly as any other. Even in selling his vote for money, he does not extinguish in himself the general will, but eludes it.[4] The fault that he commits is to change the state of the question, and to answer something different from what he was asked; so that, instead of saying by a vote: "It is beneficial to the State," he says: "It is beneficial to a certain man or a certain party that such or such a motion should pass." Thus the law of public order in assemblies is not so much to maintain in them the general will as to ensure that it shall always be consulted and always respond.

I might in this place make many reflections on the simple right of voting in every act of sovereignty—a right which nothing can take away from the citizens—and on that of speaking, proposing, dividing, and discussing, which the government is always very careful to leave to its members only; but this important matter would require a separate treatise, and I cannot say everything in this one.

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CHAPTER II.

VOTING.

We see from the previous chapter that the manner in which public affairs are managed may give a sufficiently trustworthy indication of the character and health of the body politic. The more that harmony reigns in the assemblies, that is, the more the voting approaches unanimity, the more also is the general will predominant; but long discussions,[5] dissensions, and uproar proclaim the ascendency of private interests and the decline of the State.

This is not so clearly apparent when two or more orders enter into its constitution, as, in Rome, the patricians and plebeians, whose quarrels often disturbed the *comitia*, even in the palmiest days of the Republic; but this exception is more apparent than real, for, at that time, by a vice inherent in the body politic, there were, so to speak, two States in one; what is not true of the two together is true of each separately.[6] And, indeed, even in the most stormy times, the *plebiscita* of the people, when the Senate did not interfere with them, always passed peaceably and by a large majority of votes; the citizens having but one interest, the people had but one will.

At the other extremity of the circle unanimity returns; that is, when the citizens, fallen into slavery, have no longer either liberty or will. Then fear and flattery change votes into acclamations; men no longer deliberate, but adore or curse. Such was the disgraceful mode of speaking in the Senate under the Emperors. Sometimes it was done with ridiculous precautions. Tacitus[7] observes that under Otho the senators, in overwhelming Vitellius with execrations, affected to make at the same time a frightful noise, in order that, if he happened to become master, he might not know what each of them had said.

From these different considerations are deduced the principles by which we should regulate the method of counting votes and of comparing opinions, according as the general will is more or less easy to ascertain and the State more or less degenerate.

There is but one law which by its nature requires unanimous consent, that is, the social compact; for civil association is the most voluntary act in the world; every man being born free and master of himself, no one can, under any pretext whatever, enslave him without his assent. To decide that the son of a slave is born a slave is to decide that he is not born a man.

If, then, at the time of the social compact, there are opponents of it, their opposition does not invalidate the contract, but only prevents them from being included in it; they are foreigners among citizens. When the State is established, consent lies in residence; to dwell in the territory is to submit to the sovereignty.* [8]

Excepting this original contract, the vote of the majority always binds all the rest, this being a result of the contract itself. But it will be asked how a man can be free and yet forced to conform to wills which are not his own. How are opponents free and yet subject to laws they have not consented to?

I reply that the question is wrongly put. The citizen consents to all the laws, even to those which are passed in spite of him, and even to those which punish him when he dares to violate any of them. The unvarying will of all the members of the State is the general will; it is through that that they are citizens and free.† When a law is proposed in the assembly of the people, what is asked of them is not exactly whether they approve the proposition or reject it, but whether it is conformable or not to the general will, which is their own; each one in giving his vote expresses his opinion thereupon; and from the counting of the votes is obtained the declaration of the general will. When, therefore, the opinion opposed to my own prevails, that simply shows that I was mistaken, and that what I considered to be the general will was not so. Had my private opinion prevailed, I

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* This must always be understood to relate to a free State; for otherwise family, property, want of an asylum, necessity, or violence, may detain an inhabitant in a country against his will; and then his residence alone no longer supposes his consent to the contract or to the violation of it.

† At Genoa we read in front of the prisons and on the fetters of the galley-slaves the word, *Libertas*. This employment of the device is becoming and just. In reality, it is only the malefactors of all degrees who prevent the citizen from being free. In a country where all such people are in the galleys the most perfect liberty will be enjoyed.

should have done something other than I wished; and in that case I should not have been free.[9]

This supposes, it is true, that all the marks of the general will[10] are still in the majority; when they cease to be so, whatever side we take, there is no longer any liberty.

In showing before[11] how particular wills were substituted for general wills in public resolutions, I have sufficiently indicated the means practicable for preventing this abuse; I will speak of it again hereafter.[12] With regard to the proportional number of votes for declaring this will, I have also laid down the principles according to which it may be determined.[13] The difference of a single vote destroys unanimity; but between unanimity and equality there are many unequal divisions, at each of which this number can be fixed according to the condition and requirements of the body politic.

Two general principles may serve to regulate these proportions: the one, that the more important and weighty the resolutions, the nearer should the opinion which prevails approach unanimity; the other, that the greater the despatch requisite in the matter under discussion, the more should we restrict the prescribed difference in the division of opinions; in resolutions which must be come to immediately the majority of a single vote should suffice. The first of these principles appears more suitable to laws, the second to affairs. Be that as it may, it is by their combination that are established the best proportions which can be assigned for the decision of a majority.

CHAPTER III.

ELECTIONS.

WITH regard to the elections of the Prince and the magistrates, which are, as I have said, complex acts, there are two modes of procedure, viz. choice and lot.[14] Both have been employed in different republics, and a very complicated mixture of the two is seen even now in the election of the Doge of Venice.

"Election by lot," says Montesquieu,[15] "is of the nature of democracy." I agree, but how is it so? "The lot," he continues, "is a mode of election which mortifies no one; it leaves every citizen a reasonable hope of serving his country." But these are not the reasons.

If we are mindful that the election of the chiefs is a function of government and not of sovereignty, we shall see why the method of election by lot is more in the nature of democracy, in which the administration is by so much the better as its acts are less multiplied.

In every true democracy, the magistracy is not a boon but an onerous charge, which cannot fairly be imposed on one individual rather than on another. The law alone can impose this burden on the person upon whom the lot falls. For then, the conditions being equal for all, and the choice not being dependent on any human will, there is no particular application to alter the universality of the law.

In an aristocracy the Prince chooses the Prince, the government is maintained by itself, and voting is rightly established.

The instance of the election of the Doge of Venice, far from destroying this distinction, confirms it; this composite form is suitable in a mixed government. For it is an error to take the government of Venice as a true aristocracy.[16] If the people have no share in the government, the nobles themselves are numerous. A multitude of poor *Barnabotes* never come near any magistracy, and have for their nobility only the empty title of Excellency and the right to attend the Great Council. This Great Council being as numerous as our General Council at Geneva,[17] its illustrious

members have no more privileges than our simple citizens (*citoyens*). It is certain that, setting aside the extreme disparity of the two Republics, the burgesses (*la bourgeoisie*) of Geneva exactly correspond to the Venetian order of patricians; our natives (*natifs*) and residents (*habitants*) represent the citizens and people of Venice; our peasants (*paysans*) represent the subjects of the mainland; in short, in whatever way we consider this Republic apart from its size, its government is no more aristocratic than ours. The whole difference is that, having no chief for life, we have not the same need for election by lot.

Elections by lot would have few drawbacks in a true democracy, in which, all being equal as well in character and ability as in sentiments and fortune, the choice would become almost indifferent. But I have already said that there is no true democracy.

When choice and lot are combined, the first should be employed to fill the posts that require peculiar talents, such as military appointments; the other is suitable for those in which good sense, justice, and integrity are sufficient, such as judicial offices, because, in a well-constituted State, these qualities are common to all the citizens.

Neither lot nor voting has any place in a monarchical government. The monarch being by right sole Prince and sole magistrate, the choice of his lieutenants belongs to him alone. When the Abbé de Saint-Pierre[18] proposed to multiply the councils of the King of France and to elect the members of them by ballot, he did not see that he was proposing to change the form of government.

It would remain for me to speak of the method for recording and collecting votes in the assembly of the people; but perhaps the history of the Roman policy in that respect will explain more clearly all the principles which I might be able to establish. It is not unworthy of a judicious reader to see in some detail how public and private affairs were dealt with in a council of 200,000 men.[19]

CHAPTER IV.

THE ROMAN COMITIA.

We have no very trustworthy records of the early times of Rome; there is even great probability that most of the things which have been handed down are fables,* and, in general, the most instructive part of the annals of nations, which is the history of their institution, is the most defective. Experience every day teaches us from what causes spring the revolutions of empires; but, as nations are no longer in process of formation, we have scarcely anything but conjectures to explain how they have been formed.[20]

The customs which are found established at least testify that these customs had a beginning. Of the traditions that go back to these origins, those which the greatest authorities countenance, and which the strongest reasons confirm, ought to pass as the most undoubted. These are the principles which I have tried to follow in enquiring how the freest and most powerful nation in the world exercised its supreme power.

After the foundation of Rome, the growing republic, that is, the army of the founder, composed of Albans, Sabines, and foreigners, was divided into three classes, which, from this division, took the name of *tribes*. Each of these tribes was subdivided into ten *curiæ*, and each *curia* into *decuriæ*, at the head of which were placed *curiones* and *decuriones*.

Besides this, a body of one hundred horsemen or knights, called a *centuria*, was drawn from each tribe, whence we see that these divisions, not very necessary in a town, were at first only military. But it seems that an instinct of greatness induced the little town of Rome from the first to adopt a polity suitable to the capital of the world.

From this first division an inconvenience soon resulted; the

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* The name of *Rome*, which is alleged to be derived from *Romulus*, is Greek and means *force*; the name of *Numa* is also Greek and means *law*. What likelihood is there that the first two kings of that city should have borne at the outset names so clearly related to what they did?

tribe of the Albans * and that of the Sabines † remaining always in the same condition, while that of the foreigners ‡ increased continually through perpetual accessions, the last soon outnumbered the two others. The remedy which Servius found for this dangerous abuse was to change the mode of division, and for the division by races, which he abolished, to substitute another derived from the districts of the city occupied by each tribe. Instead of three tribes he made four, each of which occupied one of the hills of Rome and bore its name. Thus, in remedying the existing inequality, he also prevented it for the future; and in order that this might be a division, not only of localities, but of men, he prohibited the inhabitants of one quarter from removing into another, which prevented the races from being mingled.

He also doubled the three old *centuriæ* of cavalry and added twelve others to them, but still under the old names—a simple and judicious means by which he effected a distinction between the body of knights and that of the people, without making the latter murmur.

To these four urban tribes Servius added fifteen others, called rural tribes, because they were formed of inhabitants of the country, divided into so many cantons. Afterwards as many new ones were formed; and the Roman people were at length divided into thirty-five tribes, a number which remained fixed until the close of the Republic.

From this distinction between the urban and the rural tribes resulted an effect worthy of notice, because there is no other instance of it, and because Rome owed to it both the preservation of her manners and the growth of her empire. It might be supposed that the urban tribes soon arrogated to themselves the power and the honours, and were ready to disparage the rural tribes. It was quite the reverse. We know the taste of the old Romans for a country life. This taste they derived from their wise founder, who united with liberty rural and military works, and relegated, so to speak, to the towns arts, trades, intrigue, wealth, and slavery.

