The Moral Foundations of Modern Democracy

Mary and David Nichols Conference on the Great Books
Sponsored by the Alexander Hamilton Institute for the Study of Western Civilization and
The Department of Political Science
Waco, Texas (April 14-15, 2023)

Friday, April 14 (2412 Ridgewood Avenue, Waco)

10:15 Continental Breakfast

10:45 Welcome and Introduction

11:00-12:30

Session 1: : James Wilson: Popular Sovereignty and the Law of Nature

Discussion leader: Steve Block

Readings: James Wilson (Part 1, Chapters I-III of the Lectures on Law)

12:30-1:30 Lunch

1:30-3:00

Session 2: Rousseau: Natural Equality and the Origin of Inequality

Discussion leader: Dense Schaeffer

Rousseau, The Discourse on the Origin of Inequality (selections)

3:30 Break

3:30-5:00

Session 3: Rousseau: Liberty, Popular Sovereignty, and the Social Contract

Discussion leader: Denise Schaeffer

Reading: Rousseau, The Social Contract (selections)

5:30 Dinner

Saturday, April 15, 2023 (Pecan Bluff, near Lake Whitney)

10:15 Continental breakfast

11:00-12:30

Session 4: Burke: Popular Government and the Mixed Regime

Discussion leader: David Clinton

Reading: "Thoughts on the Causes of the Present Discontents"

12:30-1:30 Lunch

1:30-3:00

Session 5: Wilson and Burke: Nature, Tradition and the Foundations of Liberty

Discussion leaders: Steve Block and David Clinton

Readings: Wilson, "Of the Natural Rights of Individuals" (Part 2, Ch. XII of the Lectures on Law)

Burke, *Reflections on the Revolution in France* (selections)

Burke, "Letter to Sir Hercules Langrishe"

3:30-4:00

Taking Pictures

Participants

Organizer

Assistant Organizer

Mary Nichols

Professor Emerita, Political Science

Baylor University

Jenice Langston

Office Manager, Political Science

Baylor University

Discussion Leaders

Baylor University

Steve Block

Senior Lecturer, Political Science

Denise Schaeffer

Professor, Political Science The College of the Holy Cross **David Clinton**

Professor and Chair, Political Science

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Discussants

Kevin Burns, Assistant Professor and Chair of

Political Science, and Director of Tocqueville Forum on Liberal Democracy

Christendom College

Front Royal, Virginia

Debbie O'Malley

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Other participants

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Kate Birmingham PhD candidate Political Science, Baylor

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Lectures on Law

James Wilson 1790

CHAPTER I

Introductory Lecture. Of the Study of the Law in the United States.

Ladies and Gentlemen,

Though I am not unaccustomed to speak in publick, yet, on this occasion, I rise with much diffidence to address you. The character, in which I appear, is both important and new. Anxiety and selfdistrust are natural on my first appearance. These feelings are greatly heightened by another consideration, which operates with peculiar force. I never before had the honour of addressing a *fair* audience. Anxiety and selfdistrust, in an uncommon degree, are natural, when, for the first time, I address a fair audience so brilliant as this is. There is one encouraging reflection, however, which greatly supports me. The whole of my very respectable audience is as much distinguished by its politeness, as a part of it is distinguished by its brilliancy. From that politeness, I shall receive—what I feel I need—an uncommon degree of generous indulgence.

It is the remark of an admired historian, that the high character, which the Grecian commonwealths long possessed among nations, should not be ascribed solely to their excellence in science and in government. With regard to these, other nations, he thinks, and particularly that of which he was writing the history, were entitled to a reputation, not less exalted and illustrious. But the opinion, he says, of the superiour endowments and achievements of the Grecians has arisen, in a considerable degree, from their peculiar felicity in having their virtues transmitted to posterity by writers, who excelled those of every other country in abilities and elegance.

Alexander, when master of the world, envied the good fortune of Achilles, who had a Homer to celebrate his deeds.

The observation, which was applied to Rome by Sallust, and the force of which appears so strongly from the feelings of Alexander, permit me to apply, for I can apply it with equal propriety, to the States of America.

They have not, it is true, been long or much known upon the great theatre of nations: their immature age has not hitherto furnished them with many occasions of extending their renown to the distant quarters of the globe. But, in real worth and excellence, I boldly venture to compare them with the most illustrious commonwealths, which adorn the records of fame. When some future Xenophon or Thucydides shall arise to do justice to their virtues and their actions; the glory of America will rival—it will outshine the glory of Greece.

Were I called upon for my reasons why I deem so highly of the American character, I would assign them in a very few words—That character has been eminently distinguished by the love of liberty, and the love of law.

I rejoice in my appointment to this chair, because it gives me the best opportunities to discover, to study, to develop, and to communicate many striking instances, hitherto little known, on which this distinguished character is founded.

In free countries—in free countries, especially, that boast the blessing of a common law, springing warm and spontaneous from the manners of the people—Law should be studied and taught as a historical science.

The eloquent Rousseau complains, that the origin of nations is much concealed by the darkness or the distance of antiquity.

In many parts of the world, the fact may be as he represents it; and yet his complaint may be without foundation: for, in many parts of the world, the origin of nations ought to be buried in oblivion. To succeeding ages, the knowledge of it would convey neither pleasure nor instruction.

With regard to the States of America, I am happy in saying, that a complaint concerning the uncertainty of their first settlements cannot be made with propriety or truth; though I must add, that, if it could be made with propriety or truth, it would be a subject of the deepest regret.

If the just and genuine principles of society can diffuse a lustre round the establishment of nations; that of the States of America is indeed illustrious. Fierce oppression, rattling, in her left hand, the chains of tyranny; and brandishing, in her right hand, the torch of persecution, drove our predecessors from the coasts of Europe: liberty, benevolent and serene, pointing to a cornucopia on one side, and to a branch of olive on the other, invited and conducted them to the American shores.

In discharging the duties of this office, I shall have the pleasure of presenting to my hearers what, as to the nations in the Transatlantick world, must be searched for in vain—an original compact of a society, on its first arrival in this section of the globe. How the lawyers, and statesmen, and antiquarians, and philosophers of Europe would exult, on discovering a similar monument of the Athenian commonwealth! and yet, perhaps, the historical monuments of the states of America are not, intrinsically, less important, or less worthy of attention, than the historical monuments of the states of Greece. The latter, indeed, are gilded with the gay decorations of fable and mythology; but the former are clothed in the neater and more simple garb of freedom and truth.

The doctrine of toleration in matters of religion, reasonable though it certainly is, has not been long known or acknowledged. For its reception and establishment, where it has been received and established, the world has been thought to owe much to the inestimable writings of the celebrated Locke. To the inestimable

writings of that justly celebrated man, let the tribute of applause be plenteously paid: but while immortal honours are bestowed on the name and character of Locke; why should an ungracious silence be observed, with regard to the name and character of Calvert?

Let it be known, that, before the doctrine of toleration was published in Europe, the practice of it was established in America...

But while we perform the pleasing duties of gratitude, let not other duties be disregarded. Illustrious examples are displayed to our view, that we may imitate as well as admire. Before we can be distinguished by the same honours, we must be distinguished by the same virtues.

What are those virtues? They are chiefly the same virtues, which we have already seen to be descriptive of the American character—the love of liberty, and the love of law. But law and liberty cannot rationally become the objects of our love, unless they first become the objects of our knowledge. The same course of study, properly directed, will lead us to the knowledge of both. Indeed, neither of them can be known, because neither of them can exist, without the other. Without liberty, law loses its nature and its name, and becomes oppression. Without law, liberty also loses its nature and its name, and becomes licentiousness. In denominating, therefore, that science, by which the knowledge of both is acquired, it is unnecessary to preserve, in terms, the distinction between them. That science may be named, as it has been named, the science of law.

The science of law should, in some measure, and in some degree, be the study of every free citizen, and of every free man. Every free citizen and every free man has duties to perform and rights to claim. Unless, in some measure, and in some degree, he knows those duties and those rights, he can never act a just and an independent part.

Happily, the general and most important principles of law are not removed to a very great distance from common apprehension. It has been said of religion, that though the elephant may swim, yet the lamb may wade in it. Concerning law, the same observation may be made.

The home navigation, carried on along the shores, is more necessary, and more useful too, than that, which is pursued through the deep and expanded ocean. A man may be a most excellent coaster, though he possess not the nautical accomplishments and experience of a Cook.

As a science, the law is far from being so disagreeable or so perplexed a study, as it is frequently supposed to be. Some, indeed, involve themselves in a thick mist of terms of art; and use a language unknown to all, but those of the profession. By such, the knowledge of the law, like the mysteries of some ancient divinity, is confined to its initiated votaries; as if all others were in duty bound, blindly and implicitly to obey. But this ought not to be the case. The knowledge of those

rational principles on which the law is founded, ought, especially in a free government, to be diffused over the whole community.

In a free country, every citizen forms a part of the sovereign power: he possesses a vote, or takes a still more active part in the business of the commonwealth. The right and the duty of giving that vote, the right and the duty of taking that share, are necessarily attended with the duty of making that business the object of his study and inquiry.

In the United States, every citizen is frequently called upon to act in this great publick character. He elects the legislative, and he takes a personal share in the executive and judicial departments of the nation. It is true, that a man, who wishes to be right, will, with the official assistance afforded him, be seldom under the necessity of being wrong: but it is equally true, and it ought not to be concealed, that the publick duties and the publick rights of every citizen of the United States loudly demand from him all the time, which he can prudently spare, and all the means which he can prudently employ, in order to learn that part, which it is incumbent on him to act.

On the publick mind, one great truth can never be too deeply impressed—that the weight of the government of the United States, and of each state composing the union, rests on the shoulders of the people.

I express not this sentiment now, as I have never expressed it heretofore, with a view to flatter: I express it now, as I have always expressed it heretofore, with a far other and higher aim—with an aim to excite the people to acquire, by vigorous and manly exercise, a degree of strength sufficient to support the weighty burthen, which is laid upon them—with an aim to convince them, that their duties rise in strict proportion to their rights; and that few are able to trace or to estimate the great danger, in a free government, when the rights of the people are unexercised, and the still greater danger, when the rights of the people are ill exercised.

At a general election, too few attend to the important consequences of voting or not voting; and to the consequences, still more important, of voting right or voting wrong.

The rights and the duties of jurors, in the United States, are great and extensive. No punishment can be inflicted without the intervention of one—in much the greater number of cases, without the intervention of more than one jury. Is it not of immense consequence to the publick, that those, who have committed crimes, should not escape with impunity? Is it not of immense consequence to individuals, that all, except those who have committed crimes, should be secure from the punishment denounced against their commission? Is it not, then, of immense consequence to both, that jurors should possess the spirit of just discernment, to discriminate between the innocent and the guilty? This spirit of just discernment requires knowledge of, at least, the general principles of the law, as well as knowledge of the minute particulars concerning the facts.

It is true, that, in matters of law, the jurors are entitled to the assistance of the judges; but it is also true, that, after they receive it, they have the right of judging for themselves: and is there not to this right the great corresponding duty of judging *properly*?

Surely, therefore, those who discharge the important and, let me add, the dignified functions of jurors, should acquire, as far as they possibly can acquire, a knowledge of the laws of their country: for, let me add further, the dignity, though not the importance of their functions, will greatly depend on the abilities, with which they discharge them...

Let me ascend to a station more elevated still. In the United States, the doors of publick honours and publick offices are, on the broad principles of equal liberty, thrown open to all. A laudable emulation, an emulation that ought to be encouraged in a free government, may prompt a man to legislate as well as to decide for his fellow citizens—to legislate, not merely for a single State, but for the most august Union that has yet been formed on the face of the globe.

Should not he, who is to supply the deficiencies of the existing law, know when the existing law is defective? Should not he, who is to introduce alterations into the existing law, know in what instances the existing law ought to be altered?

The first and governing maxim in the interpretation of a statute is, to discover the meaning of those, who made it. The first rule, subservient to the principle of the governing maxim, is, to discover what the law was, before the statute was made. The inference, necessarily resulting from the joint operation of the maxim and the rule, is this, that in explaining a statute, the judges ought to take it for granted, that those, who made it, knew the antecedent law. This certainly implies, that a competent knowledge of, at least, the general principles of law, is of indispensable necessity to those, who undertake the transcendent office of legislation.

I say, a knowledge of the general principles of law: for though an accurate, a minute, and an extensive knowledge of its practice and particular rules be highly useful; yet I cannot conceive it to be absolutely requisite to the able discharge of a legislative trust...

That a law education is necessary for gentlemen intended for the profession of the law, it would be as ridiculous to prove as to deny. In all other countries, publick institutions bear a standing testimony to this truth. Ought this to be the only country without them? Justinian, who did so much for the Roman law, was, as might have been expected, uncommonly attentive to form and establish a proper plan for studying it. All the modern nations of Europe have admitted the profession of their municipal jurisprudence, into their universities and other seminaries of liberal education.

A question deeply interesting to the American States now presents itself. Should the elements of a law education, particularly as it respects publick law, be drawn entirely from another country—or should they be drawn, in part, at least, from the constitutions and governments and laws of the United States, and of the several States composing the Union?

The subject, to one standing where I stand, is not without its delicacy: let me, however, treat it with the decent but firm freedom, which befits an independent citizen, and a professor in independent states.

Surely I am justified in saying, that the principles of the constitutions and governments and laws of the United States, and the republicks, of which they, are formed, are materially different from the principles of the constitution and government and laws of England; for that is the only country, from the principles of whose constitution and government and laws, it will be contended, that the elements of a law education ought to be drawn. I presume to go further: the principles of our constitutions and governments and laws are materially *better* than the principles of the constitution and government and laws of England.

Permit me to mention one great principle, the *vital* principle I may well call it, which diffuses animation and vigour through all the others. The principle I mean is this, that the supreme or sovereign power of the society resides in the citizens at large; and that, therefore, they always retain the right of abolishing, altering, or amending their constitution, at whatever time, and in whatever manner, they shall deem it expedient.

By Sir William Blackstone, from whose Commentaries, a performance in many respects highly valuable, the elements of a foreign law education would probably be borrowed—by Sir William Blackstone, this great and fundamental principle is treated as a political chimera, existing only in the minds of some theorists; but, in practice, inconsistent with the dispensation of any government upon earth.

...[W]e have thought, and we have acted upon revolution principles, without offering them up as sacrifices at the shrine of revolution precedents.

Why should we not teach our children those principles, upon which we ourselves have thought and acted? Ought we to instill into their tender minds a theory, especially if unfounded, which is contradictory to our own practice, built on the most solid foundation? Why should we reduce them to the cruel dilemma of condemning, either those principles which they have been taught to believe, or those persons whom they have been taught to revere?...

[A] revolution principle certainly is, and certainly should be taught as a principle of the constitution of the United States, and of every State in the Union.

This revolution principle—that, the sovereign power residing in the people; they may change their constitution and government whenever they please—is not a principle of discord, rancour, or war: it is a principle of melioration, contentment,

and peace. It is a principle not recommended merely by a flattering theory: it is a principle recommended by happy experience...

The foundations of political truth have been laid but lately: the genuine science of government, to no human science inferiour in importance, is, indeed, but in its infancy: and the reason of this can be easily assigned. In the whole annals of the Transatlantick world, it will be difficult to point out a single instance of its legitimate institution: I will go further, and say, that, among all the political writers of the Transatlantick world, it will be difficult to point out a single model of its unbiassed theory.

The celebrated Grotius introduces what he says concerning the interesting doctrine of sovereignty, with the following information. "Learned men of our age, each of them handling the argument, rather, according to the present interest of the affairs of his country, than according to truth, have greatly perplexed that, which, of itself, was not very clear." In this, the learned men of every other age have resembled those of the age of Grotius.

Indeed, it is astonishing, in what intricate mazes politicians and philosophers have bewildered themselves upon this subject. Systems have been formed upon systems, all fleeting, because all unfounded. Sovereignty has sometimes been viewed as a star, which eluded our investigation by its immeasurable height: sometimes it has been considered as a sun, which could not be distinctly seen by reason of its insufferable splendour.

In Egypt, the Nile is an object truly striking and grand. Its waters, rising to a certain height, and spreading to a certain distance, are the cause of fertility and plenty: swelling higher, and extending further, they produce devastation and famine. This stupendous stream, at some times so beneficial, at other times so destructive, has, at all times, formed a subject of anxious inquiry. To trace its source has been the unceasing aim of the mighty and the learned. Kings, attended with all the instruments of strength; sages, furnished with all the apparatus of philosophy, have engaged, with ardour, in the curious search; but their most patient and their most powerful enterprises have been equally vain.

The source of the Nile continued still unknown; and because it continued still unknown, the poets fondly fabled that it was to be found only in a superiour orb; and, of course, it was worshipped as a divinity.

We are told, however, that, at last, the source of the Nile has been discovered; and that it consists of—what might have been supposed before the discovery—a collection of springs small, indeed, but pure.

The fate of sovereignty has been similar to that of the Nile. Always magnificent, always interesting to mankind, it has become alternately their blessing and their curse. Its origin has often been attempted to be traced. The great and the wise have embarked in the undertaking; though seldom, it must be owned, with the

spirit of just inquiry; or in the direction, which leads to important discovery. The source of sovereignty was still concealed beyond some impenetrable mystery; and, because it was concealed, philosophers and politicians, in this instance, gravely taught what, in the other, the poets had fondly fabled, that it must be something more than human: it was impiously asserted to be divine.

Lately, the inquiry has been recommenced with a different spirit, and in a new direction; and although the discovery of nothing very astonishing, yet the discovery of something very useful and true, has been the result. The dread and redoubtable sovereign, when traced to his ultimate and genuine source, has been found, as he ought to have been found, in the free and independent man.

This truth, so simple and natural, and yet so neglected or despised, may be appreciated as the first and fundamental principle in the science of government.

Besides the reasons, which I have already offered; others may be suggested, why the elements of a law education ought to be drawn from our own constitutions and governments and laws.

In every government, which is not altogether despotical, the institution of youth is of some publick consequence. In a republican government, it is of the greatest. Of no class of citizens can the education be of more publick consequence, than that of those, who are destined to take an active part in publick affairs. Those who have had the advantage of a law education, are very frequently destined to take this active part. This deduction clearly shows, that, in a free government, the principles of a law education are matters of the greatest publick consequence.

Ought not those principles to be congenial with the principles of government? By the revolution in the United States, a very great alteration—a very great improvement—as we have already seen, has taken place in our system of government: ought not a proportioned alteration—ought not a proportioned improvement to be introduced into our system of law education?

We have passed the Red Sea in safety: we have survived a tedious and dangerous journey through the wilderness: we are now in full and peaceable possession of the promised land: must we, after all, return to the flesh pots of Egypt? Is there not danger, that when one nation teaches, it may, in some instances, give the law to another?

A foundation of human happiness, broader and deeper than any that has heretofore been laid, is now laid in the United States: on that broad and deep foundation, let it be our pride, as it is our duty, to build a superstructure of adequate extent and magnificence...

Deeply impressed with the importance of this truth, I have undertaken the difficult, the laborious, and the delicate task of contributing to lay that foundation. I feel most sensibly the weight of the duty, which I have engaged to perform. I will not promise to perform it successfully—as well as it might be performed: but

I will promise to perform it faithfully—as well as I can perform it. I feel its full importance...

It may be asked—I am told it has been asked—is it proper, that a judge of the supreme court of the United States should deliver lectures on law?...

Let things be considered as they really are. As a judge, I can decide whether property in dispute belongs to the man on my right hand, or to the man on my left hand. As a judge, I can pass sentence on a felon or a cheat. By doing both, a judge may be eminently useful in preserving peace, and in securing property.

Property, highly deserving security, is, however, not an end, but a means. How miserable, and how contemptible is that man, who inverts the order of nature, and makes his property, not a means, but an end!

Society ought to be preserved in peace; most unquestionably. But is this all? Ought it not to be improved as well as protected? Look at individuals: observe them from infancy to youth, from youth to manhood. Such is the order of Providence with regard to society. It is in a progressive state, moving on towards perfection. How is this progressive state to be assisted and accelerated? Principally by teaching the young "ideas how to shoot," and the young affections how to move.

What intrinsically can be more dignified, than to assist in preparing tender and ingenuous minds for all the great purposes, for which they are intended! What, I repeat it, can intrinsically be more dignified, than to assist in forming a future Cicero, or a future Bacon, without the vanity of one, and without the meanness of the other!

...If any example, set by me, can be supposed to have the least publick influence; I hope it will be in raising the care of education to that high degree of respectability, to which, every where, but especially in countries that are free, it has the most unimpeachable title.

I have been zealous—I hope I have not been altogether unsuccessful—in contributing the best of my endeavours towards forming a system of government; I shall rise in importance, if I can be equally successful—I will not be less zealous—in contributing the best of my endeavours towards forming a system of education likewise, in the United States. I shall rise in importance, because I shall rise in usefulness.

What are laws without manners? How can manners be formed, but by a proper education?

Methinks I hear one of the female part of my audience exclaim—What is all this to us? We have heard much of societies, of states, of governments, of laws, and of a law education. Is every thing made for your sex? Why should not we have a share? Is our sex less honest, or less virtuous, or less wise than yours?

Will any of my brethren be kind enough to furnish me with answers to these questions?—I must answer them, it seems, myself? and I mean to answer them most sincerely.

Your sex is neither less honest, nor less virtuous, nor less wise than ours. With regard to the two first of these qualities, a superiority, on our part, will not be pretended: with regard to the last, a pretension of superiority cannot be supported.

I will name three women; and I will then challenge any of my brethren to name three men superiour to them in vigour and extent of abilities. My female champions are, Semiramis of Nineveh; Zenobia, the queen of the East; and Elizabeth of England. I believe it will readily be owned, that three men of superiour active talents cannot be named.

You will please, however, to take notice, that the issue, upon which I put the characters of these three ladies, is not that they were *accomplished;* it is, that they were *able* women.

This distinction immediately reminds you, that a woman may be an able, without being an accomplished female character.

In this latter view, I did not produce the three female characters I have mentioned. I produced them as women, merely of distinguished abilities—of abilities equal to those displayed by the most able of our sex.

But would you wish to be tried by the qualities of our sex? I will refer you to a more proper standard—that of your own.

All the three able characters, I have mentioned, had, I think, too much of the masculine in them. Perhaps I can conjecture the reason. Might it not be owing, in a great measure—might it not be owing altogether to the masculine employments, to which they devoted themselves?

Two of them were able warriours: all of them were able queens; but in all of them, we feel and we regret the loss of the lovely and accomplished woman: and let me assure you, that, in the estimation of our sex, the loss of the lovely and accomplished woman is irreparable, even when she is lost in the queen.

For these reasons, I doubt much, whether it would be proper that you should undertake the management of publick affairs. You have, indeed, heard much of publick government and publick law: but these things were not made for themselves: they were made for something better; and of that something better, you form the better part—I mean society—I mean particularly domestick society: there the lovely and accomplished woman shines with superiour lustre.

By some politicians, society has been considered as only the scaffolding of government; very improperly, in my judgment. In the just order of things, government is the scaffolding of society: and if society could be built and kept

entire without government, the scaffolding might be thrown down, without the least inconvenience or cause of regret.

Government is, indeed, highly necessary; but it is highly necessary to a fallen state. Had man continued innocent, society, without the aids of government, would have shed its benign influence even over the bowers of Paradise.

...To protect and to improve social life, is, as we, have seen, the end of government and law. If, therefore, you have no share in the formation, you have a most intimate connexion with the effects, of a good system of law and government.

That plan of education, which will produce, or promote, or preserve such a system, is, consequently, an object to you peculiarly important.

But if you would see such a plan carried into complete effect, you must, my amiable hearers, give it your powerful assistance. The pleasing task of forming your daughters is almost solely yours. In my plan of education for your sons, I must solicit you to cooperate. Their virtues, in a certain proportion—the refinement of their virtues, in a much greater proportion, must be moulded on your example...

You see now, my fair and amiable hearers, how deeply and nearly interested you are in a proper plan of law education. By some of you, whom I know to be well qualified for taking in it the share, which I have described, that share will be taken. By the younger part of you, the good effects of such a plan will, I hope, be participated: for those of my pupils, who themselves shall become most estimable, will treat you with the highest degree of estimation...

CHAPTER II

Of the General Principles of Law and Obligation

Order, proportion, and fitness pervade the universe. Around us, we see; within us, we feel; above us, we admire a rule, from which a deviation cannot, or should not, or will not be made.

On the inanimate part of the creation, are impressed the continued energies of motion and of attraction, and other energies, varied and yet uniform, all designated and ascertained. Animated nature is under a government suited to every genus, to every species, and to every individual, of which it consists. Man, the *nexus utriusque mundi*, composed of a body and a soul, possessed of faculties intellectual and moral, finds or makes a system of regulations, by which his various and important nature, in every period of his existence, and in every situation, in which he can be placed, may be preserved, improved, and perfected. The celestial as well as the terrestrial world knows its exalted but prescribed course. This angels and the spirits of the just, made perfect, do "clearly behold,"

and without any swerving observe." Let humble reverence attend us as we proceed. The great and incomprehensible Author, and Preserver, and Ruler of all things—he himself works not without an eternal decree...Such—and so universal is law.

Before we descend to the consideration of the several kinds and parts of this science, so dignified and so diversified, it will be proper, and it will be useful, to contemplate it in one general and comprehensive view; and to select some of its leading and luminous properties, which will serve to guide and enlighten us in that long and arduous journey, which we now undertake.

It may, perhaps, be expected, that I should begin with a regular definition of law. I am not insensible of the use, but, at the same time, I am not insensible of the abuse of definitions. In their very nature, they are not calculated to extend the acquisition of knowledge, though they may be well fitted to ascertain and guard the limits of that knowledge, which is already acquired. By definitions, if made with accuracy—and consummate accuracy ought to be their indispensable characteristick—ambiguities in expression, and different meanings of the same term, the most plentiful sources of errour and of fallacy in the reasoning art, may be prevented; or, if that cannot be done, may be detected. But, on the other hand, they may be carried too far, and, unless restrained by the severest discipline, they may produce much confusion and mischief in the very stations, which they are placed to defend.

You have heard much of the celebrated distribution of things into genera and species. On that distribution, Aristotle undertook the arduous task of resolving all reasoning into its primary elements; and he erected, or thought he erected, on a single axiom, a larger system of abstract truths, than were before invented or perfected by any other philosopher. The axiom, from which he sets out, and in which the whole terminates, is, that whatever is predicated of a genus, may be predicated of every species contained under that genus, and of every individual contained under every such species. On that distribution likewise, the very essence of scientifick definition depends: for a definition, strictly and logically regular, "must express the genus of the thing defined, and the specifick difference, by which that thing is distinguished from every other species belonging to that genus."

From this definition of a definition—if I may be pardoned for the apparent play upon the word—it evidently appears that nothing can be defined, which does not denote a species; because that only, which denotes a species, can have a specifick difference.

But further: a specifick difference may, in fact, exist; and yet language may furnish us with no words to express it. Blue is a species of colour; but how shall we express the specifick difference, by which blue is distinguished from green?

Again: expressions, which signify things simple, and void of all composition, are, from the very force of the terms, unsusceptible of definition. It was one of the capital defects of Aristotle's philosophy, that he attempted and pretended to define the simplest things.

Here it may be worth while to note a difference between our own abstract notions, and objects of nature. The former are the productions of our own minds; we can therefore define and divide them, and distinctly designate their limits. But the latter run so much into one another, and their essences, which discriminate them, are so subtile and latent, that it is always difficult often impossible, to define or divide them with the necessary precision. We are in danger of circumscribing nature within the bounds of our own notions, formed, frequently, on a partial or defective view of the object before us. Fettered thus at our outset, we are restrained in our progress, and govern the course of our inquiries, not by the extent or variety of our subject, but by our own preconceived apprehensions concerning it.

This distinction between the objects of nature and our own abstract notions suggests a practical inference. Definitions and divisions in municipal law, the creature of man, may be more useful, because more adequate and more correct, than in natural objects...

Influenced by these admonitory truths, I hesitate, at present, to give a definition of law. My hesitation is increased by the fate of the far greatest number of those, who have hitherto attempted it...

Some of them, indeed, have a claim to attention: one, in particular, will demand it, for reasons striking and powerful—I mean that given by the Commentator on the laws of England [William Blackstone]...

The definition of law in the Commentaries proceeds in this manner. "Law is that rule of action, which is prescribed by some superiour, and which the inferiour is bound to obey." A superiour! Let us make a solemn pause—Can there be *no* law without a superiour? Is it *essential* to law, that inferiority should be involved in the obligation to obey it? Are these distinctions at the root of *all* legislation?

There is a law, indeed, which flows from the Supreme of being—a law, more distinguished by the goodness, than by the power of its allgracious Author. But there are laws also that are human; and does it follow, that, in these, a character of superiority is inseparably attached to him, who makes them; and that a character of inferiority is, in the same manner, inseparably attached to him, for whom they are made? What is this superiority? Who is this superiour? By whom is he constituted? Whence is his superiority derived? Does it flow from a source that is human? Or does it flow from a source that is divine?

From a human source it cannot flow; for no stream issuing from thence can rise higher than the fountain.

If the prince, who makes laws for a people, is superiour, in the terms of the definition, to the people, who are to obey; how comes he to be vested with the superiority over them?

If I mistake not, this notion of superiority, which is introduced as an *essential* part in the definition of a law—for we are told that a law *always* supposes some superiour, who is to make it—this notion of superiority contains the germ of the divine right—a prerogative impiously attempted to be established—of princes, arbitrarily to rule; and of the corresponding obligation—a servitude tyrannically attempted to be imposed—on the people, implicitly to obey.

Despotism, by an artful use of "superiority" in politicks; and scepticism, by an artful use of "ideas" in metaphysicks, have endeavoured—and their endeavours have frequently been attended with too much success—to destroy all true liberty and sound philosophy. By their baneful effects, the science of man and the science of government have been poisoned to their very fountains. But those destroyers of others have met, or must meet, with their own destruction.

We now see, how necessary it is to lay the foundations of knowledge deep and solid. If we wish to build upon the foundations laid by another, we see how necessary it is cautiously and minutely to examine them. If they are unsound, we see how necessary it is to remove them, however venerable they may have become by reputation; whatever regard may have been diffused over them by those who laid them, by those who built on them, and by those who have supported them.

But was Sir William Blackstone a votary of despotick power? I am far from asserting that he was. I am equally far from believing that Mr. Locke was a friend to infidelity. But yet it is unquestionable, that the writings of Mr. Locke have facilitated the progress, and have given strength to the effects of scepticism.

The high reputation, which he deservedly acquired for his enlightened attachment to the mild and tolerating doctrines of christianity, secured to him the esteem and confidence of those, who were its friends. The same high and deserved reputation inspired others of very different views and characters, with a design to avail themselves of its splendour, and, by thatmeans, to diffuse a fascinating kind of lustre over their own tenets of a dark and sable hue. The consequence has been, that the writings of Mr. Locke, one of the most able, most sincere, and most amiable assertors of christianity and true philosophy, have been perverted to purposes, which he would have deprecated and prevented, had he discovered or foreseen them...

Similar, though in an inferiour degree, have been, and may be, the fate and the influence of the writings and character of Sir William Blackstone; even admitting that he was as much a friend to liberty, as Locke and Berkeley were friends to religion.

But in prosecuting the study of law on liberal principles and with generous views, our business is much less with the character of the Commentaries or of their author, than with the doctrines which they contain. If the doctrines, insinuated in the definition of law, can be supported on the principles of reason and science; the defence of other principles, which I have thought to be those of liberty and just government, becomes—I am sorry to say it—a fruitless attempt.

Sir William Blackstone, however, was not the first, nor has he been the last, who has defined law upon the same principles, or upon principles similar and equally dangerous.

This subject is of such radical importance, that it will be well worth while to trace it as far as our materials can carry us; for error as well as truth should be examined historically, and pursued back to its original springs.

By comparing what is said in the Commentaries on this subject, with what is mentioned concerning it in the system of morality, jurisprudence, and politicks written by Baron Puffendorff, we shall be satisfied that, from the sentiments and opinions delivered in the last mentioned performance, those in the first mentioned one have been taken and adopted. "A law," says Puffendorff, "is the command of a superiour." "A law," says Sir William Blackstone, "always supposes some superiour, who is to make it."

The introduction of superiority, as a necessary part of the definition of law, is traced from Sir William Blackstone to Puffendorff. This definition of Puffendorff is substantially the same with that of Hobbes. "A law is the command of him or them, that have the sovereign power, given to those that be his or their subjects." It is substantially the same also with that of Bishop Saunderson. "Law is a rule of action, imposed on a subject, by one who has power over him."

Let us now inquire what is meant by superiority, that we may be able to ascertain and recognise those qualities, inherent or derivative, which entitle the superiour or sovereign to the transcendent power of imposing laws.

We can distinguish two kinds of superiority. 1. A superiority merely of power. 2. A superiority of power, accompanied with a right to exercise that power. Is the first sufficient to entitle its possessor to the character and office of a legislator? If we subscribe to the doctrines of Mr. Hobbes, we shall say, that it is. "To those," says he, "whose power is irresistible, the dominion of all men adhereth naturally, by their excellence of power."...

For us, it is sufficient, as men, as citizens, and as states, to say, that power is nothing more than the right of the strongest, and may be opposed by the same right, by the same means, and by the same principles, which are employed to establish it. Bare force, far from producing an obligation to obey, produces an obligation to resist.

Others, unwilling to rest the office of legislation and the right of sovereignty simply on superiority of power, have to this quality superadded preeminence or superiour excellence of nature.

Let it be remembered all along, that I am examining the doctrine of superiority, as applied to human laws, the proper and immediate object of investigation in these lectures. Of the law that is divine, we shall have occasion, at another time, to speak, with the reverence and gratitude which become us...

Aristotle, it seems, has said, that if a man *could* be found, excelling in *all* virtues, such an one would have a *fair title* to be king. These words may well be understood as conveying, and probably were intended to convey, only this unquestionable truth—that excellence, in every virtue furnished the strongest recommendation, in favour of its happy possessor, *to be elected* for the exercise of authority. If so, the opinion of Aristotle is urged without a foundation properly laid in the fact.

But let us suppose the contrary: let us suppose it to be the judgment of Aristotle, that the person, whom he characterizes, derived his right to the exercise of power, not from the donation made to him by a voluntary election, but solely from his superiour talents and excellence; shall the judgment of Aristotle supersede inquiry into its reasonableness? Shall the judgment of Aristotle, if found, on inquiry, to be unreasonable, silence all reprehension or confutation? Decent respect for authority is favourable to science. Implicit confidence is its bane. Let...us proceed, with freedom and candour combined, to examine the judgment—though I am very doubtful whether it was the judgment—of Aristotle, that the right of sovereignty is founded on superiour excellence.

To that superiority, which attaches the right to command, there must be a corresponding inferiority, which imposes the obligation to obey. Does this right and this obligation result from every kind and every degree of superiority in one, and from every kind and every degree of inferiority in another? How is excellence to be rated or ascertained?

Let us suppose three persons in three different grades of excellence. Is he in the lowest to receive the law immediately from him in the highest? Is he in the highest to give the law immediately to him in the lowest grade? Or is there to be a gradation of law as well as of excellence? Is the command of the first to the third to be conveyed through the medium of the second? Is the obedience of the third to be paid, through the same medium, to the first? Augment the number of grades, and you multiply the confusion of their intricate and endless consequences.

Is this a foundation sufficient for supporting the solid and durable superstructure of law? Shall this foundation, insufficient as it is, be laid in the contingency—allowed to be improbable, not asserted to be even possible—"if a man can be found, excelling in *all* virtues?"

Had it been the intention of Providence, that some men should govern the rest, without their consent, we should have seen as indisputable marks distinguishing these superiours from those placed under them, as those which distinguish men from the brutes. The remark of Rumbald, in the nonresistance time of Charles the second, evinced propriety as well as wit. He could not conceive that the Almighty intended, that the greatest part of mankind should come into the world with saddles on their backs and bridles in their mouths, and that a few should come ready booted and spurred to ride the rest to death. Still more apposite to our purpose is the saying of him, who declared that he would never subscribe the doctrine of the divine right of princes, till he beheld subjects born with bunches on their backs, like camels, and kings with combs on their heads, like cocks; from which striking marks it might indeed be collected, that the former were designed to labour and to suffer, and the latter, to strut and to crow.

These pretensions to superiority, when viewed from the proper point of sight, appear, indeed, absurd and ridiculous. But these pretensions, absurd and ridiculous as they are, when rounded and gilded by flattery, and swallowed by pride, have become, in the breasts of princes, a deadly poison to their own virtues, and to the happiness of their unfortunate subjects. Those, who have been bred to be kings, have generally, by the prostituted views of their courtiers and instructors, been taught to esteem themselves a distinct and superiour species among men, in the same manner as men are a distinct and superiour species among animals.

Lewis the fourteenth was a strong instance of the effect of that inverted manner of teaching and thinking, which forms kings to be tyrants, without knowing or even suspecting that they are so. That oppression, under which he held his subjects, during the whole course of his long reign, proceeded chiefly from the principles and habits of his erroneous education. By this, he had been accustomed to consider his kingdom as his patrimony, and his power over his subjects as his rightful and undelegated inheritance. These sentiments were so deeply and strongly imprinted on his mind, that when one of his ministers represented to him the miserable condition to which those subjects were reduced, and, in the course of his representation, frequently used the word "l'etat," the state; the king, though he felt the truth, and approved the substance of all that was said, yet was shocked at the frequent repetition of the word "l'etat," and complained of it as an indecency offered to his person and character.

And, indeed, that kings should imagine themselves the final causes, for which men were made, and societies were formed, and governments were instituted, will cease to be a matter of wonder or surprise, when we find that lawyers, and statesmen, and philosophers have taught or favoured principles, which necessarily lead to the same conclusions...

And is it so? Is society nothing more than a scaffolding, by the means of which government may be erected; and which, consequently, may be prostrated, as soon as the edifice of civil government is built? If this is so, it must have required but a

small portion of courtly ingenuity to persuade Lewis the fourteenth, that, in a monarchy, government was nothing but a scaffolding for the king...

Every plausible notion in favour of arbitrary power, appearing in a respectable dress, and introduced by an influential patron, is received with eagerness, protected with vigilance, and diffused with solicitude, by an arbitrary government. The consequence is, that, in such a government, political prejudices are last of all, if ever, overcome or eradicated.

But these doctrines, it may be replied, are not now believed, even in France. But they have been believed—they have been believed, even in France, to the slavery and misery of millions. And if, happily, they are not still believed there; unfortunately, they are still believed in other countries.

But I ask—why should they be believed at all? I ask further: if they are not, and ought not to be believed; why is their principle suffered to lie latent and lurking at the root of the science of law? Why is that principle continued a part of the very definition of law?

...Let us conclude our observations upon this hypothesis concerning the origin of sovereignty, by suggesting, that were it as solid as it is unsound in speculation, it would be wholly visionary and useless in practice. Where would minions and courtly flatterers find the objects, to which they could, even with courtly decency, ascribe superiour talents, superiour virtue, or a superiour nature, so as to entitle them, even on their own principles, to legislation and government?

We have now examined the inherent qualities, which have been alleged as sufficient to entitle, to the right and office of legislation, the superiour, whose interposition is considered as essential to a law. We have weighed them in the balance, and we have found them wanting.

If this superiour cannot rest a title on any inherent qualities; the qualities, which constitute his title, if any title he has, must be such as are derivative. If derivative; they must be derived either from a source that is human, or from a source that is divine. "Over a whole grand multitude," says the judicious Hooker, "consisting of many families, impossible it is, that any should have complete lawful power, but by consent of men, or by immediate appointment of God." We will consider those sources separately.

How is this superiour constituted by *human* authority? How far does his superiority extend? Over whom is it exercised? Can any person or power, appointed by human authority, be superiour to those by whom he is appointed, and so form a necessary and essential part in the definition of a law?

On these questions, a profound, I will not say a suspicious silence is observed. By the Author of the Commentaries, this superiour is announced in a very questionable shape. We can neither tell who he is, nor whence he comes. "When society is once formed, government results of course"—I use the words of the

Commentary—"as necessary to preserve and to keep that society in order. Unless some superiour be constituted, whose commands and decisions all the members are bound to obey, they would still remain as in a state of nature, without any judge upon earth to define their several rights, and redress their several wrongs. But as all the members of the society are naturally equal, it may be asked"—what question may be asked? The most natural question, that occurs to me, is—how is this superiour, without whom, there can be no law, without whom there can be no judge upon earth—how is this superiour to be constituted? This is the question, which, on this occasion, I would expect to see proposed: this is the question, to which I would expect to hear an answer. But how suddenly is the scene shifted! Instead of the awful insignia of superiority, to which our view was just now directed, the mild emblems of confidence make their appearance. The person announced was a dread superiour: but the person introduced is a humble trustee. For, to proceed, "it may be asked, in whose hands are the reins of government to be *intrusted*?"

I very well know how "a society once formed" constitute a trustee: but I am yet to learn, and the Commentator has not yet informed me, how this society can constitute their superiour. Locke somewhere says that "no one can confer more power on another, than he possesses himself."

If the information, how a superiour is appointed, be given in any other part of the valuable Commentaries; it has escaped my notice, or my memory. Indeed it has been remarked by his successour in the chair of law, that Sir William Blackstone "declines speaking of the origin of government."

The question recurs—how is this superiour constituted by human authority? Is he constituted by a law? If he is, that law, at least, must be made without a superiour; for by that law the superiour is constituted. If there can be no law without a superiour, then the institution of a superiour, by human authority, must be made in some other manner than by a law. In what other manner can human authority be exerted? Shall we say, that it may be exerted in a covenant or an engagement? Let us say, for we may say justly, that it may. Let us suppose the authority to be exerted, and the covenant or engagement to be made. Still the question recurs—can this authority so exerted, can this covenant or engagement so made, produce a superiour?

If he is now entitled to that appellation, he must be so by virtue of some thing, which he has received. But has he received more than was given? Could more be given than those, who gave it, possessed?

We can form clear conceptions of authority, original and derived, entire and divided into parts; but we have no clear conceptions how the parts can become greater than the whole; nor how authority, that is derived, can become superiour to that authority, from which the derivation is made.

If these observations are well founded; it will be difficult—perhaps we may say, impossible—to account for the institution of a superiour by human *authority*...

When I entered upon the disquisition of the doctrine of a superiour as necessary to the very definition of law; I said, that, if I was not mistaken, this notion of superiority contained the germ of the divine right of princes to rule, and of the corresponding obligation on the people implicitly to obey. It may now be seen whether or not I have been mistaken; and, if I have not been mistaken, it appears, how important it is, carefully and patiently to examine a first principle; to trace it, with attention, to its highest origin; and to pursue it, with perseverance, to its most remote consequences. I have observed this conduct with regard to the principle in question. The result, I think, has been, that, as to human laws, the notion of a superiour is a notion unnecessary, unfounded, and dangerous; a notion inconsistent with the genuine system of human authority.

Now that the will of a superiour is discarded, as an improper principle of obligation in human laws, it is natural to ask—What principle shall be introduced in its place? In its place I introduce—the consent of those whose obedience the law requires. This I conceive to be the true origin of the obligation of human laws...

Now custom is, of itself, intrinsick evidence of consent. How was a custom introduced? By voluntary adoption. How did it become general? By the instances of voluntary adoption being increased. How did it become lasting? By voluntary and satisfactory experience, which ratified and confirmed what voluntary adoption had introduced. In the introduction, in the extension, in the continuance of customary law, we find the operations of consent universally predominant.

"Customs," in the striking and picturesque language of my Lord Bacon, "are laws written in living tables." In regulations of justice and of government, they have been more effectual than the best written laws. The Romans, in their happy periods of liberty, paid great regard to customary law. Let me mention, in one word, every thing that can enforce my sentiments: the common law of England is a customary law.

Among the earliest, among the freest, among the most improved nations of the world, we find a species of law prevailing, which carried, in its bosom, internal evidence of consent. History, therefore, bears a strong and a uniform testimony in favour of this species of law.

Let us consult the sentiments as well as the history of the ancients.... I find a charge against them on this subject—"that they were not accurate enough in their expressions; because they frequently applied to laws the name of *common agreements*." This, it is acknowledged, they do almost every where in their writings. He, however, who accuses the ancient writers of inaccuracy in expression, ought himself to be consummately accurate...

One reason, why he urges their expressions to be inaccurate, is, that "neither the divine positive laws, nor the laws of nature had their rise from the agreement of men." All this is, at once, admitted; but the present disquisition relates only to laws that are human. What is said with regard to them? With regard to them it is said, that "the Grecians, as in their other politick speeches, so in this too, had an eye to their own democratical governments; in which, because the laws were made upon the proposal of the magistrate, with the knowledge, and by the command, of the people, and so, as it were, in the way of bargain and stipulation; they gave them the name of covenants and agreements."

I am now unsolicitous to repel the accusation: it seems, it was conceived to arise from a reference, by the ancients, to their democratical governments. Let them be called covenants, or agreements, or bargains, or stipulations, or any thing similar to any of those, still I am satisfied; for still every thing mentioned, and every thing similar to every thing mentioned, imports consent. Here history and law combine their evidence in support of consent...

My Lord Shaftesbury, who formed his taste and judgment upon ancient writers and ancient opinions, delivers it as his sentiment, "That no people in a civil state can possibly be free, when they are otherwise governed, than by such laws as they themselves have constituted, or to which they have freely given consent."

This subject will receive peculiar illustration and importance, when we come to consider the description and characters of municipal law. I will not anticipate here what will be introduced there with much greater propriety and force.

Of law there are different kinds. All, however, may be arranged in two different classes. 1. Divine. 2. Human laws. The descriptive epithets employed denote, that the former have God, the latter, man, for their author.

The laws of God may be divided into the following species.

I. That law, the book of which we are neither able nor worthy to open. Of this law, the author and observer is God. He is a law to himself, as well as to all created things. This law we may name the "law eternal."

II. That law, which is made for angels and the spirits of the just made perfect. This may be called the "law celestial." This law, and the glorious state for which it is adapted, we see, at present, but darkly and as through a glass: but hereafter we shall see even as we are seen; and shall know even as we are known. From the wisdom and the goodness of the adorable Author and Preserver of the universe, we are justified in concluding, that the celestial and perfect state is governed, as all other things are, by his established laws. What those laws are, it is not yet given us to know; but on one truth we may rely with sure and certain confidence—those laws are wise and good. For another truth we have infallible authority—those laws are strictly obeyed: "In heaven his will is done."

III. That law, by which the irrational and inanimate parts of the creation are governed. The great Creator of all things has established general and fixed rules, according to which all the phenomena of the material universe are produced and regulated. These rules are usually denominated laws of nature. The science, which has those laws for its object, is distinguished by the name of natural philosophy. It is sometimes called, the philosophy of body. Of this science, there are numerous branches.

IV. That law, which God has made for man in his present state; that law, which is communicated to us by reason and conscience, the divine monitors within us, and by the sacred oracles, the divine monitors without us. This law has undergone several subdivisions, and has been known by distinct appellations, according to the different ways in which it has been promulgated, and the different objects which it respects.

As promulgated by reason and the moral sense, it has been called natural; as promulgated by the holy scriptures, it has been called revealed law.

As addressed to men, it has been denominated the law of nature; as addressed to political societies, it has been denominated the law of nations.

But it should always be remembered, that this law, natural or revealed, made for men or for nations, flows from the same divine source: it is the law of God.

Nature, or, to speak more properly, the Author of nature, has done much for us; but it is his gracious appointment and will, that we should also do much for ourselves. What we do, indeed, must be founded on what he has done; and the deficiencies of our laws must be supplied by the perfections of his. Human law must rest its authority, ultimately, upon the authority of that law, which is divine.

Of that law, the following are maxims—that no injury should be done—that a lawful engagement, voluntarily made, should be faithfully fulfilled. We now see the deep and the solid foundations of human law.

It is of two species. 1. That which a political society makes for itself. This is municipal law. 2. That which two or more political societies make for themselves. This is the voluntary law of nations.

In all these species of law—the law eternal—the law celestial—the law natural—the divine law, as it respects men and nations—the human law, as it also respects men and nations—man is deeply and intimately concerned. Of all these species of law, therefore, the knowledge must be most important to man.

Those parts of natural philosophy, which more immediately relate to the human body, are appropriated to the profession of physick.

The law eternal, the law celestial, and the law divine, as they are disclosed by that revelation, which has brought life and immortality to light, are the more peculiar objects of the profession of divinity.

The law of nature, the law of nations, and the municipal law form the objects of the profession of law.

From this short, but plain and, I hope, just statement of things, we perceive a principle of connexion between all the learned professions; but especially between the two last mentioned. Far from being rivals or enemies, religion and law are twin sisters, friends, and mutual assistants. Indeed, these two sciences run into each other. The divine law, as discovered by reason and the moral sense, forms an essential part of both.

From this statement of things, we also perceive how important and dignified the profession of the law is, when traced to its sources, and viewed in its just extent.

The immediate objects of our attention are, the law of nature, the law of nations, and the municipal law of the United States, and of the several states which compose the Union. It will not be forgotten, that the constitutions of the United States, and of the individual states, form a capital part of their municipal law. On the two first of these three great heads, I shall be very general. On the last, especially on those parts of it, which comprehend the constitutions and publick law, I shall be more particular and minute.

CHAPTER III:

Of the Law of Nature

In every period of our existence, in every situation, in which we can be placed, much is to be known, much is to be done, much is to be enjoyed. But all that is to be known, all that is to be done, all that is to be enjoyed, depends upon the proper exertion and direction of our numerous powers. In this immense ocean of intelligence and action, are we left without a compass and without a chart? Is there no pole star, by which we may regulate our course? Has the all-gracious and all-wise Author of our existence formed us for such great and such good ends; and has he left us without a conductor to lead us in the way, by which those ends may be attained? Has he made us capable of observing a rule, and has he furnished us with no rule, which we ought to observe? Let us examine these questions—for they are important ones—with patience and with attention. Our labours will, in all probability, be amply repaid. We shall probably find that, to direct the more important parts of our conduct, the bountiful Governour of the universe has been graciously pleased to provide us with a law; and that, to direct the less important parts of it, he has made us capable of providing a law for ourselves.

