

BASIC POLITICAL WRITINGS

DISCOURSE ON THE SCIENCES AND THE ARTS

**DISCOURSE ON THE ORIGIN OF
INEQUALITY**

DISCOURSE ON POLITICAL ECONOMY

ON THE SOCIAL CONTRACT

Translated and edited by DONALD A. CRESS

Introduced by PETER GAY

**HACKETT PUBLISHING COMPANY
INDIANAPOLIS/CAMBRIDGE**

1987

JEAN-JACQUES ROUSSEAU: 1712-1778

**Copyright© 1987 by Hackett Publishing Company
All rights reserved
Printed in the United States of America**

**Cover design by Richard L. Listenberger
Interior design by James N. Rogers**

**For further information, please address
Hackett Publishing Company, Inc.
P.O. Box 44937
Indianapolis, Indiana 46244-0937**

08 07 06 05 04 10 11 12

Library of Congress Cataloging in Publication Data

Rousseau, Jean-Jacques, 1712-1778.

Basic political writings.

Bibliography: p.

**Contents: Discourse on the sciences and arts —
Discourse on the origin of inequality — Discourse
on political economy — [etc.]**

**I. Political science — Collected works. I. Cress,
Donald A. II. Title.**

JC179.R7 1987b 320'.01 87-23610

ISBN 0-87220-048-5

ISBN 0-87220-047-7 (pbk.)

ON THE SOCIAL CONTRACT

BOOK I

I want to inquire whether there can be some legitimate and sure rule of administration in the civil order, taking men as they are and laws as they might be. I will always try in this inquiry to bring together what right permits with what interest prescribes, so that justice and utility do not find themselves at odds with one another.

I begin without demonstrating the importance of my subject. It will be asked if I am a prince or a legislator that I should be writing about politics. I answer that I am neither, and that is why I write about politics. Were I a prince or a legislator, I would not waste my time saying what ought to be done. I would do it or keep quiet.

Born a citizen of a free state and a member of the sovereign, the right to vote is enough to impose upon me the duty to instruct myself in public affairs, however little influence my voice may have in them. Happy am I, for every time I meditate on governments, I always find new reasons in my inquiries for loving that of my country.

CHAPTER I

Subject of the First Book

Man is born free, and everywhere he is in chains. He who believes himself the master of others does not escape being more of a slave than they. How did this change take place? I do not know. What can render it legitimate? I believe I can answer this question.

Were I to consider only force and the effect that flows from it, I would say that so long as a people is constrained to obey and does obey, it does well. As soon as it can shake off the yoke and does shake it off, it does even better. For by recovering its liberty by means of the same right that stole it, either the populace is justified in getting it back or else those who took it away were not justified in their actions. But the social order is a sacred right which serves as a foundation for all other rights. Nevertheless, this right does not come from nature. It is therefore founded upon convention. Before coming to that, I ought to substantiate what I just claimed.

CHAPTER II

Of the First Societies

The most ancient of all societies and the only natural one, is that of the family. Even so children remain bound to their father only so long as they need him to take care of them. As soon as the need ceases, the natural bond is dissolved. Once the children are freed from the obedience they owed the father and their father is freed from the care he owed his children, all return equally to independence. If they continue to remain united, this no longer takes place naturally but voluntarily, and the family maintains itself only by means of convention.

This common liberty is one consequence of the nature of man. Its first law is to see to his maintenance; its first concerns are those he owes himself; and, as soon as he reaches the age of reason, since he alone is the judge of the proper means of taking care of himself, he thereby becomes his own master.

The family therefore is, so to speak, the prototype of political societies; the leader is the image of the father, the populace is the image of the children, and, since all are born equal and free, none give up their liberty except for their utility. The entire difference consists in the fact that in the family the love of the father for his children repays him for the care he takes for them, while in the state, where the leader does not have love for his peoples, the pleasure of commanding takes the place of this feeling.

Grotius denies that all human power is established for the benefit of the governed, citing slavery as an example. His usual method of reasoning is always to present fact as a proof of right.¹ A more logical method could be used, but not one more favorable to tyrants.

According to Grotius, it is therefore doubtful whether the human race belongs to a hundred men, or whether these hundred men belong to the human race. And throughout his book he appears to lean toward the former view. This is Hobbes' position as well. On this telling, the human race is divided into herds of cattle, each one having its own leader who guards it in order to devour it.

Just as a herdsman possesses a nature superior to that of his herd, the herdsmen of men who are the leaders, also have a nature superior to that of their peoples. According to Philo, Caligula reasoned thus, concluding quite properly from this analogy that kings were gods, or that the peoples were beasts.

Caligula's reasoning coincides with that of Hobbes and Grotius. Aristotle, before all the others, had also said that men are by no means equal by nature, but that some were born for slavery and others for domination.

Aristotle was right, but he took the effect for the cause. Every man born in slavery is born for slavery; nothing is more certain. In their chains slaves

1. "Learned research on public right is often nothing more than the history of ancient abuses, and taking a lot of trouble to study them too closely gets one nowhere." *Treatise on the Interests of France Along With Her Neighbors*, by the Marquis d'Argenson. This is just what Grotius has done.

lose everything, even the desire to escape. They love their servitude the way the companions of Ulysses loved their degradation.² If there are slaves by nature, it is because there have been slaves against nature. Force has produced the first slaves; their cowardice has perpetuated them.

I have said nothing about King Adam or Emperor Noah, father of three great monarchs who partitioned the universe, as did the children of Saturn, whom some have believed they recognize in them. I hope I will be appreciated for this moderation, for since I am a direct descendent of these princes, and perhaps of the eldest branch, how am I to know whether, after the verification of titles, I might not find myself the legitimate king of the human race? Be that as it may, we cannot deny that Adam was the sovereign of the world, just as Robinson Crusoe was sovereign of his island, so long as he was its sole inhabitant. And the advantage this empire had was that the monarch, securely on his throne, had no rebellions, wars or conspirators to fear.

CHAPTER III

On the Right of the Strongest

The strongest is never strong enough to be master all the time, unless he transforms force into right and obedience into duty. Hence the right of the strongest, a right that seems like something intended ironically and is actually established as a basic principle. But will no one explain this word to me? Force is a physical power; I fail to see what morality can result from its effects. To give in to force is an act of necessity, not of will. At most, it is an act of prudence. In what sense could it be a duty?

Let us suppose for a moment that there is such a thing as this alleged right. I maintain that all that results from it is an inexplicable mish-mash. For once force produces the right, the effect changes places with the cause. Every force that is superior to the first succeeds to its right. As soon as one can disobey with impunity, one can do so legitimately; and since the strongest is always right, the only thing to do is to make oneself the strongest. For what kind of right is it that perishes when the force on which it is based ceases? If one must obey because of force, one need not do so out of duty; and if one is no longer forced to obey one is no longer obliged. Clearly then, this word "right" adds nothing to force. It is utterly meaningless here.

Obey the powers that be. If that means giving in to force, the precept is sound, but superfluous. I reply it will never be violated. All power comes from God—I admit it—but so does every disease. Does this mean that calling in a physician is prohibited? If a brigand takes me by surprise at the edge of a wooded area, is it not only the case that I must surrender my purse, but even that I am in good conscience bound to surrender it, if I were able to withhold it? After all, the pistol he holds is also a power.

