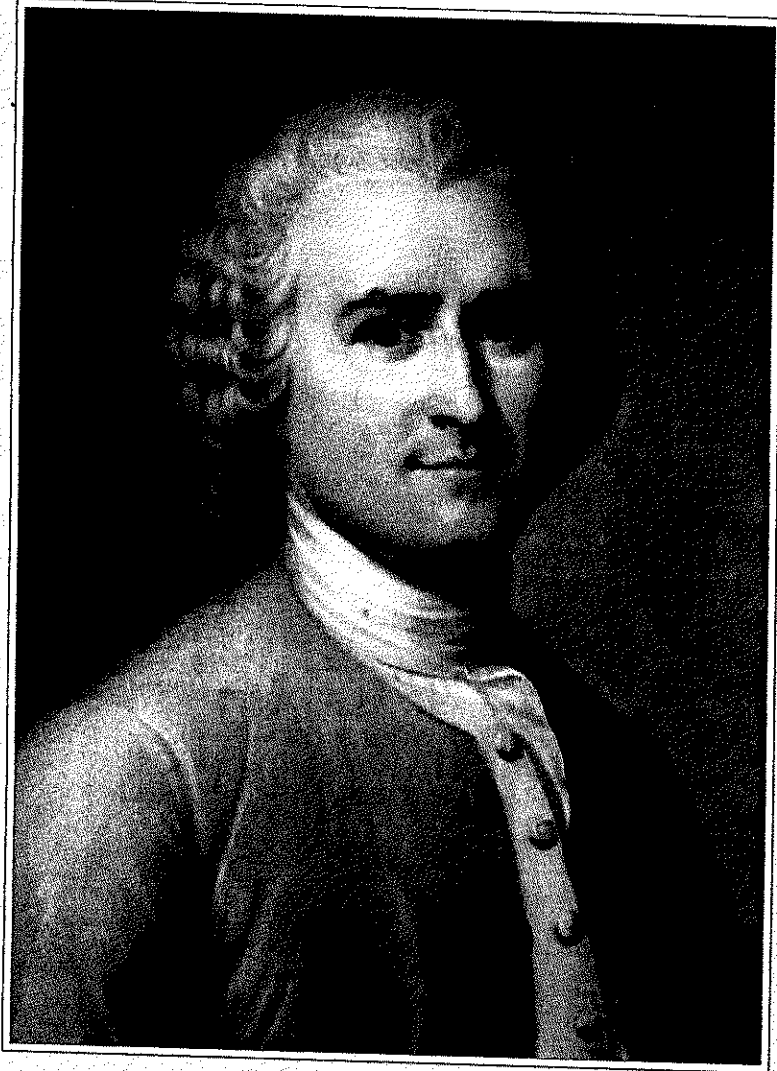


JEAN-JACQUES ROUSSEAU

The Origin of Civil Society



JEAN-JACQUES ROUSSEAU (1712–1778) was the son of Suzanne Bernard and Isaac Rousseau, a watchmaker in Geneva, Switzerland. Shortly after his birth, Rousseau's mother died, and a rash duel forced his father from Geneva. Rousseau was then apprenticed at age thirteen to an engraver, a master who treated him badly. He soon ran away from his master and found a home with a Catholic noblewoman who at first raised him as her son and then, when he was twenty, took him as her lover. In the process Rousseau converted from Calvinist Protestantism to Roman Catholicism. Eventually, he left Switzerland for Paris, where he won an important essay contest and became celebrated in society.

Over the course of his lifetime, Rousseau produced a wide variety of literary and musical works, including a novel, *Emile* (1762), an opera, *The Village Soothsayer* (1752), and an autobiography, *The Confessions* (published posthumously in 1789). *The Social Contract* (1762) was part of a never-completed longer work on political systems. In many ways Rousseau wrote in reaction to political thinkers such as Hugo Grotius and Thomas Hobbes, to whom he responds in the following selection. He contended that the Dutch philosopher and legal expert Grotius unquestioningly accepted the power of the aristocracy. He felt Grotius paid too much attention to what was rather than what ought to be. On the other hand, Hobbes, the English political philosopher, asserted that people had a choice of being free or being ruled. In other words, those who were members of civil society chose to give up their freedom and submit to the monarch's rule. Either they relinquished their freedom, or they removed themselves from civil society to live a brutish existence.

From *Social Contract: Essays by Locke, Hume, and Rousseau*. Translated by Gerald Hopkins.

Rousseau argued against Grotius by examining the way things ought to be. He argued against Hobbes by asserting that both the body politic and the monarch were sovereign and that when people created a civil society they surrendered their freedom to themselves as a group. If one person acted as sovereign or lawgiver, then that lawgiver had the responsibility of acting in accord with the will of the people. In a sense, this view parallels some of the views of Lao-tzu in the *Tao-te Ching*.

Popularly referred to as a defender of republicanism, Rousseau looked to the Republic of Geneva, his birthplace, as a model of government. He also idealized the generally democratic government of smaller Swiss cantons, such as Neuchatel, which used a form of town meeting where people gathered face to face to settle important issues. Ironically, Geneva put out a warrant for his arrest upon the publication of *The Social Contract* because although it praised Geneva's republicanism, it also condemned societies that depended on rule by a limited aristocracy. Unfortunately for Rousseau, at that time Geneva was governed by a small number of aristocratic families. Rousseau was deprived of his citizenship and could not return to his native home.