That our Creator has a supreme right to prescribe a law for our conduct, and that we are under the most perfect obligation to obey that law, are truths established on the clearest and most solid principles.

In the course of our remarks on that part of Sir William Blackstone's definition of law, which includes the idea of a superiour as essential to it, we remarked, with particular care, that it was only with regard to human laws that we controverted the justness or propriety of that idea. It was incumbent on us to mark this distinction particularly; for with regard to laws which are divine, they truly come from a superiour—from Him who is supreme.

Between beings, who, in their nature, powers, and situation, are so perfectly equal, that nothing can be ascribed to one, which is not applicable to the other, there can be neither superiority nor dependence. With regard to such beings, no reason can be assigned, why any one should assume authority over others, which may not, with equal propriety, be assigned, why each of those others should assume authority over that one. To constitute superiority and dependence, there must be an essential difference of qualities, on which those relations may be founded.

Some allege, that the sole superiority of strength, or, as they express it, an irresistible power, is the true foundation of the right of prescribing laws. "This superiority of power gives," say they, "a right of reigning, by the impossibility, in which it places others, of resisting him, who has so great an advantage over them."

Others derive the right of prescribing laws and imposing obligations from superiour excellence of nature. "This," say they, "not only renders a being independent of those, who are of a nature inferiour to it; but leads us to believe, that the latter were made for the sake of the former." For a proof of this, they appeal to the constitution of man. "Here," they tell us, "the soul governs, as being the noblest part." "On the same foundation," they add, "the empire of man over the brute creation is built."

Others, again, say, that "properly speaking, there is only one general source of superiority and obligation. God is our creator: in him we live, and move, and have our being: from him we have received our intellectual and our moral powers: he, as master of his own work, can prescribe to it whatever rules to him shall seem meet. Hence our dependence on our Creator: hence his absolute power over us. This is the true source of all authority."

With regard to the first hypothesis, it is totally insufficient; nay, it is absolutely false. Because I cannot resist, am I obliged to obey? Because another is possessed of superiour force, am I bound to acknowledge his will as the rule of my conduct? Every obligation supposes motives that influence the conscience and determine the will, so that we should think it wrong not to obey, even if resistance was in our power. But a person, who alleges only the law of the strongest, proposes no

motive to influence the conscience, or to determine the will. Superiour force may reside with predominant malevolence. Has force, exerted for the purposes of malevolence, a right to command? Can it impose an obligation to obey? No. Resistance to such force is a right; and, if resistance can prove effectual, it is a duty also. On some occasions, all our efforts may, indeed, be useless; and an attempt to resist would frustrate its own aim: but, on such occasions, the exercise of resistance only is suspended; the right of resistance is not extinguished: we may continue, for a time, under a constraint; but we come not under an obligation: we may suffer all the external effects of superiour force; but we feel not the internal influence of superiour authority?

The second hypothesis has in it something plausible; but, on examination, it will not be found to be accurate. Wherever a being of superiour excellence is found, his excellence, as well as every other truth, ought, on proper occasions, to be acknowledged; we will go farther; it ought, as every thing excellent ought, to be esteemed. But must we go farther still? Is obedience the necessary consequence of honest acknowledgment and just esteem? Here we must make a pause: we must make some inquiries before we go forward. In what manner is this being of superiour excellence connected with us? What are his dispositions with regard to us? By what effects, if by any, will his superiour excellence be displayed? Will it be exerted for our happiness; or, as to us, will it not be exerted at all? We acknowledge—we esteem excellence; but till these questions are answered, we feel not ourselves under an obligation to obey it. If the opinion of Epicurus1 concerning his divinities—that they were absolutely indifferent to the happiness and interests of men—was admitted for a moment; inference would unquestionably be—that they were not entitled to human obedience.

The third hypothesis contains a solemn truth, which ought to be examined with reverence and awe. It resolves the supreme right of prescribing laws for our conduct, and our indispensable duty of obeying those laws, into the omnipotence of the Divinity. This omnipotence let us humbly adore. Were we to suppose—but the supposition cannot be made—that infinite goodness could be disjoined from almighty power—but we cannot—must not proceed to the inference. No, it never can be drawn; for from almighty power infinite goodness can never be disjoined.

Let us join, in our weak conceptions, what are inseparable in their incomprehensible Archetype—infinite power—infinite wisdom—infinite goodness; and then we shall see, in its resplendent glory, the supreme right to rule: we shall feel the conscious sense of the perfect obligation to obey.

His infinite power enforces his laws, and carries them into full and effectual execution. His infinite wisdom knows and chooses the fittest means for accomplishing the ends which he proposes. His infinite goodness proposes such ends only as promote our felicity. By his power, he is able to remove whatever may possibly injure us, and to provide whatever is conducive to our happiness. By his wisdom, he knows our nature, our faculties, and our interests: he cannot be mistaken in the designs, which he proposes, nor in the means, which he employs

to accomplish them. By his goodness, he proposes our happiness: and to that end directs the operations of his power and wisdom. Indeed, to his goodness alone we may trace the principle of his laws. Being infinitely and eternally happy in himself, his goodness alone could move him to create us, and give us the means of happiness. The same principle, that moved his creating, moves his governing power. The rule of his government we shall find to be reduced to this one paternal command—Let man pursue his own perfection and happiness.

What an enrapturing view of the moral government of the universe! Over all, goodness infinite reigns, guided by unerring wisdom, and supported by almighty power. What an instructive lesson to those who think, and are encouraged by their flatterers to think, that a portion of divine right is communicated to their rule. If this really was the case; their power ought to be subservient to their goodness, and their goodness should be employed in promoting the happiness of those, who are intrusted to their care. But princes, and the flatterers of princes, are guilty, in two respects, of the grossest errour and presumption. They claim to govern by divine institution and right. The principles of their government are repugnant to the principles of that government, which is divine. The principle of the divine government is goodness: they plume themselves with the gaudy insignia of power...

Where a supreme right to give laws exists, on one side, and a perfect obligation to obey them exists, on the other side; this relation, of itself, suggests the probability that laws will be made.

When we view the inanimate and irrational creation around and above us, and contemplate the beautiful order observed in all its motions and appearances; is not the supposition unnatural and improbable—that the rational and moral world should be abandoned to the frolicks of chance, or to the ravage of disorder? What would be the fate of man and of society, was every one at full liberty to do as he listed, without any fixed rule or principle of conduct, without a helm to steer him—a sport of the fierce gusts of passion, and the fluctuating billows of caprice?

To be without law is not agreeable to our nature; because, if we were without law, we should find many of our talents and powers hanging upon us like useless incumbrances. Why should we be illuminated by reason, were we only made to obey the impulse of irrational instinct? Why should we have the power of deliberating, and of balancing our determinations, if we were made to yield implicitly and unavoidably to the influence of the first impressions? Of what service to us would reflection be, if, after reflection, we were to be carried away irresistibly by the force of blind and impetuous appetites?

Without laws, what would be the state of society? The more ingenious and artful the two-legged animal, man, is, the more dangerous he would become to his equals: his ingenuity would degenerate into cunning; and his art would be employed for the purposes of malice. He would be deprived of all the benefits and

pleasures of peaceful and social life: he would become a prey to all the distractions of licentiousness and war.

Is it probable—we repeat the question—is it probable that the Creator, infinitely wise and good, would leave his moral world in this chaos and disorder?

If we enter into ourselves, and view with attention what passes in our own breasts, we shall find, that what, at first, appeared probable, is proved, on closer examination, to be certain; we shall find, that God has not left himself without a witness, nor us without a guide.

We have already observed, that, concerning the nature and cause of obligation, many different opinions have been entertained, and much ingenious disputation has been held, by philosophers and writers on jurisprudence...

With regard, then, both to the meaning and the cause of obligation, much diversity of sentiment, much ambiguity, and much obscurity have, it appears, prevailed. It is a subject of inquiry, however, that well deserves to be investigated, explained, illustrated, and placed in its native splendour and dignity. In order to do this, it will be proper to ascertain the precise state of the question before us. It is this what is the efficient cause of moral obligation—of the eminent distinction between right and wrong? This has been often and injudiciously blended with another question, connected indeed with it, but from which it ought to be preserved separate and distinct. That other question is—how shall we, in particular instances, learn the dictates of our duty, and make, with accuracy, the eminent distinction, which we have just now mentioned? The first question points to the *principle* of obligation: the second points to the *means* by which our obligation to perform a specified action, or a series of specified actions, may be deduced. The first has been called by philosophers—principium essendi—the principle of existence; the principle which *constitutes* obligation. The second has been called by them—principium cognoscendi—the principle of knowing it; the principle by which it may be proved or perceived. In a commonwealth, the distinction between these two questions is familiar and easy. If the question is put—what is the efficient cause of the obligation upon the citizens to obey the laws of the state?—the answer is ready—the will of those, by whose authority the laws are made. If the other question is put—how shall we, in a particular instance, or in a series of particular instances, ascertain the laws, which the citizens ought to obey?—reference is immediately made to the code of laws.

Having thus stated the question—what is the efficient cause of moral obligation?—I give it this answer—the will of God. This is the supreme law. His just and full right of imposing laws, and our duty in obeying them, are the sources of our moral obligations. If I am asked—why do you obey the will of God? I answer—because it is my duty so to do. If I am asked again—how do you know this to be your duty? I answer again—because I am told so by my moral sense or conscience. If I am asked a third time—how do you know that you ought to do that, of which your conscience enjoins the performance? I can only say, I *feel* that

such is my duty. Here investigation must stop; reasoning can go no farther. The science of morals, as well as other sciences, is founded on truths, that cannot be discovered or proved by reasoning. Reason is confined to the investigation of unknown truths by the means of such as are known. We cannot, therefore, begin to reason, till we are furnished, otherwise than by reason, with some truths, on which we can found our arguments. Even in mathematicks, we must be provided with axioms perceived intuitively to be true, before our demonstrations can commence. Morality, like mathematicks, has its intuitive truths, without which we cannot make a single step in our reasonings upon the subject. Such an intuitive truth is that, with which we just now closed our investigation. If a person was not possessed of the feeling before mentioned; it would not be in the power of arguments, to give him any conception of the distinction between right and wrong. These terms would be to him equally unintelligible, as the term *colour* to one who was born and has continued blind. But that there is, in human nature, such a moral principle, has been felt and acknowledged in all ages and nations.

Now that we have stated and answered the first question; let us proceed to the consideration of the second—how shall we, in particular instances, learn the dictates of our duty, and make, with accuracy, the proper distinction between right and wrong; in other words, how shall we, in particular cases, discover the will of God? We discover it by our conscience, by our reason, and by the Holy Scriptures. The law of nature and the law of revelation are both divine: they flow, though in different channels, from the same adorable source. It is, indeed, preposterous to separate them from each other. The object of both is—to discover the will of God—and both are necessary for the accomplishment of that end.

I. The power of moral perception is, indeed, a most important part of our constitution. It is an original power—a power of its own kind; and totally distinct from the ideas of utility and agreeableness. By that power, we have conceptions of merit and demerit, of duty and moral obligation. By that power, we perceive some things in human conduct to be right, and others to be wrong. We have the same reason to rely on the dictates of this faculty, as upon the determinations of our senses, or of our other natural powers. When an action is represented to us, flowing from love, humanity, gratitude, an ultimate desire of the good of others; though it happened in a country far distant, or in an age long past, we admire the lovely exhibition, and praise its author. The contrary conduct, when represented to us, raises our abhorrence and aversion. But whence this secret chain betwixt each person and mankind? If there is no moral sense, which makes benevolence appear beautiful...

The mind, which reflects on itself, and is a spectator of other minds, sees and feels the soft and the harsh, the agreeable and the disagreeable, the foul and the fair, the harmonious and the dissonant, as really and truly in the affections and actions, as in any musical numbers, or the outward forms or representations of sensible things. It cannot withhold its approbation or aversion in what relates to the former, any more than in what relates to the latter, of those subjects. To deny the sense of a sublime and beautiful and of their contraries in actions and things, will

appear an affectation merely to one who duly considers and traces the subject. Even he who indulges this affectation cannot avoid the discovery of those very sentiments, which he pretends not to feel. A Lucretius or a Hobbes cannot discard the sentiments of praise and admiration respecting some moral forms, nor the sentiments of censure and detestation concerning others. Has a man gratitude, or resentment, or pride, or shame? If he has and avows it; he must have and acknowledge a sense of something benevolent, of something unjust, of something worthy, and of something mean. Thus, so long as we find men pleased or angry, proud or ashamed; we may appeal to the reality of the moral sense. A right and a wrong, an honourable and a dishonourable is plainly conceived. About these there may be mistakes; but this destroys not the inference, that the things are, and are universally acknowledged—that they are of nature's impression, and by no art can be obliterated.

This sense or apprehension of right and wrong appears early, and exists in different degrees. The qualities of love, gratitude, sympathy unfold themselves, in the first stages of life, and the approbation of those qualities accompanies the first dawn of reflection. Young people, who think the least about the distant influences of actions, are, more than others, moved with moral forms. Hence that strong inclination in children to hear such stories as paint the characters and fortunes of men. Hence that joy in the prosperity of the kind and faithful, and that sorrow upon the success of the treacherous and cruel, with which we often see infant minds strongly agitated.

There is a natural beauty in figures; and is there not a beauty as natural in actions? When the eye opens upon forms, and the ear to sounds; the beautiful is seen, and harmony is heard and acknowledged. When actions are viewed and affections are discerned, the inward eye distinguishes the beautiful, the amiable, the admirable, from the despicable, the odious, and the deformed. How is it possible not to own, that as these distinctions have their foundation in nature, so this power of discerning them is natural also?

The universality of an opinion or sentiment may be evinced by the structure of languages. Languages were not invented by philosophers, to countenance or support any artificial system. They were contrived by men in general, to express common sentiments and perceptions. The inference is satisfactory, that where all languages make a distinction, there must be a similar distinction in universal opinion or sentiment. For language is the picture of human thoughts; and, from this faithful picture, we may draw certain conclusions concerning the original. Now, a universal effect must have a universal cause. No universal cause can, with propriety, be assigned for this universal opinion, except that intuitive perception of things, which is distinguished by the name of common sense.

All languages speak of a beautiful and a deformed, a right and a wrong, an agreeable and disagreeable, a good and ill, in actions, affections, and characters. All languages, therefore, suppose a moral sense, by which those qualities are perceived and distinguished.

The whole circle of the arts of imitation proves the reality of the moral sense. They suppose, in human conduct, a sublimity, a beauty, a greatness, an excellence, independent of advantage or disadvantage, profit or loss. On him, whose heart is indelicate or hard; on him, who has no admiration of what is truly noble; on him, who has no sympathetick sense of what is melting and tender, the highest beauty of the mimick arts must make indeed, but a very faint and transient impression. If we were void of a relish for moral excellence, how frigid and uninteresting would the finest descriptions of life and manners appear! How indifferent are the finest strains of harmony, to him who has not a musical ear!

The force of the moral sense is diffused through every part of life. The luxury of the table derives its principal charms from some mixture of moral enjoyments, from communicating pleasures, and from sentiments honourable and just as well as elegant...The chief pleasures of history, and poetry, and eloquence, and musick, and sculpture, and painting are derived from the same source. Beside the pleasures they afford by imitation, they receive a stronger charm from something moral insinuated into the performances. The principal beauties of behaviour, and even of countenance, arise from the indication of affections or qualities morally estimable.

Never was there any of the human species above the condition of an idiot, to whom all actions appeared indifferent. All feel that a certain temper, certain affections, and certain actions produce a sentiment of approbation; and that a sentiment of disapprobation is produced by the contrary temper, affections, and actions.

This power is capable of culture and improvement by habit, and by frequent and extensive exercise. A high sense of moral excellence is approved above all other intellectual talents. This high sense of excellence is accompanied with a strong desire after it, and a keen relish for it. This desire and this relish are approved as the most amiable affections, and the highest virtues.

This moral sense, from its very nature, is intended to regulate and control all our other powers. It governs our passions as well as our actions. Other principles may solicit and allure; but the conscience assumes authority, it must be obeyed. Of this dignity and commanding nature we are immediately conscious, as we are of the power itself. It estimates what it enjoins, not merely as superiour in degree, but as superiour likewise in kind, to what is recommended by our other perceptive powers. Without this controlling faculty, endowed as we are with such a variety of senses and interfering desires, we should appear a fabrick destitute of order: but possessed of it, all our powers may be harmonious and consistent; they may all combine in one uniform and regular direction.

In short; if we had not the faculty of perceiving certain things in conduct to be right, and others to be wrong; and of perceiving our obligation to do what is right, and not to do what is wrong; we should not be moral and accountable beings.

If we be, as, I hope, I have shown we are, endowed with this faculty; there must be some things, which are immediately discerned by it to be right, and others to be wrong. There must, consequently, be in morals, as in other sciences, first principles, which derive not their evidence from any antecedent principles, but which may be said to be intuitively discerned.

Moral truths may be divided into two classes; such as are selfevident, and such as, from the selfevident ones, are deduced by reasoning. If the first be not discerned without reasoning, reasoning can never discern the last. The cases that require reasoning are few, compared with those that require none; and a man may be very honest and virtuous, who cannot reason, and who knows not what demonstration means.

If the rules of virtue were left to be discovered by reasoning, even by demonstrative reasoning, unhappy would be the condition of the far greater part of men, who have not the means of cultivating the power of reasoning to any high degree. As virtue is the business of all men, the first principles of it are written on their hearts, in characters so legible, that no man can pretend ignorance of them, or of his obligation to practise them. Reason, even with experience, is too often overpowered by passion; to restrain whose impetuosity, nothing less is requisite than the vigorous and commanding principle of duty.

II. The first principles of morals, into which all moral argumentation may be resolved, are discovered in a manner more analogous to the perceptions of sense than to the conclusions of reasoning. In morality, however, as well as in other sciences, reason is usefully introduced, and performs many important services. In many instances she regulates our belief; and in many instances she regulates our conduct. She determines the proper means to any end; and she decides the preference of one end over another. She may exhibit an object to the mind, though the perception which the mind has, when once the object is exhibited, may properly belong to a sense. She may be necessary to ascertain the circumstances and determine the motives to an action; though it be the moral sense that perceives the action to be either virtuous or vicious, after its motive and its circumstances have been discovered. She discerns the tendencies of the several senses, affections, and actions, and the comparative value of objects and gratifications. She judges concerning subordinate ends; but concerning ultimate ends she is not employed. These we prosecute by some immediate determination of the mind, which, in the order of action, is prior to all reasoning; for no opinion or judgment can move to action, where there is not a previous desire of some end.—This power of comparing the several enjoyments, of which our nature is susceptible, in order to discover which are most important to our happiness, is of the highest consequence and necessity to corroborate our moral faculty, and to preserve our affections in just rank and regular order.

A magistrate knows that it is his duty to promote the good of the commonwealth, which has intrusted him with authority. But whether one particular plan or another particular plan of conduct in office, may best promote the good of the

commonwealth, may, in many cases, be doubtful. His conscience or moral sense determines the end, which he ought to pursue; and he has intuitive evidence that his end is good: but the means of attaining this end must be determined by reason. To select and ascertain those means, is often a matter of very considerable difficulty. Doubts may arise; opposite interests may occur; and a preference must be given to one side from a small over-balance, and from very nice views. This is particularly the case in questions with regard to justice. If every single instance of justice, like every single instance of benevolence, were pleasing and useful to society, the case would be more simple, and would be seldom liable to great controversy. But as single instances of justice are often pernicious in their first and immediate tendency; and as the advantage to society results only from the observance of the general rule, and from the concurrence and combination of several persons in the same equitable conduct; the case here becomes more intricate and involved. The various circumstances of society, the various consequences of any practice, the various interests which may be proposed, are all, on many occasions, doubtful, and subject to much discussion and inquiry. The design of municipal law (for let us still, from every direction, open a view to our principal object) the design of municipal law is to fix all the questions which regard justice. A very accurate reason or judgment is often requisite, to give the true determination amidst intricate doubts, arising from obscure or opposite utilities.

Thus, though good and ill, right and wrong are ultimately perceived by the moral sense, yet reason assists its operations, and, in many instances, strengthens and extends its influence. We may argue concerning propriety of conduct: just reasonings on the subject will establish principles for judging of what deserves praise: but, at the same time, these reasonings must always, in the last resort, appeal to the moral sense.

Farther; reason serves to illustrate, to prove, to extend, to apply what our moral sense has already suggested to us, concerning just and unjust, proper and improper, right and wrong. A father feels that paternal tenderness is refined and confirmed, by reflecting how consonant that feeling is to the relation between a parent and his child; how conducive it is to the happiness, not only of a single family, but, in its extension, to that of all mankind. We feel the beauty and excellence of virtue; but this sense is strengthened and improved by the lessons, which reason gives us concerning the foundations, the motives, the relations, the particular and the universal advantages flowing from this virtue, which, at first sight, appeared so beautiful.

Taste is a faculty, common, in some degree, to all men. But study, attention, comparison operate most powerfully towards its refinement. In the same manner, reason contributes to ascertain the exactness, and to discover and correct the mistakes, of the moral sense. A prejudice of education may be misapprehended for a determination of morality. 'Tis reason's province to compare and discriminate.

Reason performs an excellent service to the moral sense in another respect. It considers the relations of actions, and traces them to the remotest consequences. We often see men, with the most honest hearts and most pure intentions, embarrassed and puzzled, when a case, delicate and complicated, comes before them. They feel what is right; they are unshaken in their general principles; but they are unaccustomed to pursue them through their different ramifications, to make the necessary distinctions and exceptions, or to modify them according to the circumstances of time and place. 'Tis the business of reason to discharge this duty; and it will discharge it the better in proportion to the care which has been employed in exercising and improving it.

The existence of the moral sense has been denied by some philosophers of high fame: its authority has been attacked by others: the certainty and uniformity of its decisions have been arraigned by a third class. We are told, that, without education, we should have been in a state of perfect indifference as to virtue and vice; that an education, opposite to that which we have received, would have taught us to regard as virtue that which we now dislike as vice, and to despise as vice that which we now esteem as virtue. In support of these observations, it is farther said, that moral sentiment is different in different countries, in different ages, and under different forms of government and religion; in a word, that it is as much the effect of custom, fashion, and artifice, as our taste in dress, furniture, and the modes of conversation. Facts and narratives have been assembled and accumulated, to evince the great diversity and even contrariety that subsists concerning moral opinions. And it has been gravely asked, whether the wild boy, who was caught in the woods of Hanover, would feel a sentiment of disapprobation upon being told of the conduct of a parricide. An investigation of those facts and narratives cannot find a place in these lectures; though the time bestowed on it might be well employed. It may, however, be proper to observe, that it is but candid to consider human nature in her improved, and not in her most rude or depraved forms. "The good experienced man," says Aristotle, "is the last measure of all things." To ascertain moral principles, we appeal not to the common sense of savages, but of men in their most perfect state.

Epicurus, as well as some modern advocates of the same philosophy, seem to have taken their estimates of human nature from its meanest and most degrading exhibitions; but the noblest and most respectable philosophers of antiquity have chosen, for a much wiser and better purpose, to view it on the brightest and most advantageous side. "It is impossible," says the incomparable Addison, "to read a passage in Plato or Tully, and a thousand other ancient moralists, without being a greater and a better man for it. On the contrary, I could never read some modish modern authors, without being, for some time, out of humour with myself, and at every thing about me. Their business is to depreciate human nature, and consider it under its worst appearances. They give mean interpretation and base motives to the worthiest actions—in short, they endeavour to make no distinction between man and man, or between the species of men and that of brutes." True it is, that some men and some nations are savage and brutish; but is that a reason why their manners and their practices should be generally and reproachfully charged to the

account of human nature? It may, perhaps, be somewhat to our purpose to observe, that in many of these representations, the picture, if compared with the original, will be found to be overcharged. For, in truth, between mankind, considered even in their rudest state, and the mutum et turpe pecus, a very wide difference will be easily discovered. In the most uninformed savages, we find the communes notitiae, the common notions and practical principles of virtue, though the application of them is often extremely unnatural and absurd. These same savages have in them the seeds of the logician, the man of taste, the orator, the statesman, the man of virtue, and the saint. These seeds are planted in their minds by nature, though, for want of culture and exercise, they lie unnoticed, and are hardly perceived by themselves or by others. Besides, some nations that have been supposed stupid and barbarous by nature, have, upon fuller acquaintance with their history, been found to have been rendered barbarous and depraved by institution. When, by the power of some leading members, erroneous laws are once established, and it has become the interest of subordinate tyrants to support a corrupt system; errour and iniquity become sacred. Under such a system, the multitude are fettered by the prejudices of education, and awed by the dread of power, from the free exercise of their reason. These principles will account for the many absurd and execrable tenets and practices with regard to government, morals, and religion, which have been invented and established in opposition to the unbiassed sentiments, and in derogation of the natural rights of mankind. But, after making all the exceptions and abatements, of which these facts and narratives, if admitted in their fullest extent, would justify the claim, still it cannot be denied, but is even acknowledged, that some sorts of actions command and receive the esteem of mankind more than others; and that the approbation of them is general, though not universal. It will certainly be sufficient for our purpose to observe, that the dictates of reason are neither more general, nor more uniform, nor more certain, nor more commanding, than the dictates of the moral sense. Nay, farther; perhaps, upon inquiry, we shall find, that those obliquities, extravagancies, and inconsistencies of conduct, that are produced as proofs of the nonexistence or inutility of the moral sense, are, in fact, chargeable to that faculty, which is meant to be substituted in its place. We shall find that men always approve upon an opinion—true or false, but still an opinion—that the actions approved have the qualities and tendencies, which are the proper objects of approbation. They suppose that such actions will promote their own interest; or will be conducive to the publick good; or are required by the Deity; when, in truth, they have all the contrary properties—may be forbidden by the Deity, and may be detrimental both to publick and to private good. But when all this happens, to what cause is it to be traced? Does it prove the nonexistence of a moral sense, or does it prove, in such instances, the weakness or perversion of reason? The just solution is, that, in such instances, it is our reason, which presents false appearances to our moral sense.

It is with much reluctance, that the power of our instinctive or intuitive faculties is acknowledged by some philosophers. That the brutes are governed by instinct, but that man is governed by reason, is their favourite position. But fortunately for man, this position is not founded on truth. Our instincts, as well as our rational

powers, are far superiour, both in number and in dignity, to those, which the brutes enjoy; and it were well for us, on many occasions, if we laid our reasoning systems aside, and were more attentive in observing the genuine impulses of nature...

The *ultimate* ends of human actions, can never, in any case, be accounted for by reason. They recommend themselves entirely to the sentiments and affections of men, without dependence on the intellectual faculties. Why do you take exercise? Because you desire health. Why do you desire health? Because sickness is painful. Why do you hate pain? No answer is heard. Can one be given? No. This is an ultimate end, and is not referred to any farther object.

To the second question, you may, perhaps, answer, that you desire health, because it is necessary for your improvement in your profession. Why are you anxious to make this improvement? You may, perhaps, answer again, because you wish to get money by it. Why do you wish to get money? Because, among other reasons, it is the instrument of pleasure. But why do you love pleasure? Can a reason be given for loving pleasure, any more than for hating pain? They are both ultimate objects. 'Tis impossible there can be a progress *in infinitum*; and that one thing can always be a reason, why another is hated or desired. Something must be hateful or desirable on its own account, and because of its immediate agreement or disagreement with human sentiment and affection.

Virtue and vice are ends; and are hateful or desirable on their own account. It is requisite, therefore, that, there should be some sentiment, which they touch—some internal taste or sense, which distinguishes moral good and evil, and which embraces one, and rejects the other. Thus are the offices of reason and of the moral sense at last ascertained. The former conveys the knowledge of truth and falsehood: the latter, the sentiment of beauty and deformity, of vice and virtue. The standard of one, founded on the nature of things, is eternal and inflexible. The standard of the other is ultimately derived from that supreme will, which bestowed on us our peculiar nature, and arranged the several classes and orders of existence. In this manner, we return to the great principle, from which we set out. It is necessary that reason should be fortified by the moral sense: without the moral sense, a man may be prudent, but he cannot be virtuous.

Philosophers have degraded our senses below their real importance. They represent them as powers, by which we have sensations and ideas only. But this is not the whole of their office; they judge as well as inform. Not confined to the mere office of conveying impressions, they are exalted to the function of judging of the nature and evidence of the impressions they convey. If this be admitted, our moral faculty may, without impropriety, be called the *moral sense*. Its testimony, like that of the external senses, is the immediate testimony of nature, and on it we have the same reason to rely. In its dignity, it is, without doubt, far superiour to every other power of the mind.

The moral sense, like all our other powers, comes to maturity by insensible degrees. It is peculiar to human nature. It is both intellectual and active. It is evidently intended, by nature, to be the immediate guide and director of our conduct, after we arrive at the years of understanding.

III. Reason and conscience can do much; but still they stand in need of support and assistance. They are useful and excellent monitors; but, at some times, their admonitions are not sufficiently clear; at other times, they are not sufficiently powerful; at all times, their influence is not sufficiently extensive. Great and sublime truths, indeed, would appear to a few; but the world, at large, would be dark and ignorant. The mass of mankind would resemble a chaos, in which a few sparks, that would diffuse a glimmering light, would serve only to show, in a more striking manner, the thick darkness with which they are surrounded. Their weakness is strengthened, their darkness is illuminated, their influence is enlarged by that heaven-descended science, which has brought life and immortality to light. In compassion to the imperfection of our internal powers, our all-gracious Creator, Preserver, and Ruler has been pleased to discover and enforce his laws, by a revelation given to us immediately and directly from himself. This revelation is contained in the holy scriptures. The moral precepts delivered in the sacred oracles form a part of the law of nature, are of the same origin, and of the same obligation, operating universally and perpetually.

On some important subjects, those in particular, which relate to the Deity, to Providence, and to a future state, our natural knowledge is greatly improved, refined, and exalted by that which is revealed. On these subjects, one who has had the advantage of a common education in a christian country, knows more, and with more certainty, than was known by the wisest of the ancient philosophers.

One superiour advantage the precepts delivered in the sacred oracles clearly possess. They are, of all, the most explicit and the most certain. A publick minister, judging from what he knows of the interests, views, and designs of the state, which he represents, may take his resolutions and measures, in many cases, with confidence and safety; and may presume, with great probability, how the state itself would act. But if, besides this general knowledge, and these presumptions highly probable, he was furnished also with particular instructions for the regulation of his conduct; would he not naturally observe and govern himself by both rules? In cases, where his instructions are clear and positive, there would be an end of all farther deliberation. In other cases, where his instructions are silent, he would supply them by his general knowledge, and by the information, which he could collect from other quarters, concerning the counsels and systems of the commonwealth. Thus it is with regard to reason, conscience, and the holy scriptures. Where the latter give instructions, those instructions are supereminently authentick. But whoever expects to find, in them, particular directions for every moral doubt which arises, expects more than he will find. They generally presuppose a knowledge of the principles of morality; and are employed not so much in teaching new rules on this subject, as in enforcing the practice of those already known, by a greater certainty, and by new sanctions.

They present the warmest recommendations and the strongest inducements in favour of virtue: they exhibit the most powerful dissuasives from vice. But the origin, the nature, and the extent of the several rights and duties they do not explain; nor do they specify in what instances one right or duty is entitled to preference over another. They are addressed to rational and moral agents, capable of previously knowing the rights of men, and the tendencies of actions; of approving what is good, and of disapproving what is evil.

These considerations show, that the scriptures support, confirm, and corroborate, but do not supercede the operations of reason and the moral sense. The information with regard to our duties and obligations, drawn from these different sources, ought not to run in unconnected and diminished channels: it should flow in one united stream, which, by its combined force and just direction, will impel us uniformly and effectually towards our greatest good.

We have traced, with some minuteness, the efficient principle of obligation, and the several means, by which our duty may be known. It will be proper to turn our attention back to the opinions that have been held, in philosophy and jurisprudence, concerning this subject. On a review of them, we shall now find that, in general, they are defective rather than erroneous; that they have fallen short of the mark, rather than deviated from the proper course.

The fitness of things denotes their fitness to produce our happiness: their nature means that actual constitution of the world, by which some things produce happiness, and others misery. Reason is one of the means, by which we discern between those things, which produce the former, and those things, which produce the latter. The moral sense feels and operates to promote the same essential discriminations. Whatever promotes the greatest happiness of the whole, is congenial to the principles of utility and sociability: and whatever unites in it all the foregoing properties, must be agreeable to the will of God: for, as has been said once, and as ought to be said again, his will is graciously comprised in this one paternal precept—Let man pursue his happiness and perfection.

The law of nature is immutable; not by the effect of an arbitrary disposition, but because it has its foundation in the nature, constitution, and mutual relations of men and things. While these continue to be the same, it must continue to be the same also. This immutability of nature's laws has nothing in it repugnant to the supreme power of an all-perfect Being. Since he himself is the author of our constitution; he cannot but command or forbid such things as are necessarily agreeable or disagreeable to this very constitution. He is under the glorious necessity of not contradicting himself. This necessity, far from limiting or diminishing his perfections, adds to their external character, and points out their excellency.

The law of nature is universal. For it is true, not only that all men are equally subject to the command of their Maker; but it is true also, that the law of nature,

having its foundation in the constitution and state of man, has an essential fitness for all mankind, and binds them without distinction.

This law, or right reason, as Cicero calls it, is thus beautifully described by that eloquent philosopher. "It is, indeed," says he, "a true law, conformable to nature, diffused among all men, unchangeable, eternal. By its commands, it calls men to their duty: by its prohibitions, it deters them from vice. To diminish, to alter, much more to abolish this law, is a vain attempt. Neither by the senate, nor by the people, can its powerful obligation be dissolved. It requires no interpreter or commentator. It is not one law at Rome, another at Athens; one law now, another hereafter: it is the same eternal and immutable law, given at all times and to all nations: for God, who is its author and promulgator, is always the sole master and sovereign of mankind."

"Man never *is*," says the poet, in a seeming tone of complaint, "but always *to be* blest." The sentiment would certainly be more consolatory, and, I think, it would be likewise more just, if we were to say—man ever *is*; *for* always to be blest. That we should have more and better things before us, than all that we have yet acquired or enjoyed, is unquestionably a most desirable state. The reflection on this circumstance, far from diminishing our sense or the importance of our present attainments and advantages, produces the contrary effects. The present is gilded by the prospect of the future.

When Alexander had conquered a world, and had nothing left to conquer; what did he do? He sat down and wept. A well directed ambition that has conquered worlds, is exempted from the fate of that of Alexander the Great: it still sees before it more and better worlds as the objects of conquest.

It is the glorious destiny of man to be always progressive. Forgetting those things that are behind, it is his duty, and it is his happiness, to press on towards those that are before. In the order of Providence, as has been observed on another occasion, the progress of societies towards perfection resembles that of an individual. This progress has hitherto been but slow: by many unpropitious events, it has often been interrupted: but may we not indulge the pleasing expectation, that, in future, it will be accelerated; and will meet with fewer and less considerable interruptions.

Many circumstances seem—at least to a mind anxious to see it, and apt to believe what it is anxious to see—many circumstances seem to indicate the opening of such a glorious prospect. The principles and the practice of liberty are gaining ground, in more than one section of the world. Where liberty prevails, the arts and sciences lift up their heads and flourish. Where the arts and sciences flourish, political and moral improvements will likewise be made. All will receive from each, and each will receive from all, mutual support and assistance: mutually supported and assisted, all may be carried to a degree of perfection hitherto unknown; perhaps, hitherto not believed.

"Men," says the sagacious Hooker, "if we view them in their spring, are, at the first, without understanding or knowledge at all. Nevertheless, from this utter vacuity, they grow by degrees, till they become at length to be even as the angels themselves are. That which agreeth to the one now, the other shall attain to in the end: they are not so far disjoined and severed, but that they come at length to meet."

Our progress in virtue should certainly bear a just proportion to our progress in knowledge. Morals are undoubtedly capable of being carried to a much higher degree of excellence than the sciences, excellent as they are. Hence we may infer, that the law of nature, though immutable in its principles, will be progressive in its operations and effects. Indeed, the same immutable principles will direct this progression. In every period of his existence, the law, which the divine wisdom has approved for man, will not only be fitted, to the cotemporary degree, but will be calculated to produce, in future, a still higher degree of perfection.

A delineation of the laws of nature, has been often attempted. Books, under the appellations of institutes and systems of that law, have been often published. From what has been said concerning it, the most finished performances executed by human hands cannot be perfect. But most of them have been rude and imperfect to a very unnecessary, some, to a shameful degree.

A more perfect work than has yet appeared upon this great subject, would be a most valuable present to mankind. Even the most general outlines of it cannot, at least in these lectures, be expected from me.

THE

MAJOR POLITICAL WRITING OF

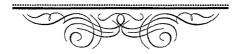
JEAN-JACQUES ROUSSEAU



THE TWO DISCOURSES

AND

THE SOCIAL CONTRACT



Translated and edited by

JOHN T. SCOTT



THE UNIVERSITY OF CHICAGO PRESS



He goes back to his equals. See note XVI, p. 147

DISCOURSE

ON THE ORIGIN AND THE FOUNDATIONS OF INEQUALITY

AMONG MEN



BY JEAN-JACQUES ROUSSEAU CITIZEN OF GENEVA

What is natural has to be considered not in beings that are corrupted, but in those that truly act in accordance with their nature.

-Aristotle, Policies, Book 11

AMSTERDAM CHEZ MARC MICHEL REY, MDCCLV

^{1.} Axistotle Politics 1.5 (12542), quoted by Rousseau in Latin: Non in deprevatis, sed in his quae bene secundum naturam se habent, considerandum est quid sit naturale. The context of the passage is Aristotle's discussion of natural slavery, where he examines whether there is a natural inequality between those who are slaves by nature and those who are not and whether this inequality would justify natural slaves being ruled. The quotation Rousseau chooses is part of Aristotle's more general argument that humans and other beings should be investigated in terms of their "end" (telos), or most complete or realized form.

ways; to reunite divided families by happy marriages; and above all to correct, by the persuasive sweetness of your lessons and by the modest graciousness of your conversation, the faults our young people acquire in other countries, from which, instead of the many useful things from which they could profit, they bring back, along with a puerile tone and ridiculous air acquired among debauched women, only admiration for I know not what supposedly grand things—the frivolous compensations for servitude that will never be worth as much as august freedom. Therefore be always what you are, chaste guardians of morals and gentle bonds of peace, and continue to assert, at every opportunity, the rights of the heart and of nature to the benefit of duty and of virtue.

I flatter myself that events will not prove me wrong in basing hope for the common happiness of the citizens and the glory of the republic on such guarantors. I admit that, for all these advantages, it will not shine with that brilliance by which most eyes are dazzled and the puerile and fatal taste which is the most mortal enemy of happiness and freedom. Let dissolute youth look elsewhere for easy pleasures and lasting remorse. Let supposed men of taste elsewhere admire the grandeur of palaces, the beauty of carriages, superb furnishings, the pomp of spectacles, and all the refinements of softness and luxury. In Geneva only men will be found; yet such a spectacle also has its value, and those who seek it out will be worth just as much as the admirers of the rest.

May you all, MAGNIFICENT, MOST HONORED, AND SOVEREIGN LORDS, deign to receive with the same kindness the respectful testimonies of the interest I take in your common prosperity. If I were unfortunate enough to be guilty of some indiscreet outpouring of emotion in this lively outpouring of my heart, I beg you to pardon it as the tender affection of a true patriot and as the ardent and legitimate zeal of a man who envisions no greater happiness for himself than that of seeing you all happy.

I am with the most profound respect MAGNIFICENT, MOST HONORED, AND SOVEREIGN LORDS, Your most humble and most obedient servant and fellow cirizen.

JEAN-JACQUES ROUSSEAU
At Chambéry, June 12, 1754

PREFACE

THE MOST USEFUL and the least advanced of all human knowledge appears to me to be that of man (II [p. 119]), and I dare say that the inscription on the Temple of Delphi15 alone contained a more important and more difficult precept than all the hefty books of the moralism. As such I consider the subject of this discourse to be one of the most interesting questions philosophy might propose, and unfortunately for us one of the thorniest philosophers might resolve. For how will the source of inequality among men be known unless one begins by knowing men themselves? And how will man ever manage to see himself as nature formed him, through all the changes that the sequence of time and of things must have produced in his original constitution, and to disentangle what he retains of his own stock from what circumstances and his progress have added to or changed in his primitive state? Like the statue of Glaucus, 16 which time, sea, and storms had so disfigured that it resembled less a god than a ferocious beast, the human soul, altered17 in the bosom of society by a thousand continually renewed causes, by the acquisition of a mass of knowledge and error, by changes that took place in the constitution of bodies, and by the continual impact of the passions, has, so to speak, changed in appearance to the point of being almost unrecognizable. And, instead of a being always acting according to certain and invariable principles, instead of that

^{15. &}quot;Know thyself."

^{16.} Glaucus was in mythology a fisherman who became a sea god. See Plato Republic 10 (61th-d), where Socrates uses the image to represent the original simple and divine nature of the human soul that is consealed by the condicting passions.

^{17. &}quot;Altered" translates addede from the verb adderer. Although the word in its various grammatical forms as a verb, noun, or adjective can mean simply "alter" or "change," it generally has a negative connomition of distortion, degeneration, corruption, or adulteration. This negative connomition should be kept in mind throughout.

celestial and majestic simplicity is author imprinted upon it, one no longer finds anything but the deformed contrast of passion which believes it reasons and of understanding caught in delirium.

What is crueler still is that, since all the progress of the human species continually moves it further from is primitive state, the more we accumulate new knowledge, the more we deprive ourselves of the means of acquiring the most important knowledge of all, and it is, in a sense, by dint of studying man that we have rendered ourselves incapable of knowing him.

It is easy to see that it is in these successive changes in the human constitution that one must seek the first origin of the differences that distinguish men, who, as is generally acknowledged, are naturally as equal among themselves as were the animals of each species before various physical causes introduced into some of them the different varieties we notice in them. Indeed, it is not conceivable that these first changes, by whatever means they occurred, altered all the individuals of the species all at the same time and in the same way. Rather, while some of them having been perfected or deteriorated and having acquired various good or bad qualities that were not inherent to their nature, the others remained in their original state for a longer time. And such was among men the first source of inequality, which is easier to demonstrate to be so in general than it is to assign its true causes with precision.

Let my readers not imagine, then, that I dare flatter myself with having seen what appears to me so difficult to see. I have begun some lines of reasoning, I have hazarded some conjectures, less in the hope of resolving the question than with the intention of clarifying it and reducing it to its genuine state. Others will easily be able to go farther along the same path, without it being easy for anyone to reach the end. For it is no light undertaking to disentangle what is original from what is artificial in the present nature of man, and to know correctly a state which no longer exists, which perhaps never did exist, which probably never will exist, and about which it is nevertheless necessary to have correct notions in order to judge our present state properly. Even more philosophy than might be supposed would be necessary for whoever will undertake to determine precisely which precautions to take in order to make solid observations on this subject. And a good solution to the following problem would not appear to me unworthy of the Aristotles and Plinys of our age: What experiments would be necessary in order to gain knowledge of natural man; and what are the means for doing these experiments in the midst of society? Far from undertaking to resolve this problem, I believe I have sufficiently meditated on the subject to dare answer in advance that the greatest philosophers

will not be too good to direct these experiments nor the most powerful sovereigns to carry them out-mutual assistance scarcely reasonable to expect especially given the perseverance or, rather, the continuing enlightenment and good will needed from both parties in order to achieve success.

This research, so difficult to carry out, and to which so little thought has been given until now, is, however, the sole means left to us for removing a multitude of difficulties that conceal from us the knowledge of the real foundations of human society. It is this ignorance of man's nature that throws so much uncertainty and obscurity on the true definition of natural right. For the idea of right, says M. Burlamaqui, and still more that of natural right, are manifestly ideas relative to man's nature. It is therefore from this very nature of man, he continues, from his constitution and from his state, that the principles of this science must be deduced. 18

It is not without surprise and without scandal that one notes how little agreement concerning this important matter prevails among the various authors who have dealt with it. Among the most serious writers one can hardly find two of them who are of the same view on this point. Without speaking of the ancient philosophers, who seem to have set out to contradict each other as best they could concerning the most fundamental principles, the Roman jurists indiscriminately subject man and all the other animals to the same natural law, because they consider this word "law" to express what nature imposes on ixelf rather than what it prescribes, or, rather, due to the particular sense in which these jurists understood the word "law," which in this case they seemed to have taken merely as the expression of the general relations established by nature among all animate beings for their common preservation.19 The moderns, recognizing the term "law" as applying only to a rule prescribed to a moral being—that is, a being that is intelligent, free, and considered in its relations with other beings-consequently restrict the province of natural law to the sole animal endowed with reason, namely man.20 But while each defines this law after his own fashion, all of them base it on such memphysical principles

^{18.} Jenn-Jacques Burlamaqui, The Principles of Natural and Politic Law (1747), 1.1.1, p. 32. Rousseau's paraphrase of Burlamaqui is nearly a direct quotation.

^{19.} See, e.g., Justinian Institutes 1.2.1: "The law of nature is what nature teaches all animals; this law is not peculiar to the human race alone, but belongs to all living creatures."

^{20.} By the "moderns," Rousseau appears primarily to mean modern jurists such as Hugo Grotius, Samuel von Pufendorf, and Jean-Jacques Burlamaqui, who restricted the province of natural law and natural right to rational and moral beings. See, e.g., Grotius, The Rights of War and Peace (1625), 1.1.10, vol. 1:150-51: "Natural right is the rule and dictate of right reason, showing the moral deformity or moral necessity there is in any act, according to its suitableness or unsuitableness to a rational and sociable nature."

that even among us there are very few people capable of comprehending these principles, far from being able to discover them by themselves. As a result, all the definitions of these learned men, otherwise in perpetual contradiction with one another, agree only on this: that it is impossible to understand the law of nature and consequently to obey it without being a very great reasoner and a profound metaphysician. Which means precisely that to establish society men must have utilized enlightenment that develops only with much difficulty and for very few people in the midst of society iself.

Knowing nature so little and agreeing so poorly on the meaning of the term law, it would be quite difficult to agree on a good definition of natural law. As such, all those found in books, aside from not being uniform, have the further defect of being drawn from several kinds of knowledge men do not naturally have and from advantages the idea of which they are able to conceive only after having left the state of nature. One begins by searching for the rules on which it would be appropriate for men to agree among themselves for the sake of common utility; and then one applies the term "natural law" to the collection of these rules, without any further proof than the good they consider would result from their universal application. This is surely a most convenient way of putting together definitions and of explaining the nature of things by nearly arbitrary preferences.

But as long as we do not know natural man, it will be vain for us to try to determine the law he has received, or that which best suits his constitution. All that we can see very clearly on the subject of this law is that not only must the person's will it obligates be able to submit to it knowingly for it to be law, but also it must speak directly through the voice of nature for it to be natural.

Setting aside, therefore, all scientific books that teach us only to see men as they have made themselves, and meditating on the first and simplest operations of the human soul, I believe I perceive in it two principles preceding reason, one of which interests us ardently in our well-being and our self-preservation, and the other of which inspires in us a natural repugnance to see any sensitive being, and principally our fellow humans, ²¹ perish or suffer. It is from the concurrence ²² and combination that our mind is capable of making of these two

^{21. &}quot;Fellow humans" translates semblables. Although the term generally refers to one's fellow humans, it has the root sense of "like" or "similar" and so can also have the more extended sense of heings which are recognized as being similar to oneself. The term could also therefore potentially apply to non-humans insofar as they are viewed by humans as similar to themselves.

^{22. &}quot;Concurrence" translates consours, which has the literal meaning of "racing sogether," and therefore has the sense of either competition or cooperation.

principles, without it being necessary to introduce that of sociability, ²³ that all the rules of natural right appear to me to flow—rules which reason is later compelled to reestablish on other foundations when, through its successive developments, it has succeeded in stifling nature.

In this way, one is not obliged to make a philosopher of man before making a man of him. His duties toward others are not dictated to him solely by the belated lessons of wisdom; and as long as he does not resist the inner impulse of commiseration, he will never do harm to another man or even another sensitive being, except in the legitimate case when, his self-preservation being involved, he is obliged to give preference to himself. By this means, the ancient disputes over the participation of the animals in natural law are also brought to an end. For it is clear that, being devoid of enlightenment and freedom, they cannot recognize this law; but since they share something of our nature through the sensibility with which they are endowed, it must be concluded that they should also participate in natural right and that man is subject to some sort of duties toward them. It seems, indeed, that if I am obligated to not do any harm to my fellow human being, it is less because he is a rational being than because he is a sensitive being, a quality that, since it is common to beast and man, should at least give the beast the right not to be needlessly mistreated by man.

This same study of original man, of his true needs, and of the fundamental principles of his duties is also the only proper means that may be used to dispel those crowds of difficulties which present themselves regarding the origin of moral inequality, the true foundations of the body politic, the reciprocal rights of its members, and a thousand other similar questions, as important as they are poorly elucidated.

When considering human society with a calm and disinterested eye, it seems at first to exhibit only the violence of powerful men and the oppression of the weak. The mind revolts against the harshness of the former; one is led to deplore the blindness of the latter; and as nothing is less stable among men than those external relationships which chance produces more often than wisdom, and which are called weakness or might, wealth or poverty, human establishments appear at first glance to be founded on piles of quicksand. It is only by examining them closely, it is only after having swept away the dust and

^{33.} Rousseau alludes in particular so the natural law theorist Samuel von Pufendorf, who considered "sociability" as an essential characteristic of human beings and as the fundamental law of natural right. See Putlendorf, The Whole Duty of Man Assorting to the Law of Man (1673), 1-3-7-8, pp. 55-56, and De jure naturae at gentium (1672), 2-3-15.