2. See a short treatise of Plutarch entitled "That Animals Reason."

Let us then agree that force does not bring about right, and that one is obliged to obey only legitimate powers. Thus my original question keeps returning.

CHAPTER IV

On Slavery

Since no man has a natural authority over his fellow man, and since force does not give rise to any right, conventions therefore remain the basis of all legitimate authority among men.

If, says Grotius, a private individual can alienate his liberty and turn himself into the slave of a master, why could not an entire people alienate its liberty and turn itself into the subject of a king? There are many equivocal words here which need explanation, but let us confine ourselves to the word *alienate*. To alienate is to give or to sell. A man who makes himself the slave of someone else does not give himself; he sells himself, at least for his subsistence. But why does a people sell itself? Far from furnishing his subjects with their subsistence, a king derives his own from them alone, and, according to Rabelais, a king does not live cheaply. Do subjects then give their persons on the condition that their estate will also be taken? I fail to see what remains for them to preserve.

It will be said that the despot assures his subjects of civil tranquility. Very well. But what do they gain, if the wars his ambition drags them into, if his insatiable greed, if the oppressive demands caused by his ministers occasion more grief for his subjects than their own dissensions would have done? What do they gain, if this very tranquility is one of their miseries? A tranquil life is also had in dungeons; is that enough to make them desirable? The Greeks who were locked up in the Cyclops' cave lived a tranquil existence as they awaited their turn to be devoured.

To say that a man gives himself gratuitously is to say something absurd and inconceivable. Such an act is illegitimate and null, if only for the fact that he who commits it does not have his wits about him. To say the same thing of an entire populace is to suppose a populace composed of madmen. Madness does not bring about right.

Even if each person can alienate himself, he cannot alienate his children. They are born men and free. Their liberty belongs to them; they alone have the right to dispose of it. Before they have reached the age of reason, their father can, in their name, stipulate conditions for their maintenance and for their well-being. But he cannot give them irrevocably and unconditionally, for such a gift is contrary to the ends of nature and goes beyond the rights of paternity. For an arbitrary government to be legitimate, it would therefore be necessary in each generation for the people to be master of its acceptance or rejection. But in that event this government would no longer be arbitrary.

Renouncing one's liberty is renouncing one's dignity as a man, the rights of humanity and even its duties. There is no possible compensation for anyone who renounces everything. Such a renunciation is incompatible

with the nature of man. Removing all liberty from his will is tantamount to removing all morality from his actions. Finally, it is a vain and contradictory convention to stipulate absolute authority on one side and a limitless obedience on the other. Is it not clear that no commitments are made to a person from whom one has the right to demand everything? And does this condition alone not bring with it, without equivalent or exchange, the nullity of the act? For what right would my slave have against me, given that all he has belongs to me, and that, since his right is my right, my having a right against myself makes no sense?

Grotius and others derive from war another origin for the alleged right of slavery. Since, according to them, the victor has the right to kill the vanquished, these latter can repurchase their lives at the price of their liberty—a convention all the more legitimate, since it turns a profit for both of them.

But clearly this alleged right to kill the vanquished does not in any way derive from the state of war. Men are not naturally enemies, for the simple reason that men living in their original state of independence do not have sufficiently constant relationships among themselves to bring about either a state of peace or a state of war. It is the relationship between things and not that between men that brings about war. And since this state of war cannot come into existence from simple personal relations, but only from real [proprietary] relations, a private war between one man and another can exist neither in the state of nature, where there is no constant property, nor in the social state, where everything is under the authority of the laws.

Fights between private individuals, duels, encounters are not acts which produce a state. And with regard to private wars, authorized by the ordinances of King Louis IX of France and suspended by the Peace of God, they are abuses of feudal government, an absurd system if there ever was one, contrary to the principles of natural right and to all sound polity.

War is not therefore a relationship between one man and another, but a relationship between one state and another. In war private individuals are enemies only incidentally: not as men or even as citizens,³ but as soldiers; not as members of the homeland but as its defenders. Finally,

3. [*At this point the following passage was added to the 1782 edition: The Romans, who had a better understanding of and a greater respect for the right of war than any other nation, carried their scruples so far in this regard that a citizen was not allowed to serve as a volunteer unless he had expressly committed himself against the enemy and against a specifically named enemy. When a legion in which Cato the Younger first served had been reorganized, Cato the Elder wrote Popilius that if he wanted his son to continue to serve under him, he would have to make him swear the military oath afresh, since, with the first one having been annulled, he could no longer take up arms against the enemy. And this very same Cato wrote his son to take care to avoid going into battle without swearing this military oath afresh. I know the siege of Clusium and other specific cases can be raised as counter-examples to this, but for my part I cite laws and customs. The Romans were the ones who transgressed their laws least often, and are the only ones to have had such noble laws.*]

each state can have as enemies only other states and not men, since there can be no real relationship between things of disparate natures.

This principle is even in conformity with the established maxims of all times and with the constant practice of all civilized peoples. Declarations of war are warnings not so much to powers as to their subjects. The foreigner (be he king, private individual, or a people) who robs, kills or detains subjects of another prince without declaring war on the prince, is not an enemy but a brigand. Even in the midst of war a just prince rightly appropriates to himself everything in an enemy country belonging to the public, but respects the person and goods of private individuals. He respects the rights upon which his own rights are founded. Since the purpose of war is the destruction of the enemy state, one has the right to kill the defenders of that state so long as they bear arms. But as soon as they lay down their arms and surrender, they cease to be enemies or instruments of the enemy. They return to being simply men; and one no longer has a right to their lives. Sometimes a state can be killed without a single one of its members being killed. For war does not grant a right that is unnecessary to its purpose. These principles are not those of Grotius. They are not based on the authority of poets. Rather they are derived from the nature of things; they are based on reason.

As to the right of conquest, the only basis it has is the law of the strongest. If war does not give the victor the right to massacre the vanquished peoples, this right (which he does not have) cannot be the basis for the right to enslave them. One has the right to kill the enemy only when one cannot enslave him. The right to enslave him does not therefore derive from the right to kill him. Hence it is an iniquitous exchange to make him buy his life, to which no one has any right, at the price of his liberty. In establishing the right of life and death on the right of slavery, and the right of slavery on the right of life and death, is it not clear that one falls into a vicious circle?

Even if we were to suppose that there were this terrible right to kill everyone, I maintain that neither a person enslaved during wartime nor a conquered people bears any obligation whatever toward its master, except to obey him for as long as it is forced to do so. In taking the equivalent of his life, the victor has done him no favor. Instead of killing him unprofitably he kills him usefully. Hence, far from the victor having acquired any authority over him beyond force, the state of war subsists between them just as before. Their relationship itself is the effect of war, and the usage of the right to war does not suppose any peace treaty. They have made a convention. Fine. But this convention, far from destroying the state of war, presupposes its continuation.

Thus, from every point of view, the right of slavery is null, not simply because it is illegitimate, but because it is absurd and meaningless. These words, *slavery* and *right*, are contradictory. They are mutually exclusive. Whether it is the statement of one man to another man, or one man to a people, the following sort of talk will always be equally nonsensical. *I make a convention with you which is wholly at your expense and wholly*

to my advantage; and, for as long as it pleases me, I will observe it and so will you.