Similarly, Rousseau's controversial views were not easily received by those in power in France. After the publication of *Emile* offended the French Parliament, Rousseau was forced to abandon his comfortable rustic circumstances—living on country estates provided by patrons from the court—and spend the rest of his life in financial uncertainty. Ironically, in 1789, a decade after his death, Rousseau's philosophy was adopted by supporters of the French Revolution in their bloody revolt against the aristocracy.

Rousseau's Rhetoric

Rousseau's method is in many ways antagonistic: he establishes the views of other thinkers, counters them, and then offers his own ideas. An early example appears in the opening of paragraph 8: "Grotius denies that political power is ever exercised in the interests of the governed, and quotes the institution of slavery in support of his contention. His invariable method of arguing is to derive Right from Fact." Among other things, Rousseau expects his readers to know who Grotius was and what he said. He also expects his readers to agree that Grotius derives "Right from Fact" by understanding that the fact of monarchy justifies it as being right. As Rousseau tells us, that kind of circular reasoning is especially kind to tyrants, because it justifies them by their existence.

Rousseau uses analysis and examination of detail as his main rhetorical approaches. Whether he examines the ideas of others or presents ideas of his own, he is careful to examine the bases of the argument and to follow the arguments to their conclusions. He does this very thoroughly in his section "Of Slavery," in which he demonstrates that slavery is unacceptable no matter which of the current arguments are used to support it, including the widely held view that it was justifiable to enslave captured soldiers on the grounds that they owed their lives to their captors.

Rousseau also makes careful use of aphorism and analogy. His opening statement, "Man is born free, and everywhere he is in chains," is an aphorism that has been often quoted. It is a powerful and perplexing statement. How do people who are born free lose their freedom? Is it taken from them, or do they willingly surrender it? Rousseau spends considerable time examining this point.

The use of analogy is probably most striking in his comparison of government with the family. The force of the analogy reminds us that the members of a family are to be looked after by the family. As he tells us beginning in paragraph 5, the family is the only natural form of society. But instead of stopping there, he goes on to say that children are bound to the father only as long as they need him. Once they are able to be independent, they dissolve the natural bond and "return to a condition of equal independence." This analogy differs from the existing popular view that the monarch was like the father in a family and the people like his children; in fact, the analogy works against the legitimacy of the traditional monarchy as it was known in eighteenth-century France.

Rousseau also refers to other writers, using a rhetorical device known as *testimony*: he paraphrases the views of other authorities and moves on to promote his own. But in referring to other writers, Rousseau is unusually clever. For example, in paragraph 10 he begins with the analogy of the shepherd as the ruler in this fashion: "Just as the shepherd is superior in kind to his sheep, so, too, the shepherds of men, or, in other words, their rulers, are superior in kind to their peoples. This, according to Philo, was the argument advanced by Caligula, the Emperor, who drew from the analogy the perfectly true conclusion that either Kings are Gods or their subjects brute beasts." Caligula was a madman and an emperor guilty of enormous cruelty; from his point of view it may have seemed true that kings were gods. But Rousseau, in citing this questionable authority, disputes the validity of the analogy.

He argues as well against the view that might makes right in "Of the Right of the Strongest." The value of the social contract, he explains, is to produce a society that is not governed by the mightiest

* and most ruthless and that permits those who are not mighty to live peacefully and unmolested. Thus, those who participate in the social contract give up certain freedoms but gain many more—among them the freedom not to be dominated by physical brutality.

Rousseau concentrates on the question of man in nature, or natural society. His view is that natural society is dominated by the strongest individuals but that at some point natural society breaks down. Thus, in order to guarantee the rights of those who are not the strongest, the political order must change. "Some form of association" is developed "for the protection of the person and property of each constituent member." By surrendering some freedom to the group as a whole—to "the general will"—the individuals in the group can expect to prosper more widely and to live more happily. According to Rousseau, the establishment of a social contract ensures the stability of this form of civil society.

PREREADING QUESTIONS: WHAT TO READ FOR

The following prereading questions may help you anticipate key issues in the discussion of Jean-Jacques Rousseau's "The Origin of Civil Society." Keeping them in mind as you read should help focus your attention.

- When Rousseau says, "Man is born free, and everywhere he is in chains," does he seem to be referring literally to slaves in chains, or more figuratively to people in general?
- How convincing is Rousseau when he claims that the oldest form of government is the family?
- The "Social Contract" is one of Rousseau's chief ideas. What does it seem to mean?

The Origin of Civil Society

Note

It is my wish to inquire whether it be possible, within the civil order, to discover a legitimate and stable basis of Government. This I shall do by considering human beings as they are and laws as they might be. I shall attempt, throughout my investigations, to maintain a constant connection between

what right permits and interest demands, in order that no separation may be made between justice and utility. I intend to begin without first proving the importance of my subject. Am I, it will be asked, either prince or legislator that I take it upon me to write of politics? My answer is—No; and it is for that very reason that I have chosen politics as the matter of my book. Were I either the one or the other I should not waste my time in laying down what has to be done. I should do it, or else hold my peace.