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sand which surround the edifice, that one perceives the unshakeable base upon which it is built and that one learns to respect its foundations. Now, without the serious study of man, of his natural faculties, and of their successive developments, one will never succeed in making these distinctions and in separating what, in the present constitution of things, the divine will has done from what human art has claimed to do. The political and moral research occasioned by the important question I am examining is therefore useful in every way, and the hypothetical history of government is an instructive lesson for men in every respect. By considering what we would have become, left to ourselves, we ought to learn to bless him whose beneficent hand, by correcting our institutions and giving them an unshakeable basis, has prevented the disorders which must otherwise have resulted and has caused our happiness to arise from the very means that seemed bound to render our misery complete.

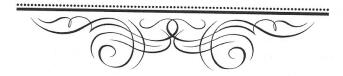
Learn what the god has ordained for you, And what is your place in human affairs.24

^{24.} Persius Sazires 3.71-73, quoted by Rousseau in Latin: quem te deus esse / Jussic et humana qua parte locatus es in re / Disce.



QUESTION PROPOSED BY THE ACADEMY OF DIJON

What is the origin of inequality among men, and whether it is authorized by natural law.²⁶



^{26.} The prize competition for 1754 was announced by the Academy of Dijon in the November 1753 edition of the *Mercure de France*. The precise wording of the question was: "What is the source of inequality among men, and whether it is authorized by natural law."

DISCOURSE

ON THE ORIGIN, AND THE FOUNDATIONS OF INEQUALITY

AMONG MEN

IT IS OF MAN that I am to speak, and the question I am examining tells me that I am going to speak to men, for such questions are not proposed by those who are afraid to honor the truth. I will therefore confidently defend the cause of humanity before the wise men who invite me to do so, and I will not be dissatisfied with myself if I prove myself worthy of my subject and my judges.

I conceive of two sors of inequality in the human species: one which I call natural or physical because it is established by nature, and which consiss in the difference in age, health, strength of the body, qualities of the mind, or of the soul; the other, which may be called moral or political inequality because it depends upon a sort of convention and is established, or at least authorized, by the consent of men. The latter consists in the different privileges that some enjoy at the expense of others, such as being more wealthy, more honored, more powerful than they are, or even in making themselves obeyed by them.

It is not possible to ask what the source of natural inequality is, because the answer would be expressed in the mere definition of the word. Still less can one inquire whether there might not be some essential connection between the two inequalities. For that would be asking, in other terms, whether those who command are necessarily better than those who obey, and whether strength of body or of mind, wisdom or virtue, are always found in the same individuals in proportion to their power or riches—a question perhaps good for slaves to debate within earshot of their masters, but not befitting rational and free men who seek the truth.

What, then, precisely is at issue in this discourse? To indicate in the progression of things the moment when, right replacing violence, nature was subjected to law; to explain by what chain of marvelous circumstances the strong could have resolved to serve the weak, and the people to purchase fanciful tranquility at the expense of real felicity.

The philosophers who have examined the foundations of society have all felt the necessity of going back to the state of nature, but none of them has reached it. Some have not hesitated to attribute to man in that state the notion of the just and the unjust, without bothering to show that he had to have that notion, or even that it was useful to him. Others have spoken of the natural right everyone has to keep what belongs to him, without explaining what they meant by "belong." Others, granting authority to the stronger over the weaker from the very outset, have had government arising right away, without considering the time that must have elapsed before the words "authority" and "government" could have existed among men. In short, all of them, speaking continually of need, greed, oppression, desires, and pride, have carried into the state of nature ideas they have taken from society: they spoke of savage man and they were depicting civil man.27 It did not even enter the minds of most of our philosophers to doubt that the state of nature existed, whereas it is evident from reading the Sacred Books that the first man, having received enlightenment and precepts directly from God, was not himself in that state, and that, granting the books of Moses the faith that any Christian philosopher owes them, it must be denied that men were ever found in the pure state of nature,28 even before the Flood, unless they fell back into it by some extraordinary event-a paradox highly difficult to defend and altogether impossible to prove.

Let us therefore begin by setting aside all the facts, for they have no bearing on the question. The research that may be undertaken regarding this subject must not be taken for historical truth, but only for hypothetical and conditional reasoning, more appropriate for clarifying the nature of things than for showing their genuine origin, and similar to the reasoning our physicists employ all the time with regard to the formation of the world.²⁰ Religion orders us to

^{27. &}quot;Savage man" is "savage" in the sense of "wild" or "untamed," not in the sense of "fierce" or "vicious." The contrast Rousseau develops is therefore between uncivilized man and civilized man.

a3. The "pure state of nature" was a term originally used by medieval or early modern natural law thinkers such as Thomas Aquinas and Francisco Suarez to refer to the natural state of mankind without divine dispensation or prior to it, with the "state of nature" itself referring to the state of mankind prior to the Fall. See, e.g., Aquinas, Summa Theologica (written 1265—74), I-II, q. 109, art. 8; Francisco Suarez, De legibus as Deo legislamore (1612), 1-3,11-12 and 2.8.8—9.

^{29.} See Descartes, Discourse on Method (1637), part 5, beginning. After first referring to the condemnation of Galileo by the Catholic Church for his examination of the Copernican system, and remarking that he suppressed his own book on the formation of the world due to the controversy, Descartes explains that his examination of the formation and laws of the physical universe will be strictly hypothetical.

believe that since God himself took men out of the state of nature immediately after the creation, they are unequal because he intended them to be so. But it does not forbid us from forming conjectures, drawn solely from the nature of man and of the beings surrounding him, about what the human race might have become if it had been left to its own devices. This is what is asked of me, and what I propose to examine in this discourse. As my subject concerns man in general, I will try to adopt a language that suits all nations—or, rather, forgetting times and places, considering only the men to whom I speak, I will imagine myself in the Lyceum of Athens, rehearsing the lessons of my masters, with the likes of Plato and of Xenocrates as my judges, and the human race as my audience.³⁰

O man, whatever land you may be from, whatever your opinions may be. listen: here is your history such as I have found it reads, not in the books of your fellow men, who are liars, but in nature, which never lies. Everything that comes from nature will be true; there will be nothing false in it except what I may have unintentionally mixed in it of my own. The times of which I am going to speak are very far off. How much you have changed from what you were! It is, so to speak, the life of your species that I am going to describe to you according to the qualities you received, which your education and your habits may have been able to corrupt, but have not been able to destroy. There is, I feel, an age at which the individual man would want to halt. You will seek the age at which you would wish your species had halted. Dissatisfied with your present state for reasons that herald even greater dissatisfactions for your unhappy posterity, perhaps you would want to be able to go backward. And this sentiment must serve as the praise of your earliest ancestors, the criticism of your contemporaries, and the terror of those who will have the misfortune to live after you.

^{30.} The Lyceum of Athens was the school founded by Aristotle in 335 or 334 BC. Xenocrates (c. 395-314 BC), the philosopher and mathematician, was a student of Plato who later headed Plato's school, the Academy.

FIRST PART

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HOWEVER IMPORTANT it may be, in order to judge the natural state of man correctly, to consider him from his origin and to examine him, so to speak, in the first embryo of the species, I will not follow his physical organization through its successive developments. I will not stop to investigate in the animal system what he could have been at the beginning so as eventually to become what he is. I will not examine whether, as Aristotle thinks, his elongated nails were not at first hooked claws,31 whether he was not hairy like a bear, and whether, his walking on all fours (III [p. 120]), his gaze directed toward the earth and limited to a horizon of a few paces, did not indicate the character as well as the limitations of his ideas.32 On that subject I could form only vague and almost imaginary conjectures. Comparative anatomy has as yet made too little progress, the observations of naturalists are as yet too uncertain, to be able to esmblish the basis for solid reasoning upon such foundations. Thus, without having recourse to the supernatural knowledge we have on this point, and without regard to the changes that must have occurred in the structure of man, internal as much as external, as he gradually applied his limbs to new uses and as he consumed new foods, I will suppose him formed from all time as I see him today: walking on two feet, using his hands as we do ours, directing his gaze toward the whole of nature, and surveying with his eyes the vast expanse of heaven.

^{31.} Although Arissotle does speak of the analogy between the nails of Junnan beings and the claws of animals, he does not daim that sails evolved from claws (see Parts of Animals 687a-b). Arissotle's discussion in this context is his claim that human beings are not disadvantageously physically constituted compared to other animals since they are adaptable, for example being able to use their hands for many purposes.

^{32.} Aristotle suggests that human beings' upright posture is a sign of our rational and divine nature. See Para of Animals 686a.

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Stripping this being, so constituted, of all the supernatural gifts he could have received and of all the artificial faculties he could have acquired only by prolonged progress—considering him, in a word, such as he must have come from the hands of nature—I see an animal less strong than some, less agile than others, but, all things considered, the most advantageously physically organized of all. I see him satisfying his hunger beneath an oak, quenching his thirst at the first stream, finding his bed at the foot of the same tree that had furnished his meal, and with that his needs satisfied.

The earth, left to its natural fertility (IV [p. 122] and covered by immense forests which no axe has ever mutilated, at every step offers storehouses and shelter to the animals of every species. Men, dispersed among them, observe and imitate their industry, and so raise themselves up to the level of the instinct of beasts, with the advantage that each species has only its own instinct, and man—perhaps having none that belongs to him—appropriates them all to himself, feeds himself equally well on most of the various foods (V [p. 123]) which the other animals divide among themselves, and consequently finds his subsistence more easily than any of them can.

Accustomed from childhood to the inclemency of the weather and the rigor of the seasons, habituated to fargue, and forced—naked and without arms—to defend their lives and their prey against other ferocious beasts or to escape them by running, men develop a robust and almost unalterable temperament. Children, bringing into the world the excellent constitution of their parents and strengthening it by the same training which produced it, thereby acquire all the vigor of which the human species is capable. Nature makes use of them precisely as the law of Sparta did with the children of its citizens: it renders strong and robust those who are well constituted and causes all the others to perish, differing in this regard from our societies, where the state, by rendering them burdensome to their parents, kills them indiscriminately before their birth.

Savage man's body being the only implement with which he is familiar, he puts it to various uses of which ours are incapable for lack of practice, and it is our industry that deprives us of the strength and agility that necessity obliges him to acquire. If he had had an axe, would his wrist break such strong branches? If he had had a sling, would he throw a stone so hard? If he had had a ladder, would he climb a tree so nimbly? If he had had a horse, would he run so fast? Give civilized man time to gather all his machines around him, and there can be no doubt that he will easily overcome savage man. But if you want to see an even more unequal fight, put them face to face, naked and

disarmed, and you will soon recognize the advantage of constantly having all one's strength at one's disposal, of always being ready for any eventuality, and of always carrying oneself, so to speak, wholly with oneself (VI [p. 124]).

Hobbes claims that man is naturally intrepid and seeks only to attack and fight.33 An illustrious philosopher thinks, and Cumberland and Pufendorf also affirm, that, on the contrary, nothing is as timid as man in the state of nature, and that he is always trembling and ready to flee at the slightest noise that strikes him, at the slightest movement that he perceives.34 This may be so for objects with which he is not familiar, and I do not doubt that he is frightened by every new sight that presents is elf to him whenever he cannot discern the physical good and evil that must be expected from it or compare his strength with the danger he runs-rare circumstances in the state of nature, where everything proceeds in such a uniform manner and where the face of the earth is not subject to those sudden and continual changes caused in it by the passions and inconstancy of united peoples. But savage man, living dispersed among the animals and early finding himself in the position of having to measure himself against them, soon makes the comparison, and, sensing that he surpasses them in skill more than they surpass him in strength, he learns to fear them no more. Pit a bear or a wolf against a savage who is robust, agile, courageous, as they all are, armed with stones and a good stick, and you will see that the danger will at the very least be reciprocal and that, after several such experiences, ferocious beass, which do not like to attack each other, will not willingly attack man, who they will have found to be just as ferocious as themselves. With regard to those animals that actually have more strength than man has skill, he is in the same position with respect to them as other weaker species, which nonetheless continue to subsist, with this advantage for man: that, no less prepared than they are to run and finding almost certain refuge in trees, he always has the option of accepting or refusing the encounter and the choice of fleeing or fighting. Let us add that it does not appear that any animal naturally makes war upon man, except in the case of self-defense or extreme hunger, or

^{33.} See Hobbes, On the Citizen (1642), 1.4: "All men in the state of nature have a desire, and will to hurt..."
(p. 26). See also Hobbes, Leviathan (1651), chap. 13.

^{34.} The "illustrious philosopher" is Charles-Louis de Secondat, baron de Montesquieu (1689–1755), who argues in the Spirit of the Law (1748) that man in the state of nature "would at first feel only his weakness, his middiry would be extreme; and as for evidence, if it is needed on his point, swages have been found in the forests; everything makes them flee" (1.2, p. 6). Richard Cumberland argues in A Treatus of the Laws of Neuro (1672), against Hobbes, that human passions would not necessarily lead to the war of all against all described by Hobbes (1.3, p. 350). For Pufendorf's account of man's fearfulness in the natural state, see De jure nature ext gentium (1672), 3.1.8 and 3.2.2; see also 3.3.16.

displays those violent antipathies toward him that seem to announce that one species is destined by nature to serve as food for the other.

These are undoubtedly the réasons why Negroes and savages are so little concerned about the ferocious beasts they encounter in the woods. The Caribs of Venezuela, among others, live in this regard in the most profound security and without the slightest inconvenience. Although they go nearly naked, says François Corréal, this does not keep them from boldly exposing themselves in the woods armed only with bow and arrow, but no one has ever heard that any of them has been devoured by beass. 35

Other more formidable enemies, against which man does not have the same means of defending himself, are natural infirmities: childhood, old age, and illnesses of all types-sad signs of our weakness, of which the first two are common to all animals and the last of which belongs principally to man living in society. I even observe on the subject of childhood that the mother, since she carries her child with her everywhere, can feed it more easily than the females of a number of animals, which are forced to come and go repeatedly with great fatigue, this way to seek their food and that way to suckle or feed their young. It is true that if the mother happens to perish, the child greatly risks perishing with her; but this danger is common to a hundred other species, whose young are for a long time unable to go seek their nourishment themselves. And if childhood lasts longer among us, since we live longer as well, everything is also more or less equal in this respect (VII [p. 126]), although there are other rules regarding the duration of infancy and the number of young (VIII [p. 126]) which do not pertain to my subject. Among old people, who act and perspire little, the need for food diminishes along with the ability to provide for it. And as savage life keeps gout and rheumatism away from them, and as old age is, of all ills, that which human assistance can least alleviate, they eventually expire without anyone perceiving that they cease to exist and almost without perceiving it themselves.

With regard to illnesses, I will not repeat the empty and false declamations against medicine made by most healthy people, but I will ask whether there is any solid observation from which it might be concluded that the average lifespan of man is shorter in countries where this art is most neglected than in those where it is cultivated with the greatest care. And how could that be, unless we give ourselves more ills than medicine can furnish us remedies! The extreme inequality in our way of life—excess of idleness among some, excess

of labor among others; the ease with which our appetites and our sensuality are aroused and satisfied; the overly refined foods of the rich, which feed them with rich sauces and overwhelm them with indigestion; the bad food of the poor, which they are even short of most of the time and the lack of which leads them to greedily stuff their stomachs when they get the chance; late nights, excesses of every kind, immoderate outpourings of all the passions, bour of fatigue, and exhaustion of the mind; innumerable sorrows and pains which are experienced in every social station and which perpetually gnaw away at men's souls: these are the fatal proofs that most of our ills are our own work, and that we would have avoided almost all of them by preserving the simple, uniform, and solitary way of life which was prescribed to us by nature. If nature intended us to be healthy, I almost dare affirm that the state of reflection is a state contrary to nature, and that the man who meditates is a deprayed animal. When one considers the good constitution of savages, at least of those whom we have not ruined with our strong liquors, when one learns that they experience almost no illnesses except wounds and old age, one is strongly inclined to believe that the history of human illnesses could easily be written by following that of civil societies. Such at least is the view of Plato, who judges, based on certain remedies used or approved by Podalirius and Machaon at the siege of Troy, that various illness these very remedies should have brought on were not yet then experienced by men.36 And Celsus reports that dieting, so necessary nowadays, was invented only by Hippocrates.37

With so few sources of ills, man in the state of nature therefore scarcely has need of remedies, and still less of doctors. The human species is in this respect no worse off than all the others, and it is easy to learn from hunters whether they come across many sick animals in their treks. They do find some that have received considerable wounds which healed quite well, that have had bones and even limbs broken and set again by no other surgeon than time, with no other regimen than their ordinary life, and that are no less perfectly cured for not having been tormented by incisions, poisoned by drugs, or worn out by fasts. Finally, however useful well-administered medicine may be among us, it is still certain that if a sick savage left to his own devices has nothing to hope for except from nature, in return he has nothing to fear except from his illness, which often makes his situation preferable to ours.

^{36.} See Plato Republic 405d-408c. Compare Homer Iliad 11.639-40. Podalirius and Machaon were the sons of the legendary healer Asclepius.

^{37.} See A. Cornelius Ceisus *De Medicine* Preface. Hippocrates was the great medical doctor who flourished in the fourth century BC after whom the "Hippocratic Oath" is named.

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Let us therefore beware of confusing savage man with the men we have before our eyes. Nature treats all the animals left to its care with a partiality that seems to show how jealous it is of this right. The horse, the cat, the bull, even the ass are mostly taller, all of them have a more robust constitution, more vigor, more strength in the forests than in our houses. They lose half of these advantages in becoming domesticated, and it might be said that all our care to treat and feed these animals well only ends up causing them to degenerate. It is the same with man himself: in becoming sociable and a slave, he becomes weak, timid, groveling, and his soft and effeminate way of life completes the enervation of both his strength and his courage. Let us add that in savage and domesticated conditions the difference between one man and another must be yet greater than that between one beast and another; for since both animal and man have been treated equally by nature, all the comform man provides for himself above and beyond those he provides for the animals he tames are so many particular causes that make him degenerate more perceptibly.

Nakedness, lack of dwelling, and deprivation of all those useless things we believe so necessary are not, therefore, such a great misfortune for these first men, nor above all are they such a great obstacle to their self-preservation. If they do not have hairy skin, they have no need of it in warm countries, and in cold countries they soon learn to appropriate the skins of the bease they have overcome. If they have only two feet for running, they have two arms to provide for their defense and for their needs. Their children perhaps walk late and with difficulty, but mothers carry them with ease—an advantage lacking in other species in which the mother, being pursued, finds herself forced to abandon her young or to adjust her pace to theirs.* Finally, unless one supposes those singular and fortuitous combinations of circumstances of which I will speak hereafter, and which might very well never have occurred, it is an any case clear that the first who made himself clothes or a dwelling thereby gave himself things that were hardly necessary, since he had done without

^{*}There may be some exceptions to this. For example, dua of the animal from the province of Nixaragua which resembles a fox, has feet like a man's hands, and, according to Correid, has a pouch under its belly into which the mother puts her young when she is obliged to flee. This is doubtless the same animal that is called a Tlaquazin in Mexico, and to the female of which Laët attributes a similar pouch for the same use."

^{38.} For Correal, see n. 35 to p. 68. Jan Laët's account of the West Indies first appeared in 1625. The animal to which Laët refers is the opossum.

them until then and since it is hard to see why he could not endure as a grown man a mode of life he had endured from his childhood.

Alone, idle, and always near danger, savage man must like to sleep and be a light sleeper like the animals, which, since they think little, so to speak sleep the entire time they are not thinking. His own preservation being almost his only care, his best trained faculties must be those whose principal object is attack and defense, either to overcome his prey or to guard against being another animal's prey. By contrast, the organs perfected only by softness and sensuality must remain in a state of coarseness that precludes any kind of delicacy in him; and since his senses are not alike in this respect, he will have extremely crude touch and taste and highly acute sight, hearing, and smell. Such is the animal state in general, and, according to travelers' reports, such also is that of most savage peoples. Thus it is not surprising that the Hottentots of the Cape of Good Hope catch sight of vessels on the high seas with their naked eyes from as far away as do the Dutch with spyglasses, nor that the savages of America track the Spaniards by smell just as well as the best dogs could have done, nor that all these barbarous nations endure their nakedness without difficulty, whet their appetite with hot peppers, and drink European liquors like water.

I have up to this point considered only physical man. Let us try to look at him now from the metaphysical and moral side.

I see in every animal only an ingenious machine to which nature has given senses to revitalize incelf and protect itself, up to a certain point, from everything that tends to destroy or disturb it. I perceive precisely the same things in the human machine, with this difference: that nature alone does everything in the operations of the beast whereas man contributes to his own operations in his capacity as a free agent. The former chooses or rejects by instinct and the latter by an act of freedom, which makes it so that the beast cannot deviate from the rule that is prescribed to it, even when it would be advantageous for it to do so, and that man deviates from it often to his own detriment. So a pigeon would die of hunger near a basin filled with the best meats and a cat atop heaps of fruits or grain even though each could nourish itself very well on the food it disdains if it made up is mind to try some. So dissolute men yield to excesses which cause them fever and death, because the mind depraves the senses, and because the will still speaks when nature is silent.

Every animal has ideas since it has senses, it even combines its ideas up to a certain point, and man differs in this regard from beast only by degree. Some philosophers have even suggested that there is more difference between one given man and another given man than between a given man and a given beast.³⁹ It is therefore not so much understanding that constitutes the specific difference of man among the animals as it is his capacity as a free agent. Nature commands every animal, and the beast obeys. Man feels the same impetus, but he recognizes that he is free to acquiesce or resist, and it is above all in the consciousness of this freedom that the spirituality of his soul is shown. For physics in a way explains the mechanism of the senses and the formation of ideas, but in the power of willing, or rather of choosing, and in the feeling!⁴⁰ of this power are found only purely spiritual acts, about which nothing is explained by the laws of mechanics.

But, even if the difficulties surrounding all these questions should leave some room for dispute concerning this difference between man and animal, there is another very specific quality that distinguishes them and about which there can be no argument: that is, the faculty of perfecting himself 41-a faculty which, with the aid of circumstances, successively develops all the others and resides among us as much in the species as in the individual, whereas an animal is at the end of a few months what it will be all its life and its species will be at the end of a thousand years what it was the first year of that thousand. Why is man alone liable to becoming imbecile? Is it not that he thereby returns to his primitive state and that-while the beast, which has acquired nothing and which also has nothing to lose, always retains his instinct-man, losing again by old age or by other accidents everything that his perfectibility has made him acquire thereby falls back lower than the beast itself? It would be sad for us to be forced to agree that this distinctive and almost unlimited faculty is the source of all man's misfortunes, that it is this faculty which, by dint of time, draws him out of that original condition in which he would pass tranquil and innocent days, that it is this faculty which, over the centuries, by causing his enlightenment and his errors, his vices and his virtues, to bloom,

^{39.} See Montaigne, Eury (1980–93.), "Of the Inequality among Us," 1-43, p. 189; "Planach says somewhere that he does not find so much difference between one animal and another. I see the does between one man and another. I would willingly outed Planach and say that there is more distance between a given man or a given man than from a given man to a given man than from a given man to a given animal." Montaigne refers to Plurach's dialogue "That Bears

^{40. &}quot;Feeling" translates sonimon, which might also be translated "sentiment." As in English, the French term sonimon can refer either to a feeling or to an opinion. The term will be translated as "feeling" when it is clear that this is his primary meaning.

^{41. &}quot;The faculty of perfecting himself" translates in faculté de se perfectioner. This parase might also be canadated "the faculty of besid perfected." Just below, Rousseau will use the term "perfectability," a term be coined or at least was the first to use in print, to name this uniquely human capacity for change on the level of the individual and species.

makes him in the long run the tyrant of himself and of nature (IX [p. 127]). It would be horrible to be obliged to praise as a beneficent being the person who first suggested to the inhabitants of the banks of the Orinoco the use of those boards he binds to his children's temples, and which assure them at least a portion of their imbecility and of their original happiness.

Savage man, left by nature to instinct alone, or rather compensated for that instinct he perhaps lacks by faculties capable of substituting for it at first and then of raising him far above nature, will therefore begin with purely animal functions (X [p. 134]). To perceive and to feel will be his first state, which he will have in common with all the animals. To will and to not will, to desire and to fear, will be the first and almost the only operations of his soul until new circumstances cause new developments in it.

Whatever the moralists may say about it, human understanding owes much to the passions which, as is generally acknowledged, owe much to it as well. It is by their activity that our reason is perfected. We seek to know only because we desire to have pleasure, and it is not possible to conceive why someone who had neither desires nor fears would go to the trouble of reasoning. The passions, in turn, derive their origin from our needs and their progress from our knowledge. For one can desire or fear things only through the ideas one can have of them or by the simple impulsion of nature; and savage man, deprived of every kind of enlightenment, experiences only the passions of this latter type. His desires do not exceed his physical needs (XI [p. 141]). The only goods he knows in the universe are food, a female, and rest; the only evils he fears are pain and hunger. I say pain and not death, for an animal will never know what it is to die, and the knowledge of death and in terrors is one of the first acquisitions man has made in moving away from the animal condition.

It would be easy for me, if it were necessary, to support this view by facts and to show that in all the nations of the world the progress of the mind has been precisely proportioned to the needs that peoples received from nature or to those to which circumstances subjected them, and consequently to the passions, which prompted them to provide for these needs. I would show the arts being born in Egypt and spreading with the flooding of the Nile. I would follow their progress among the Greeks, where they were seen to sprout, grow, and rise up to the heavens amidst the sands and rocks of Attica without being able to take root on the fertile banks of the Eurotas. 42 I would note that in

^{42.} Rousseau makes the traditional contrast between Athens, located in Artica and known for its cultivation of the arts, and Sparta, the city on the banks of the river Eurotas and known for its neglect of the arts. Compare Discourse on the Sciences and the Arts, p. 36 above.

general the peoples of the north are more industrious than those of the south because they can less afford not to be so, as if nature wanted to equalize things in this way by giving to minds the fertility it denies the soil.

But without resorting to the uncertain evidence of history, who does not see that everything seems to remove from savage man the temptation and the means of ceasing to be savage? His imagination portrays nothing to him; his heart asks nothing of him. His modest needs are so easily found at hand, and he is so far from the degree of knowledge necessary for desiring to acquire greater knowledge, that he can have neither foresight nor curiosity. The spectacle of nature becomes indifferent for him by dint of becoming familiar to him. There is always the same order, there are always the same revolutions. He does not have the mind to wonder at the greatest marvels, and it is not in him that one must seek the philosophy man needs in order to know how to observe once what he has seen every day. His soul, which nothing agitates, gives isself over to the sole feeling of its present existence, without any idea of the future, however near it may be, and his projects, as limited as his views, hardly extend to the end of the day. Such is, even today, the degree of the foresight of the Carib: in the morning he sells his bed of cotton and in the evening he comes weeping to buy it back for not having foreseen that he would need it for the coming night.

The more one meditates on this subject, the more the distance from pure sensations to the simplest knowledge increases in our eyes; and it is impossible to conceive how a man, by his strength alone, without the aid of communication, and without the spur of necessity, could have bridged so great an interval. How many centuries perhaps elapsed before men were at the point of seeing a fire other than that of heaven? How many different chance events were needed to learn the most common uses of this element? How many times must they have let it go out before they acquired the art of reproducing it? And how many times did each of these secrets perhaps die along with the one who discovered it? What shall we say of agriculture, an art which requires so much labor and foresight, which depends on other arts, which quite obviously is practicable only in a society that has at least begun, and which serves us less to bring forth from the earth those foods it would readily yield without this art than to force it to yield those we prefer as being most to our taste? But let us suppose men had multiplied so much that the products of nature no longer sufficed to feed them-a supposition which, incidentally, would indicate a great advantage for the human species in that way of life. Let us suppose that, without forges and without workshops, the tools for farming had fallen from heaven into the savages' hands, that these men had conquered the mortal hatred they all have for sustained work, that they had learned to foresee their needs so far in advance, that they had guessed how the earth must be cultivated, grain sowed, and trees planted, that they had discovered the art of grinding wheat and fermenting grapes—all things that would have had to be taught to them by the gods, as it is impossible to conceive how they could have learned them by themselves. What man, after all this, would be foolish enough to torment himself by cultivating a field that will be plundered by the first comer, whether man or beast, for whom the crop was agreeable? And how could anybody resolve to spend his life doing hard work when the more he needs its reward, the more certain he is of not reaping it? In a word, how could his situation lead men to cultivate the earth as long as it is not divided among them—that is, as long as the state of nature is not entirely destroyed?

Even if we were to suppose a savage man to be as skillful in the art of thinking as our philosophers make bim out to be, even if we were to make him, following their example, a philosopher himself—discovering the most sublime truths on his own, making for himself, by extremely abstract chains of reasoning, maxims of justice and reason drawn from the love of order in general or from the known will of his creator; in a word, even if we were to suppose him to have as much intelligence and enlightenment in his mind as he would have to have—and to the degree that dullness and stupidity is in fact found in him—what use would the species derive from all this metaphysics, which could not be communicated and which would perish with the individual who had invented it? What progress could the human race make, scattered in the woods among the animals? And to what point could men perfect themselves and enlighten one another who, having neither fixed domicile nor any need for one another; would encounter one another perhaps hardly twice in their lives, without recognizing one another and without speaking to one another?

Whatever the case may be regarding these origins, it is at least clear from how little care nature has taken to bring men together through mutual needs and to facilitate their use of speech, how little it has prepared their sociability and how little it has contributed for its part to all they have done to establish social bonds. Indeed, it is impossible to imagine why in that primitive state a man would need another man any more than a monkey or a wolf would need its fellow creature, 46 nor, assuming this need, what motive could induce the other to provide for it; nor even, if he did, how they could agree with one another on the terms. I know that we are repeatedly told that nothing would have been so miserable as man in that state;⁴⁷ and if it is true, as I believe I have proved, that he could have had the desire and the opportunity to leave it only after many centuries, this would be a charge to level against nature and not against him whom nature had so constituted. But, if I understand this term miserable correctly, it is a word that is either meaningless, or that signifies solely a painful privation and suffering of the body or soul. Now, I would very much like someone to explain to me what kind of misery there can be for a free being whose heart is at peace and whose body is healthy. I ask which - civil or natural life-is more liable to become intolerable to those who enjoy it? We nearly always see around us only people who complain about their existence, and some even deprive themselves of it insofar as they are able to do so, and the combination of divine and human laws hardly suffices to stop this disor-

^{46. &}quot;Fellow creature" translates semblable. See n. 21 to p. 54.

^{47.} See Pufendorf, The Whole Duty of Man According to the Law of Man (1673), 2.5.2, pp. 187–88; De jure naturae et gentium (1672), 2.2.8. See also Hobbes, Leviathan (1651), chap. 13.

der. I ask whether anyone has ever heard it said that a savage who is free even so much as considered complaining about his life and killing himself? Let it therefore be judged with less pride on which side genuine misery lies. Nothing, on the contrary, would have been so miserable as savage man dazzled by enlightenment, tormented by passions, and reasoning about a state different from his own. It was by a very wise providence that the faculties he had in potential were to develop only with the opportunities to exercise them, so that they were neither superfluous and burdensome to him beforehand nor belated and useless when needed. He had, in instinct alone, everything necessary for him to live in the state of nature; he has in cultivated reason only what is necessary for him to live in society.

It appears at first that men in that state, since they have neither any kind of moral relation among themselves nor known duties, could be neither good nor evil, and had neither vices nor virtues-unless, taking these words in a physical sense, one were to call vices in the individual those qualities that can harm his own self-preservation and virtues those that can contribute to it, in which case it would be necessary to call the most virtuous the one who least resists the simple impulses of nature. But without deviating from the usual meaning, it is appropriate to suspend the judgment we might pass on such a situation and to be wary of our prejudices until after having examined, scale in hand. whether there are more virtues than vices among civilized men, or whether their virtues are more advantageous than their vices are fatal, or whether the progress of their knowledge is a sufficient compensation for the harm they do one another in proportion as they learn of the good they ought to do, or whether, all things considered, they would not be in a happier situation for having neither harm to fear nor good to hope from anyone than they are for having subjected themselves to universal dependence and having obligated themselves to receive everything from those who do not obligate themselves to give them anything.

Above all, let us not conclude with Hobbes that since man has no idea of goodness he is naturally evil, that he is vicious because he does not know virtue, that he always refuses his fellow humans services he does not believe he owes them, or that, by virtue of the right he reasonably claims to the things he needs, he foolishly imagines himself to be the sole owner of the entire universe. 48 Hobbes saw very clearly the defect of all modern definitions of natural

^{48.} Hobbes argues that man naturally has "a right so "carphing, even to one another's hody" (Lociation 1651), dap. 14, p. 20, 50 each of Hobbes, On the Chirper (1642), 1.10. Commany to Roussean's statement, however, Hobbes denies that man is "naturally evil." See Hobbes, Lowinger, Lap. 13, p. 77, for the Chicap, Preface

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right, but the conclusions he draws from his own definition show that he takes it in a sense which is no less false. Reasoning on the basis of the principles he establishes, this author ought to say that, since the state of nature is the state in which the care of our self-preservation is the least prejudicial to that of others, this state was consequently the most conducive to peace and the best suited to the human race. He says precisely the opposite since he has improperly included in savage man's care for his self-preservation the need to satisfy a large number of passions which are the product of society and which have made laws necessary. The evil man, he says, is a robust child.⁴⁹ It remains to be seen whether savage man is a robust child. Even if we were to grant this to him, what would he conclude from it? That if, since even if this man is robust he would be as dependent on others as if he were weak, there is no extreme to which he would not go, that he would beat his mother when she was too slow to give him her breast, that he would strangle one of his younger brothers when he was inconvenienced by him, that he would bite another's leg when it bumped or bothered him. But to be robust and to be dependent are two contradictory assumptions in the state of nature. Man is weak when he is dependent and he is emancipated before he is robust. Hobbes did not see that the same cause that prevent savages from using their reason, as our jurist claim they do, prevents them at the same time from abusing their faculties, as he himself claims. As a result, it could be said that savages are not evil precisely because they do not know what it is to be good; for it is neither the development of enlightenment nor the restraint of law, but rather the calm of the passions and the ignorance of vice, which prevent them from doing evil. So much more does the ignorance of vice profit these men than does the understanding of virtue profit those. 50 There is, besides, another principle that Hobbes did not notice and which-having been given to man in order to soften, under certain circumstances, the ferocity of his pride,51 or the desire to preserve himself before the

to the Readers, p. 11. Rousseau's point is that Hobbes' argument that man's unrestrained natural passions are contrary to his self-preservation and well-being makes man "evil" from the perspective of Rousseau's own understanding, outlined in the previous paragraph, of natural goodness and especially of "goodness" taken in in "physical sense."

^{49.} See Hobbes, On the Cirizen (1642), Preface to the Readers, p. 11: "Thus an evil man is rather like a sturdy boy, or a man of childish mind..."

^{50.} Justin Histories 2.15, quoted by Rousseau in Latin: Tenso plus in Illir proficis visionum ignorento, quam in companio viruusi. "These mem" who are ignorant of vice refers to the Scythians, whereas "those" with an understmuting of virue refers to the Graeks.

^{51. &}quot;Pride" here and later in this sentence translates anous-prope. As will become clear later in this paragraph, and especially in note XV, Rousseau distinguishes between two kinds of self-lover the natural form of anous de soi, translated "self-love" or "love of oneself," and the developed form of anous-prope. Like the

birth of this pride (XV [p. 147])—tempers the ardor he has for his own wellbeing by an innate repugnance to see his fellow human being suffer. I do not believe I need fear any contradiction in granting to man the sole natural virtue that the most extravagant detractor of human virtues was forced to acknowledge.52 I speak of pity, a disposition suitable to beings as weak and as subject to so many ills as we are, a virtue all the more universal and all the more useful to man as it precedes the use of all reflection in him, and so natural that the beasts themselves sometimes show perceptible signs of it. Without speaking of the tenderness of mothers for their young and of the perils they brave to protect them, we daily observe the repugnance horses have for trampling a living body underfoot. An animal does not pass by a dead animal of its own species without uneasiness. Some of them even give them a kind of burial. And the sad lowing of the cattle entering a slaughterhouse proclaims the impression they receive from the horrible sight that strikes them. It is a pleasure to see the author of The Fable of the Bees forced to acknowledge man as a compassionate and sensitive being, abandoning, in the example he gives of it, his cold and subtle style to offer us the pathetic image of an imprisoned man who outside sees a ferocious beast tearing a child from his mother's breast, breaking his weak limbs with its murderous fangs, and tearing the throbbing entrails of this child with its claws. What dreadful agitation must be felt by this witness of an event in which he takes no personal interest? What anguish must he suffer at this sight for not being able to lend any help either to the fainting mother or to the dying child?53

Such is the pure movement of nature prior to all reflection. Such is the force of natural pity, which the most depraved morals still have difficulty destroying, since we daily see in our theaters people, being moved and weeping for the miseries of an unfortunate person, who, if they were in the tyrant's place, would further increase their enemy's torments-like bloodthirsry Sulla, so sensitive to ills which he had not caused, or like Alexander of Pherae, who dared not attend the performance of a single tragedy for fear that he be seen

English term "pride," amour-propre often has the pejocative sense of a corrupted form of self-love as in vanity, a negative sense that Rousseau often emphasizes in his discussions of amour-proper, but it also has a potentially positive sense as in "taking pride in one's work," a sense in which Rousseau also uses the term. Given the importance for Rousseau of this distinction between the two forms of self-love, and also given that the French word or guzil has also been translated as "pride," a note will indicate when "pride" translates amour-propre.

^{52.} As will become clear later in this paragraph, the "extravagant detractor of human virtues" is Bernard Mandeville, who famously argues in The Fable of the Bees (1714) that "private vices make public virtue." 53. See Bernard Mandeville, "An Easty on Charity and Charity-Schools" (1723), in Fable of the Bees, 1:255-56.

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groaning with Andromache and Priam, whereas he listened without emotion to the cries of so many citizens whose throats were daily slit at his orders.⁵⁴

When nature gave mankind tears, She proclaims she gave them tender hearts.⁵⁵

Mandeville has clearly sensed that, for all their morality, men would never have been anything but monsters if nature had not given them pity to support reason; but he did not see that from this single attribute flow all the social virtues he wants to deny to men. Indeed, what are generosity, clemency, humanity except pity applied to the weak, the guilty, or the human species in general? Benevolence and even friendship are, properly understood, products of a constant pity focused on a particular object: For is desiring that someone not suffer anything other than desiring that he be happy? Even if it were true that commiseration were only a feeling that puts us in the place of the one who suffers-an obscure and lively feeling in savage man, developed but weak in civil man-what difference would this make to the truth of what I say, except to give it more strength? Indeed, commiseration will be all the more energetic to the extent that the onlooking animal identifies more intimately with the suffering animal. Now, it is obvious that this identification must have been infinitely closer in the state of nature than in the state of reasoning. It is reason that engenders pride, 56 and it is reflection that for tifies it. It is reason that turns man back upon himself. It is reason that separates him from everything that bothers and afflicts him. It is philosophy that isolates him; it is by means of it that he secretly says at the sight of a suffering man: perish if you will, I am safe. No longer do anything but dangers to the entire society disturb the tranquil slumber of the philosopher and tear him from his bed. His fellow human being can have his throat slit with impunity beneath his window; he has only to put his hands over his ears and argue with himself a bit to keep nature, which rebels within him, from making him identify with the person being assassinated. Savage man does not have this admirable talent, and, for want of wisdom and reason, he is always seen heedlessly yielding to the first feeling of humanity.

^{54.} Lucius Cornelius Sulla (c. 138–78 BC) was a Roman general and politician who became dictator after his vistory in the civil wars. See Plutzech, Lives, "Sulla." Alexander of Phene (twigned \$69–358 BC) was tyrant of Phene in Thestally. See Plutzech, Lives, "Pelopidas" 29. See also Montaigne, Europe (1580–92), "Convariitee, Mother of Cruelty," 227, 2P, 737–74.

^{55.} Juvenal Saires 15.131–33, quoted by Rousseau in Latin: Molissima corda / Humano generi dare se Nanua faueuu, / Quae lacrymas dedit.

^{56. &}quot;Pride" here translates amour-propre-

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In riots, in street fights, the populace assembles, the prudent man moves away. It is the rabble, it is themarkerwomen, who separate the combatants and keep decent people from slitting one another's throats.

It is therefore quite certain that pity is a natural feeling which, by moderating the activity of love of oneself in each individual, contributes to the mutual preservation of the entire species. It is it that carries us without reflection to the aid of those we see suffering. It is it that, in the state of nature, takes the place of laws, morals, and virtue, with the advantage that no one is tempted to disobey its gentle voice. It is it that will deter every robust savage from robbing a weak child or an infirm old man of his hard-won subsistence, if he himself hopes to be able to find his own elsewhere. It is it that, in place of that sublime maxim of reasoned justice, Do unto others as you would have them do unto you, inspires in all men this other maxim of natural goodness, much less perfect but perhaps more useful than the preceding one, Do what is good for you with the least possible harm to others. In a word, it is in this natural feeling, rather than in subtle arguments, that we must seek the cause of the repugnance every man would experience in doing evil, even independently of the maxims of education. While it may belong to Socrates and minds of his stamp to acquize virtue through reason, the human race would have ceased to exist long ago if its preservation had depended only on the reasoning of those who make it up.

With such inactive passions and such a salutary restraint, men—fierce rather than wicked and more attentive to protecting themselves from the harm they might suffer than tempted to do harm to others—were not prone to very dangerous disputes. As they did not have any kind of relations, with one another, they consequently knew neither vanity, nor consideration, nor esteem, nor contempt. As they had neither the slightest notion of thine and mine nor any genuine idea of justice, as they regarded any violence they might suffer as a harm easily redressed and not as an insult they had to punish.....

speech, without domicile, without war, and without contact, without any need of his fellow humans, likewise without any desire to harm them, perhaps without ever even recognizing anyone individually—savage man, subject to few passions and self-sufficient, had only the feelings and the enlighterment suited to that state, that he felt only his true needs, looked at only what he believed it was in his interest to see, and that his intelligence made no more progress than his vanity. If by chance he made some discovery, he was all the less able to communicate it as he did not recognize even his children. Art perished with the inventor. There was neither education nor progress; the generations multiplied uselessly. And since everyone always started at the same point, the centuries passed by in all the crudeness of the first ages; the species was already old, and man remained ever a child.

If I have elaborated at such length on the assumption of this primitive condition, it is because, having ancient errors and inveterate prejudices to destroy, I believed I had to dig down to the root and show in the portrayal of the genuine state of nature how far inequality—even natural inequality—is from having as much reality and influence in that state as our writers claim.

Indeed, it is easy to see that among the differences that distinguish men, some pass for being natural that are exclusively the work of habit and the various ways of life men adopt in society. Thus a robust or delicate temperament, and the strength or weakness which depend on it, often come more from a severe or effeminate upbringing than from the original constitution of bodies. The same is true for strength of the mind, and not only does education create the difference between cultivated minds and those which are not, but it increases the difference found among the former in proportion to their cultivarion; for when a giant and a dwarf walk on the same road, every step they take will give the giant an added advantage. Now, if one compares the prodigious diversity of educations and ways of life that prevail in the different social orders of the civil state with the simplicity and uniformity of animal and savage life, in which all feed on the same foods, live in the same manner, and do exactly the same things, it will be understood how much less the difference from man to man must be in the state of nature than in that of society, and how much natural inequality in the human species must increase through instituted inequality.

Let us conclude that—wandering in the forests, without industry, without speech, without domicile, without war, and without contact, without any need of his fellow humans, likewise without any desire to harm them, perhaps without ever even recognizing anyone individually—savage man, subject to few passions and self-sufficient, had only the feelings and the enlightenment suited to that state, that he felt only his true needs, looked at only what he believed it was in his interest to see, and that his intelligence made no more progress than his vanity. If by chance he made some discovery, he was all the less able to communicate it as he did not recognize even his children. Art perished with the inventor. There was neither education nor progress; the generations multiplied uselessly. And since everyone always started at the same point, the centuries passed by in all the crudeness of the first ages; the species was already old, and man remained ever a child.

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But even if nature showed as much partiality in the distribution of its gifts as is claimed, what advantage would the most favored derive from them at the expense of others in a state of things which allowed for almost no kind of relationship among them? Where there is no love, of what use will beauty be? What use is wit for people who do not speak and cunning for those who have no dealings with one another? I hear it always repeatedly said that the stronger will oppress the weak, but let someone explain to me what is meant by this word "oppression." Some will dominate by violence, and the others will groan, subject to all their whims. This is precisely what I observe among us, but I do not see how this could be said of savage men, to whom it would even be very difficult to explain what servitude and domination are. A man may well seize the fruit another has picked, the game he has killed, the cave he used as shelter, but how will he ever succeed in making himself obeyed and what chains of dependence can there be among men who possess nothing? If someone chases me from one tree, I leave it to go to another. If someone harasses me in one place, who will prevent me from going elsewhere? Is there a man whose strength is superior enough to mine and who is, in addition, deprayed enough, lazy enough, and fierce enough to force me to provide for his subsistence while he remains idle? He has to resolve not to lose sight of me for a single instant, to keep me very carefully tied up while he sleeps for fear that I may escape or kill him-that is, that he is obliged to willingly incur a great deal more trouble than he wishes to avoid and than he gives to me. After all that, does his vigilance relax for a moment? Does an unexpected noise make him turn his head? I take twenty steps into forest, my chains are broken, and he never sees me again in his life.

Without needlessly drawing out these details, everyone must see that, since the bonds of servitude are formed only by the mutual dependence of men and by the reciprocal needs that unite them, it is impossible to enslave a man without first having put him in the position of being unable to do without another—a situation which, since it does not exist in the state of nature, leaves everyone in it free from the yoke and renders vain the law of the stronger.

After having proved that inequality is barely perceptible in the state of nature and that its influence there is almost nonexistent, it remains for me to show its origin and its progress in the successive developments of the human mind. After having shown that perfectibility, the social virtues, and the other faculties natural man had received in potentiality could never develop by themselves, that to do so they needed the fortuitous concurrence of several foreign causes which might never have arisen and without which he would have eternally

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remained in his primitive constitution, it remains for me consider and to bring together the different chance evens that were able to perfect human reason while causing the species to deteriorate, to make a being evil while making him sociable, and eventually to bring man and the world from so distant a beginning to the point where we now see them.

I admit that since the events I have to describe could have happened in several ways, I can choose among them only on the basis of conjectures. But aside from the fact that these conjectures become reasons when they are the most probable that could be drawn from the nature of things and are the only means available to discover the truth, the conclusions I want to deduce from mine will not thereby be conjectural, because, on the principles I have just established, no other system can be conceived that would provide me with the same results and from which I could draw the same conclusions.

This will excuse me from expanding my reflections about how the lapse of time compensates for the slight probability of events; about the surprising power of very trivial causes when they act without interruption; about the impossibility of eliminating certain hypotheses, on the one hand, without being in a position to give them the degree of the certainty of facts, on the other; about how, when two facts taken as real are to be connected by a series of intermediate facts which are unknown or regarded as such, it is up to history, when available, to provide the facts that connect them, and it is up to philosophy, when they are lacking, to ascertain similar facts that might connect them; finally, about how, with reference to events, similarity reduces the facts to a much smaller number of different classes than is imagined. It is enough for me to offer these objects to the consideration of my judges. It is enough for me to have made it so that vulgar readers do not need to consider them.

SECOND PART

THE FIRST PERSON WHO, having enclosed a plor of ground, thought of saying this is mine and found people simple enough to believe him was the true founder of civil society. What crimes, wars, murders, what miseries and horrors, would the human race have been spared by someone who, pulling up the stakes or filling in the ditch, had cried out to his fellow humans: "Beware of listening to this imposter. You are lost if you forget that the fruits are everyone's and the earth is no one's!" But in all likelihood things had already reached a point where they could no longer remain as they were. For this idea of property, depending upon many prior ideas which could have arisen only successively, was not formed all at once in the human mind. A great deal of progress had to be made, a great deal of industry and enlightenment had to be acquired, transmitted, and increased from one age to the next before reaching this end point of the state of nature. Let us therefore start further back and try to bring together from a single viewpoint this slow succession of evens and of knowledge in their most natural order.

Man's first feeling was that of his existence, his first care that of his preservation. The productions of the earth provided him with all the necessary support, instinct led him to make use of it. While hunger and other appetites caused him to experience by turns various ways of existing, one of these appetites invited him to perpetuate his species, and this blind inclination, devoid of any feeling of the heart, produced only a purely animal act. The need satisfied, the two sexes no longer recognized each other, and even the child no longer meant anything to the mother as soon as he could do without her.

Such was the condition of nascent man. Such was the life of an animal limited at first to pure sensations and scarcely profiting from the gifts nature offered to him, far from dreaming of wresting anything from it. But difficulties soon presented themselves; it was necessary to learn to overcome them. The height of trees, which prevented him from reaching their fruits, the competition of animals that sought to eat these fruits, the ferocity of those that wanted to take his life—everything obliged him to apply himself to bodily exercises. He had to make himself agile, swift at running, strong in combat. Natural weapons—tree branches and stones—were soon at hand. He learned to surmount nature's obstacles, to fight other animals when necessary, even to contend with men for his subsistence or to make up for what had to be yielded to the stronger.

In proportion as the human race spread, difficulties multiplied together with men. Differences of soil, climate, season may have forced them to vary their way of life. Barren years, long and hard winters, scorching summers which consume everything, required renewed industry from them. Along the sea and rivers they invented line and hook, and they became fishermen and icthy-ophagous. In foress they made for themselves bows and arrows, and they became hunters and warriors. In cold countries they covered themselves with the skins of beatst they had killed. Lightning, a volcano, or some happy accident acquainted them with fire, a new resource against the rigor of winter. They learned to preserve this element, then to reproduce it, and eventually to use it to prepare meats they had previously devoured raw.