Thus every eminent man that Rome had being a dweller in the fields and a tiller of the soil, it was customary to seek in the country only for the defenders of the Republic. This condition, being that of the worthiest patricians, was honoured by every one; the simple and laborious life of villagers was preferred to the

* Ramnenses. † Tatientes. ‡ Luceres.

lax and indolent life of the burgesses of Rome; and many who would have been only wretched proletarians in the city became, as labourers in the fields, respected citizens. It is not without reason, said Varro, that our high-minded ancestors established in the village the nursery of those hardy and valiant men who defended them in time of war and sustained them in time of peace. Pliny says positively that the rural tribes were honoured because of the men that composed them, while the worthless whom it was desired to disgrace were transferred as a mark of ignominy into the urban tribes. The Sabine Appius Claudius, having come to settle in Rome, was there loaded with honours and enrolled in a rural tribe, which afterwards took the name of his family. Lastly, all the freedmen entered the urban tribes, never the rural; and during the whole of the Republic there is not a single example of any of these freedmen attaining a magistracy, although they had become citizens.

This maxim was excellent, but was pushed so far that at length a change, and certainly an abuse, in government, resulted from it.

First, the censors, after having long arrogated the right of transferring citizens arbitrarily from one tribe to another, allowed the majority to be enrolled in whichever they pleased—a permission which certainly was in no way advantageous, and took away one of the great resources of the censorship. Further, since the great and powerful all enrolled themselves in the rural tribes, while the freedmen who had become citizens remained with the populace in the urban ones, the tribes in general had no longer any district or territory, but all were so intermingled that it was impossible to distinguish the members of each except by the registers; so that the idea of the word *tribe* passed thus from the real to the personal, or rather became almost a chimera.

Moreover, it came about that the urban tribes, being close at hand, were often the most powerful in the *comitia*, and sold the State to those who stooped to buy the votes of the mob of which they were composed.

With regard to the *curiæ*, the founder having formed ten in each tribe, the whole Roman people, at that time enclosed in the walls of the city, consisted of thirty *curiæ*, each of which had its temples, its gods, its officers, its priests, and its festivals called *compitalia*, resembling the *paganalia* which the rural tribes had afterwards.

In the new division of Servius, the number thirty being incapable of equal distribution into four tribes, he was unwilling to

touch them; and the *curiæ*, being independent of the tribes, became another division of the inhabitants of Rome. But there was no question of *curiæ* either in the rural tribes or in the people composing them, because the tribes having become a purely civil institution, and another mode of levying troops having been introduced, the military divisions of Romulus were found superfluous. Thus, although every citizen was enrolled in a tribe, it was far from being the case that each was enrolled in a *curia*.

Servius made yet a third division, which had no relation to the two preceding, but became by its effects the most important of all. He distributed the whole Roman people into six classes, which he distinguished, not by the place of residence, nor by the men, but by property; so that the first classes were filled with rich men, the last with poor men, and the intermediate ones with those who enjoyed a moderate fortune. These six classes were subdivided into one hundred and ninety-three other bodies called *centuriæ*, and these bodies were so distributed that the first class alone comprised more than a half, and the last formed only one. It thus happened that the class least numerous in men had most *centuriæ*, and that the last entire class was counted as only one subdivision, although it alone contained more than a half of the inhabitants of Rome.

In order that the people might not so clearly discern the consequences of this last form, Servius affected to give it a military aspect. He introduced in the second class two *centuriæ* of armourers, and two of makers of instruments of war in the fourth; in each class, except the last, he distinguished the young and the old, that is to say, those who were obliged to bear arms, and those who were exempted by law on account of age — a distinction which, more than that of property, gave rise to the necessity of frequently repeating the *census* or enumeration; finally, he required that the assembly should be held in the *Campus Martius*, and that all who were qualified for service by age should gather there with their arms.

The reason why he did not follow in the last class this same division into seniors and juniors is, that the honour of bearing arms for their country was not granted to the populace of which it was composed; it was necessary to have homes in order to obtain the right of defending them; and out of those innumerable troops of beggars with which the armies of kings nowadays glitter, there is perhaps not one but would have been driven with scorn from a Roman cohort when soldiers were defenders of liberty.

Yet again, there was in the last class a distinction between the

proletarii and those who were called *capite censi.* The former not altogether destitute, at least supplied citizens to the State, sometimes even soldiers in pressing need. As for those who had nothing at all and could only be counted by heads, they were regarded as altogether unimportant, and Marius was the first who condescended to enrol them.

Without deciding here whether this third enumeration was good or bad in itself, I think I may affirm that nothing but the simple manners of the early Romans—their disinterestedness, their taste for agriculture, their contempt for commerce and for the ardent pursuit of gain—could have rendered it practicable. In what modern nation would rapacious greed, restlessness of spirit, in, trigue, continual changes of residence, and the perpetual revolutions of fortune have allowed such an institution to endure for twenty years without the whole State being subverted? It is, indeed, necessary to observe carefully that morality and the censorship, more powerful than this institution, corrected its imperfections in Rome, and that many a rich man was relegated to the class of the poor for making too much display of his wealth.

From all this we may easily understand why mention is scarcely ever made of more than five classes, although there were really six. The sixth, which furnished neither soldiers to the army, nor voters to the *Campus Martius* * and which was almost useless in the Republic, rarely counted as anything.

Such were the different divisions of the Roman people. Let us see now what effect they produced in the assemblies. These assemblies, lawfully convened, were called *comitia*; they were usually held in the *Forum* of Rome or in the *Campus Martius*, and were distinguished as *comitia curiata*, *comitia centuriata*, and *comitia tributa*, in accordance with that one of the three forms by which they were regulated. The *comitia curiata* were founded by Romulus, the *comitia centuriata* by Servius, and the *comitia tributa* by the tribunes of the people. No law received sanction, no magistrate was elected, except in the *comitia*; and as there was no citizen who was not enrolled in a *curia*, in a *centuria*, or in a tribe, it follows that no citizen was excluded from the right of voting, and that the Roman people were truly sovereign *de jure* and *de facto.*

* I say, "to the *Campus Martius*," because it was there that the *comitia centuriata* assembled; in the two other forms the people assembled in the *Forum* or elsewhere; and then the *capite censi* had as much influence and authority as the chief citizens.

In order that the *comitia* might be lawfully assembled, and that what was done in them might have the force of law, three conditions were necessary: the first, that the body or magistrate which convoked them should be invested with the necessary authority for that purpose; the second, that the assembly should be held on one of the days permitted by law; the third, that the auguries should be favourable.

The reason for the first regulation need not be explained; the second is a matter of police; thus it was not permitted to hold the *comitia* on feast days and market days, when the country people, coming to Rome on business, had no leisure to pass the day in the place of assembly. By the third, the Senate kept in check a proud and turbulent people, and seasonably tempered the ardour of seditious tribunes; but the latter found more than one means of freeing themselves from this constraint.

Laws and the election of chiefs were not the only points submitted for the decision of the *comitia;* the Roman people having usurped the most important functions of government, the fate of Europe may be said to have been determined in their assemblies. This variety of subjects gave scope for the different forms which these assemblies took according to the matters which had to be decided.

To judge of these different forms, it is sufficient to compare them. Romulus, in instituting the *curiæ*, desired to restrain the Senate by means of the people, and the people by means of the Senate, while ruling equally over all. He therefore gave the people by this form all the authority of numbers in order to balance that of power and wealth, which he left to the patricians. But, according to the spirit of a monarchy, he left still more advantage to the patricians through the influence of their clients in securing a plurality of votes. This admirable institution of patrons and clients was a masterpiece of policy and humanity, without which the patrician order, so opposed to the spirit of a republic, could not have subsisted. Rome alone has had the honour of giving to the world such a fine institution, from which there never resulted any abuse, and which notwithstanding has never been followed.[21]

Since the form of the assembly of the *curiæ* subsisted under the kings down to Servius, and since the reign of the last Tarquin is not considered legitimate, the royal laws were on this account generally distinguished by the name of *leges curiatæ.*

Under the Republic the assembly of the *curiæ*, always limited to the four urban tribes, and containing only the Roman popu-

lace, did not correspond either with the Senate, which was at the head of the patricians, or with the tribunes, who, although plebeians, were at the head of the middle-class citizens. It therefore fell into disrepute; and its degradation was such that its thirty assembled lictors did what the *comitia curiata* ought to have done.

The *comitia centuriata* was so favourable to the aristocracy that we do not at first see why the Senate did not always prevail in the *comitia* which bore that name, and by which the consuls, censors, and other curule magistrates were elected. Indeed, of the one hundred and ninety-three *centuriæ* which formed the six classes of the whole Roman people, the first class comprising ninety-eight, and the votes being counted only by *centuriæ*, this first class alone outnumbered in votes all the others. When all these *centuriæ* were in agreement, the recording of votes was even discontinued; what the minority had decided passed for a decision of the multitude; and we may say that in the *comitia centuriata* affairs were regulated rather by the majority of crowns (*écus*) than of votes.

But this excessive power was moderated in two ways: first, the tribunes usually, and a great number of plebeians always, being in the class of the rich, balanced the influence of the patricians in this first class. The second means consisted in this, that instead of making the *centuriæ* vote according to their order, which would have caused the first class to begin always, one of them* was drawn by lot and proceeded alone to the election; after which all the *centuriæ*, being summoned on another day according to their rank, renewed the election and usually confirmed it. Thus the power of example was taken away from rank to be given to lot, according to the principle of democracy.

From this practice resulted yet another advantage; the citizens from the country had time, between the two elections, to gain information about the merits of the candidate provisionally chosen, and so record their votes with knowledge of the case. But, under pretence of despatch, this practice came to be abolished and the two elections took place on the same day.

The *comitia tributa* were properly the council of the Roman people. They were convoked only by the tribunes; in them the tribunes were elected and passed their *plebiscita*. Not only had the Senate no status in them—it had not even a right to attend;

* This *centuria*, thus chosen by lot, was called *prærogativa*, because its suffrage was demanded first; hence came the word *prerogative*.

and, being compelled to obey laws on which they could not vote, the senators were, in this respect, less free than the meanest citizens. This injustice was altogether impolitic, and alone sufficed to invalidate the decrees of a body to which all the citizens were not admitted. If all the patricians had taken part in these *comitia* according to the rights which they had as citizens, having become in that case simple individuals, they would have scarcely influenced a form in which votes were counted by the head, and in which the meanest proletarian had as much power as the Chief of the Senate.

We see, then, that besides the order which resulted from these different divisions for the collection of the votes of so great a people, these divisions were not reduced to forms immaterial in themselves, but that each had results corresponding with the purposes for which it was chosen.

Without entering upon this in greater detail, it follows from the preceding explanations that the *comitia tributa* were more favourable to popular government, and the *comitia centuriata* to aristocracy. With regard to the *comitia curiata*, in which the Roman populace alone formed the majority, as they served only to favour tyranny and evil designs, they deserved to fall into discredit, the seditious themselves refraining from a means which would too plainly reveal their projects. It is certain that the full majesty of the Roman people was found only in the *comitia centuriata*, which were alone complete, seeing that the rural tribes were absent from the *comitia curiata* and the Senate and the patricians from the *comitia tributa*.

[22] The mode of collecting the votes among the early Romans was as simple as their manners, although still less simple than in Sparta. Each gave his vote with a loud voice, and a recording officer duly registered it; a majority of votes in each tribe determined the suffrage of the tribe; a majority of votes among the tribes determined the suffrage of the people; and so with the *curiæ* and *centuriæ*. This was a good practice so long as probity prevailed among the citizens and every one was ashamed to record his vote publicly for an unjust measure or an unworthy man; but when the people were corrupted and votes were bought, it was expedient that they should be given secretly in order to restrain purchasers by distrust and give knaves an opportunity of not being traitors.