I was born into a free state and am a member of its sovereign body. My influence on public affairs may be small, but because I have a right to exercise my vote, it is my duty to learn their nature, and it has been for me a matter of constant delight, while meditating on problems of Government in general, to find ever fresh reasons for regarding with true affection the way in which these things are ordered in my native land.

The Subject of the First Book

Man is born free, and everywhere he is in chains. Many a man believes himself to be the master of others who is, no less than they, a slave. How did this change take place? I do not know. What can make it legitimate? To this question I hope to be able to furnish an answer.

Were I considering only force and the effects of force, I should say: "So long as a People is constrained to obey, and does, in fact, obey, it does well. So soon as it can shake off its yoke, and succeeds in doing so, it does better. The fact that it has recovered its liberty by virtue of that same right by which it was stolen, means either that it is entitled to resume it, or that its theft by others was, in the first place, without justification." But the social order is a sacred right which serves as a foundation for all other rights. This right, however, since it comes not by nature, must have been built upon conventions. To discover what these conventions are is the matter of our inquiry. But, before proceeding further, I must establish the truth of what I have so far advanced.

Of Primitive Societies

The oldest form of society—and the only natural one—is the family. Children remain bound to their father for only just so long as they feel the need of him for their self-preservation. Once that need ceases the natural bond is dissolved. From then on, the children, freed from the obedience which they formerly owed, and the father, cleared of his debt of responsibility to them, return to a condition of equal independence. If the bond remain operative it is no longer

something imposed by nature, but has become a matter of deliberate choice. The family is a family still, but by reason of convention only.

This shared liberty is a consequence of man's nature. Its first law is that of self-preservation: its first concern is for what it owes itself. As soon as a man attains the age of reason he becomes his own master, because he alone can judge of what will best assure his continued existence.

We may, therefore, if we will, regard the family as the basic model of all political associations. The ruler is the father writ large: the people are, by analogy, his children, and all, ruler and people alike, alienate their freedom only so far as it is to their advantage to do so. The only difference is that, whereas in the family the father's love for his children is sufficient reward to him for the care he has lavished on them, in the State, the pleasure of commanding others takes its place, since the ruler is not in a relation of love to his people.

Grotius¹ denies that political power is ever exercised in the interests of the governed, and quotes the institution of slavery in support of his contention. His invariable method of arguing is to derive Right from Fact. It might be possible to adopt a more logical system of reasoning, but none which would be more favorable to tyrants.

According to Grotius, therefore, it is doubtful whether the term "human race" belongs to only a few hundred men, or whether those few hundred men belong to the human race. From the evidence of his book it seems clear that he holds by the first of these alternatives, and on this point Hobbes² is in agreement with him. If this is so, then humanity is divided into herds of livestock, each with its "guardian" who watches over his charges only that he may ultimately devour them.

Just as the shepherd is superior in kind to his sheep, so, too, the shepherds of men, or, in other words, their rulers, are superior in kind to their peoples. This, according to Philo,³ was the argument advanced by Caligula,⁴ the Emperor, who drew from the analogy the

¹ **Hugo Grotius (1583–1645)** A Dutch lawyer who spent some time in exile in Paris. His fame as a child prodigy was considerable; his book on the laws of war (*De jure belli ac Pacis*) was widely known in Europe.

² **Thomas Hobbes (1588–1679)** An Englishman known as a materialist philosopher who did not credit divine influence in politics. He became famous for *Leviathan*, a study of politics that treated the state as if it were a monster (leviathan) with a life of its own.

³ **Philo (13? B.C.–A.D. 47?)** A Jew who absorbed Greek culture and who wrote widely on many subjects. His studies on Mosaic law were considered important.

⁴ **Caligula (A.D. 12–41)** Roman emperor of uncertain sanity. He loved his sister Drusilla so much that he had her deified when she died. A military commander, he was assassinated by an officer.

perfectly true conclusion that either Kings are Gods or their subjects brute beasts.

The reasoning of Caligula, of Hobbes, and of Grotius is fundamentally the same. Far earlier, Aristotle,⁵ too, had maintained that men are not by nature equal, but that some are born to be slaves, others to be masters.

Aristotle was right: but he mistook the effect for the cause. Nothing is more certain than that a man born into a condition of slavery is a slave by nature. A slave in fetters loses everything—even the desire to be freed from them. He grows to love his slavery, as the companions of Ulysses grew to love their state of brutish transformation.⁶

If some men are by nature slaves, the reason is that they have been made slaves *against* nature. Force made the first slaves: cowardice has perpetuated the species.

I have made no mention of King Adam or of the Emperor Noah, the father of three great Monarchs⁷ who divided up the universe between them, as did the children of Saturn,⁸ whom some have been tempted to identify with them. I trust that I may be given credit for my moderation, since, being descended in a direct line from one of these Princes, and quite possibly belonging to the elder branch, I may, for all I know, were my claims supported in law, be even now the legitimate Sovereign of the Human Race.⁹ However that may be, all will concur in the view that Adam was King of the World, as was Robinson Crusoe of his island, only so long as he was its only inhabitant, and the great advantage of empire held on such terms was that the Monarch, firmly seated on his throne, had no need to fear rebellions, conspiracy, or war.