This repeated utilization of various beings in relation to himself and of some beings in relation to others must naturally have engendered perceptions of certain relations in man's mind. Those relations that we express by the words "large," "small," "strong," "weak," "fast," "slow," "fearful," "bold," and other similar ideas, compared when necessary, and almost without thinking about it, eventually produced in him reflection of a sort, or rather a mechanical prudence that indicated to him the precautions most necessary for his safety.

The new enlightenment that resulted from this development increased his superiority over the other animals by making him aware of it. He practiced setting traps for them, he tricked them in a thousand ways, and although some of them surpassed him in strength in combat or speed in running, in time he became the master of those that might serve him and the scourge of those that might harm him. This is how the first glance he directed upon himself produced in him the first movement of pride. This is how, as yet scarcely knowing how to distinguish ranks and looking upon himself as in the first rank as a species, he prepared himself from afar to claim the first rank as an individual.

Although his fellow humans were not for him what they are for us, and

although he had scarcely more interactions? with them than with the other animals, they were not overlooked in his observations. The conformities that time may have enabled him to perceive among them, his female, and himself led him to judge those he did not perceive, and seeing that they all behaved as he would have done under similar circumstances, he concluded that their way of thinking and feeling was entirely in conformity with his own. And this important truth, firmly established in his mind, made him follow, by a premonition as sure as dialectic and more prompt, the best rules of the conduct that suited him to observe toward them for his advantage and security.

Taught by experience that love of well-being is the sole impulse for human actions, he was able to discern the rare occasions when common interest should make him count on the assistance of his fellow humans, and those even rarer ones when competition should make him distrust them. In the first case, he united with them in a herd or at most in some sort of free association that obligated no one and lasted only as long as the passing need that had formed in In the second case, each sought to obtain his advantage, either by naked force, if he believed he could, or by cleverness and cunning, if he felt he was the weaker.

This is how men might have imperceptibly acquired some crude idea of mutual engagements and the advantage of fulfilling them, but only insofar as present and perceptible interest might require. For foresight meant nothing to them, and far from being concerned with a distant future, they did not even think of the next day. If it was a matter of catching a stag, each clearly sensed that he ought faithfully to keep to his post; but if a hare happened to pass within range of one of them, there can be no doubt that he pursued it without any scruple and that, having obtained his prey, he cared very little about having caused his companions to miss theirs.

It is easy to understand that such interactions of did not require a language much more refined than that of crows and monkeys, which group together in more or less the same way. Some inarticulate cries, numerous gestures, and a few imitative sounds must have for a long time made up the universal language, and by adding to this in each region a few articulated and conventional sounds—the institution of which is, as I have already said, not so easy to explain—they had particular languages, but crude, imperfect ones and more or less like those various savage nations have. I cover multitudes of centuries

^{59.} Or. sommerce (sommerce).

^{60.} От соттегсе (жинется).

in a flash, forced by the time that passes, the abundance of things I have to say, and the almost imperceptible progress at the oumet. For the more slowly events succeeded one another, the more quickly can they be described.

These first advances eventually put man within reach of making more rapid ones. The more the mind was enlightened, the more industry was perfected. Soon ceasing to fall asleep underneath the first tree or to withdraw into caves, they found hatchets of a sort, of hard and sharp stones, which they used to chop wood, dig the earth, and make huts from branches which it later occurred to them to strengthen with clay and mud. This was the epoch of a first revolution that brought about the establishment and differentiation of families and that introduced a sort of property, from which perhaps many disputes and fights already arose. However, as the stronger were likely the first to make themselves lodgings since they felt they were capable of defending them, it is to be presumed that the weak found it simpler and safer to imitate them than to try to dislodge them. And as for those who already had huts, seldom must anyone have sought to appropriate his neighbor's, less because it did not belong to him than because it was useless to him and because he could not get hold of it without exposing himself to a very lively fight with the family that occupied it.

The first developments of the heart were the effect of a new situation that brought together husbands and wives, fathers and children, in a common dwelling. The habit of living together gave rise to the sweetest feelings known to men: conjugal love and paternal love. Each family became a little society all the better united as reciprocal attachment and freedom were its only bonds. And it was then that the first difference was established in the way of life of the two sexes, which until then had had only one. Women became more sedentary and became accustomed to looking after the hut and the children, while the men went to seek their common subsistence. The two sexes also began to lose something of their ferocity and their vigor through their somewhat softer life. But if any one of them separately became less fit to fight savage beass, in turn it was easier to assemble in order to resist in common.

In this new state, with a simple and solitary life, very limited needs, and the implements they had invented to provide for them, men enjoyed a great deal of leisure which they used to procure several sorts of conveniences unknown to their fathers. And this was the first yoke they imposed on themselves without thinking about it and the first source of the evils they prepared for their descendants. For, aside from the fact that they thereby continued to soften both body and mind, since these conveniences lost almost all of their charm through

habit, and since they had at the same time degenerated into true needs, being deprived of them became much more cruel than their possession was sweet, and they were unhappy to lose them without being happy to possess them.

Here one catches a slightly better glimpse of how the use of speech is established or is imperceptably perfected in the bosom of each family, and it can be further conjectured how various particular causes might enlarge the language and accelerate its progress by making it more necessary. Great floods or earthquakes surrounded inhabited districts with water or precipices. Revolutions of the globe detached and broke up portions of the continent into islands. It seems conceivable that a common idiom must have formed sooner among men brought together in this way, and forced to live together, than among those who wandered freely in the forests on the mainland. Thus it is quite possible that islanders, after their first attempts at navigation, brought the use of speech to us, and it is at least quite likely that society and languages came into being on islands and were perfected there before they were known on the continent.

Everything begins to change appearance. Men, who until this point wandered in the woods, having now adopted a more fixed settlement, slowly come together, unite in different bands, and eventually form in each region a particular nation unified in terms of morals and character-not by rules and laws, but by the same type of life and of foods and by the common influence of the climate. A permanent proximity cannot fail eventually to give rise to some sort of connection between different families. With young people of different sexes inhabiting neighboring huss, the intermittent interactions demanded by nature soon lead to another kind, no less sweet and more permanent through visiting one another. They grow accustomed to consider different objects and to make comparisons. They imperceptibly acquire ideas of merit and beauty that produce sentiments of preference. By dint of seeing one another, they can no longer do without seeing one another again. A tender and gentle feeling insinuates itself into the soul and becomes an impetuous fury at the least opposition. Jealousy awakens along with love; discord triumphs, and the gentlest of the passions receives sacrifices of human blood.

In proportion as ideas and feelings succeed one another, as mind and heart are trained, the human race continues to be tamed, contacts spread and bonds draw tighter. They grew accustomed to assemble in front of their huts or around a large tree. Song and dance, true children of love and leisure, became

^{61.} Or. commerce (commerce).

the amusement or rather the occupation of idle men and women gathered together. Each began to look at the others and to want to be looked at himself, and public esteem had a value. The one who sang or danced the best, the most beautiful, the strongest, the most clever, or the most eloquent became the most highly considered—and this, then, was the first step toward inequality and at the same time toward vice. From these first preferences arose vanity and contempt, on the one hand, and shame and envy, on the other. And the fermentation caused by these new leavens eventually produced compounds fatal to happiness and innocence.

As soon as men had begun to make assessments of one another and the idea of esteem was formed in their minds, each claimed a right to it, and it was no longer possible for anyone to deprive anyone of it with impunity. From this came the first duties of civility, even among savages, and from this any intentional wrong became an affront because, along with the harm that resulted from the injury, the offended person saw in it contempt for his person often more unbearable than the harm itself. This is how, with everyone punishing the contempt shown him in a manner proportioned to the importance he accorded himself, vengeance became terrible and men became bloodthirsty and cruel. This was precisely the stage reached by most of the savage peoples known to us. And it is for want of sufficiently distinguishing among ideas, and noticing how far distant these peoples already were from the first state of nature, that some have hastened to conclude that man is naturally cruel and that he needs civilizing to make him gentle, whereas nothing is as gentle as man in his primitive state, when-placed by nature at equal distances from the stupidity of brutes and the fatal enlightenment of civil man, and limited by instinct and by reason alike to protecting himself from the harm that threatens him—he is restrained by natural pity from doing harm to anyone, as nothing provokes him into doing so himself, even after he himself has been harmed. For, according to the maxim of the wise Locke, where there is no property, there can be no injury.62

But it must be noted that budding society and the relations already established among men required from them qualities different than those they derived from their primitive constitution; that, since morality began to be introduced into human actions, and since before there were laws each was the sole judge and avenger of the offenses he had received, the goodness suitable to

^{62.} Locke, An Euroy Concerning Human Understanding (1690), 4-3.18. Rousseau uses "injury" where Locke (and also his translator into French) had written "injustice."

the pure state of nature was no longer that which suited nascent society; that punishments had to become more severe in proportion as the occasions for offense became more frequent, and that it was up to the terror of revenge to take the place of the restraint of laws. Thus, although men had become less hardy and although natural pity had already undergone some alteration, this period of the development of human faculties, occupying a golden mean between the indolence of the primitive state and the petulant activity of our pride, 6 must have been the happiest and most durable epoch. The more one reflects on it, the more one finds that this state was the least subject to revolutions, the best for man (XVI [p. 147]), and that he must have left it only by some fatal accideut which for the sake of the common utility ought never to have happened. The example of savages, almost all of whom are found at this point, seems to confirm that the human race was made to remain in it forever, that this state is the veritable youth of the world, and that all subsequent progress has been in appearance so many steps toward the perfection of the individual, and in fact toward the decrepitude of the species.

As long as men were content with their rustic hum, as long as they limited themselves to sewing their clothing of skins with thorns and fish bones, adoming themselves with feathers and shells, painting their bodies with various colors, perfecting or embellishing their bows and arrows, carving a few fishermen's cances or making a few crude musical instruments with sharp stones—in a word, as long as they applied themselves only to tasks a single person could do and only to arts that did not require the cooperation of several hands, they lived free, healthy, good, and happy insofar as they could be by their nature, and continued to enjoy the sweet pleasures of independent interactions⁵⁴ with one another. But from the moment that one man needed the help of another, as soon as they perceived it was useful for a single person to have provisions for two, equality disappeared, property was introduced, labor became necessary, and vast forests were changed into smiling fields which had to be watered by the sweat of men and in which slavery and misery were soon seen to sprout and prow together with the harvest.

Metallurgy and agriculture were the two arts whose invention produced this great revolution. For the poet it is gold and silver, but for the philosopher it is iron and grain that have civilized men and ruined the human race. Accordingly, both of them were unknown to the savages of America, who for

⁶⁴ Or. commerce (conunerce).

this reason have always remained savage. Other peoples even seem to have remained barbarous as long as they had practiced one of these are without the other. And perhaps one of the chief reasons why Europe has been civilized, if not earlier then at least more continuously and more so than other parts of the world, is that it is at the same time the most abundant in iron and the most ferrile in wheat.

It is very difficult to conjecture how men came to be acquainted with and to use iron, for it is not credible that all by themselves they imagined extracting ore from the mine and making the necessary preparations to smelt it before knowing what would result from doing so. From another point of view, this discovery can be even less attributed to some accidental fire, since mines are formed only in arid places bare of trees and plants, so that it might be said that nature had taken precautions to conceal this deadly secret from us. There remains, then, only the extraordinary circumstance of some volcano which, vomiting its metallic materials in melted form, will have given observers the idea of imitating this operation of nature. Even so, they must be assumed to have had a great deal of courage and foresight to undertake such a difficult labor and to envisage so far in advance the advantages they could derive from it—something that is hardly even suited to minds already more trained than theirs must have been.

As for agriculture, its principle was known long before its practice was established, and it hardly seems possible that men continually occupied with drawing their subsistence from trees and plants would not soon enough have an idea of the means nature uses for the generation of plants. But their industry probably turned in that direction only rather late, either because the trees, which along with bunting and fishing furnished their food, did not require their care, or for want of knowing how to use wheat, or for want of implements with which to cultivate it, or for want of foresight concerning future need, or, finally, for want of means to prevent others from appropriating the fruit of their labor. Once they had become more industrious, it can be conjectured that, using sharp rocks and sharpened sticks, they began by cultivating some vegetables or roots around their huts, long before knowing how to prepare wheat and before having the necessary implements for large-scale cultivation, without taking account of the fact that in order to devote themselves to this occupation and to sow the land, they had to resolve to lose something initially in order to gain a great deal later - a precaution rather far from the turn of mind of savage man, who, as I have said, has great difficulty thinking in the morning of his needs for the evening.

The invention of the other arts was therefore necessary to force the human race to apply itself to the art of agriculture. As soon as some men were needed to smelt and forge iron, other men were needed to feed them. The more the number of workers increased, the fewer hands there were to provide the common subsistence without there being fewer mouths to consume it, and as some needed foodstuffs to exchange for their iron, others eventually found the secret of using iron to increase foodstuffs. From this arose plowing and agriculture on the one hand, and the art of working metals and of multiplying their uses on the other.

From the cultivation of the land its division necessarily followed, and from property, once it was recognized, the first rules of justice. For in order to render unto each his own, each person has to be able to have something. Moreover, as men began to look to the future and as they all saw they had some goods to lose, there was not a single one of them who did not have to fear reprisals against himself for the wrongs he might do to others. This origin is all the more natural as it is impossible to conceive the idea of nascent property arising from anything except manual labor, for it is not clear what a man can add, other than his labor, in order to appropriate things he has not made. It is labor alone that, giving to the cultivator a right to the product of the land he has worked, consequently gives him a right to the soil, at least until the harvest, and thus from one year to the next, which, since it constitutes a continuous possession, is easily transformed into property. When the ancients, says Grotius, gave Ceres the epithet of legislatrix and gave the name Thesmophoria to a festival celebrated in her honor, they thereby made it clear that the division of land produced a new sort of right-that is, the right of property, different from the one that follows from natural law.65

Things in this state might have remained equal if talents had been equal, and if, for example, the use of iron and the consumption of foodstuffs had always been exactly balanced. But the proportion, which nothing maintained, was soon upset. The stronger did more work, the more clever turned his work to better advantage, the more ingenious found ways to reduce his labor; the farmer needed more iron or the blacksmith more wheat; and, even though they worked equally, one person earned a great deal while another had difficulty staying alive. This is how natural inequality imperceptibly unfolds together with contrived inequality and how differences among men, developed

^{65.} Grotius, Rights of War and Peace (1625), 2.2.2, vol. 2:427. The Thesmophoria was an ancient Greek festival held in honor of the goddess Demeter (or Ceres in Latin) and her daughter Persephone.

by their different circumstances, make themselves more perceptible, more permanent in their effects, and begin to have a proportionate influence on the fate of individuals.

Things having reached this point, it is easy to imagine the rest. I will not pause to describe the successive development of the other arts, the progress of languages, the testing and application of talens, the inequality of fortunes, the use or abuse of wealth, or all the details that follow from them and that everyone can easily supply. I will limit myself simply to casting a glance at the human race placed in this new order of things.

Here, then, are all our faculties developed, memory and imagination in play, pride66 involved, reason activated, and the mind having almost reached the extent of the perfection of which it is susceptible. Here are all the natural qualities set in action, the rank and fate of each man based not only on the quantity of goods and the power to help or to harm, but on the mind, beauty, strength, or skill, on merit or talents. And since these qualities are the only ones that could attract consideration, it was soon necessary to have them or to affect them. For one's advantage, it was necessary to appear to be different from what one in fact was. To be and to appear to be became two entirely different things, and from this distinction came ostentatious display, deceitful cunning, and all the vices that follow in their wake. From another point of view, having previously been free and independent, here is man, subjected, so to speak, by a multitude of new needs to all of nature and especially to his fellow humans, whose slave he in a sense becomes even in becoming their master. Rich, he needs their services; poor, he needs their help, and being in a middling condition does not enable him to do without them. He therefore constantly has to seek to interest them in his fate and to make them find their own advantage, in reality or appearance, in working for his. This makes him deceitful, treacherous, and artful with some, imperious and harsh with others, and makes it necessary for him to mislead all those he needs when he cannot get them to fear him and when he does not find it in his interest to make himself useful to them. Finally, consuming ambition, the ardor to raise one's relative fortune, less out of genuine need than in order to place oneself above others, inspires in all men a dark inclination to harm one another, a secret jealousy all the more dangerous as it often assumes the mask of benevolence in order to strike its blows more surely. In a word, competition and rivalry on

^{66. &}quot;Pride" here translates amour-propre.

the one side, opposition of interests on the other, and always the hidden desire to profit at the expense of others. All these evils are the first effect of property and follow inevitably in the wake of nascent inequality.

Before representative signs of wealth were invented, it could hardly consist of anything except land and livestock, the only real goods men can possess. Now, once inheritances had accumulated in number and extent to the point of covering all the land and them all bordering one another, none of them could be enlarged any longer except at the expense of the others, and those who were left our, whom weakness or indolence had prevented from acquiring an inheritance, having in their turn become poor without having lost anythingbecause as everything changed around them, they alone did not changewere obliged to receive or steal their subsistence from the hands of the rich, and from this-in accordance with the different characters of the rich and the poor-domination and servitude, or violence and plunder, began to arise. The rich, for their part, had scarcely experienced the pleasure of dominating than they soon disdained all other pleasures, and using their old slaves to subdue new ones, they thought only of subjugating and enslaving their neighbors-like those ravenous wolves which having once tasted human flesh refuse all other food and no longer want to devour anything but men.

This is how, with the most powerful or the most miserable having made of their strength or their needs a sort of right to another's goods—equivalent, according to them, to the right of property—the breakdown of equality was followed by the most frightful disorder. This is how the usurpations of the rich, the brigandage of the poor, the unbridled passions of all, stifling natural pity and the as yet weak voice of justice, made men greedy, ambitious, and evil. A perpetual conflict arose between the right of the stronger and the right of the first occupant which ended only in fights and murders (XVII [p. 149]). Nascent society gave way to the most hortfible state of war. The human race, debased and dispirited, no longer able to retrace its steps, or renounce the unhappy acquisitions it had made, and working only toward its shame by the abuse of the faculties that do it honor, brought itself to the brink of its ruin.

Shocked by the novelty of the evil, both rich and wretched, He flees his wealth, and hates what he once prayed for.⁶⁷

^{69.} Ovid Mecanosphose 11.137—28, quoted by Rousseau in Linita Associates novietaes mali, diversus micropes, Efficies operato pass operators, es quae modo ververas, odis. The passage describes Midas after having been granted his wish that everything be touches be turned into gold.

It is not possible that men would not have eventually reflected on such a miserable situation and on the calamities with which they were overwhelmed. The rich above all must have soon sensed how disadvantageous to them was a perpetual war in which they alone paid all the costs and in which the risk to life was common to all, while the risk to goods was theirs alone. Besides, regardless of what gloss they might put on their usurpations, they were sufficiently aware that they were established merely on a precarious and abusive right and that, having been acquired only by force, force could take it away from them without their having any reason to complain about it. Even those who industry alone had enriched could scarcely base their property on better titles. They could well say: "It is I who built this wall; I earned this plot by my labor." "Who gave you its dimensions?" it might be responded to them, "And by virtue of what do you lay claim to be paid at our expense for work we have not imposed on you? Don't you know that a great many of your brethren perish or suffer from need of what you have in excess, and that you had to have express and unanimous consent of the human race to appropriate for yourself anything from the common subsistence above and beyond your own?" Devoid of valid reasons to justify himself and sufficient force to defend himself; easily crushing an individual, but himself crushed by gangs of bandits; alone against all, not being able due to mutual jealousy to unite with his equals against enemies united by the common hope of plunder, the rich man, pressed by necessity, finally conceived the most carefully considered project that ever entered the human mind. It was to use the very strength of those who attacked him in his favor, to make his defenders out of his adversaries, to instill different maxims in them, and to give them different institutions that were as favorable to him as natural right was adverse to him.

With this in mind, after having shown his neighbors the horror of a situation that made them all take up arms against one another, that made their possessions as burdensome as their needs, and in which no one found safety in either poverty or wealth, he easily invented specious reasons to lead them to his goal. "Let us unite," he tells them, "to protect the weak from oppression, restrain the ambitious, and secure for each the possession of what belongs to him. Let us institute rules of justice and peace to which all are obliged to conform, which make no exception for anyone, and which compensate, as it were, for the whims of fortune by subjecting the powerful and the weak alike to mutual duties. In a word, instead of turning our forces against ourselves, let us gather them together into a supreme power that governs us according to wise laws, that protects and defends all the members of the association, repulses common enemies, and maintains everlasting concord among us."

Much less than the equivalent of this discourse was needed to sway crude, easily seduced men, who, moreover, had too many disputes to straighten out amongst themselves to be able to do without arbiters, and too much greed and ambition to be able to do without masters for long. All ran toward their chains, believing they were securing their freedom, for while they had enough reason to sense the advantages of a political establishment, they did not have enough experience to foresee its dangers. Those most capable of anticipating the abuses were precisely those who counted on profiting from them, and even the wise saw that they had to resolve to sacrifice one part of their freedom for the preservation of the other, just as a wounded man has his arm cut off to save the rest of his body.

Such was, or must have been, the origin of society and of laws, which gave new fetters to the weak man and new forces to the rich man (XVIII [p. 150]), irreversibly destroyed natural freedom, forever established the law of property and of inequality, made an irrevocable right out of a clever usurpation, and henceforth subjected the entire human race to labor, servitude, and misery for the profit of a few ambitious people. It is easy to see how the establishment of a single society makes the establishment of all the others indispensible, and how, in order to face united forces, it was necessary to unite in turn. Societies, multiplying or expanding rapidly, soon covered the entire face of the earth, and it was no longer possible to find a single corner in the universe where one could free oneself from the yoke and withdraw one's head from beneath the often poorly guided sword each man saw perpetually suspended over it. Civil right having thus become the common rule of citizens, the law of nature no longer held except between different societies, where, under the name of right of nations, it was tempered by a few racit conventions to make relations possible and to take the place of natural commiseration, which, losing nearly all of the strength between one society and another that it had between one man and another, no longer resides in any but a few great cosmopolitan souls who surmount the imaginary barriers that separate peoples and who, following the example of the sovereign being that created them, embrace the entire human race in their benevolence.

Political bodies, thus remaining in the state of nature among themselves, felt the effect of the inconveniences that had forced individuals to leave it, and this

^{68.} Or: commerce (commerce).

state became still more deadly among these great bodies than it had previously been among the individuals of which they were composed. From this arose the namonal wars, battles, murders, reprisals which make nature tremble and shock reason, and all those horrible prejudices which rank the honor of sheding human blood among the virtues. The most decent men learned to count among their duties that of slitting the throats of their fellow human beings. Men were eventually seen massacring one another by the thousands without knowing why; and more murders were committed in a single day of fighting and more horrors in the taking of a single city than had been committed in the state of nature during whole centuries over the entire face of the earth. Such are the first effects one glimpses of the division of the human race into different societies. Let us return to their institution.

I know that some have attributed other origins to political societies, such as the conquests of the more powerful or the union of the weak, and the choice between these causes does not make any difference for what I want to establish. However, the one I have just presented appears to me to be the most natural for the following reasons. (1) That, in the first case, since the right of the conqueror is not a right, it could not have served as the basis of any other right, for the conqueror and the conquered peoples always remain in a state of war with one another, unless the nation, given back its complete freedom, voluntarily chooses the victor as its leader. Until then, whatever the terms of capitulation were, as they were based only on violence and as they are consequently null and void by that very fact, based on this hypothesis there can be neither genuine society, nor body politic, nor any other law than that of the stronger. (2) That, in the second case, these words strong and weak are equivocal, since, during the interval between the establishment of the right of property or of the first occupant and that of political governments, the meaning of these terms is better expressed by poor and rich since, in fact, before the laws a man did not have any other means of subjecting his equals than by attacking their goods or by giving them a portion of his own. (3) That, since the poor have nothing to lose except their freedom, it would have been a very foolish act for them to give away voluntarily the sole good remaining to them without getting anything in exchange. That, on the contrary, since the rich were, so to speak, sensitive in every part of their goods, it was much easier to harm them; they consequently had more precautions to take to protect themselves from harm. And that, finally, it is reasonable to believe that a thing was invented by those for whom it is useful rather than by those it does harm.

Nascent government did not have a constant and regular form. The lack of philosophy and experience allowed only present inconveniences to be perceived, and they thought of remedying others only as they came to light. Despite all the labors of the wisest lawgivers, the political state remained ever imperfect because it was almost the work of chance and because, having begun badly, time revealed the defects and suggested some remedies but could never repair the vices of the constitution. They continually patched it whereas it would have been necessary to begin by sweeping the area clean and throwing away all the old materials, as Lycurgus did in Sparta, in order then to raise a good edifice. Society at first consisted only of a few general conventions which all individuals pledged to observe and of which the community was made the guarantor toward each of them. Experience must have shown how weak such a constitution was, and how easy it was for lawbreakers to avoid conviction or punishment for misdeeds of which the public alone was to be both witness and judge. The law must have been evaded in a thousand ways, inconveniences and disorders must have continually multiplied before it finally occurred to them to entrust private individuals with the dangerous trust of public authority and to commit to magistrates the task of making sure that the people's deliberations were observed. For to say that the leaders were chosen before the confederation was established, and that the ministers of the laws existed before the laws themselves, is a supposition that does not permit of serious debate.

It would be no more reasonable to believe that peoples first threw themselves unconditionally and irrevocably into the arms of an absolute master and that the first means of providing for the common security imagined by proud and untamed men was to rush headlong into slavery. Indeed, why did they give themselves superiors if not to defend themselves against oppression and to protect their goods, their freedoms, and their lives, which are, so to speak, the constituent elements of their being? Now, since the worst thing that can happen in the relations between one man and another is for one of them to find himself at the other's discretion, would it not have been contrary to good sense to begin by surrendering into the hands of a leader the only things they needed his help to preserve? What equivalent could he have offered them for the concession of so fine a right? And, if he had dared to require it under pretext of defending them, would he not straightaway have received the answer of the fable: What more will the enemy do to us? It is therefore incontestable, and it is the fundamental maxim of all political right, that peoples have given themselves leaders to defend their freedom and not to enslave them.

ON THE

SOCIAL CONTRACT;

OR, PRINCIPLES OF POLITICAL RIGHT

BY J.-J. ROUSSEAU CITIZEN OF GENEVAL

By an equitable pact
We will make laws.

—Aencid xx²



AMSTERDAM
CHEZ MARC MICHEL REY, MDCCLXII

r. Rousseau was a citizen of Geneva at the time he published the Social Contract in 1762. He had lost his citizenship when he left the city at sixteen years of age and converted to Catholicism, but then regained it in

^{2.} Virgil Ameid 11.321–22, quoted by Rousseau in Latin: —feederis organs / Dicamus loges. The passage comes from a speech by the king of Latinu immediately following the defeat of his army by the Trojans unde Acaesas. After lamenting their defeat and commenting that it is unfortunate that they have to deliberate amon themselves with the Trojans army at their walls, the king recommends uniting with the victorious Trojans.

BOOK I

I WANT TO INQUIRE whether there can be any legitimate and reliable ru of administration in the civil order, taking men as they are and laws as the can be. In this inquiry I will always try to join what right permits with wh interest prescribes, so that justice and utility are not always at odds.

I begin my discussion without proving the importance of my subject. I w be asked whether I am a prince or lawgiver given that I am writing about poitics. I reply that I am not, and that it is for this very reason that I write abo politics. If I were a prince or a lawgiver, I would not waste my time sayir what needs to be done; I would do it, or I would remain silent.

Born a citizen of a free state, and a member of the sovereign, the right vote there is enough to impose on me the duty to learn about public affair regardless of how weak the influence of my voice on them may be. How happ I am, every time I meditate about governments, always to find in my research new reasons to love that of my country!

CHAPTER

Subject of this First Book

Man is born free, and everywhere he is in chains. ⁵ He who believes himself th master of others fails not to be a greater slave than they. How did this chan

^{5.} Two points regarding translation should be noted. First, "man" translates homme, which can mean cit? "man" (that is, a human being of the male sex) or "human being" (applying to both sexes). While it is tempt to translate homme as "human being," it is arguable that Rousseau's usage of the word is often not genderneutral and so the word will be consistently translated as "man" (or "men" in the plural) throughout.

Second, the phrase "Man is born free ..." (L'honnne est në libre ...) could also be translated in the past tense: "Man was born free ..." The grammatical structure in French is ambiguous hand Rousseau is perhap intentionally ambiguous here. On the one band, if he is using the past tense here, he may be pointing so his a count in the Discourse on Inspeality of the historical emergence of humans from the state of nature into societ

come about? I do not know. What can make it legitimate? I do believe I can resolve that issue.

If I were to consider only force and the effect that derives from it, I would say: as long as a people is compelled 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 in recovering its freedom by the same right used to rob it of its freedom, either the people is justified in taking it back, or those who took it away from it were not justified in doing so. But the social order is a sacred right that serves as the basis for all the others. Yet this right does not come from nature; it is therefore founded on conventions. It is a question of knowing what these conventions are. Before coming to that, I should establish what I have just pur forward.

CHAPTER 2

On the First Societies

The most ancient of all societies and the only natural one is that of the family. Still, children remain bound to the father only as long as they need him to preserve themselves. As soon as this need ceases, the natural bond dissolves. The children, exempt from the obedience they owed the father, and the father, exempt from the care he owed the children, all equally return to independence. If they continue to remain united, it is no longer so naturally but rather voluntarily, and the family iself is maintained only by convention.

This common freedom is a consequence of man's nature. His first law is to attend to his own preservation, his first cares are those he owes himself, and since, as soon as he has attained the age of reason, he alone is the sole judge of the means proper for preserving himself, he thereby becomes his own master.

The family is therefore, if you will, the first model of political societies. The leader is the image of the father, the people is the image of the children, and since all are born equal and free, they alienate their freedom only for the sake

and evanually into political associations. On the other hand, if he is using the present tense, perhaps thereby setting aside any historical secount of this transformation, he is maining a claim about the natural freedom of human beings in a moral or legal sense. In this light, compare John Locke, Seemé Transite of Governmens (1669a), 1.2.4. "To understand political power right, and derive it from its original, we must consider what state all men ere naturally in, and that is, a state of perfect feedom ..." (emphasis supplied).

^{6. &}quot;Conventions" here and elsewhere in this work refers to formal agreements such as the social contract itself. Such agreements are also "conventional" in the sense of being non-natural.

^{7. &}quot;Loaden" translates def, which might also be translated "chief." The French term def has a number of applications and can be used with regard to the "chief" or "head" of a political or business organization (hence the head of a rectauranc kinchen is a "chef"). Although the English term "leader" has a somewhat more democratic connotation than the French term clef, especially in Rousteau's time, the term has been translated as "leader" who used with regard to politics.

of their utility. The entire difference is that in the family the father's love for his children rewards him for the care he provides them, whereas in the state the pleasure of commanding takes the place of this love, which the leader does not have for his peoples.

Grotius denies that all human power is established for the benefit of those who are governed. He cites slavery as an example. His most persistent mode of reasoning is always to establish right by fact.* A more consistent method could be used, but not one more favorable to tyrants.

It is therefore doubtful, according to Grotius, whether the human race belongs to a hundred men, or whether those hundred men belong to the human race, and throughout his book he appears to incline to the former view. This is also Hobbes' opinion. ¹⁰ So behold the human race divided into herds of cattle, each of which has its leader who tends it in order to devour it.

As a shepherd is of a superior nature to that of his herd, so shepherds of men—who are their leaders—are also of a nature superior to that of their peoples. So reasoned the Emperor Caligula, according to Philo's account, concluding rightly enough from this analogy that kings were gods or that peoples were beasts. 11

[&]quot;Learned research into public right is often merely the history of ancient abuses, and those who have taken the trouble to study it too closely have done so with a wrongheaded obstinence." Treatise on the Interests of France with its Neighbors, by M. le Marquis d'Argenson (printed by Rey in Amsterdam). This is precisely what Grotius has done.

^{8.} See Grotius, The Rights of War and Peace (1625), 1.3.8, vol. 1:260—61: "And here we must first reject their opinion, who will have the supreme power to be always, and without exception, in the people; so that they may restrain or punish their kings, as often as they abuse their power. What mischiefs this opinion has occasioned, and may yet occasion, if once the minds of people are fully possessed with it, every wise man sees. I shall rethe it with these arguments. It is lawful for any man to engage himself as a slave to whom he pleases. . . . Why should not it not therefore be as lawful for a people that are at their own disposal, to deliver themselves up to any one or more persons, and transfer the right of governing them upon him or them, without reserving any share of that right themselves?"

^{9.} René-Louis de Voyer de Paulmy, marquis d'Argenson, Considérations sur le gouvernement ancien et présent de la France (Amsterdam, 1764). At the time of the original publication of the Social Contract in 1762, d'Argenson's work existed only in manuscript under the title Rousseau cites in the text. In the first edition of the Social Contract Rousseau indicated d'Argenson's name only by the initials "M. L. M. d'A." D'Argenson's Considérations was published in 1764 by Marc-Michel Rey, with the passage Rousseau quotes on p. 13.

^{10.} See Hobbes, Leviatian (165t), chap. 17, pp. 105—10: "The attaining to this sovereign power is by two ways. One, by natural force, as when a man maketh his children to submit themselves and their children to his government, as being able to destroy them if they refuse, or by war subdueth his enemies to his will, giving them their lives on that condition. The other is when men agree amongst themselves to submit to some man, or assembly of men, voluntarily..."

^{11.} See Philo of Alexandria On the Embassy to Caius (or Gaius) 11.76: "for as the curators of the herds of other animals, namely cowherds, and goatherds, and shepherds, are neither oxen nor goats, nor sheep, but men who have received a more excellent portion, and a more admirable formation of mind and body; so in the same manner, said he, is it fitting that I who am the leader of the most excellent of all herds, namely, the race of mankind, should be considered as a being of a superior nature, and not merely human, but as one who has received a greater and more holy portion" (trans. Charles Duke Yonge [London: Bohm, 1854–99]).

Caligula's reasoning amounts to that of Hobbes and Grotius. Before any of them, Aristotle had also said that men are not naturally equal, but that some are born for slavery and others for domination.¹²

Aristotle was right, but he mistook the effect for the cause. Every man born in slavery is born for slavery—nothing is more certain. Slaves lose everything in their chains, even the desire to leave them. They love their servitude just as Ulysses' companions loved their brutishness.*If there are slaves by nature, then, it is because there have been slaves contrary to nature. Force made the first slaves, their cowardice perpetuated them.

I have said nothing about King Adam, nor about Emperor Noah, father of the three great monarchs who divided up the universe amongst themselves, as did Saturn's children, with whom they have been identified. ¹⁴ I hope that this moderation of mine will be appreciated, for since I am directly descended from one of these princes, and perhaps from the eldest branch, how am I to know whether, upon the verification of titles, I might not find out that I am the legitimate king of the human race? Be that as it may, it cannot be denied that Adam was sovereign of the world just like Robinson was of his island, as long as he was its sole inhabitant. ¹⁵ And what made this empire convenient was that the monarch, secure on his throne, had neither rebellions, nor wars, nor conspirators to fear.

CHAPTER 3 On the Right of the Stronger

The stronger is never strong enough to be forever the master unless he transforms his force into right and obedience into duty. Hence the right of the stronger—a right seemingly understood ironically, and in actuality established as a principle. But will this word ever be explained to us? Force is a

^{*} See a short treatise by Plutarch entitled That Animals Use Reason.13

^{12.} See Aristotle Politics 1.3-6.

^{13.} This work is a brief dialogue between Ulysses and Circe, who had turned Ulysses' men into pigs (see Homer Odyssey 10), and then between Ulysses and Gryllus, in which they discuss whether animals use reason.

^{14.} Rousseau alludes to the patriarchal theory most prominently associated with Sir Robert Filmer, who argued in his Pariarcha (composed in the 1630s or 1640s and published in 1680) that political authority is inherited through descent from Adam. John Locke wrote his Two Treatises of Government (1690), and especially the First Treatise, against Filmer's theory, as did Algernon Sidney in his Discourses Concerning Government (1698).

^{15.} Rousseau refers to Robinson Crusoe from Daniel Defoe's Robinson Crusoe (1719).

physical power. I do not see what morality can result from its effects. To yield to force is an act of necessity, not of will; it is at most an act of prudence. In what sense could it be a duty?

Let us assume this alleged right for a moment. I say that only inexplicable gibberish results. For once force makes right, the effect changes along with the cause. Any force that overcomes the first one succeeds to its right. Once one can disobey with impunity, one can do so legitimately, and because the stronger is always right, it is merely a matter of making it so that one is the stronger. Yet what is a right that perishes when force ceases? If one must obey due to force, there is no need to obey due to duty, and if one is no longer forced to obey, one is no longer obligated to do so. It is clear, therefore, that this word "right" adds nothing to force. It means nothing at all here.

Obey the powers that be. 16 If this is supposed to mean, "yield to force," the precept is good, but superfluous. I say that it will never be violated. All power comes from God, I admit it; but all illness¹⁷ comes from him as well. Does this mean it is forbidden to call the doctor? A brigand takes me by surprise at the edge of a wood: must I not only give him my purse through force, but, even if I could withhold it, am I obligated in conscience to give it? For, after all, the pistol he is holding is also a power.

Let us agree, therefore, that force does not make right, and that one is obligated to obey only legitimate powers. Thus my original question still stands.

CHAPTER 4 On Slavery

Because no man has any natural authority over his fellow human, 18 and because force produces no right, conventions remain as the only basis of all legitimate authority among men. ...

^{16.} See Romans 13:1.

^{17. &}quot;Illness" translates mal, which could also be translated "ill" or "evil."

^{18. &}quot;Fellow human" translates semblable. Although the term generally refers to one's fellow humans, it has the root sense of "like" or "similar" and so can also have the more extended sense of beings who are recognized as similar to oneself. See n. 21 (p. 54) of the Discourse on Inequality.

CHAPTER 5

That It Is Always Necessary to Go Back to a First Convention

Even if I were to grant everything I have refuted so far, the champions of despotism would be no better off for it. There will always be a great difference between subjecting a multitude and leading a society. If scattered men, regardless of how many of them there may be, were successively enslaved to a single person, I see there nothing 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 public good nor body politic. That man, even if he had enslaved half the world, is still merely a private individual. His interest, being separate from that of the others, is still merely a private interest. If this same man happens to die, his empire is left behind scattered and without a bond, like an oak tree that dissolves and collapses into a heap of ashes after fire has consumed it.

A people, states Grotius, can give ixelf to a king. According to Grotius, then, a people is a people before giving itself to a king. This very gift is a civil act; it presupposes a public deliberation. Before examining the act by which a people elects a king, therefore, it would be good to examine the act by which a

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^{26.} Grotius, The Rights of War and Peace (1625), 1.3.8.

people is a people. For this act, being necessarily prior to the other, is the true foundation of society.

Indeed, if there were no prior convention, unless the election were unanimous, wherein lies the obligation for the minority to submit itself to the choice of the majority, and where do one hundred people who want a master get the right to vote on behalf of ten who do not want one? The law of majority rule is itself established by convention and presupposes unanimity at least once.

CHAPTER 6

On the Social Compact

I assume that men have reached that point where the obstacles that interfere with their self-preservation in the state of nature prevail by their resistance over the forces each individual can use to maintain himself in that state. Then that primitive state can no longer persist, and the human race would perish if it did not change its manner of being.

Now, as men cannot engender new forces, but merely unite and direct those that exist, they have no other means for preserving themselves than to form, by aggregation, a sum of forces that might prevail over the resistance, to set them in motion by a single impetus, and to make them act in concert.

This sum of forces can arise only from the cooperation of many. But since each man's force and freedom are the primary instruments of his self-preservation, how can he commit them without harming himself and without neglecting the care he owes himself? This difficulty, as it pertains to my subject, can be expressed in the following terms:

"How to find a form of association that defends and protect the person and goods of each associate with all the common force, and by means of which each, uniting with all, nonetheless obeys only himself and remains as free as before?" Such is the fundamental problem to which the social contract provides the solution.

The clauses of this contract are so completely determined by the nature of the act that the slightest modification would render them null and void. As a result, although they may never have been formally enunciated, they are everywhere the same, everywhere tacitly acknowledged and recognized; they are such until that point when, the social compact having been violated, each person recovers his first rights and regains his natural freedom while losing the conventional freedom for which he renounced it.

These clauses, properly understood, all come down to a single one, namely the total alienation of each associate with all his rights to the whole commu-

nity. For, in the first place, since each gives himself entirely, the condition is equal for all, and since the condition is equal for all, no one has an interest in making it burdensome for the others.

Moreover, since the alienation is made without reservation, the union is as complete as it can be and no associate has anything further to claim. For if any rights were left to private individuals, as there would be no common superior that could judge between them and the public, each person, being his own judge concerning some issue, would soon claim to be so concerning all of them: the state of nature would persist and the association would necessarily become tyrannical or vain.

Finally, since each gives himself to all, he gives himself to no one, and as there is no associate over whom he does not acquire the same right that he grants him over himself, he gains the equivalent of everything he loses and more force to preserve what he has.

If, then, everything that is not of the essence of the social compact is set aside, it will be found that it comes down to the following terms. Each of us puts his person and all his power in common under the supreme direction of the general will; and as a body we receive each member as an indivisible part of the whole.

Instantly, in place of the particular person of each contracting party, this act of association produces a moral and collective body made up 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 thus formed by the union of all the others formerly took the name city,* and now takes that

^{*} The true meaning of this word has almost entirely vanished among the moderns. Most of them mistake a town for a city and a bourgeois for a citizen.2 They do not know that houses make the town but that citizens make the city. This same error once cost the Cambaginians dearly. I have not read anywhere that the subjects of a prince have ever been given the title cives, not even the Macedonians in ancient times nor, in our days, the English, even though they are closer to freedom than all the others. The French alone colloquially use this name citizens because they have no genuine idea of its meaning, as can be seen from their dictionaries. Otherwise, they would be committing the crime of high treason in usurping it: for them, this name expresses a virtue and not a right. When Bodin wanted to speak of our citizens and bourgeois, he made a gross blunder by mistaking the one for the other.28 M. d'Alembert did not make such a mistake, and in his article Geneva he has correctly distinguished the four orders of men (even five, counting simple foreigners) in our town, and only two of which make up the republic.25 No other French author that I know of has understood the true meaning of the word acizen.

^{27. &}quot;Town" translates ville, which could also be translated "city," and "city" translates cité. Rousseau's point here about the true meaning of a city and a citizen would be lost if ville were translated "city," and so ville has therefore been translated as "town" in this context.

^{28.} See Jean Bodin, Six Books of the Commonwealth (1576), 1.6.

^{29.} See Jean le Rond d'Alembert's article "Genève" in the Encyclopédie (1757), vol. 7.

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

CHAPTER 7 On the Sovereign

This formulation shows that the act of association encompasses a reciprocal commitment of the public with private individuals, and that each individual, in contracting with himself finds himself, so to speak, engaged in a double relation: namely, as a member of the sovereign toward private individuals, and as a member of the state toward the sovereign. But the maxim of civil right that no one is bound to commitments toward himself cannot be applied in this case, for there is a great difference between being obligated toward oneself and toward a whole of which one is a part.

It must be noted as well that public deliberation, which can obligate all the subjects toward the sovereign—due to the two different relations in terms of which each of the subjects is considered—cannot, for the opposite reason, obligate the sovereign toward itself, and that, consequently, it is contrary to the nature of the body politic for the sovereign to impose a law on iself it cannot break. Since the sovereign can consider itself only under one and the same relation, it is then in the situation of a private individual contracting with himself. It is clear from this that there is not—nor can there be—any type of fundamental law that is obligatory for the body of the people, not even the social contract. This does not mean that this body could not perfectly well enter into a commitment with others regarding anything that does not go against this contract. For with regard to a foreigner, it becomes a simple being, an individual.

But since the body politic or the sovereign derives its being solely from the sanctity of the contract, it can never obligate itself, even toward another, with regard to anything that goes against that original act, such as alienating any part of itself or subjecting itself to another sovereign. To violate the act by which it exists would be to annihilate itself, and whatever is nothing produces nothing.

As soon as this multitude is thus united in one body, none of its members can be harmed without attacking the body, and still less can the body be harmed without its members feeling the effects. Thus duty and interest alike obligate the two contracting parties to help one another, and these same men should endeavor to combine in this double relation all the advantages which depend on it

Now, since the sovereign is formed solely of the private individuals who make it up, it does not have-and cannot have-any interest contrary to theirs. Consequently, the sovereign power has no need of a guarantor toward the subjects, because it is impossible for the body to want to harm all in members, and we will see below that it cannot harm any of them individually. The sovereign, by the very fact of what it is, is always all that it ought to be.

But this is not so for the subjects in relation to the sovereign: despite their common interest, nothing would vouch for the subjects' commitments unless the sovereign found some means to be assured of their fidelity.

Indeed, each individual can, as a man, have a particular will contrary to or differing from the general will he has as a citizen. His particular interest can speak to him entirely differently than the common interest. His absolute and naturally independent existence can lead him to view what he owes to 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 considering the moral person that constitutes the state merely as a being produced by reason because it is not a man, he would enjoy the rights of a citizen without being willing to fulfill the duties of a subject—an injustice whose spread would cause the ruin of the body politic.

Therefore, in order for the social compact not to be an empty formality, it tacitly encompasses the following commitment, which alone can give force to the rest: that whoever does refuse to obey the general will be constrained to do so by the whole body, which means nothing else but that he be forced to be free. For such is the condition that, by giving each citizen to the fatherland, guarantees him against all personal dependence—a condition that makes for the ingenuity and the functioning of the political machine and that alone makes legitimate civil engagements which would otherwise be absurd, tyrannical, and liable to the most enormous abuses.

CHAPTER 8 On the Civil State

This transition from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct and by giving his actions the morality they previously lacked. Only then, when

the voice of duty replaces physical impulse and right replaces appetite, does man, who until then had considered only himself, see himself forced to act on the basis of other principles and to consult his reason before listening to his inclinations. Although he deprives himself in this state of several advantages he derives from nature, he gains such great advantages from it—his faculties exercised and developed, his ideas enlarged, his feelings ennobled, his entire soul so greatly elevated—that if the abuses of this new condition did not often degrade him beneath the condition he left, he ought to be endlessly thankful for the happy moment that forever tore him away from it, and that, from a stupid and limited animal, made an intelligent being and a man.

Let us reduce the pros and cons to easily comparable terms. What man loses by the social contract is his natural freedom and an unlimited right to everything that tempts him and that he can get. What he gains is civil freedom and property in everything he possesses. In order not to be mistaken about these compensations, one must carefully distinguish between natural freedom, which has as its bounds only the individual's force, and civil freedom, which is limited by the general will, and between possession, which is merely the effect of force or the right of the first occupant, and property, which can be founded only on a positive title.

To the foregoing acquisitions of the civil state might be added moral freedom, which alone makes man truly the master of himself. For the impulsion of appetite alone is slavery, and obedience to the law one has prescribed to oneself is freedom. But I have already said too much about this topic, and the philosophical meaning of the word *freedom* is not my subject here.

BOOK II

CHAPTER I

That Sovereignty Is Inalienable

The first and the most important consequence of the principles established above is that the general will alone can direct the forces of the state according to the end of its institution, which is the common good. For if the opposition of particular interests has made the establishment of societies necessary, it is the agreement of these same interests that has made it possible. It is what these different interests have in common that forms the social bond, and if there were not some point on which all these interests are in agreement, no society could exist. Hence it is solely on the basis of this common interest that society should be governed.

I say, therefore, that sovereignty—since it is nothing but the exercise of the general will—can never be alienated, and that the sovereign—which is nothing but a collective being—can be represented only by itself. Power may well be transferred, but not will.

Indeed, while it is not impossible for a particular will to be in agreement with the general will on some point, it is at any rate impossible for this agreement to be lasting and continual. For the particular will tends by its nature toward partiality, and the general will toward equality. It is even more impossible to have a guarantee of this agreement, even were it to endure forever: this would not be the result of art, but of chance. The sovereign may very well say, "I currently will what a given man wills, or at least what he says he wills." ³⁰

^{30. &}quot;Will" in this sentence translates various forms of the verb vouloir, which could also be translated "want." Depending upon the context, forms of the verb vouloir have been translated by the appropriate forms of "to will" and "to want," but the possible alternative translation should be kept in mind.

But it cannot say, "What that man is going to will tomorrow, I too shall will it," because it is absurd for the will to enchain itself with regard to the future, and because it is not up to any will whatsoever to consent to anything contrary to the good of the being that wills. If, then, the people promises simply to obey, it dissolves itself by this act, it loses its status as a people. The moment there is a master, there is no longer a sovereign, and from that point onward the body politic is destroyed.

This is not to say that the commands of leaders cannot be taken for general wills, as long as the sovereign, being free to oppose them, does not do so. In such a case, the people's consent should be presumed from universal silence. This will be explained at greater length.

CHAPTER 2

That Sovereignty Is Indivisible

For the same reason that sovereignty is inalienable, it is indivisible. For the general will is either general* or it is not; it is either the will of the body of the people or only of a part. In the first case, this will when declared is an act of sovereignty and constitutes law. In the second case, it is merely a particular will, or an act of magistracy; it is at most a decree.

But our political thinkers, ³¹ unable to divide the principle of sovereignty, divide its object. They divide it into force and will, into legislative power and executive power, into right of taxation, justice, and war, into domestic administration and a power to conduct foreign affairs. Sometimes they mix all these parts together and sometimes they separate them. They turn the sovereign into a fantastical being made up of a motley assortment of pieces. It is as though they constructed a man out of several bodies—one of which had eyes, another arms, another feet—and nothing else. Japanese conjurers are said to carve up a child before the spectators' eyes, then, throwing all of his limbs into the air one after another, they make the child come back down alive and all in one piece. That is more or less like what the juggling acts of our political thinkers are like. After having dismembered the social body by a magic trick worthy of a carnival, they put the pieces back together who knows how.