I know that Cicero blames this change and attributes to it in part the fall of the Republic. But although I feel the weight which Cicero's authority ought to have in this matter, I cannot

adopt his opinion; on the contrary, I think that through not making sufficient changes of this kind, the downfall of the State was hastened. As the regimen of healthy persons is unfit for invalids, so we should not desire to govern a corrupt people by the laws which suit a good nation. Nothing supports this maxim better than the duration of the republic of Venice, only the semblance of which now exists, solely because its laws are suitable to none but worthless men.

Tablets, therefore, were distributed to the citizens by means of which each could vote without his decision being known; new formalities were also established for the collection of tablets, the counting of votes, the comparison of numbers, etc.; but this did not prevent suspicions as to the fidelity of the officers* charged with these duties. At length edicts were framed, the multitude of which proves their uselessness.

Towards the closing years, they were often compelled to resort to extraordinary expedients in order to supply the defects of the laws. Sometimes prodigies were feigned; but this method, which might impose on the people, did not impose on those who governed them. Sometimes an assembly was hastily summoned before the candidates had had time to canvass. Sometimes a whole sitting was consumed in talking when it was seen that the people having been won over were ready to pass a bad resolution. But at last ambition evaded everything; and it seems incredible that in the midst of so many abuses, this great nation, by favour of its ancient institutions, did not cease to elect magistrates, to pass laws, to judge causes, and to despatch public and private affairs with almost as much facility as the Senate itself could have done.

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* *Custodes, diribitores, rogatores, suffragiorum.*

CHAPTER V.

THE TRIBUNESHIP.[38]

WHEN an exact relation cannot be established among the constituent parts of the State, or when indestructible causes are incessantly changing their relations, a special magistracy is instituted, which is not incorporated with the others, but which replaces each term in its true relation, forming a connexion or middle term either between the Prince and the people, or between the Prince and the sovereign, or if necessary between both at once.

This body, which I shall call the *tribuneship*, is the guardian of the laws and of the legislative power. It sometimes serves to protect the sovereign against the government, as the tribunes of the people did in Rome; sometimes to support the government against the people, as the Council of Ten now does in Venice; and sometimes to maintain an equilibrium among all parts, as the ephors did in Sparta.

The tribuneship is not a constituent part of the State, and should have no share in the legislative or in the executive power; but it is in this very circumstance that its own power is greatest; for, while unable to do anything, it can prevent everything. It is more sacred and more venerated, as defender of the laws, than the Prince that executes them and the sovereign that enacts them. This was very clearly seen in Rome, when those proud patricians, who always despised the people as a whole, were forced to bow before a simple officer of the people, who had neither auspices nor jurisdiction.

The tribuneship, wisely moderated, is the strongest support of a good constitution; but if its power be ever so little in excess, it overthrows everything. Weakness is not natural to it; and provided it has some power, it is never less than it should be.

It degenerates into tyranny when it usurps the executive power, of which it is only the moderator, and when it wishes to make the laws which it should only defend. The enormous power of the ephors, which was without danger so long as Sparta preserved her morality, accelerated the corruption when it had begun.

The blood of Agis, slain by these tyrants, was avenged by his successor; but the crime and the punishment of the ephors alike hastened the fall of the republic, and, after Cleomenes, Sparta was no longer of any account. Rome, again, perished in the same way; and the excessive power of the tribunes, usurped by degrees, served at last, with the aid of laws framed on behalf of liberty, as a shield for the emperors who destroyed her. As for the Council of Ten in Venice, it is a tribunal of blood, horrible both to the patricians and to the people; and, far from resolutely defending the laws, it has only served since their degradation for striking secret blows which men dare not remark.

The tribuneship, like the government, is weakened by the multiplication of its members. When the tribunes of the Roman people, at first two in number and afterwards five, wished to double this number, the Senate allowed them to do so, being quite sure of controlling some by means of others, which did not fail to happen.

The best means of preventing the usurpations of such a formidable body, a means of which no government has hitherto availed itself, would be, not to make this body permanent, but to fix intervals during which it should remain suspended. These intervals, which should not be long enough to allow abuses time to become established, can be fixed by law in such a manner that it may be easy to shorten them in case of need by means of extraordinary commissions.

This method appears to me free from objection, because, as I have said, the tribuneship, forming no part of the constitution, can be removed without detriment; and it seems to me efficacious, because a magistrate newly established does not start with the power that his predecessor had, but with that which the law gives him.

CHAPTER VI.

THE DICTATORSHIP.[24]

THE inflexibility of the laws, which prevents them from being adapted to emergencies, may in certain cases render them pernicious, and thereby cause the ruin of the State in a time of crisis. The order and tardiness of the forms require a space of time which circumstances sometimes do not allow. A thousand cases may arise for which the legislator has not provided, and to perceive that everything cannot be foreseen is a very needful kind of foresight.

We must therefore not desire to establish political institutions so firmly as to take away the power of suspending their effects. Even Sparta allowed her laws to sleep.

But only the greatest dangers can outweigh that of changing the public order, and the sacred power of the laws should never be interfered with except when the safety of the country is at stake. In these rare and obvious cases, the public security is provided for by a special act, which entrusts the care of it to the most worthy man. This commission can be conferred in two ways, according to the nature of the danger.

If an increase in the activity of the government suffices to remedy this evil, we may concentrate it in one or two of its members; in that case it is not the authority of the laws which is changed but only the form of their administration. But if the danger is such that the formal process of law is an obstacle to our security, a supreme head is nominated, who may silence all the laws and suspend for a moment the sovereign authority. In such a case the general will is not doubtful, and it is clear that the primary intention of the people is that the State should not perish. In this way the suspension of the legislative power does not involve its abolition; the magistrate who silences it can make it speak; he dominates it without having power to represent it; he can do everything but make laws.

The first method was employed by the Roman Senate when it charged the consuls, by a consecrated formula, to provide for

the safety of the Republic. The second was adopted when one of the two consuls nominated a dictator,* a usage of which Alba had furnished the precedent to Rome.

At the beginning of the Republic they very often had recourse to the dictatorship, because the State had not yet a sufficiently firm foundation to be able to maintain itself by the vigour of its constitution alone.

Public morality rendering superfluous at that time many precautions that would have been necessary at another time, there was no fear either that a dictator would abuse his authority or that he would attempt to retain it beyond the term. On the contrary, it seemed that so great a power must be a burden to him who was invested with it, such haste did he make to divest himself of it, as if to take the place of the laws were an office too arduous and too dangerous.

Therefore it is the danger, not of its abuse, but of its degradation, that makes me blame the indiscreet use of this supreme magistracy in early times; for whilst it was freely used at elections, at dedications, and in purely formal matters, there was reason to fear that it would become less formidable in case of need, and that the people would grow accustomed to regard as an empty title that which was only employed in empty ceremonies.

Towards the close of the Republic, the Romans, having become more circumspect, used the dictatorship sparingly with as little reason as they had formerly been prodigal of it. It was easy to see that their fear was ill-founded; that the weakness of the capital then constituted its security against the magistrates whom it had within it; that a dictator could, in certain cases, defend the public liberty without ever being able to assail it; and that the chains of Rome would not be forged in Rome itself, but in her armies. The slight resistance which Marius made against Sylla, and Pompey against Cæsar, showed clearly what might be looked for from the authority within against the force without.

This error caused them to commit great mistakes; such, for example, was that of not appointing a dictator in the Catiline affair; for as it was only a question of the interior of the city, or at most of some province of Italy, a dictator, with the unlimited authority that the laws gave him, would have easily broken up the conspiracy, which was suppressed only by a combination of happy accidents such as human prudence could not have foreseen.

* This nomination was made by night and in secret as if they were ashamed to set a man above the laws.

Instead of that, the Senate was content to entrust all its power to the consuls; whence it happened that Cicero, in order to act effectively, was constrained to exceed his authority in a material point, and that, although the first transports of joy caused his conduct to be approved, he was afterwards justly called to account for the blood of citizens shed contrary to the laws, a reproach which could not have been brought against a dictator. But the consul's eloquence won over everybody; and he himself, although a Roman, preferred his own glory to his country's good, and sought not so much the most certain and legitimate means of saving the State as the way to secure the whole credit of this affair.* Therefore he was justly honoured as the liberator of Rome and justly punished as a violator of the laws. However brilliant his recall may have been, it was certainly a pardon.

Moreover, in whatever way this important commission may be conferred, it is important to fix its duration at a very short term which can never be prolonged. In the crises which cause it to be established, the State is soon destroyed or saved; and, the urgent need having passed away, the dictatorship becomes tyrannical or useless. In Rome the dictators held office for six months only, and the majority abdicated before the end of this term. Had the term been longer, they would perhaps have been tempted to prolong it still further, as the Decemvirs did their term of one year. The dictator only had time to provide for the necessity which had led to his election; he had no time to think of other projects.

* He could not be satisfied about this in proposing a dictator; he dared not nominate himself, and could not feel sure that his colleague would nominate him.

CHAPTER VII.

THE CENSORSHIP.[25]

JUST as the declaration of the general will is made by the law, the declaration of public opinion is made by the censorship. Public opinion is a kind of law of which the censor is minister, and which he only applies to particular cases in the manner of the Prince.

The censorial tribunal, then, far from being the arbiter of the opinion of the people, only declares it, and so soon as it departs from this position, its decisions are fruitless and ineffectual.

It is useless to distinguish the character of a nation from the objects of its esteem, for all these things depend on the same principle and are necessarily intermixed. In all the nations of the world it is not nature but opinion which decides the choice of their pleasures. Reform men's opinions and their manners will be purified of themselves. People always like what is becoming or what they judge to be so; but it is in this judgment that they make mistakes; the question, then, is to guide their judgment. He who judges of manners judges of honour; and he who judges of honour takes his law from opinion.

The opinions of a nation spring from its constitution. Although the law does not regulate morality, it is legislation that gives it birth,[26] and when legislation becomes impaired, morality degenerates; but then the judgment of the censors will not do what the power of the laws has failed to do.

It follows from this that the censorship may be useful to preserve morality, never to restore it. Institute censors while the laws are vigorous; so soon as they have lost their power all is over. Nothing that is lawful has any force when the laws cease to have any.

The censorship supports morality by preventing opinions from being corrupted, by preserving their integrity through wise applications, sometimes even by fixing them when they are still uncertain. The use of seconds in duels, carried to a mad extreme in the kingdom of France, was abolished by these simple words in

an edict of the king: "As for those who have the cowardice to appoint seconds." This judgment, anticipating that of the public, immediately decided it. But when the same edicts wanted to declare that it was also cowardice to fight a duel, which is very true,[27] but contrary to common opinion, the public ridiculed this decision, on which its judgment was already formed.

I have said elsewhere * that as public opinion is not subject to constraint, there should be no vestige of this in the tribunal established to represent it. We cannot admire too much the art with which this force, wholly lost among the moderns, was set in operation among the Romans and still better among the Lacedæmonians.

A man of bad character having brought forward a good measure in the Council of Sparta, the ephors, without regarding him, caused the same measure to be proposed by a virtuous citizen. What an honour for the one, what a stigma for the other, without praise or blame being given to either! Certain drunkards from Samos †[28] defiled the tribunal of the ephors; on the morrow a public edict granted permission to the Samians to be filthy. A real punishment would have been less severe than such impunity. When Sparta pronounced what was or was not honourable, Greece made no appeal from her decisions.

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* I merely indicate in this chapter what I have treated at greater length in the *Letter to M. d'Alembert.*

† They were from another island, which the delicacy of our language orbids us to name on this occasion.