⁵ **Aristotle (384–322 B.C.)** A student of Plato; his philosophical method became the dominant intellectual force in Western thought.

⁶ **state of brutish transformation** This sentence refers to the Circe episode in Homer's *Odyssey* (X, XII). Circe was a sorceress who, by means of drugs, enchanted men and turned them into swine. Ulysses (Latin name of Odysseus), king of Ithaca, is the central figure of the *Odyssey*.

⁷ **the father of three great Monarchs** Adam in the Bible (Genesis 4:1–25) fathered Cain, Abel, Enoch, and Seth. Noah's sons, Shem, Ham, and Japheth, repopulated the world after the Flood (Genesis 6:9–9:19).

⁸ **children of Saturn** Saturn is a mythic god associated with the golden age of Rome and with the Greek god Cronus. It is probably the children of Cronus—Zeus, Poseidon, Hades, Demeter, and Hera—referred to here, because the Roman god Saturn had only one son, Picus.

⁹ **Sovereign of the Human Race** Rousseau is being ironic; like the rest of us, he is descended from Adam (according to the Bible).

Of the Right of the Strongest

However strong a man, he is never strong enough to remain master always, unless he transform his Might into Right, and Obedience into Duty. Hence we have come to speak of the Right of the Strongest, a right which, seemingly assumed in irony, has, in fact, become established in principle. But the meaning of the phrase has never been adequately explained. Strength is a physical attribute, and I fail to see how any moral sanction can attach to its effects. To yield to the strong is an act of necessity, not of will. At most it is the result of a dictate of prudence. How, then, can it become a duty? 15

Let us assume for a moment that some such Right does really exist. The only deduction from this premise is inexplicable gibberish. For to admit that Might makes Right is to reverse the process of effect and cause. The mighty man who defeats his rival becomes heir to his Right. So soon as we can disobey with impunity, disobedience becomes legitimate. And, since the Mightiest is always right, it merely remains for us to become possessed of Might. But what validity can there be in a Right which ceases to exist when Might changes hands? If a man be constrained by Might to obey, what need has he to obey by Duty? And if he is not constrained to obey, there is no further obligation on him to do so. It follows, therefore, that the word Right adds nothing to the idea of Might. It becomes, in this connection, completely meaningless. 16

Obey the Powers that be. If that means Yield to Force, the precept is admirable but redundant. My reply to those who advance it is that no case will ever be found of its violation. All power comes from God. Certainly, but so do all ailments. Are we to conclude from such an argument that we are never to call in the doctor? If I am waylaid by a footpad at the corner of a wood, I am constrained by force to give him my purse. But if I can manage to keep it from him, is it my duty to hand it over? His pistol is also a symbol of Power. It must, then, be admitted that Might does not create Right, and that no man is under an obligation to obey any but the legitimate powers of the State. And so I continually come back to the question I first asked. 17

Of Slavery

Since no man has natural authority over his fellows, and since Might can produce no Right, the only foundation left for legitimate authority in human societies is Agreement. 18

If a private citizen, says Grotius, can alienate his liberty and make himself another man's slave, why should not a whole people do the same, and subject themselves to the will of a King? The argument contains a number of ambiguous words which stand in need of 19

explanation. But let us confine our attention to one only—*alienate*. To alienate means to give or to sell. Now a man who becomes the slave of another does not give himself. He sells himself in return for bare subsistence, if for nothing more. But why should a whole people sell themselves? So far from furnishing subsistence to his subjects, a King draws his own from them, and from them alone. According to Rabelais,¹⁰ it takes a lot to keep a King. Do we, then, maintain that a subject surrenders his person on condition that his property be taken too? It is difficult to see what he will have left.

It will be said that the despot guarantees civil peace to his subjects. So be it. But how are they the gainers if the wars to which his ambition may expose them, his insatiable greed, and the vexatious demands of his Ministers cause them more loss than would any outbreak of internal dissension? How do they benefit if that very condition of civil peace be one of the causes of their wretchedness? One can live peacefully enough in a dungeon, but such peace will hardly, of itself, ensure one's happiness. The Greeks imprisoned in the cave of Cyclops¹¹ lived peacefully while awaiting their turn to be devoured. 20

To say that a man gives himself for nothing is to commit oneself to an absurd and inconceivable statement. Such an act of surrender is illegitimate, null, and void by the mere fact that he who makes it is not in his right mind. To say the same thing of a whole People is tantamount to admitting that the People in question are a nation of imbeciles. Imbecility does not produce Right. 21

Even if a man can alienate himself, he cannot alienate his children. They are born free, their liberty belongs to them, and no one but themselves has a right to dispose of it. Before they have attained the age of reason their father may make, on their behalf, certain rules with a view to ensuring their preservation and well-being. But any such limitation of their freedom of choice must be regarded as neither irrevocable nor unconditional, for to alienate another's liberty is contrary to the natural order, and is an abuse of the father's rights. It follows that an arbitrary government can be legitimate only on condition that each successive generation of subjects is free either to accept or to reject it, and if this is so, then the government will no longer be arbitrary. * 22

When a man renounces his liberty he renounces his essential manhood, his rights, and even his duty as a human being. There is no compensation possible for such complete renunciation. It is incompatible with man's nature, and to deprive him of his free will is to deprive his actions of all moral sanction. The convention, in short, which sets 23

¹⁰ **François Rabelais (c. 1494–1553)** French writer, author of *Gargantua and Pantagruel*, satires on politics and religion.