^{*} For a will to be general, it is not always necessary for it to be unanimous, but it is necessary that all the votes be counted. Any formal exclusion destroys the generality.

^{31. &}quot;Political thinkers" here and later in this paragraph translates politiques, which can refer to political actors of various kinds, including political leaders or political thinkers.

This error comes from not having established precise notions of sovereign authority, and from having mistaken for parts of this authority what are only its manifestations. Thus, for example, the act of declaring war and that of making peace have been regarded as acts of sovereignty, which they are not, because neither of these acts is a law but merely an application of the law, a particular act which decides the case at issue, as will clearly be seen once the idea attached to the word *law* is established.

By examining the other divisions in the same way, one would discover that whenever one believes one sees sovereignty divided, one is mistaken, that the rights which one takes for parts of this sovereignty are all subordinate to it and always presuppose supreme wills which these rights merely implement.

It would be hard to overestimate how much this lack of precision has obscured the judgments of writers on the subject of political rights when they have sought to adjudicate the respective rights of kings and peoples by the principles they have established. Anyone can see in chapters 3 and 4 of the first book of Grotius how that learned man and his translator Barbeyrac have gotten themselves tangled up, caught up in their sophisms, for fear of either saying too much or of not saying enough in accordance with their views, and of offending the interests they had to reconcile. Grotius—taking refuge in France, discontented with his fatherland, and wanting to pay court to Louis XIII, to whom his book is dedicated—spares nothing to strip the people of all their rights and to invest kings with them as artfully as possible. This would certainly also have been to the taste 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 on his guard, to be evasive, to equivocate so as not to make a usurper of William. 32 If these two writers had adopted true principles, all their difficulties would have been avoided and they would always have been consistent. But they would have told the truth with regret and would have paid court only to the people. For truth does not lead to fortune, and the people does not confer either embassies, or professorships, or pensions.

^{32.} In his The Rights of War and Peace (1625), 1.3-4, Grotius discusses the nature of the "supreme power" or sovereignty, where he denies the principle of popular sovereignty, and then the right of subjects to make war on their superiors, which he severely restricts. Hugo Grotius (1583-1645), or Huig de Groot in Durch, was arrested and imprisoned in 1618 and then, having escaped, fled his native Holland for France in 1621. Grotius published The Rights of War and Peace in Paris and dedicated it to King Louis XIII of France. Jean Barbeyrac (1674-1744) translated Grotius' work into French and provided a substantial commentary of his own, publishing the work in 1724 and dedicating it to King George I of England. Barbeyrac characterizes the expulsion of King James II of England in the Glotious Revolution of 1688 that brought William and Mary to the throne as an "abdication" in a note to Grotius' Rights of War and Peace, 1.4-9.

CHAPTER 3 Whether the General Will Can Err

From the preceding it follows that the general will is always right³³ and always tends toward the public utility. But it does not follow that the people's deliberations always have the same rectitude. One always wants³⁴ what is good for oneself, but one does not always see it. Never is the people corrupted, but it is often deceived, and only then does it appear to want what is bad.

There is often a considerable difference between the will of all and the general will.³⁵ The latter considers only the common interest, while the former considers private interest and is merely a sum of particular wills. But take away from these same wills the pluses and minuses, which mutually cancel each other out,* and the remaining sum of the differences is the general will.

If, when the people deliberates and is adequately informed, the citizens were to have no private communication³⁷ among themselves, the general will would always result from the large number of small differences and the deliberation would always be good. But when factions—partial associations at the expense of the larger one—are formed, the will of each of these associations becomes general in relation to its members and particular in relation to the state. There can then no longer be said to be as many voters as there are men, but only as

* Each interest, states the Marquis d'Argenson, has different principles. The agreement between two individual interests is formed by opposition to that of a third.* He might have added that the agreement of all interests is formed in opposition to that of each. If there were no different interests, the common interest, never encountering any obstacle, would scarcely be felt: everything would run by itself and politics would cease to be an art.

^{33. &}quot;Right" translates *droit*. The sense of *droit* in this usage is that the general will is "upright" or "rightly directed."

^{34.} Or: "wills," here and elsewhere in this chapter. See n. 30 (p. 179) above.

^{35.} The distinction Rousseau makes between the "will of all" (volonté de tous) and the "general will" (volonté générale) requires explanation. The word "all" (tous) in the "will of all" in this context should be understood not as "all" in the sense of the body of citizens as a whole acting in their collective capacity as sovereign, but as the sum of the wills of "all of them" separately. In other words, the "will of all" is the sum of the wills of all persons acting as private individuals and not the result of the "general will" they all have in their capacity as citizens.

^{36.} D'Argenson, Considérations sur le gouvernement ancien et présent de la France (1764), 26-27. Similarly to his citation of d'Argenson above, in the first edition of the Social Contract of 1762 Rousseau indicated d'Argenson's name only by the initials "M. d'A." See I.2 and n. 9 above.

^{37. &}quot;Private communication" translates communication. Rousseau's point here is not that there should be no communication among the citizens—that is, discussion and debate—but that there should not be any non-public communication among individuals.

many as there are associations. The differences become less numerous and produce a less general result. Finally, when one of these associations is so large that it prevails over all the others, you no longer have for a result a sum of small differences, but rather one single difference. Then there is no longer a general will, and the opinion that prevails is merely a private opinion.

In order for the general will to be expressed well, it is therefore important that there be no partial society in the state and that each citizen give only his own opinion.* Such was the unique and sublime institution of the great Lycurgus. That if there are partial societies, their number must be multiplied and inequality among them must be prevented, as was done by Solon, Numa, Servius.38 These are the only good precautions to ensure that the general will is always enlightened and that the people is not deceived.

CHAPTER 4

On the Limits of the Sovereign Power

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

But aside from the public person, we have to consider the private persons who make it up and whose life and freedom are naturally independent of it. It is a question, therefore, of clearly distinguishing between the respective rights

^{*} It is true, states Machiavelli, that some divisions are harmful to republic and some are helpful. Those are harmful that are accompanied by sects and partisans; those are helpful that are maintained without sects and partisans. Thus, since a founder of a republic cannot provide that there be no enmities in it, he has to provide at least that there not be sects. Florentine Histories, book 7.39

^{38.} Solon (c. 638-558 BC) was an Athenian statesman and lawmaker who made democratic reforms. Numa Pompilius was the legendary second king of Rome, and was traditionally held to have ruled from 715 to 673 BC. Servius Tullius was the legendary sixth king of Rome, and was said to have ruled from 578 to 535 BC. For Rousseau's discussion of these institutions by Servius in particular, see IV.4 below.

^{39.} Niccolò Machiavelli, Florentine Histories (1532), 7.1, p. 276, quoted by Rousseau in Italian: Vera cosa è, states Machiavelli, che alcune divisioni nuocono alle republiche, e alcune giovano: quelle nuocono che sono dalle sette e da partigiani accompagnate: galle giovano che senza sette, senza partigiani si mantengono. Non potendo adunque provedere un fondatore d'una republic ache non siano nimicizie in quella, hà da proveder almeno che non vi siano sette.

of the citizens and of the sovereign* and between the duties the former have to fulfill in their capacity as subjects and the natural right they should enjoy in their capacity as men.

It is acknowledged that through the social compact each person alienates only that portion of the entirety of his power, his goods, and his freedom the use of which matters to the community, but it must also be acknowledged that the sovereign alone is judge of what matters.

A citizen owes all the services he can render to the state as soon as the sovereign requests them. But the sovereign, for its part, cannot burden the subjects with any chains useless to the community. It cannot even will to do so, for nothing is done without a cause under the law of reason, any more than under the law of nature.

The commitmens that bind us to the social body are obligatory only because they are mutual, and their nature is such that in fulfilling them one cannot work for someone else without also working for oneself. Why is the general will always right, and why do all constantly will the happiness of each one of them, if not because there is no one who does not appropriate the word each to himself, and who does not consider himself when voting for all? This proves that the equality of right and the notion of justice it produces derives from the preference that each person has for himself and consequently from the nature of man, that the general will—to be truly general—should be so in its object as well as in its essence, that it should come from all in order to be applied to all, and that it loses its natural rectitude when it is directed toward some individual and determinate object, because then, in judging what is foreign to us, we have no true principle of equity to guide us.

Indeed, as soon as it is a question of a particular fact or right, regarding an issue which has not been regulated by a general and prior convention, the matter is in dispute. It is a lawsuit in which the interested private individuals are one of the parties and the public is the other, but in which I see neither what law must be followed nor what judge should decide. It would be ridiculous in this case to try to turn to an express decision of the general will, a decision which can be only the determination of one of the parties and which is, consequently, merely a foreign and particular will as far as the other party is concerned, and which is apt in this situation to be unjust and subject to error. Thus, just as a particular will cannot represent the general will, so the general will in turn

^{*}Attentive readers: please do not rush to accuse me of inconsistency here. Given the poverty of the language, I have not been able to avoid some inconsistency in my terminology. But wait.

changes nature when it has a particular object, and, inasmuch as it is general, it cannot decide concerning either a particular man or fact. When the people of Athens, for example, appointed or discharged its leaders, awarded honors to some person, imposed penalties on another, and indiscriminately performed all the acts of government by a multitude of particular decrees, the people then no longer had a general will properly speaking. It no longer acted as a sovereign but as a magistrate. This will appear to be contrary to commonly held ideas, but I must be allowed the time to present my own.

It should be understood from this that what generalizes the will is less the number of voices than the common interest that unites them. For in this institution each necessarily submits to the conditions which he imposes on the others—an admirable agreement of interest and justice which gives the common deliberations an equitable character that is seen to vanish when discussing any particular affair for want of a common interest which unites and identifies the rule of the judge with that of the party.

From whatever direction the principle is approached, the same conclusion is always reached: namely, that the social compact establishes among the citizens an equality such that they all commit themselves under the same conditions and should all enjoy the same rights. Thus, by the nature of the compact every act of sovereignty—that is, every authentic act of the general will either obligates or favors all of the citizens equally, in such a way that the sovereign recognizes only the body of the nation and does not single out any of those who make it up. What, then, precisely is an act of sovereignty? It is not an agreement⁴⁰ between a superior and an inferior, but rather an agreement between the body and each of its members—an agreement which is legitimate because it has the social contract as its basis, equitable because it is common to all, useful because it has no object other than the general welfare, and solid because it has the public force and the supreme power as its guarantor. As long as subjects are subjected only to such agreements, they do not obey anyone, but obey only their own will. And to ask how far the respective rights of the sovereign and the citizens extend is to ask how far they can commit themselves to one another—each toward all and all toward each of them.

It is clear from this that the sovereign power—entirely absolute, entirely sacred, entirely inviolable as it is—does not exceed and cannot exceed the limits of general agreements, and that every man may fully dispose of the por-

^{40. &}quot;Agreement" here and in the rest of this chapter translates *convention*, which is elsewhere translated "convention."

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tion of his goods and his freedom left to him by these agreements. As a result, it is never right for the sovereign to burden one subject more than another, because in that case, since the matter becomes particular, its power is no longer competent.

Once these distinctions are acknowledged, it is so manifestly false that the social contract involves any genuine renunciation on the part of the private individuals, that, as a result of this contract, their situation actually proves to be preferable to what it had been beforehand, and that, instead of an alienation, they have only made an advantageous exchange of an uncertain and precarious mode of existence for a better and more secure one, of natural independence for freedom, of the power to harm others for their own security, and of their force, which others could overcome, for a right which the social union renders invincible. Their very life, which they have dedicated to the state, is continually protected by it, and when they risk it for its defense what are they then doing except giving back to it 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, waging inevitable battles, they defended the means for preserving their life at the risk of losing it? All have to fight for the fatherland as needed, it is true, but then again no one ever has to fight for himself. Do we not still gain by running only a portion of the risks for the sake of what provides our security as we would have to run for our own sake as soon as we are deprived of it?

CHAPTER 6

Through the social compact we have given existence and life to the body politic. It is now a question of giving it movement and will through legislation. For the original act through which this body is formed and united does not determine anything further about what it should do to preserve itself.

What is good and in accordance with order is so 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 on high, we would need neither government nor laws. Without doubt, there is a universal justice emanating from reason alone. But in order to be acknowledged among us, this justice must be reciprocal. Considering things from a human standpoint, the laws of justice are ineffectual among men for want of a natural sanction. They merely benefit the wicked and harm the just when the latter observes them toward everyone while no one observes them toward him. Conventions and laws are therefore necessary to unite rights with duties and to bring justice back to its object. In the state of nature, where everything is common, I owe nothing to those to whom I have promised nothing, I recognize as belonging to someone else only what is useless to me. This is not so in the civil state, where all rights are settled by the law.

But what in the end, then, is a law? As long as people are satisfied with attaching only metaphysical ideas to this word, they will continue reasoning without understanding one another, and when they have stated what a law of nature is, they will not thereby have any better idea of what a law of the state is.

I have already said that there is no general will regarding a particular object. Indeed, this particular object is either within the state 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, it is part of it. Then a relation is formed between the whole and itspart that makes of them two separate beings, of which the part is one and the whole minus that part is the other. But the whole minus a part is not the whole, and as long as this relation persists there is no longer a whole but only two unequal parts, from which it follows that the will of one of them is no longer general in relation to the other.

But when the whole people enacts statutes regarding the whole people, it considers only itself, and if a relation is then formed, it is between the entire object from one point of view toward the entire object from another point of view, without any division of the whole. Then the subject matter of the statute is general like the will that enacts. It is this act that I call a law.

When I say that the object of the laws is always general. I mean that the law considers the subjects as a body and their actions in the abstract, never any man as an individual or any particular act. Thus, the law can very well enact that there will be privileges, but it cannot confer them on anyone by name. The law can create several classes of citizens, even specify the qualifications for having a right to membership in these classes, but it cannot name this or that person for admission to them. It can establish a royal government and a hereditary succession, but it cannot elect a king or name a royal family. In a word, any function that relates to an individual object does not belong to the legislative power.

With this idea in mind, it is immediately clear that it is no longer necessary to ask to whom it belongs to make laws, because they are acts of the general will; nor whether the prince is above the laws, because he is a member of the state; nor whether the law can be unjust, because no one is unjust toward himself; nor how one is both free and yet subject to the laws, because they merely register our wills.

It is also clear that, since the law combines the universality of the will and that of the object, what any man-regardless of who he may be-orders on his own authority is not a law. What even the sovereign orders concerning a particular object is not a law either, but is instead a decree, nor is it an act of sovereignty, but instead one of magistracy.

I therefore call a republic any state ruled by laws, whatever the form of administration may be: for then alone does the public interest govern and does the commonwealth truly exist. Every legitimate government is republican.* I will explain later what government is.

The laws are, strictly speaking, nothing but the conditions of the civil association. The people subject to the laws should be their author. It belongs only to those who are forming an association to regulate the conditions of the society. But how will they regulate them? Will it be by a common accord, through a sudden inspiration? Does the body politic have an organ to enunciate its wills? Who will give it the foresight necessary to formulate its acts and publish them in advance, or how will they be declared in time of need? How will a blind multirude, which often does not know what it wants because it

[&]quot; By this word I do not mean only an aristocracy or a democracy, but in general any government guided by the general will, which is the law. In order to be legitimate, not only must the government not be confounded with the sovereign, but it must be its minister. In this case, monarchy itself is a republic. This will become clearer in the following book.

rarely knows what is good for it, carry out by inself an undertaking as vast, as difficult as a system of legislation? By itself the people 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, sometimes as they should appear to it to be, be shown the good path it seeks, be safeguarded against seduction by particular wills, be brought to regard considerations of time and place, to weigh the appeal of present and perceptible advantages against the dangers of remote and hidden evils. Private individuals see the good they reject; the public wants the good it does not see. All are equally in need of guides. The first must be obliged to make their wills conform to their reason; the latter must be taught to know what it wants. Then the union of understanding and will in the social body results from public enlightenment, and from this union results the smooth working of the parts, and, finally, the greatest force of the whole. From this arises the need for a lawgiver.

CHAPTER 7 On the Lawgiver

To discover the best rules of society suited to each nation would require a superior intelligence who saw all of men's passions and experienced none of them, who had no relation to our nature and who knew it profoundly, whose happiness was independent of ours and who was yet quite happy to attend to ours; finally, one who, preparing distant glory for himself in the fullness of time, could work in one age and enjoy the reward in another.* Gods would be needed to give laws to men.

The same reasoning that Caligula used with respect to fact was used by Plato with respect to right in order to define the civil or royal man he seeks in his book on ruling. 41 But if it is true that a great prince is a rare man, what

^{*} A people becomes famous only once its legislation begins to decline. No one knows for how many centuries the institutions established by Lycurgus produced the Spartans' happiness before the rest of Greece took note of them.

^{41.} For Caligula's remark, see the passage from Philo of Alexandria On the Embassy to Caius (or Gaius) (De Legatione ad Caium) cited in n. 11 to p. 165. For Plato, see Statesman 261c-d: "To supervise the soulless things, as if it were a master-builder's job, is never the characteristic of the royal science, but it is nobler and grander, always in possession of its power in the case of animals and about these very things. . . . But we won't find the statesman at least to be a murse-in-private, like the oxdriver or horse-groom, but with more of a resemblance to a horse-feeder or carde-feeder" (trans. Seth Bernardete [Chicago: University of Chicago Press, 1984]).

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about a great lawgiver? The first need merely follow the model which the second must propose. The latter is the mechanic who invents the machine, the former is merely the workman who puss it together and makes it work. At the birth of societies, states Montesquieu, it is the leaders of republics who create the institutions, and afterward it is the institutions that form the leaders of republics.⁴²

He who dares to undertake to establish a people's institutions must feel that he is capable of changing, so to speak, human nature; of transforming each individual, who by himself is a complete and solitary whole, into a part of a greater whole from which that individual receives as it were his life and his being; of weakening man's constitution in order to reinforce it; of substituting a partial and moral existence for the physical and independent existence we have all received from nature. In a word, it is necessary for him to take away man's own forces in order to give him forces which are foreign to him and of which he cannot make use without the help of others. The more these natural forces are dead and annihilated, the more powerful and lasting are the ones he has acquired, and the more solid and complete is the institution as well. As a result, when each citizen is nothing, can do nothing, except with all the others, and when the force acquired by the whole is equal or superior to the sum of the natural forces of all the individuals, the legislation can be said to be at the highest point of perfection it might attain.

The lawgiver is in every respect an extraordinary man in the state. If he must be so by his genius, he is no less so by his office. It is not magistracy; it is not sovereignty. This office, which constitutes the republic, is not part of ime constitution. It is a particular and superior function which has nothing in common with the human realm. For if he who has command over men should not have command over the laws, so neither should he who has command over the laws have command over men. Otherwise, his laws—ministers of his passions—would often serve merely to perpetuate his injustices, and he could never avoid having particular views debase the sanctity of his work.

When Lycurgus gave his fatherland laws, he began by abdicating the kingship. It was the custom of most Greek cities to entrust the establishment of their laws to foreigners. The modern republics of Italy often imitated this practice.

^{42.} Montesquieu, Considerations on the Causes of the Greamest of the Romans and Their Decline (1734), thap. I, p. 25. This passage first appeared in the 1748 edition of the Considerations.

The republic of Geneva did likewise, and to good effect.* Rome in its finest period beheld all the crimes of tyranny reborn in its midst, and found itself on the verge of perishing as a result of having united the lawgiving authority and

Yet even the Decemvirs themselves never arrogated to themselves the right to have any law passed on their authority alone. Nothing we propose to you, they would say to the people, can become law without your consent. Romans, be yourselves the authors of the laws that should create your happiness.

He who drafts the laws, therefore, does not have and should not have any legislative right. And the people is elf cannot—even if it wanted to — divest is elf of this nontransferable right, because according to the fundamental compact it is only the general will that obligates private individuals, and because there can be no assurance that a particular will is consonant with the general will until it has been submitted to the free suffrage of the people. I have already said this, but it is not useless to repeat it.

Thus one finds at one and the same time two seemingly incompatible things in the work of the legislator: an undertaling beyond human strength and, to execute it, an authority that amounts to nothing.

A further difficulty warrants attention. The wise who want to speak in their own language to the vulgar rather than in the language of the vulgar cannot be understood by them. For there are a thousand kinds of ideas which are impossible to translate into the language of the people. Overly general views and overly remote objectives are equally beyond is grasp. Each individual, appreciating no other plan of government than that which bears on his particular interest, has difficulty perceiving the advantages he is to derive from the constant privations imposed by good laws. In order for a nascent people to be able to appreciate sound maxims of politics and to follow the fundamental rules of statecraft, the effect would have to become the cause: the social spirit that is to be

^{*} Those who consider Calvin merely as a theologian fail to understand the extent of his genius. The drawing up of our wise edies, in which he played a large part, does him as much honor as his furtinutes. Whotever revolution time may bring about in our rites, as long as love of the fatherland and of freedom is not extinguished among us, never will the memory of that great man cease to be blessed.⁵

^{43.} Jean Calvin (1509—64) was a French theologian whose Institutes of the Orinian Religion (1538) was one of the most influential works of the Protestant Reformation. In the same year as he published this work, he was invited to Geneva to reform church government and religious rites.

^{44.} The Decimvin was a commission of ten men appointed for one year by the Romans in 452 BC to draw up a code of laws. After their year in office, the commissioners were reappointed for a second year, after which they ethics do beave office, causing an uprising by the Roman people that forced them to reside.

the work of the institution would have to preside over the institution itself, and men would have to be prior to the laws what they are to become through the laws. Hence, therefore, since the lawgiver can use neither force nor reasoning, he must of necessity have recourse to an authority of a different order which might be able to motivate without violence and persuade without convincing.

This is what has at all times forced the fathers of nations to resort to the intervention of heaven and to honor the gods with their own wisdom, so that peoples—subject to the laws of state as to those of nature, and recognizing the same power in the formation of man as in that of the city—obey with freedom and bear the yoke of public felicity with docility.

This sublime reason, which exceeds the grasp of vulgar men, is the reason whose decisions the legislator puts into the mouth of the immortals, in order to motivate by divine authority those who could not be swayed by human prudence.* But it does not belong to just any man to make the gods speak, or to make himself believed when he proclaims himself their interpreter. The great soul of the lawgiver is the true miracle that must prove his mission. Any man can engrave stone tabless, or bribe an oracle, or feign secret dealings with some divinity, or train a bird to speak in his ear, or find other crude ways to impress the people. Someone who can do only this much might even by chance assemble a mob of madmen, but he will never found an empire, and his extravagant work will soon perish along with him. Trifling tricks may form a fleeting bond; only wisdom makes it lasting. The Jewish law, which still endures, that of Ishmael's child, which has ruled half of the world for ten centuries, even today still proclaim the great men who dictated them. And whereas proud philosophy or the blind spirit of partisanship sees in them merely lucky imposters, the true politician admires in their institutions that great and powerful genius that presides over enduring establishmens.45

One need not conclude from all this with Warburton that among us politics

^{*} And eruly, states Machiavelli, where was never any orderer of extraordinary laws for a people who did not have recourse to God, because otherwise they would not have been accepted. For a prudent tribuidual known many goods that do not have in themselves evident reasons with which one san persuade others. Discourses on Titus Livy, book 1, chapter 11.4

^{45. &}quot;Politician" here translates politiques. See n. 31 to p. 180. Rousseau appears to allude here to Voltaire, whose play Fannaire, on Mohammed (1741) presents Mohammed as a charlatan. See Rousseau, Letter to d'Alembert, Collected Printips, 102727—73, 860.

^{46.} Machiavelli, Discourses on Liny (1531), 1.11, p. 35, quoved by Rousseau in Italian: E veramente, states Machiavelli, mai non fit alcuno ordinator di leggi staordinarie in un popolo, che non risorresse a Dia, perche adrinent non sarebbero accustes; perche sono molti beni conocciuti da uno prudente, i quali non hanno in se raggioni evidenti de poterple pertuadore ad altrui.

and religion have a common goal, but that at the origin of nations the one serves as an instrument of the other. ¹⁷

On the People

Just as an architect, before putting up a large building, examines and tests the soil to see whether it can support the weight, so the wise founder does not begin by drawing up laws which are good in themselves, but first examines whether the people for whom he intends them is fit to bear them. It is for this reason that Plato refused to give laws to the Arcadians and the Cyrenians, since he knew those two peoples were wealthy and could not tolerate equality. It is for this reason that there were good laws and wicked men in Crete, as Minos had merely disciplined a people reeming with vices.

A thousand nations on earth have shined which could never have tolerated good laws, and even those that could have tolerated them could do so only a very short time in their entire lifetimes. Most peoples, like most men, are docile only in their youth; they become incorrigible as they grow old. Once customs are established and prejudices rooted, it is a dangerous and futile undertaking to seek to reform them. The people cannot even bear having what ails it touched so as to destroy it, like those stupid and cowardly patients who tremble at the sight of the doctor.

This is not to say that, just as certain illnesses unhinge men's minds and deprive them of their memory of the past, there are not sometimes violent periods during the lifetimes of states when revolutions have the same effect on peoples as certain crises have on individuals, when the horror of the past serves as a kind of forgetting, and when the state, set ablaze by civil wars, is so to speak reborn from its ashes and recovers the vigor of youth as it escapes death's clutches. Such was Sparta at the time of Lycurgus, such was Rome after the Tarquins, and such with us were Holland and Switzerland after the expulsion of the tyrans.

But these events are rare. They are exceptions the reason for which is always found in the particular constitution of the state so excepted. They cannot even occur twice with the same people, for it can free iself as long as it is merely barbarous, but it can no longer do so when the civil mainspring is worn

^{47.} See William Warburton, The Divine Logation of Moses Demonstrated on the Principles of a Religious Deits, 2 vols., (1737-41), lik. 2, 20tt. 5.

^{48.} See Plutarch Life of Lucullus 2.

out. Then disturbances may destroy it without revolutions being able to restore it, and as soon as its chains are broken, it falls apart and no longer exists. From then on it needs a master and not a liberator. Free peoples, remember this maxim: freedom can be acquired, but is never recovered.

Youth is not childhood. For nations as for men there is a time of youth-or of maturity, if you wish-that must be awaited before subjecting them to laws. But the maturity of a people is not always easy to recognize, and if one acts too soon the work is ruined. One people is capable of being subjected to discipline at birth, another is not capable of it after ten centuries. The Russians will never be truly civilized because they were civilized too soon. Peter had the genius of imitation.49 He did not have true genius—that which creates and makes everything from nothing. Some of the things he did were good, but most were ill-advised. He saw that his people was barbarous, but he did not see that it was not ripe for political ordering. He sought to give it culture when he needed only to make it warlike. He first sought to make Germans or Englishmen when he needed to begin by making Russians. He prevented his subjects from ever becoming what they could be by persuading them that they were something they are not. It is like when a French tutor forms his pupil to shine for a moment during his childhood and then never to amount to anything. The Russian empire will seek to subjugate Europe and will ixelf be subjugated. The Tarrars, its subjects, or its neighbors will become its masters and ours. This revolution appears inevitable to me. All the kings of Europe are working in concert to hasten it.

CHAPTER 9

Just as nature has set limits to the stature of a well-formed man, beyond which it no longer produces anything but giants or dwarfs, likewise there are bounds, with regard to the best constitution of a state, to the size it can have for it to be neither too large to be able to be well governed nor too small to be able to be self-sustaining. In every political body there is a maximum of force which it cannot exceed, and from which it often deviates by dint of growing larger. The more the social bond extends, the looser it grows, and in general a small state is proportionately stronger than a large one.

^{49.} Czar Peter I "The Great" of Russia (1672—1725) traveled incognito to Western Europe to observe its politics and economics and then enacted sweeping reforms aimed at modernizing Russia.

BOOK III

BEFORE DISCUSSING the various forms of government, let us try to determine the precise meaning of this word, which has not yet been especially well explained.

CHAPTER I

On Government in General

I warn the reader that this chapter should be read with due care, and that I do not know the art of being clear for those who are not willing to be attentive.

Every free action has two causes which concur to produce it: one moral, namely the will which determines the act, the other physical, namely the power which executes it. When I walk toward an object, it is necessary first of all for me to will to go to it, and, in the second place, that my feet carry me to it. Let a paralyzed man will to run, let an agile man will not to do so: both will stay where they are. The body politic has the same motive forces; force and will are likewise distinguishable in it: the latter under the name legislative power, the former under the name executive power. Nothing is done in it—or nothing should be done in it—without their cooperation.

We have seen that the legislative power belongs to the people, and can belong only to it. On the contrary, it is easy to see, by the principles established above, that the executive power cannot belong to the general public in its legislative or sovereign capacity, because this power consists solely in particular acts which are not within the province of the law nor, consequently, within that of the sovereign, all of whose acts can be nothing but laws.

The public force must therefore have its own agent, which unites it with and puts it into action in accordance with the directives of the general will, which serves as a means of communication between the state and the sovereign, which does in a sense in the public person what the union of soul and body does in man. This is the reason why there is government in the state government which is improperly confused with the sovereign, of which it is merely the minister.

What, then, is the government? An intermediary body established between the subjects and the sovereign for their mutual communication, and charged with the execution of the laws and the maintenance of freedom, civil as well as political.

The members of this body are called "magistrates" or kings, that is, governors, and the body as a whole bears the name prince.*55 Thus those who claim that the act by which a people subjects itself to leaders is not a contract are perfectly correct. It is absolutely nothing but a commission, an office in which, as mere officers of the sovereign, they exercise in its name the power it has vested in them and which it can limit, modify, and take back whenever it so pleases, since the alienation of such a right is incompatible with the nature of the social body and contrary to the goal of the association.

Liberefore call *government* or "supreme administration" the legitimate exercise of the executive power, and "prince" or "magistrate" the man or the body charged with this administration.

It is in the government that one finds the intermediate forces whose relations make up that of the whole to the whole or of the sovereign to the state. This latter relation can be expressed as the relationship between the extreme terms of a continuous proportion whose proportional mean is the government. The government receives from the sovereign the commands which it then gives to the people, and in order for the state to be in proper equilibrium it is necessary, taking everything else into account, for the product or power of the government taken by itself to be equal to the product or power of the citizens, who are sovereigns from one perspective and subjects from another. The state of the sovereigns from one perspective and subjects from another.

^{*}So in Venice the college of senators is given the name Moss Serene Prince, even when the Doge is not in attendance.

^{55.} Rousseau's highly unusual—and pointedly anti-monarchical—usage of the term "prince" should be kept in mind throughout.

^{56. &}quot;Relations" translates reports, which could also be translated as "mitod" in the mathematical sense of the term. Rousseam's ensuing discussion of the "relations" or "relationships" between different parts of the state and the proportions or "mitod" between them plays on the ambiguity of this French term.

^{97.} An example of a "continuous" or geometric proportion would be A:B:B:C, etc., or, for example, 4:6: B:D: 0. The "extreme verms" in these examples would be A and C, or A and D: in the numerical example. The "mean proportional" would be $A \times C = B \times B = B^2$, or, $A \times D = B \times C = C$ in the numerical example. Rousseau applies this reasoning to the relations among the sovereign, the government, and the citizens considered as subjects to the laws they make as sovereign, with the sovereign and the citizens being

CHAPTER 4

On Democracy

He who makes the law knows better than anyone how it should be executed and interpreted. It therefore seems that there could be no better constitution than that in which the executive power is combined with the legislative. But this is precisely what makes this government inadequate in certain respects, because things that should be kept distinct are not, and because, since the prince and the sovereign are nothing but the same person, they form, so to speak, nothing but a government without a government.

It is not good for he who makes the laws to execute them, nor for the body of the people to turn is attention away from general considerations to particular objects. Nothing is more dangerous than the influence of private interests in public affairs, and the abuse of the laws by the government is a lesser evil than the corruption of the legislative body⁶¹—the infallible consequence of particular considerations. In that case, since the state is vitiated in its very substance, all reform becomes impossible. A people that would never abuse government would not abuse independence either. A people that would always govern well would not need to be governed.

In the strict sense of the term, a genuine democracy never has existed, and

^{61. &}quot;Legislative body" translates législatest, which is otherwise translated as "lawgiver." In this instance, however, Rousseau uses the term to refer to the legislative body, that is, the people in its capacity as sovereign.

never will exist. It is against the natural order for the larger number to govern and for the smaller number to be governed. It is unimaginable that the people could remain constantly assembled to attend to public affairs, and it is readily apparent that it could not establish commissions to do so without the form of administration changing.

Indeed, I do believe I can state as a principle that when the government's functions are divided among several tribunals, the least numerous will sooner or later acquire the greatest authority, if only due to the ease of expediting affairs, which naturally leads to their acquiring it.

Furthermore, think of how many things this form of government presupposes which are difficult to combine. First, a very small state where the people is easily assembled and where each citizen can easily know all the others. Second, great simplicity of morals, which forestalls all manner of business and thorny discussions. Next, great equality of ranks and fortunes, without which equality of rights and authority could not long endure. Finally, little or no luxury, for luxury either is the result of wealth or it makes it necessary. It simultaneously corrupts rich and poor, the former by its possession, the latter by its covetousness. It sells out the fatherland to softness, to vanity. It deprives the state of all its citizens in order to enslave some of them to others, and all of them to opinion.

This is why a famous author has named virtue as the principle of a republic, for all these conditions could not endure without virtue. But for want of making the necessary distinctions, this noble genius has often lacked precision, sometimes clarity, and he failed to see that since the sovereign authority is everywhere the same, the same principle should apply in every well-constituted state—to a greater or lesser degree, it is true, according to the form of government.

Let us add that there is no government as subject to civil wars and intestine turmoil as democratic or popular government, because there is none which tends so strongly and so constantly to change form or which requires greater vigilance and courage to maintain in its own form. It is in this constitution above all that the citizen ought to arm himself with force and steadfastness,

^{62.} The "famous author" is Charles-Louis de Sesondat, baron de Montesquieu (1689—1755), who argues in his Spirit of the Lows (1748) that each form of government has a "principle" that makes it act and states: "There need not be much integrity for a monarchical or despotic government to maintain or sustain itself. The force of the laws in the one and the prince's ever-raised arm in the other can rule or contain the whole. But in a popular state there must be an additional spring, which is VIRTUE" (3.3, p. 22).

and every day of his life to say from the bottom of his heart what a virtuous Palatine* said in the Diet of Poland: I prefer dangerous freedom to quiet servinude.

If there were a people of gods, it would govern itself democratically. So perfect a government is not suited to men.

^{63.} Quoted by Rousseau in Latin: Malo periculosan libertatem quam quietum servicium. This retreath is attributed by Samishev Lescopiuski, King of Poland and Duke of Lorraine (1677–1766), to his father, Rafal Lescopiuski, Palsaine of Poznan. The statement is a version of the Roman adage, Malim inquietum libertatem quam quietum viiume. "I would prefer unquiet freedom to quiet servinude."

CHAPTER II

On the Death of the Body Politic

Such is the natural and inevitable tendency of the best-constituted governments. If Sparta and Rome perished, what state can hope to last forever? If we want to form a lasting establishment, let us therefore not dream of making it eternal. To succeed, one must not attempt the impossible, nor flatter oneself with giving the work of men a solidity that human things do not allow.

The body politic—just like the body of man—begins to die right from the moment of its birth and carries within itself the causes of its destruction. But both of them can have a constitution that is more or less robust and suited to preserve it for a longer or shorter period of time. The constitution of man is the work of nature, that of the state is the work of art. It does not belong to men to prolong their lives; it does belong to them to prolong that of the state as far as possible by giving it the best constitution it might have. The best constitution will come to an end, but later than another, if no unforeseen accident brings about its downfall before its time.

The principle of political life lies in the sovereign authority. The legislative power is the heart of the state, the executive power is is brain, which gives movement to all the parts. The brain can become paralyzed and the individual still live. A man can remain an imbecile and yet live. But as soon as the heart has stopped functioning, the animal is dead.

It is not through the laws that the state subsists; it is through the legislative power. Yesterday's law does not obligate today, but facit consent is presumed from silence, and the sovereign is assumed to be constantly confirming the laws it does not repeal while being able to do so. Everything that it has once declared it wills, it still wills unless it revokes it.

Why, then, is so much respect accorded to ancient laws? Because of their very antiquity. It is to be believed that nothing but the excellence of these ancient wills could have preserved them for so long. If the sovereign had not continually recognized them as salutary, it would have revoked them a thousand times over. This is why the laws, far from weakening, constantly acquire new force in every well-constituted state. The prejudice in favor of antiquity makes them daily more venerable, whereas wherever the laws grow weaker as they grow older, it is proof that there is no longer any legislative power and that the state is no longer alive.

CHAPTER 12

How Sovereign Authority Is Maintained

Since the sovereign has no force other than the legislative power, it acts only through the laws, and since the laws are simply the authentic acts of the general will, the sovereign can act only when the people is assembled. "The people assembled!" it will be said, "What a chimera!" This is a chimera today, but it was not so two thousand years ago. Have men changed their nature?

The limits of the possible in moral matters are less narrow than we think. It is our weaknesses, our vices, our prejudices that contract them. Base souls do not believe in great men; vile slaves smile mockingly at the word "freedom."

Let us consider what can be done by what has been done. I will not speak of the ancient republics of Greece, but the Roman Republic was, it seems to me, a large state and the city of Rome a large city. The last census accorded Rome four hundred thousand citizens bearing arms, and the last enumeration of the Empire more than four million citizens, not counting subjects, foreigners, women, children, slaves.

What difficulty is there that might not be imagined about frequently assembling the immense populace of that capital and is environs? Yet few weeks went by without the Roman people being assembled, and even several times. Not only did it exercise the rights of sovereignty, but a portion of those of government as well. It dealt with some business, it judged some cases, and at the public square this entire people was magistrate nearly as often as citizen.

By going back to the earliest times of nations, one would find that most ancient governments, even monarchical ones such as those of the Macedonians and Franks, had similar councils. Be that as it may, this single indisputable fact answers all the difficulties: the inference from what exists to what is possible appears sound to me.

CHAPTER 13

Continued

It is not enough for the assembled people to have once and for all settled the state's constitution by giving sanction to a body of laws. It is not enough for it to have established a perpetual government or to have provided, once and for all, for the election of magistrates. Aside from extraordinary assemblies which unforeseen circumstances might demand, there must be regular and periodic ones that nothing can abolish or prorogue, so that on the designated day the

people is legitimately convened by the law without needing any further form: convocation.

But except for these assemblies, lawful by their date alone, any assembly of the people that has not been convened by the magistrates appointed for th: purpose and in accordance with the prescribed forms ought to be held to I illegitimate and everything done there as null and void because the order t assemble ixelf ought to emanate from the law.

As for the frequency of the meeting of legitimate assemblies, this depend on so many considerations that precise rules cannot be given on that point. can only be said that in general the more force the government has, the mor frequently ought the sovereign assert ixelf.

This, I will be told, may be good for a single town,82 but what is to b done when the state includes several of them? Is the sovereign authority t be shared, or should it rather be concentrated in a single town and all the res subjected to it?

I reply that neither should be done. First, the sovereign authority is sim ple and single, and it cannot be divided without destroying it. In the sec ond place, a town no more than a nation can be legitimately subjected to another, because the essence of the body politic consists in the agreemen between obedience and freedom, and because the words subject and sover eign are identical correlatives whose concept is combined in the single wore "citizen."

I further reply that it is always an evil to unite several towns into a single city, and that anyone wanting to create this union should not flatter himself with having avoided the natural drawbacks. The abuses of large states musi not be urged as an objection against someone who wants only small ones. But how are small states to be given enough force to resist large ones? Just like the Greek towns in times past resisted the Great King, and more recently just like Holland and Switzerland resisted the House of Austria.83

Nonetheless, if the state cannot be limited to proper bounds, one resource still remains. It is to not allow a capital, to have the seat of government alter-

^{82. &}quot;Town" translates ville, which could also be translated "ciry." In this context, however, Rousseau will also use the term site, which has been translated "city." See I.6 and n. 27 to p. 173.

^{83.} I.e., through confederation. The Greek city-states allied under the leadership of Athens and Sparta and successfully resisted the Persians ("the Great King") during the fifth sentury BC. The Dutch provinces under the leadership of Holland successfully revolved against Habsburg rule ("the House of Austria") during the latter part of the sixteenth and beginning of the seventeenth centuries. The Swiss Confederation expanded and consolidated its power through victories over the Habsburgs during the fifteenth century.

nately located in each town, and also to convene the country's estates in each of them by turn.

Populate the territory evenly, extend the same rights throughout, spread abundance and life throughout it—this is how the state will become simultaneously the strongest and the best governed as possible. Remember that the walls of towns are only built with the wreckage of farmhouses. In every palace I see rise in the capital, I believe I see an entire countryside reduced to hovels.

CHAPTER 14

Continued

The moment the people is legitimately assembled as a sovereign body, the entire 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, because where the represented is present, there is no longer a representative. Most of the tumults which arose in Rome in the comitia came from having been ignorant of that rule or having neglected it. Then the consuls were only the presiding officers of the people, the tribunes mere speakers,* the senate was nothing at all.

These intervals of suspension, during which the prince recognizes or should recognize the presence of a superior, have always been threatening to it, and these assemblies of the people, which are the aegis of the body politic and the curb on government, have in all times been an object of dread for leaders. As such, they never spare efforts, or objections, or difficulties, or promises to deter the citizens from having them. When the latter are greedy, cowardly, pusillanimous, more enamored with tranquility than freedom, they do not hold out for long against the redoubled efforts of the government. This is how, with the force of resistance constantly increasing, the sovereign authority ultimately vanishes, and how most cities fall and perish before their time.

But an intermediate power is sometimes introduced between sovereign authority and government which has to be discussed.

CHAPTER IS

On Deputies or Representatives

As soon as public service ceases to be the principal business of citizens, and as soon as they prefer to serve with their pocketbooks rather than with their per-

^{*}Approximately in the sense given so this serm in the English Parliament. The similarity between these functions would have led to conflict between the consuls and the tribunes, even had all jurisdiction been suspended.

sons, the state is already close to its ruin. Must they march into battle? They pay troops and stay home. Must they attend the council? They name deputies and stay home. By dint of laziness and money they eventually have soldiers to enslave the fatherland and representatives to sell it.

It is the hustle and bustle of commerce and the arm, it is the avid interest in gain, it is the softness and love of comforts, that transform personal services into money. One gives up a portion of one's profit to increase it at one's leisure. Give money, and soon you will have chains. This word finance is a slave's word; it is unknown in the city. In a truly free state the citizens do everything with their hands and nothing with money. Far from paying to exempt themselves from their duties, they would pay to fulfill them themselves. I am quite far from commonly held notions. I believe that corvées are less contrary to freedom than taxes.

The better constituted the state, the more public affairs prevail over private ones in the citizens' minds. There are even far fewer private affairs, because, since the sum of the common happiness contributes a more considerable share of the happiness to each individual, he needs to seek less of it through his own pursuits. In a well-run city each person flies to the assemblies. Under a had government no one likes to take a step to go to them, because no one takes an interest in what is done there, because they foresee that the general will won't predominate there, and, finally, because domestic concerns are all-consuming. Good laws lead to making better ones, bad laws bring about worse ones. As soon as someone says, What do I care? about the affairs of state, the sate should be regarded as lost.

The cooling of the love of the fatherland, the activity of private interest, the immensity of states, conquest, the abuse of the government have led people to devise the measure of using deputies or representatives of the people in the nation's assemblies. This is what people in certain countries dare to call the Third Estate. Thus, the particular interest of two orders is assigned first and second place, and the public interest only the third.

Sovereignty cannot be represented for the same reason that it cannot be alienated. It consists of its essence in the general will, and the will cannot be represented. Either it is the same or it is different—there is no middle ground. The people's deputies therefore are not, nor can they be, its representatives. They are merely its agents. They cannot conclude anything definitively. Any law the people has nor ratified in person is null and void. It is not a law. The English people thinks it is free; it is greatly mistaken. It is so only during the election of members of Parliament; as soon as they are elected, it is a slave, it

is nothing. Given the use it makes of its freedom in the brief moments it has it, it certainly deserves losing it.

The idea of representatives is modern. It comes to us from feudal government—from that iniquitous and absurd government in which the human species is degraded and in which the name of man is dishonored. Among the ancient republics and even among monarchies, never did the people have representatives. That very word was unknown. It is quite striking that in Rome, where the tribunes were so sacred, no one even imagined that they might usurp the functions of the people, and that, amidst such a great multitude, they never attempted to pass a single plebiscite on their authority alone. Yet the trouble the crowd sometimes caused may be judged by what happened at the time of the Gracchi, when a portion of the citizens voted from the rooftops. ⁸⁴

Where right and freedom are everything, inconveniences are nothing. Among this wise people everything was given its proper due. It allowed is lictors to do what is tribunes would not have dared to do. It did not fear that its lictors would want to represent it.

In order to explain how the tribunes sometimes did represent it, however, it is enough to understand how the government represents the sovereign. Since law is nothing but the declaration of the general will, it is clear that the people cannot be represented in its legislative power, but it can and must be represented in its executive power, which is nothing but force applied to law. This makes it clear that, on proper examination, very few nations would be found to have laws. Be that as it may, it is certain that the tribunes, since they did not possess any portion of the executive power, could never represent the Roman people by the rights of their office, but only by usurping those of the senate.

Among the Greeks, everything the people had to do it did by itself. It was constantly assembled in the public square. It inhabited a mild climate, it was not greedy, slaves did its work, in chief business was its freedom. No longer having the same advantages, how are the same rights to be preserved? Your harsher climates give you more needs,* six months of the year the public place is unbearable, your muted languages cannot be heard in the open, you give more thought to your gain than to your freedom, and you fear slavery much less than poverty.

^{*} In cold countries, to adopt the luxury and softness of the peoples of the Orient is to want to give oneself their chains. It is to submit to them even more necessarily than they do.

^{84.} The two Gracchi brothers, Tiberius and Gains, were tribunes of the second century BC who attempted to pass legislation that would have redistributed land from the patricians to the plebeians.

What! Freedom can be maintained only with the help of servitude? Perhaps. The two extremes meet. Everything that is not in nature has its inconveniences, and civil society more than all the rest. There are certain unfortunate situations in which one cannot preserve one's freedom except at the expense of someone else's and in which the citizen can be perfectly free only if the slave is utterly enslaved. Such was the situation of Sparta. As for you, modern peoples, you do not have slaves, but you yourselves are slaves. You pay for their freedom with your own. Boast as you may of this choice; I find in it more cowardice than humanity.

I do not mean by all this that it is necessary to have slaves or that the right of slavery is legitimate, since I have proved the contrary. I simply state the reasons why modern peoples who believe themselves to be 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 henceforward possible among us for the sovereign to preserve the exercise of in right unless the city is very small. But if it is very small, won't it be subjugated? No. I will show below* how the external power of a great people can be combined with ease of administration and the proper ordering of a small state.

CHAPTER 16

That the Institution of the Government Is Not a Contract

Once the legislative power is well established, it is a matter of likewise establishing the executive power. For this latter power, which operates only through particular acts, since it is not of the essence of the former, is naturally separate from it. If it were possible for the sovereign, considered as such, to have the executive power, right and fact would be so confounded that it would no longer be possible to tell what is and what is not the law, and the body politic, thereby denatured, would soon fall prey to the violence against which it was instituted.

Since the citizens are all equal through the social contract, what all ought to do may be prescribed by all, whereas no one has the right to require another to do something that he does not himself do. Now, it is precisely this right, indispensible for making the body politic live and move, that the sovereign gives to the prince by instituting the government.

^{*} This is what I had proposed so do in the sequel so this work, when, in dealing with foreign relations, I would have come to federations. This subject is entirely new and its principles have yet to be established.

Thoughts on the Present Discontents Edmund Burke

A plan of Favouritism for our executory Government is essentially at variance with the plan of our Legislature. One great end undoubtedly of a mixed Government like ours, composed of Monarchy, and of controls, on the part of the higher people and the lower, is that the Prince shall not be able to violate the laws. This is useful indeed and fundamental. But this, even at first view, is no more than a negative advantage; an armour merely defensive. It is therefore next in order, and equal in importance, that the discretionary powers which are necessarily vested in the Monarch, whether for the execution of the laws, or for the nomination to magistracy and office, or for conducting the affairs of peace and war, or for ordering the revenue, should all be exercised upon public principles and national grounds, and not on the likings or prejudices, the intrigues or policies of a Court. This, I said, is equal in importance to the securing a Government according to law. The laws reach but a very little way. Constitute Government how you please, infinitely the greater part of it must depend upon the exercise of the powers which are left at large to the prudence and uprightness of Ministers of State. Even all the use and potency of the laws depends upon them. Without them, your Commonwealth is no better than a scheme upon paper; and not a living, active, effective constitution. It is possible, that through negligence, or ignorance, or design artfully conducted, Ministers may suffer one part of Government to languish, another to be perverted from its purposes: and every valuable interest of the country to fall into ruin and decay, without possibility of fixing any single act on which a criminal prosecution can be justly grounded. The due arrangement of men in the active part of the state, far from being foreign to the purposes of a wise Government, ought to be among its very first and dearest objects. When, therefore, the abettors of new system tell us, that between them and their opposers there is nothing but a struggle for power, and that therefore we are no-ways concerned in it; we must tell those who have the impudence to insult us in this manner, that, of all things, we ought to be the most concerned, who and what sort of men they are, that hold the trust of everything that is dear to us. Nothing can render this a point of indifference to the nation, but what must either render us totally desperate, or soothe us into the security of idiots. We must soften into a credulity below the milkiness of infancy, to think all men virtuous. We must be tainted with a malignity truly diabolical, to believe all the world to be equally wicked and corrupt. Men are in public life as in private—some good, some

evil. The elevation of the one, and the depression of the other, are the first objects of all true policy. But that form of Government, which, neither in its direct institutions, nor in their immediate tendency, has contrived to throw its affairs into the most trustworthy hands, but has left its whole executory system to be disposed of agreeably to the uncontrolled pleasure of any one man, however excellent or virtuous, is a plan of polity defective not only in that member, but consequentially erroneous in every part of it.