CHAPTER VIII.

CIVIL RELIGION.

MEN had at first no kings except the gods and no government but a theocracy.[29] They reasoned like Caligula, and at that time they reasoned rightly. A long period is needed to change men's sentiments and ideas in order that they may resolve to take a fellow-man as a master and flatter themselves that all will be well.

From the single circumstance that a god was placed at the head of every political society, it followed that there were as many gods as nations.[30] Two nations foreign to each other, and almost always hostile, could not long acknowledge the same master; two armies engaged in battle with each other could not obey the same leader. Thus from national divisions resulted polytheism, and, from this, theological and civil intolerance, which are by nature the same, as will be shown hereafter.

The fancy of the Greeks that they recognized their own gods among barbarous nations arose from their regarding themselves as the natural sovereigns of those nations. But in our days that is a very ridiculous kind of erudition which turns on the identity of the gods of different nations, as if Moloch, Saturn, and Chronos could be the same god![31] As if the Baal of the Phœnicians, the Zeus of the Greeks, and the Jupiter of the Latins could be the same! As if there could be anything in common among imaginary beings bearing different names!

But if it is asked why under paganism, when every State had its worship and its gods, there were no wars of religion, I answer that it was for the same reason that each State, having its peculiar form of worship as well as its own government, did not distinguish its gods from its laws. Political warfare was also religious; the departments of the gods were, so to speak, fixed by the limits of the nations. The god of one nation had no right over other nations. The gods of the pagans were not jealous gods; they shared among them the empire of the world; even Moses and the Hebrew nation sometimes countenanced this idea by speaking of the god of Israel. It is true that they regarded as nought the

gods of the Canaanites, proscribed nations, devoted to destruction, whose country they were to occupy; but see how they spoke of the divinities of the neighbouring nations whom they were forbidden to attack: "The possession of what belongs to Chamos your god," said Jephthah to the Ammonites, "is it not lawfully your due? By the same title we possess the lands which our conquering god has acquired."* In this, it seems to me, there was a well-recognised parity between the rights of Chamos and those of the god of Israel.

But when the Jews, subjected to the kings of Babylon, and afterwards to the kings of Syria, obstinately refused to acknowledge any other god than their own, this refusal being regarded as a rebellion against the conqueror, drew upon them the persecutions which we read of in their history, and of which no other instance appears before Christianity.†

Every religion, then, being exclusively attached to the laws of the State which prescribed it, there was no other way of converting a nation than to subdue it, and no other missionaries than conquerors; and the obligation to change their form of worship being the law imposed on the vanquished, it was necessary to begin by conquering before speaking of conversions. Far from men fighting for the gods, it was, as in Homer, the gods who fought for men; each sued for victory from his own god and paid for it with new altars. The Romans, before attacking a place, summoned its gods to abandon it; and when they left to the Tarentines their exasperated gods, it was because they then regarded these gods as subjected to their own and forced to pay them homage. They left the vanquished their gods as they left them their laws. A crown for the Capitoline Jupiter was often the only tribute that they imposed.

At last, the Romans having extended their worship and their laws with their empire, and having themselves often adopted those

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* "*Nonne ea quae possidet Chamos deus tuus tibi jure debentur?*" (Judges xi. 24). Such is the text of the Vulgate. Père de Carrières has translated it thus: "Do you not believe that you have a right to possess what belongs to Chamos your god?" I am ignorant of the force of the Hebrew text, but I see that in the Vulgate Jephthah positively acknowledges the right of the god Chamos, and that the French translator weakens this acknowledgment by an "according to you" which is not in the Latin.

† There is the strongest evidence that the war of the Phocæans, called a sacred war, was not a war of religion. Its object was to punish sacrilege, and not to subdue unbelievers.

of the vanquished, the nations of this vast empire, since the right of citizenship was granted to all, found insensibly that they had multitudes of gods and religions, almost the same everywhere; and this is why paganism was at length known in the world as only a single religion.

It was in these circumstances that Jesus came to establish on earth a spiritual kingdom, which, separating the religious from the political system, destroyed the unity of the State, and caused the intestine divisions which have never ceased to agitate Christian nations. Now this new idea of a kingdom in the other world having never been able to enter the minds of the pagans, they always regarded Christians as actual rebels, who, under cover of a hypocritical submission, only sought an opportunity to make themselves independent and supreme, and to usurp by cunning the authority which, in their weakness, they pretended to respect. This was the cause of persecutions.

What the pagans had feared came to pass. Then everything changed its aspect; the humble Christians altered their tone, and soon this pretended kingdom of the other world became, under a visible chief, the most violent despotism in this world.

As, however, there have always been a Prince and civil laws, a perpetual conflict of jurisdiction has resulted from this double power, which has rendered any good polity impossible in Christian States; and no one has ever succeeded in understanding whether he was bound to obey the ruler or the priest.[32]

Many nations, however, even in Europe or on its outskirts, wished to preserve or to re-establish the ancient system, but without success; the spirit of Christianity prevailed over everything. The sacred worship always retained or regained its independence of the sovereign, and without any necessary connexion with the body of the State. Muhammad[33] had very sound views; he thoroughly unified his political system; and so long as his form of government subsisted under his successors, the khalifs, the government was quite undivided and in that respect good. But the Arabs having become flourishing, learned, polished, effeminate, and indolent, were subjugated by the barbarians, and then the division between the two powers began again. Although it may be less apparent among the Muhammadans than among the Christians, the division nevertheless exists, especially in the sect of Ali; and there are States, such as Persia, in which it is still seen.

Among us, the kings of England have established themselves as heads of the church, and the Tsars have done the same; but by

means of this title they have made themselves its ministers[34] rather than its rulers; they have acquired not so much the right of changing it as the power of maintaining it; they are not its legislators but only its princes. Wherever the clergy form a corporation,* they are masters and legislators in their own country. There are, then, two powers, two sovereigns, in England and in Russia, just as elsewhere.

Of all Christian authors, the philosopher Hobbes[35] is the only one who has clearly seen the evil and its remedy, and who has dared to propose a reunion of the heads of the eagle and the complete restoration of political unity, without which no State or government will ever be well constituted. But he ought to have seen that the domineering spirit of Christianity was incompatible with his system, and that the interest of the priest would always be stronger than that of the State. It is not so much what is horrible and false in his political theory as what is just and true that has rendered it odious.†

I believe that by developing historical facts from this point of view, the opposite opinions of Bayle[36] and Warburton might easily be refuted. The former of these maintains that no religion is useful to the body politic; the latter, on the other hand, asserts that Christianity is its strongest support. To the first it might be proved that no State was ever founded without religion serving as its basis, and to the second, that the Christian law is more injurious than useful to a firm constitution of the State. In order to succeed in making myself understood, I need only give a little more precision to the exceedingly vague ideas about religion in its relation to my subject.

Religion, considered with reference to society, which is either

* It must, indeed, be remarked that it is not so much the formal assemblies, like those in France, that bind the clergy into one body, as the communion of churches. Communion and excommunication are the social pact of the clergy, a pact by means of which they will always be the masters of nations and kings. All priests who are of the same communion are fellow citizens, though they are as far asunder as the poles. This invention is a master-piece of policy. There was nothing similar among pagan priests; therefore they never formed a body of clergy.

† See, among others, in a letter from Grotius to his brother of the 11th April, 1643, what that learned man approves and what he blames in the book *De Cive*. It is true that, inclined to indulgence, he appears to pardon the author for the good for the sake of the evil, but everyone is not so merciful.

general or particular, may also be divided into two kinds, viz. the religion of the man and that of the citizen. The first, without temples, without altars, without rites, limited to the purely internal worship of the supreme God and to the eternal duties of morality, is the pure and simple religion of the Gospel, the true theism, and what may be called the natural divine law. The other, inscribed in a single country, gives to it its gods, its peculiar and tutelary patrons. It has its dogmas, its rites, its external worship prescribed by the laws; outside the single nation which observes it, everything is for it infidel, foreign, and barbarous; it extends the duties and rights of men only as far as its altars. Such were all the religions of early nations, to which may be given the name of divine law, civil or positive.

There is a third and more extravagant kind of religion, which, giving to men two sets of laws, two chiefs, two countries, imposes on them contradictory duties, and prevents them from being at once devout men and citizens. Such is the religion of the Lamas, such is that of the Japanese, such is Roman Christianity. This may be called the religion of the priest. There results from it a kind of mixed and unsocial law which has no name.

Considered politically, these three kinds of religion all have their defects. The third is so evidently bad that it would be a waste of time to stop and prove this. Whatever destroys social unity is good for nothing; all institutions which put a man in contradiction with himself are worthless.

The second is good so far as it combines divine worship with love for the laws, and, by making their country the object of the citizens' adoration, teaches them that to serve the State is to serve the guardian deity. It is a kind of theocracy, in which there ought to be no pontiff but the Prince, no other priests than the magistrates. Then to die for one's country is to suffer martyrdom, to violate the laws is to be impious, and to subject a guilty man to public execration is to devote him to the wrath of the gods: *Sacer esto.*[87]

But it is evil in so far as being based on error and falsehood, it deceives men, renders them credulous and superstitious, and obscures the true worship of the Deity with vain ceremonial. It is evil, again, when, becoming exclusive and tyrannical, it makes a nation sanguinary and intolerant, so that it thirsts after nothing but murder and massacre, and believes that it is performing a holy action in killing whosoever does not acknowledge its gods This puts such a nation in a natural state of war with all others, which is very prejudicial to its own safety.

There remains, then, the religion of man or Christianity, not that of to-day, but that of the Gospel, which is quite different. By this holy, sublime, and pure religion, men, children of the same God, all recognize one another as brethren, and the social bond which unites them is not dissolved even at death.

But this religion, having no particular relation with the body politic, leaves to the laws only the force that they derive from themselves, without adding to them any other; and thereby one of the great bonds of the particular society remains ineffective. What is more, far from attaching the hearts of citizens to the State, it detaches them from it and from all earthly things. I know of nothing more contrary to the social spirit.

We are told that a nation of true Christians would form the most perfect society conceivable. In this supposition I see only one great difficulty—that a society of true Christians would be no longer a society of men.

I say even that this supposed society, with all its perfection, would be neither the strongest nor the most durable; by virtue of its perfection it would lack cohesion; its perfection, indeed, would be its destroying vice.

Each man would perform his duty; the people would be obedient to the laws, the chief men would be just and moderate, and the magistrates upright and incorruptible; the soldiers would despise death; there would be neither vanity nor luxury. All this is very good; but let us look further.

Christianity is an entirely spiritual religion, concerned solely with heavenly things; the Christian's country is not of this world. He does his duty, it is true; but he does it with a profound indifference as to the good or ill success of his endeavours. Provided that he has nothing to reproach himself with, it matters little to him whether all goes well or ill here below. If the State is flourishing, he scarcely dares to enjoy the public felicity; he fears to take a pride in the glory of his country. If the State declines, he blesses the hand of God which lies heavy on his people.

In order that the society might be peaceable and harmony maintained, it would be necessary for all citizens without exception to be equally good Christians; but if unfortunately there happens to be in it a single ambitious man, a single hypocrite, a Catiline or a Cromwell [38] for example, such a man will certainly obtain an advantage over his pious compatriots. Christian charity does not suffer men readily to think ill of their neighbours. As soon as a man has found by cunning the art of imposing on them and

securing to himself a share in the public authority, he is invested with dignity; God wills that he should be reverenced. Soon he exercises dominion; God wills that he should be obeyed. The depositary of this power abuses it; this is the rod with which God punishes his children. They would have scruples about driving out the usurper; it would be necessary to disturb the public peace, to employ violence, to shed blood; all this ill accords with the meekness of the Christian, and, after all, does it matter whether they are free or enslaved in this vale of woes? The essential thing is to reach paradise, and resignation is but one means the more towards that.