¹¹ **cave of Cyclops** The cyclops is a one-eyed giant cannibal whose cave is the scene of one of Odysseus's triumphs in Homer's *Odyssey* (IX).

up on one side an absolute authority, and on the other an obligation to obey without question, is vain and meaningless. Is it not obvious that where we can demand everything we owe nothing? Where there is no mutual obligation, no interchange of duties, it must, surely, be clear that the actions of the commanded cease to have any moral value? For how can it be maintained that my slave has any "right" against me when everything that he has is my property? His right being my right, it is absurd to speak of it as ever operating to my disadvantage.

Grotius, and those who think like him, have found in the fact of war another justification for the so-called "right" of slavery. They argue that since the victor has a *right* to kill his defeated enemy, the latter may, if he so wish, ransom his life at the expense of his liberty, and that this compact is the more legitimate in that it benefits both parties.

But it is evident that this alleged *right* of a man to kill his enemies is not in any way a derivative of the state of war, if only because men, in their primitive condition of independence, are not bound to one another by any relationship sufficiently stable to produce a state either of war or of peace. They are not naturally enemies. It is the link between *things* rather than between *men* that constitutes war, and since a state of war cannot originate in simple personal relations, but only in relations between things, private hostility between man and man cannot obtain either in a state of nature where there is no generally accepted system of private property, or in a state of society where law is the supreme authority.

Single combats, duels, personal encounters are incidents which do not constitute a "state" of anything. As to those private wars which were authorized by the Ordinances of King Louis IX¹² and suspended by the Peace of God, they were merely an abuse of Feudalism—that most absurd of all systems of government, so contrary was it to the principles of Natural Right and of all good polity.

War, therefore, is something that occurs not between man and man, but between States. The individuals who become involved in it are enemies only by accident. They fight not as men or even as citizens, but as soldiers: not as members of this or that national group, but as its defenders. A State can have as its enemies only other States, not men at all, seeing that there can be no true relationship between things of a different nature.

This principle is in harmony with that of all periods, and with the constant practice of every civilized society. A declaration of war is a warning, not so much to Governments as to their subjects. The

¹² King Louis IX (1214–1270) King of France, also called St. Louis. He was looked upon as an ideal monarch.

foreigner—whether king, private person, or nation as a whole—who steals, murders, or holds in durance the subjects of another country without first declaring war on that country's Prince, acts not as an enemy but as a brigand. Even when war has been joined, the just Prince, though he may seize all public property in enemy territory, yet respects the property and possessions of individuals, and, in so doing, shows his concern for those rights on which his own laws are based. The object of war being the destruction of the enemy State, a commander has a perfect right to kill its defenders so long as their arms are in their hands: but once they have laid them down and have submitted, they cease to be enemies, or instruments employed by an enemy, and revert to the condition of men, pure and simple, over whose lives no one can any longer exercise a rightful claim. Sometimes it is possible to destroy a State without killing any of its subjects, and nothing in war can be claimed as a right save what may be necessary for the accomplishment of the victor's end. These principles are not those of Grotius, nor are they based on the authority of poets, but derive from the Nature of Things, and are founded upon Reason.

The Right of Conquest finds its sole sanction in the Law of the Strongest. If war does not give to the victor the right to massacre his defeated enemies, he cannot base upon a nonexistent right any claim to the further one of enslaving them. We have the right to kill our enemies only when we cannot enslave them. It follows, therefore, that the right to enslave cannot be deduced from the right to kill, and that we are guilty of enforcing an iniquitous exchange if we make a vanquished foeman purchase with his liberty that life over which we have no right. Is it not obvious that once we begin basing the right of life and death on the right to enslave, and the right to enslave on the right of life and death, we are caught in a vicious circle? Even if we assume the existence of this terrible right to kill all and sundry, I still maintain that a man enslaved, or a People conquered, in war is under no obligation to obey beyond the point at which force ceases to be operative. If the victor spares the life of his defeated opponent in return for an equivalent, he cannot be said to have shown him mercy. In either case he destroys him, but in the latter case he derives value from his act, while in the former he gains nothing. His authority, however, rests on no basis but that of force. There is still a state of war between the two men, and it conditions the whole relationship in which they stand to one another. The enjoyment of the Rights of War presupposes that there has been no treaty of Peace. Conqueror and conquered have, to be sure, entered into a compact, but such a compact, far from liquidating the state of war, assumes its continuance.

Thus, in whatever way we look at the matter, the "Right" to enslave has no existence, not only because it is without legal validity,

but because the very term is absurd and meaningless. The words *Slavery* and *Right* are contradictory and mutually exclusive. Whether we be considering the relation of one man to another man, or of an individual to a whole People, it is equally idiotic to say—"You and I have made a compact which represents nothing but loss to you and gain to me. I shall observe it so long as it pleases me to do so—and so shall you, until I cease to find it convenient."