In arbitrary Governments, the constitution of the Ministry follows the constitution of the Legislature. Both the Law and the Magistrate are the creatures of Will. It must be so. Nothing, indeed, will appear more certain, on any tolerable consideration of this matter, than that *every sort* of Government ought to have its Administration correspondent to its Legislature. If it should be otherwise, things must fall into a hideous disorder. The people of a free Commonwealth, who have taken such care that their laws should be the result of general consent, cannot be so senseless as to suffer their executory system to be composed of persons on whom they have no dependence, and whom no proofs of the public love and confidence have recommended to those powers, upon the use of which the very being of the State depends.

The popular election of magistrates, and popular disposition of rewards and honours, is one of the first advantages of a free State. Without it, or something equivalent to it, perhaps the people cannot long enjoy the substance of freedom; certainly none of the vivifying energy of good Government. The frame of our Commonwealth did not admit of such an actual election: but it provided as well, and (while the spirit of the constitution is preserved) better, for all the effects of it, than by the method of suffrage in any democratic State whatsoever. It had always, until of late, been held the first duty of Parliament to refuse to support Government, until power was in the hands of persons who were acceptable to the people, or while factions predominated in the Court in which the nation had no confidence. Thus all the good effects of popular election were supposed to be secured to us, without the mischiefs attending on perpetual intrigue, and a distinct canvass for every particular office throughout the body of the people. This was the most noble and refined part of our constitution. The people, by their representatives and grandees, were intrusted with a deliberative power in making laws; the King with the control of his negative. The King was intrusted with the deliberative choice and the election to office; the people had the negative in a Parliamentary refusal to support. Formerly

this power of control was what kept Ministers in awe of Parliaments, and Parliaments in reverence with the people. If the use of this power of control on the system and persons of Administration is gone, everything is lost, Parliament and all. We may assure ourselves, that if Parliament will tamely see evil men take possession of all the strongholds of their country, and allow them time and means to fortify themselves, under a pretence of giving them a fair trial, and upon a hope of discovering, whether they will not be reformed by power, and whether their measures will not be better than their morals; such a Parliament will give countenance to their measures also, whatever that Parliament may pretend, and whatever those measures may be.

Every good political institution must have a preventive operation as well as a remedial. It ought to have a natural tendency to exclude bad men from Government, and not to trust for the safety of the State to subsequent punishment alone—punishment which has ever been tardy and uncertain, and which, when power is suffered in bad hands, may chance to fall rather on the injured than the criminal.

Before men are put forward into the great trusts of the State, they ought by their conduct to have obtained such a degree of estimation in their country as may be some sort of pledge and security to the public that they will not abuse those trusts. It is no mean security for a proper use of power, that a man has shown by the general tenor of his actions, that the affection, the good opinion, the confidence of his fellow-citizens have been among the principal objects of his life, and that he has owed none of the gradations of his power or fortune to a settled contempt or occasional forfeiture of their esteem.

That man who, before he comes into power, has no friends, or who, coming into power, is obliged to desert his friends, or who, losing it, has no friends to sympathise with him, he who has no sway among any part of the landed or commercial interest, but whose whole importance has begun with his office, and is sure to end with it, is a person who ought never to be suffered by a controlling Parliament, to continue in any of those situations which confer the lead and direction of all our public affairs; because such a man has no connection with the sentiments and opinions of the people.

Those knots or cabals of men who have got together, avowedly without any public principle, in order to sell their conjunct iniquity at the higher rate, and are therefore universally odious, ought never to be suffered to domineer in the State; because they have no connection with the sentiments and opinions of the people.

These are considerations which, in my opinion, enforce the necessity of having some better reason, in a free country and a free Parliament, for supporting the Ministers of the Crown, than that short one, *That the King has thought proper to appoint them*. There is something very courtly in this. But it is a principle pregnant with all sorts of mischief, in a constitution like ours, to turn the views of active men from the country to the Court. Whatever be the road to power, that is the road which will be trod. If the opinion of the country be of no use as a means of power or consideration, the qualities which usually procure that opinion will be no longer cultivated. And whether it will be right, in a State so popular in its constitution as ours, to leave ambition without popular motives, and to trust all to the operation of pure virtue in the minds of Kings and Ministers, and public men, must be submitted to the judgment and good sense of the people of England.

* * * * *

Cunning men are here apt to break in, and, without directly controverting the principle, to raise objections from the difficulty under which the Sovereign labours to distinguish the genuine voice and sentiments of his people from the clamour of a faction, by which it is so easily counterfeited. The nation, they say, is generally divided into parties, with views and passions utterly irreconcilable. If the King should put his affairs into the hands of any one of them, he is sure to disgust the rest; if he select particular men from among them all, it is a hazard that he disgusts them all. Those who are left out, however divided before, will soon run into a body of opposition, which, being a collection of many discontents into one focus, will without doubt be hot and violent enough. Faction will make its cries resound through the nation, as if the whole were in an uproar, when by far the majority, and much the better part, will seem for awhile, as it were, annihilated by the quiet in which their virtue and moderation incline them to enjoy the blessings of Government. Besides that, the opinion of the mere vulgar is a miserable rule even with regard to themselves, on account of their violence and instability. So that if you were to gratify them in their humour to-day, that very gratification would be a ground of their dissatisfaction on the next. Now as all these rules of public opinion are to be collected with great difficulty, and to be applied with equal uncertainty as to the effect, what better can a King of England do than to employ such men as he finds to have views and inclinations most conformable to his own, who

are least infected with pride and self-will, and who are least moved by such popular humours as are perpetually traversing his designs, and disturbing his service; trusting that when he means no ill to his people he will be supported in his appointments, whether he chooses to keep or to change, as his private judgment or his pleasure leads him? He will find a sure resource in the real weight and influence of the Crown, when it is not suffered to become an instrument in the hands of a faction.

I will not pretend to say that there is nothing at all in this mode of reasoning, because I will not assert that there is no difficulty in the art of government. Undoubtedly the very best Administration must encounter a great deal of opposition, and the very worst will find more support than it deserves. Sufficient appearances will never be wanting to those who have a mind to deceive themselves. It is a fallacy in constant use with those who would level all things, and confound right with wrong, to insist upon the inconveniences which are attached to every choice, without taking into consideration the different weight and consequence of those inconveniences. The question is not concerning absolute discontent or perfect satisfaction in Government, neither of which can be pure and unmixed at any time or upon any system. The controversy is about that degree of good-humour in the people, which may possibly be attained, and ought certainly to be looked for. While some politicians may be waiting to know whether the sense of every individual be against them, accurately distinguishing the vulgar from the better sort, drawing lines between the enterprises of a faction and the efforts of a people, they may chance to see the Government, which they are so nicely weighing, and dividing, and distinguishing, tumble to the ground in the midst of their wise deliberation. Prudent men, when so great an object as the security of Government, or even its peace, is at stake, will not run the risk of a decision which may be fatal to it. They who can read the political sky will seen a hurricane in a cloud no bigger than a hand at the very edge of the horizon, and will run into the first harbour. No lines can be laid down for civil or political wisdom. They are a matter incapable of exact definition. But, though no man can draw a stroke between the confines of day and night, yet light and darkness are upon the whole tolerably distinguishable. Nor will it be impossible for a Prince to find out such a mode of government, and such persons to administer it, as will give a great degree of content to his people, without any curious and anxious research for that abstract, universal, perfect harmony, which, while he is seeking, he abandons those means of ordinary tranquillity which are in his power without any research at all.

It is not more the duty than it is the interest of a Prince to aim at giving tranquillity to his Government. If those who advise him may have an interest in disorder and confusion. If the opinion of the people is against them, they will naturally wish that it should have no prevalence. Here it is that the people must on their part show themselves sensible of their own value. Their whole importance, in the first instance, and afterwards their whole freedom, is at stake. Their freedom cannot long survive their importance. Here it is that the natural strength of the kingdom, the great peers, the leading landed gentlemen, the opulent merchants and manufacturers, the substantial yeomanry, must interpose, to rescue their Prince, themselves, and their posterity.

We are at present at issue upon this point. We are in the great crisis of this contention, and the part which men take, one way or other, will serve to discriminate their characters and their principles. Until the matter is decided, the country will remain in its present confusion. For while a system of Administration is attempted, entirely repugnant to the genius of the people, and not conformable to the plan of their Government, everything must necessarily be disordered for a time, until this system destroys the constitution, or the constitution gets the better of this system.

There is, in my opinion, a peculiar venom and malignity in this political distemper beyond any that I have heard or read of. In former lines the projectors of arbitrary Government attacked only the liberties of their country, a design surely mischievous enough to have satisfied a mind of the most unruly ambition. But a system unfavourable to freedom may be so formed as considerably to exalt the grandeur of the State, and men may find in the pride and splendour of that prosperity some sort of consolation for the loss of their solid privileges. Indeed, the increase of the power of the State has often been urged by artful men, as a pretext for some abridgment of the public liberty. But the scheme of the junto under consideration not only strikes a palsy into every nerve of our free constitution, but in the same degree benumbs and stupefies the whole executive power, rendering Government in all its grand operations languid, uncertain, ineffective, making Ministers fearful of attempting, and incapable of executing, any useful plan of domestic arrangement, or of foreign politics. It tends to produce neither the security of a free Government, nor the energy of a Monarchy that is absolute. Accordingly, the Crown has dwindled away in proportion to the unnatural and turgid growth of this excrescence on the Court.

The interior Ministry are sensible that war is a situation which sets in its full light the value of the hearts of a people, and they well know that the beginning of the importance of the people must be the end of theirs. For this reason they discover upon all occasions the utmost fear of everything which by possibility may lead to such an event. I do not mean that they manifest any of that pious fear which is backward to commit the safety of the country to the dubious experiment of war. Such a fear, being the tender sensation of virtue, excited, as it is regulated, by reason, frequently shows itself in a seasonable boldness, which keeps danger at a distance, by seeming to despise it. Their fear betrays to the first glance of the eye its true cause and its real object. Foreign powers, confident in the knowledge of their character, have not scrupled to violate the most solemn treaties; and, in defiance of them, to make conquests in the midst of a general peace, and in the heart of Europe. Such was the conquest of Corsica, by the professed enemies of the freedom of mankind, in defiance of those who were formerly its professed defenders. We have had just claims upon the same powers rights which ought to have been sacred to them as well as to us, as they had their origin in our lenity and generosity towards France and Spain in the day of their great humiliation. Such I call the ransom of Manilla, and the demand on France for the East India prisoners. But these powers put a just confidence in their resource of the double Cabinet. These demands (one of them, at least) are hastening fast towards an acquittal by prescription. Oblivion begins to spread her cobwebs over all our spirited remonstrances. Some of the most valuable branches of our trade are also on the point of perishing from the same cause. I do not mean those branches which bear without the hand of the vine-dresser; I mean those which the policy of treaties had formerly secured to us; I mean to mark and distinguish the trade of Portugal, the loss of which, and the power of the Cabal, have one and the same era.

If, by any chance, the Ministers who stand before the curtain possess or affect any spirit, it makes little or no impression. Foreign Courts and Ministers, who were among the first to discover and to profit by this invention of the *double Cabinet*, attended very little to their remonstrances. They know that those shadows of Ministers have nothing to do in the ultimate disposal of things. Jealousies and animosities are sedulously nourished in the outward Administration, and have been even considered as a *causa sine qua non* in its constitution: thence foreign Courts have a certainty, that nothing can be done by common counsel in this nation. If one of those Ministers officially takes up a business with spirit, it serves only the better to signalise the

meanness of the rest, and the discord of them all. His colleagues in office are in haste to shake him off, and to disclaim the whole of his proceedings. Of this nature was that astonishing transaction, in which Lord Rochford, our Ambassador at Paris, remonstrated against the attempt upon Corsica, in consequence of a direct authority from Lord Shelburne. This remonstrance the French Minister treated with the contempt that was natural; as he was assured, from the Ambassador of his Court to ours, that these orders of Lord Shelburne were not supported by the rest of the (I had like to have said British) Administration. Lord Rochford, a man of spirit, could not endure this situation. The consequences were, however, curious. He returns from Paris, and comes home full of anger. Lord Shelburne, who gave the orders, is obliged to give up the seals. Lord Rochford, who obeyed these orders, receives them. He goes, however, into another department of the same office, that he might not be obliged officially to acquiesce in one situation, under what he had officially remonstrated against in another. At Paris, the Duke of Choiseul considered this office arrangement as a compliment to him: here it was spoke of as an attention to the delicacy of Lord Rochford. But whether the compliment was to one or both, to this nation it was the same. By this transaction the condition of our Court lay exposed in all its nakedness. Our office correspondence has lost all pretence to authenticity; British policy is brought into derision in those nations, that a while ago trembled at the power of our arms, whilst they looked up with confidence to the equity, firmness, and candour, which shone in all our negotiations. I represent this matter exactly in the light in which it has been universally received.

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Such has been the aspect of our foreign politics under the influence of a *double Cabinet*. With such an arrangement at Court, it is impossible it should have been otherwise. Nor is it possible that this scheme should have a better effect upon the government of our dependencies, the first, the dearest, and most delicate objects of the interior policy of this empire. The Colonies know that Administration is separated from the Court, divided within itself, and detested by the nation. The double Cabinet has, in both the parts of it, shown the most malignant dispositions towards them, without being able to do them the smallest mischief.

They are convinced, by sufficient experience, that no plan, either of lenity or rigour, can be pursued with uniformity and perseverance. Therefore they turn their eyes entirely from Great Britain,

where they have neither dependence on friendship nor apprehension from enmity. They look to themselves, and their own arrangements. They grow every day into alienation from this country; and whilst they are becoming disconnected with our Government, we have not the consolation to find that they are even friendly in their new independence. Nothing can equal the futility, the weakness, the rashness, the timidity, the perpetual contradiction, in the management of our affairs in that part of the world. A volume might be written on this melancholy subject; but it were better to leave it entirely to the reflections of the reader himself, than not to treat it in the extent it deserves.

In what manner our domestic economy is affected by this system, it is needless to explain. It is the perpetual subject of their own complaints.

The Court party resolve the whole into faction. Having said something before upon this subject, I shall only observe here, that, when they give this account of the prevalence of faction, they present no very favourable aspect of the confidence of the people in their own Government. They may be assured, that however they amuse themselves with a variety of projects for substituting something else in the place of that great and only foundation of Government, the confidence of the people, every attempt will but make their condition worse. When men imagine that their food is only a cover for poison, and when they neither love nor trust the hand that serves it, it is not the name of the roast beef of Old England that will persuade them to sit down to the table that is spread for them. When the people conceive that laws, and tribunals, and even popular assemblies, are perverted from the ends of their institution, they find in those names of degenerated establishments only new motives to discontent. Those bodies, which, when full of life and beauty, lay in their arms and were their joy and comfort; when dead and putrid, become but the more loathsome from remembrance of former endearments. A sullen gloom, and furious disorder, prevail by fits: the nation loses its relish for peace and prosperity, as it did in that season of fulness which opened our troubles in the time of Charles the First. A species of men to whom a state of order would become a sentence of obscurity, are nourished into a dangerous magnitude by the heat of intestine disturbances; and it is no wonder that, by a sort of sinister piety, they cherish, in their turn, the disorders which are the parents of all their consequence. Superficial observers consider such persons as the cause of the public uneasiness, when, in truth, they are nothing more than the effect of it. Good men look upon this distracted scene with sorrow and

indignation. Their hands are tied behind them. They are despoiled of all the power which might enable them to reconcile the strength of Government with the rights of the people. They stand in a most distressing alternative. But in the election among evils they hope better things from temporary confusion, than from established servitude. In the mean time, the voice of law is not to be heard. Fierce licentiousness begets violent restraints. The military arm is the sole reliance; and then, call your constitution what you please, it is the sword that governs. The civil power, like every other that calls in the aid of an ally stronger than itself, perishes by the assistance it receives. But the contrivers of this scheme of Government will not trust solely to the military power, because they are cunning men. Their restless and crooked spirit drives them to rake in the dirt of every kind of expedient. Unable to rule the multitude, they endeavour to raise divisions amongst them. One mob is hired to destroy another; a procedure which at once encourages the boldness of the populace, and justly increases their discontent. Men become pensioners of state on account of their abilities in the array of riot, and the discipline of confusion. Government is put under the disgraceful necessity of protecting from the severity of the laws that very licentiousness, which the laws had been before violated to repress. Everything partakes of the original disorder. Anarchy predominates without freedom, and servitude without submission or subordination. These are the consequences inevitable to our public peace, from the scheme of rendering the executory Government at once odious and feeble; of freeing Administration from the constitutional and salutary control of Parliament, and inventing for it a new control, unknown to the constitution, an *interior* Cabinet; which brings the whole body of Government into confusion and contempt.

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After having stated, as shortly as I am able, the effects of this system on our foreign affairs, on the policy of our Government with regard to our dependencies, and on the interior economy of the Commonwealth; there remains only, in this part of my design, to say something of the grand principle which first recommended this system at Court. The pretence was to prevent the King from being enslaved by a faction, and made a prisoner in his closet. This scheme might have been expected to answer at least its own end, and to indemnify the King, in his personal capacity, for all the confusion into which it has thrown his Government. But has it in reality answered this purpose? I am sure, if it had, every affectionate

subject would have one motive for enduring with patience all the evils which attend it.

In order to come at the truth in this matter, it may not be amiss to consider it somewhat in detail. I speak here of the King, and not of the Crown; the interests of which we have already touched. Independent of that greatness which a King possesses merely by being a representative of the national dignity, the things in which he may have an individual interest seem to be these: wealth accumulated; wealth spent in magnificence, pleasure, or beneficence; personal respect and attention; and above all, private ease and repose of mind. These compose the inventory of prosperous circumstances, whether they regard a Prince or a subject; their enjoyments differing only in the scale upon which they are formed.

Suppose then we were to ask, whether the King has been richer than his predecessors in accumulated wealth, since the establishment of the plan of Favouritism? I believe it will be found that the picture of royal indigence which our Court has presented until this year, has been truly humiliating. Nor has it been relieved from this unseemly distress, but by means which have hazarded the affection of the people, and shaken their confidence in Parliament. If the public treasures had been exhausted in magnificence and splendour, this distress would have been accounted for, and in some measure justified. Nothing would be more unworthy of this nation, than with a mean and mechanical rule, to mete out the splendour of the Crown. Indeed, I have found very few persons disposed to so ungenerous a procedure. But the generality of people, it must be confessed, do feel a good deal mortified, when they compare the wants of the Court with its expenses. They do not behold the cause of this distress in any part of the apparatus of Royal magnificence. In all this, they see nothing but the operations of parsimony, attended with all the consequences of profusion. Nothing expended, nothing saved. Their wonder is increased by their knowledge, that besides the revenue settled on his Majesty's Civil List to the amount of £800,000 a year, he has a farther aid, from a large pension list, near £90,000 a year, in Ireland; from the produce of the Duchy of Lancaster (which we are told has been greatly improved); from the revenue of the Duchy of Cornwall; from the American quit-rents; from the four and a half per cent. duty in the Leeward Islands; this last worth to be sure considerably more than £40,000 a year. The whole is certainly not much short of a million annually.

These are revenues within the knowledge and cognizance of our national Councils. We have no direct right to examine into the receipts from his Majesty's German Dominions, and the Bishopric of Osnaburg. This is unquestionably true. But that which is not within the province of Parliament, is yet within the sphere of every man's own reflection. If a foreign Prince resided amongst us, the state of his revenues could not fail of becoming the subject of our speculation. Filled with an anxious concern for whatever regards the welfare of our Sovereign, it is impossible, in considering the miserable circumstances into which he has been brought, that this obvious topic should be entirely passed over. There is an opinion universal, that these revenues produce something not inconsiderable, clear of all charges and establishments. This produce the people do not believe to be hoarded, nor perceive to be spent. It is accounted for in the only manner it can, by supposing that it is drawn away, for the support of that Court faction, which, whilst it distresses the nation, impoverishes the Prince in every one of his resources. I once more caution the reader, that I do not urge this consideration concerning the foreign revenue, as if I supposed we had a direct right to examine into the expenditure of any part of it; but solely for the purpose of showing how little this system of Favouritism has been advantageous to the Monarch himself; which, without magnificence, has sunk him into a state of unnatural poverty; at the same time that he possessed every means of affluence, from ample revenues, both in this country and in other parts of his dominions.

Has this system provided better for the treatment becoming his high and sacred character, and secured the King from those disgusts attached to the necessity of employing men who are not personally agreeable? This is a topic upon which for many reasons I could wish to be silent; but the pretence of securing against such causes of uneasiness, is the cornerstone of the Court party. It has however so happened, that if I were to fix upon any one point, in which this system has been more particularly and shamefully blameable, the effects which it has produced would justify me in choosing for that point its tendency to degrade the personal dignity of the Sovereign, and to expose him to a thousand contradictions and mortifications. It is but too evident in what manner these projectors of Royal greatness have fulfilled all their magnificent promises. Without recapitulating all the circumstances of the reign, every one of which is more or less a melancholy proof of the truth of what I have advanced, let us consider the language of the Court but a few years ago, concerning most of the persons now in the external Administration: let me ask, whether any enemy to the personal feelings of the Sovereign, could

possibly contrive a keener instrument of mortification, and degradation of all dignity, than almost every part and member of the present arrangement? Nor, in the whole course of our history, has any compliance with the will of the people ever been known to extort from any Prince a greater contradiction to all his own declared affections and dislikes, than that which is now adopted, in direct opposition to every thing the people approve and desire.

An opinion prevails, that greatness has been more than once advised to submit to certain condescensions towards individuals, which have been denied to the entreaties of a nation. For the meanest and most dependent instrument of this system knows, that there are hours when its existence may depend upon his adherence to it; and he takes his advantage accordingly. Indeed it is a law of nature, that whoever is necessary to what we have made our object, is sure, in some way, or in some time or other, to become our master. All this however is submitted to, in order to avoid that monstrous evil of governing in concurrence with the opinion of the people. For it seems to be laid down as a maxim, that a King has some sort of interest in giving uneasiness to his subjects: that all who are pleasing to them, are to be of course disagreeable to him: that as soon as the persons who are odious at Court are known to be odious to the people, it is snatched at as a lucky occasion of showering down upon them all kinds of emoluments and honours. None are considered as well-wishers to the Crown, but those who advised to some unpopular course of action; none capable of serving it, but those who are obliged to call at every instant upon all its power for the safety of their lives. None are supposed to be fit priests in the temple of Government, but the persons who are compelled to fly into it for sanctuary. Such is the effect of this refined project; such is ever the result of all the contrivances which are used to free men from the servitude of their reason, and from the necessity of ordering their affairs according to their evident interests. These contrivances oblige them to run into a real and ruinous servitude, in order to avoid a supposed restraint that might be attended with advantage.

If therefore this system has so ill answered its own grand pretence of saving the King from the necessity of employing persons disagreeable to him, has it given more peace and tranquillity to his Majesty's private hours? No, most certainly. The father of his people cannot possibly enjoy repose, while his family is in such a state of distraction. Then what has the Crown or the King profited by all this fine-wrought scheme? Is he more rich, or more splendid, or more powerful, or more

at his ease, by so many labours and contrivances? Have they not beggared his Exchequer, tarnished the splendour of his Court, sunk his dignity, galled his feelings, discomposed the whole order and happiness of his private life?

It will be very hard, I believe, to state in what respect the King has profited by that faction which presumptuously choose to call themselves *his friends*.

If particular men had grown into an attachment, by the distinguished honour of the society of their Sovereign, and, by being the partakers of his amusements, came sometimes to prefer the gratification of his personal inclinations to the support of his high character, the thing would be very natural, and it would be excusable enough. But the pleasant part of the story is, that these *King's friends* have no more ground for usurping such a title, than a resident freeholder in Cumberland or in Cornwall. They are only known to their Sovereign by kissing his hand, for the offices, pensions, and grants into which they have deceived his benignity. May no storm ever come, which will put the firmness of their attachment to the proof; and which, in the midst of confusions and terrors, and sufferings, may demonstrate the eternal difference between a true and severe friend to the Monarchy, and a slippery sycophant of the Court; *Quantum infido scurræ distabit amicus*!

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So far I have considered the effect of the Court system, chiefly as it operates upon the executive Government, on the temper of the people and on the happiness of the Sovereign. It remains that we should consider, with a little attention, its operation upon Parliament.

Parliament was indeed the great object of all these politics, the end at which they aimed, as well as the instrument by which they were to operate. But, before Parliament could be made subservient to a system, by which it was to be degraded from the dignity of a national council, into a mere member of the Court, it must be greatly changed from its original character.

In speaking of this body, I have my eye chiefly on the House of Commons. I hope I shall be indulged in a few observations on the nature and character of that assembly; not with regard to its *legal form and power*, but to its *spirit*, and to the purposes it is meant to answer in the constitution.

The House of Commons was supposed originally to be *no part of the standing Government of this country*. It was considered as a control, issuing immediately from the people, and speedily to be resolved into the mass from whence it arose. In this respect it was in the higher part of Government what juries are in the lower. The capacity of a magistrate being transitory, and that of a citizen permanent, the latter capacity it was hoped would of course preponderate in all discussions, not only between the people and the standing authority of the Crown, but between the people and the fleeting authority of the House of Commons itself. It was hoped that, being of a middle nature between subject and Government, they would feel with a more tender and a nearer interest everything that concerned the people, than the other remoter and more permanent parts of Legislature.

Whatever alterations time and the necessary accommodation of business may have introduced, this character can never be sustained, unless the House of Commons shall be made to bear some stamp of the actual disposition of the people at large. It would (among public misfortunes) be an evil more natural and tolerable, that the House of Commons should be infected with every epidemical frenzy of the people, as this would indicate some consanguinity, some sympathy of nature with their constituents, than that they should in all cases be wholly untouched by the opinions and feelings of the people out of doors. By this want of sympathy they would cease to be a House of Commons. For it is not the derivation of the power of that House from the people, which makes it in a distinct sense their representative. The King is the representative of the people; so are the Lords; so are the Judges. They all are trustees for the people, as well as the Commons; because no power is given for the sole sake of the holder; and although Government certainly is an institution of Divine authority, yet its forms, and the persons who administer it, all originate from the people.

A popular origin cannot therefore be the characteristical distinction of a popular representative. This belongs equally to all parts of Government, and in all forms. The virtue, spirit, and essence of a House of Commons consists in its being the express image of the feelings of the nation. It was not instituted to be a control upon the people, as of late it has been taught, by a doctrine of the most pernicious tendency. It was designed as a control *for* the people. Other institutions have been formed for the purpose of checking popular excesses; and they are, I apprehend, fully adequate to their object. If not, they ought to be made so. The House of Commons, as it was never intended for the support of peace and

subordination, is miserably appointed for that service; having no stronger weapon than its Mace, and no better officer than its Serjeant-at-Arms, which it can command of its own proper authority. A vigilant and jealous eye over executory and judicial magistracy; an anxious care of public money, an openness, approaching towards facility, to public complaint; these seem to be the true characteristics of a House of Commons. But an addressing House of Commons, and a petitioning nation; a House of Commons full of confidence, when the nation is plunged in despair; in the utmost harmony with Ministers, whom the people regard with the utmost abhorrence; who vote thanks, when the public opinion calls upon them for impeachments; who are eager to grant, when the general voice demands account; who, in all disputes between the people and Administration, presume against the people; who punish their disorder, but refuse even to inquire into the provocations to them; this is an unnatural, a monstrous state of things in this constitution. Such an Assembly may be a great, wise, awful senate; but it is not, to any popular purpose, a House of Commons. This change from an immediate state of procuration and delegation to a course of acting as from original power, is the way in which all the popular magistracies in the world have been perverted from their purposes. It is indeed their greatest and sometimes their incurable corruption. For there is a material distinction between that corruption by which particular points are carried against reason (this is a thing which cannot be prevented by human wisdom, and is of less consequence), and the corruption of the principle itself. For then the evil is not accidental, but settled. The distemper becomes the natural habit.

For my part, I shall be compelled to conclude the principle of Parliament to be totally corrupted, and therefore its ends entirely defeated, when I see two symptoms: first, a rule of indiscriminate support to all Ministers; because this destroys the very end of Parliament as a control, and is a general previous sanction to misgovernment; and secondly, the setting up any claims adverse to the right of free election; for this tends to subvert the legal authority by which the House of Commons sits.

I know that, since the Revolution, along with many dangerous, many useful powers of Government have been weakened. It is absolutely necessary to have frequent recourse to the Legislature. Parliaments must therefore sit every year, and for great part of the year. The dreadful disorders of frequent elections have also necessitated a septennial instead of a triennial duration. These circumstances, I mean the constant habit of authority, and the infrequency of elections, have tended very much to

draw the House of Commons towards the character of a standing Senate. It is a disorder which has arisen from the cure of greater disorders; it has arisen from the extreme difficulty of reconciling liberty under a monarchical Government, with external strength and with internal tranquillity.

It is very clear that we cannot free ourselves entirely from this great inconvenience; but I would not increase an evil, because I was not able to remove it; and because it was not in my power to keep the House of Commons religiously true to its first principles, I would not argue for carrying it to a total oblivion of them. This has been the great scheme of power in our time. They who will not conform their conduct to the public good, and cannot support it by the prerogative of the Crown, have adopted a new plan. They have totally abandoned the shattered and oldfashioned fortress of prerogative, and made a lodgment in the stronghold of Parliament itself. If they have any evil design to which there is no ordinary legal power commensurate, they bring it into Parliament. In Parliament the whole is executed from the beginning to the end. In Parliament the power of obtaining their object is absolute, and the safety in the proceeding perfect: no rules to confine, no after reckonings to terrify. Parliament cannot with any great propriety punish others for things in which they themselves have been accomplices. Thus the control of Parliament upon the executory power is lost; because Parliament is made to partake in every considerable act of Government. Impeachment, that great guardian of the purity of the Constitution, is in danger of being lost, even to the idea of it.

By this plan several important ends are answered to the Cabal. If the authority of Parliament supports itself, the credit of every act of Government, which they contrive, is saved; but if the act be so very odious that the whole strength of Parliament is insufficient to recommend it, then Parliament is itself discredited; and this discredit increases more and more that indifference to the constitution, which it is the constant aim of its enemies, by their abuse of Parliamentary powers, to render general among the people. Whenever Parliament is persuaded to assume the offices of executive Government, it will lose all the confidence, love, and veneration which it has ever enjoyed, whilst it was supposed the *corrective* and *control* of the acting powers of the State. This would be the event, though its conduct in such a perversion of its functions should be tolerably just and moderate; but if it should be iniquitous, violent, full of passion, and full of faction, it would be considered as the most intolerable of all the modes of tyranny.

For a considerable time this separation of the representatives from their constituents went on with a silent progress; and had those, who conducted the plan for their total separation, been persons of temper and abilities any way equal to the magnitude of their design, the success would have been infallible; but by their precipitancy they have laid it open in all its nakedness; the nation is alarmed at it; and the event may not be pleasant to the contrivers of the scheme. In the last session, the corps called the *King's friends* made a hardy attempt all at once, *to alter the right of election itself*; to put it into the power of the House of Commons to disable any person disagreeable to them from sitting in Parliament, without any other rule than their own pleasure; to make incapacities, either general for descriptions of men, or particular for individuals; and to take into their body, persons who avowedly had never been chosen by the majority of legal electors, nor agreeably to any known rule of law.

The arguments upon which this claim was founded and combated, are not my business here. Never has a subject been more amply and more learnedly handled, nor upon one side, in my opinion, more satisfactorily; they who are not convinced by what is already written would not receive conviction *though one arose from the dead*.

I too have thought on this subject; but my purpose here, is only to consider it as a part of the favourite project of Government; to observe on the motives which led to it; and to trace its political consequences.

A violent rage for the punishment of Mr. Wilkes was the pretence of the whole. This gentleman, by setting himself strongly in opposition to the Court Cabal, had become at once an object of their persecution, and of the popular favour. The hatred of the Court party pursuing, and the countenance of the people protecting him, it very soon became not at all a question on the man, but a trial of strength between the two parties. The advantage of the victory in this particular contest was the present, but not the only, nor by any means, the principal, object. Its operation upon the character of the House of Commons was the great point in view. The point to be gained by the Cabal was this: that a precedent should be established, tending to show, That the favour of the people was not so sure a road as the favour of the Court even to popular honours and popular trusts. A strenuous resistance to every appearance of lawless power; a spirit of independence carried to some degree of enthusiasm; an inquisitive character to discover, and a bold one to display, every corruption and every error of Government; these are the qualities which recommend a man to a seat in the House of Commons, in open and merely popular elections. An indolent and submissive disposition; a disposition to think charitably of all the actions of men in power, and to live in a mutual intercourse of favours with them; an inclination rather to countenance a strong use of authority, than to bear any sort of licentiousness on the part of the people; these are unfavourable qualities in an open election for Members of Parliament.

The instinct which carries the people towards the choice of the former, is justified by reason; because a man of such a character, even in its exorbitancies, does not directly contradict the purposes of a trust, the end of which is a control on power. The latter character, even when it is not in its extreme, will execute this trust but very imperfectly; and, if deviating to the least excess, will certainly frustrate instead of forwarding the purposes of a control on Government. But when the House of Commons was to be new modelled, this principle was not only to be changed, but reversed. Whist any errors committed in support of power were left to the law, with every advantage of favourable construction, of mitigation, and finally of pardon; all excesses on the side of liberty, or in pursuit of popular favour, or in defence of popular rights and privileges, were not only to be punished by the rigour of the known law, but by a discretionary proceeding, which brought on the loss of the popular object itself. Popularity was to be rendered, if not directly penal, at least highly dangerous. The favour of the people might lead even to a disqualification of representing them. Their odium might become, strained through the medium of two or three constructions, the means of sitting as the trustee of all that was dear to them. This is punishing the offence in the offending part. Until this time, the opinion of the people, through the power of an Assembly, still in some sort popular, led to the greatest honours and emoluments in the gift of the Crown. Now the principle is reversed; and the favour of the Court is the only sure way of obtaining and holding those honours which ought to be in the disposal of the people.

It signifies very little how this matter may be quibbled away. Example, the only argument of effect in civil life, demonstrates the truth of my proposition. Nothing can alter my opinion concerning the pernicious tendency of this example, until I see some man for his indiscretion in the support of power, for his violent and intemperate servility, rendered incapable of sitting in parliament. For as it now stands, the fault of overstraining popular qualities, and, irregularly if you please, asserting popular privileges, has led to disqualification; the opposite fault never has produced the slightest punishment. Resistance to power has shut the

door of the House of Commons to one man; obsequiousness and servility, to none.

Not that I would encourage popular disorder, or any disorder. But I would leave such offences to the law, to be punished in measure and proportion. The laws of this country are for the most part constituted, and wisely so, for the general ends of Government, rather than for the preservation of our particular liberties. Whatever therefore is done in support of liberty, by persons not in public trust, or not acting merely in that trust, is liable to be more or less out of the ordinary course of the law; and the law itself is sufficient to animadvert upon it with great severity. Nothing indeed can hinder that severe letter from crushing us, except the temperaments it may receive from a trial by jury. But if the habit prevails of going beyond the law, and superseding this judicature, of carrying offences, real or supposed, into the legislative bodies, who shall establish themselves into courts of criminal equity, (so the Star Chamber has been called by Lord Bacon,) all the evils of the Star Chamber are revived. A large and liberal construction in ascertaining offences, and a discretionary power in punishing them, is the idea of criminal equity; which is in truth a monster in Jurisprudence. It signifies nothing whether a court for this purpose be a Committee of Council, or a House of Commons, or a House of Lords; the liberty of the subject will be equally subverted by it. The true end and purpose of that House of Parliament which entertains such a jurisdiction will be destroyed by it.

I will not believe, what no other man living believes, that Mr. Wilkes was punished for the indecency of his publications, or the impiety of his ransacked closet. If he had fallen in a common slaughter of libellers and blasphemers, I could well believe that nothing more was meant than was pretended. But when I see, that, for years together, full as impious, and perhaps more dangerous writings to religion, and virtue, and order, have not been punished, nor their authors discountenanced; that the most audacious libels on Royal Majesty have passed without notice; that the most treasonable invectives against the laws, liberties, and constitution of the country, have not met with the slightest animadversion; I must consider this as a shocking and shameless pretence. Never did an envenomed scurrility against everything sacred and civil, public and private, rage through the kingdom with such a furious and unbridled licence. All this while the peace of the nation must be shaken, to ruin one libeller, and to tear from the populace a single favourite.

Nor is it that vice merely skulks in an obscure and contemptible impunity. Does not the public behold with indignation, persons not only generally scandalous in their lives, but the identical persons who, by their society, their instruction, their example, their encouragement, have drawn this man into the very faults which have furnished the Cabal with a pretence for his persecution, loaded with every kind of favour, honour, and distinction, which a Court can bestow? Add but the crime of servility (the *foedum crimem servitutis*) to every other crime, and the whole mass is immediately transmuted into virtue, and becomes the just subject of reward and honour. When therefore I reflect upon this method pursued by the Cabal in distributing rewards and punishments, I must conclude that Mr. Wilkes is the object of persecution, not on account of what he has done in common with others who are the objects of reward, but for that in which he differs from many of them: that he is pursued for the spirited dispositions which are blended with his vices; for his unconquerable firmness, for his resolute, indefatigable, strenuous resistance against oppression.

In this case, therefore, it was not the man that was to be punished, nor his faults that were to be discountenanced. Opposition to acts of power was to be marked by a kind of civil proscription. The popularity which should arise from such an opposition was to be shown unable to protect it. The qualities by which court is made to the people, were to render every fault inexpiable, and every error irretrievable. The qualities by which court is made to power, were to cover and to sanctify everything. He that will have a sure and honourable seat, in the House of Commons, must take care how he adventures to cultivate popular qualities; otherwise he may, remember the old maxim, *Breves et infaustos populi Romani amores*. If, therefore, a pursuit of popularity expose a man to greater dangers than a disposition to servility, the principle which is the life and soul of popular elections will perish out of the Constitution.

It behoves the people of England to consider how the House of Commons under the operation of these examples must of necessity be constituted. On the side of the Court will be, all honours, offices, emoluments; every sort of personal gratification to avarice or vanity; and, what is of more moment to most gentlemen, the means of growing, by innumerable petty services to individuals, into a spreading interest in their country. On the other hand, let us suppose a person unconnected with the Court, and in opposition to its system. For his own person, no office, or emolument, or title; no promotion ecclesiastical, or civil, or

military, or naval, for children, or brothers, or kindred. In vain an expiring interest in a borough calls for offices, or small livings, for the children of mayors, and aldermen, and capital burgesses. His court rival has them all. He can do an infinite number of acts of generosity and kindness, and even of public spirit. He can procure indemnity from quarters. He can procure advantages in trade. He can get pardons for offences. He can obtain a thousand favours, and avert a thousand evils. He may, while he betrays every valuable interest of the kingdom, be a benefactor, a patron, a father, a guardian angel, to his borough. The unfortunate independent member has nothing to offer, but harsh refusal, or pitiful excuse, or despondent representation of a hopeless interest. Except from his private fortune, in which he may be equalled, perhaps exceeded, by his Court competitor, he has no way of showing any one good quality, or of making a single friend. In the House, he votes for ever in a dispirited minority. If he speaks, the doors are locked. A body of loquacious placemen go out to tell the world, that all he aims at, is to get into office. If he has not the talent of elocution, which is the case of many as wise and knowing men as any in the House, he is liable to all these inconveniences, without the eclat which attends upon any tolerably successful exertion of eloquence. Can we conceive a more discouraging post of duty than this? Strip it of the poor reward of popularity; suffer even the excesses committed in defence of the popular interest to become a ground for the majority of that House to form a disqualification out of the line of the law, and at their pleasure, attended not only with the loss of the franchise, but with every kind of personal disgrace; if this shall happen, the people of this kingdom may be assured that they cannot be firmly or faithfully served by any man. It is out of the nature of men and things that they should; and their presumption will be equal to their folly, if they expect it. The power of the people, within the laws, must show itself sufficient to protect every representative in the animated performance of his duty, or that duty cannot be performed. The House of Commons can never be a control on other parts of Government, unless they are controlled themselves by their constituents; and unless these constituents possess some right in the choice of that House, which it is not in the power of that House to take away. If they suffer this power of arbitrary incapacitation to stand, they have utterly perverted every other power of the House of Commons. The late proceeding, I will not say, is contrary to law; it *must* be so; for the power which is claimed cannot, by any possibility, be a legal power in any limited member of Government.

The power which they claim, of declaring incapacities, would not be above the just claims of a final judicature, if they had not laid it down as a leading principle, that they had no rule in the exercise of this claim but their own *discretion*. Not one of their abettors has ever undertaken to assign the principle of unfitness, the species or degree of delinquency, on which the House of Commons will expel, nor the mode of proceeding upon it, nor the evidence upon which it is established. The direct consequence of which is, that the first franchise of an Englishman, and that on which all the rest vitally depend, is to be forfeited for some offence which no man knows, and which is to be proved by no known rule whatsoever of legal evidence. This is so anomalous to our whole constitution, that I will venture to say, the most trivial right, which the subject claims, never was, nor can be, forfeited in such a manner.

The whole of their usurpation is established upon this method of arguing. We do not make laws. No; we do not contend for this power. We only declare law; and, as we are a tribunal both competent and supreme, what we declare to be law becomes law, although it should not have been so before. Thus the circumstance of having no appeal from their jurisdiction is made to imply that they have no rule in the exercise of it: the judgment does not derive its validity from its conformity to the law; but preposterously the law is made to attend on the judgment; and the rule of the judgment is no other than the *occasional will of the House*. An arbitrary discretion leads, legality follows; which is just the very nature and description of a legislative act.

This claim in their hands was no barren theory. It was pursued into its utmost consequences; and a dangerous principle has begot a correspondent practice. A systematic spirit has been shown upon both sides. The electors of Middlesex chose a person whom the House of Commons had voted incapable; and the House of Commons has taken in a member whom the electors of Middlesex had not chosen. By a construction on that legislative power which had been assumed, they declared that the true legal sense of the country was contained in the minority, on that occasion; and might, on a resistance to a vote of incapacity, be contained in any minority.

When any construction of law goes against the spirit of the privilege it was meant to support, it is a vicious construction. It is material to us to be represented really and bona fide, and not in forms, in types, and shadows, and fictions of law. The right of election was not established merely as a *matter of form*, to satisfy some method and rule of technical reasoning; it was not a principle which might substitute a *Titius* or

a *Maevius*, a *John Doe* or *Richard Roe*, in the place of a man specially chosen; not a principle which was just as well satisfied with one man as with another. It is a right, the effect of which is to give to the people that man, and that man only, whom by their voices, actually, not constructively given, they declare that they know, esteem, love, and trust. This right is a matter within their own power of judging and feeling; not an *ens rationis* and creature of law: nor can those devices, by which anything else is substituted in the place of such an actual choice, answer in the least degree the end of representation.

I know that the courts of law have made as strained constructions in other cases. Such is the construction in common recoveries. The method of construction which in that case gives to the persons in remainder, for their security and representative, the door-keeper, crier, or sweeper of the Court, or some other shadowy being without substance or effect, is a fiction of a very coarse texture. This was however suffered, by the acquiescence of the whole kingdom, for ages; because the evasion of the old Statute of Westminster, which authorised perpetuities, had more sense and utility than the law which was evaded. But an attempt to turn the right of election into such a farce and mockery as a fictitious fine and recovery, will, I hope, have another fate; because the laws which give it are infinitely dear to us, and the evasion is infinitely contemptible.

The people indeed have been told, that this power of discretionary disqualification is vested in hands that they may trust, and who will be sure not to abuse it to their prejudice. Until I find something in this argument differing from that on which every mode of despotism has been defended, I shall not be inclined to pay it any great compliment. The people are satisfied to trust themselves with the exercise of their own privileges, and do not desire this kind intervention of the House of Commons to free them from the burthen. They are certainly in the right. They ought not to trust the House of Commons with a power over their franchises; because the constitution, which placed two other co-ordinate powers to control it, reposed no such confidence in that body. It were a folly well deserving servitude for its punishment, to be full of confidence where the laws are full of distrust; and to give to an House of Commons, arrogating to its sole resolution the most harsh and odious part of legislative authority, that degree of submission which is due only to the Legislature itself.

When the House of Commons, in an endeavour to obtain new advantages at the expense of the other orders of the State, for the benefits

of the *Commons at large*, have pursued strong measures; if it were not just, it was at least natural, that the constituents should connive at all their proceedings; because we were ourselves ultimately to profit. But when this submission is urged to us, in a contest between the representatives and ourselves, and where nothing can be put into their scale which is not taken from ours, they fancy us to be children when they tell us they are our representatives, our own flesh and blood, and that all the stripes they give us are for our good. The very desire of that body to have such a trust contrary to law reposed in them, shows that they are not worthy of it. They certainly will abuse it; because all men possessed of an uncontrolled discretionary power leading to the aggrandisement and profit of their own body have always abused it: and I see no particular sanctity in our times, that is at all likely, by a miraculous operation, to overrule the course of nature.

But we must purposely shut our eyes, if we consider this matter merely as a contest between the House of Commons and the Electors. The true contest is between the Electors of the Kingdom and the Crown; the Crown acting by an instrumental House of Commons. It is precisely the same, whether the Ministers of the Crown can disqualify by a dependent House of Commons, or by a dependent court of *Star Chamber*, or by a dependent court of King's Bench. If once Members of Parliament can be practically convinced that they do not depend on the affection or opinion of the people for their political being, they will give themselves over, without even an appearance of reserve, to the influence of the Court.

Indeed, a Parliament unconnected with the people, is essential to a Ministry unconnected with the people; and therefore those who saw through what mighty difficulties the interior Ministry waded, and the exterior were dragged, in this business, will conceive of what prodigious importance, the new corps of *King's men* held this principle of occasional and personal incapacitation, to the whole body of their design.

When the House of Commons was thus made to consider itself as the master of its constituents, there wanted but one thing to secure that House against all possible future deviation towards popularity; an unlimited fund of money to be laid out according to the pleasure of the Court.

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To complete the scheme of bringing our Court to a resemblance to the neighbouring Monarchies, it was necessary, in effect, to destroy those appropriations of revenue, which seem to limit the property, as the other laws had done the powers, of the Crown. An opportunity for this purpose was taken, upon an application to Parliament for payment of the debts of the Civil List; which in 1769 had amounted to £513,000. Such application had been made upon former occasions; but to do it in the former manner would by no means answer the present purpose.

Whenever the Crown had come to the Commons to desire a supply for the discharging of debts due on the Civil List, it was always asked and granted with one of the three following qualifications; sometimes with all of them. Either it was stated that the revenue had been diverted from its purposes by Parliament; or that those duties had fallen short of the sum for which they were given by Parliament, and that the intention of the Legislature had not been fulfilled; or that the money required to discharge the Civil List debt was to be raised chargeable on the Civil List duties. In the reign of Queen Anne, the Crown was found in debt. The lessening and granting away some part of her revenue by Parliament was alleged as the cause of that debt, and pleaded as an equitable ground (such it certainly was), for discharging it. It does not appear that the duties which wore then applied to the ordinary Government produced clear above £580,000 a year; because, when they were afterwards granted to George the First, £120,000 was added, to complete the whole to £700,000 a year. Indeed it was then asserted, and, I have no doubt, truly, that for many years the nett produce did not amount to above £550,000. The Queen's extraordinary charges were besides very considerable; equal, at least, to any we have known in our time. The application to Parliament was not for an absolute grant of money, but to empower the Queen to raise it by borrowing upon the Civil List funds.

The Civil List debt was twice paid in the reign of George the First. The money was granted upon the same plan which had been followed in the reign of Queen Anne. The Civil List revenues were then mortgaged for the sum to be raised, and stood charged with the ransom of their own deliverance.

George the Second received an addition to his Civil List. Duties were granted for the purpose of raising £800,000 a year. It was not until he had reigned nineteen years, and after the last rebellion, that he called upon Parliament for a discharge of the Civil List debt. The extraordinary charges brought on by the rebellion, account fully for the necessities of

the Crown. However, the extraordinary charges of Government were not thought a ground fit to be relied on. A deficiency of the Civil List duties for several years before was stated as the principal, if not the sole, ground on which an application to Parliament could be justified. About this time the produce of these duties had fallen pretty low; and even upon an average of the whole reign they never produced £800,000 a year clear to the Treasury.

That Prince reigned fourteen years afterwards: not only no new demands were made, but with so much good order were his revenues and expenses regulated, that, although many parts of the establishment of the Court were upon a larger and more liberal scale than they have been since, there was a considerable sum in hand, on his decease, amounting to about £170,000, applicable to the service of the Civil List of his present Majesty. So that, if this reign commenced with a greater charge than usual, there was enough, and more than enough, abundantly to supply all the extraordinary expense. That the Civil List should have been exceeded in the two former reigns, especially in the reign of George the First, was not at all surprising. His revenue was but £700,000 annually; if it ever produced so much clear. The prodigious and dangerous disaffection to the very being of the establishment, and the cause of a Pretender then powerfully abetted from abroad, produced many demands of an extraordinary nature both abroad and at home. Much management and great expenses were necessary. But the throne of no Prince has stood upon more unshaken foundations than that of his present Majesty.

To have exceeded the sum given for the Civil List, and to have incurred a debt without special authority of Parliament, was, *prima facie*, a criminal act: as such Ministers ought naturally rather to have withdrawn it from the inspection, than to have exposed it to the scrutiny, of Parliament. Certainly they ought, of themselves, officially to have come armed with every sort of argument, which, by explaining, could excuse a matter in itself of presumptive guilt. But the terrors of the House of Commons are no longer for Ministers.