Some foreign war comes on; the citizens march to battle without anxiety; none of them think of flight. They do their duty, but without an ardent desire for victory; they know better how to die than to conquer. What matters it whether they are the victors or the vanquished? Does not Providence know better than they what is needful for them? Conceive what an advantage a bold, impetuous, enthusiastic enemy can derive from this stoical indifference! Set against them those noble peoples who are consumed with a burning love of glory and of country. Suppose your Christian republic opposed to Sparta or Rome; the pious Christians will be beaten, crushed, destroyed, before they have time to collect themselves, or they will owe their safety only to the contempt which the enemy may conceive for them. To my mind that was a noble oath [39] of the soldiers of Fabius; they did not swear to die or to conquer, they swore to return as conquerors, and kept their oath. Never would Christians have done such a thing; they would have believed that they were tempting God.

But I am mistaken in speaking of a Christian republic; each of these two words excludes the other. Christianity preaches only servitude and dependence. Its spirit is too favourable to tyranny for the latter not to profit by it always. True Christians are made to be slaves; they know it and are hardly aroused by it. This short life has too little value in their eyes.

Christian troops are excellent, we are told. I deny it; let them show me any that are such. For my part, I know of no Christian troops.[40] The crusades will be cited. Without disputing the valour of the crusaders, I shall observe that, far from being Christians, they were soldiers of the priest, citizens of the Church; they fought for their spiritual country, which the Church had somehow rendered temporal. Properly regarded, this brings

us back to paganism; as the Gospel does not establish a national religion, any sacred war is impossible among Christians.

Under the pagan emperors Christian soldiers were brave; all Christian authors affirm it, and I believe it. There was a rivalry of honour against the pagan troops. As soon as the emperors became Christians, this rivalry no longer subsisted; and when the cross had driven out the eagle, all the Roman valour disappeared.

But, setting aside political considerations, let us return to the subject of right and determine principles on this important point. The right which the social pact gives to the sovereign over its subjects does not, as I have said, pass the limits of public utility.* Subjects, then, owe no account of their opinions to the sovereign except so far as those opinions are of moment to the community. Now it is very important for the State that every citizen should have a religion which may make him delight in his duties; but the dogmas of this religion concern neither the State nor its members, except so far as they affect morality and the duties which he who professes it is bound to perform towards others. Each may have, in addition, such opinions as he pleases, without its being the business of the sovereign to know them; for, as he has no jurisdiction in the other world, the destiny of his subjects in the life to come, whatever it may be, is not his affair, provided they are good citizens in this life.

There is, however, a purely civil profession of faith, the articles of which it is the duty of the sovereign to determine, not exactly as dogmas of religion,[42] but as sentiments of sociability, without which it is impossible to be a good citizen or a faithful subject.† Without having power to compel any one to believe them, the

* "In the commonwealth," says the Marquis d'Argenson,[41] "each is perfectly free in what does not injure others." That is the unalterable limit; it cannot be more accurately placed. I could not deny myself the pleasure of sometimes quoting this manuscript, although it is not known to the public, in order to do honour to the memory of an illustrious and honourable man, who preserved even in office the heart of a true citizen, and just and sound opinions about the government of his country.

† Cæsar, in pleading for Catiline, tried to establish the dogma of the mortality of the soul; Cato and Cicero, to confute him, did not waste time in philosophizing; they were content to show that Cæsar spoke as a bad citizen and put forward a doctrine pernicious to the State. Indeed, it was that which the Roman Senate had to decide, and not a theological question.

sovereign may banish from the State whoever does not believe them; it may banish him not as impious, but as unsociable, as incapable of sincerely loving law and justice and of sacrificing at need his life to his duty. But if any one, after publicly acknowledging these dogmas, behaves like an unbeliever in them, he should be punished with death; he has committed the greatest of crimes, he has lied before the laws.

The dogmas of civil religion ought to be simple, few in number, stated with precision, and without explanations or commentaries. The existence of the Deity, powerful, wise, beneficent, prescient, and bountiful, the life to come, the happiness of the just, the punishment of the wicked, the sanctity of the social contract and of the laws; these are the positive dogmas. As for the negative dogmas, I limit them to one only, that is, intolerance; it belongs to the creeds which we have excluded.

Those who distinguish civil intolerance from theological intolerance are, in my opinion, mistaken. These two kinds of intolerance are inseparable. It is impossible to live at peace with people whom we believe to be damned; to love them would be to hate God who punishes them. It is absolutely necessary to reclaim them or to punish them. Wherever theological intolerance is allowed, it cannot but have some effect in civil life;* and as soon as it has any, the sovereign is no longer sovereign even in

* Marriage,[43] for example, being a civil contract, has civil consequences, without which it is even impossible for society to subsist. Let us, then, suppose that a clergy should succeed in arrogating to itself the sole right to perform this act, a right which it must necessarily usurp in every intolerant religion; then, is it not clear that in taking the opportunity to strengthen the Church's authority, it will render ineffectual that of the Prince, which will no longer have any subjects except those which the clergy are pleased to give it? Having the option of marrying or not marrying people, according as they hold or do not hold such or such a doctrine, according as they admit or reject such or such a formulary, according as they are more or less devoted to it, is it not clear that by behaving prudently and keeping firm, the Church alone will dispose of inheritances, offices, citizens, and the State itself, which cannot subsist when only composed of bastards? But, it will be said, men will appeal as against abuses; they will summon, issue decrees, and seize on the temporalities. What a pity! The clergy, however little they may have, I do not say of courage, but of good sense, will let this be done and go their way; they will quietly permit appealing, adjourning, decreeing, seizing, and will end by remaining masters. It is not, it seems to me, a great sacrifice to abandon a part, when one is sure of getting possession of the whole.

secular affairs; from that time the priests are the real masters; the kings are only their officers.

Now that there is, and can be, no longer any exclusive national religion, we should tolerate all those which tolerate others, so far as their dogmas have nothing contrary to the duties of a citizen. But whosoever dares to say: "Outside the Church no salvation," ought to be driven from the State, unless the State be the Church and the Prince be the pontiff. Such a dogma is proper only in a theocratic government; in any other it is pernicious. The reason for which Henry IV.[44] is said to have embraced the Romish religion ought to have made any honourable man renounce it, and especially any prince who knew how to reason.

CHAPTER IX.

CONCLUSION.

AFTER laying down the principles of political right and attempting to establish the State on its foundations, it would remain to strengthen it in its external relations; which would comprise the law of nations, commerce, the right of war and conquests, public rights, alliances, negotiations, treaties, etc. But all this forms a new subject too vast for my limited scope. I ought always to have confined myself to a narrower sphere.

NOTES.

[In references to Aristotle's *Politics* (Welldon's translation), Hobbes's *Leviathan*, and Locke's *Civil Government* only the author's name is given with book, etc.]

TITLE. *Principles of Political Right.* No English word precisely conveys the meaning of French *droit* (Latin *jus*; German *Recht*), as a system of correlative rights and obligations that may be legally enforced; *right* is the nearest equivalent.

Prefatory Note. The larger work was the treatise on *Political Institutions.* The substance of the *Social Contract* is given in *Émile*, Book V., and in *Letters from the Mountain* (VI.).

BOOK I.

[1] *born a citizen of a free State.* Rousseau, born at Geneva in 1712, was a *citizen*, that is, a member of the sovereign body enjoying full political rights. He was proud of his membership of this close aristocracy (see Book IV., note 17, as to political inequalities in Geneva). Rousseau (see Letter to Moultou, 30th May, 1762) believed that the *Social Contract* would be well received in his native city on account of the praise bestowed on aristocratic government; but the work was burned, and in 1763 he renounced his citizenship.

[2] "Power which is acquired by violence is only a usurpation, and lasts only so long as the force of him who commands prevails over that of those who obey; so that if the latter become the strongest in their turn and shake off the yoke, they do so with as much right and justice as the other who had imposed it on them. The same law which has made the authority then unmakes it; it is the law of the strongest." Diderot, *Encyclopædia*, art. "Authority."

[3] *the earliest of all societies.* Cf. Aristotle, I. 2, and Maine, *Ancient Law*, ch. V. Rousseau's endeavour in chapters 2 to 4 is to establish that freeborn men have fallen into slavery.

[4] *born free and equal.* Cf. Locke II. 2 and 6.

[5] *Grotius* (b. 1582, d. 1645). See Book I. 3 of his *De Jure Belli et Pacis.* (Contrast Locke, I., sec. 93.) Hallam (*Lit. of Europe*, III. 4) denies that Grotius confounded right with fact, though he concedes that the latter's theological prejudices led him to carry too far the principle of obedience to government.

[6] (*note*). *D'Argenson*, who served as Intendant and Foreign Minister under Louis XV., was the author of *Considerations on the Government*

of France, an important political work to which the treatise mentioned by Rousseau is a kind of introduction. He advocated a popular administration under a king.

[7] *Hobbes* (b. 1588, d. 1679) evinced preference for a strong monarchical government (ch. XIX.). The comparison of a king with a herdsman is found in Plato (*Statesman*, 261).

[8] *Philo*, called Judæus, the chief representative of the Græco-Judaic philosophy, went from Alexandria to Rome in A.D. 39–40 to intercede with Caligula on behalf of the Jews, who had been ordered to worship the Emperor's statue. The embassy, of which he left an account in his *Legatio ad Caium*, was fruitless.

[9] *Aristotle.* See I. 5, 6. For the reference to Ulysses in the next paragraph, cf. *Odyssey*, X.

[10] This humorous paragraph is in allusion to the theory of divine right, probably with especial reference to Filmer, whose doctrines must have been known to Rousseau from Locke's refutation of them in his first Treatise. Locke (I. 11) refers to Saturn. As to Robinson, Defoe's *Robinson Crusoe* was highly thought of by Rousseau, who recommended it as the first book to be read by the youthful Émile.

[11] *All power comes from God.* Another reference to the theory of divine right upheld by Filmer, Bossuet, and others.

[12] Cf. Locke II. 4.

[13] Having shown that political authority does not spring from the law of nature, and that force is not a source of right, Rousseau reverts to his statement in chapter I. that all lawful authority rests on conventions, and he now proceeds to consider what conventions are legitimate.

[14] *Grotius.* See *De Jure Belli et Pacis* III. 8, "Of Authority over the Conquered."

[15] *Rabelais.* See *Gargantua and Pantagruel* II. 26.

[16] This paragraph is a side glance at the mal-administration in France under Louis XV.

[17] *The Greeks.* The companions of Ulysses. See Odyssey, Book IX. (Cf. Locke II. 19.)

[18] See Locke II. 6.

[19] *Grotius and others.* See Grotius III. 7, "Of the Right over Captives." Cf. Hobbes, ch. XX.

[20] Rousseau here uses "state of war" in a narrow sense.

[21] *The Establishments of Louis IX.* (reigned 1226–70) were a collection of ordinances. He endeavoured to put an end to private wars among his barons by decreeing that a truce of forty days should be observed before the parties resorted to arms (see Martin, *Histoire de France*, IV. 284–312). The authorisation, therefore, was only indirect and implicit. The *Peace of God* was proclaimed by the Gallican bishops in 1035 in order to put a stop to warfare among the nobles. It was confirmed and extended by the *Truce of God* in 1040 (Martin, ib. III. 68–9).