CHAPTER V

That It Is Always Necessary to Return to a First Convention

Even if I were to grant all that I have thus far refuted, the supporters of despotism would not be any better off. There will always be a great difference between subduing a multitude and ruling a society. If scattered men, however many they may be, were successively enslaved by a single individual, I see nothing there but a master and slaves; I do not see a people and its leader. It is, if you will, an aggregation, but not an association. There is neither a public good nor a body politic there. Even if that man had enslaved half the world, he is always just a private individual. His interest, separated from that of others, is never anything but a private interest. If this same man is about to die, after his passing his empire remains scattered and disunited, just as an oak tree dissolves and falls into a pile of ashes after fire has consumed it.

A people, says Grotius, can give itself to a king. According to Grotius, therefore, a people is a people before it gives itself to a king. This gift itself is a civil act; it presupposes a public deliberation. Thus, before examining the act whereby a people chooses a king, it would be well to examine the act whereby a people is a people. For since this act is necessarily prior to the other, it is the true foundation of society.

In fact, if there were no prior convention, then, unless the vote were unanimous, what would become of the minority's obligation to submit to the majority's choice, and where do one hundred who want a master get the right to vote for ten who do not? The law of majority rule is itself an established convention, and presupposes unanimity on at least one occasion.

CHAPTER VI

On the Social Compact

I suppose that men have reached the point where obstacles that are harmful to their maintenance in the state of nature gain the upper hand by their resistance to the forces that each individual can bring to bear to maintain himself in that state. Such being the case, that original state cannot subsist any longer, and the human race would perish if it did not alter its mode of existence.

For since men cannot engender new forces, but merely unite and direct existing ones, they have no other means of maintaining themselves but to form by aggregation a sum of forces that could gain the upper hand over the resistance, so that their forces are directed by means of a single moving power and made to act in concert.

This sum of forces cannot come into being without the cooperation of many. But since each man's force and liberty are the primary instruments of his maintenance, how is he going to engage them without hurting him-

self and without neglecting the care that he owes himself? This difficulty, seen in terms of my subject, can be stated in the following terms:

“Find a form of association which defends and protects with all common forces the person and goods of each associate, and by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before.” This is the fundamental problem for which the social contract provides the solution.

The clauses of this contract are so determined by the nature of the act that the least modification renders them vain and ineffectual, that, although perhaps they have never been formally promulgated, they are everywhere the same, everywhere tacitly accepted and acknowledged. Once the social compact is violated, each person then regains his first rights and resumes his natural liberty, while losing the conventional liberty for which he renounced it.

These clauses, properly understood, are all reducible to a single one, namely the total alienation of each associate, together with all of his rights, to the entire community. For first of all, since each person gives himself whole and entire, the condition is equal for everyone; and since the condition is equal for everyone, no one has an interest in making it burdensome for the others.

Moreover, since the alienation is made without reservation, the union is as perfect as possible, and no associate has anything further to demand. For if some rights remained with private individuals, in the absence of any common superior who could decide between them and the public, each person would eventually claim to be his own judge in all things, since he is on some point his own judge. The state of nature would subsist and the association would necessarily become tyrannical or hollow.

Finally, in giving himself to all, each person gives himself to no one. And since there is no associate over whom he does not acquire the same right that he would grant others over himself, he gains the equivalent of everything he loses, along with a greater amount of force to preserve what he has.

If, therefore, one eliminates from the social compact whatever is not essential to it, one will find that it is reducible to the following terms. *Each of us places his person and all his power in common under the supreme direction of the general will; and as one we receive each member as an indivisible part of the whole.*

At once, in place of the individual person of each contracting party, this act of association produces a moral and collective body composed of as many members as there are voices in the assembly, which receives from this same act its unity, its common *self*, its life and its will. This public person, formed thus by union of all the others formerly took the name *city*,⁴ and at present takes the name *republic* or *body politic*, which is

4. The true meaning of this word is almost entirely lost on modern men. Most of them mistake a town for a city and a townsman for a citizen. They do not know that houses make a town but citizens make a city. Once this mistake cost the Carthagin-

called *state* by its members when it is passive, *sovereign* when it is active, *power* when compared to others like itself. As to the associates, they collectively take the name *people*; individually they are called *citizens*, insofar as participants in the sovereign authority, and *subjects*, insofar as they are subjected to the laws of the state. But these terms are often confused and mistaken for one another. It is enough to know how to distinguish them when they are used with absolute precision.

CHAPTER VII

On the Sovereign

This formula shows that the act of association includes a reciprocal commitment between the public and private individuals, and that each individual, contracting, as it were, with himself, finds himself under a twofold commitment: namely as a member of the sovereign to private individuals, and as a member of the state toward the sovereign. But the maxim of civil law that no one is held to commitments made to himself cannot be applied here, for there is a considerable difference between being obligated to oneself, or to a whole of which one is a part.

It must be further noted that the public deliberation that can obligate all the subjects to the sovereign, owing to the two different relationships in which each of them is viewed, cannot, for the opposite reason, obligate the sovereign to itself, and that consequently it is contrary to the nature of the body politic that the sovereign impose upon itself a law it could not break. Since the sovereign can be considered under but one single relationship, it is then in the position of a private individual contracting with himself. Whence it is apparent that there neither is nor can be any type of fundamental law that is obligatory for the people as a body, not even the social contract. This does not mean that the whole body cannot perfectly well commit itself to another body with respect to things that do not infringe on this contract. For in regard to the foreigner, it becomes a simple being, an individual.

However, since the body politic or the sovereign derives its being exclusively from the sanctity of the contract, it can never obligate itself, not even to another power, to do anything that derogates from the original act,

ians dearly. I have not found in my reading that the title of *citizen* has ever been given to the subjects of a prince, not even in ancient times to the Macedonians or in our own time to the English, although they are closer to liberty than all the others. Only the French adopt this name *citizen* with complete familiarity, since they have no true idea of its meaning, as can be seen from their dictionaries. If this were not the case, they would become guilty of treason for using it. For them, this name expresses a virtue and not a right. When Bodin wanted to speak about our citizens and townsmen, he committed a terrible blunder when he mistook the one group for the other. M. d'Alembert was not in error, and in his article entitled *Geneva* he has carefully distinguished the four orders of men (even five, counting ordinary foreigners) who are in our towns, and of whom only two make up the republic. No other French author I am aware of has grasped the true meaning of the word *citizen*.

such as alienating some portion of itself or submitting to another sovereign. Violation of the act whereby it exists would be self-annihilation, and whatever is nothing produces nothing.

As soon as this multitude is thus united in a body, one cannot harm one of the members without attacking the whole body. It is even less likely that the body can be harmed without the members feeling it. Thus duty and interest equally obligate the two parties to come to one another's aid, and the same men should seek to combine in this two-fold relationship all the advantages that result from it.

For since the sovereign is formed entirely from the private individuals who make it up, it neither has nor could have an interest contrary to theirs. Hence, the sovereign power has no need to offer a guarantee to its subjects, since it is impossible for a body to want to harm all of its members, and, as we will see later, it cannot harm any one of them in particular. The sovereign, by the mere fact that it exists, is always all that it should be.

But the same thing cannot be said of the subjects in relation to the sovereign, for which, despite their common interest, their commitments would be without substance if it did not find ways of being assured of their fidelity.