On the other hand, the peculiar character of the House of Commons, as trustee of the public purse, would have led them to call with a punctilious solicitude for every public account, and to have examined into them with the most rigorous accuracy.

The capital use of an account is, that the reality of the charge, the reason of incurring it, and the justice and necessity of discharging it, should all

appear antecedent to the payment. No man ever pays first, and calls for his account afterwards; because he would thereby let out of his hands the principal, and indeed only effectual, means of compelling a full and fair one. But, in national business, there is an additional reason for a previous production of every account. It is a cheek, perhaps the only one, upon a corrupt and prodigal use of public money. An account after payment is to no rational purpose an account. However, the House of Commons thought all these to be antiquated principles; they were of opinion that the most Parliamentary way of proceeding was, to pay first what the Court thought proper to demand, and to take its chance for an examination into accounts at some time of greater leisure.

The nation had settled £800,000 a year on the Crown, as sufficient for the purpose of its dignity, upon the estimate of its own Ministers. When Ministers came to Parliament, and said that this allowance had not been sufficient for the purpose, and that they had incurred a debt of £500,000, would it not have been natural for Parliament first to have asked, how, and by what means, their appropriated allowance came to be insufficient? Would it not have savoured of some attention to justice, to have seen in what periods of Administration this debt had been originally incurred; that they might discover, and if need were, animadvert on the persons who were found the most culpable? To put their hands upon such articles of expenditure as they thought improper or excessive, and to secure, in future, against such misapplication or exceeding? Accounts for any other purposes are but a matter of curiosity, and no genuine Parliamentary object. All the accounts which could answer any Parliamentary end were refused, or postponed by previous questions. Every idea of prevention was rejected, as conveying an improper suspicion of the Ministers of the Crown.

When every leading account had been refused, many others were granted with sufficient facility.

But with great candour also, the House was informed, that hardly any of them could be ready until the next session; some of them perhaps not so soon. But, in order firmly to establish the precedent of *payment previous to account*, and to form it into a settled rule of the House, the god in the machine was brought down, nothing less than the wonder-working *Law of Parliament*. It was alleged, that it is the law of Parliament, when any demand comes from the Crown, that the House must go immediately into the Committee of Supply; in which Committee it was allowed, that the production and examination of accounts would be quite proper and regular. It was therefore carried that they should go into the Committee

without delay, and without accounts, in order to examine with great order and regularity things that could not possibly come before them. After this stroke of orderly and Parliamentary wit and humour, they went into the Committee, and very generously voted the payment.

There was a circumstance in that debate too remarkable to be overlooked. This debt of the Civil List was all along argued upon the same footing as a debt of the State, contracted upon national authority. Its payment was urged as equally pressing upon the public faith and honour; and when the whole year's account was stated, in what is called *The Budget*, the Ministry valued themselves on the payment of so much public debt, just as if they had discharged £500,000 of navy or exchequer bills. Though, in truth, their payment, from the Sinking Fund, of debt which was never contracted by Parliamentary authority, was, to all intents and purposes, so much debt incurred. But such is the present notion of public credit and payment of debt. No wonder that it produces such effects.

Nor was the House at all more attentive to a provident security against future, than it had been to a vindictive retrospect to past, mismanagements. I should have thought indeed that a Ministerial promise, during their own continuance in office, might have been given, though this would have been but a poor security for the public. Mr. Pelham gave such an assurance, and he kept his word. But nothing was capable of extorting from our Ministers anything which had the least resemblance to a promise of confining the expenses of the Civil List within the limits which had been settled by Parliament. This reserve of theirs I look upon to be equivalent to the clearest declaration that they were resolved upon a contrary course.

However, to put the matter beyond all doubt, in the Speech from the Throne, after thanking Parliament for the relief so liberally granted, the Ministers inform the two Houses that they will *endeavour* to confine the expenses of the Civil Government—within what limits, think you? those which the law had prescribed? Not in the least—"such limits as the *honour of the Crown* can possibly admit."

Thus they established an arbitrary standard for that dignity which Parliament had defined and limited to a legal standard. They gave themselves, under the lax and indeterminate idea of the *honour of the Crown*, a full loose for all manner of dissipation, and all manner of corruption. This arbitrary standard they were not afraid to hold out to both Houses; while an idle and inoperative Act of Parliament, estimating

the dignity of the Crown at £800,000, and confining it to that sum, adds to the number of obsolete statutes which load the shelves of libraries without any sort of advantage to the people.

After this proceeding, I suppose that no man can be so weak as to think that the Crown is limited to any settled allowance whatsoever. For if the Ministry has £800,000 a year by the law of the land, and if by the law of Parliament all the debts which exceed it are to be paid previous to the production of any account, I presume that this is equivalent to an income with no other limits than the abilities of the subject and the moderation of the Court—that is to say, it is such in income as is possessed by every absolute Monarch in Europe. It amounts, as a person of great ability said in the debate, to an unlimited power of drawing upon the Sinking Fund. Its effect on the public credit of this kingdom must be obvious; for in vain is the Sinking Fund the great buttress of all the rest, if it be in the power of the Ministry to resort to it for the payment of any debts which they may choose to incur, under the name of the Civil List, and through the medium of a committee, which thinks itself obliged by law to vote supplies without any other account than that of the more existence of the debt.

Five hundred thousand pounds is a serious sum. But it is nothing to the prolific principle upon which the sum was voted—a principle that may be well called, the fruitful mother of a hundred more. Neither is the damage to public credit of very great consequence when compared with that which results to public morals and to the safety of the Constitution, from the exhaustless mine of corruption opened by the precedent, and to be wrought by the principle of the late payment of the debts of the Civil List. The power of discretionary disqualification by one law of Parliament, and the necessity of paying every debt of the Civil List by another law of Parliament, if suffered to pass unnoticed, must establish such a fund of rewards and terrors as will make Parliament the best appendage and support of arbitrary power that ever was invented by the wit of man. This is felt. The quarrel is begun between the Representatives and the People. The Court Faction have at length committed them.

In such a strait the wisest may well be perplexed, and the boldest staggered. The circumstances are in a great measure new. We have hardly any landmarks from the wisdom of our ancestors to guide us. At best we can only follow the spirit of their proceeding in other cases. I know the diligence with which my observations on our public disorders have been made. I am very sure of the integrity of the motives on which

they are published: I cannot be equally confident in any plan for the absolute cure of those disorders, or for their certain future prevention. My aim is to bring this matter into more public discussion. Let the sagacity of others work upon it. It is not uncommon for medical writers to describe histories of diseases, very accurately, on whose cure they can say but very little.

The first ideas which generally suggest themselves for the cure of Parliamentary disorders are, to shorten the duration of Parliaments, and to disqualify all, or a great number of placemen, from a seat in the House of Commons. Whatever efficacy there may be in those remedies, I am sure in the present state of things it is impossible to apply them. A restoration of the right of free election is a preliminary indispensable to every other reformation. What alterations ought afterwards to be made in the constitution is a matter of deep and difficult research.

If I wrote merely to please the popular palate, it would indeed be as little troublesome to me as to another to extol these remedies, so famous in speculation, but to which their greatest admirers have never attempted seriously to resort in practice. I confess them, that I have no sort of reliance upon either a Triennial Parliament or a Place-bill. With regard to the former, perhaps, it might rather serve to counteract than to promote the ends that are proposed by it. To say nothing of the horrible disorders among the people attending frequent elections, I should be fearful of committing, every three years, the independent gentlemen of the country into a contest with the Treasury. It is easy to see which of the contending parties would be ruined first. Whoever has taken a careful view of public proceedings, so as to endeavour to ground his speculations on his experience, must have observed how prodigiously greater the power of Ministry is in the first and last session of a Parliament, than it is in the intermediate periods, when Members sit a little on their seats. The persons of the greatest Parliamentary experience, with whom I have conversed, did constantly, in canvassing the fate of questions, allow something to the Court side, upon account of the elections depending or imminent. The evil complained of, if it exists in the present state of things, would hardly be removed by a triennial Parliament: for, unless the influence of Government in elections can be entirely taken away, the more frequently they return, the more they will harass private independence; the more generally men will be compelled to fly to the settled systematic interest of Government, and to the resources of a boundless Civil List. Certainly something may be done, and ought to be done, towards lessening that influence in elections; and

this will be necessary upon a plan either of longer or shorter duration of Parliament. But nothing can so perfectly remove the evil, as not to render such contentions, foot frequently repeated, utterly ruinous, first to independence of fortune, and then to independence of spirit. As I am only giving an opinion on this point, and not at all debating it in an adverse line, I hope I may be excused in another observation. With great truth I may aver that I never remember to have talked on this subject with any man much conversant with public business who considered short Parliaments as a real improvement of the Constitution. Gentlemen, warm in a popular cause, are ready enough to attribute all the declarations of such persons to corrupt motives. But the habit of affairs, if, on one hand, it tends to corrupt the mind, furnishes it, on the other, with the, means of better information. The authority of such persons will always have some weight. It may stand upon a par with the speculations of those who are less practised in business; and who, with perhaps purer intentions, have not so effectual means of judging. It is besides an effect of vulgar and puerile malignity to imagine that every Statesman is of course corrupt: and that his opinion, upon every constitutional point, is solely formed upon some sinister interest.

The next favourite remedy is a Place-bill. The same principle guides in both: I mean the opinion which is entertained by many of the infallibility of laws and regulations, in the cure of public distempers. Without being as unreasonably doubtful as many are unwisely confident, I will only say, that this also is a matter very well worthy of serious and mature reflection. It is not easy to foresee what the effect would be of disconnecting with Parliament, the greatest part of those who hold civil employments, and of such mighty and important bodies as the military and naval establishments. It were better, perhaps, that they should have a corrupt interest in the forms of the constitution, than they should have none at all. This is a question altogether different from the disqualification of a particular description of Revenue Officers from seats in Parliament; or, perhaps, of all the lower sorts of them from votes in elections. In the former case, only the few are affected; in the latter, only the inconsiderable. But a great official, a great professional, a great military and naval interest, all necessarily comprehending many people of the first weight, ability, wealth, and spirit, has been gradually formed in the kingdom. These new interests must be let into a share of representation, else possibly they may be inclined to destroy those institutions of which they are not permitted to partake. This is not a thing to be trifled with: nor is it every well-meaning man that is fit to put his hands to it. Many other serious considerations occur. I do not open

them here, because they are not directly to my purpose; proposing only to give the reader some taste of the difficulties that attend all capital changes in the Constitution; just to hint the uncertainty, to say no worse, of being able to prevent the Court, as long as it has the means of influence abundantly in its power, from applying that influence to Parliament; and perhaps, if the public method were precluded, of doing it in some worse and more dangerous method. Underhand and oblique ways would be studied. The science of evasion, already tolerably understood, would then be brought to the greatest perfection. It is no inconsiderable part of wisdom, to know how much of an evil ought to be tolerated; lest, by attempting a degree of purity impracticable in degenerate times and manners, instead of cutting off the subsisting ill practices, new corruptions might be produced for the concealment and security of the old. It were better, undoubtedly, that no influence at all could affect the mind of a Member of Parliament. But of all modes of influence, in my opinion, a place under the Government is the least disgraceful to the man who holds it, and by far the most safe to the country. I would not shut out that sort of influence which is open and visible, which is connected with the dignity and the service of the State, when it is not in my power to prevent the influence of contracts, of subscriptions, of direct bribery, and those innumerable methods of clandestine corruption, which are abundantly in the hands of the Court, and which will be applied as long as these means of corruption, and the disposition to be corrupted, have existence amongst us. Our Constitution stands on a nice equipoise, with steep precipices and deep waters upon all sides of it. In removing it from a dangerous leaning towards one side, there may be a risk of oversetting it on the other. Every project of a material change in a Government so complicated as ours, combined at the same time with external circumstances still more complicated, is a matter full of difficulties; in which a considerate man will not be too ready to decide; a prudent man too ready to undertake; or an honest man too ready to promise. They do not respect the public nor themselves, who engage for more than they are sure that they ought to attempt, or that they are able to perform. These are my sentiments, weak perhaps, but honest and unbiassed; and submitted entirely to the opinion of grave men, well affected to the constitution of their country, and of experience in what may best promote or hurt it.

Indeed, in the situation in which we stand, with an immense revenue, an enormous debt, mighty establishments, Government itself a great banker and a great merchant, I see no other way for the preservation of a decent attention to public interest in the Representatives, but *the interposition of*

the body of the people itself, whenever it shall appear, by some flagrant and notorious act, by some capital innovation, that these Representatives are going to over-leap the fences of the law, and to introduce an arbitrary power. This interposition is a most unpleasant remedy. But, if it be a legal remedy, it is intended on some occasion to be used; to be used then only, when it is evident that nothing else can hold the Constitution to its true principles.

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The distempers of Monarchy were the great subjects of apprehension and redress, in the last century; in this, the distempers of Parliament. It is not in Parliament alone that the remedy for Parliamentary disorders can be completed; hardly, indeed, can it begin there. Until a confidence in Government is re-established, the people ought to be excited to a more strict and detailed attention to the conduct of their Representatives. Standards, for judging more systematically upon their conduct, ought to be settled in the meetings of counties and corporations. Frequent and correct lists of the voters in all important questions ought to be procured.

By such means something may be done. By such means it may appear who those are, that, by an indiscriminate support of all Administrations, have totally banished all integrity and confidence out of public proceedings; have confounded the best men with the worst; and weakened and dissolved, instead of strengthening and compacting, the general frame of Government. If any person is more concerned for government and order than for the liberties of his country, even he is equally concerned to put an end to this course of indiscriminate support. It is this blind and undistinguishing support that feeds the spring of those very disorders, by which he is frighted into the arms of the faction which contains in itself the source of all disorders, by enfeebling all the visible and regular authority of the State. The distemper is increased by his injudicious and preposterous endeavours, or pretences, for the cure of it.

An exterior Administration, chosen for its impotency, or after it is chosen purposely rendered impotent, in order to be rendered subservient, will not be obeyed. The laws themselves will not be respected, when those who execute them are despised: and they will be despised, when their power is not immediate from the Crown, or natural in the kingdom. Never were Ministers better supported in Parliament. Parliamentary support comes and goes with office, totally

regardless of the man, or the merit. Is Government strengthened? It grows weaker and weaker. The popular torrent gains upon it every hour. Let us learn from our experience. It is not support that is wanting to Government, but reformation. When Ministry rests upon public opinion, it is not indeed built upon a rock of adamant; it has, however, some stability. But when it stands upon private humour, its structure is of stubble, and its foundation is on quicksand. I repeat it again—He that supports every Administration, subverts all Government. The reason is this. The whole business in which a Court usually takes an interest goes on at present equally well, in whatever hands, whether high or low, wise or foolish, scandalous or reputable; there is nothing, therefore, to hold it firm to any one body of men, or to any one consistent scheme of politics. Nothing interposes to prevent the full operation of all the caprices and all the passions of a Court upon the servants of the public. The system of Administration is open to continual shocks and changes, upon the principles of the meanest cabal, and the most contemptible intrigue. Nothing can be solid and permanent. All good men at length fly with horror from such a service. Men of rank and ability, with the spirit which ought to animate such men in a free state, while they decline the jurisdiction of dark cabal on their actions and their fortunes, will, for both, cheerfully put themselves upon their country. They will trust an inquisitive and distinguishing Parliament; because it does inquire, and does distinguish. If they act well, they know that, in such a Parliament, they will be supported against any intrigue; if they act ill, they know that no intrigue can protect them. This situation, however awful, is honourable. But in one hour, and in the self-same Assembly, without any assigned or assignable cause, to be precipitated from the highest authority to the most marked neglect, possibly into the greatest peril of life and reputation, is a situation full of danger, and destitute of honour. It will be shunned equally by every man of prudence, and every man of spirit.

Such are the consequences of the division of Court from the Administration; and of the division of public men among themselves. By the former of these, lawful Government is undone; by the latter, all opposition to lawless power is rendered impotent. Government may in a great measure be restored, if any considerable bodies of men have honesty and resolution enough never to accept Administration, unless this garrison of *King's* meat, which is stationed, as in a citadel, to control and enslave it, be entirely broken and disbanded, and every work they have thrown up be levelled with the ground. The disposition of public men to keep this corps together, and to act under it, or to co-operate with it, is a

touchstone by which every Administration ought in future to be tried. There has not been one which has not sufficiently experienced the utter incompatibility of that faction with the public peace, and with all the ends of good Government; since, if they opposed it, they soon lost every power of serving the Crown; if they submitted to it they lost all the esteem of their country. Until Ministers give to the public a full proof of their entire alienation from that system, however plausible their pretences, we may be sure they are more intent on the emoluments than the duties of office. If they refuse to give this proof, we know of what stuff they are made. In this particular, it ought to be the electors' business to look to their Representatives. The electors ought to esteem it no less culpable in their Member to give a single vote in Parliament to such an Administration, than to take an office under it; to endure it, than to act in it. The notorious infidelity and versatility of Members of Parliament, in their opinions of men and things, ought in a particular manner to be considered by the electors in the inquiry which is recommended to them. This is one of the principal holdings of that destructive system which has endeavoured to unhinge all the virtuous, honourable, and useful connections in the kingdom.

Thoughts on the Present Discontents Edmund Burke Part 2

This cabal has, with great success, propagated a doctrine which serves for a colour to those acts of treachery; and whilst it receives any degree of countenance, it will be utterly senseless to look for a vigorous opposition to the Court Party. The doctrine is this: That all political connections are in their nature factious, and as such ought to be dissipated and destroyed; and that the rule for forming Administrations is mere personal ability, rated by the judgment of this cabal upon it, and taken by drafts from every division and denomination of public men. This decree was solemnly promulgated by the head of the Court corps, the Earl of Bute himself, in a speech which he made, in the year 1766, against the then Administration, the only Administration which, he has ever been known directly and publicly to oppose.

It is indeed in no way wonderful, that such persons should make such declarations. That connection and faction are equivalent terms, is an opinion which has been carefully inculcated at all times by unconstitutional Statesmen. The reason is evident. Whilst men are linked together, they easily and speedily communicate the alarm of an evil design. They are enabled to fathom it with common counsel, and to oppose it with united strength. Whereas, when they lie dispersed, without concert, order, or discipline, communication is uncertain, counsel difficult, and resistance impracticable. Where men are not acquainted with each other's principles, nor experienced in each other's talents, nor at all practised in their mutual habitudes and dispositions by joint efforts in business; no personal confidence, no friendship, no common interest, subsisting among them; it is evidently impossible that they can act a public part with uniformity, perseverance, or efficacy. In a connection, the most inconsiderable man, by adding to the weight of the whole, has his value, and his use; out of it, the greatest talents are wholly unserviceable to the public. No man, who is not inflamed by vainglory into enthusiasm, can flatter himself that his single, unsupported, desultory, unsystematic endeavours, are of power to defeat, the subtle designs and united cabals of ambitious citizens. When bad men combine, the good must associate; else they will fall, one by one, an unpitied sacrifice in a contemptible struggle.

It is not enough in a situation of trust in the commonwealth, that a man means well to his country; it is not enough that in his single person he never did an evil act, but always voted according to his conscience, and even harangued against every design which he apprehended to be prejudicial to the interests of his country. This innoxious and ineffectual character, that seems formed upon a plan of apology and disculpation, falls miserably short of the mark of public duty. That duty demands and requires, that what is right should not only be made known, but made prevalent; that what is evil should not only be detected, but defeated. When the public man omits to put himself in a situation of doing his duty with effect, it is an omission that frustrates the purposes of his trust almost as much as if he had formally betrayed it. It is surely no very rational account of a man's life that he has always acted right; but has taken special care to act in such a manner that his endeavours could not possibly be productive of any consequence.

I do not wonder that the behaviour of many parties should have made persons of tender and scrupulous virtue somewhat out of humour with all sorts of connection in politics. I admit that people frequently acquire in such confederacies a narrow, bigoted, and proscriptive spirit; that they are apt to sink the idea of the general good in this circumscribed and partial interest. But, where duty renders a critical situation a necessary one, it is our business to keep free from the evils attendant upon it, and not to fly from the situation itself. If a fortress is seated in an unwholesome air, an officer of the garrison is obliged to be attentive to his health, but he must not desert his station. Every profession, not excepting the glorious one of a soldier, or the sacred one of a priest, is liable to its own particular vices; which, however, form no argument against those ways of life; nor are the vices themselves inevitable to every individual in those professions. Of such a nature are connections in politics; essentially necessary for the full performance of our public duty, accidentally liable to degenerate into faction. Commonwealths are made of families, free Commonwealths of parties also; and we may as well affirm, that our natural regards and ties of blood tend inevitably to make men bad citizens, as that the bonds of our party weaken those by which we are held to our country.

Some legislators went so far as to make neutrality in party a crime against the State. I do not know whether this might not have been rather to overstrain the principle. Certain it is, the best patriots in the greatest commonwealths have always commanded and promoted such connections. *Idem sentire de republica*, was with them a principal ground of friendship and attachment; nor do I know any other capable of forming firmer, dearer, more pleasing, more honourable, and more virtuous habitudes. The Romans carried this principle a great

way. Even the holding of offices together, the disposition of which arose from chance, not selection, gave rise to a relation which continued for life. It was called *necessitudo sortis*; and it was looked upon with a sacred reverence. Breaches of any of these kinds of civil relation were considered as acts of the most distinguished turpitude. The whole people was distributed into political societies, in which they acted in support of such interests in the State as they severally affected. For it was then thought no crime, to endeavour by every honest means to advance to superiority and power those of your own sentiments and opinions. This wise people was far from imagining that those connections had no tie, and obliged to no duty; but that men might quit them without shame, upon every call of interest. They believed private honour to be the great foundation of public trust; that friendship was no mean step towards patriotism; that he who, in the common intercourse of life, showed he regarded somebody besides himself, when he came to act in a public situation, might probably consult some other interest than his own. Never may we become plus sages que les sages, as the French comedian has happily expressed it—wiser than all the wise and good men who have lived before us. It was their wish, to see public and private virtues, not dissonant and jarring, and mutually destructive, but harmoniously combined, growing out of one another in a noble and orderly gradation, reciprocally supporting and supported. In one of the most fortunate periods of our history this country was governed by a connection; I mean the great connection of Whigs in the reign of Queen Anne. They were complimented upon the principle of this connection by a poet who was in high esteem with them. Addison, who knew their sentiments, could not praise them for what they considered as no proper subject of commendation. As a poet who knew his business, he could not applaud them for a thing which in general estimation was not highly reputable. Addressing himself to Britain,

"Thy favourites grow not up by fortune's sport, Or from the crimes or follies of a Court; On the firm basis of desert they rise, From long-tried faith, and friendship's holy ties."

The Whigs of those days believed that the only proper method of rising into power was through bard essays of practised friendship and experimented fidelity. At that time it was not imagined that patriotism was a bloody idol, which required the sacrifice of children and parents, or dearest connections in private life, and of all the virtues that rise from those relations. They were not of that ingenious paradoxical morality to

imagine that a spirit of moderation was properly shown in patiently bearing the sufferings of your friends, or that disinterestedness was clearly manifested at the expense of other people's fortune. They believed that no men could act with effect who did not act in concert; that no men could act in concert who did not act with confidence; that no men could act with confidence who were not bound together by common opinions, common affections, and common interests.

These wise men, for such I must call Lord Sunderland, Lord Godolphin, Lord Somers, and Lord Marlborough, were too well principled in these maxims, upon which the whole fabric of public strength is built, to be blown off their ground by the breath of every childish talker. They were not afraid that they should be called an ambitious Junto, or that their resolution to stand or fall together should, by placemen, be interpreted into a scuffle for places.

Party is a body of men united for promoting by their joint endeavours the national interest, upon some particular principle in which they are all agreed. For my part, I find it impossible to conceive that any one believes in his own politics, or thinks them to be of any weight, who refuses to adopt the means of having them reduced into practice. It is the business of the speculative philosopher to mark the proper ends of Government. It is the business of the politician, who is the philosopher in action, to find out proper means towards those ends, and to employ them with effect. Therefore, every honourable connection will avow it as their first purpose to pursue every just method to put the men who hold their opinions into such a condition as may enable them to carry their common plans into execution, with all the power and authority of the State. As this power is attached to certain situations, it is their duty to contend for these situations. Without a proscription of others, they are bound to give to their own party the preference in all things, and by no means, for private considerations, to accept any offers of power in which the whole body is not included, nor to suffer themselves to be led, or to be controlled, or to be over-balanced, in office or in council, by those who contradict, the very fundamental principles on which their party is formed, and even those upon which every fair connection must stand. Such a generous contention for power, on such manly and honourable maxims, will easily be distinguished from the mean and interested struggle for place and emolument. The very style of such persons will serve to discriminate them from those numberless impostors who have deluded the ignorant with professions incompatible with

human practice, and have afterwards incensed them by practices below the level of vulgar rectitude.

It is an advantage to all narrow wisdom and narrow morals that their maxims have a plausible air, and, on a cursory view, appear equal to first principles. They are light and portable. They are as current as copper coin, and about as valuable. They serve equally the first capacities and the lowest, and they are, at least, as useful to the worst men as the best. Of this stamp is the cant of *Not men*, but measures; a sort of charm, by which many people got loose from every honourable engagement. When I see a man acting this desultory and disconnected part, with as much detriment to his own fortune as prejudice to the cause of any party, I am not persuaded that he is right, but I am ready to believe he is in earnest. I respect virtue in all its situations, even when it is found in the unsuitable company of weakness. I lament to see qualities, rare and valuable, squandered away without any public utility. But when a gentleman with great visible emoluments abandons the party in which he has long acted, and tells you it is because he proceeds upon his own judgment that he acts on the merits of the several measures as they arise, and that he is obliged to follow his own conscience, and not that of others, he gives reasons which it is impossible to controvert, and discovers a character which it is impossible to mistake. What shall we think of him who never differed from a certain set of men until the moment they lost their power, and who never agreed with them in a single instance afterwards? Would not such a coincidence of interest and opinion be rather fortunate? Would it not be an extraordinary cast upon the dice that a man's connections should degenerate into faction, precisely at the critical moment when they lose their power or he accepts a place? When people desert their connections, the desertion is a manifest fact, upon which a direct simple issue lies, triable by plain men. Whether a *measure* of Government be right or wrong is no matter of fact, but a mere affair of opinion, on which men may, as they do, dispute and wrangle without end. But whether the individual thinks the measure right or wrong is a point at still a greater distance from the reach of all human decision. It is therefore very convenient to politicians not to put the judgment of their conduct on overt acts, cognisable in any ordinary court, but upon such a matter as can be triable only in that secret tribunal, where they are sure of being heard with favour, or where at worst the sentence will be only private whipping.

I believe the reader would wish to find no substance in a doctrine which has a tendency to destroy all test of character as deduced from conduct. He will therefore excuse my adding something more towards the further clearing up a point which the great convenience of obscurity to dishonesty has been able to cover with some degree of darkness and doubt.

In order to throw an odium on political connection, these politicians suppose it a necessary incident to it that you are blindly to follow the opinions of your party when in direct opposition to your own clear ideas, a degree of servitude that no worthy man could bear the thought of submitting to, and such as, I believe, no connections (except some Court factions) ever could be so senselessly tyrannical as to impose. Men thinking freely will, in particular instances, think differently. But still, as the greater Part of the measures which arise in the course of public business are related to, or dependent on, some great leading general principles in Government, a man must be peculiarly unfortunate in the choice of his political company if he does not agree with them at least nine times in ten. If he does not concur in these general principles upon which the party is founded, and which necessarily draw on a concurrence in their application, he ought from the beginning to have chosen some other, more conformable to his opinions. When the question is in its nature doubtful, or not very material, the modesty which becomes an individual, and (in spite of our Court moralists) that partiality which becomes a well-chosen friendship, will frequently bring on an acquiescence in the general sentiment. Thus the disagreement will naturally be rare; it will be only enough to indulge freedom, without violating concord or disturbing arrangement. And this is all that ever was required for a character of the greatest uniformity and steadiness in connection. How men can proceed without any connection at all is to me utterly incomprehensible. Of what sort of materials must that man be made, how must he be tempered and put together, who can sit whole years in Parliament, with five hundred and fifty of his fellow-citizens, amidst the storm of such tempestuous passions, in the sharp conflict of so many wits, and tempers, and characters, in the agitation of such mighty questions, in the discussion of such vast and ponderous interests, without seeing any one sort of men, whose character, conduct, or disposition would lead him to associate himself with them, to aid and be aided, in any one system of public utility?

I remember an old scholastic aphorism, which says that "the man who lives wholly detached from others must be either an angel or a

devil." When I see in any of these detached gentlemen of our times the angelic purity, power, and beneficence, I shall admit them to be angels. In the meantime, we are born only to be men. We shall do enough if we form ourselves to be good ones. It is therefore our business carefully to cultivate in our minds, to rear to the most perfect vigour and maturity, every sort of generous and honest feeling that belongs to our nature. To bring the, dispositions that are levely in private life into the service and conduct of the commonwealth; so to be patriots, as not to forget we are gentlemen. To cultivate friendships, and to incur enmities. To have both strong, but both selected: in the one, to be placable; in the other, immovable. To model our principles to our duties and our situation. To be fully persuaded that all virtue which is impracticable is spurious, and rather to run the risk of falling into faults in a course which leads us to act with effect and energy than to loiter out our days without blame and without use. Public life is a situation of power and energy; he trespasses against his duty who sleeps upon his watch, as well as he that goes over to the enemy.

There is, however, a time for all things. It is not every conjuncture which calls with equal force upon the activity of honest men; but critical exigences now and then arise, and I am mistaken if this be not one of them. Men will see the necessity of honest combination, but they may see it when it is too late. They may embody when it will be ruinous to themselves, and of no advantage to the country; when, for want of such a timely union as may enable them to oppose in favour of the laws, with the laws on their side, they may at length find themselves under the necessity of conspiring, instead of consulting. The law, for which they stand, may become a weapon in the hands of its bitterest enemies; and they will be cast, at length, into that miserable alternative, between slavery and civil confusion, which no good man can look upon without horror, an alternative in which it is impossible he should take either part with a conscience perfectly at repose. To keep that situation of guilt and remorse at the utmost distance is, therefore, our first obligation. Early activity may prevent late and fruitless violence. As yet we work in the light. The scheme of the enemies of public tranquillity has disarranged, it has not destroyed us.

If the reader believes that there really exists such a Faction as I have described, a Faction ruling by the private inclinations of a Court, against the general sense of the people; and that this Faction, whilst it pursues a scheme for undermining all the foundations of our freedom, weakens (for the present at least) all the powers of executory Government,

rendering us abroad contemptible, and at home distracted; he will believe, also, that nothing but a firm combination of public men against this body, and that, too, supported by the hearty concurrence of the people at large, can possibly get the better of it. The people will see the necessity of restoring public men to an attention to the public opinion, and of restoring the Constitution to its original principles. Above all, they will endeavour to keep the House of Commons from assuming a character which does not belong to it. They will endeavour to keep that House, for its existence for its powers, and its privileges, as independent of every other, and as dependent upon themselves, as possible. This servitude is to a House of Commons (like obedience to the Divine law), "perfect freedom." For if they once quit this natural, rational, and liberal obedience, having deserted the only proper foundation of their power, they must seek a support in an abject and unnatural dependence somewhere else. When, through the medium of this just connection with their constituents, the genuine dignity of the House of Commons is restored, it will begin to think of casting from it, with scorn, as badges of servility, all the false ornaments of illegal power, with which it has been, for some time, disgraced. It will begin to think of its old office of CONTROL. It will not suffer that last of evils to predominate in the country; men without popular confidence, public opinion, natural connection, or natural trust, invested with all the powers of Government.

When they have learned this lesson themselves, they will be willing and able to teach the Court, that it is the true interest of the Prince to have but one Administration; and that one composed of those who recommend themselves to their Sovereign through the opinion of their country, and not by their obsequiousness to a favourite. Such men will serve their Sovereign with affection and fidelity; because his choice of them, upon such principles, is a compliment to their virtue. They will be able to serve him effectually; because they will add the weight of the country to the force of the executory power. They will be able to serve their King with dignity; because they will never abuse his name to the gratification of their private spleen or avarice. This, with allowances for human frailty, may probably be the general character of a Ministry, which thinks itself accountable to the House of Commons, when the House of Commons thinks itself accountable to its constituents. If other ideas should prevail, things must remain in their present confusion, until they are hurried into all the rage of civil violence; or until they sink into the dead repose of despotism.

CHAPTER XII

Of the Natural Rights of Individuals

by James Wilson

We have now viewed the whole structure of government; we have now ranged over its numerous apartments and divisions; and we have examined the materials of which it is formed. For what purpose has this magnificent palace been erected? For the residence and accommodation of the sovereign, Man.

Does man exist for the sake of government? Or is government instituted for the sake of man?

Is it possible, that these questions were ever seriously proposed? Is it possible, that they have been long seriously debated? Is it possible, that a resolution, diametrically opposite to principle, has been frequently and generally given of them in theory? Is it possible, that a decision, diametrically opposite to justice, has been still more frequently and still more generally given concerning them in practice? All this is possible: and I must add, all this is true. It is true in the dark; it is true even in the enlightened portions of the globe.

At, and nearly at the commencement of these lectures, a sense of duty obliged me to enter into a controversial discussion concerning the rights of society: the same sense of duty now obliges me to enter into a similar discussion concerning the rights of the constituent parts of society—concerning the rights of men. To enter upon a discussion of this nature, is neither the most pleasant nor the most easy part of my business. But when the voice of obligation is heard, ease and pleasure must preserve the respectful silence, and show the cheerful acquiescence, which become them.

What was the primary and the principal object in the institution of government? Was it—I speak of the primary and principal object—was it to acquire new rights by a human establishment? Or was it, by a human establishment, to acquire a new security for the possession or the recovery of those rights, to the enjoyment or acquisition of which we were previously entitled by the immediate gift, or by the unerring law, of our all-wise and all-beneficent Creator?

The latter, I presume, was the case: and yet we are told, that, in order to acquire the latter, we must surrender the former; in other words, in order to acquire the security, we must surrender the great objects to be secured. That man "may secure *some* liberty, he makes a surrender in trust of the *whole* of it."—These expressions are copied literally from the late publication of Mr. Burke.

Tyranny, at some times, is uniform in her principles. The feudal system was introduced by a specious and successful maxim, the exact counterpart of that, which has been advanced by Mr. Burke—exact in every particular but one; and, in that one, it was more generous. The free and allodial proprietors of land were told that they must surrender it to the king, and take back—not merely "some,"

but—the whole of it, under some certain provisions, which, it was said, would procure a valuable object—the very object was security—security for their property. What was the result? They received their land back again, indeed; but they received it, loaded with all the oppressive burthens of the feudal servitude—cruel, indeed; so far as the epithet cruel can be applied to matters merely of property.

But all the other rights of men are in question here. For liberty is frequently used to denote all the absolute rights of men. "The absolute rights of every Englishman," says Sir William Blackstone, "are, in a political and extensive sense, usually called their liberties."

And must we surrender to government the *whole* of those absolute rights? But we are to surrender them only—in *trust*:—another brat of dishonest parentage is now attempted to be imposed upon us: but for what purpose? Has government provided for us a superintending court of equity to compel a faithful performance of the trust? If it had; why should we part with the legal title to our rights?

After all; what is the mighty boon, which is to allure us into this surrender? We are to surrender all that we may secure "some:" and this "some," both as to its quantity and its certainty, is to depend on the pleasure of that power, to which the surrender is made. Is this a bargain to be proposed to those, who are both intelligent and free? No. Freemen, who know and love their rights, will not exchange their armour of pure and massy gold, for one of a baser and lighter metal, however finely it may be blazoned with tinsel: but they will not refuse to make an exchange upon terms, which are honest and honourable—terms, which may be advantageous to all, and injurious to none.

The opinion has been very general, that, in order to obtain the blessings of a good government, a sacrifice must be made of a part of our natural liberty. I am much inclined to believe, that, upon examination, this opinion will prove to be fallacious. It will, I think, be found, that wise and good government—I speak, at present, of no other—instead of contracting, enlarges as well as secures the exercise of the natural liberty of man: and what I say of his natural liberty, I mean to extend, and wish to be understood, through all this argument, as extended, to all his other natural rights.

This investigation will open to our prospect, from a new and striking point of view, the very close and interesting connexion, which subsists between the law of nature and municipal law. This investigation, therefore, will richly repay us for all the pains we may employ, and all the attention we may bestow, in making it.

"The law," says Sir William Blackstone, "which restrains a man from doing mischief to his fellow citizens, though it diminishes the natural, increases the civil liberty of mankind." Is it a part of natural liberty to do mischief to any one?

In a former part of these lectures, I had occasion to describe what natural liberty is: let us recur to the description, which was then given. "Nature has implanted in man the desire of his own happiness; she has inspired him with many tender affections towards others, especially in the near relations of life; she has endowed him with intellectual and with active powers; she has furnished him with a natural impulse to exercise his powers for his own happiness, and the happiness of those for whom he entertains such tender affections. If all this be true, the undeniable consequence is, that he has a right to exert those powers for the accomplishment of those purposes, in such a manner, and upon such objects, as his inclination and judgment shall direct; provided he does no injury to others; and provided some publick interests do not demand his labours. This right is natural liberty."

If this description of natural liberty is a just one, it will teach us, that selfishness and injury are as little countenanced by the law of nature as by the law of man. Positive penalties, indeed, may, by human laws, be annexed to both. But these penalties are a restraint only upon injustice and over-weening self-love, not upon the exercise of natural liberty.

In a state of natural liberty, every one is allowed to act according to his own inclination, provided he transgress not those limits, which are assigned to him by the law of nature: in a state of civil liberty, he is allowed to act according to his inclination, provided he transgress not those limits, which are assigned to him by the municipal law. True it is, that, by the municipal law, some things may be prohibited, which are not prohibited by the law of nature: but equally true it is, that, under a government which is wise and good, every citizen will gain more liberty than he can lose by these prohibitions. He will gain more by the limitation of other men's freedom, than he can lose by the diminution of his own. He will gain more by the enlarged and undisturbed exercise of his natural liberty in innumerable instances, than he can lose by the restriction of it in a few.

Upon the whole, therefore, man's natural liberty, instead of being abridged, may be increased and secured in a government, which is good and wise. As it is with regard to his natural liberty, so it is with regard to his other natural rights.

But even if a part was to be given up, does it follow that *all* must be surrendered? "Man," says Mr. Burke, "cannot enjoy the rights of an uncivil and of a civil state together." By an "uncivil" contradistinguished from a "civil" state, he must here mean a state of nature: by the rights of this uncivil state, he must mean the rights of nature: and is it possible that natural and civil rights cannot be enjoyed together? Are they really incompatible? Must our rights be removed from the stable foundation of nature, and placed on the precarious and fluctuating basis of human institution? Such seems to be the sentiment of Mr. Burke: and such too seems to have been the sentiment of a much higher authority than Mr. Burke—Sir William Blackstone.

In the Analysis of his Commentaries, he mentions "the right of personal security, of personal liberty, and of private property"—not as the natural rights, which, I

confess, I should have expected, but—as the "civil liberties" of Englishmen. In his Commentaries, speaking of the same three rights, he admits that they are founded on nature and reason; but adds "their establishment, excellent as it is, is still human." Each of those rights he traces severally and particularly to magna charta, which he justly considers as for the most part declaratory of the principal grounds of the fundamental laws of England. He says indeed, that they are "either that residuum of natural liberty, which is not required by the laws of society to be sacrificed to publick convenience; or else those civil privileges, which society has engaged to provide, in lieu of the natural liberties so given up by individuals." He makes no explicit declaration which of the two, in his opinion, they are; but since he traces them to magna charta and the fundamental laws of England; since he calls them "civil liberties;" and since he says expressly, that their establishment is human; we have reason to think, that he viewed them as coming under the latter part of his description—as civil privileges, provided by society, in lieu of the natural liberties given up by individuals. Considered in this view, there is no material difference between the doctrine of Sir William Blackstone, and that delivered by Mr. Burke.

If this view be a just view of things, the consequence, undeniable and unavoidable, is, that, under civil government, individuals have "given up" or "surrendered" their rights, to which they were entitled by nature and by nature's law; and have received, in lieu of them, those "civil privileges, which society has engaged to provide."

If this view be a just view of things, then the consequence, undeniable and unavoidable, is, that, under civil government, the right of individuals to their private property, to their personal liberty, to their health, to their reputation, and to their life, flow from a human establishment, and can be traced to no higher source. The connexion between man and his natural rights is intercepted by the institution of civil society.

If this view be a just view of things, then, under civil society, man is not only made *for*, but made *by* the government: he is nothing but what the society frames: he can claim nothing but what the society provides. His natural state and his natural rights are withdrawn altogether from notice: "It is the *civil social* man," says Mr. Burke, "and *no other*, whom I have in my contemplation."

If this view be a just view of things, why should we not subscribe the following articles of a political creed, proposed by Mr. Burke?

"We wished, at the period of the revolution, and we now wish to derive all we possess, as an inheritance from our forefathers. Upon that body and stock of inheritance, we have taken care not to innoculate any cyon alien to the nature of the original plant. All the reformations we have hitherto made, have proceeded upon the principle of reference to antiquity; and I hope, nay I am persuaded, that all those, which possibly may be made hereafter, will be carefully formed upon analogical precedent, authority, and example."

"Our oldest reformation is that of magna charta. You will see that Sir Edward Coke, that great oracle of our law, and indeed all the great men who follow him, to Blackstone, are industrious to prove the pedigree of our liberties."

Let us observe, by the way, that the only position, relating to this subject, for which I find the authority of my Lord Coke quoted, is a position, to which every one, who knows the history of the common law, will give his immediate and most unreserved assent: the position is—"that magna charta was, for the most part, declaratory of the principal grounds of the fundamental laws of England." But Mr. Burke proceeds.

"They endeavour to prove, that the ancient charter, the magna charta of King John, was connected with another positive charter from Henry the first: and that both the one and the other were nothing more than a reaffirmance of the still more ancient standing law of the kingdom. In the matter of fact, for the greater part, these authors appear to be in the right; perhaps not always: but if the lawyers mistake in some particulars, it proves my position still the more strongly; because it demonstrates the powerful prepossession towards antiquity, with which the minds of all our lawyers and legislators, and of all the people whom they wish to influence, have been always filled; and the stationary policy of this kingdom in considering their most sacred rights and franchises as an *inheritance*."

It is proper to pause here a little.—If, in tracing the pedigree of our "most sacred rights," one was permitted to indulge the same train of argument and reflection, which would be just and natural in the investigation of inferiour titles, we should be prompted to inquire, how it happens, that "mistakes in some particulars" would prove more strongly the general point to be established. Would mistakes in some particulars respecting a title to land, or the genealogy of a family, prove more strongly the validity of one, or the antiquity of the other?

But I must do Mr. Burke justice. The reason, which he assigns, why the making of those mistakes proves his position the more strongly, is, because it proves the "powerful prepossession towards antiquity." Of this prepossession I will controvert neither the existence nor the strength: but I will ask—does it prove the point in question?—Does it prove the truth and correctness of even the *civil* pedigree of the liberties of England? Is predilection an evidence of right? Is property or any thing else, which is in litigation, decided to belong to him, who shows the strongest affection for it? If, in a controversy concerning an inferiour object, the person, who claims it, and who undertakes to substantiate his claim, should own, that, in deducing his chain of title, some mistakes were made; but should urge even those mistakes as an argument in his behalf, because his perseverance in his suit, notwithstanding those mistakes, demonstrates his powerful attachment for the thing in dispute; what would a discerning court what would an unbiassed jury think of his conduct? I believe they would not think that it paid any extraordinary compliment, either to their impartiality or to their understanding.

I begin now to hesitate, whether we should subscribe the political creed of Mr. Burke. Let us, however, proceed and examine some of its other articles.

Some one, it seems, had been so hardy as to allege, that the king of Great Britain owes his crown to "the choice of his people." This doctrine, says Mr. Burke, "affirms a most unfounded, dangerous, illegal, and unconstitutional position." "Nothing can be more untrue, than that the crown of this kingdom is so held by his majesty." To disprove the assertion, "that the king of Great Britain owes his crown to the choice of his people," Mr. Burke has recourse to the declaration of rights, which was made at the accession of King William and Queen Mary. "This declaration of right," says he, "is the corner stone of our constitution, as reenforced, explained, improved, and in its fundamental principles for ever settled. It is called an 'act for declaring the rights and liberties of the subject, and for settling the succession of the crown.' These rights and this succession are declared in one body, and bound indissolubly together." "It is curious," adds he, "with what address the *temporary* solution of continuity in the line of succession"—for it was impossible for Mr. Burke not to admit that from this line a temporary deviation was made—"it is curious with what address this temporary solution is kept from the eye; whilst all that could be found in this act of necessity, to countenance the idea of an hereditary succession is brought forward, and fostered, and made the most of by the legislature." "The legislature," he proceeds, "had plainly in view the act of recognition of the first of Oueen Elizabeth, and that of James the first, both acts strongly declaratory of the inheritable nature of the crown; and, in many parts, they follow, with a nearly literal precision, the words and even the form, which is found in these old declaratory statutes." "They give the most solemn pledge, taken from the act of Queen Elizabeth, as solemn a pledge as ever was or can be given in favour of an hereditary succession. 'The lords spiritual and temporal, and commons, do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities for ever; and do faithfully promise, that they will stand to, maintain, and defend their said majesties, and also the *limitation of the crown*, herein specified and contained, to the utmost of their power."

I have mentioned above, that tyranny, at some times, is uniform in her principles: I have done her full justice: she is not so at all times. Of truth, liberty, and virtue, it is the exclusive prerogative to be always consistent.

Let us, for a moment, adopt the statement, which Mr. Burke has given us. Upon that statement I ask—if the humble and faithful submission of the parliament, in the name of all the people, was sufficient, in the time of Elizabeth, to bind themselves, their heirs and posterity for ever, to the line of hereditary succession; how came it to pass, that, in the time of William and Mary, the parliament, in the name of all the people, was justified in deviating, even for an instant, from the succession in that hereditary line? I ask again—if the humble and faithful submission of the parliament, in the name of all the people, was, in the sixteenth century, insufficient to bind their heirs and posterity in the seventeenth century; how comes it to pass that, in the seventeenth century, the humble and faithful

submission of the parliament, in the name of all the people, could bind their heirs and posterity in the eighteenth century? Such a submission was either sufficient or it was not sufficient for that binding purpose: let the disciples of the doctrine, which rests on this dilemma, choose between the alternatives.

I have now no hesitation whether we should or should not subscribe the creed of Mr. Burke: that creed, which is contradictory to itself, cannot, in every part, be sound and orthodox.

But, to say the truth, I should not have given myself the trouble of delivering, nor you, of hearing these annotations upon it; unless it had derived the support, which it claims, from the Commentaries on the laws of England. The principles delivered in those Commentaries are never matters of indifference: I have already mentioned, "that when they are not proper objects of imitation, they furnish excellent materials of contrast."

Government, in my humble opinion, should be formed to secure and to enlarge the exercise of the natural rights of its members; and every government, which has not this in view, as its principal object, is not a government of the legitimate kind.

Those rights result from the natural state of man; from that situation, in which he would find himself, if no civil government was instituted. In such a situation, a man finds himself, in some respects, unrelated to others; in other respects, peculiarly related to some; in still other respects, bearing a general relation to all. From his unrelated state, one class of rights arises: from his peculiar relations, another class of rights arises: from his general relations, a third class of rights arises. To each class of rights, a class of duties is correspondent; as we had occasion to observe and illustrate, when we treated concerning the general principles of natural law.

In his unrelated state, man has a natural right to his property, to his character, to liberty, and to safety. From his peculiar relations, as a husband, as a father, as a son, he is entitled to the enjoyment of peculiar rights, and obliged to the performance of peculiar duties. These will be specified in their due course. From his general relations, he is entitled to other rights, simple in their principle, but, in their operation, fruitful and extensive. His duties, in their principle and in their operation, may be characterized in the same manner as his rights. In these general relations, his rights are, to be free from injury, and to receive the fulfilment of the engagements, which are made to him: his duties are, to do no injury, and to fulfil the engagements, which he has made. On these two pillars principally and respectively rest the criminal and the civil codes of the municipal law. These are the pillars of justice.

Of municipal law, the rights and the duties of benevolence are sometimes, though rarely, the objects. When they are so, they will receive the pleasing and the merited attention.

You now see the distribution, short, and simple, and plain, which will govern the subsequent part of my system of lectures. From this distribution, short, and simple, and plain as it is, you see the close and very interesting connexion between natural and municipal law. You see, to use again my Lord Bacon's language, how the streams of civil institutions flow from the fountain of justice.

I am first to show, that a man has a natural right to his property, to his character, to liberty, and to safety.

His natural right to his property, you will permit me, at present, to assume as a principle granted. I assume it for this reason; because I wish not to anticipate now what will be introduced, with much greater propriety and advantage, when I come to the second great division of my lectures, in which I am to treat concerning things.

To his character, every one has a natural right. A man's character may, I think, be described as the just result of those opinions, which ought to be formed concerning his talents, his sentiments, and his conduct. Opinions, upon this as upon every other subject, ought to be founded in truth. Justice, as well as truth, requires, concerning characters, accuracy and impartiality of opinion.

Under some aspects, character may be considered as a species of property; but, of all, the nearest, the dearest, and the most interesting...

By the exertion of the same talents and virtues, property and character both are often acquired: by vice and indolence, both are often lost or destroyed.

The love of reputation and the fear of dishonour are, by the all-gracious Author of our existence, implanted in our breasts, for purposes the most beneficent and wise. Let not these principles be deemed the growth of dispositions only which are weak or vain; they flourish most luxuriantly in minds, the strongest and, let me add, the most humble. Of the happiness of heaven, a part of the unerring description is—that it is "full of glory."

Well may character, then, be considered as one of the natural rights of man: well may it be classed among those rights, the enjoyment of which it is the design of good government and laws to secure and enlarge: well does it deserve their encouragement and protection; for, in its turn, it assists their operations, and supplies their deficiencies.