[22] *absurd system.* Rousseau was ignorant of the relative utility of feudalism in the organisation of mediæval society, though he was

keenly alive to the abuses and oppressions entailed by surviving feudal privileges in France.

[23] Sir F. Pollock (*History of the Science of Politics*, p. 75, *note*) condemns this proposition as a fallacy of International Law, since it leads to the proposition that no one, unless specially authorized by the State, may defend his homestead against an invader.

[24] *Grotius* treats of declarations of war in *De Jure* III. 3. The reference to the authority of poets is a sneer at Grotius, borrowed probably from Hobbes (Review and Conclusion) and Locke I. 11. Mackintosh and Hallam have defended Grotius by pointing out that he quotes poets as witnesses, not as authorities.

[25] The dissolution of Alexander's Empire may be cited as an illustration.

[26] See Grotius III. 8.

[27] Cf. Hobbes, chs. XVII. and XVIII.; Locke II. 7 and 8; Maine, *Ancient Law*, ch. IX. In his *Project of a Constitution for Corsica* Rousseau proposed a form of oath based on the principles laid down in this chapter. "I unite my body, property, will, and all my power to the Corsican nation in order to belong to it in full property, I and all that belongs to me."

[28] *person* is here used in the legal sense of an aggregate of physical persons.

[29] *city*. Latin, *civitas*. Locke (II. 10) uses "commonwealth," or a society of men, as the equivalent of *civitas*.

[30] (*note*). *Carthaginians*. This probably refers to the disasters which resulted from the employment of mercenary troops by Carthage.

[31] (*note*). *Geneva*. See Book IV. note 17. Rousseau's slighting reference to Bodin is unjustifiable. Diderot, moreover, had truly defined a citizen as a member of a society, partaking in its rights and enjoying its franchises (*Encyclopœdia*).

[32] Cf. Hobbes, chs. XVIII. and XXX., and Locke II. 11. For Austin on sovereignty, see *Jurisprudence*, Part I. Lect. 6; and cf. Maine's criticisms in *Early History of Institutions*, chs. XII. and XIII., and Holland's comments, *Jurisprudence*, ch. IV. (6th edn.).

[33] This sentence contrasts strongly with the teachings of the *Discourse on Inequality*.

[34] Cf. Aristotle I. 8; Hobbes, ch. XXIV.; Locke II. 5; Maine's works *passim;* Holland's *Jurisprudence*, pp. 179–181.

[35] Nuñez de Balboa discovered the Pacific in 1513, and took possession of it in the name of *the Catholic King*, Ferdinand of Castille.

[36] Maine says (*Ancient Law*, ch. IV.), "During a large part of what we usually term modern history, no such conception was entertained as that of territorial sovereignty." . . . "Territorial sovereignty was distinctly an offshoot, though a tardy one, of feudalism." In illustration of Rousseau's point, it may be remarked that the King of Prussia is recognised as German Emperor (not Emperor of Germany) by the German States.

[37] *paradox* is only verbal if each man retains his former property intact; but if the State can redistribute it, a man may not acquire all that he has given up.

[38] *hereafter.* This appears to refer to Book II. 4, but no further light is thrown on the question.

[39] *natural equality* seems to mean here merely absence of distinctions or privileges. On equality, see Aristotle II. 7.

BOOK II.

[1] *common good.* Rousseau rightly insists on this as the object of the institution of the State; but the reasoning in this chapter is chiefly of a verbal and trivial nature (especially the metaphysical discussion on power and will). The real problem is to determine what the general will is and what is for the common good.

[2] *at greater length.* See the next chapter.

[3] If this statement is intended to be general, it appears to conflict with the concluding paragraph of the preceding chapter.

[4] *legislative power and executive power.* The division in question is not inaccurate, unless, like Rousseau, we identify sovereignty with the legislative power. The real point at issue is the distinction between supreme and subordinate powers, for sovereignty is manifested in the executive as well as in the legislative.

[5] *Barbeyrac* translated and annotated the work of Grotius. The latter for a time received a pension from the French king.

[6] *It follows, etc.* The logical sequence is not at all clear. Though "the sovereign is everything that it ought to be" (I. 7), and though the general will is assumed to be always right and directed to the common good, it seems that the people may be deceived and pass bad resolutions. Burke said (*Reflections on the Revolution*): "The will of the many and their interest must very often differ."

[7] *cancel.* But the minuses may not cancel all the pluses; the interests of the minority may be over-ridden by those of the majority. Hence the reasoning in the following sentence is invalid.

[8] (*note*). *Treatise on the Interests of France in relation to her Neighbours*, ch. II.

[9] *Lycurgus* is only semi-historical. Rousseau, who probably took Plutarch as his authority, may have been induced by consideration of this alleged ordinance to protest against partial associations. The political divisions introduced by Solon, Numa, and Servius do not seem in point, and they hardly conduced to the unity desiderated by Rousseau. The modern associations at which he aimed his objections were the Church, the *Parlements*, etc. The quotations from Machiavelli in the notes to Book II. chs. 2 and 7 are given by Rousseau in Italian.

[10] *sovereign.* In spite of the note, Rousseau appears to admit in the last paragraph but two of this chapter that we cannot really distinguish between the rights of the citizens and the sovereign, though he probably wished to reserve "natural rights."

[11] *only that part.* According to the terms of the social contract the alienation is total, and the limitations now introduced are consequently illusory.

[12] *cannot even wish to do so.* This is a corollary from "the sovereign is everything that it ought to be." But it has been admitted (II. 3) that the general will may lose its rectitude.

[13] The reasoning in this chapter is vitiated by the rigid distinction between the general will and particular wills. Laws may relate to particular persons and facts; and the State may charge individuals with executive functions, and so impose special burdens upon them (Bk. III. 18 and IV. 3).

[14] This final paragraph describes admirably the advantages of civil society.

[15] On pardons, see Bentham's *Theory of Legislation*, Principles of the Penal Code, Part III. 10.

[16] *metaphysical ideas.* This is an allusion to Montesquieu's definition of laws as "the necessary relations which follow from the nature of things" (*Spirit of the Laws*, Book I. ch. 1). On laws, see Hobbes, ch. XXVI.; Austin, *Jurisprudence*, Introduction and Lecture I.; Holland, *Jurisprudence*, chs. IV. and V. According to Selden (*Table Talk*, art. "Law"), "a law is a contract between the king and the people."

[17] These statements are true only on the untenable assumption that the majority always have regard to what is just (cf. Hobbes, ch. XVIII.). But, according to the last paragraph, the people are sorely lacking in foresight, intelligence, and knowledge.

[18] Rousseau explains in Book III. that governments (monarchies, democracies, and aristocracies) are only emanations from, and not forms of, the sovereign power.

[19] Aristotle spoke of the need of a constitution-maker (I. 2). Rousseau pictures the legislator as a passionless sage. Moses, Lycurgus, Solon, Numa, Plato, and Calvin were the founders or legislators whom he most admired.

[20] *Caligula.* Reference to Book I. 2.

[21] *Plato.* See the dialogues *Statesman* and *Republic.*

[22] *Montesquieu.* See *Grandeur et Décadence des Romains*, ch. I.

[23] This general statement is, at least, inapplicable to Rome, for statute-law, which was scanty during the Republic, became voluminous under the Empire.

[24] The remarks in this paragraph contrast strongly with the doctrines of *Émile*, Book I.

[25] *Greek towns.* Rousseau had too little authority for such a broad statement; he was probably thinking most of Athens and Sparta. As to the *modern republics of Italy*, Padua, Pisa, and Milan may serve as instances.

[26] (*note*). *Calvin.* Rousseau had a great admiration for Calvin, who founded a theocratic government in Geneva and virtually directed all the affairs of the city. In his *Institutes* Calvin exhibited a preference for aristocracy, holding that popular rule tended to sedition.

[27] *legislative authority.* This term is here used for the power of framing a code of laws, as the next paragraph shows.

[28] The reference to the intervention of heaven seems to reduce the chapter to a historical sketch, for Rousseau could hardly have supposed that the ancient methods would be adopted in the eighteenth century.

[29] In this sentence Rousseau speaks of the Mosaic, Greek, and Roman modes of consulting the gods.

[30] *The child of Ishmael*, Muhammad, prophet in Mecca, about 610, fled to Medina, 622 (the Hegira); "half the world" is of course an exaggeration.

[31] *Warburton* wrote a treatise on the *Alliance between Church and State* (1736), advocating tests as the only possible means of reconciling the principle of a religious establishment with that of free toleration; "an established religion with a test law is the universal voice of nature."

[32] *Plato* is said to have been asked to legislate for Megalopolis, the later capital of the Arcadian Confederation, founded B.C. 370, but there is no evidence that he ever acted as a lawgiver. *Minos* was a mythical hero whom Rousseau treats as historical. On the laws of Crete, see Aristotle II. 10.

[33] *tyrants.* The Spaniards and the Austrians respectively.

[34] Rousseau's prediction as to the results of Peter the Great's hasty attempts to civilise the Russians appears to be so far fulfilled.

[35] Plato supplied the analogy between the stature of a man and the size of a State; he fixed the number at 5,040 inhabitants (*Laws* V. 737). Aristotle also advocated States of a moderate size (IV. 4). Rousseau throughout contends for the superiority of small States. But the analogy of the human body as applied by him, and his notion of a maximum of force, are fallacious. He knew nothing of local self-government, and thought only of the evils of great centralised monarchies like France or ancient Persia.

[36] *vortices of Descartes.* The theory of vortices, devised to explain the motions of the celestial bodies, was superseded by the theory of gravitation.

[37] A French editor of the *Contrat Social*, M. Larocque, cheerfully remarks that these comments are applicable to England. But our empire is half-federal, and therefore unlike the empires that Rousseau had in view.

[38] This paragraph is a good example of the experiential method, which Rousseau too rarely followed. He appears, however, to be largely indebted to Montesquieu.

[39] No historical State probably has ever combined these qualifications for legislation. A State which is self-sufficing and can resist any of its neighbours, while so small that all its citizens know one another, is an impossibility now, unless large States are willing to tolerate its freedom. An account of the Thlascalans, referred to in the note, is given in Prescott's *Conquest of Mexico*, Book III. 2.

[40] *Corsica* and its affairs were prominent when Rousseau wrote.

The struggle of its people under Paoli against the Genoese had excited general admiration in Europe.

[41] Rousseau's definition of equality should be carefully observed.

[42] (*note*). This is probably a reference to ancient States, especially Rome in the last days of the Republic.

[43] The experiential method is again followed, with Montesquieu (Book I. 3) as model.

[44] (*note*). This observation of D'Argenson is based on a superficial view of the facts, for the benefits of foreign commerce are diffused through the community. The statement as to the rapid downfall of States with extensive sea-boards is borrowed from Plato's *Laws* IV. 705. (Contrast Mill's *Political Economy*, III. 17.)

[45] See Montesquieu, *Spirit of the Laws*, Book XI. 5, etc.; and for the next paragraph, Books III. to VIII.

[46] Montesquieu had divided laws into (1) international, (2) political, (3) civil. A better division is into law (1) private; (2) public, (*a*) constitutional, (*b*) administrative, (*c*) criminal. Cf. Holland, *Jurisprudence*, pp. 131 and 319.

[47] *absolute dependence on the State.* The ideal of Rousseau, as it was of the ancients.