In fact, each individual can, as a man, have a private will contrary to or different from the general will that he has as a citizen. His private interest can speak to him in an entirely different manner than the common interest. His absolute and naturally independent existence can cause him to envisage what he owes the common cause as a gratuitous contribution, the loss of which will be less harmful to others than its payment is burdensome to him. And in viewing the moral person which constitutes the state as a being of reason because it is not a man, he would enjoy the rights of a citizen without wanting to fulfill the duties of a subject, an injustice whose growth would bring about the ruin of the body politic.

Thus, in order for the social compact to avoid being an empty formula, it tacitly entails the commitment—which alone can give force to the others—that whoever refuses to obey the general will will be forced to do so by the entire body. This means merely that he will be forced to be free. For this is the sort of condition that, by giving each citizen to the homeland, guarantees him against all personal dependence—a condition that produces the skill and the performance of the political machine, and which alone bestows legitimacy upon civil commitments. Without it such commitments would be absurd, tyrannical and subject to the worst abuses.

CHAPTER VIII

On the Civil State

This passage from the state of nature to the civil state produces quite a remarkable change in man, for it substitutes justice for instinct in his behavior and gives his actions a moral quality they previously lacked. Only then, when the voice of duty replaces physical impulse and right replaces appetite, does man, who had hitherto taken only himself into account, find himself forced to act upon other principles and to consult

his reason before listening to his inclinations. Although in this state he deprives himself of several of the advantages belonging to him in the state of nature, he regains such great ones. His faculties are exercised and developed, his ideas are broadened, his feelings are ennobled, his entire soul is elevated to such a height that, if the abuse of this new condition did not often lower his status to beneath the level he left, he ought constantly to bless the happy moment that pulled him away from it forever and which transformed him from a stupid, limited animal into an intelligent being and a man.

Let us summarize this entire balance sheet so that the credits and debits are easily compared. What man loses through the social contract is his natural liberty and an unlimited right to everything that tempts him and that he can acquire. What he gains is civil liberty and the proprietary ownership of all he possesses. So as not to be in error in these compensations, it is necessary to draw a careful distinction between natural liberty (which is limited solely by the force of the individual involved) and civil liberty (which is limited by the general will), and between possession (which is merely the effect of the force or the right of the first occupant) and proprietary ownership (which is based solely on a positive title).

To the preceding acquisitions could be added the acquisition in the civil state of moral liberty, which alone makes man truly the master of himself. For to be driven by appetite alone is slavery, and obedience to the law one has prescribed for oneself is liberty. But I have already said too much on this subject, and the philosophical meaning of the word *liberty* is not my subject here.

CHAPTER IX

On the Real [i.e., Proprietary] Domain

Each member of the community gives himself to it at the instant of its constitution, just as he actually is, himself and all his forces, including all the goods in his possession. This is not to say that by this act possession changes its nature as it changes hands and becomes property in the hands of the sovereign. Rather, since the forces of the city are incomparably greater than those of a private individual, public possession is by that very fact stronger and more irrevocable, without being more legitimate, at least to strangers. For with regard to its members, the state is master of all their goods in virtue of the social contract, which serves in the state as the basis of all rights. But with regard to other powers, the state is master only in virtue of the right of the first occupant, which it derives from private individuals.

The right of first occupant, though more real than the right of the strongest, does not become a true right until after the establishment of the right of property. Every man by nature has a right to everything he needs; however, the positive act whereby he becomes a proprietor of some goods excludes him from all the rest. Once his lot has been determined, he should limit himself thereto, no longer having any right against the community. This is the reason why the right of the first occupant, so weak in the state of nature, is able to command the respect of every man living

in the civil state. In this right, one respects not so much what belongs to others as what does not belong to oneself.

In general, the following rules must obtain in order to authorize the right of the first occupant on any land. First, this land may not already be occupied by anyone. Second, no one may occupy more than the amount needed to subsist. Third, one is to take possession of it not by an empty ceremony, but by working and cultivating it—the only sign of property that ought, in the absence of legal titles, to be respected by others.

In fact, by according to need and work the right of the first occupant, is it not extended as far as it can go? Is it possible to avoid setting limits to this right? Will setting one's foot on a piece of common land be sufficient to claim it at once as one's own? Will having the force for a moment to drive off other men be sufficient to deny them the right ever to return? How can a man or a people seize a vast amount of territory and deprive the entire human race of it except by a punishable usurpation, since this seizure deprives all other men of the shelter and sustenance that nature gives them in common? When Nuñez Balboa stood on the shoreline and took possession of the South Sea and all of South America in the name of crown of Castille, was this enough to dispossess all the inhabitants and to exclude all the princes of the world? On that basis, those ceremonies would be multiplied quite in vain. All the Catholic King had to do was to take possession of the universe all at once from his private room, excepting afterwards from his empire only what already belonged to other princes.

One can imagine how the combined and contiguous lands of private individuals became public territory; and how the right of sovereignty, extending from subjects to the land they occupied, becomes at once real and personal. This places its owners in a greater dependence, turning their very own forces into guarantees of their loyalty. This advantage does not seem to have been fully appreciated by the ancient monarchs, who, calling themselves merely King of the Persians, the Scythians, and the Macedonians, appeared to regard themselves merely as the leaders of men rather than the masters of the country. Today's monarchs more shrewdly call themselves King of France, Spain, England, and so on. In holding the land thus, they are quite sure of holding the inhabitants.

What is remarkable about this alienation is that, in accepting the goods of private individuals, the community is far from despoiling them; rather, in so doing, it merely assures them of legitimate possession, changing usurpation into a true right, and enjoyment into proprietary ownership. In that case, since owners are considered trustees of the public good, and since their rights are respected by all members of the state and maintained with all its force against foreigners, through an advantageous surrender to the public and still more so to themselves, they have, so to speak, acquired all they have given. This paradox is easily explained by the distinction between the rights of the sovereign and those of the proprietor to the same store, as will be seen later.

It can also happen, as men begin to unite before possessing anything and later appropriate a piece of land sufficient for everyone, that they enjoy it in common or divide it among themselves either in equal shares or according to proportions laid down by the sovereign. In whatever way this acquisition is accomplished, each private individual's right to his very own store is always subordinate to the community's right to all, without which there could be neither solidity in the social fabric nor real force in the exercise of sovereignty.

I will end this chapter and this book with a remark that should serve as a basis for every social system. It is that instead of destroying natural equality, the fundamental compact, on the contrary, substitutes a moral and legitimate equality to whatever physical inequality nature may have been able to impose upon men, and that, however, unequal in force or intelligence they may be, men all become equal by convention and by right.⁵

END OF THE FIRST BOOK

BOOK II

CHAPTER I

That Sovereignty Is Inalienable

The first and most important consequence of the principles established above is that only the general will can direct the forces of the state according to the purpose for which it was instituted, which is the common good. For if the opposition of private interests made necessary the establishment of societies, it is the accord of these same interests that made it possible. It is what these different interests have in common that forms the social bond, and, were there no point of agreement among all these interests, no society could exist. For it is utterly on the basis of this common interest that society ought to be governed.

I therefore maintain that since sovereignty is merely the exercise of the general will, it can never be alienated, and that the sovereign, which is only a collective being, cannot be represented by anything but itself. Power can perfectly well be transmitted, but not the will.