That We Must Always Go Back to an Original Compact

Even were I to grant all that I have so far refuted, the champions 31
of despotism would not be one whit the better off. There will always
be a vast difference between subduing a mob and governing a social
group. No matter how many isolated individuals may submit to the
enforced control of a single conqueror, the resulting relationship will
ever be that of Master and Slave, never of People and Ruler. The body
of men so controlled may be an agglomeration; it is not an association.
It implies neither public welfare nor a body politic. An individual may
conquer half the world, but he is still only an individual. His interests,
wholly different from those of his subjects, are private to himself.
When he dies his empire is left scattered and disintegrated. He is like
an oak which crumbles and collapses in ashes so soon as the fire con-
sumes it.

"A People," says Grotius, "may give themselves to a king." His 32
argument implies that the said People were already a People before this
act of surrender. The very act of gift was that of a political group and
presupposed deliberation. Before, therefore, we consider the act by
which a People chooses their king, it were well if we considered the
act by which a People is constituted as such. For it necessarily pre-
cedes the other, and is the true foundation on which all Societies rest.

Had there been no original compact, why, unless the choice 33
were unanimous, should the minority ever have agreed to accept the
decision of the majority? What right have the hundred who desire a
master to vote for the ten who do not? The institution of the fran-
chise is, in itself, a form of compact, and assumes that, at least once
in its operation, complete unanimity existed.

Of the Social Pact

I assume, for the sake of argument, that a point was reached in 34
the history of mankind when the obstacles to continuing in a state of
Nature were stronger than the forces which each individual could

employ to the end of continuing in it. The original state of Nature,
therefore, could no longer endure, and the human race would have
perished had it not changed its manner of existence.

Now, since men can by no means engender new powers, but 35
can only unite and control those of which they are already pos-
sessed, there is no way in which they can maintain themselves save
by coming together and pooling their strength in a way that will en-
able them to withstand any resistance exerted upon them from with-
out. They must develop some sort of central direction and learn to
act in concert.

Such a concentration of powers can be brought about only as 36
the consequence of an agreement reached between individuals. But
the self-preservation of each single man derives primarily from his
own strength and from his own freedom. How, then, can he limit
these without, at the same time, doing himself an injury and ne-
glecting that care which it is his duty to devote to his own concerns?
This difficulty, in so far as it is relevant to my subject, can be ex-
pressed as follows:

"Some form of association must be found as a result of which 37
the whole strength of the community will be enlisted for the pro-
tection of the person and property of each constituent member, in
such a way that each, when united to his fellows, renders obedi-
ence to his own will, and remains as free as he was before." That
is the basic problem of which the Social Contract provides the
solution.

The clauses of this Contract are determined by the Act of Asso- 38
ciation in such a way that the least modification must render them
null and void. Even though they may never have been formally
enunciated, they must be everywhere the same, and everywhere tac-
itly admitted and recognized. So completely must this be the case
that, should the social compact be violated, each associated individ-
ual would at once resume all the rights which once were his, and re-
gain his natural liberty, by the mere fact of losing the agreed liberty
for which he renounced it.

It must be clearly understood that the clauses in question can be 39
reduced, in the last analysis, to one only, to wit, the complete alien-
ation by each associate member to the community of *all his rights*.
For, in the first place, since each has made surrender of himself
without reservation, the resultant conditions are the same for all:
and, because they are the same for all, it is in the interest of none to
make them onerous to his fellows.

Furthermore, this alienation having been made unreservedly, 40
the union of individuals is as perfect as it well can be, none of the
associated members having any claim against the community. For

should there be any rights left to individuals, and no common authority be empowered to pronounce as between them and the public, then each, being in some things his own judge, would soon claim to be so in all. Were that so, a state of Nature would still remain in being, the conditions of association becoming either despotic or ineffective.

In short, whoso gives himself to all gives himself to none. And, since there is no member of the social group over whom we do not acquire precisely the same rights as those over ourselves which we have surrendered to him, it follows that we gain the exact equivalent of what we lose, as well as an added power to conserve what we already have.

If, then, we take from the social pact everything which is not essential to it, we shall find it to be reduced to the following terms: "each of us contributes to the group his person and the powers which he wields as a person under the supreme direction of the general will, and we receive into the body politic each individual as forming an indivisible part of the whole."

As soon as the act of association becomes a reality, it substitutes for the person of each of the contracting parties a moral and collective body made up of as many members as the constituting assembly has votes, which body receives from this very act of constitution its unity, its dispersed self, and its will. The public person thus formed by the union of individuals was known in the old days as a *City*, but now as the *Republic* or *Body Politic*. This, when it fulfills a passive role, is known by its members as *The State*, when an active one, as *The Sovereign People*, and, in contrast to other similar bodies, as a *Power*. In respect of the constituent associates, it enjoys the collective name of *The People*, the individuals who compose it being known as *Citizens* in so far as they share in the sovereign authority, as *Subjects* in so far as they owe obedience to the laws of the State. But these different terms frequently overlap, and are used indiscriminately one for the other. It is enough that we should realize the difference between them when they are employed in a precise sense.

Of the Sovereign

It is clear from the above formula that the act of association implies a mutual undertaking between the body politic and its constituent members. Each individual comprising the former contracts, so to speak, with himself and has a twofold function. As a member of the sovereign people he owes a duty to each of his neighbors, and, as a Citizen, to the sovereign people as a whole. But we cannot

here apply that maxim of Civil Law according to which no man can be held to an undertaking entered into with himself, because there is a great difference between a man's duty to himself and to a whole of which he forms a part.