[48] Rousseau rightly insists on the importance of custom and opinion. Cf. Montesquieu, Book XIX.

BOOK III.

[1] By restricting the function of the sovereign to legislation, Rousseau hampers himself in treating of governments. A sharp division between the legislative and the executive is impossible (cf. Austin, *Jurisprudence*, Part I. Lect. VI.).

[2] *Prince.* This term (printed in the translation with a capital to avoid confusion with "prince" in the usual sense) appears to have been borrowed by Rousseau from Venice. The members of the government are distributively magistrates, collectively the Prince. The college referred to in the note was "really the machine of government and the representative of the sovereign" (Daru, *Histoire de Venise*, Book XXXIX. 9).

[3] *are quite right.* Hobbes (ch. XVIII.) insisted strongly on this, but he vested the supreme power in the chiefs, not in the people.

[4] After a show of empty and confusing mathematical reasoning, Rousseau enunciates, as if it were a deduction, the inductive truth that the utility of the various forms of government is relative to race, climate, etc. (cf. ch. 8).

[5] Rousseau appears to have thought that he was actually demonstrating, instead of merely elucidating, his theories by this mathematical argument, though he was aware that "geometrical precision has no place in moral quantities." Cf. Mill's *Logic*, Book VI. ch. 8.

[6] The reasoning in this chapter is not very convincing. Even if the government of a single person is stronger and more active than that of a number of magistrates, which is affirmed without any real proof, it is by no means certain that the more numerous a magistracy is, the more does the corporate will approach the general will. If Rousseau's metaphysical distinction between the three wills in each magistrate be accepted, it implies that the particular will naturally tends to dominate the corporate and general wills, and that therefore, by the multiplication of magistrates, the public welfare is more likely to be sacrificed to private interests.

[7] It must be noted that what Rousseau calls governments are usually called forms of sovereignty. Aristotle's classification is given in *Politics* III. 7. Hobbes (ch. XIX.) speaks of indivisible sovereignty assuming one of the three forms. Locke (II. 10), unlike Hobbes, allows mixed forms. Montesquieu (*Spirit of the Laws*, Book II.) distinguishes republics (democracies or aristocracies), monarchies, and despotisms. For Austin's elaborate classification see *Jurisprudence*, Part I. Lect. 6. Rousseau's remark in the fifth paragraph

that even monarchy is capable of sub-division is inconsistent with his own definition. The kings of Sparta were not monarchs, and if ever there were eight contemporary Roman Emperors, which is doubtful, they were not monarchs in the exact signification.

[8] Plato treated democracy as a debased form of commonwealth, characterised by an excessive freedom tending to degenerate into licence (*Republic* VIII.). Aristotle (III. 7) treated it as a perversion of the republic (πολιτεία).

[9] Taking democracy in the strict sense of a form of government in which the administration is carried on by the whole, or a majority, of the citizens, Rousseau's statement that a true democracy has never existed is probably correct, with the possible exception of early Teutonic communities and a few Swiss cantons. Some critics, however, have charged him with being an opponent of democracy, using this term to denote a form of sovereignty. As Rousseau takes sovereignty to reside in the will of all, such a charge is baseless.

[10] In this paragraph Rousseau has Sparta and Geneva in mind. Burke remarked (*Reflections on the Revolution*) that pure democracies of considerable size were few; he also held that an absolute democracy was not a legitimate form of government, and was especially unsuited to large States (cf. Montesquieu, Book VIII. 20).

[11] The *famous author* is Montesquieu, who (Book V. 1) spoke of virtue as the principle of a republican State. But in a prefatory note to the *Spirit of the Laws*, he explained that by "virtue," he meant political virtue, or love of country and of equality, which may exist more or less under all forms of government. Rousseau's strictures are therefore unfounded.

[12] Rousseau was probably thinking of the ancient doctrine of the easy degeneration of democracy into tyranny.

[13] "I prefer a perilous freedom to a peaceful servitude."

[14] Aristocracies appear to have been preceded by kingships. Cf. Aristotle I. 2, and Maine, *Ancient Law*, ch. I.

[15] The four words here translated, *prêtres*, *anciens*, *sénat*, *gérontes*, are all derived from words denoting age—πρεσβύτεροι, elders; *ante*+*anus*, he that is before; *senatus*, council of elders; γέροντες, old men.

[16] *election only.* Rousseau's predilections were in favour of an aristocracy, so long as it is elected by the people.

[17] *not even observed in Sparta.* This is a very moderate statement considering the slavery of the Helots. On the Lacedæmonian polity, see Aristotle, II. 9.

[18] *Aristotle maintains.* Rousseau misrepresents Aristotle, who says (III. 12 and 13) that birth, freedom, and wealth give a claim to political power, but that the highest claim is given by culture and virtue.

[19] *Archimedes* (about B.C. 287–212), the great Syracusan geometer and engineer, was famous for his mechanical devices.

[20] *Samuel.* See 1 Samuel viii. 11 to 18.

[21] *book of republicans.* Rousseau was not the first to vindicate Machiavelli's republicanism. Albericus Gentilis had called him

"democratiæ laudator et assertor acerrimus." Hallam (*Lit. of Europe* I. 8) considers that Machiavelli would rather have lived under a republic than under a prince, but, unable to do so, he devoted himself to the prince who appeared most likely to free Italy from foreign armies, the "execrable hero," Cæsar Borgia. Machiavelli recommended a strong, but not a tyrannical government. The *Discourses on Livy* contains, like the *Prince*, many unscrupulous maxims, but in it he praises small republics and supports popular liberties against princely despotism, which may explain Rousseau's preference for this work. M. Janet (*Histoire de la Science Politique*, 3rd edition, I. 495) attempts a refutation of Rousseau. See further Mr. Burd's Introduction to the Clarendon Press edition of *Il Principe*. Machiavelli's w rk was placed on the Index Librorum Prohibitorum by the Roman Church in 1559.

[22] *deputies.* Apparently a reference to the thirty Intendants who governed France.

[23] Richelieu, Mazarin, and Colbert may be quoted as exceptions to this general statement; Rousseau, however, was probably thinking of France under Louis XV.

[24] By "one of these born rulers," Rousseau is said to have indicated the Duc de Choiseul.

[25] *too small for it.* Yet at the end of Book III. 3 monarchy was said to be suited to large States.

[26] *succession.* On this question, see Hobbes, ch. XIX.

[27] *Dionysius the younger* became tyrant of Syracuse B.C. 367, in succession to his father.

[28] "For the most useful and also the readiest course in distinguishing between things good and evil is to consider what you would have approved or disapproved under another prince." Galba's speech in Tacitus, *Histories* I. 16.

[29] *Plato.* See Book II. note 21.

[30] According to this reasoning a good king is an impossibility. But it is just as fallacious to identify monarchy with the government of an incapable or wicked prince as to confuse it with that of a good king.

[31] *our authors.* Grotius, Hobbes, Filmer, and particularly Bossuet, who said that if kings were wolves, Christians should be sheep.

[32] *no simple government.* If this be so, the theory of the pure forms is merely abstract.

[33] *England.* The House of Commons was really supreme even in the eighteenth century, and it was therefore not strictly correct to say that the executive power, that is, in the case of a representative Parliament, the legislative power, was *equally* divided.

[34] *Poland.* See Rousseau's *Government of Poland*, ch. VII., for an account of the conflict of powers in that complicated political system.

[35] Rousseau dwells in this chapter upon climate and other conditions that should lead to modifications in the forms of government. Aristotle (IV. 7) insisted on the influence of climate, and was followed in modern times by Bodin (*Republic* V. 1) and Montesquieu (*Spirit*

of the Laws, Books XIV. to XVII.), to whom Rousseau was largely indebted. The two latter have greatly exaggerated the importance of climatic influences. Contrast Hume, Essay on *National Characters.*

[36] This paragraph should be compared with Adam Smith's *Wealth of Nations*, Book V. 2.

[37] Rousseau now openly identifies monarchy with despotism, instead of treating the latter as a perversion of the former.

[38] *Chardin* (b. 1643, d. 1713), who travelled in Persia and the East Indies, amassed a great collection of facts about these regions, and was quoted as an authority by Montesquieu.

[39] The disintegration of the Persian, Macedonian, and Roman Empires may be adduced against this view.

[40] *population.* Rousseau's "simple sign" of prosperity is deceptive, for an increase of population may be accompanied by a lowering of the standard of comfort, that is, by diminished prosperity. The vast population of China is hardly a sign of prosperity.

[41] (*note*). "And this was called civilisation by the ignorant, although it was only part of their servitude." Tacitus, *Agricola* XXI.

[42] (*note*). "Where they make a solitude, they call it peace." Tacitus, *ib.* XXX.

[43] (*note*). *our republic*, Florence.

[44] Cf. this and the subsequent chapter with Hobbes, ch. XXIX.; Locke II. 19. See also Plato, *Republic* VIII., and Aristotle III. and VI.

[45] (*note*). The *Serrar di Consiglio*, or closing of the Great Council, excluded the plebeians from power, and the constitution of Venice became an oligarchy. The *Squittinio della libertà veneta* was published anonymously in 1612 with the object of establishing the Emperor's claims over the Venetian republic. Rousseau says rightly that the Doges, who were elective, were not sovereigns. The Great Council exercised the sovereign power of the Republic, while "the Doge" had "the majesty of a king and the authority of a citizen." Daru, *Histoire de Venise*, Bk. XXXIX.

[46] *impossible.* Hardly in accord with the experience of the present century.

[47] *ochlocracy*, mob-rule.

[48] *tyrant.* In Greece τύραννος denoted an absolute sovereign, unlimited by law or constitution; the term was applied to any one who made himself king by force. Later, it was used as equivalent to despot. Rousseau's definition agrees with Locke's (II. 17 and 18).

[49] "For all are both deemed and called tyrants who exercise perpetual power in a State which has enjoyed liberty."

[50] *work of art.* Cf. Hobbes, Introduction. The analogy of the human body is pushed farther than by Hobbes.

[51] Little reliance can be placed on the number of Roman citizens given by Rousseau. It may safely be affirmed that 400,000 men did not assemble several times in a few weeks to transact State business, and therefore the illustration does not support his contention. In Book IV. 4, he speaks of the urban tribes, whom he calls a mob, as being the most powerful in the *comitia.*

[52] Rousseau's preference for small States has already been noted. The public library of Geneva contains a manuscript sketch of the *Social Contract*, according to which the State should be limited to one town at most, abuses being inevitable if there is a capital with several subordinate towns.

[53] *The Great King* is the Persian king. A sustained contest like that between the Greek cities and the Persians would hardly be possible under modern conditions. A city-state like Geneva could not have resisted France single-handed. Rousseau ignores the fact that the Dutch and Swiss republics grew up under the protection of the French monarchy.

[54] *no longer any representative.* This is obviously absurd, even according to Rousseau's own account of legislative and executive functions.

[55] If representation may be dispensed with in city-states, it is necessary in large States, though even in these the ultimate sovereignty may remain in the body of the people. But see *Government of Poland*, ch. VII.

[56] In preferring statute-labour to taxation, Rousseau is certainly "far removed from ordinary ideas," and his plan could only be adopted in small States. He recommended the Poles to execute their public works on that system (*Government of Poland*, ch. XI.).

[57] *counts for nothing.* This seems a glaring absurdity now, and was certainly inaccurate when Rousseau wrote. But the restriction and improper distribution of electoral power, together with the gross corruption then prevalent, precluded an adequate reflection of popular views by the House of Commons (cf. *Letters from the Mountain*, VI.).