In fact, while it is not impossible for a private will to be in accord on some point with the general will, it is impossible at least for this accord to be durable and constant. For by its nature the private will tends toward

5. Under bad governments this equality is only apparent and illusory. It serves merely to maintain the poor man in his misery and the rich man in his usurpation. In actuality, laws are always useful to those who have possessions and harmful to those who have nothing. Whence it follows that the social state is advantageous to men only insofar as they all have something and none of them has too much.

having preferences, and the general will tends toward equality. It is even more impossible for there to be a guarantee of this accord even if it ought always to exist. This is not the result of art but of chance. The sovereign may well say, "Right now I want what a certain man wants or at least what he says he wants." But it cannot say, "What this man will want tomorrow I too will want," since it is absurd for the will to tie its hands for the future and since it does not depend upon any will's consenting to anything contrary to the good of the being that wills. If, therefore, the populace promises simply to obey, it dissolves itself by this act, it loses its standing as a people. The very moment there is a master, there no longer is a sovereign, and thenceforward the body politic is destroyed.

This is not to say that the commands of the leaders could not pass for manifestations of the general will, so long as the sovereign, who is free to oppose them, does not do so. In such a case, the consent of the people ought to be presumed on the basis of universal silence. This will be explained at greater length.

CHAPTER II

That Sovereignty Is Indivisible

Sovereignty is indivisible for the same reason that it is inalienable. For either the will is general,¹ or it is not. It is the will of either the people as a whole or of only a part. In the first case, this declared will is an act of sovereignty and constitutes law. In the second case, it is merely a private will, or an act of magistracy. At most it is a decree.

However, our political theorists, unable to divide sovereignty in its principle, divide it in its object. They divide it into force and will, into legislative and executive power, into rights of imposing taxes, of justice and of war, into internal administration and power to negotiate with foreigners. Occasionally they confuse all these parts and sometimes they separate them. They turn the sovereign into a fantastic being made of interconnected pieces. It is as if they built a man out of several bodies, one of which had eyes, another had arms, another feet, and nothing more. Japanese sleight-of-hand artists are said to dismember a child before the eyes of spectators, then, throwing all the parts in the air one after the other, they make the child fall back down alive and all in one piece. These conjuring acts of our political theorists are more or less like these performances. After having taken apart the social body by means of a sleight-of-hand worthy of a carnival, they put the pieces back together who knows how.

This error comes from not having formed precise notions of sovereign authority, and from having taken for parts of that authority what were

1. For a will to be general, it need not always be unanimous; however, it is necessary for all the votes to be counted. Any formal exclusion is a breach of generality.

merely emanations from it. Thus, for example, the acts of declaring war and making peace have been viewed as acts of sovereignty, which they are not, since each of these acts is not a law but merely an application of the law, a particular act determining the legal circumstances, as will be clearly seen when the idea attached to the word *law* comes to be defined.

In reviewing the other divisions in the same way, one would find that one is mistaken every time one believes one sees sovereignty divided, and that the rights one takes to be the parts of this sovereignty are all subordinated to it and always presuppose supreme wills which these rights merely put into effect.

It would be impossible to say how much this lack of precision has obscured the decisions of authors who have written about political right when they wanted to judge the respective rights of kings and peoples on the basis of the principles they had established. Anyone can see, in Chapters III and IV of Book I of Grotius, how this learned man and his translator, Barbeyrac, become entangled and caught up in their sophisms, for fear of either saying too much or too little according to their perspectives, and of offending the interests they needed to reconcile. Grotius, taking refuge in France, unhappy with his homeland and desirous of paying court to Louis XIII (to whom his book is dedicated), spares no pain to rob the people of all their rights and to invest kings with them by every possible artifice. This would also have been the wish of Barbeyrac, who dedicated his translation to King George I of England. But unfortunately the expulsion of James II (which he calls an abdication) forced him to be evasive and on his guard and to beat around the bush, in order to avoid making William out to be a usurper. If these two writers had adopted the true principles, all their difficulties would have been alleviated and they would always have been consistent. However, sad to say, they would have told the truth and paid court only to the people. For truth does not lead to fortune, and the populace grants neither ambassadorships, university chairs nor pensions.

CHAPTER III

Whether the General Will Can Err

It follows from what has preceded that the general will is always right and always tends toward the public utility. However, it does not follow that the deliberations of the people always have the same rectitude. We always want what is good for us, but we do not always see what it is. The populace is never corrupted, but it is often tricked, and only then does it appear to want what is bad.

There is often a great deal of difference between the will of all and the general will. The latter considers only the general interest, whereas the former considers private interest and is merely the sum of private wills. But remove from these same wills the pluses and minuses that

cancel each other out,² and what remains as the sum of the differences is the general will.

If, when a sufficiently informed populace deliberates, the citizens were to have no communication among themselves, the general will would always result from the large number of small differences, and the deliberation would always be good. But when intrigues and partial associations come into being at the expense of the large association, the will of each of these associations becomes general in relation to its members and particular in relation to the state. It can be said, then, that there are no longer as many voters as there are men, but merely as many as there are associations. The differences become less numerous and yield a result that is less general. Finally, when one of these associations is so large that it dominates all the others, the result is no longer a sum of minor differences, but a single difference. Then there is no longer a general will, and the opinion that dominates is merely a private opinion.

For the general will to be well articulated, it is therefore important that there should be no partial society in the state and that each citizen make up his own mind.³ Such was the unique and sublime institution of the great Lycurgus. If there are partial societies, their number must be multiplied and inequality among them prevented, as was done by Solon, Numa and Servius. These precautions are the only effective way of bringing it about that the general will is always enlightened and that the populace is not tricked.

CHAPTER IV

On the Limits of Sovereign Power

If the state or the city is merely a moral person whose life consists in the union of its members, and if the most important of its concerns is that of its own conservation, it ought to have a universal compulsory force to move and arrange each part in the manner best suited to the whole. Just as nature gives each man an absolute power over all his members, the social compact gives the body politic an absolute power over all its members, and it is the same power which, as I have said, is directed by the general will and bears the name sovereignty.

2. *Each interest, says the Marquis d'Argenson, has different principles. The accord of two private interests is formed in opposition to that of a third.* He could have added that the accord of all the interests is found in the opposition to that of each. If there were no different interests, the common interest, which would never encounter any obstacle, would scarcely be felt. Everything would proceed on its own and politics would cease being an art.

3. *"It is true," says Machiavelli, "that some divisions are harmful to the republic while others are helpful to it. Those that are accompanied by sects and partisan factions are harmful. Since, therefore, a ruler of a republic cannot prevent enmities from arising within it, he at least ought to prevent them from becoming sects," The History of Florence, Book VII. [Rousseau here quotes the Italian.]*

risk their lives for its defense, what are they then doing but returning to the state what they have received from it? What are they doing, that they did not do more frequently and with greater danger in the state of nature, when they would inevitably have to fight battles, defending at the peril of their lives the means of their preservation? It is true that everyone has to fight, if necessary, for the homeland; but it also is the case that no one ever has to fight on his own behalf. Do we not still gain by running, for something that brings about our security, a portion of the risks we would have to run for ourselves once our security is taken away?

CHAPTER V

On the Right of Life or Death

The question arises how private individuals who have no right to dispose of their own lives can transfer to the sovereign this very same right which they do not have. This question seems difficult to resolve only because it is poorly stated. Every man has the right to risk his own life in order to preserve it. Has it ever been said that a person who jumps out a window to escape a fire is guilty of committing suicide? Has this crime ever been imputed to someone who perishes in a storm, unaware of its danger when he embarked?