Here it should be pointed out that a public decision which can enjoin obedience on all subjects to their Sovereign, by reason of the double aspect under which each is seen, cannot, on the contrary, bind the sovereign in his dealings with himself. Consequently, it is against the nature of the body politic that the sovereign should impose upon himself a law which he cannot infringe. For, since he can regard himself under one aspect only, he is in the position of an individual entering into a contract with himself. Whence it follows that there is not, nor can be, any fundamental law which is obligatory for the whole body of the People, not even the social contract itself. This does not mean that the body politic is unable to enter into engagements with some other Power, provided always that such engagements do not derogate from the nature of the Contract; for the relation of the body politic to a foreign Power is that of a simple individual.

But the body politic, or Sovereign, in that it derives its being simply and solely from the sanctity of the said Contract, can never bind itself, even in its relations with a foreign Power, by any decision which might derogate from the validity of the original act. It may not, for instance, alienate any portion of itself, nor make submission to any other sovereign. To violate the act by reason of which it exists would be tantamount to destroying itself, and that which is nothing can produce nothing.

As soon as a mob has become united into a body politic, any attack upon one of its members is an attack upon itself. Still more important is the fact that, should any offense be committed against the body politic as a whole, the effect must be felt by each of its members. Both duty and interest, therefore, oblige the two contracting parties to render one another mutual assistance. The same individuals should seek to unite under this double aspect all the advantages which flow from it.

Now, the Sovereign People, having no existence, outside that of the individuals who compose it, has, and can have, no interest at variance with theirs. Consequently, the sovereign power need give no guarantee to its subjects, since it is impossible that the body should wish to injure all its members, nor, as we shall see later, can it injure any single individual. The Sovereign, by merely existing, is always what it should be.

But the same does not hold true of the relation of subject to sovereign. In spite of common interest, there can be no guarantee that

the subject will observe his duty to the sovereign unless means are found to ensure his loyalty.

Each individual, indeed, may, as a man, exercise a will at variance with, or different from, that general will to which, as citizen, he contributes. His personal interest may dictate a line of action quite other than that demanded by the interest of all. The fact that his own existence as an individual has an absolute value, and that he is, by nature, an independent being, may lead him to conclude that what he owes to the common cause is something that he renders of his own free will; and he may decide that by leaving the debt unpaid he does less harm to his fellows than he would to himself should he make the necessary surrender. Regarding the moral entity constituting the State as a rational abstraction because it is not a man, he might enjoy his rights as a citizen without, at the same time, fulfilling his duties as a subject, and the resultant injustice might grow until it brought ruin upon the whole body politic.

In order, then, that the social compact may not be but a vain formula, it must contain, though unexpressed, the single undertaking which can alone give force to the whole, namely, that whoever shall refuse to obey the general will must be constrained by the whole body of his fellow citizens to do so: which is no more than to say that it may be necessary to compel a man to be free—freedom being that condition which, by giving each citizen to his country, guarantees him from all personal dependence and is the foundation upon which the whole political machine rests, and supplies the power which works it. Only the recognition by the individual of the rights of the community can give legal force to undertakings entered into between citizens, which, otherwise, would become absurd, tyrannical, and exposed to vast abuses.

Of the Civil State

The passage from the state of nature to the civil state produces a truly remarkable change in the individual. It substitutes justice for instinct in his behavior, and gives to his actions a moral basis which formerly was lacking. Only when the voice of duty replaces physical impulse and when right replaces the cravings of appetite does the man who, till then, was concerned solely with himself, realize that he is under compulsion to obey quite different principles, and that he must now consult his reason and not merely respond to the promptings of desire. Although he may find himself deprived of many advantages which were his in a state of nature, he will recognize that he

has gained others which are of far greater value. By dint of being exercised, his faculties will develop, his ideas take on a wider scope, his sentiments become ennobled, and his whole soul be so elevated, that, but for the fact that misuse of the new conditions still, at times, degrades him to a point below that from which he has emerged, he would unceasingly bless the day which freed him forever from his ancient state, and turned him from a limited and stupid animal into an intelligent being and a Man.

Let us reduce all this to terms which can be easily compared. What a man loses as a result of the Social Contract is his natural liberty and his unqualified right to lay hands on all that tempts him, provided only that he can compass its possession. What he gains is civil liberty and the ownership of what belongs to him. That we may labor under no illusion concerning these compensations, it is well that we distinguish between natural liberty which the individual enjoys so long as he is strong enough to maintain it, and civil liberty which is curtailed by the general will. Between possessions which derive from physical strength and the right of the first-comer, and ownership which can be based only on a positive title.

To the benefits conferred by the status of citizenship might be added that of Moral Freedom, which alone makes a man his own master. For to be subject to appetite is to be a slave, while to obey the laws laid down by society is to be free. But I have already said enough on this point, and am not concerned here with the philosophical meaning of the word liberty.