I remarked, a little while ago, that the rights and the duties of benevolence are but rarely, though they are at some times, the objects of municipal law. The remark may be extended to rights and duties of many other kinds. To many virtues, legal rewards are not, nor can they be, assigned: with legal impunity, many vices are, and must be, suffered to escape. But before a court of honour those qualities and sentiments and actions are amenable, which despise the subtlest process of the tribunals of law, and elude the keenest vigilance of the ministers of justice. This court, powerful in its sentences as well as extensive in its jurisdiction, decrees to

virtue, and to the virtuous exertion of talents, a crown of fame, pure and splendid: vice, and idleness, less odious only than vice, it dooms to wear the badges of infamy, dirty and discoloured. This court, therefore, in a government of which virtue is the principle and vice is the bane, ought to receive, from all its institutions, the just degree of favour and regard...

It is the sentiment of some writers, highly distinguished too by their liberal and manly principles, that honour is peculiar to governments which are monarchical. "In extreme political liberty," says the Marquis of Beccaria, "and in absolute despotism, all ideas of honour disappear, or are confounded with others. In the first case, reputation becomes useless from the despotism of the laws; and, in the second, the despotism of one man, annulling all civil existence, reduces the rest to a precarious temporary personality. Honour, then, is one of the fundamental principles of those monarchies, which are a limited despotism; and in these, like revolutions in despotick states, it is a momentary return to a state of nature and original equality."

How prevalent even among enlightened writers, is the mistaken opinion, that government is subversive of equality and nature! Is it necessarily so? By no means. When I speak thus, I speak confidently, because I speak from principle fortified by fact. Let the constitution of the United States—let that of Pennsylvania be examined from the beginning to the end. No right is conferred, no obligation is laid on any, which is not laid or conferred on every, citizen of the commonwealth or Union—I think I may defy the world to produce a single exception to the truth of this remark. Now, as I showed at large in a former part of my lectures, the original equality of mankind consists in an equality of their duties and rights.

That honour is the principle of monarchical governments, is the well known doctrine of the celebrated Montesquieu. But let us examine the nature and qualities of that honour which he describes. It is that honour which can subsist without honesty; for he says expressly, u that, in well policied monarchies, there are very few honest men. It is that honour which forbids not adulation, nor cunning, nor craft. It is that honour which judges of actions not as they are good, but as they are showy; not as they are just, but as they are grand; not as they are reasonable, but as they are extraordinary. It is, in one word, that honour, which fashions the virtues just as it pleases, and extends or limits our duties by its own whimsical taste. To this honour, indeed, truth in conversation is a necessary point: but is this for the sake of truth? By no means.

For the possession of this honour—vicious in its practice, and, even when right in its practice, vicious in its principle—a republican government will not, I presume, contend. But to that honour, whose connexion with virtue is indissoluble, a republican government produces the most unquestionable title. The principle of virtue is allowed to be hers: if she possesses virtue, she also possesses honour. I admire the fine moral and political instruction, as well as the elegant architectural

taste, exhibited by the justly framed structure, in which the temple of honour was accessible only through the temple of virtue.

Viewed in this light, the honour of character is a property, which is, indeed, precious. But let it be remembered, that, in this view, it is a property, which must be purchased. To claim that reputation which we do not deserve, is as absurd, though it is not as barefaced, as to claim that property which is not ours. The only difference is, that, in the former case, we claim generally that which belongs to another, while, in the latter case, we claim that which only does not belong to ourselves. In both cases, the claim is equally unfounded.

To bestow on another that reputation which he does not deserve, is equally profuse, and, in many instances, is more unjust than to bestow on him that property, to which he is not, on the principles either of justice, or charity, or benevolence, entitled. As it is equally profuse, it is more to be guarded against. In the latter case, we bestow what is our own, and, therefore, are inclined to be cautious: in the former case, we are apt to be inconsiderate, because what we bestow is not ours. Indiscriminate praise is not so odious, but it is as useless and it is as heedless as indiscriminate censure. In one important particular they precisely coincide. They have an equal tendency to destroy and to render inefficacious the great distinction between right and wrong, approbation and disapprobation, virtue and vice.

If it is unwarrantable to bestow reputation where it is not due; what epithet shall we assign to that conduct, which plucks the wreath of honour from those temples, around which it has been meritoriously placed? Robbery itself flows not from a fountain so rankly poisoned as that, which throws out the waters of malicious defamation.

The subject of reputation will again come under your view, when I treat concerning prosecutions for libels and actions of slander: both of which suppose an unjustifiable aggression of character. What I have now said will suffice to point to the general principles, on which those actions and prosecutions should be defended, supported, and determined.

Property must often—reputation must always be purchased: liberty and life are the gratuitous gifts of heaven.

That man is naturally free, was evinced in a former lecture: I will not reiterate what has been advanced.

I shall certainly be excused from adducing any formal arguments to evince, that life, and whatever is necessary for the safety of life, are the natural rights of man. Some things are so difficult; others are so plain, that they cannot be proved. It will be more to our purpose to show the anxiety, with which some legal systems spare and preserve human life; the levity and the cruelty which others discover in

destroying or sporting with it; and the inconsistency, with which, in others, it is, at some times, wantonly sacrificed, and, at other times, religiously guarded.

In Sparta, nothing was deemed so precious as the life of a citizen. And yet in Sparta, if an infant, newly born, appeared, to those who were appointed to examine him, ill formed or unhealthy, he was, without any further ceremony, thrown into a gulph near mount Taygetus...At Athens, the parent was empowered, when a child was born, to pronounce on its life or its death. At his feet it was laid: if he took it in his arms, this was received as the gracious signal for its preservation: if he deigned not a look of compassion on the fruit of his loins, it was removed and exposed. Over almost all the rest of Greece, this barbarity was permitted or authorized...In China, the practice of exposing new born children is said to have prevailed immemorially, and to prevail still. As the institutions of that empire are never changed, its situation is never improved.

Tacitus records it to the honour of the Germans, that, among them, to kill infants newly born was deemed a most flagitious crime. Over them, adds he, good manners have more power, than good laws have over other nations. This shows, that, in his time, the restraints of law began to be imposed on this unnatural practice; but that its inveteracy had rendered them still inefficacious.

Under the Roman commonwealth, no citizen of Rome was liable to suffer a capital punishment by the sentence of the law. But at Rome, the son held his life by the tenure of his father's pleasure...The gentle Hindoo is laudably averse to the shedding of blood; but he carries his worn out friend or benefactor to perish on the banks of the Ganges.

With consistency, beautiful and undeviating, human life, from its commencement to its close, is protected by the common law. In the contemplation of law, life begins when the infant is first able to stir in the womb. By the law, life is protected not only from immediate destruction, but from every degree of actual violence, and, in some cases, from every degree of danger.

The grades of solicitude, discovered, by the law, on the subject of life, are marked, in the clearest manner, by the long and regular series of the different degrees of aggression, which it enumerates and describes—threatening, assault, battery, wounding, mayhem, homicide. How those different degrees may be justified, excused, alleviated, aggravated, redressed, or punished, will appear both in the criminal and in the civil code of our municipal law.

Thus much concerning the natural rights of man in what has been termed his unrelated state. I come now to specify and to consider those peculiar relations, by virtue of which a man is entitled to the enjoyment of peculiar rights, and obliged to the performance of peculiar duties.

I begin with marriage, which forms the near relation between husband and wife...Whether we consult the soundest deductions of reason, or resort to the best

information conveyed to us by history, or listen to the undoubted intelligence communicated in holy writ, we shall find, that to the institution of marriage the true origin of society must be traced. By that institution the felicity of Paradise was consummated; and since the unhappy expulsion from thence, to that institution, more than to any other, have mankind been indebted for the share of peace and harmony which has been distributed among them. "Prima societas in ipso conjugio est," says Cicero in his book of offices; a work which does honour to the human understanding and the human heart.

The most ancient traditions of every country ascribe to its first legislators and founders, the regulations concerning the union between the sexes...As marriage has been instituted by the first, it has always been encouraged by the wisest legislators...

Legislators have, with great propriety, carried their views still farther; they have provided, as far as municipal laws can provide, against the violation of rights, indispensably essential to the purity and harmony of the matrimonial union. Treachery, upon any occasion, is sufficient to stain a page in the annals of life; but perfidy against the solemn engagements of marriage obliterates the impression of happiness from every subsequent part of the conjugal history. Upon this subject, however, so interesting to the finest sentiments and emotions of the heart, every thing, that might be wished, cannot, we fear, be expected from the operation of human laws. Much must be left to the influence of that legitimate honour, which we have described as the inseparable friend and companion of virtue. From the bastard honour, which we likewise described, it would be ridiculous, in this case, to hope for any assistance. In this case, as in many others, that honour glories in its shame.

Concerning the ancient Germans, Tacitus, in his short but masterly account of their manners, <u>n</u> informs us, that among them the laws of marriage were rigidly observed; and that no part of their conduct was more exemplary.

We have seen the first institution of marriage among the Athenians and the Romans: a concise view of its history will be instructive and interesting.

In the heroick ages of Greece, we are told, the rights of beauty and feminine weakness were highly respected and tenderly observed. The simplicity of those ages was equally remote from the cruel tyranny of savages, which condemns the fair sex to servitude, and the sordid selfishness of luxury, which considers them solely as instruments of pleasure. Hence those affecting scenes so exquisitely described by Homer, which, in the interviews of Hector and Andromache, exhibit the most striking image of nuptial felicity and love. But this beautiful picture of ancient manners was soon miserably defaced; and, in the degenerate periods of Greece, the fair sex were as much neglected and despised, as they had been loved and admired in the heroick ages.

In those degraded times, of which I am now obliged to speak, no pains were employed to render the Grecian females agreeable members of society, in any one part of their lives. Education was either entirely withheld from them; or it was directed to such objects as were fitted to contract and debase, instead of elevating and enlarging the mind. When they were grown up, they were thrown away in marriage, without being consulted in the choice; and by entering into this new state, they found the severe guardianship of a father succeeded by the absolute dominion of a husband. At this period, even the laws of Athens countenanced this unworthy tenour of conduct: to secure the fortune of the husband was deemed an object of greater importance, than to protect the person and honour of the wife, from the outrage so peculiarly dreaded by female virtue.

Let us now turn our attention to Rome. You recollect, that, by a law of Romulus, "the wife fell into the power of the husband." The law, which, on the whole, was very susceptible of a construction mild and generous, received from this part of it an interpretation most unwarrantable and severe. By this interpretation, coloured with the unnatural fiction, that, on a solemn marriage, the wife was adopted by the husband, he acquired over her all the tremendous plenitude of Roman paternal power. This extreme, as is usual, soon produced its opposite; and female servitude was exchanged for female licentiousness...By the precepts of christianity, and the practice of the christians, the dignity of marriage was, however restored.

In the eye of the common law, marriage appears in no other light than that of a civil contract: and to this contract the agreement of the parties, the essence of every rational contract, is indispensably required. If, therefore, either of the parties is incapable of agreeing, is unwilling to agree, or has not, in fact, as well as in ability and will, concluded the agreement; the marriage cannot be established by the principles of the common law...

It will be proper, in the next place, to consider the consequences of marriage.

The most important consequence of marriage is, that the husband and the wife become, in law, only one person: the legal existence of the wife is consolidated into that of the husband. Upon this principle of union, almost all the other legal consequences of marriage depend. This principle, sublime and refined, deserves to be viewed and examined on every side. Among human institutions, it seems to be peculiar to the common law. Peculiar as it is, however, among human institutions, it seems not uncongenial to the spirit of a declaration from a source higher than human—"They twain shall be one flesh."

Even of the common law, this was not always a principle. We are told by the learned Selden, that the Saxon wives were never one with their husbands; nor were they, as wives, under the view of the frank-pledge: a Saxon wife was obliged to give pledge by her friends, that she would do no wrong. She passed as an appurtenant to her husband, rather than one in unity with him: and her estate was rather appurtenant to her than to him: for if she failed in her good carriage to her husband, she was to make him amends out of her own estate; and if that was

insufficient, then her pledges were to make satisfaction for her. This interposition of friends between husband and wife, in matters respecting either their conduct or their claims, seems alien to the delicacy and nearness of the matrimonial connexion. On very pressing emergencies, indeed, it is necessary that the law should interfere, and on such emergencies we shall see that it does interfere; but the general presumption and the universal wish ought to be, that, between husband and wife, there subsist or may subsist no difference of will or of interest. Such accordingly, during many centuries past, has been the language of the law. Bracton, in the reign of Henry the third, informs us, that "husband and wife are as one person, because they are one flesh and blood." Littleton, whose sayings are of such high authority, tells us repeatedly, "that the husband and the wife are but one person in the law."

In pursuance of this principle, a crime, except treason and murder, committed by the husband and wife, shall be charged against him solely; because the law will suppose that she acted under his influence or coercion. In pursuance of the same principle, a husband and wife cannot be witnesses for or against one another: if they were permitted to give testimony for one another, one maxim of the law would be violated—No one can be a witness in his own cause: if they were permitted to give testimony against one another, another maxim of the law would be violated—No one is obliged to accuse himself.

But, as has before been intimated, whenever urgent emergencies arise; whenever any outrage is threatened or committed against the peace or safety of society, as well as against the refined rules of the conjugal union; the law will interpose its authority, and, though it will not order, because it cannot enforce its orders for observing the latter, it will order, because it can enforce its orders for preserving the former.

The refined delicacy of the maxim—that husband and wife are considered as one person by our law—appears now in a beautiful and striking point of view. The rights, the enjoyments, the obligations, and the infelicities of the matrimonial state are so far removed from her protection or redress, that she will not appear as an arbitress; but, like a candid and benevolent neighbour, will presume, for she wishes, all to be well.

To the other rights and to the other duties of a marriage life, we must extend the observations which we have already applied to one of them. Reliance must be placed on that honour, which is the inseparable friend and companion of virtue.

I have spoken concerning those consequences of marriage, which relate to the persons of the husband and wife: the consequences which relate to their property, will be fully considered under the second great division of my system: you observe, that I carefully avoid the blending of the two divisions.

By that event which closes the scene of all sublunary enjoyments, marriage is dissolved: it may be dissolved sooner—by divorce.

To the law of England, two kinds of divorce are known—a divorce from the bed and the table—and a divorce from the chains—the metaphor is proper on this occasion—a divorce from the chains of matrimony. The propriety of the first kind, I am, I confess, at a loss to explain: that of the second kind is frequently obvious. When, as we have seen, the impression of happiness must be obliterated from every succeeding part of the conjugal history, why should any more blackened pages be added to the inauspicious volume? But of causes which are slight or trivial, a divorce should, by no means, be permitted to be the effect. When divorces can be summoned to the aid of levity, of vanity, or of avarice, a state of marriage becomes frequently a state of war or stratagem; still more frequently, a state of premeditated and active preparation for successful stratgems and war. Such was the case in ancient Rome. "Passion, interest, or caprice," says the Historian of her falling state, "suggested daily motives for the dissolution of marriage; a word, a sign, a message, the mandate of a freeman declared the separation; the most tender of human connexions was degraded to a transient society of profit or pleasure."

Both these remarks are levelled particularly at the female sex: but who drew the picture, in which the lion was injuriously represented?

Cicero, after having said, as we have seen, "prima societas in ipso conjugio est," adds, "proxima in liberis." I consider, in the next place, the relation of parent and child.

The transition is, indeed, a natural one. The sentiments of parental affection are generally warm and tender, in proportion to those of conjugal love. The sentiments of filial duty are generally sincere and respectful, in proportion to those of parental affection.

It is the duty of parents to maintain their children decently, and according to their circumstances; to protect them according to the dictates of prudence; and to educate them according to the suggestions of a judicious and zealous regard for their usefulness, their respectability, and their happiness.

The formidable power of a Roman father is unknown to the common law. But it vests in the parent such authority as is conducive to the advantage of the child. When it is necessary—and a real necessity exists much more rarely than is often imagined—a moderate chastening may be administered; but every milder means should be previously used. Part of his authority he may delegate to the person intrusted with his child's education: that person acts then in the place, and he ought to act with the disposition, of a parent. The legal power of a father ceases, when the child attains the age of twenty one years.

But,—for we now turn to the duties of children—as obedience and subjection to their parents are due from them during their minority; honour and reverence are naturally and justly expected from them ever afterwards. If it become necessary, the child should, according to his circumstances, maintain the parent: 'tis but a

natural and grateful return for the maintenance, which the parent has given to the child.

The decent reserve which the common law has shown, with regard to the relation between parent and child, should be admired, and may be accounted for on the same principles, which were observed under the relation of husband and wife. The civil law interposed in the nice feelings and tender transactions of both relations, with a rude and indelicate management. In that law, we find an enumeration of fourteen different reasons, for which a father may disinherit his child. Would it not have been much more natural, to have left, as the common law has left, this subject to the decision of that judge, which holds its tribunal in every parent's breast?

But, here as on former occasions, I refer the questions of property—and there are very important ones—arising from this relation, to the full discussion, which will be given under the second division of my system.

A bastard is one who is born out of lawful marriage. By law, he is considered *quasi nullius filius*. But surely it is the natural duty of his parents to maintain, to protect, and to educate him.

The rules which govern the relation between a father and his child, govern, but in an inferiour degree, and for a shorter time, that relation, which is substituted in the place of the other, between a guardian and his ward. On this subject, therefore, it will not be necessary to descend into particulars.

I come now to examine the relation between a master and his servants.

Slavery, or an absolute and unlimited power, in the master, over the life and fortune of the slave, is unauthorized by the common law. Indeed, it is repugnant to the principles of natural law, that such a state should subsist in any social system. The reasons, which we sometimes see assigned for the origin and the continuance of slavery, appear, when examined to the bottom, to be built upon a false foundation. In the enjoyment of their persons and of their property, the common law protects all. With regard, however, to any right, which one man may have acquired to the personal service of another, the case is very different. This right the common law will support. He, to whose service this right is acquired, is only in the same state of subjection, to which every servant and apprentice is obliged, and finds it his interest, to submit.

The contract between a master and a servant arises upon the hiring. If a servant is retained generally, without expressing any limited time, the law will construe it to be for a year: the reasonable foundation of this rule is, that, through the revolutions of the seasons, equality shall be preserved in the contract; that the master shall not have it in his power to dismiss the servant when there is little work to be done; nor the servant have it in his power to depart when there is much. The contract, however, may be made for any term longer or shorter than a

year. If, during the term of the contract, the servant become sick, this is a condition incident to humanity. In his sickness, the master is bound to take care of him, and provide for him; nor can a deduction of wages be made for the time, during which he is detained from service...

In the introduction to my lectures I told my hearers, that "publick law and publick government were not made for themselves;" but that "they were made for something better;" that "I meant society;" that "I meant particularly domestick society." Perhaps, it was then thought, by some, that all this was introduced merely for the sake of an encomium—but, by the way, an encomium severely just—with which it was accompanied. In the regular course of my system, the sentiment has now undergone a scrutinizing analysis in the most minute detail. I can appeal to such, if any such, who thought otherwise then—I can appeal to all, who have formed their opinion now, whether the sentiment, in all its parts, and in all its objects too, is not founded in sound politicks and genuine philosophy.

I have now done with considering the peculiar relations of man in a state of society, independent of civil government. But in that state, as he bears peculiar relations to some, so he bears a general relation to all. From that general relation, rights and duties result. His rights are, to receive the fulfilment of the engagements which are made to him, and to be free from injury to his peculiar relations, to his property, to his character, to his liberty, to his person. His duties are, to fulfil the engagements, which he has made; and to do no injury, in the same extensive meaning, in which he would wish and has a right to suffer none.

In a former lecture, when I delineated at large the principles and the character of the social man, these rights and duties received their illustration, and were shown to be laid deeply in the human frame. To your recollection of what was then said, I beg leave to refer you. These rights and duties are indeed, as has been observed, great pillars on which chiefly rest the criminal and the civil codes of the municipal law. It would surely be preposterous to undermine their foundation, with a view to give strength or stability to what they support—to unfix what rests on the immovable basis of nature, and to place it on the tottering institutions of man.

I here close my examination into those natural rights, which, in my humble opinion, it is the business of civil government to protect, and not to subvert, and the exercise of which it is the duty of civil government to enlarge, and not to restrain. I go farther; and now proceed to show, that in peculiar instances, in which those rights can receive neither protection nor reparation from civil government, they are, notwithstanding its institution, entitled still to that defence, and to those methods of recovery, which are justified and demanded in a state of nature.

The defence of one's self, justly called the primary law of nature, is not, nor can it be abrogated by any regulation of municipal law. This principle of defence is not confined merely to the person; it extends to the liberty and the property of a man: it is not confined merely to his own person; it extends to the persons of all those,

to whom he bears a peculiar relation—of his wife, of his parent, of his child, of his master, of his servant: nay, it extends to the person of every one, who is in danger; perhaps, to the liberty of every one, whose liberty is unjustly and forcibly attacked. It becomes humanity as well as justice...

This long investigation concerning natural rights and natural remedies, I conclude by answering the question, with which I introduced it: man does not exist for the sake of government, but government is instituted for the sake of man. The course of it has naturally led me to consider a number of interesting subjects, in a view somewhat different, perhaps, from that, in which we see them considered in some of our law books; but in a view perfectly consonant to the soundest rules and principles of our law.

Reflections

on

The Revolution in France

and on the Proceedings in Certain Societies in London Relative to that
Event
in a Letter Intended to have been sent to a Gentleman in Paris

Edmund Burke

[1790]

It is no wonder, therefore, that with these ideas of everything in their constitution and government at home. either in church or state, as illegitimate and usurped, or at best as a vain mockery, they look abroad with an eager and passionate enthusiasm. Whilst they are possessed by these notions, it is vain to talk to them of the practice of their ancestors, the fundamental laws of their country, the fixed form of a constitution whose merits are confirmed by the solid test of long experience and an increasing public strength and national prosperity. They despise experience as the wisdom of unlettered men; and as for the rest, they have wrought underground a mine that will blow up, at one grand explosion, all examples of antiquity, all precedents, charters, and acts of parliament. They have "the rights of men." Against these there can be no prescription, against these no agreement is binding; these admit no temperament and no compromise; anything withheld from their full demand is so much of fraud and injustice. Against these their rights of men let no government look for security in the length of its continuance, or in the justice and lenity of its administration. The objections of these speculatists, if its forms do not quadrate with their theories, are as valid against such an old and beneficent government as against the most violent tyranny or the greenest usurpation. They are always at issue with governments, not on a question of abuse, but a question of competency and a question of title. I have nothing to say to the clumsy subtilty of their political metaphysics. Let them be their amusement in the schools.— "Illa se jactet in aula Aeolus, et clauso ventorum carcere regnet."— But let them not break prison to burst like a Levanter to sweep the earth with their hurricane and to break up the fountains of the great deep to overwhelm us.

Far am I from denying in theory, full as far is my heart from withholding in practice (if I were of power to give or to withhold) the real rights of men. In denying their false claims of right, I do not mean to

injure those which are real, and are such as their pretended rights would totally destroy. If civil society be made for the advantage of man, all the advantages for which it is made become his right. It is an institution of beneficence; and law itself is only beneficence acting by a rule. Men have a right to live by that rule; they have a right to do justice, as between their fellows, whether their fellows are in public function or in ordinary occupation. They have a right to the fruits of their industry and to the means of making their industry fruitful. They have a right to the acquisitions of their parents, to the nourishment and improvement of their offspring, to instruction in life, and to consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself; and he has a right to a fair portion of all which society, with all its combinations of skill and force, can do in his favor. In this partnership all men have equal rights, but not to equal things. He that has but five shillings in the partnership has as good a right to it as he that has five hundred pounds has to his larger proportion. But he has not a right to an equal dividend in the product of the joint stock; and as to the share of power, authority, and direction which each individual ought to have in the management of the state, that I must deny to be amongst the direct original rights of man in civil society; for I have in my contemplation the civil social man, and no other. It is a thing to be settled by convention.

If civil society be the offspring of convention, that convention must be its law. That convention must limit and modify all the descriptions of constitution which are formed under it. Every sort of legislative, judicial, or executory power are its creatures. They can have no being in any other state of things; and how can any man claim under the conventions of civil society rights which do not so much as suppose its existence—rights which are absolutely repugnant to it? One of the first motives to civil society, and which becomes one of its fundamental rules, is that no man should be judge in his own cause. By this each person has at once divested himself of the first fundamental right of uncovenanted man, that is, to judge for himself and to assert his own cause. He abdicates all right to be his own governor. He inclusively, in a great measure, abandons the right of selfdefense, the first law of nature. Men cannot enjoy the rights of an uncivil and of a civil state together. That he may obtain justice, he gives up his right of determining what it is in points the most essential to him. That he may secure some liberty, he makes a surrender in trust of the whole of it.

Government is not made in virtue of natural rights, which may and do exist in total independence of it, and exist in much greater clearness and in a much greater degree of abstract perfection; but their abstract perfection is their practical defect. By having a right to everything they want everything. Government is a contrivance of human wisdom to provide for human wants. Men have a right that these wants should be provided for by this wisdom. Among these wants is to be reckoned the want, out of civil society, of a sufficient restraint upon their passions. Society requires not only that the passions of individuals should be subjected, but that even in the mass and body, as well as in the individuals, the inclinations of men should frequently be thwarted, their will controlled, and their passions brought into subjection. This can only be done by a power out of themselves, and not, in the exercise of its function, subject to that will and to those passions which it is its office to bridle and subdue. In this sense the restraints on men, as well as their liberties, are to be reckoned among their rights. But as the liberties and the restrictions vary with times and circumstances and admit to infinite modifications, they cannot be settled upon any abstract rule; and nothing is so foolish as to discuss them upon that principle.

The moment you abate anything from the full rights of men, each to govern himself, and suffer any artificial, positive limitation upon those rights, from that moment the whole organization of government becomes a consideration of convenience. This it is which makes the constitution of a state and the due distribution of its powers a matter of the most delicate and complicated skill. It requires a deep knowledge of human nature and human necessities, and of the things which facilitate or obstruct the various ends which are to be pursued by the mechanism of civil institutions. The state is to have recruits to its strength, and remedies to its distempers. What is the use of discussing a man's abstract right to food or medicine? The question is upon the method of procuring and administering them. In that deliberation I shall always advise to call in the aid of the farmer and the physician rather than the professor of metaphysics.

The science of constructing a commonwealth, or renovating it, or reforming it, is, like every other experimental science, not to be taught a priori. Nor is it a short experience that can instruct us in that practical science, because the real effects of moral causes are not always immediate; but that which in the first

instance is prejudicial may be excellent in its remoter operation, and its excellence may arise even from the ill effects it produces in the beginning. The reverse also happens: and very plausible schemes, with very pleasing commencements, have often shameful and lamentable conclusions. In states there are often some obscure and almost latent causes, things which appear at first view of little moment, on which a very great part of its prosperity or adversity may most essentially depend. The science of government being therefore so practical in itself and intended for such practical purposes—a matter which requires experience, and even more experience than any person can gain in his whole life, however sagacious and observing he may be—it is with infinite caution that any man ought to venture upon pulling down an edifice which has answered in any tolerable degree for ages the common purposes of society, or on building it up again without having models and patterns of approved utility before his eyes.

These metaphysic rights entering into common life, like rays of light which pierce into a dense medium, are by the laws of nature refracted from their straight line. Indeed, in the gross and complicated mass of human passions and concerns the primitive rights of men undergo such a variety of refractions and reflections that it becomes absurd to talk of them as if they continued in the simplicity of their original direction. The nature of man is intricate; the objects of society are of the greatest possible complexity; and, therefore, no simple disposition or direction of power can be suitable either to man's nature or to the quality of his affairs. When I hear the simplicity of contrivance aimed at and boasted of in any new political constitutions. I am at no loss to decide that the artificers are grossly ignorant of their trade or totally negligent of their duty. The simple governments are fundamentally defective, to say no worse of them. If you were to contemplate society in but one point of view, all these simple modes of polity are infinitely captivating. In effect each would answer its single end much more perfectly than the more complex is able to attain all its complex purposes. But it is better that the whole should be imperfectly and anomalously answered than that, while some parts are provided for with great exactness, others might be totally neglected or perhaps materially injured by the over-care of a favorite member.

The pretended rights of these theorists are all extremes; and in proportion as they are metaphysically true, they are morally and politically false. The rights of men are in a sort of middle, incapable of definition, but not impossible to be discerned. The rights of men in governments are their advantages; and these are often in balances between differences of good, in compromises sometimes between good and evil, and sometimes between evil and evil. Political reason is a computing principle: adding, subtracting, multiplying, and dividing, morally and not metaphysically or mathematically, true moral denominations.

By these theorists the right of the people is almost always sophistically confounded with their power. The body of the community, whenever it can come to act, can meet with no effectual resistance; but till power and right are the same, the whole body of them has no right inconsistent with virtue, and the first of all virtues, prudence. Men have no right to what is not reasonable and to what is not for their benefit; for though a pleasant writer said, Liceat perire poetis, when one of them, in cold blood, is said to have leaped into the flames of a volcanic revolution, Ardentem frigidus Aetnam insiluit, I consider such a frolic rather as an unjustifiable poetic license than as one of the franchises of Parnassus; and whether he was a poet, or divine, or politician that chose to exercise this kind of right, I think that more wise, because more charitable, thoughts would urge me rather to save the man than to preserve his brazen slippers as the monuments of his folly.

The kind of anniversary sermons to which a great part of what I write refers, if men are not shamed out of their present course in commemorating the fact, will cheat many out of the principles, and deprive them of the benefits, of the revolution they commemorate. I confess to you, Sir, I never liked this continual talk of resistance and revolution, or the practice of making the extreme medicine of the constitution its daily bread. It renders the habit of society dangerously valetudinary; it is taking periodical doses of mercury sublimate and swallowing down repeated provocatives of cantharides to our love of liberty.

This distemper of remedy, grown habitual, relaxes and wears out, by a vulgar and prostituted use, the spring of that spirit which is to be exerted on great occasions. It was in the most patient period of Roman servitude that themes of tyrannicide made the ordinary exercise of boys at school—cum perimit saevos classis numerosa tyrannos. In the ordinary state of things, it produces in a country like ours the worst effects, even on the cause of that liberty which it abuses with the dissoluteness of an extravagant speculation. Almost all the highbred republicans of my time have, after a short space, become the most decided, thorough paced courtiers; they soon left the business of a tedious, moderate, but practical resistance to those

of us whom, in the pride and intoxication of their theories, they have slighted as not much better than Tories. Hypocrisy, of course, delights in the most sublime speculations, for, never intending to go beyond speculation, it costs nothing to have it magnificent. But even in cases where rather levity than fraud was to be suspected in these ranting speculations, the issue has been much the same. These professors, finding their extreme principles not applicable to cases which call only for a qualified or, as I may say, civil and legal resistance, in such cases employ no resistance at all. It is with them a war or a revolution, or it is nothing. Finding their schemes of politics not adapted to the state of the world in which they live, they often come to think lightly of all public principle, and are ready, on their part, to abandon for a very trivial interest what they find of very trivial value. Some, indeed, are of more steady and persevering natures, but these are eager politicians out of parliament who have little to tempt them to abandon their favorite projects. They have some change in the church or state, or both, constantly in their view. When that is the case, they are always bad citizens and perfectly unsure connections. For, considering their speculative designs as of infinite value, and the actual arrangement of the state as of no estimation, they are at best indifferent about it. They see no merit in the good, and no fault in the vicious, management of public affairs; they rather rejoice in the latter, as more propitious to revolution. They see no merit or demerit in any man, or any action, or any political principle any further than as they may forward or retard their design of change; they therefore take up, one day, the most violent and stretched prerogative, and another time the wildest democratic ideas of freedom, and pass from one to the other without any sort of regard to cause, to person, or to party.

This mixed system of opinion and sentiment had its origin in the ancient chivalry; and the principle, though varied in its appearance by the varying state of human affairs, subsisted and influenced through a long succession of generations even to the time we live in. If it should ever be totally extinguished, the loss I fear will be great. It is this which has given its character to modern Europe. It is this which has distinguished it under all its forms of government, and distinguished it to its advantage, from the states of Asia and possibly from those states which flourished in the most brilliant periods of the antique world. It was this which, without confounding ranks, had produced a noble equality and handed it down through all the gradations of social life. It was this opinion which mitigated kings into companions and raised private men to be fellows with kings. Without force or opposition, it subdued the fierceness of pride and power, it obliged sovereigns to submit to the soft collar of social esteem, compelled stern authority to submit to elegance, and gave a domination, vanguisher of laws, to be subdued by manners.

But now all is to be changed. All the pleasing illusions which made power gentle and obedience liberal, which harmonized the different shades of life, and which, by a bland assimilation, incorporated into politics the sentiments which beautify and soften private society, are to be dissolved by this new conquering empire of light and reason. All the decent drapery of life is to be rudely torn off. All the superadded ideas, furnished from the wardrobe of a moral imagination, which the heart owns and the understanding ratifies as necessary to cover the defects of our naked, shivering nature, and to raise it to dignity in our own estimation, are to be exploded as a ridiculous, absurd, and antiquated fashion.

64/Edmund Burke

On this scheme of things, a king is but a man, a queen is but a woman; a woman is but an animal, and an animal not of the highest order. All homage paid to the sex in general as such, and without distinct views, is to be regarded as romance and folly. Regicide, and parricide, and sacrilege are but fictions of superstition, corrupting jurisprudence by destroying its simplicity. The murder of a king, or a queen, or a bishop, or a father are only common homicide; and if the people are by any chance or in any way gainers by it, a sort of homicide much the most pardonable, and into which we ought not to make too severe a scrutiny.

On the scheme of this barbarous philosophy, which is the offspring of cold hearts and muddy understandings, and which is as void of solid wisdom as it is destitute of all taste and elegance, laws are to be supported only by their own terrors and by the concern which each individual may find in them from his own private speculations or can spare to them from his own private interests. In the groves of their academy, at the end of every vista, you see nothing but the gallows. Nothing is left which engages the affections on the part of the commonwealth. On the principles of this mechanic philosophy, our institutions can never be embodied, if I may use the expression, in persons, so as to create in us love, veneration, admiration, or attachment. But that sort of reason which banishes the affections is incapable of filling their place. These public affections, combined with manners, are required sometimes as supplements, sometimes as correctives, always as aids to law. The precept given by a wise man, as well as a great critic, for the construction of poems is equally true as to states:— Non satis est pulchra esse poemata, dulcia sunto. There ought to be a system of manners in every nation which a well informed mind would be disposed to relish. To make us love our country, our country ought to be lovely.

Edmund Burke, A Letter to Sir Hercules Langrishe 1792

...

I will not here examine whether the principles of the British [the Irish] Constitution be wise or not. I must assume that they are, and that those who partake the franchises which make it partake of a benefit. They who are excluded from votes (under proper qualifications inherent in the Constitution that gives them) are excluded, not from the state, but from the British Constitution. They cannot by any possibility, whilst they hear its praises continually rung in their ears, and are present at the declaration which is so generally and so bravely made by those who possess the privilege, that the best blood in their veins ought to be shed to preserve their share in it - they, the disfranchised part, cannot, I say, think themselves in an happy state, to be utterly excluded from all its direct and all its consequential advantages. The popular part of the Constitution must be to them by far the most odious part of it. To them it is not an actual, and, if possible, still less a virtual representation. It is, indeed, the direct contrary. It is power unlimited placed in the hands of an adverse description because it is an adverse description. And if they who compose the privileged body have not an interest, they must but too frequently have motives of pride, passion, petulance, peevish jealousy, or tyrannic suspi {254} cion, to urge them to treat the excluded people with contempt and rigor.

...

It is hard to distinguish with the last degree of accuracy what laws are fundamental, and what not. However, there is a distinction between them, authorized by the writers on jurisprudence, and recognized in some of our statutes. I admit the acts of King William and Queen Anne to be fundamental, but they are not the only fundamental laws. The law called Magna Charta, by which it is provided that {267} "no man shall be disseised of his liberties and free customs but by the judgment of his peers or the laws of the land," (meaning clearly, for some proved crime tried and adjudged,) I take to be a fundamental law. Now, although this Magna Charta, or some of the statutes establishing it, provide that that law shall be perpetual, and all statutes contrary to it shall be void, yet I cannot go so far as to deny the authority of statutes made in defiance of Magna Charta and all its principles. This, however, I will say - that it is a very venerable law, made by very wise and learned men, and that the legislature, in their attempt to perpetuate it, even against the authority of future Parliaments, have shown their judgment that it is fundamental, on the same grounds and in the same manner that the act of the fifth of Anne has considered and declared the establishment of the Church of England to be fundamental. Magna Charta, which secured these franchises to the subjects, regarded the rights of freeholders in counties to be as much a fundamental part of the Constitution as the establishment of the Church of England was thought either at that time, or in the act of King William, or in the act of Queen Anne.

The churchmen who led in that transaction certainly took care of the material interest of which they were the natural quardians. It is the first article of Magna Charta, "that the Church of England shall be free," &c., &c. But at that period, churchmen and barons and knights took care of the franchises and free customs of the people, too. Those franchises are part of the Constitution itself, and inseparable from it. It would be a very strange thing, if there should not only exist anomalies in our laws, a thing not easy {268} to prevent, but that the fundamental parts of the Constitution should be perpetually and irreconcilably at variance with each other. I cannot persuade myself that the lovers of our church are not as able to find effectual ways of reconciling its safety with the franchises of the people as the ecclesiastics of the thirteenth century were able to do; I cannot conceive how anything worse can be said of the Protestant religion of the Church of England than this that, wherever it is judged proper to give it a legal establishment, it becomes necessary to deprive the body of the people, if they adhere to their old opinions, of "their liberties and of all their free customs," and to reduce them to a state of civil servitude.

...

I have great doubt of the exactness of any part of this observation. But let us admit that the body of the Catholics are prone to sedition, (of which, as I have said, I entertain much doubt,) is it possible that any fair observer or fair reasoner can think of confining this description to them only? I believe it to be possible for men to be mutinous and seditious who feel no grievance, but I believe no man will assert seriously, that, when people are of a turbulent spirit, the best way to keep them in order is to furnish them with something substantial to complain of.

You separate, very properly, the sober, rational, and substantial part of their description from the rest. You give, as you ought to do, weight only to the former. What I have always thought of the matter is this - that the most poor, illiterate, and uninformed creatures upon earth are judges of a practical oppression. It is a matter of feeling; and as {282} such persons generally have felt most of it, and are not of an over-lively sensibility, they are the best judges of it. But for the real cause, or the appropriate remedy, they ought never to be called into council about the one or the other. They ought to be totally shut out: because their reason is weak; because, when once roused, their passions are ungoverned; because they want information; because the smallness of the property which individually they possess renders them less attentive to the consequence of the measures they adopt in affairs of moment. When I find a great cry amongst the people who speculate little, I think myself called seriously to examine into it, and to separate the real cause from the ill effects of the passion it may excite, and the bad use which artful men may make of an irritation of the popular mind. Here we must be aided by persons of a contrary character; we must not listen to the desperate or the furious: but it is therefore necessary for us to distinguish who are the really indigent and the really intemperate. As to the persons who desire this part in the Constitution, I have no reason to imagine that they are men who have nothing to lose and much to look for in public confusion. The popular meeting from which apprehensions have been entertained has assembled. I have accidentally had conversation with two

friends of mine who know something of the gentleman who was put into the chair upon that occasion: one of them has had money transactions with him; the other, from curiosity, has been to see his concerns: they both tell me he is a man of some property: but you must be the best judge of this, who by your office are likely to know his transactions. Many of the others are certainly per {283} sons of fortune; and all, or most, fathers of families, men in respectable ways of life, and some of them far from contemptible, either for their information, or for the abilities which they have shown in the discussion of their interests. What such men think it for their advantage to acquire ought not, *prima facie*, to be considered as rash or heady or incompatible with the public safety or welfare.

I admit, that men of the best fortunes and reputations, and of the best talents and education too, may by accident show themselves furious and intemperate in their desires. This is a great misfortune, when it happens; for the first presumptions are undoubtedly in their favor. We have two standards of judging, in this case, of the sanity and sobriety of any proceedings - of unequal certainty, indeed, but neither of them to be neglected: the first is by the value of the object sought; the next is by the means through which it is pursued.

The object pursued by the Catholics is, I understand, and have all along reasoned as if it were so, in some degree or measure to be again admitted to the franchises of the Constitution. Men are considered as under some derangement of their intellects, when they see good and evil in a different light from other men - when they choose nauseous and unwholesome food, and reject such as to the rest of the world seems pleasant and is known to be nutritive. I have always considered the British Constitution not to be a thing in itself so vicious as that none but men of deranged understanding and turbulent tempers could desire a share in it: on the contrary, I should think very indifferently of the understanding and temper of any body of men who did not wish to {284} partake of this great and acknowledged benefit. I cannot think quite so favorably either of the sense or temper of those, if any such there are, who would voluntarily persuade their brethren that the object is not fit for them, or they for the object. Whatever may be my thoughts concerning them, I am quite sure that they who hold such language must forfeit all credit with the rest. This is infallible - if they conceive any opinion of their judgment, they cannot possibly think them their friends. There is, indeed, one supposition which would reconcile the conduct of such gentlemen to sound reason, and to the purest affection towards their fellow-sufferers: it is, that they act under the impression of a well-grounded fear for the general interest. If they should be told, and should believe the story, that, if they dare attempt to make their condition better, they will infallibly make it worse that, if they aim at obtaining liberty, they will have their slavery doubled that their endeavor to put themselves upon anything which approaches towards an equitable footing with their fellow-subjects will be considered as an indication of a seditious and rebellious disposition - such a view of things ought perfectly to restore the gentlemen, who so anxiously dissuade their countrymen from wishing a participation with the privileged part of the people, to the good opinion of their fellows. But what is to them a very full justification is not quite so honorable to that power from whose maxims and temper so good a ground of rational terror is furnished. I think arguments of this kind will never be used by the friends of a government which I greatly

respect, or by any of the leaders of an opposition whom I have the honor to know and the sense to admire. I re {285} member Polybius tells us, that, during his captivity in Italy as a Peloponnesian hostage, he solicited old Cato to intercede with the Senate for his release, and that of his countrymen: this old politician told him that he had better continue in his present condition, however irksome, than apply again to that formidable authority for their relief; that he ought to imitate the wisdom of his countryman Ulysses, who, when he was once out of the den of the Cyclops, had too much sense to venture again into the same cavern. But I conceive too high an opinion of the Irish legislature to think that they are to their fellow-citizens what the grand oppressors of mankind were to a people whom the fortune of war had subjected to their power. For though Cato could use such a parallel with regard to his Senate, I should really think it nothing short of impious to compare an Irish Parliament to a den of Cyclops. I hope the people, both here and with you, will always apply to the House of Commons with becoming modesty, but at the same time with minds unembarrassed with any sort of terror.

As to the means which the Catholics employ to obtain this object, so worthy of sober and rational minds, I do admit that such means may be used in the pursuit of it as may make it proper for the legislature, in this case, to defer their compliance until the demandants are brought to a proper sense of their duty. A concession in which the governing power of our country loses its dignity is dearly bought even by him who obtains his object. All the people have a deep interest in the dignity of Parliament. But as the refusal of franchises which are drawn out of the first vital stamina of the British {286} Constitution is a very serious thing, we ought to be very sure that the manner and spirit of the application is offensive and dangerous indeed, before we ultimately reject all applications of this nature. The mode of application, I hear, is by petition. It is the manner in which all the sovereign powers of the world are approached; and I never heard (except in the case of James the Second) that any prince considered this manner of supplication to be contrary to the humility of a subject or to the respect due to the person or authority of the sovereign. This rule, and a correspondent practice, are observed from the Grand Seignior down to the most petty prince or republic in Europe.

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Then, since our oldest fundamental laws follow, or rather couple, freehold with franchise - since no principle of the Revolution shakes these liberties - since the oldest and one of the best monuments of the Constitution demands for the Irish the privilege which they supplicate - since the principles of the Revolution coincide with the declarations of the Great Charter - since the practice of the Revolution, in this point, did not contradict its principles - since, from that event, twenty-five years had elapsed, before a domineering party, on a party principle, had ventured to disfranchise, without any proof whatsoever of abuse, the greater part of the community - since the king's {292} coronation oath does not stand in his way to the performance of his duty to all his subjects - since you have given to all other Dissenters these privileges without limit which are hitherto withheld without any limitation whatsoever from the Catholics - since no nation in the world has ever been known to exclude so great a body of men (not born slaves) from the civil

state, and all the benefits of its Constitution - the whole question comes before Parliament as a matter for its prudence. I do not put the thing on a question of right. That discretion, which in judicature is well said by Lord Coke to be a crooked cord, in legislature is a golden rule. Supplicants ought not to appear too much in the character of litigants. If the subject thinks so highly and reverently of the sovereign authority as not to claim anything of right, so that it may seem to be independent of the power and free choice of its government - and if the sovereign, on his part, considers the advantages of the subjects as their right, and all their reasonable wishes as so many claims - in the fortunate conjunction of these mutual dispositions are laid the foundations of a happy and prosperous commonwealth. For my own part, desiring of all things that the authority of the legislature under which I was born, and which I cherish, not only with a dutiful awe, but with a partial and cordial affection, to be maintained in the utmost possible respect, I never will suffer myself to suppose that at bottom their discretion will be found to be at variance with their justice.

The whole being at discretion, I beg leave just to suggest some matters for your consideration: - Whether the government in Church or State is likely to be more secure by continuing causes of grounded {293} discontent to a very great number (say two millions) of the subjects? or whether the Constitution, combined and balanced as it is, will be rendered more solid by depriving so large a part of the people of all concern or interest or share in its representation, actual or virtual? I here mean to lay an emphasis on the word virtual. Virtual representation is that in which there is a communion of interests and a sympathy in feelings and desires between those who act in the name of any description of people and the people in whose name they act, though the trustees are not actually chosen by them. This is virtual representation. Such a representation I think to be in many cases even better than the actual. It possesses most of its advantages, and is free from many of its inconveniences; it corrects the irregularities in the literal representation, when the shifting current of human affairs or the acting of public interests in different ways carry it obliquely from its first line of direction. The people may err in their choice; but common interest and common sentiment are rarely mistaken. But this sort of virtual representation cannot have a long or sure existence, if it has not a substratum in the actual. The member must have some relation to the constituent. As things stand, the Catholic, as a Catholic, and belonging to a description, has no virtual relation to the representative but the contrary. There is a relation in mutual obligation. Gratitude may not always have a very lasting power; but the frequent recurrence of an application for favors will revive and refresh it, and will necessarily produce some degree of mutual attention. It will produce, at least, acquaintance. The several descriptions of people will not be kept so much apart {294} as they now are, as if they were not only separate nations, but separate species. The stigma and reproach, the hideous mask will be taken off, and men will see each other as they are.

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Reduced to a question of discretion, and that discretion exercised solely upon what will appear best for the conservation of the state on its present basis, I should recommend it to your serious thoughts, whether the narrowing of the

foundation is always the best way to secure the building? The body of disfranchised men will not be perfectly satisfied to remain always in that state. If they are not satisfied, you have two millions of subjects in your bosom full of uneasiness: not that they cannot overturn the Act of Settlement, and put themselves and you under an arbitrary master; or that they are not permitted to spawn a hydra of wild republics, on principles of a {295} pretended natural equality in man; but because you will not suffer them to enjoy the ancient, fundamental, tried advantages of a British Constitution - that you will not permit them to profit of the protection of a common father or the freedom of common citizens, and that the only reason which can be assigned for this disfranchisement has a tendency more deeply to ulcerate their minds than the act of exclusion itself. What the consequence of such feelings must be it is for you to look to. To warn is not to menace.

I am far from asserting that men will not excite disturbances without just cause. I know that such an assertion is not true. But neither is it true that disturbances have never just complaints for their origin. I am sure that it is hardly prudent to furnish them with such causes of complaint as every man who thinks the British Constitution a benefit may think at least colorable and plausible.

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There is another advantage in taking up this business singly and by an arrangement for the single object. It is that you may proceed by *degrees*. We must all obey the great law of change. It is the most powerful law of Nature, and the means perhaps of its conservation. All we can do, and that human wisdom can do, is to provide that the change shall proceed by insensible degrees. This has all the benefits which may be in change, without any of the inconveniences of mutation. Everything is provided for as it arrives. This mode will, on the one hand, prevent the *unfixing old interests at once*: a thing which is apt to breed a black and sullen discontent in those who are at once dispossessed of all their influence and consideration. This gradual course, on the other side, will prevent men long under depression from being intoxicated with a large draught of new power, which they always abuse with a licentious insolence. But, wishing, as I do, the change to be gradual and cautious, I would, in my first steps, lean rather to the side of enlargement than restriction.

It is one excellence of our Constitution, that all our rights of provincial election regard rather property than person. It is another, that the rights which approach more nearly to the personal are most of them corporate, and suppose a restrained and strict education of seven years in some useful occupation. In both cases the practice may have slid from the principle. The standard of qualification in both cases may be so low, or not so judiciously chosen, as in some degree to frustrate the end. But all this is for your prudence in the case before you. You may rise a step or two the qualification of the Catholic voters. But if you were to-morrow to put the {302} Catholic freeholder on the footing of the most favored forty-shilling Protestant Dissenter, you know, that, such is the actual state of Ireland, this would not make a sensible alteration in almost any *one* election in the kingdom. The effect in their favor, even defensively, would be infinitely slow. But it would be

healing; it would be satisfactory and protecting. The stigma would be removed. By admitting settled, permanent substance in lieu of the numbers, you would avoid the great danger of our time, that of setting up number against property. The numbers ought never to be neglected, because (besides what is due to them as men) collectively, though not individually, they have great property: they ought to have, therefore, protection; they ought to have security; they ought to have even consideration: but they ought not to predominate. ...

Beaconsfield, January 3, 1792