The social treaty has as its purpose the conservation of the contracting parties. Whoever wills the end also wills the means, and these means are inseparable from some risks, even from some losses. Whoever wishes to preserve his life at the expense of others should also give it up for them when necessary. For the citizen is no longer judge of the peril to which the law wishes he be exposed, and when the prince has said to him, "it is expedient for the state that you should die," he should die. Because it is under this condition alone that he has lived in security up to then, and because his life is not only a kindness of nature, but a conditional gift of the state.

The death penalty inflicted on criminals can be viewed from more or less the same point of view. It is in order to avoid being the victim of an assassin that a person consents to die, were he to become one. According to this treaty, far from disposing of his own life, one thinks only of guaranteeing it. And it cannot be presumed that any of the contracting parties is then planning to get himself hanged.

Moreover, every malefactor who attacks the social right becomes through his transgressions a rebel and a traitor to the homeland; in violating its laws, he ceases to be a member, and he even wages war with it. In that case the preservation of the state is incompatible with his own. Thus one of the two must perish; and when the guilty party is put to death, it is less as a citizen than as an enemy. The legal proceeding 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. For since he has acknowledged himself to be such, at least by his

living there, he ought to be removed 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, but a man, and in this situation the right of war is to kill the vanquished.

But it will be said that the condemnation of a criminal is a particular act. Fine. So this condemnation is not a function of the sovereign. It is a right the sovereign can confer without itself being able to exercise it. All of my opinions are consistent, but I cannot present them all at once.

In addition, frequency of physical punishment is always a sign of weakness or of torpor in the government. There is no wicked man who could not be made good for something. One has the right to put to death, even as an example, only someone who cannot be preserved without danger.

With regard to the right of pardon, or of exempting a guilty party from the penalty decreed by the law and pronounced by the judge, this belongs only to one who is above the judge and the law, that is, to the sovereign. Still its right in this regard is not clearly defined, and the cases in which it is used are quite rare. In a well governed state, there are few punishments, not because many pardons are granted, but because there are few criminals. When a state is in decline, the sheer number of crimes insures impunity. Under the Roman Republic, neither the senate nor the consuls ever tried to grant pardons. The people itself did not do so, even though it sometimes revoked its own judgment. Frequent pardons indicate that transgressions will eventually have no need of them, and everyone sees where that leads. But I feel that my heart murmurs and holds back my pen. Let us leave these questions to be discussed by a just man who has not done wrong and who himself never needed pardon.

CHAPTER VI

On Law

Through the social compact we have given existence and life to the body politic. It is now a matter of giving it movement and will through legislation. For the primitive act whereby this body is formed and united still makes no determination regarding what it should do to preserve itself.

Whatever is good and in conformity with order is such by the nature of things and independently of human conventions. All justice comes from God; he alone is its source. But if we knew how to receive it from so exalted a source, we would have no need for government or laws. Undoubtedly there is a universal justice emanating from reason alone; but this justice, to be admitted among us, ought to be reciprocal. Considering things from a human standpoint, the lack of a natural sanction causes the laws of justice to be without teeth among men. They do nothing but good to the wicked and evil to the just, when the latter observes them in his dealings with everyone while no one observes them in their dealings

with him. There must therefore be conventions and laws to unite rights and duties and to refer justice back to its object. In the state of nature where everything is commonly held, I owe nothing to those to whom I have promised nothing. I recognize as belonging to someone else only what is not useful to me. It is not this way in the civil state where all rights are fixed by law.

But what then is a law? So long as we continue to be satisfied with attaching only metaphysical ideas to this word, we will continue to reason without coming to any understanding. And when they have declared what a law of nature is, they will not thereby have a better grasp of what a law of the state is.

I have already stated that there is no general will concerning a particular object. In effect, this particular object is either within or outside of the state. If it is outside of the state, a will that is foreign to it is not general in relation to it. And if this object is within the state, that object is part of it; in that case, a relationship is formed between the whole and its parts which makes two separate beings, one of which is the part, and the other is the whole less that same part. But the whole less a part is not the whole, and so long as this relationship obtains, there is no longer a whole, but rather two unequal parts. Whence it follows that the will of the one is not more general in relation to the other.

But when the entire populace enacts a statute concerning the entire populace, it considers only itself, and if in that case a relationship is formed, it is between the entire object seen from one perspective and the entire object seen from another, without any division of the whole. Then the subject matter about which a statute is enacted is general like the will that enacts it. It is this act that I call a law.

When I say that the object of the laws is always general, I have in mind that the law considers subjects as a body and actions in the abstract, never a man as an individual or a particular action. Thus the law can perfectly well enact a statute to the effect that there be privileges, but it cannot bestow them by name on anyone. The law can create several classes of citizens, and even stipulate the qualifications that determine membership in these classes, but it cannot name specific persons to be admitted to them. It can establish a royal government and a hereditary line of succession, but it cannot elect a king or name a royal family. In a word, any function that relates to an individual does not belong to the legislative power. On this view, it is immediately obvious that it is no longer necessary to ask who is to make the laws, since they are the 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 one is both free and subject to the laws, since they are merely the record of our own wills.

Moreover, it is apparent that since the law combines the universality of the will and that of the object, what a man, whoever he may be, decrees on his own authority is not a law. What even the sovereign decrees con-

cerning a particular object is no closer to being a law; rather, it is a decree. Nor is it an act of sovereignty but of magistracy.

I therefore call every state ruled by laws a republic, regardless of the form its administration may take. For only then does the public interest govern, and only then is the “public thing” [in Latin: *res publica*] something real. Every legitimate government is republican.⁵ I will explain later on what government is.

Strictly speaking, laws are merely the conditions of civil association. The populace that is subjected to the laws ought to be their author. The regulating of the conditions of a society belongs to no one but those who are in association with one another. But how will they regulate these conditions? Will it be by a common accord, by a sudden inspiration? Does the body politic have an organ for making known its will? Who will give it the necessary foresight to formulate acts and to promulgate them in advance, or how will it announce them in time of need? How will a blind multitude, which often does not know what it wants (since it rarely knows what is good for it), carry out on its own an enterprise as great and as difficult as a system of legislation? By itself the populace always wants the good, but by itself it does not always see it. The general will is always right, but the judgment that guides it is not always enlightened. It must be made to see objects as they are, and sometimes as they ought to appear to it. The good path it seeks must be pointed out to it. It must be made safe from the seduction of private wills. It must be given a sense of time and place. It must weigh present, tangible advantages against the danger of distant, hidden evils. Private individuals see the good they reject. The public wills the good that it does not see. Everyone is equally in need of guides. The former must be obligated to conform their wills to their reason; the latter must learn to know what it wants. Then public enlightenment results in the union of the understanding and the will in the social body; hence the full cooperation of the parts, and finally the greatest force of the whole. Whence there arises the necessity of having a legislator.

CHAPTER VII

On the Legislator

Discovering the rules of society best suited to nations would require a superior intelligence that beheld all the passions of men without feeling any of them; who had no affinity with our nature, yet knew it through and through; whose happiness was independent of us, yet who never-

5. By this word I do not have in mind merely an aristocracy or a democracy, but in general every government guided by the general will, which is the law. To be legitimate, the government need not be made indistinguishable from the sovereign, but it must be its minister. Then the monarchy itself is a republic. This will become clear in the next Book.