Of Real Property

Each individual member of the Community gives himself to it at the moment of its formation. What he gives is the whole man as he then is, with all his qualities of strength and power, and everything of which he stands possessed. Not that, as a result of this act of gift, such possessions, by changing hands and becoming the property of the Sovereign, change their nature. Just as the resources of strength upon which the City can draw are incomparably greater than those at the disposition of any single individual, so, too, is public possession when backed by a greater power. It is made more irrevocable, though not, so far, at least, as regards foreigners, more legitimate. For the State, by reason of the Social Contract which, within it, is the basis of all Rights, is the master of all its members' goods, though, in its dealings with other Powers, it is so only by virtue of its rights as

first occupier, which come to it from the individuals who make it up.

The Right of "first occupancy," though more real than the "Right of the strongest," becomes a genuine right only after the right of property has been established. All men have a natural right to what is necessary to them. But the positive act which establishes a man's claim to any particular item of property limits him to that and excludes him from all others. His share having been determined, he must confine himself to that, and no longer has any claim on the property of the community. That is why the right of "first occupancy," however weak it be in a state of nature, is guaranteed to every man enjoying the status of citizen. In so far as he benefits from this right, he withholds his claim, not so much from what is another's, as from what is not specifically his.

In order that the right of "first occupancy" may be legalized, the following conditions must be present. (1) There must be no one already living on the land in question. (2) A man must occupy only so much of it as is necessary for his subsistence. (3) He must take possession of it, not by empty ceremony, but by virtue of his intention to work and to cultivate it, for that, in the absence of legal title, alone constitutes a claim which will be respected by others.

In effect, by according the right of "first occupancy" to a man's needs and to his will to work, are we not stretching it as far as it will go? Should not some limits be set to this right? Has a man only to set foot on land belonging to the community to justify his claim to be its master? Just because he is strong enough, at one particular moment, to keep others off, can he demand that they shall never return? How can a man or a People take possession of vast territories, thereby excluding the rest of the world from their enjoyment, save by an act of criminal usurpation, since, as the result of such an act, the rest of humanity is deprived of the amenities of dwelling and subsistence which nature has provided for their common enjoyment? When Nuñez Balboa,¹³ landing upon a strip of coast, claimed the Southern Sea and the whole of South America as the property of the crown of Castille, was he thereby justified in dispossessing its former inhabitants, and in excluding from it all the other princes of the earth? Grant that, and there will be no end to such vain ceremonies. It would be open to His Catholic Majesty¹⁴ to claim from his Council

¹³ **Nuñez Balboa (1475-1519)** Spanish explorer who discovered the Pacific Ocean.

¹⁴ **His Catholic Majesty** A reference to the king of Spain, probably Ferdinand II of Aragon (1452-1516).

Chamber possession of the whole Universe, only excepting those portions of it already in the ownership of other princes.

One can understand how the lands of individuals, separate but contiguous, become public territory, and how the right of sovereignty, extending from men to the land they occupy, becomes at one real and personal—a fact which makes their owners more than ever dependent, and turns their very strength into a guarantee of their fidelity. This is an advantage which does not seem to have been considered by the monarchs of the ancient world, who, claiming to be no more than kings of the Persians, the Scythians, the Macedonians, seem to have regarded themselves rather as the rulers of men than as the masters of countries. Those of our day are cleverer, for they style themselves kings of France, of Spain, of England, and so forth. Thus, by controlling the land, they can be very sure of controlling its inhabitants.

The strange thing about this act of alienation is that, far from depriving its members of their property by accepting its surrender, the Community actually establishes their claim to its legitimate ownership, and changes what was formerly mere usurpation into a right, by virtue of which they may enjoy possession. As owners they are Trustees for the Commonwealth. Their rights are respected by their fellow citizens and are maintained by the united strength of the community against any outside attack. From ceding their property to the State—and thus, to themselves—they derive nothing but advantage, since they have, so to speak, acquired all that they have surrendered. This paradox is easily explained once we realize the distinction between the rights exercised by the Sovereign and by the Owner over the same piece of property, as will be seen later.

It may so happen that a number of men begin to group themselves into a community before ever they own property at all, and that only later, when they have got possession of land sufficient to maintain them all, do they either enjoy it in common or parcel it between themselves in equal lots or in accordance with such scale of proportion as may be established by the sovereign. However this acquisition be made, the right exercised by each individual over his own particular share must always be subordinated to the overriding claim of the Community as such. Otherwise there would be no strength in the social bond, nor any real power in the exercise of sovereignty.

I will conclude this chapter, and the present Book, with a remark which should serve as basis for every social system: that, so far from destroying natural equality, the primitive compact substitutes for it a moral and legal equality which compensates for all those physical inequalities from which men suffer. However unequal they

may be in bodily strength or in intellectual gifts, they become equal in the eyes of the law, and as a result of the compact into which they have entered.

QUESTIONS FOR CRITICAL READING

1. Examine Rousseau's analogy of the family as the oldest and only natural form of government. Do you agree that the analogy is useful and that its contentions are true? Which aspects of this natural form of government do not work to help us understand the basis of government?
2. Rousseau seems to accept the family as a patriarchal structure. How would his views change if he accepted it as a matriarchal structure? How would they change if he regarded each member of the family as absolutely equal in authority from birth?
3. What does it mean to reason from what is fact instead of from what is morally right?
4. What features of Rousseau's social contract are like those of a legal contract? How does a person contract to be part of society?
5. What distinctions can be made among natural, moral, and legal equality? Which kind of equality is most important to a social system?