[58] *iniquitous government.* Rousseau hated the hereditary aristocracy of feudalism. Cf. Book I. note 22.

[59] This is an unfortunate comment on popular assemblies in Rome (see note 51 above). The reforms of the Gracchi, undertaken in a democratic spirit, engendered much popular agitation and gave rise to tumultuous assemblies.

[60] The lictors were scarcely representatives, for they had no real authority. Their formal meetings were merely a survival of the old aristocratic *comitia curiata.*

[61] The tribunes, who exercised a power of veto on behalf of the people, could hardly be called representatives in the modern sense.

[62] *laws.* True in Rousseau's narrow signification of the term.

[63] In spite of his remarks in the following paragraph, Rousseau certainly glosses over slavery. Sparta, where the Helots were "enslaved to the utmost," was one of his pattern States. Bodin had condemned slavery. Montesquieu denounced it in a famous chapter (*Spirit of the Laws*, Book XV. 5), and Voltaire consistently opposed it. The argument that slavery affords leisure to free citizens and so makes for progress has a certain weight, and negro slavery in America was defended partly on this ground. But humane considerations outweigh this plea. It may be noted that Locke and Washington, who maintained the freedom and equality of all men, had no objection

to negro slavery, while Whitefield and the Society for Promoting Christian Knowledge were slave owners.

[64] (*note*). Rousseau formulated a scheme for confederations of small States, and entrusted his manuscript to the Comte d'Antraigues, who destroyed it on the outbreak of the Revolution lest its publication should sap the royal authority. Rousseau advised the Poles to perfect a system of federate governments, "the only one that unites in itself all the advantages of great and small States" (*Government of Poland*, chapter V.).

[65] *contract.* The allusion is to supporters of the mediæval form of the compact theory.

[66] There is really nothing astonishing in this. Rousseau merely removes the restriction he placed on sovereignty when he limited it to legislative power. This sudden conversion of the sovereign people into a democracy is a clumsy expedient to save a defective theory.

[67] *Grand Committee* is not an executive body, nor is the House of Commons a sovereign power. Hence the analogy is false.

[68] On the subject of this chapter, see Locke II. 13.

[69] There is an arbitrary tone about this paragraph. Some permanency is needed in an executive, and officers should not be forced to accept any terms whatever. Useful modifications, however, are suggested afterwards.

[70] See Grotius, *De Jure*, Book II. 5; and cf. Locke II. 8.

BOOK IV.

[1] This chapter appears to belong more properly to Book II.

[2] The true greatness of Oliver Cromwell was not appreciated in the last century (see Carlyle *On Heroes*, Lect. VI.). The Duke of Beaufort was prominent during the war of the Fronde, and for some time served as Governor of Paris.

[3] *will of all.* According to Book II. 1, the general will and the will of all cannot be durably in accord.

[4] *eludes it.* This interpretation of the doctrine of a general will is of course absurd; political immorality is reduced to an *ignoratio elenchi.*

[5] *long discussions.* Bagehot (*Physics and Politics*, chap. V.) points out that the growth of discussion is a sign of progress.

[6] This is sheer sophistry. Rousseau is enamoured of unity in a State, and will not admit that Rome, his model State, was ever torn by dissensions.

[7] Tacitus, *Histories* I. 85.

[8] (and *note*). Rousseau substantially repeats Book I. 5. Cf. Hobbes, chap. XVIII., and Locke II. 8.

[9] This argument is clearly a subterfuge; it simply means that the minority never know their real intentions.

[10] *marks of the general will.* Rousseau does not specify them.

[11] *before.* See Book II. 3.

[12] *hereafter.* See chap. 4.

[13] Apparently a reference to Book I. 5.

[14] Cf. Aristotle VI. 15.

[15] *Montesquieu* (*Spirit of the Laws*, Book II. 2). His opinion that public office is a privilege appears more in harmony with ordinary ideas than Rousseau's. But the latter is speaking of a true democracy, which he admits to be an ideal. Unless all men are equally qualified to rule, choice must always be preferable to lot.

[16] *a true aristocracy.* Since all nobles who were twenty-five years old were eligible to sit in the Great Council, the government certainly was an aristocracy according to Rousseau's own definition. Freeman (*Comparative Politics*, p. 240) speaks of Venice and Poland (in the eighteenth century) as containing survivals of the aristocratic primary assemblies. The Barnabotes were the poorer Venetian nobles.

[17] *Geneva* was also an aristocracy. Of the five classes which are here enumerated, and which were introduced as a result of the Calvinist *régime*, the citizens were a small and privileged minority enjoying full political rights. The burgesses shared in the administra-

tion, but were excluded from the highest magistracies. The other classes had few political rights.

[18] *The Abbé de Saint Pierre* (b. 1658, d. 1743) in his *Polysynodie* formulated a plan for the administration of France by a system of councils controlling each department of State. This would have involved a limitation of the royal authority, and therefore, as Rousseau says, a change in the form of government.

[19] No attempt has been made to criticise Rousseau's account of the Roman constitution. The works of Mommsen and others have rendered obsolete much of the teaching on this subject current in the last century. Rousseau's numerous inaccuracies, however, do not affect seriously the main course of his argument, which, in this and the next three chapters, is largely overlaid with historical details. He probably had no clear ideas on the subject of voting, and appears to recommend Roman methods, which, however, are not at all applicable to modern elections.

[20] This remark shows that Rousseau did not regard the social contract as historical.

[21] Rousseau's undiscriminating praise of the relation between patron and client shows his aristocratic spirit. The system did result in abuses; and this fact, apart from its inapplicability to modern conditions, is a good reason for not reviving it.

[22] We at length come to the real subject of the chapter, the method of voting.

[23] These remarks on the tribuneship have no practical value. Rousseau classes together the Roman tribunes, who could veto any public business; the Spartan ephors, who controlled the kings; and the Venetian Council of Ten (too strongly described as a "tribunal of blood"), which checked the encroachments of the Senate. The negative powers which they all possessed tended to become positive. Representative assemblies now suffice to check the executive, and are themselves held in check by the electors.

[24] Rousseau's unbounded admiration for Roman policy leads him to commend one of the most dangerous institutions (cf. Montesquieu, Book XII. 19).

[25] Like the dictatorship, the censorship is unsuited to modern free States. Bodin had recommended a censorship of manners.

[26] Rousseau makes morality depend wholly on law; morality in its earlier stages is obedience to external law, but as it advances it tends to become internal. Cf. Mr. Muirhead's *Ethics*, Book II. 2.

[27] *very true.* In his denunciation of duelling Rousseau stands in advance of his age. There is an admirable discussion of the subject in Bentham's *Theory of Legislation*, Principles of the Penal Code, Part II. 14.

[28] *Samos.* The island was Chios.

[29] *theocracy.* Cf. Maine, *Ancient Law*, chap. I. As to Caligula see *ante*, Book I. 2.

[30] For the consolidating influence of a union of Church and State on growing nations, see Bagehot, *Physics and Politics*, chap. IV.

[31] *same god.* But the modern study of comparative religion, aided by philology, has shown substantial agreement in the attributes and functions assigned to various deities in different nations of the same race.

[32] True of the Middle Ages, this becomes less and less true of modern States.

[33] *Muhammad.* There was no mere external connection between his foundation of a religion and his formation of a State, but one was the natural and necessary consequence of the other. The politician in Muhammad outgrew the prophet more and more. See art. on Muhammad in *Encyc. Britannica* (9th ed.).

[34] *ministers.* This statement is certainly untrue of England, though doubtless the influence of the clergy is excessive.

[35] Cf. Hobbes, chap. XLII. and Hume's essay on the *Idea of a Perfect Commonwealth.*

[36] *Bayle* (b. 1647, d. 1706), author of the celebrated Dictionary. For Warburton, see Book II. note 31. Burke (*Reflections on the Revolution*) remarked that religion is the basis of civil society and quoted Cicero to the same effect (*De Legibus* II.).

[37] *Sacer esto.* "Let him be accursed." A Roman legal formula of execration against a criminal.

[38] *Cromwell* is here linked with Catiline, as a hypocritical with an ambitious man, see *ante*, note 2. Rousseau's observations on the appearance of such men in a purely Christian community are absurdly exaggerated.

[39] *oath.* See Livy II. 45.

[40] *Christian troops.* Rousseau's remarks on this subject and on Christianity generally are partly derived from Bayle, whose positions had been severely criticised by Montesquieu (Book XXIV. 2 and 6).

[41] (*note*). *D'Argenson.* Another quotation from *Considerations on the Ancient and Present Government of France* (cf. Book I. note 5).

[42] Rousseau's articles are nevertheless dogmas, and they certainly "pass the limits of public utility." If the State may impose these, it may also impose many others. Locke, on political grounds, would not tolerate those who refused to tolerate others, nor those whose religion obliged them to serve another prince.

[43] (*note*). Rousseau rightly insists on civil marriage. In England, far more than among Continental nations, the ceremony of marriage is regarded mainly as a religious institution, and hardly at all as a civic duty.

[44] *Henry IV.* It is related that this king held a conference of Protestant and Catholic divines, and that on the former admitting that a man can be saved in the Catholic faith, while the latter denied that he could be saved in the Protestant faith, Henry determined to join the Roman Church.

EXTRACTS FROM REVIEWS.

The translation of Rousseau's *Contrat Social* put forth with an introduction and notes by Mr. Henry J. Tozer is a good and useful piece of work. The rendering into English is faithful and intelligent; the historical and critical introduction is adequate and for the most part accurate; and the notes excellently fulfil the functions of illustration, suggestion, and comparison.—*Political Science Quarterly* (New York).

A well-edited rendering of the famous treatise which has been called, not without reason, the Bible of the French Revolution, and was regarded by Sir Henry Maine as the theoretic basis of modern democracy.—*Times.*

Learned and very useful introduction.—*Spectator.*

A fresh translation of Rousseau's *Contrat Social* is not amiss, and when this is preceded by such a masterly introduction as is provided by the translator, and followed by a series of critical and explanatory notes, the whole becomes a work of exceptional value. . . . Mr. Tozer's introduction should do much to eradicate many of the current prejudices which envelop the personage of Rousseau.—*Westminster Review.*

This volume forms a useful addition to the Social Science series . . . it would certainly be well if all who discuss the origin of the State would read *The Social Contract.* . . . The book is well translated, while both notes and references are to the point. In the introduction, which fills more than a third of the volume, there is a conscientious summary of all the stages by which the notion of a Social Compact grew up, together with the influence it exercised on historical events. For the general reader this introduction is a safe guide. . . . The book is likely to prove of much use to students of the principles of political obligation.—*Economic Journal.*

Rousseau's *Social Contract* is one of those numerous books that people talk and write about, yet generally forget to read. . . . No Englishman can now plead ignorance of French as a reason for refusing to master the Social Contract as it was written, and not as it has been interpreted by half a hundred philosophical glossators. . . . Mr. Tozer has succeeded in giving us a rendering which is accurate and readable. . . . The Introduction is an interesting piece of work. . . . Mr. Tozer has supplied his readers with a concise and clear preface, and an excellent analysis of the book itself. . . . He will probably drive a select few to the real Rousseau, and if he does, he has justified his existence as a commentator and translator; and that select few will certainly come to the real Rousseau with a nice equipment of knowledge.—*Economic Review.*

Mr. Henry J. Tozer contributes an excellent Introduction and some very useful notes. The translation is faithful and spirited. . . . We know of no better or handier edition of this great work available for the English reader than Mr. Tozer's.—*University Extension Journal.*