CHAPTER XIV

Continuation

Once the populace is legitimately assembled as a sovereign body, all jurisdiction of the government ceases; the executive power is suspended, and the person of the humblest citizen is as sacred and inviolable as that of the first magistrate, for where those who are represented are found, there is no longer any representative. Most of the tumults that arose in the comitia in Rome were due to ignorance or neglect of this rule. On such occasions the consuls were merely the presidents of the people; the tribunes, ordinary speakers;¹² the senate, nothing at all.

These intervals of suspension, during which the prince recognizes or ought to recognize an actual superior, have always been disturbing to him. And these assemblies of the people, which are the aegis of the body politic and the curb on the government, have at all times been the horror of leaders. Thus they never spare efforts, objections, difficulties, or promises to keep the citizens from having them. When the citizens were greedy, cowardly, and pusillanimous, more enamored of repose than with liberty, they do not hold out very long against the redoubled efforts of the government. Thus it is that, as the resisting force constantly grows, the sovereign authority finally vanishes, and the majority of the cities fall and perish prematurely.

But between the sovereign authority and arbitrary government, there sometimes is introduced an intermediate power about which we must speak.

CHAPTER XV

On Deputies or Representatives

Once public service ceases to be the chief business of the citizens, and they prefer to serve with their wallet rather than with their person, the state is already near its ruin. Is it necessary to march off to battle? They pay mercenary troops and stay at home. Is it necessary to go to the council? They name deputies and stay at home. By dint of laziness and money, they finally have soldiers to enslave the country and representatives to sell it.

The hustle and bustle of commerce and the arts, the avid interest in profits, softness and the love of amenities: these are what change personal services into money. A person gives up part of his profit in order to increase it at leisure. Give money and soon you will be in chains. The

12. In nearly the same sense as is given this word in English Parliament. The similarity between these activities would have put the consuls and the tribunes in conflict, even if all jurisdiction had been suspended.

word *finance* is a slave's word. It is unknown in the city. In a truly free state the citizens do everything with their own hands and nothing with money. Far from paying to be exempted from their duties, they would pay to fulfill them themselves. Far be it from me to be sharing commonly held ideas. I believe that forced labor is less opposed to liberty than are taxes.

The better a state is constituted, the more public business takes precedence over private business in the minds of the citizens. There even is far less private business, since, with the sum of common happiness providing a more considerable portion of each individual's happiness, less remains for him to look for through private efforts. In a well run city everyone flies to the assemblies; under a bad government no one wants to take a step to get to them, since no one takes an interest in what happens there, for it is predictable that the general will will not predominate, and that in the end domestic concerns absorb everything. Good laws lead to making better laws; bad laws bring about worse ones. Once someone says *what do I care?* about the affairs of state, the state should be considered lost.

The cooling off of patriotism, the activity of private interest, the largeness of states, conquests, the abuse of government: these have suggested the route of using deputies or representatives of the people in the nation's assemblies. It is what in certain countries is called the third estate. Thus the private interest of two orders is given first and second place; the public interest is given merely third place.

Sovereignty cannot be represented for the same reason that it cannot be alienated. It consists essentially in the general will, and the will does not allow of being represented. It is either itself or something else; there is nothing in between. The deputies of the people, therefore, neither are nor can be its representatives; they are merely its agents. They cannot conclude anything definitively. Any law that the populace has not ratified in person is null; it is not a law at all. The English people believes itself to be free. It is greatly mistaken; it is free only during the election of the members of Parliament. Once they are elected, the populace is enslaved; it is nothing. The use the English people makes of that freedom in the brief moments of its liberty certainly warrants their losing it.

The idea of representatives is modern. It comes to us from feudal government, that iniquitous and absurd government in which the human race is degraded and the name of man is in dishonor. In the ancient republics and even in monarchies, the people never had representatives. The word itself was unknown. It is quite remarkable that in Rome where the tribunes were so sacred, no one even imagined that they could usurp the functions of the people, and that in the midst of such a great multitude, they never tried to pass a single plebiscite on their own authority. However, we can size up the difficulties that were sometimes caused by the crowd by what took place in the time of the Gracchi, when part of the citizenry voted from the rooftops.

Where right and liberty are everything, inconveniences are nothing. In the care of this wise people, everything was handled correctly. It allowed its lictors to do what its tribunes would not have dared to do. It had no fear that its lictors would want to represent it.

However, to explain how the tribunes sometimes represented it, it is enough to conceive how the government represents the sovereign. Since the law is merely the declaration of the general will, it is clear that the people cannot be represented in the legislative power. But it can and should be represented in the executive power, which is merely force applied to the law. This demonstrates that, on close examination, very few nations would be found to have laws. Be that as it may, it is certain that, since they have no share in the executive power, the tribunes could never represent the Roman people by the rights of their office, but only by usurping those of the senate.

Among the Greeks, whatever the populace had to do, it did by itself. It was constantly assembled at the public square. It inhabited a mild climate; it was not greedy; its slaves did the work; its chief item of business was its liberty. No longer having the same advantages, how are the same rights to be preserved? Your harsher climates cause you to have more needs;¹³ six months out of the year the public square is uninhabitable; your muted tongues cannot make themselves understood in the open air; you pay more attention to your profits than to your liberty; and you are less fearful of slavery than you are of misery.

What! Can liberty be maintained only with the support of servitude? Perhaps. The two extremes meet. Everything that is not in nature has its drawbacks, and civil society more so than all the rest. There are some unfortunate circumstances where one's liberty can be preserved only at the expense of someone else's, and where the citizen can be perfectly free only if the slave is completely enslaved. Such was the situation in Sparta. As for you, modern peoples, you do not have slaves, but you yourselves are slaves. You pay for their liberty with your own. It is in vain that you crow about that preference. I find more cowardice in it than humanity.

I do not mean by all this that having slaves is necessary, nor that the right of slavery is legitimate, for I have proved the contrary. I am merely stating the reasons why modern peoples who believe themselves free have representatives, and why ancient peoples did not have them. Be that as it may, the moment a people gives itself representatives, it is no longer free; it no longer exists.

All things considered, I do not see that it is possible henceforth for the sovereign to preserve among us the exercise of its rights, unless the city is very small. But if it is very small, will it be subjugated? No. I will show

13. To adopt in cold countries the luxury and softness of the orientals is to desire to be given their chains; it is submitting to these with even greater necessity than they did.

later¹⁴ how the external power of a great people can be combined with the ease of administration and the good order of a small state.

CHAPTER XVI

That the Institution of Government Is Not a Contract

Once the legislative power has been well established, it is a matter of establishing the executive power in the same way. For this latter, which functions only by means of particular acts, not being of the essence of the former, is naturally separate from it. Were it possible for the sovereign, considered as such, to have the executive power, right and fact would be so completely confounded that we would no longer know what is law and what is not. And the body politic, thus denatured, would soon fall prey to the violence against which it was instituted.

Since the citizens are all equal by the social contract, what everyone should do can be prescribed by everyone. On the other hand, no one has the right to demand that someone else do what he does not do for himself. Now it is precisely this right, indispensable for making the body politic live and move, that the sovereign gives the prince in instituting the government.

Several people have claimed that this act of establishment was a contract between the populace and the leaders it gives itself, a contract by which are stipulated between the two parties the conditions under which the one obliges itself to command and the other to obey. It will be granted, I am sure, that this is a strange way of entering into a social contract! But let us see if this opinion is tenable.

First, the supreme authority cannot be modified any more than it can be alienated; to limit it is to destroy it. It is absurd and contradictory for the sovereign to acquire a superior. To obligate oneself to obey a master is to return to full liberty.

Moreover, it is evident that this contract between the people and some or other persons would be a particular act. Whence it follows that this contract could be neither a law nor an act of sovereignty, and that consequently it would be illegitimate.

It is also clear that the contracting parties would, in relation to one another, be under only the law of nature and without any guarantee of their reciprocal commitments, which is contrary in every way to the civil state. Since the one who has force at his disposal is always in control of its employment, it would come to the same thing if we were to give the name contract to the act of a man who would say to another, "I am giving you all my goods, on the condition that you give me back whatever you wish."

There is only one contract in the state, that of the association, and

14. This is what I intended to do in the rest of this work, when in treating external relations I would have come to confederations. An entirely new subject, and its principles have yet to be established.

CHAPTER II

On Voting

It is clear from the preceding chapter that the manner in which general business is taken care of can provide a rather accurate indication of the present state of mores and of the health of the body politic. The more harmony reigns in the assemblies, that is to say, the closer opinions come to unanimity, the more dominant too is the general will. But long debates, dissensions, and tumult betoken the ascendancy of private interests and the decline of the state.

This seems less evident when two or more orders enter into its constitution, as had been done in Rome by the patricians and the plebeians, whose quarrels often disturbed the comitia, even in the best of times in the Republic. But this exception is more apparent than real. For then, by the vice inherent in the body politic, there are, as it were, two states in one. What is not true of the two together is true of each of them separately. And indeed even in the most tumultuous times, the plebiscites of the people, when the senate did not interfere with them, always passed quietly and by a large majority of votes. Since the citizens have but one interest, the people had but one will.

At the other extreme of the circle, unanimity returns. It is when the citizens, having fallen into servitude, no longer have either liberty or will. Then fear and flattery turn voting into acclamations. People no longer deliberate; either they adore or they curse. Such was the vile manner in which the senate expressed its opinions under the emperors; sometimes it did so with ridiculous precautions. Tacitus observes that under Otho, the senators, while heaping curses upon Vitellius, contrived at the same time to make a frightening noise, so that, if by chance he became master, he would be unable to know what each of them had said.

From these various considerations there arise the maxims by which the manner of counting votes and comparing opinions should be regulated, depending on whether the general will is more or less easy to know and the state more or less in decline.

There is but one law that by its nature requires unanimous consent. This is the social compact. For civil association is the most voluntary act in the world. Since every man is born free and master of himself, no one can, under any pretext whatever, place another under subjection without his consent. To decide that the son of a slave is born a slave is to decide that he was not a man.

If, therefore, at the time of the social compact, there are opponents to it, their opposition does not invalidate the contract; it merely prevents them from being included in it. They are foreigners among citizens. Once the state is instituted, residency implies consent. To inhabit the territory is to submit to sovereignty.¹

1. This should always be understood in connection with a free state, for otherwise the family, goods, the lack of shelter, necessity, or violence can keep an inhabitant

Aside from this primitive contract, the vote of the majority always obligates all the others. This is a consequence of the contract itself. But it is asked how a man can be both free and forced to conform to wills that are not his own. How can the opponents be both free and be placed in subjection to laws to which they have not consented?

I answer that the question is not put properly. The citizen consents to all the laws, even to those that pass in spite of his opposition, and even to those that punish him when he dares to violate any of them. The constant will of all the members of the state is the general will; through it they are citizens and free.² When a law is proposed in the people's assembly, what is asked of them is not precisely whether they approve or reject, but whether or not it conforms to the general will that is theirs. Each man, in giving his vote, states his opinion on this matter, and the declaration of the general will is drawn from the counting of votes. When, therefore, the opinion contrary to mine prevails, this proves merely that I was in error, and that what I took to be the general will was not so. If my private opinion had prevailed, I would have done something other than what I had wanted. In that case I would not have been free.

This presupposes, it is true, that all the characteristics of the general will are still in the majority. When they cease to be free, there is no longer any liberty regardless of the side one takes.

In showing earlier how private wills were substituted for the general will in public deliberations, I have given an adequate indication of the possible ways of preventing this abuse. I will discuss this again at a later time. With respect to the proportional number of votes needed to declare this will, I have also given the principles on the basis of which it can be determined. The difference of a single vote breaks a tie vote; a single opponent destroys a unanimous vote. But between a unanimous and a tie vote there are several unequal divisions, at any of which this proportionate number can be fixed in accordance with the condition and needs of the body politic.

Two general maxims can serve to regulate these ratios. One, that the more important and serious the deliberations are, the closer the prevailing opinion should be to unanimity. The other, that the more the matter at hand calls for alacrity, the smaller the prescribed difference in the division of opinion should be. In decisions that must be reached immediately, a majority of a single vote should suffice. The first of these maxims seems more suited to the laws, and the second to public business. Be that as it

in a country in spite of himself; and then his sojourn alone no longer presupposes his consent to the contract or to the violation of the contract.

2. In Genoa, the word *libertas* [liberty] can be read on the front of prisons and on the chains of galley-slaves. This application of the motto is fine and just. Indeed it is only malefactors of all social classes who prevent the citizen from being free. In a country where all such people were in the galleys, the most perfect liberty would be enjoyed.

may, it is the combination of the two that establishes the ratios that best help the majority to render its decision.

CHAPTER III

On Elections

With regard to the elections of the prince and the magistrates, which are, as I have said, complex acts, there are two ways to proceed, namely by choice or by lots. Both of these have been used in various republics, and at present we still see a very complicated mixture of the two in the election of the Doge of Venice.

Voting by lot, says Montesquieu, *is of the essence of democracy*. I agree, but why is this the case? *Drawing lots*, he continues, *is a way of electing that harms no one; it leaves each citizen a reasonable hope of serving the homeland*. These are not reasons.

If we keep in mind that the election of leaders is a function of government and not of the sovereignty, we will see why the method of drawing lots is more in the nature of democracy, where the administration is better in proportion as its acts are less numerous.

In every true democracy the magistrature is not an advantage but a heavy responsibility that cannot justly be imposed on one private individual rather than another. The law alone can impose this responsibility on the one to whom it falls by lot. For in that case, with the condition being equal for all and the choice not depending on any human will, there is no particular application that alters the universality of the law.

In any aristocracy, the prince chooses the prince; the government is preserved by itself, and it is there that voting is appropriate.

The example of the election of the Doge of Venice, far from destroying this distinction, confirms it. This mixed form suits a mixed government. For it is an error to regard the government of Venice as a true aristocracy. For although the populace there has no part in the government, the nobility is itself the people. A multitude of poor Barnabites never came near any magistrature, have nothing to show for their nobility but the vain title of excellency and the right to be present at the grand council. Since this grand council is as numerous as our general council in Geneva, its illustrious members have no more privileges than our single citizens. It is certain that, aside from the extreme disparity between the two republics, the bourgeoisie of Geneva exactly corresponds to the Venetian patriciate. Our natives and inhabitants correspond to the townsmen and people of Venice. Our peasants correspond to the subjects on the mainland. Finally, whatever way one considers this Republic, apart from its size, its government is no more aristocratic than ours. The whole difference lies in the fact that, since we do not have leaders who serve for life, we do not have the same need to draw lots.

Elections by lot would have few disadvantages in a true democracy where, all things being equal both in mores and talents as well as in